

MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT is made and entered into this 20th day of April 2014 by and between:

The TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY, a national government agency created and existing under and by virtue of Republic Act No. 7796 with principal address at TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila, Philippines, represented herein by its Director General, Secretary EMMANUEL JOEL J. VILLANUEVA, and hereinafter referred to as the "FIRST PARTY";

- and -

OSCAN BUILDER, a private business entity registered under the laws of the Republic of the Philippines with business address at 371 Talaba 1, Bacoor, Cavite, herein represented by its General Manager, OSCAR A. ANTONIO, and hereinafter referred to as the "SECOND PARTY".

- WITNESSETH -

WHEREAS, the FIRST PARTY, through its Approved Budget for the Contract (ABC) has allocated the sum of Seven Million Four Hundred Ninety Nine Thousand Nine Hundred Eighty One Pesos and 24/100 only (Php 7,499,981.24) for the procurement of new elevator units for the TESDA Central Office Administration Building;

WHEREAS, the FIRST PARTY through its Bids and Awards Committee (BAC) issued and posted an Invitation to Apply for Eligibility and to Bid (IAEB) in the Philippine Star and in the Philippine Government Electronic Procurement System (PHILGEPS) on 10 June 2014 in compliance with Section 21 of the Revised Implementing Rules and Regulations of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, for the procurement of new elevator units for the TESDA Central Office Administration Building;

WHEREAS, the bid of the SECOND PARTY has satisfactorily complied with the eligibility, technical and financial requirements of the FIRST PARTY in accordance with the Revised Implementing Rules and Regulations of Republic Act No. 9184 with a bid offer amounting to Six Million Four Hundred Fifty Thousand Pesos Only (Php 6,450,000.00);

WHEREAS, pursuant to Section 34.4 of the Revised Implementing Rules and Regulations of Republic Act No. 9184, the Bids and Awards Committee (BAC) recommended the award of contract to the SECOND PARTY having been declared as the Lowest Calculated Responsive Bid;

WHEREAS, the TESDA Board approved the award of contract to the SECOND PARTY in the amount of Six Million Four Hundred Fifty Thousand Pesos Only (Php 6,450,000.00) through Board Resolution No. 2014-05 issued on 01 October 2014;

NOW, THEREFORE, for and in consideration of the foregoing, this Agreement is entered by and between the FIRST PARTY and the SECOND PARTY with the following covenants, to wit:

1. The **SECOND PARTY** shall supply and deliver the goods prescribed in the bidding documents within one hundred twenty (120) calendar days from receipt of the notice to proceed. As prescribed in the bidding documents the **SECOND PARTY** hereby binds and obligates itself to supply, deliver and install two (2) units passenger elevator for TESDA Central Office Administration Building with the following specifications:

Two (2) units passenger elevator:

Elevator, Brand New (KONE)
1,000kg minimum capacity
Seven (7) stops/openings
90mpm Speed
With Automatic Rescue Device (ARD)
With card reader to bypass stops
Door: Stainless steel hairline finish
Walls: Half mirror finish, half stainless steel hairline finish
Floor: Vinyl tiles
(including installation and dismantling of old elevators)

Additional Requirement:
Preventive and Maintenance Plan

Standard Features:

Safe landing
Power on releveling
Car call cancelling
Next landing
Independence service
Automatic call hall registration
Continuity of service
Back-up operation for group control microprocessor
Door load detector
Door sensor self-diagnosis
Automatic door-open time adjustment
Automatic door speed control
Overloading holding stop
Repeated door-close
Reopen with hall button
Safety ray (1 beam)

Enhancement Features:

Emergency landing device
Automatic bypass
Automatic car light/fan shut-off
Automatic false call cancelling
Car call erase
Secret call service
Door nudging feature
Electronic car arrival chime
Interphone
Overload holding stop light-car
Emergency car light with charger

