



PROJECT: Procurement of Freight, Handling and Forwarding Services for the Delivery of procured Science and Mathematics Equipment utilizing the FY 2022 Funds stored at Nikka Trading's Warehouses (FY 2022 SME Lots 1, 6, 9, 10, 11, 12 & 13)

CONTRACT NO.: 2024c-BLR4(005)-BII-CB024-C168

CONTRACT

THIS CONTRACT made and entered into this 18 JUL 2024 day of 2024 by and between the **DEPARTMENT OF EDUCATION**, located at DepEd Complex, Meralco Avenue, Pasig City, represented herein by its Undersecretary and Chief of Staff, **ATTY. MICHAEL WESLEY T. POA**, as per Office Order OO-OSEC-2023-267, dated 17 October 2023 (hereinafter referred to as "**DEPED**"); and **XIMEX DELIVERY EXPRESS INC.**, represented herein by its Director - Business Development, **FEDERICO O. CRUZ II**, with office address at Sto. Domingo Road Brgy. Mayapa Calamba City Laguna (hereinafter referred to as "**XIMEX**"), as per Omnibus Sworn Statement dated May 8, 2024 (hereto attached as Annex "A").

DEPED and **XIMEX** are collectively called **PARTIES**.

WHEREAS, DEPED invited bids for the Procurement of Freight, Handling and Forwarding Services for the Delivery of procured Science and Mathematics Equipment utilizing the FY 2022 Funds stored at Nikka Trading's Warehouses (FY 2022 SME Lots 1, 6, 9, 10, 11, 12 & 13) consisting of **one (1) Lot**, and received bid from five (5) prospective bidders; **DEPED** opened, read, and evaluated the bids of the bidders and declared **XIMEX** as having the Lowest Calculated Bid; after evaluation, **DEPED** post-qualified and declared the bid of **XIMEX** as the Lowest Calculated Responsive Bid in the sum of **PHILIPPINE PESOS SIXTY-EIGHT MILLION, SEVEN HUNDRED NINETY-FIVE THOUSAND, FOUR HUNDRED EIGHTY-FOUR AND 00/100 (PhP68,795,484.00) ONLY**, (hereinafter called the "Contract Price") detailed as follows:

	Description	Amount (PhP)
1 Lot	Procurement of Freight, Handling and Forwarding Services for the Delivery of procured Science and Mathematics Equipment utilizing the FY 2022 Funds stored at Nikka Trading's Warehouses (FY 2022 SME Lots 1, 6, 9, 10, 11, 12 & 13)	68,795,484.00

NOW THIS CONTRACT WITNESSETH AS FOLLOWS:

1. In this Contract, words and expressions shall have the same meaning as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as part of this Contract, viz:

R. 26-20
 AMITA A. EBON
 XIMEX's Witness

ARIZ DESON ACAY D. CABELERICO, CRUZ II
 XIMEX
 DEPED's Witness

ATTY. MICHAEL WESLEY T. POA
 DEPED

A. M. A.
AMITA A. EBKON
XIMEX's Witness

Ariz Delson Acay D. Cavilan
ARIZ DELSON ACAY D. CAVILAN
DEPED's Witness

Michael Wesley T. POA
MICHAEL WESLEY T. POA
DEPED

- a. Resolution to Award No. 2024c-BLR4(005)-BII-CB-024 dated May 22, 2024;
 - b. Philippine Bidding Documents;
 - i. General and Special Conditions of the Contract;
 - ii. Schedule of Requirements;
 - iii. Scope of Services and Terms of Reference; and
 - iv. Bid Bulletin No. 1 dated May 3, 2024
 - c. **XIMEX's** bid, including the eligibility requirements, technical and financial proposals, and all other documents or statements submitted;
 - d. Performance Security;
 - e. Notice of Award (NOA) of Contract and **XIMEX's** conforme thereto; and
 - f. Other contract documents required by existing laws and/or DepEd in the Bidding Documents. **XIMEX** agrees that additional contract documents of information prescribed by the Government Procurement Policy Board (GPPB) that are subsequently required for submission after the contract execution such as, but not limited to, Notice to Proceed and Variation Order, shall form part of the Contract.
3. **XIMEX** shall post a Performance Security within 10 calendar days from receipt of the NOA in the form and amount prescribed therein. The Performance Security shall be posted in favor of **DEPED**, and shall be forfeited in the event that it is established that **XIMEX** is in default of any of its obligations under this Contract. **XIMEX** shall be responsible for the extension of its performance security and/or undertake to renew its Performance Security whenever necessary, and without the need for prior notice of instruction from **DEPED**, to ensure that it is in force and effect for the whole duration of the contract delivery period and until a Certificate of Final Acceptance is duly issued. Performance Security shall not contain any deletion, crossing-out, expunction, or any form of correction. Otherwise, **DEPED** may reject such security if any such intercalation, superimposition, or alteration affects any material information, or feature of the document.
4. The services referred to in this Contract shall be rendered by **XIMEX** at the designated Recipient Schools within **ninety (90) calendar days upon receipt of the Notice to Proceed (NTP) or as may be indicated in the NTP**. **XIMEX** shall ensure that the required services will be rendered in accordance with the Schedule of Requirements, which is hereto attached as Annex "B" and made an integral part hereof.

Violation of this provision, based on documents and reports submitted and validated by the authorized receiving personnel may be a cause for the termination of the Contract and shall be subject to liquidated damages pursuant to Item 9 of this Contract.

SA

A. E. Ebrera
AMITA A. EBRERA
XIMEX's Witness

[Signature]
ARIZ DELA CRUZ
DEPED's Witness

[Signature]
ATTY. MICHAEL WESLEY T. POA
DEPED

5. The services to be rendered must conform to and comply with the standards mentioned in Section VI. Schedule of Requirements of the Bidding Documents, and must be in accordance with the Terms of Reference as approved by the Bids and Awards Committee, or as amended by subsequently issued Bid Bulletin, if any, based on **XIMEX's** submission, and reflected in the post-qualification report, which is hereto attached as Annex "C" and made an integral part hereof.
6. In case **XIMEX** encounters condition(s) impeding timely performance of the required services, **XIMEX** shall promptly notify **DEPED** in writing within five (5) calendar days from notice of such condition(s). Any request for work suspension and/or contract period extension shall be promptly done in writing as soon as circumstances for such request have become apparent. **XIMEX** must provide sufficient proof to support any request for work suspension and/or contract period extension.
7. The Contract Price shall be paid to **XIMEX** in accordance with the following disbursement procedures:
 - a. **XIMEX** may submit a request for payment based on the following:
 - i. Value of actual services rendered based on the schedule of delivery and other relevant terms and conditions of the Contract; and
 - ii. Certification by **XIMEX**, duly signed and dated by the authorized representative of **DEPED** indicating that the services have been rendered in accordance with the Contract.
 - b. Payment shall be made to **XIMEX** within 60 days from submission of the documents specified in SCC Clause 2.2 and other documents as may be prescribed by **DEPED** in the following manner:
 - i. For progress payment, a minimum of 25% of the Contract Price shall be paid to **XIMEX** upon complete performance of at least 25% of the delivery and acceptance to the recipient schools.

XIMEX must furnish a copy of the above-mentioned documents to the End-User (Bureau of Learning Resources-Cebu).

8. Each party in the performance of their respective duties and responsibilities under this Contract and in the implementation thereof shall adhere to Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012" and its Implementing Rules and Regulations and applicable National Privacy Commission issuances. The processing of any gathered data and information should be in compliance with the confidentiality and privacy requirements under the said law and applicable regulations.

[Handwritten mark]

9. **XIMEX** shall be liable for liquidated damages in an amount equal one-tenth (1/10) of one percent (1%) of the cost of the unperformed portion, for every day of delay until such goods are finally rendered and accepted by **DEPED**. **DEPED** shall deduct the liquidated damages from any money due or which may become due to **XIMEX**, or collect from any of the securities posted by **XIMEX**, whichever is convenient to **DEPED**. Once the accumulated amount of liquidated damages reaches 10% of the Contract Price, **DEPED** may rescind or terminate the Contract, without prejudice to other courses of action and remedies available under the circumstances.
10. The **PARTIES** shall make exert their best efforts to properly resolve any differences or disagreements with respect to any issue that may arise in connection with this Contract. It shall be settled through amicable means, such as but not limited to, mutual consultation and negotiation.

