

(CONTRACTOR)

BY:


NERY F. HUMIDING
 President

CONTRACT NO. LOG MSSP 2022-12-126-ALC

SUPPLY, DELIVERY, INSTALLATION AND TEST OF 1 X 35 KL AND 2 X 60 KL FOST FOR PATNANUNGAN DPP, PALANAN DPP AND JOMALIG DPP INCLUDING CONSTRUCTION OF ASSOCIATED FACILITIES UNDER PACKAGE 1

PR No. HO-PIB22-003 / PB220330-HG00051 (PB5)

KNOW ALL MEN BY THESE PRESENTS:

This Contract made and entered into in Quezon City, Philippines, by and between:

The **NATIONAL POWER CORPORATION**, a government-owned and controlled corporation duly organized and existing under and by virtue of Republic Act No. 6395, as amended, with its principal office address at NPC Building, BIR Road corner Quezon Avenue, Diliman, Quezon City, Philippines, represented herein by its Vice President, Power Engineering Services, **ATTY. ROGEL T. TEVES**, who is duly authorized to represent it in this transaction, hereinafter referred to as **NPC**;

- and -

DELTA CONSTRUCTION AND MARINE SERVICES, a sole proprietorship duly organized and existing under and by virtue of the laws of Republic of the Philippines with office address at Camacho, Balanga City, Bataan, Philippines herein represented by its President, **MS. NERY F. HUMIDING**, who is duly authorized to represent it in this transaction, hereinafter referred to as **CONTRACTOR**.

WITNESSETH: That -

WHEREAS, on 04 September 2022, NPC posted the Invitation to Bid for the Public Bidding for the Supply, Delivery, Installation and Test of 1 x 35 KL FOST and 2 x 60 KL FOST for Patnanungan DPP, Palanan DPP and Jomalig DPP including Construction of Associated Facilities under Package 1;

WHEREAS, there were two (2) prospective bidders who secured the bidding documents and participated in the bidding conducted on 27 September 2022 on the aforesaid undertaking;

Contract between NPC and Delta Construction and Marine Services
 Supply, Delivery, Installation and Test of 1 x 35 KL FOST and 2 x 60 KL FOST for Patnanungan DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under Package 1
 Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
 Rev. No. 0
 Sheet 1 of 14

BY:


ATTY. ROGEL T. TEVES
 Vice President, Power Engineering Services



SERGIO P. VILLAFUERTE
 Manager, Project Management
 Dept.
 (NPC)


ROGEL T. TEVES
 (CONTRACTOR)

BY:


 NERY F. HUMIDING
 President


 ROYCE ANN T. TRIABANGKA
 (CONTRACTOR)


 SERGIO P. VILLAFUERTE
 Manager, Project Management
 Dept.
 (NPC)

BY:


 ATTY. ROGEL T. TEVES
 Vice President, Power Engineering Services

WHEREAS, CONTRACTOR's bid offer was considered as the single calculated and responsive bid;

WHEREAS, NPC accepted the said bid of the CONTRACTOR;

NOW, THEREFORE, in view of the foregoing premises and for and in consideration of the mutual covenants and stipulations hereinafter provided, the parties hereto have agreed as follows:

ARTICLE I DOCUMENTS COMPRISING THE CONTRACT

The following documents are hereby incorporated and made part of this Contract as though fully written out and set forth herein insofar as they are not inconsistent with the terms hereof:

1. Bid Documents for the Supply, Delivery, Installation and Test of 1 x 35 KL FOST and 2 x 60 KL FOST for Patnanungan DPP, Palanan DPP and Jomalig DPP including Construction of Associated Facilities under Package 1 (PR No. HO-PIB22-003/PB220330-HG00051-PB5);
2. Supplemental/Bid Bulletin No. 1 dated 25 September 2022;
3. All other drawings, work program and bidding forms including all the documents now existing on file and/or to be made and agreed upon by the parties during the contract period relative to the works;
4. Bid Opening Report dated 29 September 2022;
5. Post-qualification Report dated 02 November 2022;
6. CONTRACTOR's bid proposal dated 23 September 2022;
7. Notice of Award dated 20 December 2022;
8. Notice to Proceed; and
9. The Performance Security to be filed by CONTRACTOR in accordance with this Contract.

The documents mentioned above shall collectively be referred to as "Contract Documents".

Contract between NPC and Delta Construction and Marine Services
 Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
 DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
 Package 1
 Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
 Rev. No. 0
 Sheet 2 of 14

BY:

ATTY. ROGEL T. TEVES

Vice President, Power Engineering Services

SERGIO P. VILLAFUERTE

Manager, Project Management

Dept.
(NPC)ROYCE ANN T. THOMAS
(CONTRACTOR)NERVE F. HUMING
President

In the event that there is any discrepancy/inconsistency between the provisions of the Contract and the Contract Documents mentioned above, the latter shall govern. Should there be any inconsistency/discrepancy, among the Contract Documents, the document with the latest date shall prevail.

