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**MINISTRY OF DEFENSE
BRAZILIAN NAVY
BRAZILIAN NAVAL COMMISSION IN WASHINGTON**

DRAFT

**Contract Between the
Brazilian Naval Commission in Washington**

and

PRIORITY WORLDWIDE

for the

Transportation and storage service for 10 main engines, model TPE331-14GR-801Z, and 4 auxiliary engines, model RE100CS, packed in individual boxes, for an initial period of 3 months and not exceeding 12 months.

Contract No _____/2023

PROCESS No NUP: 63003.003294/2023-16

Câmara Nacional de Modelos de Licitações e Contratos da Consultoria-Geral da União
Atualização: maio/2023

Termo de contrato modelo para Pregão Eletrônico – Serviços sem mão de obra em regime de dedicação exclusiva - Lei n.º 14.133, de 2021.
Aprovado pela Secretaria de Gestão e Inovação.

Identidade visual pela Secretaria de Gestão e Inovação

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Contract No _____



Contract signed between the Brazilian Naval Commission in Washington and **PRIORITY WORLDWIDE** for transportation and storage services for 10 main engines, model TPE331-14GR-801Z, and 4 auxiliary engines, model RE100CS, packed in individual boxes, for an initial period of 3 months and not exceeding 12 months.

The Federal Government, through the Brazilian Naval Commission in Washington (BNCW), Brazilian Navy, located at 5130 MacArthur Blvd, NW, Washington, DC, 20016, hereby represented by the President, **Captain ALEXANDRE VIZEU DIAS**, appointed by Directive No. 62/MB/MD/2022 of the Commander of the Navy, holder of Brazilian Navy Identification Card No. 536541-4, hereinafter referred to as BUYER; and **PRIORITY WORLDWIDE**, represented by _____(name), _____(title), holder of identity card No. _____, with offices at _____ (SELLER's address), hereinafter referred to as the SELLER, in view of what is contained in Process No. **63003.003294/2023-16**, in compliance with the provisions of Ordinance GM-MD No. 5.175, of December 15, 2021, adapted to local peculiarities, resolve to enter into this Contract Term, resulting from Bid Waiver No. 02/2023, under the clauses and conditions set forth below.

1. CLAUSE - OBJECT:

1.1 The purpose of this instrument is to contract transportation and storage services for 10 main engines, model TPE331-14GR-801Z, and 4 auxiliary engines, model RE100CS, packed in individual boxes, for an initial period of 3 months and not exceeding 12 months, under the conditions set out in the Terms of Reference.

1.2 Object of the contract:

ITEM	DESCRIPTION	QTY	UNIT VALUE USD	TOTAL VALUE USD
1	Transportation services <i>seguro</i> for 10 main engines and 4 auxiliary engines to a depot to be determined by the SELLER. <i>seguro</i>	1 service	13,945.00	13,945.00
2	Storage of 10 main engines and 4 auxiliary engines in a safe place that allows visits by those interested in purchasing the engines. <i>sem seguro</i>	1 period of 3 months	2,350.00	2,350.00

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3	Storage of 10 main engines and 4 auxiliary engines in a safe place where they can be visited by those interested in purchasing them.	9 months	700,00	6,300.00
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1.3 This contract is binding, regardless of transcription:

1.3.1 The Terms of Reference;

1.3.2 The Invitation to Tender;

1.3.3 The SELLER's Proposal; and

1.3.4 Any annexes to the aforementioned documents.



2. CLAUSE - DURATION AND EXTENSION

2.1 The term of the contract is 12 months from the date of removal of the items from the premises of ESA/M7 Aerospace LLC, located at 1767 Skyplace Blvd, ZIP CODE 78216, in the city of San Antonio, Texas, USA, pursuant to article 105 of Law No. 14,133 of 2021.

2.2 The initial period will be 3 months and thereafter monthly periods will be computed in accordance with item 3 of the table in item 1.2 of this Contract, up to a total limit of 12 months, in the event that the bidding process for the sale of the goods (Administrative Process No. 63003.001913/2023-38) is not concluded within the period established above, subject to the applicable measures in the event of the SELLER's fault, provided for herein.

2.3 The contract may be terminated by the BUYER as soon as the material is removed from the storage site by MB or its authorized representative, in which case MB will make the payment for the last month of storage and the contract will be terminated without additional charges to the parties from subsequent months.

3. CLAUSE - CONTRACT EXECUTION AND MANAGEMENT MODELS

3.1 The contractual execution regime, the management and execution models, as well as the deadlines and conditions for completion, delivery, observation and receipt of the object are set out in the Terms of Reference, attached to this Contract.

