

U 200077

CONTRACT FOR ALLIED SERVICES

KNOW ALL MEN BY THESE PRESENTS:

This contract made and entered into this _____ day of _____, _____ at Pasay City, Philippines, by and between:

The **CENTER FOR INTERNATIONAL TRADE EXPOSITIONS AND MISSIONS (CITEM)**, a government instrumentality attached to the Department of Trade and Industry (DTI), with principal address at Golden Shell Pavilion, Roxas Boulevard corner Sen. Gil Puyat Avenue, Pasay City, represented herein by its Executive Director, **PAULINA SUACO-JUAN**, hereinafter referred to as "**PROCURING ENTITY**";

-and-

The **DBP SERVICE CORPORATION**, a duly licensed Manpower Agency, organized and existing under the laws of the Republic of the Philippines, with office address at 2/F Executive Bldg. Center, Sen. Gil Puyat Cor. Makati Avenue, Makati City, herein represented by its President, **RODOLFO C. MANALIGOD**, and hereinafter referred to as "**AGENCY**";

- WITNESSETH That -

WHEREAS, the **PROCURING ENTITY** needs the services of a licensed and qualified contractor for the Hiring of Official Allied Services Provider, such as Utility Workers, Aircon Technicians, Butlers, Messengers, Carpenters, Plumbers, Painters, Drivers/Couriers, Electricians, Warehousemen, Canvassers, Welders, Mechanics and other related Administrative positions, for CITEM Office and its Trade Fair Events/Projects for a Multi-Year Contract for three (3) years;

WHEREAS, the Center for International Trade Expositions and Missions Bids and Awards Committee (CITEM-BAC) has conducted PUBLIC BIDDING in accordance with Section 2 in relation to Sec. 10 of RA 9184 for the purpose of obtaining the best possible advantages in the form of the lowest price possible for the above-mentioned works without, however, sacrificing quality.

WHEREAS, among the invited bidders; and those who took interest to participate in the bidding, one (1) submitted its bid as indicated in the attached Abstract of Bids / Abstract of Canvass.

WHEREAS, the BAC designated a Technical Working Group to conduct the post qualification of the above requirement, wherein the latter submitted a post qualification report to the former for consideration.

WHEREAS, the BAC reviewed the post qualification report submitted by the Technical Working Group, and it was found that DBP Service Corporation is substantially compliant for the above-mentioned requirement;

WHEREAS, upon careful examination and evaluation, the BAC found and declared **DBP SERVICE CORPORATION**, as the Official Allied Services Provider for CITEM Office and its Trade Fair Events 2020.

WHEREAS, the herein parties mutually agreed to enter into a contract for a period commencing on February 01, 2020 to December 31, 2020;

NOW, THEREFORE, for and in consideration of the foregoing premises and of the terms and conditions hereinafter set forth, the Parties hereto agree to undertake as follows:

ARTICLE I: OBJECT OF THE CONTRACT

1. The **AGENCY** shall provide the **PROCURING ENTITY** the needed personnel/services in its office located at the Golden Shell Pavilion, Roxas Boulevard corner Gil Puyat Avenue, Pasay City, the positions, classifications as listed in Section "6" hereof, to form part of this Contract.

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ARTICLE II: SCOPE OF WORK

1. The **AGENCY** shall faithfully and efficiently perform all the duties relevant to the services contracted, which shall include monitoring of the performance of its employees assigned to the **PROCURING ENTITY**.

ARTICLE III: DURATION OF THE CONTRACT

1. This Contract shall commence from February 1, 2020 to December 31, 2020 inclusive, and may be renewed for two years contract subject to performance evaluation at the end of each year of services and with approval by the **PROCURING ENTITY**.
2. The Regular working periods shall be from Mondays through Fridays, except on non-working holidays when they are requested to report. Service and working time shall be eight hours every day from 7:00 to 4:00 or 8:00 to 5:00 in the afternoon or other time schedule as may be agreed upon between the **PROCURING ENTITY** and the **AGENCY**.

