

SERVICE CONTRACT

This **SERVICE CONTRACT** (the "Contract" or "Service Contract") is entered into and executed by and between:

The **CITY GOVERNMENT OF PASIG**, with the official seat of Government at the Pasig City Hall, represented herein by its City Mayor, **HON. VICTOR MA. REGIS N. SOTTO**, hereinafter referred to as the "**CITY OF PASIG**";

- and -

MBZ SECURITY AGENCY SPECIALIST, INC., a corporation duly organized and existing under and by virtue of the laws of the Philippines, with office address at Suite 217 B Regina Bldg. Escolta St. Sta. Cruz, Manila, represented herein by its Authorized Representative, **NENITA H. OLAES**, and hereinafter referred to as the "**THE CONTRACTOR**";

Each referred to as a "**PARTY**" and collectively as the "**PARTIES**";

RECITALS:

WHEREAS, the **CITY OF PASIG** has a requirement for a Provision of Security Services for Various City Owned Buildings and Facilities (the "**Services**") under ITB No. bac-23-0127b;

WHEREAS, the **CITY OF PASIG** conducted a public bidding in accordance with Republic Act 9184 (Government Procurement Reform Act) and its 2016 Implementing Rules and Regulations on 27 January 2023 for the procurement of the **Services**;

WHEREAS, **MBZ SECURITY AGENCY SPECIALIST, INC.** has submitted the lowest calculated and responsive bid for the **Services**;

WHEREAS, the **CITY OF PASIG** has accepted the bid of **MBZ SECURITY AGENCY SPECIALIST, INC.**, subject to the terms and conditions hereunder stipulated;

NOW, THEREFORE, for an in consideration of the mutual covenants and agreements hereunder specified, the **CITY OF PASIG** and **MBZ SECURITY AGENCY SPECIALIST, INC.** hereby enter into this Service Contract, under the following terms, conditions and stipulations:

I. SCOPE OF SERVICES

The **CONTRACTOR** shall provide efficient security services to secure City-owned facilities, acquired/recovered properties/assets, including employees and its Clients from/against theft, pilferage, burglary, arson, vandalism, trespass and other unlawful acts in accordance with the Terms of Reference included in the bidding documents (a copy of the Terms of Reference is attached and made an integral part hereof as **Annex "A"**).

The following documents shall also be deemed to form part of the Service Contract:

- (a) the General Conditions of Contract as contained in the bidding documents (a copy of which is attached and made an integral part hereof as **Annex "B"**);
- (b) the Special Conditions of Contract as contained in the bidding documents (a copy of which is attached and made an integral part hereof as **Annex "C"**); and
- (c) Schedule of Requirements (**Annex "D"**),
- (d) Technical Specifications (**Annex "E"**)
- (e) Bid Bulletin/s (**Annex "F"**)
- (f) The signed technical and financial component of the bid, respectively; and
- (g) other requirements as stated in the bidding documents.

II. NO EMPLOYER-EMPLOYEE RELATIONSHIP

1. The **CONTRACTOR's** security guards/personnel who shall carry out the Services under this Service Contract are its own employees. There shall be no employer-employee relationship between **CITY OF PASIG** and the employees and security guards of the **CONTRACTOR**. The **CONTRACTOR** shall have the entire charge, control and supervision of the Services herein agreed upon.
2. The **CONTRACTOR** shall be responsible for all acts and omissions of its employees, security guards and all persons allowed by it to have access to **CITY OF PASIG's** premises, for any damage which may be caused to persons or property while remaining either casually or in business in any part of the **CITY OF PASIG's** premises. Any accident, injury or sickness of any kind, or death that may occur to any security guard or employee of the **CONTRACTOR**, consequent to the performance of Services under this Service Contract shall be the **CONTRACTOR's** sole responsibility. The **CONTRACTOR** further binds itself to hold the **CITY OF PASIG** free and harmless from any claim on account of the aforementioned injuries or damages.
3. The **CONTRACTOR's** security guards, as its own employees, and not being the employees of the **CITY OF PASIG**, shall not be subject to the disciplinary jurisdiction of the **CITY OF PASIG**. Any offense committed by any of the **CONTRACTOR's** security guards shall constitute a breach of this Service Contract. The **CITY OF PASIG** shall communicate to the **CONTRACTOR** all instances of such breach for immediate and appropriate action by the **CONTRACTOR**. In case of serious and substantial breach, as determined by **CITY OF PASIG**, **CITY OF PASIG** shall require that the **CONTRACTOR** take the appropriate steps to address the **CITY OF PASIG's** concerns within the period prescribed by the **CITY OF PASIG**. The inability of the **CONTRACTOR** to correct the situation will entitle the **CITY OF PASIG** to impose a corresponding and appropriate penalty against the **CONTRACTOR** and/or to rescind this Service Contract.
4. The **CONTRACTOR** warrants to comply with its obligations as an employer under the Labor Code, its implementing rules and regulations and all other applicable laws and regulations. Non-compliance therewith shall be for its exclusive risk and responsibility and shall constitute a violation of and a ground for the termination of this Service Contract.

