

CONSTRUCTION AGREEMENT

This Agreement is made and executed this ____ day of JUN 08, 2021 in Mariveles, Bataan, by and between:

The **AUTHORITY OF THE FREEPORT AREA OF BATAAN**, a body corporate created and existing under Republic Act No. 9728, as amended by Republic Act No. 11453, with office address at the Second Floor, Administration Building, Freeport Area of Bataan, Mariveles, Bataan, represented herein by its Administrator, **EMMANUEL D. PINEDA**, who is duly authorized, hereinafter referred to as the **"AFAB"**;

-and-

DAJ BUILDERS, a duly organized and existing business under Philippine laws, with office address at Gomez Street, Bagumbayan, Balanga City, Bataan, represented herein by its Sole Proprietor, **ARSENIO P. FLORES, JR.**, who is likewise duly authorized, hereinafter referred to as the **"CONTRACTOR"**;

WITNESSETH:

WHEREAS, the AFAB requires the **CONSTRUCTION OF PERIMETER FENCE BESIDE ACAPULCO**, at 1st Avenue, Freeport Area of Bataan (FAB), Mariveles, Bataan, hereinafter referred to as the **"PROJECT"**;

WHEREAS, a competitive bidding process was conducted by the AFAB in accordance with Republic Act No. 9184 and its Revised Implementing Rules and Regulations, and the CONTRACTOR was selected as the most qualified and competent to undertake the PROJECT;

WHEREAS, the CONTRACTOR has expressed willingness to undertake and successfully complete the works to the satisfaction of the AFAB;

NOW THEREFORE, in view of the foregoing premises and the mutual covenants and undertakings hereinafter provided, the AFAB and the CONTRACTOR, hereinafter collectively referred to as the **"PARTIES"**, agree as follows:

ARTICLE I SCOPE OF WORK

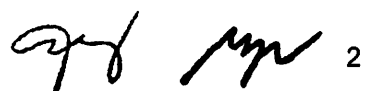
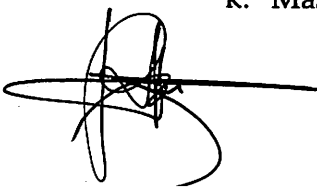


1.1 The CONTRACTOR shall undertake the PROJECT for the AFAB in accordance with the following documents, which shall be deemed integral parts of this Agreement, and the terms and conditions embodied therein shall be deemed reproduced herein by reference and/or incorporation:

- a. The Bid Form, the Price Schedule, the Schedule of Requirements, and the Technical Specifications submitted by the CONTRACTOR;
- b. The other documents or the statements contained in the bidding envelopes submitted by the CONTRACTOR;
- c. The additional Post-Qualification Documents submitted by the CONTRACTOR;
- d. The Invitation to Bid and all Bidding Documents issued by the AFAB, including the General Conditions and Specifications, Plans, Bid Bulletin/s (if any) and Minutes of Pre-Bid Conference;
- e. The Resolution of the Bids and Awards Committee declaring the Lowest Calculated and Responsive Bidder and Recommendation for Award;
- f. The AFAB's Notice of Award with the CONTRACTOR's conforme thereto;
- g. The CONTRACTOR's Performance Bond;
- h. Scope of Work and Specification, as stated in the Bidding Documents; and,
- i. Other requirements of prevailing laws, rules and regulations and executive orders applicable thereto.

1.2 The works to be done under this Agreement shall include, but shall not be limited to the following, as described in detail in the Program of Work and Specification provided by the AFAB:

- a. Provision of Progress Photographs;
- b. Offices, Shops, Stores and Workmen's Accommodation for Contractor;
- c. Slope, Reference, and Clearing and Grubbing Stakes;
- d. Project Billboard & Signboard;
- e. Occupational Safety and Health Program;
- f. Mobilization/Demobilization;
- g. Clearing and Grubbing;
- h. Removal of Structures and Obstruction;
- i. Excavation;
- j. Concrete Works;
- k. Masonry Works;

 2

- l. Formworks and False works;
- m. Reinforcing Bars & Steel Works;
- n. Painting Works;
- o. Provision of Gates; and
- p. Provision of Boom Barrier;

1.3 The CONTRACTOR shall furnish all labor, materials, equipment and supplies, and the performance of all operations necessary for complete implementation of the PROJECT, all in strict compliance with the terms and conditions of this Agreement, as well as all the applicable terms and conditions of the documents listed in Section 1.1 above.