2. The **FIRST PARTY** shall pay the amount of Six Million Four Hundred Fifty Thousand Pesos (Php 6,450,000.00) after delivery of all the items prescribed in the bidding documents and acceptance by the **FIRST PARTY**. A certificate of acceptance as to the completeness of the delivery and compliance with the requirements prescribed by the **FIRST PARTY** shall be issued by the Inspection and Acceptance team and must be duly approved by the Director General concerned of TESDA before any payment is made in favor of the **SECOND PARTY**. At any rate, payment shall be made in accordance with the government accounting and auditing rules and regulations;
3. The following documents shall be deemed to form and be read and construed as part of this Agreement:
 - (a) Bidding Documents of Oscan Builder;
 - (b) BAC Resolution No. 08-2014 dated 30 July 2014;
 - (c) TESDA Board Resolution No. 2014-05 dated 01 October 2014;
 - (d) Notice of Award;
 - (e) Performance Security;
 - (f) Notice to Proceed; and
 - (g) Bid Bulletin No. 01 dated 26 June 2014.
4. To guarantee the faithful performance by the **SECOND PARTY** of its obligations, a performance security should have been posted prior to the signing of the contract pursuant to Section 39 of the Revised Implementing Rules and Regulations of Republic Act No. 9184. The performance security shall remain valid until the issuance by the **FIRST PARTY** of the Certificate of Acceptance. The performance security should be posted in favor of the **FIRST PARTY** and shall be forfeited in the event it is established that the **SECOND PARTY** is in default in any of its obligations under the contract.
5. The goods subject of the delivery shall be covered by the provisions of Republic Act No. 9184 and its Revised Implementing Rules and Regulations on warranty. The **SECOND PARTY** hereby warrants that the two (units) of PASSENGER ELEVATOR subject for this Agreement is free from material defects or faulty workmanship under normal use and operation for a period covered by the law. Warranty shall be for one (1) year after acceptance by the procuring entity of the installed elevator units.

The obligation for the warranty shall be covered by either retention money or a special bank guarantee equivalent to at least ten percent (10%) of the total contract price.

Any parts found to be defective which is not due to the normal wear and tear or improper use of the **FIRST PARTY** during warranty period shall be repaired or replaced for free of the **SECOND PARTY**.
6. Any delay in the delivery of goods shall be governed by Section 68 (Liquidated Damages) of the Revised Implementing Rules and Regulations of Republic Act No. 9184. Where the **SECOND PARTY** refuses to or fails to satisfactorily complete the work within the specified contract time to include any extension duly approved and granted by the **FIRST PARTY**, the **SECOND PARTY** is considered to be in default without need of demand for penalty until the work is completed and accepted or

taken over by the procuring entity, the amount of which shall be determined in accordance with the formula prescribed by the law.

7. Cost of applicable taxes, deployment and insurance of goods shall be shouldered by the **SECOND PARTY**.
8. The obligations and rights arising from this Agreement shall not be assigned and transferred by the **SECOND PARTY** to any third party without the written consent of the **FIRST PARTY**.
9. The **SECOND PARTY** shall bear all losses, injuries and damages arising out or in connection with any accident which may happen to any person or property by reason of or on account of the fault or negligence caused by the **SECOND PARTY** or its agents relative to the works or services covered by this Agreement, which responsibility shall continue until the final acceptance of the work by the **FIRST PARTY**. Consonant thereto, the **SECOND PARTY** shall provide all the necessary safeguards, warning signs and precautionary measures during the dismantling and installation of the elevators.
10. The **SECOND PARTY** shall keep, save and hold the **FIRST PARTY** free and harmless from all liabilities, penalties, losses, damages, costs, expenses, causes of action, claims and/or judgments by reason of injury or liability caused upon any person or property arising from this Agreement.
11. It is mutually understood that the **SECOND PARTY** is not an employee of the **FIRST PARTY** but is an independent contractor. Neither shall the personnel or workers of the **SECOND PARTY** be deemed employees of the **FIRST PARTY**. Hence, the **FIRST PARTY** shall not in any way be liable or responsible for any injury or damage including death sustained or caused by any of the employees of the **SECOND PARTY** during the lawful performance of its duties covered by this Agreement.