III. TERMS AND CONDITIONS

1. The **CONTRACTOR** warrants that there are no actions, suits or proceedings pending against it or, to the best of its knowledge, threatened, which may have a material adverse effect on its ability to fulfill its obligations under this Contract or on its operations, business, properties, assets or business condition.
2. This Service Contract and all the rights and interests herein may not be assigned or subcontracted to another without the consent of the other party.
3. The relationship between the parties shall be limited to the performance of the Services as stipulated under this Service Contract. Nothing herein shall be construed to create a general partnership between the parties, or to authorize any party to bind the other, except as set forth in this Service Contract, or to borrow money on behalf of another party, or to use the credit of any party for any purpose.
4. This Service Contract constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous contracts, representations, warranties and understandings of the parties. No supplement, variation or amendment to this Service Contract shall be binding unless executed in writing by all the parties thereto.
5. No waiver of any of the provisions of the Service Contract shall be deemed or shall constitute waiver of any provision, whether similar or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless in writing and signed by the party making the waiver.
6. In the event that the **CONTRACTOR** fails to comply with any of its undertakings, as set forth in this Service Contract, the **CITY OF PASIG** shall be released from its obligations under this Service Contract, without prejudice to its rights of restitution, recovery and damages.
7. It is understood that all terms and conditions provided in the Bidding Documents shall form an integral part of the contract.

IV. CONTRACTUAL PERIOD

1. This Service Contract shall be effective for a period of two (2) years commencing on the effectivity date provided in NTP; however, the **CONTRACTOR's** renewal for the second year shall be conditioned upon the satisfactory performance of the **CONTRACTOR** upon assessment or evaluation of the **CITY OF PASIG, and the submission of updated "Class A" (eligibility documents) and performance security**. Thus, before the end of the first year, the **CITY OF PASIG** shall conduct an assessment or evaluation of the performance of the **CONTRACTOR** based on the criteria in the Terms of Reference and of the bidding documents. Based on such assessment, the **CITY OF PASIG** may either renew the Service Contract for the additional one (1) year or pre-terminate the contract for failure by the **CONTRACTOR** to perform its obligations thereon following the procedure prescribed under the Guidelines on Termination of Contracts in the IRR of R.A. No. 9184.
2. The **CITY OF PASIG** may terminate the Service Contract, with or without cause, without need for judicial intervention, upon thirty (30) days written notice to the **CONTRACTOR**.

3. Should the **CONTRACTOR** incur delay in the performance of the Services, the **CONTRACTOR** shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the total cost of the unperformed portion for every day of delay, including Sundays and Holidays, beyond the specific period. The maximum deduction shall be ten percent (10%) of the Contract Price of the Service Contract. Once the cumulative maximum deduction reaches ten percent (10%) of the Contract Price, the **CITY OF PASIG** shall have the option to rescind the Service Contract, without prejudice to other courses of action and remedies open to it.

In case the **CONTRACTOR** still fails to deliver the Services after the lapse of fifteen (15) days from the supposed date of implementation, the **CITY OF PASIG** shall likewise have the option to terminate the Contract, without prejudice to other courses of action and remedies open to it.

V. CONTRACT PRICE and SCHEDULE OF PAYMENTS

1. Contract Price for the Services shall be in the following amount/s which shall be inclusive of applicable taxes and subjected to the mandated withholding tax. The breakdown of price schedule is attached as "Annex G"

Year	Amount
2023	ONE HUNDRED NINETY-NINE MILLION ONE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED TWELVE PESOS AND 80/100 (Php199,176,112.80)
2024	TWO HUNDRED THIRTY-NINE MILLION THREE HUNDRED SIXTEEN THOUSAND FOUR HUNDRED SIXTY-FOUR PESOS AND 60/100 (Php239,316,464.60) (subject to evaluation by the <u>City of your satisfactory performance of the first year</u>)

2. The monthly service fee shall be paid by the **CITY OF PASIG** within forty-five (45) calendar days from receipt of the **CONTRACTOR'S** billing every 15th and 30th (or 31st) of the month.

Payment shall be made according to the actual deployed number of the **CONTRACTOR'S** security guards.

No security guard shall be paid an apprenticeship pay or a salary below the minimum.

3. Night Shift Differential and Holiday Pay, which may be allowed under the Labor Code, shall be computed separately, in accordance with law, and shall be for the account of the **CONTRACTOR**. Deductions shall be made from the **CONTRACTOR'S** billings based on the **CONTRACTOR'S** personnel's absences.