ARTICLE II CONTRACT PRICE

2.1 As consideration for the full and faithful performance and accomplishment of all the obligations specified in Article I above which the CONTRACTOR agrees to undertake, perform and accomplish, the AFAB shall pay the CONTRACTOR the total contract price of **FOUR MILLION NINE HUNDRED EIGHTY FOUR THOUSAND SEVEN HUNDRED NINETY PESOS AND SEVENTY FIVE CENTAVOS (PHP 4,984,790.75)**, in accordance with Article XIV of this Agreement.

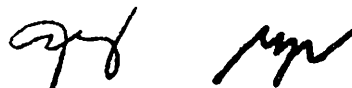
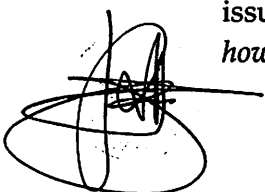
ARTICLE III TERMS OF PAYMENT

3.1 **Advance Payment:** Within fifteen (15) days from the effectivity of this Agreement, upon the written request of the CONTRACTOR, the AFAB shall advance the amount of **SEVEN HUNDRED FORTY SEVEN THOUSAND SEVEN HUNDRED EIGHTEEN PESOS AND SIXTY ONE CENTAVOS (PHP 747,718.61)**, which is equivalent to fifteen percent (15%) of the total contract price, to cover the CONTRACTOR's mobilization expenses. This advance payment shall be made only upon the submission to and acceptance by the AFAB of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and accredited by the AFAB.

The advance payment shall be repaid by the CONTRACTOR by an amount equal to the percentage of the total contract price used for the advance payment.

3.2 **Progress Billing:** Payment for monthly progress billing submitted by the CONTRACTOR to the AFAB shall be based upon the actual and satisfactory accomplishment of the various phases of the PROJECT done by the CONTRACTOR, as evidenced by a Certificate of Work to be issued by the AFAB.

3.3 **Final Payment:** Final Payment to the CONTRACTOR shall be subject to the issuance of a Certificate of Completion of the contract work by the AFAB; *Provided however*, that Final Payment shall still be subject to retention of ten Percent (10%) to



cover for all defects that may be detected, including maintenance costs for one (1) year after project completion; *Provided further*, that Final Payment shall still be reduced by whatever balance remains of the amount that is needed in order to return to the AFAB the fifteen percent (15%) advance payment it previously made to the CONTRACTOR.

Nothing herein contained shall be construed as a waiver of the right of the AFAB, which is hereby reserved, to reject the whole or any portion of the work should the same be found to have been constructed in violation of the plans and specifications or any conditions or covenants of this Agreement.

3.4 Retention Money: The amount equivalent to ten percent (10%) of each monthly progress payment shall be retained by the AFAB until the works have been completed. Progress payments are subject to retention of ten percent (10%), referred to as the "retention money." Such retention shall be based on the total amount due to the CONTRACTOR prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of Works, as determined by the AFAB are completed. If, after fifty percent (50%) completion, the Work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefor.

The total retention money shall be released upon the issuance of the Certificate of Acceptance of the contract work by the AFAB.

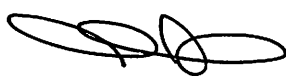
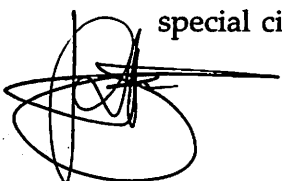
3.5. The Contract Price stipulated above shall not be altered or adjusted due to any fluctuations in the prices of materials and equipment, or for any cause or reason whatsoever aside from possible adjustments in labor cost due to mandatory wage hike promulgated by the National Government and only with respect to the unfinished portion of the PROJECT.

3.6. No certificate given or payment made under this Agreement, except the Certificate of Acceptance or final payment, shall be conclusive evidence of the performance by the CONTRACTOR of its covenants and obligations under this Agreement, either wholly or in part, and no payment shall be construed to be an acceptance of defective work or improper materials.

ARTICLE IV COMMENCEMENT AND COMPLETION OF WORK

4.1 The CONTRACTOR shall commence execution of the PROJECT within seven (7) calendar days from receipt of the Notice to Proceed. The CONTRACTOR shall finish and complete the PROJECT within **NINETY (90) CALENDAR DAYS** from the said date, unless the CONTRACTOR requests an extension in writing, stating the reasons thereof, and the AFAB approves the request for extension.

