

BY:

Fernando Martin Y. Roxas
FERNANDO MARTIN Y. ROXAS
President and CEO

Alexander P. Japon
ALEXANDER P. JAPON
Vice President, Admin and Finance
(NPC)

Austero Anozon
(CONTRACTOR)

BY:

Nolan Jerome A. Dolar
NOLAN JEROME A. DOLAR
Proprietor

CONTRACT NO. LOG MSSP 2023-03-023-MDC

FUEL HAULING SERVICES FOR SPUG POWER PLANTS
AND BARGES FOR CY 2023
(LOT 15 - EASTERN VISAYAS & LOT 16 - EASTERN SAMAR)
HO-FMG23-002 / PB221206-JL00437(PB2)

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 BIR Road corner Quezon Avenue, Dilliman, Quezon City, Philippines, represented herein by its President and CEO, **MR. FERNANDO MARTIN Y. ROXAS**, who is duly authorized to represent it in this transaction, hereinafter referred to as **NPC**;

- and -

NICKEL FORWARDING SERVICES, a sole proprietorship duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at 03728 Amat St., Surigao City, Philippines herein represented by its Proprietor, **MR. NOLAN JEROME A. DOLAR**, who is duly authorized to represent it in this transaction, hereinafter referred to as **CONTRACTOR**;

WITNESSETH : That -

WHEREAS, on 01 February 2023, NPC posted the Invitation to Bid for the 2nd Public Bidding for the Fuel Hauling Services for SPUG Power Plants and Barges for CY 2023;

WHEREAS, there were five (5) prospective bidders who secured the Bidding Documents and participated in the 2nd Public Bidding conducted on 28 February 2023 on the aforesaid undertaking;

WHEREAS, the CONTRACTOR's bid offer for the Fuel Hauling Services for SPUG Power Plants and Barges for CY 2023 (Lot 15 - Eastern Visayas & Lot 16 - Eastern Samar) 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:

(NPC)

SIGNED IN THE PRESENCE OF:

NICKEL FORWARDING SERVICES

BY:

Fernando Martin Y. Roxas
FERNANDO MARTIN Y. ROXAS
President and CEO

Alexander P. Japon
ALEXANDER P. JAPON
Vice President, Admin and Finance
(NPC)

Kurt Morrison
(CONTRACTOR)

BY:

Nolan Jerome A. Dolan
NOLAN JEROME A. DOLAN
Proprietor

(CONTRACTOR)

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:

DOCUMENTS COMPRISING THE CONTRACT

ARTICLE I

1. Bidding Documents for the Fuel Hauling Services for SPUG Power Plants and Barges for CY 2023 (PR No. HO-FMG23-002/PB221206-JL00437(PB2));
2. Notice of Award dated 21 March 2023;
3. Supplemental/Bid Bulletin Nos. 1-4 dated 06, 10, 17 and 21 February 2023;
4. Post-qualification Report dated 09 March 2023;
5. Bid Opening Report dated 28 February 2023;
6. Contractor's bid proposal dated 20 February 2023;
7. Notice to Proceed; and
8. The Performance Security to be filed by CONTRACTOR in accordance with this Contract.

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 documents with the latest date shall prevail.

ARTICLE II
SCOPE OF WORK

Fuel Hauling services as specified herein is summarized as follows:

1. Supply of labor, supervision and provision of conveyances, equipment, materials and instruments for the duration of the hauling services contract;
2. Conduct of required volume determination of fuel to be hauled at the Contractor/Hauler's pick-up point and at the recipient plant;
3. Receipt of fuel to be withdrawn and hauled from Supplier's designated source/pick-up location and safe delivery of the same to the designated NPC recipient plant;
4. Transfer of fuel from tanker/tank truck/drums to the fuel storage tanks at the receiving plants; and
5. In case of packaged fuel deliveries (drums) to recipient power plants without fuel storage tank, Contactor/Hauler shall provide and retain sufficient number of container drums for the plants' utilization. Retrieval of empty container drums from the recipient power plant for refilling purposes may be conducted at the fuel pick-up point or fuel source point.

BY: *Fernando Martin Y. Roxas*

FERNANDO MARTIN Y. ROXAS
President and CEO

ALEXANDER P. JAPON
Vice President, Admin and Finance (NPC)

Aubrey Muzozap
(CONTRACTOR)

BY:

Nolan Jerome A. Dolan
NOLAN JEROME A. DOLAR
Proprietor

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 or Commercial 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 Five Percent (5%) of the contract price.

b. Surety Bond callable upon demand and penal in nature issued by a Surety or Insurance Company duly certified by the Insurance Commission as authorized to issue such security which shall be Thirty Percent (30%) of the total

ARTICLE VI
PERFORMANCE SECURITY

For and in consideration of the hauling services to be undertaken by the amount of and not exceeding **PHILIPPINE PESOS TWENTY SEVEN MILLION SIX HUNDRED FIFTY THOUSAND SIX HUNDRED SIXTY THREE AND 50/100 (PHP 27,650,663.50)** as reflected in Annex A.

The total contract price is expected to be fully served within the contract term. However, should there still be an available amount and volume left after the contract term, said contract term shall be extended until the full amount is consumed. The contract extension shall not exceed a period of one (1) year after the end of the contract term.

ARTICLE V
PAYMENT

The delivery point, number of liters per plants and amount are provided in Annex A of this contract.

