

**CONTRACT FOR THE DESIGN AND BUILD OF AUTOMATIC FIRE SPRINKLER
SYSTEM AND FIRE DETECTION AND ALARM SYSTEM
AT THE INDUSTRY AND INVESTMENTS BUILDING**

THIS AGREEMENT, is entered into on MAY 16 2023 at Makati City, Philippines, by:

NATIONAL DEVELOPMENT COMPANY, a government-owned and controlled corporation duly organized and existing pursuant to P. D. 1648, as amended, with principal office at the NDC Bldg., 116 Tordesillas Street, Salcedo Village, Makati City, represented herein by its General Manager, **ANTONIOLO DC. MAURICIO**, whose authority is evidenced by the attached Secretary's Certificate (Annex "A"), and hereinafter referred to as "**NDC**";

- and -

PALMER-ASIA INC., a corporation organized and existing under and by virtue of the Corporation Code of the Philippines, with principal office at No. 33 EDSA, Bangkal, Makati City, Philippines, represented by its Authorized Representative, **MS. JINKY L. COLLADO**, whose authority is shown by the attached Secretary's Certificate as Annex "B" hereof and hereinafter referred to as the "**CONTRACTOR**";

NDC and PALMER-ASIA INC. are hereinafter referred to collectively as "Parties", and individually as "Party".

ANTECEDENTS:

WHEREAS, NDC is desirous to execute the Design and Build of Automatic Fire Sprinkler System (AFSS) and Fire Detection and Alarm System (FDAS) at the Industry and Investments (I&I) Building with Reference No. MR21-12-135 (hereinafter called "the **Works**") and has accepted the Bid for Twenty-One Million Six Hundred Thirty-Two Thousand Six Hundred Twenty-Three Pesos (P 21,632,623.00) (hereinafter called "the **Contract Price**") by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

On September 16 to October 17, 2022, NDC posted an Invitation to Bid (ITB) for the WORKS with Reference No. MR21-12-135, in the Philippine Government Electronic Procurement System (PhilGEPS), NDC website, and on conspicuous places at the premises of the NDC Building, in compliance with the Government Procurement Act, R.A. 9184.

In response to the said advertisements, three (3) Suppliers submitted their bids.

After due evaluation of the bid submitted by the participating bidder, only Palmer-Asia Inc. has met the eligibility requirements and passed the preliminary examination of bid held on October 17, 2022.

After due evaluation and post qualification by the Technical Working Group of the Bids and Awards Committee (BAC), the Contractor was found to have submitted a complying and responsive bid, thus NDC accepted the Contractor's bid of **Twenty-One**

Million Six Hundred Thirty-Two Thousand Six Hundred Twenty-Three Pesos (P 21,632,623.00), inclusive of VAT, for the WORKS.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter 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 Agreement, viz.:
 - (a) Philippine Bidding Documents (PBDs); (Annex "C");
 - i. Drawings/Plans; (Annex "C.1");
 - ii. Specifications; (Annex "C.2");
 - iii. Bill of Quantities; (Annex "C.3");
 - iv. General and Special Conditions of Contract; (Annex "C.4");
 - v. Supplemental or Bid Bulletins; (Annex "C.5");
 - (b) Contractor's Bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted; (Annex "D");
 - (c) Bid Form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes, and all other documents submitted (e.g., Contractor's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from NDC's bid evaluation; (Annex "E");
 - (d) Performance Security; (Annex "F");
 - (e) Notice of Award of Contract and the Contractor's conforme thereto; (Annex "G"); and
 - (f) Other contract documents that may be required by existing laws and/or the NDC in the PBDs. **Contractor agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Orders, and Warranty Security, shall likewise form part of the Contract; (Annex "H").**
3. In consideration for the sum of Twenty-One Million Six Hundred Thirty-Two Thousand Six Hundred Twenty-Three Pesos (P 21,632,623.00) or such other sums as may be ascertained, the Contractor agrees to Design and Build of AFSS and FDAS at the I&I Building in accordance with its Bid.
4. The NDC agrees to pay the above-mentioned sum in accordance with the terms of the Bidding.

ACCORDINGLY, for and in consideration of the foregoing premises and the provisions of the abovementioned documents, Annex "A" to "H" hereof, the parties hereby agree as follows:

ARTICLE I **Consideration**

1. NDC shall pay the CONTRACTOR the total amount of Twenty-One Million Six Hundred Thirty-Two Thousand Six Hundred Twenty-Three Pesos (P 21,632,623.00), inclusive of VAT and other applicable taxes, as they become payable under the provisions of this Contract at the times and in the manner prescribed in Annex "C.4", General Conditions of Contract and Special Conditions of Contract.
2. In consideration of the payments to be made by NDC to the CONTRACTOR as hereinafter mentioned, the CONTRACTOR hereby covenants with NDC to execute

and complete the Works and remedy any defects therein in conformity with the provisions of this Contract in all respects.

