

SECTION 00500 FORM OF CONTRACT AGREEMENT

PROJECT : DESIGN AND BUILD OF THE NATIONAL INSTITUTES OF HEALTH BUILDING

LOCATION : UP Manila, 625 Pedro Gil, Ermita, Manila

OWNER : UNIVERSITY OF THE PHILIPPINES MANILA

KNOW ALL MEN BY THESE PRESENTS:

This AGREEMENT made and entered into this ____ day of _____ 20__, in Quezon City, by and between:

The **UNIVERSITY OF THE PHILIPPINES**, the National University, created by virtue of Act No. 1870, as amended and strengthened by Republic Act No. 9500, with principal office at Quezon Hall, UP Diliman, Quezon City, represented herein by its President, **ALFREDO E. PASCUAL**, hereinafter referred to as the "**UNIVERSITY**";

and

_____, **INC.** with principal office address at _____, a corporation duly organized and existing under the laws of the Philippines, represented in this act by its President, _____ hereinafter called the "**CONTRACTOR**".

The parties hereto, for the consideration hereinafter named, hereby covenant and agree, as follows:

ARTICLE I SCOPE OF WORKS

The CONTRACTOR, in consideration of the payment to be made by the UNIVERSITY, shall design, construct/perform and erect the new building for the:

**UNIVERSITY OF THE PHILIPPINES
NATIONAL INSTITUTES OF HEALTH
located at UP Manila Campus, Ermita, Manila**

In the said design and construction, the CONTRACTOR shall do all things necessary for the proper design, construction and completion of all works shown and described in the Technical Documents submitted during the public bidding held on the ____ day of _____, 2013.

Read and accepted as part of the Contract:

Bidder/Contractor

ARTICLE II THE CONTRACT DOCUMENTS

The Instruction to Bidders, Specifications, Drawings/Plans, Bid Bulletins and/or Addenda, General Conditions of the Contract, Contractor's Proposal, Bidder's Bond, Terms of Reference, as well as the Designs and Drawings submitted during the public bidding on the _____ day of _____, 2013 are hereby made and acknowledged to be an integral part of this Agreement, as if hereto attached or herein written; provided that all annexes and/or addenda to this Contract are signed by both parties.

The following Contract Documents shall be attached to, deemed to form, and be read and construed as part of this Agreement:

- 1.0 Annex "A" - Project Manual Volume 1: Philippine Bidding Documents
 - Section 00100 - Invitation to Bid
 - Section 00200 - Instructions to Bidders
 - Section 00250 - Affidavit of Site Inspection
 - Section 00300 - Bid Data Sheet
 - Section 00400 - Bid Proposal Form
 - Section 00420 - Omnibus Sworn Statement
 - Section 00470 - Cost Estimate Form
 - Section 00475 - Cost Estimate Guide
 - Section 00490 - Sub-Contractor Listing
 - Section 00500 - Contract Agreement
 - Section 00600 - Drawings/Plans
 - Section 00620 - Design Eligibility Requirements
 - Section 00630 - Design Parameters
 - Section 00650 - Specifications
 - Section 00700 - General Conditions of Contract
 - Section 00800 - Special Conditions of Contract
 - Annexes

- 2.0 Annex "B" - Project Manual Volume 2: Terms of Reference
 - Part I - General Project Information
 - Part II - Detailed Project Reference
 - Part III - Detailed Architectural and Engineering Designs
 - Part IV - Detailed Estimates
 - Part V - Construction Phase
 - Part VI - Proponent's/Bidder's Responsibilities
 - Part VII - Responsibilities of the University of the Philippines
 - Part VIII - Project Acceptance and Turnover
 - Part IX - Annexes

- 3.0 Annex "C" - Addenda and/or Supplemental/Bid Bulletins, if any;

- 4.0 Annex "D" - Eligibility and Technical Documents

- 5.0 Annex "E" - Financial Documents/Bid Proposal Form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes;

Read and accepted as part of the Contract:

Bidder/Contractor

- 6.0 Annex "F" - Bid Security: Manager's Check in the amount of Php _____ M
- 7.0 Annex "G" - Notice of Award of Contract and the Contractor's conformity therewith
- 8.0 Annex "H" - Certificate of Availability of Funds
- 9.0 Annex "I" - Performance Security
- 10.0 Annex "J" - Other documents listed in the Bid Data Sheets

This Agreement and the Contract Documents shall be interpreted in such a manner as to ensure the full and satisfactory completion of the WORKS. In case of doubt or conflict between and among any items or provisions of the Contract Documents, and/or between and among any of the Contract Documents and this Agreement, the CONTRACTOR shall refer the same in writing to the UNIVERSITY for clarification and guidance. The clarification or determination made by the UNIVERSITY shall be binding and conclusive upon the Parties.