4. The Contract Price already includes all applicable taxes, fees and charges required by the government. The **CONTRACTOR** holds the **CITY OF PASIG** free from liability for any or all taxes and government fees and charges arising out of this Service Contract.

5. The Contract Price shall not subject to any increase or upward adjustment for any reason or cause whatsoever for the duration of the Service Contract, except as provided for under the Contract.

6. The **CONTRACTOR** shall inform the **CITY OF PASIG** and prepare a Supplemental Schedule of Payment and the corresponding additional or replacement Performance Security, as necessary, in case of an increase in the present minimum wage, cost of living allowance, SSS, Philhealth, ECC and PAG-IBIG premiums and all other similar increases, after the signing of this Service Contract, by subsequent government decrees or orders, and submit the same to the **CITY OF PASIG** together with a copy of the government decree or order mandating the increase.

Upon the **CITY OF PASIG's** verification of and conformity to the Supplemental Schedule of Payment, additional or replacement Performance Security, if any, and the government decree or order mandating the increase, the Supplemental Schedule of Payment shall form part of the Service Contract as an amendment thereto.

VI. CLEARANCES, PERMITS, LICENSES and TAXES

1. The **CONTRACTOR** warrants that it is an entity duly organized, validly existing and in good standing under the laws of the republic of the Philippines, and that it is duly registered and capable and has the requisite power, authority, permits, clearances and licenses, to enter into this Service Contract and to perform Services and all of its obligations under this Service Contract.
2. All amounts, claims, and expenses pertaining to clearances, licenses, permits, registrations or renewals thereof, required by the **CITY OF PASIG** or the appropriate government entities for the Services to be performed under this Service Contract shall be for the exclusive account of the **CONTRACTOR**.
3. The **CONTRACTOR** shall pay its taxes in full and on time. Its failure to do so shall entitle the **CONTRACTOR** to suspend payment for services rendered by the **CONTRACTOR**. The **CONTRACTOR** shall regularly present a tax clearance from the Bureau of Internal Revenue (BIR) and a copy of its income and business tax returns, duly stamped, received and validated by the BIR, indicating the tax payments made thereon.

VII. PERFORMANCE SECURITY

The **CONTRACTOR** shall post a Performance Security (the "Security"), for the benefit of the **CITY OF PASIG**, conditioned on former's compliance with all of its obligations under this Service Contract, within ten (10) calendar days from the receipt of Notice to Award and in no case later than the signing of the Service Contract, in accordance with any of the following schedule:

Form of Security	Amount in Percentage of Total Contract Price
Cash, cashier's/manager's check issued by a Universal or Commercial Bank; Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank, Provided however that if issued by a foreign bank, it shall be duly confirmed by a Universal or Commercial Bank; or	Five Percent (5%)
Surety Bond (which is acceptable to PAGCOR) callable upon demand issued by a surety or insurance company duly certified by the	Thirty Percent (30%)

Insurance Commission as authorized to issue such security for the contract awarded.

The Performance Security shall remain valid until the issuance of the final Certificate of Acceptance. It may be released only after the issuance of the final Certificate of Acceptance of the Services, provided that there are no claims filed against the **CONTRACTOR** or the surety company.

VIII. INDEMNIFICATION

1. The **CONTRACTOR** hereby holds the **CITY OF PASIG** its officials, officers, employees, representatives, and agents free and harmless from any and all actions or liabilities arising out of this Service Contract, including, without being limited to, claims for unpaid and back wages, regularization, and other terms and conditions of employment, as well as civil and criminal liabilities that the **CONTRACTOR** and/or the **CITY OF PASIG** may incur as a result of, or arising out of, the conduct and/or pursuit of Services and to indemnify the **CITY OF PASIG** from and against the costs of defending any action, suit or proceedings, including legal fees or other expenses incurred in relation to any such claims mentioned above.
2. The **CONTRACTOR** agrees to protect and to exercise due care and proper handling of the properties of the **CITY OF PASIG** during the performance of the Services. The **CONTRACTOR** shall be jointly and severally liable with its security guard/personnel and shall indemnify and hold the **CITY OF PASIG** free and harmless for any death, injury or damage to the **CITY OF PASIG** and to third persons for loss, breakage, or destruction of properties, as a consequence of **CONTRACTOR's** acts or omissions, willful intent or negligence, during the performance of the Services or its obligations under this Service Contract.
3. The **CONTRACTOR** shall be liable in case of theft, robbery or any loss within the **CITY OF PASIG's** premises serviced by **CONTRACTOR's** security guards/personnel. The **CONTRACTOR** hereby agrees to replace, repair or reconstitute any loss involving its security guards/personnel.