3. Variation Orders shall be governed by Section 43 of the General Conditions of Contract, attached hereto as Annex "C.4".

ARTICLE II

Term of Contract

This contract shall be effective for a period of **Eight (8) months** commencing upon receipt of Notice to Proceed (NTP) unless sooner terminated in accordance with the provisions herein stipulated or other causes provided for by applicable laws.

ARTICLE III

Scope of Work

The Services to be provided shall be as specified in the Bill of Quantities herein attached as Annex "C.3".

ARTICLE IV

Special Provisions

1. No employer-employee relationship shall exist between NDC and the CONTRACTOR'S personnel. The NDC shall be free from any claims by the CONTRACTOR'S personnel as regards their employment, the same being the responsibility of the CONTRACTOR as employer. In case of suit where NDC is impleaded as indirect employer, the CONTRACTOR shall defend and protect NDC's interest. Any legal fees and expenses that may be incurred by NDC as a consequence of such claims shall be for the account of the CONTRACTOR.
2. No adjustment in the contract price shall be allowed during the term of this CONTRACT except in cases where the cost of the awarded CONTRACT is affected by applicable new law, ordinance, regulation, or other act a Government promulgated after the bidding. In which case, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis to the CONTRACTOR pursuant to Sec. 61 of the Implementing Rules and Regulations of RA 9184.
3. The parties shall promptly discuss and strive for an amicable resolution of any issue or dispute that may arise from the Contract.

All actions and controversies that may arise from the Contract including but not limited to demands for specific performance of the obligations as specified herein and/or in the interpretation of any provisions or clauses contained herein, shall, in the first instance, be settled within thirty (30) calendar days through amicable means, such as but not limited to mutual discussion. Should the dispute remain unresolved by the end of the aforementioned period, the dispute shall be settled in accordance with the applicable provisions of Republic Act No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004.

Whenever necessary to promote Arbitration or to seek judicial relief, NDC and the CONTRACTOR agree that any legal action, suit, or proceeding arising out of or relating to the Contract may be instituted in any competent court in Makati City, to the exclusion of the courts of equal jurisdiction.

In the event that NDC is compelled to commence an arbitration or to seek judicial relief to enforce the provisions of this Contract, it shall be entitled to attorney's fees and liquidated damages equivalent to ten percent (10%) and fifteen percent (15%), respectively, of the Contract price or the amount claimed in the arbitration or judicial action, whichever is higher, aside from the costs of arbitration or litigation, whichever is applicable, and other expenses incidental thereto.

4. The CONTRACTOR shall be liable for the following:
- a. Any and all damages, losses, liabilities, obligations, and claims, monetary or otherwise, that may result, arise, and accrue from the performance of the Contracted Services or any violation by the CONTRACTOR of its warranties, guarantees, and undertakings and the terms and condition of this CONTRACT;
 - b. Any and all damages, losses, liabilities, obligations, and claims, monetary or otherwise, for any accident or loss of life or injury to third persons or their property arising from, on the occasion of, or in connection with the performance by the CONTRACTOR of any of its obligation under this Contract due to the act, omission, fault or negligence of the CONTRACTOR or any of its personnel.

The CONTRACTOR shall hold NDC free and harmless from any liability for the foregoing damages, losses, obligation, and claims; provided, that if NDC shall be charged and be held liable therefore, the CONTRACTOR shall defend NDC before any agency, office, tribunal or court, and shall assume such liability principally and directly for the benefit of NDC. If for any reason, NDC is made to pay such damages, losses, obligations, and claims, the CONTRACTOR shall reimburse NDC for any and all payments that it may make, as well as expenses and costs, including but not limited to litigation expenses and legal fees, that may be incurred by NDC in connection therewith. NDC may, at its sole option, and without prejudice to other remedies, deduct all such payments from any amount that may be due to the CONTRACTOR hereunder until they shall have been paid in full.

