



NOTICE OF AWARD AND CONTRACT AGREEMENT
Supply and Delivery of Surgical Masks for the Procurement Service

Contract No.: PS-CP-MDC-20-03-24

Date: 27 April 2020

FERDINAND FERRER

Authorized Representative

EMS COMPONENTS ASSEMBLY INC.

117 Technology Avenue Technopark, Biñan, Laguna 4024

Contact No.: (0917) 5121244

Email Address: perryf@ems.com.ph

After conducting evaluation of the proposal, the **Procurement Service** has determined your proposal as the Best and Most Responsive Proposal for the **Supply and Delivery of Surgical Masks for the Procurement Service** based on your **Best and Final Offer** as submitted in response to **RFO No. MDC-RFO-20-03-24** received and evaluated on **27 April 2020** thus, this Notice of Award and Contract Agreement:

Quantity	Unit of Measurement	Item/Description	Unit Price	Total Price
100,000,000	pieces	Surgical Mask, disposable, ear loop, 3-ply, wired	13.50	P 1,350,000,000.00



Delivery Instructions (based on negotiation):

Lot	Quantity	Item/Description	Agency's Delivery Schedule								
1	100,000,000 pieces	Surgical Mask, disposable, ear loop, 3- ply, wired	<div>Must comply to the following tranches of delivery:</div> <table><tr><td>May 25 – June 25, 2020</td><td>8,500,000 pieces (2,125,000 pcs / week)</td></tr><tr><td>June 26 – July 26, 2020</td><td>8,500,000 pieces (2,125,000 pcs / week)</td></tr><tr><td>July 27 – August 27, 2020</td><td>8,500,000 pieces (2,125,000 pcs / week)</td></tr><tr><td>August 28 – September 28, 2020</td><td>8,500,000 pieces (2,125,000 pcs / week)</td></tr></table>	May 25 – June 25, 2020	8,500,000 pieces (2,125,000 pcs / week)	June 26 – July 26, 2020	8,500,000 pieces (2,125,000 pcs / week)	July 27 – August 27, 2020	8,500,000 pieces (2,125,000 pcs / week)	August 28 – September 28, 2020	8,500,000 pieces (2,125,000 pcs / week)
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		September 29 – October 29, 2020	8,500,000 pieces (2,125,000 pcs / week)
		October 30 – November 30, 2020	8,500,000 pieces (2,125,000 pcs / week)
		December 1, 2020 – January 1, 2021	8,500,000 pieces (2,125,000 pcs / week)
		January 2 – February 2, 2021	8,500,000 pieces (2,125,000 pcs / week)
		February 3 – March 3, 2021	8,500,000 pieces (2,125,000 pcs / week)
		March 4 – April 4, 2021	8,500,000 pieces (2,125,000 pcs / week)
		April 5 – May 5, 2021	8,500,000 pieces (2,125,000 pcs / week)
		May 6 – June 6, 2021	6,500,000 pieces (1,625,000 pcs / week)

Standard warranty provisions apply:

1. The Supplier warrants that the Goods supplied under the Contract are new (unused), and that they incorporate all recent improvements in design and materials (latest models), except when the technical specifications required by the Procuring Entity provide otherwise. The Supplier warrants the timely delivery of the items. Any delay or failure to deliver may result in termination of the contract and blacklisting of the entity.
2. The Supplier further warrants that all Goods supplied under this Contract shall have no issue or defect arising from the design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
3. In order to ensure that any manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period of three (3) months. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money or a bank guaranty in an amount equivalent to at least one percent (1%) of every progress payment. If the latter is opted, the same shall be submitted three days upon the conclusion of negotiations and before the issuance of the Notice of Award and Contract Agreement. Failure to submit the stated warranty

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security shall automatically revert the warranty security to the option of retention money.

4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified and with all reasonable speed, replace the defective Goods without cost to the Procuring Entity.
5. The Procuring Entity shall be allowed to deduct Twelve Percent (12%) Value Added Tax (VAT) charged by the Philippine Government from the purchase price. In the event that the Supplier or the Procuring Entity shall be deemed to be exempt from the payment of VAT on the purchased items to the Republic of the Philippines, the amount will not be refunded to the Supplier.