ARTICLE IV
PICK-UP, DELIVERY, NUMBER OF LITERS AND AMOUNT

The contract period shall be nine (9) months from the date of issuance of the Notice to Proceed (NTP) or until the contracted volume of fuel to be hauled if fully served.

The delivery points and pick-up points for fuel hauling services are at various locations as indicated in the Section VII-Schedule of Requirements of the Bidding Documents.

ARTICLE III
CONTRACT PERIOD AND LOCATION

BY:

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FERNANDO MARTIN Y. ROXAS
President and CEO

Alexander P. Japon
ALEXANDER P. JAPON
Vice President, Admin and Finance
(NPC)

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(CONTRACTOR)

BY:

Nolan Jerome A. Dolan
NOLAN JEROME A. DOLAN
Proprietor

contract price.
c. Performance Securing Declaration.

The Insurance Company that will issue Performance Security must be accredited by the Insurance Commission and acceptable to the National Power Corporation.

The Performance Security shall be valid for the duration of the contract and shall remain valid and effective until after sixty (60) days from NPC's acceptance of the last delivery/final acceptance of the project. The Performance Security shall also answer for any damages and expenses that NPC may suffer as a result of the failure of the CONTRACTOR to perform its contractual obligations herein without prejudice to the other legal remedies which may be resorted to by NPC. The bond shall be released sixty (60) days after the last delivery period following the date of completion of the Contractor's performance obligations under the Contract and the issuance of certification to that effect by NPC, including any warranty obligations, unless otherwise specified in the Bidding Documents, provided there are no claims against the CONTRACTOR and/or its bondsmen.

Any extension of the delivery period, which may be granted to the CONTRACTOR, shall be considered as given and any modification of the Contract shall be considered as authorized with the express consent of the surety.

**ARTICLE VII
LIQUIDATED DAMAGES**

Should CONTRACTOR fail to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, NPC shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. Once the amount of liquidated damages reaches ten percent (10%), NPC may rescind or terminate the Contract without prejudice to other courses of action and remedies open to it.

**ARTICLE VIII
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.

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ALEXANDER P. JAPON
Vice President, Admin and Finance
(NPC)

Arcey M. Mounzer
(CONTRACTOR)

BY:

Nolan Jerome A. Dolan
NOLAN JEROME A. DOLAN
Proprietor

Contract between NPC and Nickel Forwarding Services
Fuel Hauling Services for SPUG Power Plants and Barges for CY 2023
(Lot 15 - Eastern Visayas & Lot 16 - Eastern Samar)
Contract No. LOG MSSP 2023-03-023-MDC

NPC may, without incurring any liability, and as its interest may require, terminate the Contract in whole or in part, at any time, at its convenience by written notice sent to CONTRACTOR. The notice of termination shall specify that such termination is for NPC's convenience and state the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.

**ARTICLE XI
RIGHT OF NPC TO TERMINATE CONTRACT**

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.

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.

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.

**ARTICLE X
PRE-TERMINATION**

Before the suspension order expires, the procuring entity concerned shall either lift such order or terminate the work covered by the same. If the suspension order is lifted, or if the period of the order expires, the Contractor shall have the right to resume work. Appropriate adjustments shall be made in the delivery or contract schedule, or contract price, or both, and the contract shall be modified accordingly.

NPC may suspend the work wholly or partly by written order for a certain period of time, as it deems necessary due to force majeure or any fortuitous events as defined in the contract. The Contractor shall take all reasonable steps to minimize the costs allocable to the work covered by such order during work stoppage.

**ARTICLE IX
SUSPENSION OF WORK**


NATIONAL POWER CORPORATION
(NPC)

SIGNED IN THE PRESENCE OF:

NICKEL FORWARDING SERVICES
(CONTRACTOR)

BY:


FERNANDO MARTIN Y. ROXAS
President and CEO


ALEXANDER P. JAPON
Vice President, Admin and Finance
(NPC)


(CONTRACTOR)

BY:


NOLAN JEROME A. DOLAN
Proprietor

The parties hereto agree that the venue of action for any cause or causes of action which may arise in connection with this Contract shall be exclusively in the proper court of Quezon City, Philippines, only.

VENUE OF ACTION
ARTICLE XIV

If any term or condition of this Contract is held invalid or contrary to law, the validity of the other terms and conditions hereof shall not be affected thereby.

VALIDITY CLAUSE
ARTICLE XIII

CONTRACTOR hereby warrants that he or his representative has not offered or paid, directly or indirectly, any government officer or NPC official or employee any consideration or commission for the Contract nor has he or his representative exerted or utilized any corrupt or unlawful influence to secure or solicit this Contract for any consideration or commission; that the CONTRACTOR will not subcontract any portion or portions of the scope of work of the Contract awarded to him to any official or employee of the NPC and to the relatives within the third degree of consanguinity or affinity of NPC's officials who are directly and indirectly involved in Contract awards or project prosecution; and that if any commission is being paid to a private person, he shall disclose the name of the said person and the amount being paid; and that any violation of this Warranty shall constitute a sufficient ground for the rescission or cancellation of this Contract or the reduction from the Contract price of the consideration or commission paid without prejudice to the filing of any action for violation of R.A. No. 3019 as amended (otherwise known as the Anti-Graft and Corrupt Practices Act) and/or other applicable laws against the CONTRACTOR and/or its representative and/or the erring NPC official(s) and employee(s).

WARRANTY CLAUSE
ARTICLE XII