3.2 - This acquisition must be informed by the criteria of environmental sustainability, based on Law No. 12.187/2009, together with the international commitments made by the Brazilian government, so that the SELLER, if possible, prioritizes recycled and recyclable products, compatible with socially and environmentally sustainable consumption patterns..

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4. CLAUSE - SUBCONTRACTING

4.1 Partial subcontracting of the object is permitted, provided that all the requirements of the Contract are complied with, and is limited to the contractual portion relating to the storage ²⁰²s, in accordance with the Terms of Reference attached to this Contract.

4.2 Subcontractors must be legally established companies. However, it is the SELLER's sole responsibility for the conduct and performance of its Subcontractors, including any irregularity committed by them, any breach of the Contract, illegalities and negligence.

5. CLAUSE - PRICE

5.1 The total value of the contract is USD 22,595.00 (twenty-two thousand, five hundred and ninety-five US dollars).

5.2 The above amount includes all ordinary direct and indirect expenses arising from the execution of the object, including taxes and/or duties, social, labor, social security, fiscal and commercial charges, administration fees, freight, insurance and others necessary for full compliance with the object of the contract.

6. CLAUSE - PAYMENT

6.1 The payment agreed in this Contract refers to the period of 30 days after the presentation of the respective invoice. The terms and conditions of payment are defined in the Terms of Reference, attached to this contract.

7. CLAUSE - READJUSTMENT

7.1 During the term of this Contract, the price may not be adjusted, except in the case of item 15.1.

8. CLAUSE - SELLER'S OBLIGATIONS

8.1 The BUYER obligations are:

8.1.1 To demand compliance with all the obligations assumed by the SELLER, in accordance with the contract and its annexes;

8.1.2 Receive the object within the period and under the conditions set out in the Terms of Reference;

8.1.3 Reject, in whole or in part, the contracted object, when not in accordance with the specifications contained in the Contract and its annexes.

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8.1.4 Notify the SELLER in writing of any defects, faults or inaccuracies in the goods supplied, so that they can be replaced, repaired or corrected, in whole or in part, at the SELLER's expense, in accordance with the conditions set out in this contract;

8.1.5 Monitor and supervise the execution of the contract and the fulfillment of the obligations by the SELLER;

8.1.6 Make payment to the SELLER of the amount corresponding to the execution of the object, within the period, form and conditions established in this Contract and in the Terms of Reference;

8.1.7 Apply to the SELLER the sanctions provided for by law and in this Contract;

8.1.8 Explicitly issue a decision on all requests and complaints related to the execution of this Contract, with the exception of requests that are manifestly impertinent, merely delaying or of no interest to the proper execution of the agreement.

8.1.9 - The Administration will have a period of 1 month from the date the request is filed to decide, with the possibility of a reasoned extension for the same period.

8.1.10 - Notify the **SELLER** in writing of the occurrence of any imperfections, faults or irregularities found during the execution of the services, setting a deadline for their correction, ensuring that the solutions proposed by the **SELLER** are the most appropriate;

8.1.11 - The Administration shall not be liable for any commitments assumed by the **SELLER** with third parties, even if linked to the execution of the contract, as well as for any damage caused by the **SELLER**.

9. CLAUSE - SELLER'S OBLIGATIONS

9.1 - The **SELLER** must comply with all the obligations contained in this Contract, the Public Notice and its annexes, assuming as its sole responsibility the risks and expenses arising from the proper and perfect execution of the object, also observing the obligations set out below:

9.1.1 - Comply with the regular orders issued by the contract supervisor or higher authority, and provide any clarification or information requested by them;

9.1.2 - To be responsible for the defects and damages arising from the execution of the object, as well as for any and all damage caused to the Administration or third parties, not reducing this responsibility to the supervision or monitoring of the contractual execution by the **BUYER** which will be authorized to deduct from the payments due or from the guarantee, if required in the public notice, the amount corresponding to the damages suffered;

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9.1.3 - To be responsible for complying with all labor, social security, tax, commercial and other obligations provided for in specific legislation, the default of which does not transfer responsibility to the BUYER and cannot encumber the object of the contract;

9.1.4 - Maintain throughout the term of the contract, in compatibility with the obligations assumed, all the conditions required for qualification in the bid;

9.1.5 - Keep confidential all information obtained as a result of fulfilling the contract;

9.1.6 - Bear the burden arising from any mistake in the sizing of the quantities in its bid, including variable costs arising from future and uncertain factors, and must supplement them if the initial estimate in its bid is not satisfactory for fulfilling the purpose of the contract, except to re-establish the initial economic and financial balance of the contract in the event of force majeure, unforeseeable circumstances or events of incalculable consequences, which make it impossible to perform the contract as agreed;

