

**PROCUREMENT CONTRACT**

**G- 036 -2017**

This CONTRACT, is entered into this 09 FEB 2018 day of \_\_\_\_\_, by and between:

The **BUREAU OF JAIL MANAGEMENT AND PENOLOGY**, Government Agency of the Philippines, with principal address at 144 Mindanao Avenue, Project 8, Quezon City, represented by **J/DIRECTOR DEOGRACIAS C TAPAYAN, CESE, CHIEF, BJMP** hereinafter referred to as the **"ENTITY"**;

and

The **DIAMOND MOTOR CORPORATION** with business address at Marcos Highway cor. MRR St., Cainta, Rizal, represented by **MS JOSEPHINE L. ALCANTARA, Senior Sales Manager**, Diamond Motor Corporation, hereinafter referred to as the **"SUPPLIER"**.

**WHEREAS**, the **ENTITY** is desirous of the **SUPPLY AND DELIVERY OF VARIOUS PRISONER'S VAN (Lot 2-Supply and Delivery of 250 Units, Prisoner's Van)** (hereinafter called as "Goods") and **ENTITY** has accepted the bid of **TWO HUNDRED TWENTY NINE MILLION SIX HUNDRED FIFTY THREE THOUSAND NINE HUNDRED NINETY SEVEN PESOS AND FIFTY CENTAVOS (Php229,653,997.50)** by the **SUPPLIER**.

**THE PARTIES HEREBY AGREED TO THE TERMS STATED HEREUNDER:**

1. THAT in this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of the Contract hereinafter referred to;
2. THAT the following documents shall be attached, deemed to form and be read, construed as part of this Agreement, to wit:
  - a. General and Special Conditions of the Contract;
  - b. Specifications;
  - c. Instructions to Bid;
  - d. Instructions to Bidder;
  - e. Bid Data Sheet;
  - f. Bid Form, including all the documents/ statements contained in the Bidders bidding envelopes as annexes;
  - g. Eligibility requirements, documents and/or statements;
  - h. Performance Security;
  - i. Notice of Award of Contract and the bidder's conforme thereto;

- j. Other contract documents that may be required by existing laws and/or the **ENTITY**.
3. THAT in consideration of the payments to be made by the **ENTITY** to the **SUPPLIER** as hereinafter mentioned, the **SUPPLIER** hereby covenants with the **ENTITY** to execute and complete the delivery of Goods and remedy any defects therein in conformity with the provisions of this Contract and the relevant provisions on Obligations and Contracts (Book IV, Titles I and II) and Sales (Book IV, Title VI) of Civil Code of the Philippines;
4. THAT the **ENTITY** hereby covenant to pay the **SUPPLIER** in consideration of the provision of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed by the contract.

**NOW THEREFORE**, the Parties hereby agree to follow:

## **ARTICLE I**

### **SCOPE AND SPECIFICATION**

**SUPPLIER** shall complete the project **SUPPLY AND DELIVERY OF VARIOUS PRISONER'S VAN (Lot 2-Supply and Delivery of 250 Units, Prisoner's Van)** herein referred to as the Goods, which shall be in accordance with the BJMP technical specifications. The **SUPPLIER** must strictly adhere to the required specifications (i.e. color, etc.) of the Goods to avoid problems on vehicle registration.

## **ARTICLE II**

### **PRICE**

1. The total price of the **SUPPLIER** for the delivery of the goods mentioned in Article I above is TWO HUNDRED TWENTY NINE MILLION SIX HUNDRED FIFTY THREE THOUSAND NINE HUNDRED NINETY SEVEN PESOS AND FIFTY CENTAVOS (Php229,653,997.50).
2. The total price abovementioned shall be inclusive of all national and local taxes, import duties and VAT, and shall not be affected by any changes in the exchange rates between the Philippine Peso and the US currency and that no price escalation shall be allowed.