4.2 The CONTRACTOR may ask for an extension of the period for completion by a written request to the AFAB due to force majeure or fortuitous event or any other special circumstances as may be determined by the AFAB thirty (30) days prior to the



expiration of the contract. The request for extension shall be filed and submitted in writing within fifteen (15) days from the occurrence of one or more of the events mentioned above. The AFAB shall, within fifteen (15) days from receipt of such written request, with due regard to the facts and circumstances and of the merits or lack of merits of the request, grant or deny the request for extension, as the case may be. The decision of the AFAB on this matter shall be binding upon the CONTRACTOR which shall proceed strictly in accordance with such determination. Any extension shall require prior approval by the AFAB.

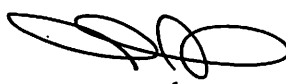
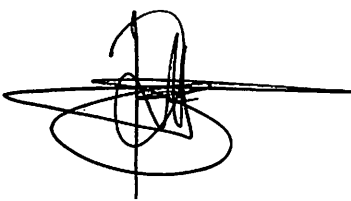
4.3 For the purpose of Article IV of this Agreement, the term "force majeure" means:

- a) war and other hostilities, (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;
- b) rebellion, revolution, insurrection, terrorist act, military or usurped power or civil war occurring in the Republic of the Philippines;
- c) earthquakes, typhoons or other natural disasters of overwhelming proportions and which an experienced CONTRACTOR could not have foreseen and taken protection against.
- d) labor disputes or strikes except those specifically directed at the CONTRACTOR; and,
- e) fire or explosion other than at the premises of the CONTRACTOR or at the PROJECT site which was not caused by the negligence of the CONTRACTOR.

4.4 Notwithstanding the foregoing, no extension of the period for completion of the PROJECT shall be granted in any of the following instances: (a) ordinary unfavorable weather conditions; (b) non-availability of equipment or materials to be furnished by the CONTRACTOR; (c) labor problem or dispute involving the CONTRACTOR's employees, workers, or personnel or those of its sub-contractors, agents, or suppliers; (d) when the reason given for the request for extension had already been considered in the determination of the original completion.

4.5 Upon the completion of the PROJECT, the CONTRACTOR shall immediately thereafter remove all surplus materials, waste and rubbish from the premises, unless prevented by any unavoidable cause or causes in which case the AFAB shall give the CONTRACTOR a reasonable period within which to do so. The CONTRACTOR shall indemnify the AFAB for any damages or losses incurred by the latter by reason of the failure of the CONTRACTOR to remove such rubbish and materials.

ARTICLE V LIQUIDATED DAMAGES



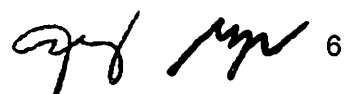
5.1 Time is of the essence in this Agreement. Should the CONTRACTOR fail to complete the PROJECT or fails to satisfactorily complete the work within the period herein stipulated or within the period of extension granted by the AFAB, and the AFAB has certified in writing that the work could reasonably have been completed within the period specified herein or within the extended time, the CONTRACTOR agrees:

- a. To pay liquidated damages, and not by way of penalty, in the amount equivalent to one tenth (1/10) of one percent (1%) of the cost of the unperformed portion of the PROJECT for each calendar day of delay, including Sundays and Holidays, until the work is completed and accepted by the AFAB, in accordance with the formula and conditions set forth in the existing rules and prevailing rules and regulations; *Provided*, that the payment of liquidated damages shall not in any manner relieve the CONTRACTOR from its obligations and responsibilities under this Agreement;
- b. To allow the AFAB to engage the services of another third party contractor to accomplish and finish the PROJECT. All expenses incurred by the AFAB shall be charged to the CONTRACTOR, and any additional cost incurred in finishing the PROJECT in excess of the contract price shall be at the expense and for the account of the CONTRACTOR. The right of the AFAB to take over the PROJECT under herein condition shall be without prejudice to its other rights provided elsewhere in this Agreement to proceed against the CONTRACTOR or to which it may be entitled in law or equity.

5.2 It is further agreed and understood that the right of the AFAB to collect or receive the penalty charge and liquidated damages as compensation for delay in the circumstances herein stated, is in recognition by the parties of the expense and inconvenience likely to be incurred from any need to prove the loss and damage that will be suffered by the AFAB in the event of any such delay on the part of the CONTRACTOR. The collection and/or payment of such sums as penalty charges or liquidated damages shall be without prejudice to its rights and remedies against the CONTRACTOR provided elsewhere in this Agreement or to which the AFAB may be entitled in law or equity.

