CONTRACT FOR THE SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF FIVE (5) SETS DC POWER SUPPLY AT VTMS CONTROL CENTER AND FOUR (4) RADAR STATIONS OF PPA, PORT MANAGEMENT OFFICE OF BATANGAS

KNOW ALL MEN BY THESE PRESENT:

This Contract made and entered into this 29 SEP 2020, in the City of Batangas, Philippines, by and between:

PHILIPPINE PORTS AUTHORITY, PMO-BATANGAS a government instrumentality created under Presidential Decree No. 857, as amended, with principal office at PPA New Administration Building, Diversion Rd., Calicanto, Batangas City, represented herein by its Port Manager, **JOSELITO O. SINOCRUZ**, and hereinafter referred to as "**PPA**";

\- and -

UNIMARC ENTERPRISES., a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at Brgy. Soloc, Lobo, Batangas and represented herein by its owner/proprietress, **MARIA NENITA C. UNTALAN**, and hereinafter referred to as the **"SUPPLIER"**

WITNESSETH

WHEREAS, the VTS Division Manager per Memorandum dated 14 August 2020 requested for emergency procurement for the supply, delivery, installation and commissioning of **Five (5) sets DC Power Supply System at VTMS Four (4) Radar Stations and Control Center of PPA, Port Management Office of Batangas** to replace the old and defective units;

WHEREAS, Purchase Request No. BAT-1143-20 was prepared by the Administrative Services Division on 10 September 2020 and was approved by the Port Manager;

WHEREAS, Negotiated Procurement thru Section 53.2 of the 2016 Revised IRR of R.A. No. 9184 provides that procurement may be undertaken through Emergency Cases in case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

WHEREAS, upon completion of the appropriate documents and posting of the Request for Quotation in the PhilGEPS website, direct negotiation with the SUPPLIER to address the emergency was made;

WHEREAS, the SUPPLIER manage to submit the required documents together with the accomplished Price Quotation Form with a total bid amount of **ONE MILLION FIVE HUNDRED FORTY EIGHT THOUSAND TWO HUNDRED THIRTY EIGHT PESOS and 90/100 (P1,548,238.90)** Philippine Currency, which is equivalent to the Approved Budget for the Contract (ABC) in the total amount of **ONE MILLION FIVE HUNDRED FORTY EIGHT THOUSAND TWO HUNDRED THIRTY EIGHT PESOS and 90/100 (P1,548,238.90)**;

WHEREAS, pursuant to BAC Resolution No. B021-2020(G), award of the contract was made to the SUPPLIER in a Notice of Award dated September 25, 2020;

WHEREAS, the SUPPLIER duly accepted the award by signing in the "Conforme" on the said Notice of Award (NOA);

NOW, THERFORE, for and in consideration of the foregoing premises, mutual covenants, stipulations and agreements, PPA and the SUPPLIER have agreed, as they do hereby agree, and contract as follows:

ARTICLE I
CONTRACT DOCUMENTS

1.01 The following documents shall constitute integral parts of this Contract, as fully as if the contents of said documents are reproduced, incorporated and set forth herein, to wit:

a. Request for Quotation;
b. Technical Specifications
c. SUPPLIER's accomplished Price Quotation Form;
d. Performance Security
e. Notice of Award of Contract and the SUPPLIER's "Conforme" thereto;
f. Notice to Proceed; and
g. Other pertinent documents as may be required by existing laws and/or of PPA.

1.02 All contract documents are and shall remain as property of PPA.

1.03 The words and expressions in this Contract shall have the same meaning respectively assigned to them in the contract documents referred to above.

1.04 It is expressly agreed and understood that in case of any irreconcilable conflict between this Contract and the provisions of any of the Contract Documents, the former shall be controlling.