## **ARTICLE III**

### **PERIOD AND PLACE OF DELIVERY**



1. The two hundred fifty (250) units of prisoner's van shall be temporarily safe kept by the **SUPPLIER** for not more than thirty (30) days upon acceptance of the goods by the **ENTITY**. Any expenses pertaining thereto shall be borne by the **SUPPLIER**. The **ENTITY** shall then conduct inspection and acceptance to the place where the goods are being kept. Delivery of the goods shall be made at the location being agreed by and between the **ENTITY** and the **SUPPLIER**. All expenses to complete the delivery shall be for the account of the **SUPPLIER**.

2. Completion of the project "SUPPLY AND DELIVERY OF VARIOUS PRISONER'S VAN (Lot 2-Supply and Delivery of 250 Units, Prisoner's Van)" shall be made within **TWO HUNDRED (200) Calendar Days** upon receipt of the Notice to Proceed (NTP).

#### ARTICLE IV

##### ACCEPTANCE AND PAYMENT

1. The Supply Accountable Office together with the representative/s of the End-User shall accept the delivery made by the **SUPPLIER**. After completion of the delivery of goods made by the **SUPPLIER**, the BJMP-NHQ Technical Inspection and Acceptance Committee (TIAC) chaired by the Deputy Director for Logistics shall then issue a Resolution certifying the completeness of the quantity of the goods and conformity of the goods to the **ENTITY's** approved specifications/requirements.

2. The **SUPPLIER**, upon final acceptance of the project under this Contract, shall be paid in full of the contract price through disbursement voucher subject to government accounting and auditing rules and regulations right after the final acceptance of the goods. Partial payment for partial completion is not allowed.

#### ARTICLE V

##### PERFORMANCE SECURITY

1. To guarantee full and faithful compliance with the terms and conditions of this Contract, **SUPPLIER** shall submit to the BJMP BAC Secretariat as Performance Security either in form of Bank Draft/Guarantee, Cash or Cashier's/Manager's Check issued by commercial or universal bank in amount equivalent to five percent (5%) of the contract price or surety bond callable on demand in an amount equivalent to thirty percent (30%) of the contract price mentioned in Article II hereof, which shall only be released upon the full and faithful compliance of the provisions of this Contract.

2. The Performance Security mentioned above shall be submitted by **SUPPLIER** within three (3) calendar days from its receipt of Notice of Award. Failure on the part of **SUPPLIER** to submit the Performance Security within the period herein mentioned shall result in the automatic nullification of this Contract. As may be warranted, the BJMP shall impose the administrative



sanction against **SUPPLIER** to perform its obligation under this Contract pursuant to the pertinent provisions of RA No. 9184 and its IRR.

3. The Performance Security shall be valid for a period of one hundred twenty (120) calendar days which shall be released to **SUPPLIER** only upon final acceptance of the project subject of this Contract. In case of unjustified failure on the part of **SUPPLIER** to perform its obligation under this Contract, the Performance Security shall be forfeited in favor of the **ENTITY**.

## ARTICLE VI

### PENAL CLAUSE

1. In case of non-delivery of the goods within the period mentioned in Article III of this Contract, **SUPPLIER** shall be *ipso facto* in delay on the day following the last day to deliver and complete the project without need of prior notice or demand for such purpose. For every day of delay, the **SUPPLIER** shall be liable to pay the **ENTITY** a penalty in the amount of 1/10<sup>th</sup> of 1% of the total contract price which shall be automatically deducted from the amount due **SUPPLIER** pursuant to this Contract.

## ARTICLE VII

### RECISSION CLAUSE

1. In case the amount of penalty collectible from **SUPPLIER** due to delay in the delivery shall exceed ten percent (10%) of the total contract price, the Head of the Procuring Entity (HOPE), upon the recommendation of the BJMP BAC, shall rescind this Contract and forfeit in favor of the **ENTITY** the Performance Security.