9.1.7 - Notify the BUYER of any supervening impediments that may cause delays or suspension of the delivery of the contracted object;

9.1.8 - Comply with the regular orders issued by the contract supervisor or higher authority;

9.1.9 - Assume responsibility for damage to property or any losses arising from this Contract when caused by the direct or indirect action or omission of its employees or subcontractors acting on its behalf;

9.1.10 Provide any clarification or information requested by the BUYER or its agents, guaranteeing them access, at any time, to the work site, as well as to documents relating to the execution of the project; and

9.1.11 Maintain throughout the term of the contract, in compatibility with the obligations assumed, all the conditions required for contracting.

10. CLAUSE - PERFORMANCE GUARANTEE

10.1 There will be no requirement for a contractual performance guarantee.

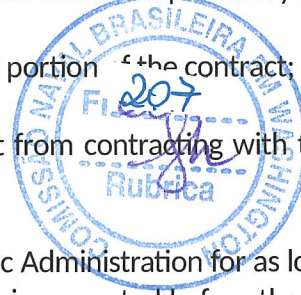
11. CLAUSE - ADMINISTRATIVE INFRACTIONS AND SANCTIONS

11.1 For total or partial non-performance of the contract, the BUYER may, with prior defense guaranteed, apply the following sanctions to the SELLER:

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- a) notice;
- b) Unjustified delay in the execution of the contract, from the first day of delay of the service, will subject the SELLER to a late payment fine of 0.1% (0.1 percent) per day of delay, limited to 30 days (thirty) days. Once this limit has been reached, the fine will be converted into a compensatory fine.
- c) A compensatory fine of 10 percent (%) of the value of the defaulted portion of the contract;
- d) Temporary suspension from participating in bids and impediment from contracting with this Naval Commission, for a period not exceeding two (2) years; and
- e) Declaration of ineligibility to bid or contract with the Brazilian Public Administration for as long as the determining reasons for the punishment persist or until rehabilitation is promoted before the authority that applied the penalty, which will be granted whenever the SELLER reimburses the BUYER for the resulting losses and after the period of the sanction applied based on item "c" has elapsed.



11.2 The sanctions set out in item 11.1, paragraphs "a", "d" and "e" may be applied together with those set out in paragraphs "a" and "b", with the SELLER being entitled to a prior defense in the respective process, within 5 (five) working days.

11.3 The sanction established in item 11.1 "e" is the exclusive competence of the Minister of State for Defense, with the SELLER's defense in the respective process, within 10 (ten) days of the opening of view, and rehabilitation may be requested after 2 (two) years of its application.

12. CLAUSE - TERMINATION OF CONTRACT

12.1 The contract is extinguished when the obligations of both parties have been fulfilled, even if this occurs before the stipulated deadline.

12.2 If the obligations are not fulfilled within the stipulated period, the term will be extended until the object is completed, in which case the Administration will have to readjust the schedule set for the contract.

12.3 When the failure to complete the contract referred to in the previous item is the fault of the SELLER:

12.3.1 The SELLER shall be deemed to be in default, and the respective administrative sanctions shall apply; and

12.3.2 The Administration may choose to terminate the contract and, in this case, will adopt the measures allowed by law for the continuity of contractual performance.

12.4 Total or partial non-performance of the contract gives rise to its termination, with the applicable contractual, legal and regulatory consequences, and will be formally motivated, ensuring the right to an adversarial hearing and a full defense.

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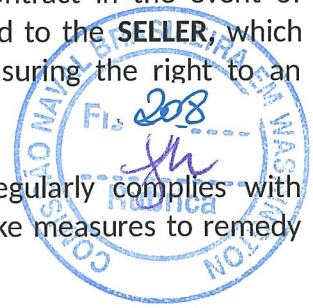
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12.5 The **BUYER** reserves the right to terminate the aforementioned Contract in the event of contractual non-performance, by means of a written notification addressed to the **SELLER**, which may give rise to the initiation of an Administrative Liability Process, ensuring the right to an adversarial proceeding and a full defense, in the following cases:

- a) the **SELLER** fails to comply with any contractual obligations or irregularly complies with contractual clauses, specifications, projects and deadlines and does not take measures to remedy such defaults after receiving formal notice;
- b) slow performance, leading the **BUYER** to prove that it is impossible to complete the delivery within the stipulated deadlines;
- c) the **SELLER** becomes insolvent, goes into voluntary or compulsory liquidation, except for merger purposes;
- d) the unjustified delay of the delivery of the object by the **SELLER**;
- e) stoppage of supply, without just cause and prior notice to the Administration;
- f) the total or partial subcontracting of the object, the association of the **SELLER** with others, the assignment or transfer, total or partial, as well as the merger, spin-off or incorporation, not allowed in the contract;
- g) failure to comply with the regular determinations of the authority designated to monitor and fiscalize its execution, as well as those of its superiors;
- h) bankruptcy or civil insolvency;
- i) the dissolution of the company or the death of the **SELLER**;
- j) corporate alteration or modification of the finalid

12.6 The following also constitute grounds for terminating the contract:

- a) a delay of more than 90 (ninety) days in payments due by the **BUYER** arising from services, or portions thereof, already received or executed, except in the event of a public calamity, serious disturbance of internal order or war, with the **SELLER** having the right to opt for suspension of compliance with its obligations until the situation is normalized; and
- b) the occurrence of unforeseeable circumstances or force majeure, duly proven, preventing performance of the contract.



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13. CLAUSE- BUDGET ALLOCATION

13.1 Expenses for this bidding process are programmed in the Union's budget for 2023, in accordance with the budget lines below:

Management/Unit:	743000/70200
PTRES:	174178
Nature of Expenditure:	339039
Source of funds:	0100000000
Internal Plan:	K.401.02



14. CLAUSE - OMITTED CASES CLÁUSULA DÉCIMA QUARTA – DOS CASOS OMISSOS

14.1 Omissions will be decided by the **BUYER** in accordance with the provisions of Ordinance GM-MD No. 5.175, of December 15, 2021 and other Brazilian regulations.

CLAUSE FIFTEEN - CHANGES

15.1 - The **SELLER** is obliged to accept, under the same contractual conditions, any additions or suppressions that may be necessary, up to a limit of 25% (twenty-five percent) of the updated initial value of the contract.

15.2 Changes to the contract must be made by signing an addendum, submitted for prior approval by the **SELLER's** legal adviser, except in cases where there is a justified need to anticipate their effects, in which case the addendum must be formalized within a maximum of one (1) month.

15.3 - Records that do not characterize an amendment to the contract may be made by simple apostille, without the need to sign an amendment.

16. CLAUSE - PUBLICATION

16.1 - The CNBW undertakes to publicize all information related to this Bidding Process.

17 CLAUSE - FORUM

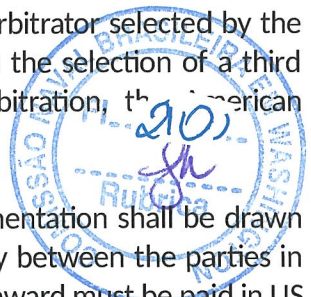
17.1 If the **PARTIES** are unable to resolve disputes arising out of or in connection with this Agreement amicably, such claims shall be determined by arbitration in accordance with the International Arbitration Rules of the “American Arbitration Association”.

17.2 The place of arbitration shall be Washington, DC, the number of arbitrators shall be three and the decision of the arbitrators shall be final and binding on the parties. Each party shall select an arbitrator

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within thirty (30) days after the commencement of the arbitration and the two arbitrators shall select a third. If one of the parties fails to select an arbitrator within this period, the arbitrator selected by the other party shall be the sole arbitrator. If the two arbitrators do not agree on the selection of a third arbitrator within forty-five (45) days after the commencement of the arbitration, the American Arbitration Association shall select the third arbitrator.



17.3 The arbitration shall be conducted in the English language and all documentation shall be drawn up in that language. The arbitral award shall be the sole and exclusive remedy between the parties in respect of claims, counterclaims and matters submitted to the arbitrators. The award must be paid in US dollars, net of any tax, deduction or set-off. Any costs, fees and expenses incurred in enforcing the award shall be charged against the party resisting such enforcement.

17.4 All notices relating to the arbitration shall be given in the English language and in writing.

17.5 Any dispute or claim arising out of or in connection with the Contract shall be determined in accordance with the Maritime and Commercial Laws applicable to this type of trade and the parties shall be subject to the jurisdiction of the federal courts located in the District of Columbia.

18. CLAUSE - COPIES

18.1 In order to make the agreement firm and valid, this Contract is drawn up in two copies of equal content, which, having been read and found to be in order, are signed by the parties.

ALEXANDRE VIZEU DIAS
CAPT – Brazilian Navy
President

SELLER's representative

Witness:

Witness:

FERNANDA RICARDO DA SILVA
CDR – Brazilian Navy
Head of the Purchasing Department

SELLER's representative

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