The **SECOND PARTY** agrees and binds itself to indemnify the **FIRST PARTY** for whatever injuries or damages by reason of failure, negligence, delay or default on the part of the **SECOND PARTY** in the performance of the obligations stipulated in this Agreement.


12. If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with the implementation of this contract, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

Any and all disputes arising from the implementation of a contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004". Any cost arising from the arbitration shall be charged against the **SECOND PARTY**.

IN WITNESS WHEREOF, the parties have hereunto set their hands at the place and date above written.

TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY

OSCAN BUILDER



SEC. EMMANUEL JOEL J. VILLANUEVA,
Director General



OSCAR A. ANTONIO
President

SIGNED IN THE PRESENCE OF:



TITO L. BARTOLOME
Chief Administrative Officer, GSD-AS



RENAN S.J. ANTONIO
Liaison Officer, OSCAN Builder

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
MANILA) S.S.

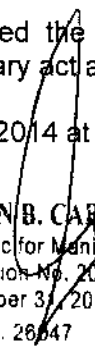
BEFORE ME, a Notary Public for and in the Province /City of MANILA this OCT 22 2014 2014 personally came and appeared:

NAME	VALID ID NO.	ISSUED BY
EMMANUEL JOEL J. VILLANUEVA		
OSCAR A. ANTONIO	0014235	PRC

Known to me and to known to be the same persons who executed the foregoing instrument which they acknowledge before me as their free and voluntary act and deed.

WITNESS MY HAND AND SEAL this OCT 22 2014 day of 2014 at MANILA

Doc. No. 500
Page No. 100
Book No. XXIII
Series of 2014


ATTY. AGUSTIN B. CARREDO
Notary Public for Manila
Notarial Commission No. 2013-109
Until December 31, 2014
Roll No. 26647
PTR No. 2456249 / 1-2-14 / Manila
IBP Life Member 05097
MCLE No. IV 0000822



TECHNOLOGICAL EDUCATION AND SKILLS
DEVELOPMENT AUTHORITY

[Signature]

SIGNATURE

EMMANUEL JOEL J. VILLANUEVA

NAME

1998-2454

EMPLOYEE CODE

TESDA Complex East Service Road South Superhighway
Taguig City

Home Address

101 Mc Arthur Highway, Buntis, Bocaue,
Bulacan

Residence Tel. No. (044)692-1939

Mobile No. (0918) 803-0721

Blood Type : O

Birth Date : 08/02/1975

Tax Identification No. 201-607-742

GSIS Policy No. 542772

In case of Emergency, Please contact:

Gladys C. Villanueva

101 Mc Arthur Highway, Buntis, Bocaue,
Bulacan

[Signature]

EMMANUEL JOEL J. VILLANUEVA
DIRECTOR-GENERAL



Republic of the Philippines
PROFESSIONAL REGULATION COMMISSION
 Manila

PROFESSIONAL IDENTIFICATION CARD

LAST NAME: **ANTONIO**
 FIRST NAME: **JOSCAR**
 MIDDLE INITIAL: **ALBANIEL**
 REGISTRATION NO.: **0014235**
 REGISTRATION DATE: **01/17/1975**
 VALID UNTIL: **02/11/2015**

CIVIL ENGINEER

021119
 04/16/

Professional Regulation Commission
 P. Paredes St., corner N. Reyes St., Sampaloc, Manila
 www.prc.gov.ph Hotline Number: 735-1535

CERTIFICATION 901583179

This is to certify that the person whose name, photograph, and signature appear herein is a duly registered professional, legally authorized to practice his/her profession with all the rights and privileges appurtenant thereto.

This is to certify further that he/she is a professional in good standing and that his/her certificate of registration/professional license has not been suspended, revoked, or withdrawn.

Signature of Professional

Francis A. Manjil
 PRC CHAIRPERSON