ARTICLE II SCOPE OF WORK



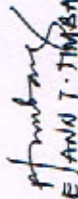
The works and services to be performed under this Contract shall essentially consist of, but not limited to the following:

- a. Mobilization/establishment of Contractor's complete construction camp and other facilities;
- b. Site development/grading works, clearing/cutting of trees, disposal of excavated and excess material from backfill/fill in the areas to be designated by NPC;
- c. Supply, fabrication, erection/installation and test of 1 x 35 kL FOST with nominal diameter of 3.0 m and height of 5.4 m complete with valves, all tank appurtenances and accessories shown on the drawings and specified in relevant specifications including tank calibration, testing (liquid penetrant & hydrostatic), sandblasting and painting;
- d. Supply, fabrication, erection/installation and test of 2 x 60 M³ Fuel Oil Storage Tank with nominal diameter of 3.6 m and height of 6.1 m complete with valves, all tank appurtenances and accessories shown on the drawings and specified in relevant specifications including tank calibration, testing (liquid penetrant & hydrostatic), sandblasting and painting;
- e. Supply, installation and test of one (1) set 10 m³/hr at 30m head Fuel Oil Transfer Pump, 240V, 1-phase, 60 hertz, gear type complete with piping, fittings, valves, strainers, flow meter, electrical amenities, control & instrumentation, concrete foundation and other accessories described in the specification – for each Plant;
- f. Construction of fuel pump house complete with electrical amenities and concrete foundation for fuel oil transfer pump – for Patnanungan DPP and Jomalig DPP;
- g. Renovation/rehabilitation of existing guard house to fuel pumphouse – for Palanan DPP;
- h. Construction of oil-water separator – for Palanan DPP and Jomalig DPP;

Contract between NPC and Delta Construction and Marine Services
Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
Package 1
Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
Rev. No. 0
Sheet 3 of 14

BY:


ATTY. ROGEL T. TEVES
Vice President, Power Engineering Services
SERGIO P. VILLAFUERTE
Manager, Project Management
Dept.
(NPC)
ROYCE I. JIMENEZ
(CONTRACTOR)

BY:


NERY F. HUMIDING
President

- i. Construction of concrete foundation for the FOST, concrete slab in tank farm and its concrete containment walls and posts including drain pits and valve boxes;
- j. Supply, installation and test of one (1) lot fuel oil pipes/waste oil, pipe fittings, pipe supports, associated valves and accessories, required excavation and backfilling works, interconnection works with existing fuel piping system and drainage systems as shown on the drawings;
- k. Supply and installation of three (3) sets of Foam (AFFF) wheeled type fire extinguisher, complete with self-contained cylinder mounted on a frame with handle, floor stand and steel wheels, 125 L (33 gallons) capacity complete with associated valves, dial gauge indicator, nitrogen expellant tank for unit pressurization, appropriate size of discharge hose of 15 m long fitted with couplings and foam nozzle assembly;
- l. Supply and installation of three (3) units of Portable Type Fire Extinguisher, Clean Agent (HCFC or Halotron I Type), 7.1 kg. (15.5 lbs), wall-hung type and UL/FM approved;
- m. Supply of three (3) units of 10 m long fuel oil sounding tape;
- n. Tagging and marking for all supplied equipment including tank, valves and piping in accordance with the requirements of the relevant technical specifications;
- o. Corrosion protection and painting;
- p. Demobilization including clearing of site /demolition of Contractor's camp facilities; and
- q. All other works and services required to complete the project.

ARTICLE III COMMENCEMENT AND COMPLETION PERIOD

The CONTRACTOR shall complete the works as herein specified within **(240) calendar days** from receipt of Notice to Proceed. The total contract period is inclusive of twenty (20) rainy/unworkable days, considered unfavorable for the execution of works at site.

Contract between NPC and Delta Construction and Marine Services
Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
Package 1
Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
Rev. No. 0
Sheet 4 of 14

Q

BY:


NERY F. HUMIDING
President

ARTICLE IV PAYMENTS

For and in consideration of the WORK to be undertaken by CONTRACTOR as specified in the preceding Article II hereof, NPC shall pay the CONTRACTOR in Philippine Currency and in accordance with the Contract Documents, the unit and lump sum prices hereof in the total amount of **PHILIPPINE PESOS FOURTEEN MILLION FOUR HUNDRED SIXTY THOUSAND SEVEN HUNDRED SIXTY AND 50/100 PESOS (PHP 14,460,760.50).**

All forms of taxes, such as value added tax (VAT) including municipal licenses and permits, and others that may be imposed by the Philippine Government, or any of its agencies and political subdivisions in connection with the Contract shall be for the account of the CONTRACTOR.