5.3 To give full force and effect to the foregoing, the CONTRACTOR hereby, without the necessity of any further act and deed, has authorized the AFAB to deduct any amount that may be due under Section 5.1 (a) above, from any and all moneys or amounts due or which will become due to the CONTRACTOR by virtue of this Agreement and/or to collect such amounts from the performance bond filed by the CONTRACTOR in accordance with this Agreement.

ARTICLE VI
CHANGE ORDER AND/OR ADDITIONAL WORK

 6

6.1 The AFAB may, at any time, by a written order to the CONTRACTOR, make changes in the schedule and work required under this Agreement, subject to existing laws and prevailing rules and regulations. If any such change causes an increase or decrease in the work or the time required for performing the work, an equitable adjustment shall be made of the contract price and completion date upon mutual agreement of the PARTIES reflecting such adjustments by way of a written variation order.

6.2 Should the AFAB find it necessary to have any additional work carried out for purposes of the PROJECT in addition to the contracted work, such additional work will be carried immediately by the CONTRACTOR upon receiving a written instruction from the AFAB. Adjustment in terms of additional cost or completion date, or both, will be reflected by written extra work order or supplemental contract, as agreed by the AFAB. Any work done without such written order shall be for the sole account of the CONTRACTOR.

6.3 Any change or additional work requested by the CONTRACTOR shall require prior approval by the AFAB subject to the period provided under Section 4.2.

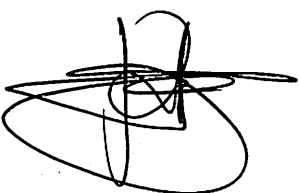
ARTICLE VII PERFORMANCE SECURITY

7.1 Upon signing this Agreement, the CONTRACTOR shall furnish the AFAB a performance security in the form of cash, bank guarantee or letter of credit, or surety bond, or any combination of the foregoing, as a guarantee for the performance of the contract work and to cover payments and obligations arising from this Agreement, subject to Section 32.2 of the Instruction to Bidders as well as existing laws and prevailing rules and regulations. Such performance security shall remain and continue to be full in force and effect until final completion of the PROJECT and until the CONTRACTOR has submitted to the AFAB the warranty bond under Article VIII of this Agreement.

7.2 It is understood by the Parties that the AFAB may increase the required amount of the performance security, or require the CONTRACTOR to furnish a replacement security, if circumstances so warrant to protect the interest of the AFAB.

7.3 Any changes in this Agreement (whether such changes increase or decrease the amount thereof) or any change in time or payment to the CONTRACTOR or any changes, extensions, alterations, modifications or innovations mutually agreed upon in writing, shall in no way annul, release or effect the liability of the CONTRACTOR and the surety or sureties on the bonds given by the CONTRACTOR.

7.4 Any alteration, modification or changes in this Contract, or any of the documents attached and made integral part hereto, does not need the approval of the surety to bind the surety or the company issuing the surety and/or performance bond.



ARTICLE VIII WARRANTY SECURITY

8.1 The CONTRACTOR shall warrant the engineering soundness of all the works which shall be free from any defects or deficiencies, and for this purpose guarantee against latent defects on newly-supplied materials and equipment, as well as workmanship for all remaining and additional works under this Agreement. This guarantee shall be secured by a surety bond in the amount equivalent to thirty percent (30%) of the total contract price, or in accordance with the form and schedule provided under Section 62.2.3.3, subject to Section 62.2.3.4 of the Revised Implementing Rules and Regulations of Republic Act No. 9184 (RA 9184 RIRR) in any case. In the event that the CONTRACTOR opts to post a surety bond, the same must be issued by a surety company accredited by the AFAB.

8.2 The CONTRACTOR shall assume full responsibility for the PROJECT or contract work from the time project construction commenced up to a reasonable period as defined in RA 9184 RIRR, taking into consideration the scale and coverage of the PROJECT from the date of the Certificate of Acceptance of the PROJECT in accordance with existing laws and prevailing rules and regulations, and shall be held responsible for any damage or construction of works except those occasioned by force majeure.