ARTICLE IV: CONSIDERATION

For and in consideration of the service/s rendered, the **PROCURING ENTITY** hereby agrees to pay the **AGENCY** the said rates based on the Financial Proposal in accordance with the condition of Section VII Technical Specifications. For services rendered over and above the eight (8) hour regular working time, **AGENCY** shall charge overtime, night shift differential, and holiday pay as the case maybe in accordance with the existing labor laws and the internal policies on overtime claims, provided that the services rendered are duly approved by the **PROCURING ENTITY**.

However, should there be government mandated increase in the wages and other charges such as premiums on SSS, Pag-IBIG, etc., **PROCURING ENTITY** agrees to an adjustment in the billing rates. In case the assigned employee claims for additional benefit as provided by law (wage and/or non-wage law) such as Paternity Leave Act of 1996 (RA8187), Solo Parent Act, etc., **PROCURING ENTITY** agrees to an adjustment in the billing rate to cover such claim, on reimbursement basis only. Provided, however, that tardiness and absences incurred by the employees assigned to the **PROCURING ENTITY** shall be deducted accordingly from the monthly billing of the **AGENCY**.

ARTICLE V: MANNER OF PAYMENT / BILLING

1. The **PROCURING ENTITY** shall pay the **AGENCY** the consideration for actual services rendered subject to the provisions of Article IV (01), hereof within fifteen (15) days from receipt of the bill/statement of account.
2. The **AGENCY** shall be responsible for the payment of the employee's monthly wages which shall be paid every *fifth day and twentieth day of the month*. In the event the employee shall be required by the **PROCURING ENTITY** to render overtime, the corresponding overtime pay shall be paid by **AGENCY** to its employees chargeable to **PROCURING ENTITY**.
3. Overtime payment shall be paid on the specified cut-off of monthly wages. Other remuneration due to all workers like SSS premiums, Philhealth and Pag-ibig contribution shall be paid due to the prescribe payment dates, and 13th month pay shall be paid once a year, on or before 15th day of December.

In billing the **PROCURING ENTITY**, it is agreed that **AGENCY** shall submit to the **PROCURING ENTITY**, together with its monthly invoice, a sworn certification and other requirements stated under Section VII Technical Specifications duly executed by its President or authorized officer stating that wages, salaries and other remuneration due to all workers assigned to the **PROCURING ENTITY** have already been paid.

5. The **AGENCY** shall furnish a copy of the monthly payslips to its personnel assigned to the **PROCURING ENTITY** and other requirements stated under Section VII Technical Specifications.

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ARTICLE VI: MISCELLANEOUS PROVISIONS

1. In case of any additional personnel, **AGENCY** shall assign personnel who have passed the Qualification Standards set by the **PROCURING ENTITY** as specified under Section VII Technical Specifications. For this purpose, the **PROCURING ENTITY** shall have the final say for the selection of the employees to be assigned by **AGENCY**.
2. The **AGENCY** shall provide the **PROCURING ENTITY** a copy of its Contract with their employees to each employee assigned to the latter.
3. It is expressly understood and agreed that the employees assigned by **AGENCY** to the **PROCURING ENTITY** are, for all legal intents and purposes, the employees of **AGENCY** and not of the **PROCURING ENTITY**, hence the **PROCURING ENTITY** does not maintain any employee-employer relationship with said personnel of **AGENCY**.

Accordingly, **AGENCY** binds itself to hold harmless the **PROCURING ENTITY** or any of its officials, employees and/or agents from any responsibility for any personal injury or damage, including death sustained by **AGENCY** personnel during the lawful performance of their duties or stay within the premises of the **PROCURING ENTITY**. The **AGENCY** shall at all times stand fully and solely liable for the enforcement, of and/or compliance with all labor and social legislations as well as other pertinent laws and/or decrees and of those that may be enacted thereafter. The **AGENCY** shall comply with all the rules and regulations pertaining to SSS and Pag-IBIG Fund Membership of the personnel assigned to the **PROCURING ENTITY** under this Contract.