5. Should any of the terms and conditions or any part or clause of this CONTRACT be declared void or unenforceable by a competent authority, the same shall not invalidate the other terms and conditions, parts, or clauses of this CONTRACT, which shall continue to be in full force effect.
6. This CONTRACT shall be deemed to be made under, and shall be governed by, the laws of the Republic of the Philippines in all respect, including matters of construction, validity, and performance.
7. As required under Executive Order (EO) 398, the CONTRACTOR shall submit income and business tax returns duly stamped and received by the Bureau of Internal Revenue (BIR), before entering and during the duration of this CONTRACT. The CONTRACTOR, through its responsible officer, shall also certify under oath that it is free and clear of all tax liabilities to the government. The CONTRACTOR shall pay taxes in full and on time and that failure to do so will entitle NDC to suspend or terminate this Contract.
8. The PARTIES herein shall abide by the restrictions and requirements of R.A. No. 10173 or the Data Privacy Act of 2012 and any other applicable laws, rules or regulations on acquiring and/or processing any information that may be required in the course of, or as a result of, this contract.

In the event, either Party encounters a breach of personal or sensitive personal information which it acquired due to this contract, said Party shall immediately notify the other Party of the same. The CONTRACTOR and NDC reserve their rights to apply security measures to minimize the impact of the breach and report the same to the National Privacy Commission (NPC) for appropriate action.

ARTICLE V **Confidentiality of Information**

The CONTRACTOR covenants that it or any of the officers/personnel shall not, during the duration of this CONTRACT or at any time thereafter, disclose nor furnish to any person, firm, or corporation any information relating to the NDC, its officers/personnel, that may be acquired/possessed in the course of the performance of services to NDC, or

in the course of their stay within their places of assignment, or as an incident of this CONTRACT.

The CONTRACTOR shall ensure that the officers/personnel will comply with this obligation.

ARTICLE VI
Non-Waiver of Rights

The failure of NDC to insist upon the strict compliance by the CONTRACTOR with any of the terms, conditions, and covenants of this CONTRACT shall not be deemed a relinquishment or waiver of any rights or remedy that NDC may exercise, nor shall it be construed as a waiver of any subsequent breach or default of the terms, conditions, and covenants hereof which shall continue to remain in full force and effect. No waiver by NDC of any of its rights hereunder shall be deemed to have been made unless expressed in writing and signed by NDC through its duly authorized agents.

IN WITNESS WHEREOF, the parties thereto have caused this Agreement to be executed the day and year first before written.

**NATIONAL DEVELOPMENT
COMPANY**

By:



ANTONIO D. MAURICIO
General Manager

PALMER-ASIA INC.

By:



JINKY L. COLLADO
Authorized Representative

SIGNED IN THE PRESENCE OF:

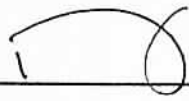

ENGR. JOHN ALBERT E. ENGAÑO
Witness


KRISTINE V. REYNOSO
Witness

FUNDS AVAILABLE


JOHNIER A. CUETO
Budget Officer V

CERTIFICATION OF OGCC REVIEW



ATTY. BENJAMIN IJF. RABUCO III
Attorney V

CERTIFICATION OF COMPLIANCE WITH RA 9184



AGM SATURNINO H. MEJIA
Chairperson, Bids and Awards Committee

ACKNOWLEDGMENT

Republic of the Philippines)
City of Makati) S. S.

BEFORE ME, a Notary Public for and in the City of Makati this MAY 16 2023 day of
_____ 2023, personally appeared the following:

NAME

GOVERNMENT ID & DATE OF EXPIRATION

ANTONIOLO DC. MAURICIO Passport No. P8323886A, valid until August 12, 2028

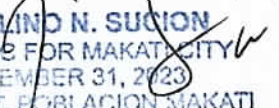
JINKY L. COLLADO Driver's License N26-22-306141, valid until March 19, 2027

known to me to be the same persons who executed the foregoing instrument and they
acknowledged to me that the same is their own free act and deed, as well as the free and
voluntary act of the corporation which they represent.

This foregoing instrument is a Contract for the Design and Build of Automatic Fire
Sprinkler System (AFSS) and Fire Detection and Alarm System (FDAS) at the Industry
and Investments (I&I) Building, consisting of six (6) pages including this page on which
this acknowledgment is written, signed by the parties and their instrumental witnesses on
each and every page hereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand and notarial seal on
these presents at the place and on the date first above written.

Doc. No. 364
Page No. 23
Book No. 1
Series of 2023.


ATTY. JOSEFIN N. SUCION
NOTARY PUBLIC FOR MAKATI CITY
UNTIL DECEMBER 31, 2023
2746 ZENAIDA ST. POBLACION MAKATI
IBP NO. 257532/01/02/23
PTR NO. 956233/01/03/23
MCLE COMPLAINT NO. VII-0013028/04/14/2025
ROLL NO. 60799
APPOINTMENT NO. M-078