However, in the event that the **PARTIES** fail to settle the dispute amicably, and before any Party may proceed to litigate in court, the Parties shall first resort to an Early Neutral Evaluation in accordance with the Rules on Alternative Dispute Resolution (ADR). Under Republic Act No. 9285 or the Alternative Dispute Resolutions Act of 2004, an Early Neutral Evaluation is defined as ADR process wherein parties and their lawyers are brought together early in pre-trial phase to present summaries of their cases and receive a nonbinding assessment by an experienced, neutral person, with expertise in the subject in the substance of the dispute.

In case of failure to settle differences, the dispute shall be referred to arbitration administered by three (3) accredited arbitrators to be appointed by both Parties in accordance with the Rules on ADR under RA No. 9285 and other relevant rules, regulations, and issuances.

In case of failure to settle differences, the **PARTIES** shall not be precluded from submitting dispute to the appropriate courts in the Philippines. Any cause of action for the enforcement of this Contract or any provision hereto shall be instituted only in the courts of competent jurisdiction, specifically in the Pasig City to the exclusion of other venues.


AMITA A. EBRERA
 XIMEX's Witness

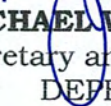

ARIZ DELSON CAY D. CAVILLAN
 DEPED's Witness

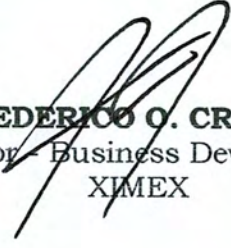

ATTY. MICHAEL W. WESLEY
 DEPED



IN WITNESS WHEREOF, the **PARTIES** hereto have caused this Contract to be executed in accordance with governing laws on the day and year first above written.


SIGNED, SEALED AND DELIVERED BY:


ATTY. MICHAEL WESLEY T. POA
Undersecretary and Chief of Staff
DEPED



FEDERICO O. CRUZ II
Director - Business Development
XIMEX

SIGNED IN THE PRESENCE OF:


ARIZ DELSON ACAY D. CAWILAN
DEPED's Witness


AMITA A. EBROM
XIMEX's Witness

CERTIFIED FUNDS AVAILABLE: ₱68,795,484.-


MA. RHUNNAL CATALAN
Chief Accountant

ACKNOWLEDGMENT

BEFORE ME, a Notary Public in and for PASIG CITY, Philippines,
this ____ day of 18 JUL 2024 2024 personally appeared:

NAME

GOVERNMENT ISSUED ID

(Number, Issued On, Issued By)

ATTY. MICHAEL WESLEY T. POA
Undersecretary and Chief of Staff
DEPED

DRIVER'S LICENSE
N02-08-0044162

Known to me and to me known to be the same persons who executed the foregoing instrument and acknowledge to me that the same is the free and voluntary act and deed of the entities which they respectively represent.

The foregoing instrument is a CONTRACT consisting of seven (7) pages (exclusive of attachments), including this page on which this acknowledgment is written and signed by the parties hereto and their instrument witness on the left-hand margin of each and every page hereof.

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

~~NOTARY PUBLIC~~
ATTY. NEIL TANLANGIT ALBOPERA
NOTARY PUBLIC

Until December 31, 2025
Pasig City and in the Municipality of Pateros, Metro Manila
PTR No. 1357680 / Pasig City/01 -02-2024
IBP No. 325487; 12/06 /2023 (MD for 2024)
Admitted to the Philippine Bar on 04/12/2022
Roll of Attorney No. 76228
TIN No. 242 -007-260-000
G/F Pasig City Hall, Brgy. San Nicolas, Pasig City
Appointment No. 58 (2024-2025)
Cellphone No. 0977 -634-4229

Doc. No. 1;
Page No. 2;
Book No. XIX;
Series of 2024.

REPUBLIC OF THE PHILIPPINES)
PASIG CITY, (METRO MANILA) S.S

ACKNOWLEDGMENT

BEFORE ME, a Notary Public in and for PASIG CITY, Philippines,
this ____ day of 18 JUL 2024 2024 personally appeared:

NAME

GOVERNMENT ISSUED ID

(Number, Issued On, Issued By)

FEDERICO O. CRUZ II
Director - Business Development
XIMEX

PAG- 1D1G
1210 - 4310 - 8059

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