4. The **AGENCY** hereby authorizes the **PROCURING ENTITY** to supervise for administrative convenience the personnel assigned to the **PROCURING ENTITY** during their term of duty and the exercise by the **PROCURING ENTITY** of this authority shall not be deemed nor interpreted as relinquishment of the powers by the **AGENCY** as employer of its personnel assigned to the **PROCURING ENTITY**.
5. The **AGENCY** shall be liable for all the losses and damages which may be caused through the fault or negligence of the personnel assigned to the **PROCURING ENTITY** on the property and facilities of the **PROCURING ENTITY**, provided that the **PROCURING ENTITY** shall bring to the attention of **AGENCY** such damages or losses within five (5) days from discovery by the **PROCURING ENTITY** of such loss or damages.

And provided further, with regard to drivers, it is understood that it shall only drive vehicles that are covered by a comprehensive insurance policy.

6. Any stoppage of work caused by the employees of **AGENCY** for any reason whatsoever except due to fortuitous events or beyond human control shall be the responsibility of **AGENCY** and it shall be liable for any damage that may be caused to the **PROCURING ENTITY** by such work stoppage.
7. Should the **PROCURING ENTITY** find any of the **AGENCY** assigned personnel undesirable or with unsatisfactory performance, **AGENCY** shall, upon request, replace the personnel concerned with one acceptable to the **PROCURING ENTITY**. Moreover, should any of the said personnel perform any act which may be prejudicial to the interest of the **PROCURING ENTITY** or should any of said employees be found to be incompetent or negligent in the performance of his/her functions, **AGENCY** shall immediately replace him/her at its own instance or at the request of the **PROCURING ENTITY**.

8. The **AGENCY** warrant that none of its officials or representatives has given or promised to give any money, gift, present, or benefit to any official or employee of the **PROCURING ENTITY**, to influence to solicit or to secure this Contract through an agreement to pay a commission, brokerage, contingent fees or share from the contract price.

9. In cases when, due to the exigencies of the service, the personnel assigned by the **AGENCY** to **PROCURING ENTITY** are required to travel outside the office premises of **PROCURING ENTITY** in order to faithfully perform the duties required to implement its projects, both local and overseas, **PROCURING ENTITY** shall provide said personnel the necessary travel

allowances, in accordance with its Travel Guidelines. The **PROCURING ENTITY** shall record in its books the travel allowance as receivable from personnel concerned until such time that necessary documents are submitted to liquidate the same, such as certificate of appearance, copy of air ticket and boarding passes (in case of air travel) & other receipts. The **AGENCY** shall not be held liable for non-liquidated travel allowance of the said personnel.

That for and in consideration of the services to be rendered by the **AGENCY** to the **PROCURING ENTITY**, the latter shall during the term of the Contract pay to the Agency the sum of **Three Million Seven Hundred Forty Four Thousand Eight Hundred Seventy Two and Eighty Nine Centavos (P3,744,872.89)** covering the period **February 1, 2020 to December 31, 2020**.

10. Special and General Conditions stated in the Philippine Bidding Documents (PBD) shall form an integral part of this Contract.
11. It is further agreed by both parties that should the **PROCURING ENTITY** fail to pay the **AGENCY** for the services rendered for seven (7) consecutive pay periods such shall be sufficient cause for the **AGENCY** to terminate contract by written notice to that effect at least one (1) week in advance, and pull out its service providers.

The **PROCURING ENTITY** shall in no case arbitrarily withhold in whole or in part, payment or any billing/s or deduct the cost of any lost or damaged property from the billing of the **AGENCY** without the written consent of the latter.

12. Pre-Termination Clauses:

PROCURING ENTITY and/or the **AGENCY** shall have the right to request pre-termination of Contract at any one time prior to the expiration of the contract for the following reasons:

- a Service providers are asked to perform functions beyond the scope of their duties as stipulated in the contract, to include illegal acts;
- b The **PROCURING ENTITY** failed to pay the **AGENCY** for the services rendered for Seven (7) consecutive pay periods, such will be sufficient cause for the **AGENCY** to terminate contract by written notice within 30 calendar days from date of termination; and,
- c Violation of any provision/s of this contract.

PERFORMANCE SECURITY

1. Within ten (10) calendar days after the **AGENCY'S** receipt of the Notice of Award of Contract, the **AGENCY** shall furnish the **PROCURING ENTITY** a Performance Security Bond in the amount specified in Section 39.2 of the IRR of RA 9184.
2. The proceeds of the Performance Security Bond shall be payable to the **PROCURING ENTITY** as compensation for any loss resulting from the **AGENCY'S** failure to complete the obligations under the Contract.