ARTICLE II
SCOPE OF WORK

2.01 The SUPPLIER in consideration of the payment to be made by PPA to the SUPPLIER, as stated in the Contract Documents in this Contract, hereby covenants to execute and complete the supply, delivery and installation of the subject items, as follows:

DC POWER SUPPLY SYSTEM

Quantity : Five (5) Sets DC Power Supply including Ten (10) Units Rectifier Module

Brand new units which complies with the following minimum requirements:

SPECIFICATIONS FOR DC POWER SYSTEM	
AC INPUT	
SYSTEM INPUT	SINGLE PHASE (L+N+PE)
INPUT LINE VOLTAGE	220V-230V AC
INPUT FREQUENCY RANGE	60HZ
DC OUTPUT	
OUTPUT DC VOLTAGE	-48V DC
CURRENT	30A
MINIATURE CIRCUIT BREAKER (MCB)	BUILT-IN, 6 UNITS BY 20 A (6X20A) EACH MCB HAS -48V OUTPUT

PLUGABLE SCREW TERMINALS	
HEIGHT	4.445 cm
HOT PLUGGABLE/SWAPPABLE RECTIFIER	
RECTIFIER	2 UNITS
MINIMUM POWER OUTPUT	1000 WATTS PER RECTIFIER
OPERATING TEMPERATURE	-40 – 85 DEGREES CELCIUS
PROTECTION	FUSE IN LIVE AND NEUTRAL, VARISTOR
RECTIFIER CONDITION MONITOR	LED LIGHT (NORMAL, ALARM, WARNING)
ENVIRONMENTAL COMPLIANCE	RoHS, WEEE, ETSI EN
HOT PLUGGABLE/SWAPPABLE CONTROLLER	
DISPLAY	TFT (VOLTAGE, CURRENT, TEMP. ETC.)
USER INTERFACE	ETHERNET(10/100 BASE-T) SERIAL PORT (RS-232 AND RS 485 ON RJ11 CONNECTOR)
PROGRAMMABLE	Programmable

Delivery, installation and commissioning of the brand new DC Power Supply System including its Rack mounting Hardware on the existing Equipment Rack on the following locations:

VTS	LOCATION	PARTICULARS	QUANTITY
CONTROL CENTER	PPA Admin Building Calicanto Batangas City	DC POWER SUPPLY	1
		RECTIFIER MODULE	2
RADAR STATION 1	PPA Base Port Barangay Sta. Clara Batangas City	DC POWER SUPPLY	1
		RECTIFIER MODULE	2
RADAR STATION 2	Barangay Pagkilatan Batangas City	DC POWER SUPPLY	1
		RECTIFIER MODULE	2
RADAR STATION 3	Escarceo, Puerto Galera, Oriental Mindoro	DC POWER SUPPLY	1
		RECTIFIER MODULE	2
RADAR STATION 4	Barangay 13, Tingloy, Batangas	DC POWER SUPPLY	1
		RECTIFIER MODULE	2

Power Cable, grounding cord and necessary wirings to properly install the unit shall be provided by the supplier.

Dismantling, pullout and hauling of the replaced DC Power Supply to PPA Admin Building.

Testing and Commissioning of units in the presence of PPA representatives.

All items to be delivered shall have a **minimum warranty of one (1) year**.

2.02 The SUPPLIER guarantees and warrants the availability, quality and genuineness of all supplied and delivered items.

2.03 The SUPPLIER shall hold and save PPA, its officers, consultants and employees harmless from any liability of any nature or kind, including costs or expenses, for or on account of infringement of any copyrighted compositions, secret processes, patented or unpatented inventions, or articles manufactured or used in the performance of this Contract.

2.04 The SUPPLIER recognizes the position of trust and confidence reposed on it under this Contract, and agrees to perform its obligations hereunder in the most efficient and competent manner, use its skill and good judgment, always set in good faith, and carry out the execution of this Contract in the most sound, expeditious and economical manner consistent with the interest of PPA.

2.05 The SUPPLIER warrants that the items supplied under this Contract are new,unused and in good working condition.

ARTICLE III
CONSIDERATION

3.01 For and in consideration of the full, satisfactory and faithful performance of the SUPPLIER of all its undertakings provided under this Contract, PPA hereby agrees to pay the SUPPLIER the total amount of **ONE MILLION FIVE HUNDRED FORTY EIGHT THOUSAND TWO HUNDRED THIRTY EIGHT PESOS and 90/100 (P1,548,238.90)** Philippine Currency.

3.02 The aforementioned amount for each lot shall be inclusive of twelve percent [12%], Value Added Tax. Except as provided for under existing laws, it is hereby expressly agreed upon and understood that the stipulated contract amount shall not be subject to upward adjustment for any cause or reason.