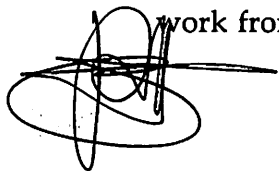
8.3 In case of structural defects/failure occurring during the applicable warranty period provided in Section 62.2.3.2 of RA 9184 RIRR, which is two (2), five (5), or fifteen (15) years, as the case may be, from final acceptance for other structures, semi-permanent structures, and permanent structures, respectively, the AFAB shall undertake the necessary restoration or reconstruction works and shall be entitled to full reimbursement by CONTRACTOR for expenses incurred therein upon demand, without prejudice to the filing of appropriate administrative, civil and/or criminal charges against the latter as well as the forfeiture of warranty securities posted in favor of the AFAB, in addition to AFAB's action under Section 9.12 of this Agreement.

ARTICLE IX REPRESENTATIONS AND WARRANTIES

9.1 The CONTRACTOR shall be responsible for the quality of materials, used in the construction of the PROJECT. The CONTRACTOR further warrants that all materials and other facilities incorporated into the work and turned-over to the AFAB upon the completion of the PROJECT shall be brand new and free from any defect as specified by the PROJECT's Architect. The CONTRACTOR shall not incorporate thereon or use or recommend the use of any material or substance that is hazardous to health.

9.2 The CONTRACTOR warrants that it is a competent, qualified and experienced contractor, equipped, organized, insured and financed to perform the works and complete the PROJECT in an efficient and professional manner and meeting all of the requirements of this Agreement.

9.3 The CONTRACTOR shall put up and maintain adequate protection of all its work from damages and shall protect the property and equipment, whether owned or



rented by CONTRACTOR or the AFAB, as the case may be, as well as all materials furnished and delivered to it from injury or loss arising in connection with this contract until final acceptance of the PROJECT by the AFAB.

9.4 The CONTRACTOR represents and warrants to the AFAB that:

- a) It is a company duly organized, validly existing and is current on all payments to maintain such existence under the laws of the Republic of the Philippines;
- b) It has all necessary power and authority to carry on its business as presently conducted and to enter into and perform its obligations under this Agreement to which it is a party and each of the executions, delivery and performance by it of this Agreement has been duly authorized by all necessary actions on its part, does not require any approval from any trustee, lessor or holder of any indebtedness or other obligation of it;
- c) It is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete its obligations under the Agreement; and,
- d) There is no action, suit or proceeding, at law or in equity, or official investigation before or by any government authority, arbitration tribunal or other body pending or, to the best of its acknowledge, threatened against or affecting it or any of its properties, rights or assets, which could reasonably be expected to result in a material adverse effect on its ability to perform its obligations under the Agreement or on the validity or enforceability of the Agreement.

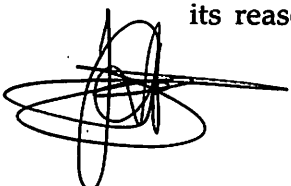
9.5 The CONTRACTOR represents that it had and shall maintain throughout the period of this Agreement the adequate capitalization, financial capability, technical know-how and manpower to undertake and complete the PROJECT.

9.6 The CONTRACTOR warrants that, on or before the date of completion of the work, it shall have obtained any and all permits, clearances and approvals from the proper authorities in accordance with its undertaking.

9.7 The CONTRACTOR shall perform the work necessary to complete the PROJECT and give all notices and comply with all other obligations under this Agreement and the Contract Documents promptly and with due diligence.

9.8 The CONTRACTOR shall commence, perform and complete the PROJECT in an expeditious and diligent manner in accordance with this Agreement and the Contract Documents including any amendments thereto.

9.9 The CONTRACTOR shall, as a competent, qualified CONTRACTOR experienced in the design, engineering, procurement, construction of projects similar in nature, use its reasonable endeavors to adjust or reschedule its performance of the work on the



PROJECT so as to avoid or minimize the effect of any delay.

9.10 The CONTRACTOR shall be fully responsible for the safety, protection, security and convenience of its personnel, third parties, and the public at large, as well as the works, equipment, installation and the like to be affected by its construction work.

9.11 The CONTRACTOR shall undertake the repair works, at its own expense, of any defect or damage to the infrastructure projects on account of the use of materials of inferior quality within thirty (30) days from the time the AFAB has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the AFAB shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand, without prejudice to actions available to it mentioned under Section 8.3 of this Agreement.

9.12 Should the CONTRACTOR fail to comply with the preceding paragraph, it shall be perpetually disqualified from participating in any public bidding conducted by the AFAB, without prejudice to any actions under Section 8.3 of this Agreement.