## ARTICLE VIII

### WARRANTY

1. **SUPPLIER** warrants that the goods be delivered are brand new, conforms to the approved equipment free from any manufacturing defects of whatever nature and, in case of defects noted within three (3) years from final acceptance, **SUPPLIER** shall replace the defective unit with a new one if the defective unit could no longer be repaired without impairing its capability and usefulness. For replacement purposes, the BJMP BAC through its BAC Secretariat shall notify **SUPPLIER** in writing about the defective goods and simultaneously return the same.

2. The warranty shall be for a period of three (3) years from the date of final acceptance. **SUPPLIER** shall submit a special bank guarantee, cash or cashier's/manager's check issued by commercial or universal bank in amount equivalent to ten percent (10%) of the total contract price mentioned in Article II hereof, as Warranty Security. This Warranty Security shall be forfeited in favor



of the **ENTITY** should **SUPPLIER** fails to perform any of warranties above mentioned. The Warranty Security shall be returned to **SUPPLIER** in full after the warranty period.

## ARTICLE IX

### FORCE MAJEURE

1. **SUPPLIER** shall not be in delay for the performance of any of its obligations under this Contract or be held liable for non-performance in case of force majeure. For purposes of this Contract, force majeure shall mean those which could not be foreseen or which though foreseen were inevitable or could not be avoided.

2. In case **SUPPLIER** could not perform its obligations, or deliver the goods and complete the project within the period for such purpose due to force majeure, **SUPPLIER** shall inform the Chairman, BJMP BAC in writing within three (3) days from the occurrence of force majeure.

3. Failure on the part of **SUPPLIER** to make required written notice within the period for such purpose without any justifiable reason shall render the preceding provision ineffective.

## ARTICLE X

### INCORPORATION CLAUSE

1. The **PARTIES** hereto agree that the provisions of applicable laws, as well as administrative, accounting and auditing rules and regulations issued by competent authorities are deemed written into and form part of this Contract.

## ARTICLE XI

### VENUE OF ACTION

1. Any legal action that may arise in connection with or as an incident of this Contract shall be filed with the Regional Trial court (RTC) of Quezon City. Litigation, however, shall only be resorted to after the appropriate mode of alternative dispute resolutions has been exhausted by the **PARTIES**.

**IN WITNESS WHEREOF**, the **PARTIES** have hereunto executed this Procurement Contract and hereby affixed their signatures this \_\_\_\_ day of \_\_\_\_\_, at the BJMP-National Headquarters, 144 Mindanao Avenue, Project 8, Quezon City, Philippines.

**FOR THE ENTITY**

**DEOGRACIAS C. TAPAYAN, CESE**

Jail Director  
Chief, BJMP

BJMP ID No. 807-17-1450112

**FOR THE SUPPLIER**

**MS JOSEPHINE L. ALCANTARA**

Senior Sales Manager  
Diamond Motor Corporation

ID No. 2393

**Witnesses:**

Jose Eduardo A. Garbay

Angelica Marie Villapando

Republic of the Philippines )  
Quezon City ) ss.

**ACKNOWLEDGEMENT**

**BEFORE ME**, a Notary Public for and in Quezon City personally appeared the above named parties and presenting to me their respective government identification cards presented above, both personally known to me as the same persons who executed the foregoing instrument on their own, free and voluntary act and deed.

This instrument consists of six (6) pages including this page in which this acknowledgement is written, duly signed by the parties and their instrumental witnesses on each and every page hereof.

**WITNESS MY HAND AND SEAL** this 09 FEB 2018 day of \_\_\_\_\_ in Quezon City, Philippines.

**ATTY. ANNA TERESA C. CRUZ**  
Notary Public  
Appointment No. 07 (2018-2019)  
PTR No. 7244231/01-03-2018/Marikina City  
IBP No. 019109/12-20-2017/RSM  
Roll No. 52694  
MCLE V-022100/04-14-2019  
No. 6 Don Mariano Arcade, Gunting Street,  
Midtown San Roque, Marikina City  
Tel. No. 736-11-68/736-11-69

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