It is hereby expressly agreed upon and understood that the any payment shall not be construed as acceptance of defective units or any of its accessories.

3.03 Payment of Ninety Nine Percent (99%) of the stipulated contract price shall be made to the SUPPLIER within a reasonable time after the issuance of PPA of the Certificate of Completion and Acceptance. The One Percent (1%) balance thereof shall be withheld by PPA as retention money which shall only be released after the lapse of the warranty period specified in Article II, Section 2.01 hereof. The SUPPLIER may, however, request for the substitution of the aforesaid retention money with a special bank guarantee of the same amount which shall serve the purpose for which the retention money is intended.

The retention money or special bank guarantee, as the case may be, shall be released only after the expiration of the warranty period, provided that the items or its accessories subject of this Contract is free from defect, and that all the conditions imposed under this Contract are met or complied with.

3.04 The warranty period for the items delivered shall commence upon acceptance thereof by PPA.

3.05 PPA shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within three (3) days and with all reasonable speed, test, repair, or replace the defective items, accessories or parts thereof, without cost to PPA.

3.06 Any payment due and payable to the SUPPLIER may be set off against liquidated damages payable to PPA by the SUPPLIER under this Contract.

3.07 All payments shall be subject to existing government accounting and auditing rules and regulations.

ARTICLE IV
PERFORMANCE SECURITY

4.01 To guarantee the faithful performance of the SUPPLIER under the contract, it shall post, upon the signing of the contract a performance security in the form of cash, manager's check, cashier's check, irrevocable letter of credit issued by the Government Service Insurance

System (GSIS) or any surety company duly accredited by the Office of the Insurance Commission in accordance with the following schedule:

a. Cash, manager's check, cashier's check, issued by a Universal or Commercial Bank – Five Percent (5%) of the total contract price,

b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank – Five Percent (5%) of the total contract price,

c. Surety bond – thirty percent (30%) of the total contract price

d. Any combination of the foregoing – proportionate to share of form with respect to total amount of security.

4.02 This performance security shall be posted in favor of the PPA and shall be forfeited in the event it is established that the SUPPLIER is in default in any of its obligations under this Contract.

4.03 In the execution of the performance security, the following conditions shall be complied with:

a. It shall be executed in accordance with the form as prescribed in Section 4.01 hereof;

b. It shall be at least co-terminus with the acceptance of the units and its accessories subject of this Contract.

4.04 Subject to the conditions of the Contract, the performance security may be released by PPA after the issuance of Acceptance of the items and its accessories subject of this contract, provided that there are no claims against the SUPPLIER on the performance security provider of the SUPPLIER.

4.05 Should any surety upon the bond for the performance of this Contract become unacceptable to PPA, the SUPPLIER shall promptly furnish such replacement security as may be required from time to time up to the sum equal to the amount of the original surety.

ARTICLE V
DELIVERY PERIOD; LIQUIDATED DAMAGES

5.01 The SUPPLIER agrees and obligates itself to supply, deliver, install and commission the items specified in Article II, Section 2.01 of this Contract **not later than November 2020**. Before installation of the items at the intended locations, they shall be brought at PMO – Batangas Office, PPA Administration Bldg., Port Access Road, Calicanto, Batangas City during office hours for inspection and testing.

5.02 Should the SUPPLIER refuse or fail to satisfactorily comply with its undertaking, and is hereby in default under the Contract, the SUPPLIER shall be liable for damages for the delay and shall pay PPA for liquidated damages and not by way of penalty, an amount equivalent to one-tenth [1/10] of one percent (1%) of the cost of the unperformed portion thereof, for every day of delay until the same is finally performed/completed and accepted by PPA.

5.03 It is understood that the damages herein provided are fixed and to be entitled to such damages, PPA need not prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due the SUPPLIER under the contract and/or collect such liquidated damages from the securities or warranties posted by the SUPPLIER, whichever is convenient to PPA.

5.04 In case, however, that the total sum of liquidated damages exceed ten percent [10%] of the total contract price, the Contract may be rescinded or terminated by PPA and the erring SUPPLIER's performance security shall be forfeited. The amount of the forfeited performance security shall be aside from the amount of the liquidated damages that the

SUPPLIER shall pay PPA under this section and other appropriate sanctions that may be imposed to the former.

