

CONTRACT AGREEMENT

THIS AGREEMENT made this 01 day of Dec 2023 between **DEPARTMENT OF ENERGY (DOE)** of the Philippines (hereinafter called "the Entity") of the one part and **BARKERO INC. of 1129 Angel Linao St. corner Pres. Quirino Avenue, Malate, Manila City** (hereinafter called "the Service Provider") of the other part;


WHEREAS, the Entity invited Bids for certain goods and ancillary services, particularly for the **Development, Enhancement, and Maintenance, of various Web-based Application Systems under the National Energy Efficiency & Conservation Database (NEECD)** and has accepted a Bid by the Service Provider for the supply of those goods and services in the sum of **Twenty Three Million Eight Hundred Pesos Only (PhP23,000,800.00)** (hereinafter called "the Contract Price").

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 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 integral part of this Agreement, *viz.*:
 - i. Philippine Bidding Documents (PBDs);
 - i. Schedule of Requirements;
 - ii. Technical Specifications;
 - iii. General and Special Conditions of Contract;
 - iv. Supplemental or Bid Bulletins, if any
 - ii. Winning bidder's bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;

Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes, and all other documents submitted (*e.g.*, Bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
 - iii. Performance Security;
 - iv. Notice of Award of Contract; and the Bidder's conforme thereto; and
 - v. Other contract documents that may be required by existing laws and/or the Procuring Entity concerned in the PBDs. Winning bidder 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.
3. In consideration for the sum of **Twenty Three Million Eight Hundred Pesos Only (PhP23,000,800.00)** or such other sums as may be ascertained, **Barkero Inc.** agrees to the **Development, Enhancement, and Maintenance, of various Web-based Application Systems under the National Energy Efficiency & Conservation Database (NEECD)**, in accordance with its Bid.
4. The **Department of Energy** agrees to pay the above-mentioned sum in accordance with the terms of the Bidding.
5. The PARTIES hereto have mutually consented to the terms of the Confidentiality and Non-Disclosure Agreement set forth in Annex A, appended herewith as an integral part of this contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.


RAPHAEL P. M. LOTILLA
Secretary

for:

Department of Energy





VINCENT MARTIN N. HERMOSURA
Founder and CEO

for:

Barkero Inc.

SIGNED IN THE PRESENCE OF:


FELIX WILLIAM B. FUENTEBELLA
Undersecretary
Witness


MARY MARGARET T. MACASIRAY
Corporate Secretary
Witness


HELEN C. ROLDAN
OIC-Chief Accounting Division
Witness

CAF # 07-23-09-110

CAF DATE: Sept. 14, 2023

special accounts - locally funded

₱ 23, 000, 000. 00

ANNEX A

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Agreement is made and entered into by and between the DEPARTMENT OF ENERGY and BARKERO INC. (Receiving Party) in connection with the information and data submitted by the former pertinent to information relevant to the **Development, Enhancement, and Maintenance, of various Web-based Application Systems under the National Energy Efficiency & Conservation Database (NEECD)**. This Agreement is being executed to safeguard and protect Confidential and Proprietary Information [Intellectual Property (IP) and/or Intellectual Property Rights (IPRs)] owned by the DEPARTMENT OF ENERGY.

The DEPARTMENT OF ENERGY and the Receiving Party do hereby agree as follows:

1. "Confidential Information," as used herein, shall mean proprietary information and/or data provided by the DEPARTMENT OF ENERGY to the Receiving Party during the disclosure of confidential information, which is to be kept confidential by the Receiving Party.
2. All information provided through and/or by the DEPARTMENT OF ENERGY to the Receiving Party for the commissioned work shall be marked as "Proprietary and Strictly Confidential." Information disclosed through an oral presentation and/or through PowerPoint presentation and/or other means must also be identified as strictly confidential during and after the time/period of disclosure.
3. It is agreed that the Receiving Party shall keep the information confidential and shall not publish or otherwise disclose such information except to the extent that it can be established by the Receiving Party by competent proof that such information:
 - (a) Was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure and/or presentation;
 - (b) Was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;
 - (c) Became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party; and
 - (d) Was subsequently lawfully disclosed to the Receiving Party by a Third Party.
4. Except as provided herein, the Receiving Party will not disclose any Confidential Information to any other person or use any Confidential Information other than in connection with the commissioned work without its prior written approval. Everyone agrees to observe, exercise, and execute extreme care in protecting the confidentiality of any Confidential and Proprietary Information.
5. The DEPARTMENT OF ENERGY may disclose Confidential Information (i) to other parties and/or Receiving Party who have executed non-disclosure agreements (ii) or by requirement of law, provided that such party has signed a non-disclosure agreement.
6. All Confidential Information delivered/presented and/or disclosed by the DEPARTMENT OF ENERGY will remain as Intellectual Property of the DEPARTMENT OF ENERGY. All Confidential Information and/or any hard copies thereof of the disclosed confidential information will be promptly returned to the DEPARTMENT OF ENERGY without retaining a copy in the possession of the Receiving Party. All electronic documentation of the confidential information will be deleted from the file repository of the Receiving Party once the commissioned work is completed or if the DEPARTMENT OF ENERGY wants to do so.

7. Any one or all persons listed herein recognize and agree that nothing contained in this Agreement shall be construed as granting any rights in his/her/their favor, by license or otherwise, to any Confidential Information except as specified in this Agreement.
8. Any one or all persons listed herein similarly acknowledge that all Confidential Information is owned solely by the DEPARTMENT OF ENERGY and that unauthorized disclosure or use of such confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, any one or all persons listed herein agree that the DEPARTMENT OF ENERGY shall have the right to obtain an immediate injunction enjoining any breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such breach.
9. This Agreement shall be constructed, interpreted, and applied in accordance with the laws of the Republic of the Philippines, subject to the terms and conditions as set forth under Section 4 of this Agreement. Any violation of the provisions of this Agreement shall give cause for the DEPARTMENT OF ENERGY to proceed against the Receiving Party for appropriate action such as civil, criminal, or administrative remedies.
10. In the event of a dispute arising and/or resulting from this Agreement, it is expressly agreed that the venue thereof shall be in the proper courts of the City of Taguig. It is also agreed the mediation, arbitration, and other alternative modes of dispute resolution in accordance with the Procedure of Arbitration Law of the Philippines, the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), or other similar arbitration rules and regulations.
11. This Agreement shall be in effect for five (5) years from the date of the last disclosure of Confidential and Proprietary Information, at which time it will terminate.

ACKNOWLEDGEMENT


Before me, a Notary Public for and in the City of MANILA, Metro Manila, on this 12 day of October 2023, personally appeared:

NAME	PROOF OF IDENTIFICATION	ID NUMBER
RAPHAEL P. M. LOTILLA	PR920011 A	26 September 2012 / DFA Northeast
VINCENT MARTIN N. HERMOSURA	Driver's License	N03 - 12 - 006754

Both known to me and to me known to be the same persons who executed the foregoing Contract for the **Development, Enhancement, and Maintenance, of various Web-based Application Systems under the National Energy Efficiency & Conservation Database (NEECD)** and they acknowledged to me the same is their free act and deed and that of the agency and the corporation which they respectively represent. This agreement consisting of five (5) pages, including the page upon which this Acknowledgment is written, has been signed by the Parties and their instrumental witnesses.

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

Doc No. 003
Page No. 02
Book No. 80
Series of 102


ATTY. ISIDRO V. ALMENTEROS
 NOTARY PUBLIC
 Until December 31, 2024
 1626 Estrada Street, San Andres, Manila
 IBP OR No. 248072(2023) 9-23-2022/MLA
 PTR No. 0862227/1-03-2023/MLA
 MCLE Compliance No. VII-0007108/4-14-2025
 Attorney's Roll No. 34272