ARTICLE X RIGHTS OF THE AFAB

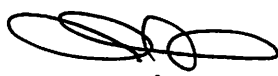
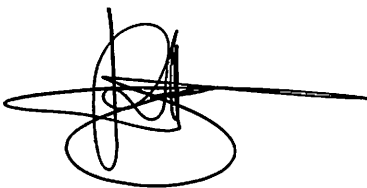
10.1 The PARTIES agree that certain rights shall be accorded to the AFAB, including but not limited to the right to inspect the PROJECT and discuss matters about the contract work, and the right to approve the contract, payments to the CONTRACTOR, change order or additional work, supplemental contracts, time extension and work suspension and resumption of suspended works.

10.2 The PARTIES agree that any breach of the provisions of this Agreement shall entitle the AFAB to suspend funding of the PROJECT or otherwise withhold release of any payments hereof, until such breach shall have been settled or remedied by the CONTRACTOR to the AFAB's satisfaction.

ARTICLE XI COMPLETION AND ACCEPTANCE OF WORK

11.1 The Contractor, upon completion of the project and as per requirement, shall submit the following:

- a. Three (3) sets of print "As-Built-Plans" showing changes from the original, if any;
- b. One (1) soft copy (electronic copy) of the completed project;
- c. Sworn affidavit stating that all wages and salaries of its staff and employees and all indebtedness connected with the PROJECT (including but not limited to claims of or credits to suppliers, sub-contractors and other creditors of the CONTRACTOR) have been fully settled; *Provided*, that in case of any unpaid claim or credit, the quit-claim or release and



- waiver duly executed by the concerned suppliers, sub-contractors or creditors in favor of the AFAB shall be binding; and,
- d. The warranty security under Article VIII of this Agreement.

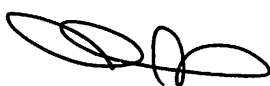
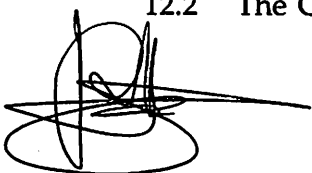
11.2 No act of the AFAB nor any of its representatives supervising or directing the work, nor any extension of time for the completion of the PROJECT, shall be regarded as an acceptance of such work or any part therein, either wholly or in part. Acceptance of the work shall be evidenced only by the Certificate of Acceptance issued by the AFAB before any final payment and settlement for any claims on account of work done and materials furnished under this Agreement.

ARTICLE XII TERMINATION OF AGREEMENT

12.1 Termination by the AFAB or by the CONTRACTOR, or mutual termination shall be based on the guidelines and conditions set forth in the existing laws and prevailing rules and regulations. Over and above the said conditions, the AFAB has the right to terminate the Agreement on any of the following grounds:

- a. Negative fifteen percent (15%) slippage on the approved Construction Schedule;
- b. Delay in the completion of the work exceeding a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted by the AFAB in writing to the CONTRACTOR. In such case the AFAB may forfeit the CONTRACTOR's performance security and take-over the execution of the PROJECT or award the same to qualified entity through negotiated contract;
- c. Any change in ownership or control, whether arising from sale, assignment, transfer or other disposition of the capital stock of the CONTRACTOR;
- d. If the CONTRACTOR becomes insolvent, or a party to any voluntary or involuntary proceeding to seek relief from creditors or form bankruptcy, receivership, liquidation or the winding – up of its business; and,
- e. Any other act or omission by the CONTRACTOR that constitutes a material breach of the Agreement including the PROJECT/contract documents enumerated in Section 1.1 hereof, or unless otherwise terminated for failure of the CONTRACTOR to perform its obligations under this Contract, in line with the Guidelines on Termination of Contracts issued by the Government Procurement Policy Board (GPPB Resolution No. 018-2004 dated December 2004).

12.2 The CONTRACTOR shall promptly notify the AFAB in writing of any situation



or occurrence beyond its reasonable control which makes it impossible to carry out its obligations under this Agreement. Upon confirmation in writing by the AFAB of the existence of any such event, the CONTRACTOR shall be relieved from the liabilities for failure to carry out such obligation and it may thereupon terminate the Agreement by giving not less than thirty (30) days written notice to the AFAB.