OTHER TERMS AND CONDITIONS:

1. PRODUCT – The SUPPLIER agrees to manufacture and sell to PS-DBM N88 Surgical Mask per requirement under "A. Technical Specifications" of the Terms of Reference.
2. QUANTITY – PS-DBM hereby procures ONE HUNDRED MILLION (100,000,000) pieces, subject to the delivery schedule indicated in the "B. Schedule of Delivery" of the Terms of Reference.
3. PRICE - The unit price per mask must be equal or lower than the Approved Budget for the Contract of THIRTEEN PESOS AND FIFTY CENTAVOS (Php 13.50) per piece.
4. PAYMENT TERMS – For each actual delivery, PS-DBM shall pay SUPPLIER within FIFTEEN (15) DAYS from delivery of product and submission of documentary requirements per payment terms indicated below:

Delivery Tranches	Schedule	Payment Terms (<i>in % of the Total Contract Amount</i>)
1 st Tranche	May 25 – June 25, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
2 nd Tranche	June 26 – July 26, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
3 rd Tranche	July 27 – August 27, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %

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4 th Tranche	August 28 – September 28, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
5 th Tranche	September 29 – October 29, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
6 th Tranche	October 30 – November 30, 2020	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
7 th Tranche	December 1, 2020 – January 1, 2021	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
8 th Tranche	January 2 – February 2, 2021	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
9 th Tranche	February 3 – March 3, 2021	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
10 th Tranche	March 4 – April 4, 2021	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %
11 th Tranche	April 5 – May 5, 2021	
	<i>Week 1: 2,125,000 pcs</i>	2.125 %
	<i>Week 2: 2,125,000 pcs</i>	2.125 %
	<i>Week 3: 2,125,000 pcs</i>	2.125 %
	<i>Week 4: 2,125,000 pcs</i>	2.125 %

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12 th Tranche	May 6 – June 6, 2021	
	<i>Week 1: 1,625,000 pcs</i>	1.625 %
	<i>Week 2: 1,625,000 pcs</i>	1.625 %
	<i>Week 3: 1,625,000 pcs</i>	1.625 %
	<i>Week 4: 1,625,000 pcs</i>	1.625 %
TOTAL:	100,000,000 pieces	100 %

5. **TERMINATION** – The Procuring Entity may terminate this contract under any of the following instances:
- 5.1. **Termination for Default** – The Procuring Entity shall terminate a contract for default when any of the following conditions attend its implementation: a) Outside of force majeure, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price; b) As a result of force majeure, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or c) The Supplier fails to perform any other obligation under the Contract.
 - 5.2. **Termination for Convenience** - The Head of the Procuring Entity may terminate this contract, in whole or in part, for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.
 - 5.3. **Termination for Insolvency** – The Procuring Entity shall terminate the contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction.
6. **RIGHT OF FIRST REFUSAL/RIGHT TO MATCH** – If at any time during the term of this contract, there is a bona fide offer from a third party to manufacture, supply and sell with the same specifications under more favorable terms and price as set forth in this contract or such other favorable terms to PS-DBM, the latter shall have the right to terminate the contract for convenience. PS-DBM shall however notify supplier in writing of such offer, and the supplier shall, then, notify PS-DBM within thirty (30) days of its intent whether to exercise its right of first refusal or right to match the price of the third party supplier or terminate the contract with the PS-DBM.
7. **SPECIAL REPEAT ORDER** – Considering the urgent necessity of surgical masks as well as the difficulty in estimating the required quantity needed for such, and the available funding at the time of the original purchase, a Special Repeat Order may be availed by PS-DBM provided that the unit prices must be the same as or lower than those in the original contract. In the case of same unit price, the Procuring Entity must ensure that there is no lower price available in the market.

8. WARRANTY – The SUPPLIER warrants the quality of its product, and for which reason, it also warrants to answer and be held solely responsible and liable for whatever defect hidden or otherwise, which the said product has or may have before and after delivery up to three (3) months. The obligation for the warranty shall be covered by a retention money in an amount equivalent to at least one percent (1%) of every progress payment.
9. CONFLICT RESOLUTION - In the event that earnest efforts to settle any conflict amicably shall not be successful, any and all actions arising from such conflict shall be brought solely and exclusively before the appropriate courts of the City of Manila, to the exclusion of any and all other courts and/or tribunals.
10. SEVERABILITY - If any provision of this Contract is, for any reason, held to be invalid or unenforceable, the other provisions of this Contract will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.
11. WAIVER - Any waiver or failure to enforce any provision of this Contract on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

INSTRUCTIONS:

If you have no corrections to the contents of this NOTICE OF AWARD AND CONTRACT AGREEMENT, please sign this instrument immediately upon receipt. Failure to sign this document and revert this document within two (2) days of receipt may result in the cancellation of the award and blacklisting for unjustified refusal of award.

Very truly yours,

SIGNATURE REDACTED

USEC. LLOYD CHRISTOPHER A. LAO
Head of the Procuring Entity
Procurement Service

The **EMS COMPONENTS ASSEMBLY INC.**, through its authorized representative, hereby commits to deliver the requirements consistent with the terms above stated:

Ferdinand Ferrel
NAME

SIGNATURE REDACTED

SIGNATURE

4/27/20
DATE

[Handwritten signature]