ARTICLE V EXTENSION OF CONTRACT

No extension of contract time shall be granted to the CONTRACTOR due to (i) ordinary unfavorable weather conditions; (ii) inexcusable failure or negligence of CONTRACTOR to provide the required supplies, materials or equipment; and (iii) when the reason given for the extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of contract documents agreed upon by the parties before contract perfection.

NPC shall not be liable for any claim associated with the extension of contract time unless it has examined the facts as well as the extent of delay, and has agreed in writing that the CONTRACTOR is entitled for an extension of time.

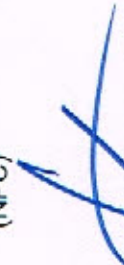

ARTICLE VI ENTIRE CONTRACT

This is an entire contract for one whole complete work and that partial payments made by NPC, or the use of parts of the work, or its equivalent, shall not constitute as an acceptance of any part of the work before its entire completion and final acceptance in writing by NPC.

Contract between NPC and Delta Construction and Marine Services
Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
Package 1
Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
Rev. No. 0
Sheet 5 of 14

BY:


ATTY. ROGEL T. TEVES
Vice President, Power Engineering Services
SERGIO P. VILLAFUERTE
Manager, Project Management
Dept.
(NPC)
ROYCE ANN T. TIMBANA
(CONTRACTOR)

BY:

ATTY. ROGEL T. TEVES

Vice President, Power Engineering Services

SERGIO P. VILLAFUERTE
Manager, Project ManagementDept.
(NPC)ROYCE ANN T. TINGRANG
(CONTRACTOR)

BY:

NERV F. HUMIDING
President**ARTICLE VII**
CONTRACTOR'S LIABILITY

The Parties hereby agree that the employees of the CONTRACTOR are not employees of NPC. NPC shall not in any way be liable or responsible for any personal injury or damages, including death sustained or caused by any of the employees of the CONTRACTOR, including its sub-contractor, agent or supplier, whether or not occurring during the performance of their duties. The CONTRACTOR agrees and binds itself to indemnify NPC for whatever injury or damages caused or occasioned by the failure, negligence or conduct of the CONTRACTOR and/or its employees, sub-contractors, agents, suppliers or consultants arising out of or on in connection with or on the occasion of the performance of the Contract. The CONTRACTOR 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 NPC 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.

ARTICLE VIII
RESPONSIBILITY OF THE CONTRACTOR

The CONTRACTOR shall assume full responsibility for the entire contract work until its final acceptance by NPC and shall be held responsible for any damage or destruction of works until final acceptance.

ARTICLE IX
NON-ASSIGNMENT AND NO SUBCONTRACT

The CONTRACTOR shall not, without the written approval of NPC, assign, transfer, pledge, sub-contract, or make any other disposition of interest in this Contract. Any unapproved assignment, transfer, pledge, sub-contracting or any other disposition, shall be sufficient ground for NPC to terminate or cancel this Contract motu proprio without need of judicial action. Should NPC give its written approval, such consent shall not relieve the CONTRACTOR of its responsibilities under the Contract. The CONTRACTOR shall ensure that the terms and conditions of any subcontract shall comply and conform with the terms and conditions of this Contract. The CONTRACTOR shall be responsible for the observance by the sub-contractor of the terms and conditions of this Contract.

If any portion of the project sub-contracted is not performed faithfully in accordance with the contract, the sub-contractor shall be removed or

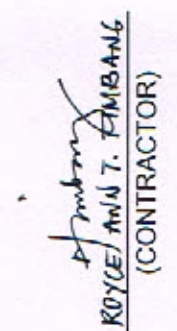
Contract between NPC and Delta Construction and Marine Services
Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
Package 1
Contract No. LOG MSSP 2022-12-126-ALC

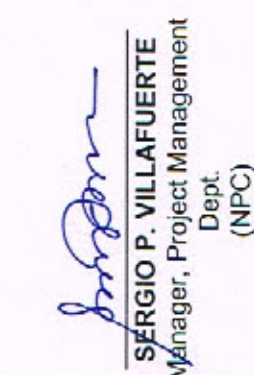
AFG-LOG-007.F01
Rev. No. 0
Sheet 6 of 14

9

(CONTRACTOR)

BY: 
NERY F. HUMIDING
President

BY: 
ROYCE ANIS T. AMBANG
(CONTRACTOR)

BY: 
SERGIO P. VILLAFUERTE
Manager, Project Management
Dept. (NPC)

BY: 
ATTY. ROGEL T. TEVES
Vice President, Power Engineering Services

replaced immediately upon the written request of NPC, provided, however, that any failure of NPC to make such request shall not relieve the CONTRACTOR of its obligations under the contract. NPC shall not be responsible for the delays or costs incurred by the CONTRACTOR because of the disapproval or removal of the sub-contractor, or because of the late submission of its approval.