ARTICLE XIII REMEDIES AND WAIVER

13.1 All remedies herein given to the AFAB, and all the rights and remedies available to the AFAB by law shall be cumulative and concurrent. No termination of this Agreement shall deprive the AFAB of any of its remedies or action against the CONTRACTOR for retention of payments or damages, for breach of any covenant of this Agreement; this right of action shall be in addition to any other remedies granted to the AFAB under existing laws, prevailing rules and regulations.

13.2 No inspection made by the AFAB or any of its representatives; nor any order by the AFAB for the payment of money; nor the payment after acceptance of the whole or part of the PROJECT, nor any extension of the contract time granted by the AFAB, nor any possession taken by the AFAB or its employees or representatives shall be construed as a waiver by the AFAB of any provision of this Agreement. Nor shall the bringing of any actions for the damages or breach of contract, or the resort to any other remedy, be construed as a waiver of the right of the AFAB to take over the PROJECT.

13.3 The CONTRACTOR shall be responsible for, and shall indemnify and hold the AFAB free and harmless from any and all losses, costs, expenses and damages arising out of or in connection with any claim or cause of action in respect of any injury, sickness, disease, death or accident which may happen to any person or persons or any loss of or any damage to property on account of the execution of the works covered by this Contract. In this connection, the CONTRACTOR shall provide all the necessary safeguards, warning signs and all safety precautions for all workers and third parties during the progress of the work.

ARTICLE XIV TAXES

14.1 In relation to this Agreement, the CONTRACTOR shall pay taxes in full and on time. Failure to do so will entitle the AFAB to suspend the payment on the services delivered by the CONTRACTOR.

14.2 For the duration of this Agreement, the CONTRACTOR shall also present to the AFAB, on an annual basis, a tax clearance from the Bureau of Internal Revenue (BIR), as well as a copy of its income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.

ARTICLE XV

 12

EFFECTIVITY AND VALIDITY

15.1 This Agreement shall take effect upon the date of receipt by the CONTRACTOR of the Notice to Proceed from the AFAB.

15.2 Republic Act No. 9184, also known as "The Government Procurement Reform Act", and its Revised Implementing Rules and Regulations, as well as issuances of the Government Procurement Policy Board (GPPB) and the Conditions stated in the Bidding Documents, shall apply to this Agreement.

15.3 All notices called for by the terms of this Agreement shall be effective only at the time of written acknowledgment of receipt thereof, and only when received by the Parties to whom they are addressed.

15.4 This Agreement is executed and delivered in five (5) original copies.

IN WITNESS WHEREOF, the Parties have set their hands on the date and at the place first written above.

AUTHORITY OF THE FREEPORT AREA OF BATAAN

BY:



EMMANUEL D. PINEDA
Administrator

DAJ BUILDERS

BY:

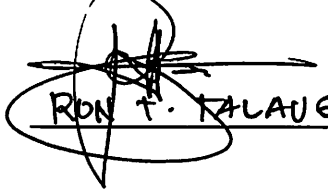


ARSENIO P. FLORES, JR.
Sole Proprietor

SIGNED IN THE PRESENCE OF:



Alewijn Aidan K. Ong
Deputy Administrator for Operations



RON T. KALABGON

ACKNOWLEDGMENT

Republic of the Philippines)
Province of Bataan)
Municipality of BALANGA CITY, BATAAN

BEFORE ME, this JUN 08 2021 of 2021 in BALANGA CITY, BATAAN, personally appeared:

NAME	COMPETENT EVIDENCE OF IDENTITY	DATE & PLACE OF ISSUE/EXPIRY
EMMANUEL D. PINEDA	Passport No. P094436B	DFA Manila/07 March 2029
ARSENIO P. FLORES, JR.	002-15 - 002938	10/23/2022

both known to me to be the same persons who executed the foregoing instrument and who acknowledged to me that the same is their free and voluntary act and deed, as well as the entities represented herein.

This instrument refers to a "Construction Agreement" consisting of fourteen (14) pages, including the page whereon this acknowledgment is written, and signed by the Parties and their instrumental witnesses on each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand on the date and at the place first written above.

JITV. RENATO C. BAGA
NOTARY PUBLIC
Extended until June 30, 2021
Notary Public No. 3795
ATR No. 5476959/12-11-20/Bata.
BP No. 145478/01-09-2021/Bata
Roll No. 35036
VLE Comp. VI-0025488/14-15-19

Doc. No. 290;
Page No. 57;
Book No. C611;
Series of 2021.