ARTICLE VI
SUPPLIER'S LIABILITY

6.01 The Parties likewise, hereby agree and understood that the employees of the SUPPLIER are not employees of PPA, hence, PPA shall not in any way be liable or responsible for any personal injury or damage, including death sustained or caused by any of the employees of the SUPPLIER during the performance of their duties. The SUPPLIER agrees and binds itself to indemnify PPA for whatever injuries or damages caused by occasion or contributed to by the failure, negligence or conduct of the SUPPLIER and/or its employees, agents, suppliers or consultants arising out or in connection with or on the occasion of the performance of this Contract. The SUPPLIER shall at all times, stand solely liable and/or responsible for the enforcement of, and compliance with all existing laws, rules and regulations and binds itself to save and hold PPA free and harmless from any and all liability in respect thereof and/or arising therefrom and/or by reason of this Contract and its implementation.

6.02 The SUPPLIER agrees and binds itself to hold PPA free and harmless from any damage, claims and rights to action by third parties arising out of or by reason of this Contract and all injuries that may be suffered by PPA and/or its employees due to failure, negligence, delay, or conduct on the part of the SUPPLIER and its employees in the performance of their obligations under this Contract.

ARTICLE VII
REMEDY AND RELIEF

7.01 Should there be any dispute or controversy in connection with this Contract or difference between the Parties arising from the interpretation of this Contract, the Parties hereto shall, as far practicable, settle the same amicably. In the event that such dispute or disagreement be not resolved to their mutual satisfaction, the matter shall be submitted to arbitration in the Philippines in accordance with the provisions of Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004". Provided, that the arbitration proceeding shall be without prejudice to the right of PPA to rescind or terminate this Contract.

7.02 Should PPA be constrained to resort to court to enforce or safeguard its rights and interests under this Contract, the SUPPLIER shall be liable to PPA for attorney's fees in an amount equivalent to twenty percent [20%] of the total sum claimed in the complaint, exclusive of other damages and expenses of litigation. Venue of all court actions in connection with arising out of this contract shall be laid exclusively in the proper court of the City of Batangas.

ARTICLE VIII
OTHER COVENANTS

8.01 It is expressly agreed and understood that in the case of irreconcilable conflict between the provisions of this Contract and the provisions of any of the contract documents, the former shall be controlling.

8.02 It should also be clearly understood that any payment or failure of the PPA to demand compliance with any of the terms and conditions of this Contract or any act of liberality on the part of the PPA shall not be construed or considered as waiver on the part of PPA for the enforcement of this Contract, nor it shall relieve the SUPPLIER of any of its obligations provided thereunder.

8.03 Notwithstanding any provision to the contrary, the PPA has the right to terminate, cancel and/or rescind this Contract *motu proprio*, in case of breach thereof by the SUPPLIER, or upon failure of the SUPPLIER to comply strictly with any of the terms and conditions of this Contract, without need of judicial action by giving at least fifteen (15) days written notice to the effect to the SUPPLIER, which Notice shall be final and binding on all parties.

Within fifteen (15) days after termination, cancellation or rescission of this Contract, the Parties shall settle their respective accountabilities as of the date of termination, cancellation or rescission.

8.04 The SUPPLIER shall provide and do everything necessary to perform its obligations under this Contract according to the true intent and meaning of all the Contract Documents taken together.

8.05 No payment of the Contract shall be made to the SUPPLIER without the Certificate of Completion and/or Acceptance from PPA. The Certificate of Completion and/or Acceptance will be issued after all the items and accessories thereof are completely delivered, inspected and accepted by PPA and provided that the SUPPLIER had submitted the required Guarantee Certificates thereof.

8.06 The SUPPLIER shall not assign, transfer, subcontract, or make any other disposition of its interest in this Contract. Any assignment, transfer, sub-contract, or any other disposition shall be sufficient ground for PPA to terminate or cancel this Contract, *motu proprio* without the need of judicial action pursuant to Article VIII, Section 8.03 hereof.