3. The Performance Security Bond shall be denominated in Philippine Peso and shall be in its entirety in any of the following forms and amount:

- | | |
|---|------------------|
| a) Cash, manager's check, cashier's check | Php 187,243.64 |
| b) Bank draft or irrevocable Letter of Credits issued by a reputable bank (5%) | |
| c) Bank Guarantee confirmed by a local bank | Php 187,243.64 |
| d) Surety bond, callable on demand issued by
GSIS or any private surety bond company (30%) | Php 1,123,461.86 |

4. The Performance Security Bond shall be valid until issuance by the Procuring Entity of the Certificate of Final Acceptance as stated in Section 39.4 of IRR of RA 9184.

5. The Certificate of Release of Performance Security Bond shall be released to the **AGENCY** after issuance of Final Acceptance by the **PROCURING ENTITY** provided that the latter has no claims filed against the **AGENCY** or a reputable bank or surety company.
6. In case the **PROCURING ENTITY** requested for additional number of allied personnel for its trade fair events and activities, the **PROCURING ENTITY** shall provide the needed personnel for the same rates as prescribed.
7. The failure of **AGENCY** to materially comply with any of the requirements despite notification of non-compliance with the Contract shall constitute sufficient grounds for declaring the **AGENCY** as non-performing, leading to termination of the Contract and the forfeiture of the Performance Security Bond.

TAXES AND DUTIES

1. Tariffs, taxes, charges and duties applied for and made applicable directly by the government upon the service to be rendered under the agreement shall be for the account of the **AGENCY** and deemed to have been included in the bid proposal. No request for revision of prices and claims by the **AGENCY** for the reason that such taxes or duties were not included in the bid price for any reason shall be entertained.

PENALTY FOR DELAY/BREACH

1. It is hereby understood that should the authorized representative of the **PROCURING ENTITY** refuse to accept delivery from the **AGENCY** for any unjustified reason to be determined by the arbitrators, the delivery, for purposes of the payment and the computation of delay, shall reckon from the date the **AGENCY** actually delivered the items at the subject office.
2. If the **AGENCY** fails to deliver any or all of the Goods or perform the services within the period specified in Schedule of Requirement, the **PROCURING ENTITY**, *upon written notice* and without prejudice to other remedies provided under this Contract, shall deduct from the Contract Price, as liquidated damages, a sum equivalent to ONE TENTH OF ONE PERCENT (1/10 of 1%) of the total value (including handling charges) of the delayed Goods or the unperformed portion for each day of delay until actual delivery/performance. The maximum amount of liquidated damages shall not exceed Ten percent (10%) of the total Contract Price, in which event the **PROCURING ENTITY** shall automatically terminate the Contract and impose appropriate sanctions over and above the liquidated damages to be paid.

TERMINATION OF THE CONTRACT

1. The **PROCURING ENTITY** may terminate this Contract if the **AGENCY** does not show satisfactory performance in the delivery of services with acceptable quality based on the Specifications and standards, after previous written warning/notice, PROVIDED that such termination shall not be construed as waiver of the **AGENCY's** liabilities and the **PROCURING ENTITY's** right to recover the value of payment plus damages under this Contract.

2. TERMINATION FOR DEFAULT

The **PROCURING ENTITY**, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the **AGENCY**, may terminate this Contract in whole or in part:

- a. If the **AGENCY** fails to deliver any or all of the Goods or perform the services within the period(s) specified in the Contract, or within any extension thereof granted by the **PROCURING ENTITY**; or,
- b. If the **AGENCY** fails to perform any other obligation(s) under the Contract;
- c. If the **AGENCY**, in the judgment of the **PROCURING ENTITY**, has engaged in corrupt or fraudulent practices in completing for or in executing the Contract.

For the purpose of this paragraph:

"Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

"Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the **PROCURING ENTITY**, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the **PROCURING ENTITY** of the benefits of free and open competition.

