CONTRACT FOR THE SUPPLY AND DELIVERY OF PURIFIED DRINKING WATER FOR PMO BATANGAS

KNOW ALL MEN BY THIS PRESENTS:

This Contract made and entered into this AUG 0 7 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 -

MUTYA R. SANTOS, of legal age, Filipino, with office address at Manghinao Proper, Bauan, Batangas, doing business under the name and style of **TUBIG ANGEL WATER REFILLING STATION,** duly organized in accordance with the Philippine laws and registered with Department of Trade and Industry with Certificate No. 1322483 and hereinafter referred to as the **"SUPPLIER"**

WHEREAS, PPA is desirous to enter into a Contract for the **SUPPLY AND DELIVERY OF PURIFIED DRINKING WATER FOR PMO BATANGAS** for a period of Five (5) Months**;**

WHEREAS, in accordance with Republic Act No. 9184 and its 2016 Revised Implementing Rules and Regulations, the PMO Batangas Bids and Awards Committee (PMOB-BAC) posted in the, PhilGEPS website, PPA Website as well as in its bulletin board a Request for Quotation (RFQ) for the said project;

WHEREAS, the RFQ was also distributed to suppliers of known qualifications;

WHEREAS, in response to the RFQ, only the SUPPLIER submitted an accomplished Price Quotation Form together with the required documents before the deadline for submission;

WHEREAS, the bid of the SUPPLIER is **Thirty Five Pesos (P35.00**) per 5-Gallon Jug or a total amount of **One Hundred Forty Two Thousand Two Hundred Seventy Five Pesos (P142,275.00)** which is also lower than the Approved Budget for the Contract (ABC) which is **Forty Pesos (P40.00)** per 5-Gallon Jug or a total ABC of **One Hundred Sixty Two Thousand Six Hundred Pesos (P162,600.00);**

WHEREAS, pursuant to BAC Resolution No. B018-2020(G), award of the contract was made to the SUPPLIER;

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

NOW, THEREFORE, 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. SUPPLIER's accomplished Price Quotation Form;
c. Performance Security
d. Notice of Award of Contract and the SUPPLIER's "Conforme" thereto;
e. Other pertinent documents as may be required by existing law 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 PPA to the SUPPLIER, as stated in the Contract Documents in this Contract, the latter hereby covenants to execute and complete the supply and delivery of:

A. **5 gallon container of Purified Drinking Water**; and
B. **22 Units of hot and cold compressor cooling water dispenser**
(at least 10 units are brand new)

Water purification process shall have a minimum of twenty four (24) stages;

2.02 Maintenance of water dispensers shall be done on a monthly basis or as per advice from PPA authorized representative and free of charge.

2.03 Submit on quarterly basis the result of laboratory analysis done by DOH-accredited laboratory that it has passed the Philippine National Standards for Drinking Water (PNSDW)

2.04 The SUPPLIER guarantees and warrants the availability, quality and cleanliness of all supplied purified drinking water and water dispenser.

2.05 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.

2.06 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 interest of PPA.

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 amount of **Thirty Five Pesos (P35.00**) per 5-Gallon Jug or a total amount not to exceed **One Hundred Forty Two Thousand Two Hundred Seventy Five Pesos (P142,275.00), Philippine Currency** depending on the actual consumption of PPA.

3.02 The aforementioned amount shall be inclusive of Value Added Tax (VAT) of twelve percent (12%). 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 equipment units and/or any of its accessories.

3.03 Statement of account shall be submitted every end of the month based on the actual number of 5- gallon jugs delivered for processing of payment.

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

3.05 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; and

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

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 completed 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 this Contract.

4.04 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 and deliver the **hot and cold compressor cooling water dispenser** within five (5) calendar days (including Sundays and Holidays) from the date of receipt of the SUPPLIER of the Notice to Proceed. Delivery of **5 gallon container Purified Drinking Water** shall be for a period of Five (5) months, i.e., August 7, 2020 to December 31, 2020, on a Weekly basis or as per order of PPA, during office hours at PMO-Batangas Offices and TMO-Bauan.

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 to prove that it has incurred actual damages. Such amount shall be deducted from any money due 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 convenient to PPA.

5.04 In no case, however, shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event the Contract may be rescinded 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 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 compliant, exclusive of other damages and expenses of litigation. Venue of all court actions in connection with arising out of this contract shall be laid 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 be 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 constructed 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 the 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 shall be made to the SUPPLIER without the signature of the authorized representative of the recipient Division/Section on the delivery receipts after the items are completely delivered, inspected and accepted.

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.

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 facts and/or data contained therein are true and correct. A breach of this representation including all misrepresentation in the documents or suppression of materials 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 from August 7, 2020 to December 31, 2020.

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 D. SINOCRUZ
Port Manager

TUBIG ANGEL WATER
REFILLING STATION

mSantos

MUTYA R. SANTOS
Proprietress

Signed in the presence of:

JEFREN P. PANGANIBAN

JOSEPHINE S. SEJERA

ACKNOWLEDGEMENT

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

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

NAME	PROOF OF IDENTITY	PLACE
JOSELITO O. SINOCRUZ	PPA ID No. 00022018	Manila
MUTYA R. SANTOS	SSS ID 04-1193090-5	Batangas

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 **SUPPLY AND DELIVERY OF PURIFIED DRINKING WATER FOR PMO BATANGAS** consisting of seven (7) pages, including this page on which this Acknowledgement 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 G. LONTOK
NOTARY PUBLIC
UNTIL DEC. 31, 2021
PTR NO. 2353708
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

NOTARY PUBLIC

Doc. No. 77;
Page No. 9;
Book No. VI;
Series of 2020