8.07 All taxes, licenses, permits, fees or charges of whatever form, kind or nature or which may be due to the national or local government units and/or its instrument/agencies in account of the performance and completion of the work stipulated herein, and all necessary and incidental expenses relative thereto, including the cost of notarization of this Contract shall be borne and paid for by the SUPPLIER on its own account. Should PPA completed to advance the same, PPA is hereby authorized to deduct the amount advance from whatever amount due the SUPPLIER from the PPA.

8.08 PPA or its authorized representatives shall have the right to inspect and test the items to be delivered to confirm their conformity to the technical specifications in the bidding documents

8.09 PPA may reject the items or any part thereof that fail to pass any test or inspection and does not conform to the technical specifications. The SUPPLIER shall rectify or replace such rejected items or parts thereof until the items delivered meets the required technical specifications thereof.

8.10 The SUPPLIER shall not assign or transfer its rights or obligations under this Contract, in whole or in part. If in any event, violation of this provision is determined, PPA shall have the right to terminate or cancel this Contract without the need of judicial action and shall forfeit the posted performance security.

ARTICLE IX
SPECIAL REPRESENTATION

9.01 The SUPPLIER hereby represent that all the documents it submitted which form integral parts hereof are authentic and duly executed with all the required formalities for the same, and that the facts and/or data contained therein are true and correct. A breach of this representation including all misrepresentation in the documents or suppression of material facts therein, which if known, could have disqualified the SUPPLIER such that this Contract would not have been made or entered into, gives the PPA the immediate right or recourse to motu proprio rescind, abrogate, or otherwise terminate the Contract without need of judicial intervention.

9.02 Pursuant to Section 47 of the Revised IRR of R.A. No. 9184, SUPPLIER further represent that all its officers, directors, controlling stock holders and representatives are not related to by consanguinity or affinity up to the third [3rd] civil degree to PPA's General Manager, including any of its officers or employees having direct access to the conducted bidding.

If in any event, it is determined that the aforestated representation was violated, PPA shall have the right to terminate or cancel this Contract without the need of judicial action anytime before its expiration.

9.03 The SUPPLIER shall strictly comply with all the pertinent existing laws, rules and regulations.

X
EFFECTIVITY

10.01 This Contract shall become effective upon signing by the Parties hereof.

IN WITNESS WHEREOF, the Parties have hereto signed this Contract on the date and place first above-mentioned.

PHILIPPINE PORTS AUTHORITY
PMO-BATANGAS

By:

JOSELITO Q. SINOCRUZ
Port Manager

UNIMARC ENTERPRISES

MARIA NENITA C. UNTALAN
Owner

Signed in the presence of:

JEFREN P. PANGANIBAN

JOSE LUIS C. UNTALAN

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
City of Batangas) S.S.

BEFORE ME, a Notary Public for and in the City of Batangas, this 29 SEP 2020, personally appeared the following:

NAME	PROOF OF IDENTITY	DATE/PLACE
JOSELITO O. SINOCRUZ	PPA ID NO.00022018	Manila/Jan.25, 2020
MARIA NENITA C. UNTALAN	Driver's License/D01-10-005628	Batangas/Oct. 2017

known to me to be the same persons who executed the foregoing instrument and acknowledged to me that the same is their own free act and deed as well as the free and voluntary act of the entities they represent and that they are duly authorized to represent the same.

This foregoing instrument is a Contract for the **SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF FIVE (5) SETS DC POWER SUPPLY ATVTMS CONTROL CENTER AND FOUR (4) RADAR STATIONS OF PPA PORT MANAGEMENT OFFICE OF BATANGAS** consisting of nine (9) pages, including this page on which this Acknowledgment is written, signed by the parties and their instrumental witnesses on each and every page thereof.

WITNESS MY HAND AND NOTARIAL SEAL, on the date and place above written.

ELISEO S. LONTOK
NOTARY PUBLIC
UNTIL DEC. 31, 2021
PTR NO. 3593768
ISSUED ON JAN. 3, 2020
ISSUED AT BATANGAS CITY
IBP LIFETIME ROLL NO. 00823
ROLL OF ATTORNEY'S NO. 29327
MCLE COMPLIANCE NO. VI-0003978
OCTOBER 11, 2017

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