In the event the **PROCURING ENTITY** terminates the Contract in whole or in part, the **PROCURING ENTITY** may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the **AGENCY** shall be liable to the **PROCURING ENTITY** for any excess costs for such similar Goods and Services. However, the **AGENCY** shall continue performance of the Contract to the extent not terminated.

3. TERMINATION FOR INSOLVENCY

The **PROCURING ENTITY** may at any time terminate the Contract by giving written notice to the **AGENCY** if the **AGENCY** becomes bankrupt or otherwise insolvent. In this event, termination shall be without compensation to the **AGENCY**, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the **PROCURING ENTITY**.

4. FORCE MAJEURE

a. Notwithstanding the provisions of Article 13 of GCC, the **AGENCY** shall not be liable for forfeiture of its Performance Security Liquidated Damages or Termination for Default if the delays in performance or failure to perform its obligations under the Contract is the result of Force Majeure.

b. For purposes of this section, "Force Majeure" means an event beyond the control of the **AGENCY** and not involving the **AGENCY's** fault or negligence. Such events may include, but are not restricted to, wars and revolutions, fires, flood, epidemics, quarantine restrictions and freight embargoes.

c. If a Force Majeure arises, the **AGENCY** shall promptly notify the **PROCURING ENTITY** in writing of such condition and the cause thereof. Unless otherwise directed by the **PROCURING ENTITY** in writing, the **AGENCY** shall continue to perform its obligations under the Contract as far as reasonably practical, and shall seek all reasonable alternative means of performance not prevented by Force Majeure.

ARBITRATION

1. In case of a dispute between the **PROCURING ENTITY** and the **AGENCY**, the dispute shall be resolved in accordance with Republic Act 9285 ("RA 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."

ADDITIONAL PROVISIONS

1. There shall be no escalation of rates during the duration of the Contract, except under the following conditions:
 - a. In extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of RA 9184 and its IRR;
 - b. Increase in minimum daily wage pursuant to law or new wage order issued after the date of bidding;
 - c. Increase in taxes.
2. This Contract shall be governed by and construed in accordance with the laws of the Philippines.
3. In the event any of the parties is compelled to institute any judicial proceedings to enforce any of the terms and conditions of this contract, the parties hereby agreed that any such proceedings shall be brought exclusively in the proper courts of Pasay City.
4. No amendment in or modification of the terms of this Contract shall be made except by written agreement signed by the parties.

[Handwritten signature]

[Handwritten signature]

MAR 03 2020

IN WITNESS WHEREOF, the parties have hereunto signed this instrument this _____ day of _____, 2020 at Pasay City, Philippines

CENTER FOR INTERNATIONAL TRADE EXPOSITIONS AND MISSION

DBP SERVICE CORPORATION


PAULINA SUACO-JUAN
Executive Director


RODOLFO C. MANALIGOD
President

Signed in the presence of:


ATTY. ANNA GRACE I. MARPURI
OIC, Corporate Services Department


GERRY A.C. ARELLANO
Vice-President


MALERNA C. BUYAO
Chief, Controllership Dept.

ACKNOWLEDGMENT

Republic of the Philippines)
Pasay City) s.s.

Before me a Notary Public for and in **PASAY CITY** this **MAR 03 2020** day of _____ personally appeared:

NAME	COMPETENT EVIDENCE OF IDENTITY	DATE & PLACE OF ISSUE/VALID UNTIL
PAULINA SUACO-JUAN		
RODOLFO C. MANALIGOD		

Known to me to be the same persons who executed this Contract consisting of Seven (7) pages including this Acknowledgement, and they acknowledge the same to be their voluntary act and deed as well as the entities they respectively represent.

IN WITNESS WHEREOF, I have hereunto affixed my notarial seal this **MAR 03 2020** day of _____ in Pasay City, Philippines.

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ATTY. J. [Signature] NOTARY PUBLIC
108 PAMPANAN ST., PASAY CITY, METRO MANILA
NOTARY PUBLIC FOR PASAY CITY
UNITED UNDER 31, 2021
PTR NO. 245471-6-20/PASAY CITY
REG. NO. 113341-2 20/PASAY CITY
COMMISSION 1/PASAY CITY
MALS COMPLIANCE REG. NO. 5023073
ROLL NO. 50214