ARTICLE X
AGREEMENT MODIFICATION

No modification, alteration or waiver of any provision of this agreement shall be binding upon the Parties unless evidenced by a written amendment signed by the Parties.

ARTICLE XI
SUSPENSION OF WORK

NPC or its duly authorized representative shall have the authority to suspend the work, wholly or partly, by written order for period/s as may be deemed necessary due to force majeure, fortuitous event, failure on the part of the CONTRACTOR to correct bad working conditions which are unsafe for workers or third parties, failure to carry out valid orders given by NPC, failure to perform any provisions of this contract, and due to adjustment of plans to suit field conditions as found necessary by NPC during construction. The CONTRACTOR shall immediately comply with work suspension, either wholly or partly.

ARTICLE XII
PRETERMINATION

Notwithstanding any provision to the contrary, NPC has the right to terminate, cancel and/or rescind this contract motu proprio, without need of judicial action, in case of breach thereof by the CONTRACTOR, by giving at least ten (10) day written notice, which shall be final and binding on all parties. Upon receipt of NPC's notice, the CONTRACTOR cannot remove, withdraw or pull-out any equipment, machinery, tool, material and supply brought to the project site without the written approval of NPC.

Any misrepresentation made by the CONTRACTOR in the submission of documents, or suppression of material facts, which if known could have disqualified the contractor gives NPC the immediate right or recourse to motu proprio, without need of judicial action, rescind, abrogate or otherwise terminate the Contract.

Contract between NPC and Delta Construction and Marine Services
Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
Package 1
Contract No. LOG MSSP 2022-12-126-ALC

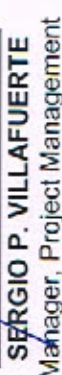
97

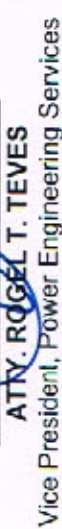
(CONTRACTOR)

BY:


NERY F. HUMIDING
 President


ROYCE ANN L. TIMSONING
 (CONTRACTOR)


SERGIO P. VILLAFUERTE
 Manager, Project Management
 Dept. (NPC)


ATTY. ROGEL T. TEVES
 Vice President, Power Engineering Services

Within thirty (30) 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, including the refund of any and all advances made, plus legal interest from the date of receipt of the amount or amount advanced.

ARTICLE XIII REMEDY AND RELIEF

Should there be any dispute or controversy in connection with this Contract, the Parties, as far as practicable, shall settle it amicably. In the event that such dispute or disagreement be not resolved to the parties' satisfaction, the matter shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law". Provided, however, that disputes within the competence of the Construction Industry Arbitration Commission shall be submitted thereto, Arbitration proceedings shall be without prejudice to the right of the NPC to rescind or terminate this Contract.

Should NPC be constrained to resort to court action to enforce or safeguard its rights and interests under this Contract, the CONTRACTOR shall be liable to NPC for attorney's fees in the amount equivalent to twenty percent (20%) of the sum total claimed in the complaint, exclusive of other damages and the expenses of litigation.

In case of dispute or disagreement arises between NPC and the CONTRACTOR regarding the manner by which the latter is performing works, the CONTRACTOR shall follow the instruction of NPC relative thereto, otherwise, the CONTRACTOR shall have no right to ask for arbitration or go to court for relief.

ARTICLE XIV PERFORMANCE SECURITY

To guarantee the faithful performance of the CONTRACTOR's obligation under this Contract, the CONTRACTOR shall post a Performance Security which shall remain valid and effective during the contract duration.

- a. Cash Manager's/Cashier's Check, Bank Draft/Guarantee issued by a Universal Bank or Irrevocable Letter of Credit issued by a Universal or Commercial Bank: provided however, that it shall be confirmed or authenticated by a reputable local Universal or Commercial Bank, if issued by a foreign bank, equivalent to ten (10%) of the contract price.

Contract between NPC and Delta Construction and Marine Services
 Supply, Delivery, Installation and Test of 1 x 35 kL FOST and 2 x 60 kL FOST for Patnanungan
 DPP, Palanan DPP and Jomalig DPP Including Construction of Associated Facilities under
 Package 1
 Contract No. LOG MSSP 2022-12-126-ALC

AFG-LOG-007.F01
 Rev. No. 0
 Sheet 8 of 14