IX. CONFIDENTIALITY

1. All information disclosed to the **CONTRACTOR**, its directors, officers, employees, personnel, agents, and other persons acting on **CONTRACTOR's** behalf, arising out of or as a result of this Service Contract shall be confidential in nature and shall remain as the **CITY OF PASIG's** property and shall be used only for the purposes specifically related to this Service Contract. The **CONTRACTOR**, its officers, employees, personnel, agents, or any other persons acting on its behalf, shall not, at any time, disclose such confidential information to any third party without the **CITY OF PASIG's** prior written consent.
2. In the event that the **CONTRACTOR**, its directors, officers, employees, personnel, agents, and other persons acting on **CONTRACTOR's** behalf, is required by law to disclose any information known to the **CONTRACTOR** as a result of this Service Contract, **CONTRACTOR** will provide the **CITY OF PASIG** with prompt prior written notice of such requirement so that the **CITY OF PASIG** may seek an appropriate protective order/measure. In the event that the **CITY OF PASIG** fails to secure the appropriate order/measure, the **CONTRACTOR**, its directors, officers, employees, personnel, agents, and other

persons acting on **CONTRACTOR'S** behalf, shall disclose only the portion of the Confidential Information it is legally compelled to disclose.

3. Any breach of any of the provisions on confidentiality by any of **CONTRACTOR'S** officers, employees, personnel, agents, or any other persons acting on its behalf, shall render the **CONTRACTOR** solidarily liable to the **CITY OF PASIG** for damages, without prejudice to the civil and criminal actions against the **CONTRACTOR**, its officers, employees, personnel, agents, and other persons acting on its behalf. The **CONTRACTOR** shall also be liable for costs and expenses incurred by the **CITY OF PASIG** in connection with the enforcement of provisions of this Confidentiality Clause.

4. The **CONTRACTOR** acknowledges and agrees that monetary damages would not be a sufficient remedy for any breach of this Confidentiality Clause by the **CONTRACTOR**, its directors, officers, employees, personnel, agents, and other persons acting on **CONTRACTOR'S** behalf, and that the **CITY OF PASIG** shall be entitled to specific performance, including injunctive relief, as a remedy for any such breach. Such breach shall not be deemed to be the exclusive remedy for breach of this Confidentiality Clause but shall be in addition to all other remedies available at law or equity. The **CONTRACTOR** agrees to reimburse the **CITY OF PASIG** for all costs and expenses, including, without limitations, attorney's fees, incurred by the **CITY OF PASIG** in connection with the enforcement of this Confidentiality Clause.

IN WITNESS WHEREOF, the parties hereto have signed these presents on this 31st day of March, 2023 in Pasig City.

CITY GOVERNMENT OF PASIG

**MBZ SECURITY AGENCY
SPECIALIST, INC.**

By:

By:

HON. VICTOR MA. REGIS N. SOTTO
City Mayor

NERITA H. OLAES
Authorized Representative

Signed in the presence of:

Funds Appropriated:

MS. MARTINELLI A. SANTIAGO
OIC - City Budget Office

Funds Obligated:

MS. JUVY A. CUENCO
City Accountant

Funds Available:

MS. MARITA A. CALAJE
City Treasurer

Recommending Approval:

MS. RUTH F. ROMANO
OIC - Office of General Services

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
PASIG CITY) S.S.

BEFORE ME a Notary Public, for and in the abovementioned jurisdiction, this MAR 31 2023, personally appeared the following individuals, bearing their respective competent proofs of identity, as follows:

Name	Proof of Identity	Place/Date of Issue
HON. VICTOR MA. REGIS N. SOTTO		
NENITA H. OLAES	C09-01-005101	Pasig City / <u>MAY 15, 2021</u>

known to me and to me known to be the same individuals who executed the foregoing instrument and they acknowledged to me that they executed the same as an act of their free and voluntary will and deed and that of the juridical entities that they respectively represent.

This instrument refers to the Service Contract for the **Provision of Security Services for Various City Owned Buildings and Facilities**, consisting of eight (8) pages, including the page whereon this Acknowledgment appears, and has been signed on each and every page hereof by the parties hereto and their instrumental witnesses, initialed on each and every page hereof, and sealed by my notarial seal.

WITNESS MY HAND AND SEAL on the date and at the place first above written.

Doc. No. 501 ;
Page No. 197 ;
Book No. 19 ;
Series of 2023.

ATTY. CARLOS C. ABESAMIS
Notary Public-Pasig City
Until December 31, 2023
ROLL NO. 43288
IBP LIFETIME NO. 08352
PTR NO. 9004628
APPOINTMENT NO. 25 (2022-2023)
MCLE COMPLIANCE NO. VI-0030466
TIN NO. 127-509-331-00000