ARTICLE III TIME OF COMPLETION AND SCHEDULE OF CONSTRUCTION

- A. The work to be performed by the CONTRACTOR under this Contract shall commence seven (7) calendar days upon receipt by the Contractor of the Notice to Proceed issued by the President and completion shall be within Nine Hundred Forty (940) days from the starting date of construction.
- B. Upon completion of the WORKS, the CONTRACTOR shall provide the UNIVERSITY with a Certificate of Completion issued by the UP Office of the Design and Planning Initiatives (ODPI).
- C. It is understood that time is an essential feature of this Contract and that upon failure of the CONTRACTOR to complete the work stipulated in this Contract within the time provided, the CONTRACTOR shall pay the UNIVERSITY at least 1/10th of ONE (1) PERCENT of the cost of the unperformed portion of the WORKS for each day of delay in the completion of the Contract, said payment to be made as liquidated damages, and not by way of penalty; and the UNIVERSITY may deduct from any sum due or to become due to the CONTRACTOR any accrued sum from liquidated damages as hereinafter stated, without need of any court action.
- D. A preliminary punchlist of any deficiencies shall be prepared by the UP ODPI and submitted to the CONTRACTOR within ten (10) days before the date set for completion of the WORKS as stated in Article III(A). All items in the preliminary punchlist shall be completed prior to final walk-through and punchlisting.
- E. The Contractor's Ten Percent (10%) retention shall be retained by the UNIVERSITY until all items on the final punchlist are satisfactorily completed. If the CONTRACTOR shall refuse or fail to complete the final punchlist within the time fixed by a written notice, the UNIVERSITY shall then have the right to use the Contractor's ten percent (10%) retention amount to complete the same, and the balance, if any, shall be returned to the CONTRACTOR.

Read and accepted as part of the Contract:

Bidder/Contractor

ARTICLE IV THE CONTRACT SUM

The UNIVERSITY, for and in consideration of the fulfillment of this Contract by the CONTRACTOR, in accordance with the provisions of the Contract Documents and subject to the additions and deductions provided therein, shall pay to the CONTRACTOR, inclusive of Value Added Tax, the sum of:

(Php _____)

ARTICLE V PAYMENTS

The UNIVERSITY shall pay the CONTRACTOR not more than once a month based on the value of work accomplished less ten percent (10%) retention (regardless of the percentage of completion of the Contract) and the Expanded Withholding Tax for the duration of the Contract.

As required by Philippine law, the Contractor's Expanded Withholding Tax withheld from each payment to the CONTRACTOR shall be transmitted by the UNIVERSITY to the Bureau of Internal Revenue in favour of the CONTRACTOR'S Tax Identification Number.

No payments shall be made unless payment requests are on the prescribed form and bear the approval of the UNIVERSITY and UP ODPI.

The full and final payment, together with the ten percent (10%) retention, if unused, shall be paid to the CONTRACTOR as provided for and upon compliance of all requisites under the General Conditions of the Contract.

In some cases, payments of eighty percent (80%) of the value of specially fabricated and uninstalled materials may be made if the conditions under the General Conditions of the Contract are complied with.

ARTICLE VI LABOR AND MATERIALS COST INCREASE

Increase in the cost of labor and/or materials due to government action or to any other factor shall be for the sole account of, and charged to the CONTRACTOR.

On the other hand, any decrease in the cost of labor and/or materials shall not affect the Contract Sum herein.

Read and accepted as part of the Contract:

Bidder/Contractor

ARTICLE VII GUARANTEE

Unless otherwise specified under the individual specification headings, the CONTRACTOR hereby guarantees the work stipulated in this Agreement, and shall make good any defect in materials and workmanship which makes itself evident within ONE (1) year after Final Acceptance of the WORKS without prejudice to the provisions of Article 1723 of the Civil Code.

If in the opinion of the UNIVERSITY, the CONTRACTOR has failed to act promptly in rectifying any defect in the work that appears within the period mentioned above, the UNIVERSITY may, at its own discretion, use the Guarantee Bond for corrections and have the work done by another Contractor at the expense of the CONTRACTOR or his Bondsmen.

However, nothing in this section shall in any way affect or relieve the CONTRACTOR of his responsibility to the UNIVERSITY.

ARTICLE VIII PERFORMANCE AND GUARANTEE BONDS

The CONTRACTOR shall furnish a Performance Bond in the form of cash, manager's check, cashier's check or irrevocable letter of credit issued by a reputable universal or commercial bank in the amount of Ten Percent (10%) of the Approved Budget for the Contract or the amount of

(Php _____) to guarantee (a) the faithful performance and compliance with all terms and conditions of this Agreement as well as the Plans, Technical Specifications, General Conditions and other Contract Documents relating thereto, including the payment of liquidated damages stipulated in Article III (B) of this Contract; (b) the payment of the wages of its laborers as required by the Labor Code and its implementing laws and regulations; and (c) the settlement of all outstanding indebtedness for materials used, taxes, and all unpaid accounts in connection with this Contract.

Upon completion of the WORKS as certified by the UNIVERSITY, the CONTRACTOR shall furnish the UNIVERSITY a Guarantee Bond in the amount of Ten Percent (10%) of the Contract amount or

(Php _____) conditioned upon the faithful compliance by the CONTRACTOR of the guarantee stipulated under Article VII of this Agreement.

ARTICLE IX INSURANCE OF THE WORK

The CONTRACTOR shall have the project insured for the full insurable value thereof against loss by fire, tornado, earthquake, tidal wave, typhoons, and like occurrences. The insurance policy shall be issued by an insurance company approved by the UNIVERSITY and shall be on file at the UNIVERSITY's office within TEN (10) days after signing the Contract. The insurance policy shall be made payable to the UNIVERSITY.

Read and accepted as part of the Contract:

Bidder/Contractor

ARTICLE X INDEMNIFICATION

The CONTRACTOR shall indemnify, hold free and harmless, and defend at its own expense and account the UNIVERSITY and its officials, agents, employees or workers, from and against all suits, claims, demands, and liabilities of any nature or kind, including costs and expenses associated therewith, arising out of acts or omissions of the CONTRACTOR, its employees, workers, or sub-contractors in the performance of any activity in connection with the WORKS, including those that may be initiated by its employees, workers, agents, sub-contractors, or by any other entity or person against the UNIVERSITY by reason of or in connection with the WORKS.

ARTICLE XI VALIDITY OF THE CONTRACT DOCUMENTS

The validity, interpretation and construction of this Agreement, shall be governed by the laws of the Republic of the Philippines. The decision of the UNIVERSITY, through the UP ODPI, upon all matters affecting the WORKS, and the implementation of the Plans and Specifications, shall be binding upon both parties.

ARTICLE XII ADDITIONAL CONDITIONS

In addition to the foregoing terms and conditions, it is further agreed that:

- A. The UNIVERSITY, the UP Manila, and any persons authorized by them, shall at reasonable times have access to the building site, workshops of the CONTRACTOR, or other places where work is being performed for the building for the purpose of checking the materials and equipment used on the project.
- B. The CONTRACTOR shall furnish the UNIVERSITY all submittals for the latter's approval. Said submittals, once approved, shall become the standard selection for the building.
- C. The CONTRACTOR shall submit to the UNIVERSITY two (2) copies of his proposed Construction Schedule in Network Analysis System (PERT-CPM) within ten (10) days after signing of the Contract. The UNIVERSITY and the UP Manila shall have the right to evaluate the schedule and make necessary corrections or changes as needed and which the CONTRACTOR shall accordingly carry out.
- D. If at any time, the CONTRACTOR exceeds the percentage weight of items in his Bid Proposal PERT-CPM, the UNIVERSITY reserves the right, without need of court action, to cancel this Contract and complete this work on a Negotiable Contract basis with a Contractor of his choice.
- E. UAP Documents 301 (General Conditions) is acknowledged to be part of this Contract. All the Conditions therein, in so far as they are not in conflict with any provisions mentioned in any of the foregoing or elsewhere in the Contract Documents as judged by the UNIVERSITY, shall be complied with.

Read and accepted as part of the Contract:

Bidder/Contractor

F. The relationship of the UNIVERSITY to the CONTRACTOR is that of an independent contractor. Nothing in this Contract shall be construed as creating an employer-employee relationship between the UNIVERSITY and the CONTRACTOR, its sub-contractors, employees, agents, or workers.

ARTICLE XIII DISPUTE RESOLUTION

This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines and the Parties thereby submit to the exclusive jurisdiction of the competent Courts of Quezon City, Provided, that prior to any resort to the filing of an action in court or any quasi-judicial body, the parties shall refer the dispute to the Construction Industry Arbitration Commission in accordance with Executive Order No. 1008, otherwise known as the "Construction Industry Arbitration Law".

ARTICLE XIV FINAL PAYMENT

Following the successful completion and Acceptance of the WORKS by the UNIVERSITY, a final progress payment statement covering the balance of the amount due under the Contract shall be sent to the UNIVERSITY. The UNIVERSITY shall then verify the statement and make any corrections or adjustments necessary to reflect liquidated damages or uncompleted work, if there be any. Final payment shall then be made by the UNIVERSITY according to the above statements or amendments.

ARTICLE XV CONTRACT COPIES

This Contract shall be made and executed in six (6) copies.

IN WITNESS THEREOF the parties to this Agreement have on the day in the first above given, hereunto set their hands and seal at the bottom of this page and on the left hand margin of all other pages of this Agreement.

UNIVERSITY OF THE PHILIPPINES

_____,
INCORPORATED

By:

By:

ALFREDO E. PASCUAL
President

President

SIGNED IN THE PRESENCE OF:

Read and accepted as part of the Contract:

Bidder/Contractor

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) s.s.

BEFORE ME, a Notary Public for and in Quezon City, this ____ day of _____ 201____, personally appeared:

NAME	GIID NO.	DATE/PLACE ISSUED
ALFREDO E. PASCUAL	_____	_____
_____	_____	_____

known to me to be the same persons who executed this instrument and acknowledged that the same is their true and voluntary act and deed and that of the respective entities they represent.

This refers to a Construction Agreement consisting of eight (8) pages, including this page wherein the acknowledgement is written, signed by the parties and their instrumental witnesses on each and every page thereof.

WITNESS MY HAND AN NOTARIAL SEAL, on the date and place above written.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2012.

END OF SECTION 00500

Read and accepted as part of the Contract:

Bidder/Contractor