PROJECT: **Supply and Delivery of 2,882 Science and Mathematics Equipment Packages to 584 Public Junior High Schools for Grades 7 to 10 (LOT 4)**

CONTRACT NO.: **2019-08-BLR4(001)-BI-CB-005-**C052

JONATHAN B. ZULUETA
NIKKA'S WITNESS

ANDRONICA T. ROMA
NIKKA

RAUL C. LA ROSA
DEPED'S WITNESS

DIOSDADO M. SAN ANTONIO
DEPED

CONTRACT AGREEMENT

THIS Agreement made and entered into this ____ day of FEB 19 2020 **2020** by and between the **DEPARTMENT OF EDUCATION**, located at DepEd Complex, Meralco Avenue, Pasig City, Philippines, represented herein by its Undersecretary for Curriculum and Instruction, **DIOSDADO M. SAN ANTONIO,** as per Department Order No. 67, s. 2016 (hereinafter referred to as **"DEPED"**), and **NIKKA TRADING** represented herein by its authorized representative, **ANDRONICA T. ROMA,** with office address at Unit 1014, Cityland Herrera Tower, V. A. Rufino St. cor. Valero St., Salcedo Village, Makati City, Philippines, (hereinafter referred to as the **"NIKKA"**);

***WHEREAS,* DEPED** invited bids for certain goods and ancillary services stated in the above-mentioned project consisting of ten (10) Lots, and received bids from ten (10) bidders; **DEPED** opened, read, and evaluated the bids of the ten (10) bidders and declared NIKKA as having the lowest calculated bid for Lot Nos. 1, 4, 8 and 9; after evaluation, DEPED post-qualified and declared the bid of NIKKA as the lowest calculated responsive bid for Lot Nos. 1,4, 8 and 9;

WHEREAS, **DEPED** passed and approved Resolution to Award No. 2019-08-BLR4(001)-BI-CB-005 in favor of **NIKKA**, in the sum of **PHILIPPINE PESOS FIFTY-SIX MILLION, FOUR HUNDRED SEVENTY-EIGHT THOUSAND, EIGHT HUNDRED NINETY-NINE and 84/100 (PhP56,478,899.84) ONLY**, (hereinafter called the **"Contract Price"**), broken down as follows:

LOT NO.	ITEMS/DESCRIPTIONS
4	6 items as indicated in Annex A" and Section VI. Schedule of Requirements of the Bidding Documents

NOW, THEREFORE, PREMISES CONSIDERED, the parties hereby agree as follows:

1. In this **Contract**, 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 shall be deemed to form, be read and construed as part of the Contract:

   a) **NIKKA'S** Bid, including the Technical and Financial Proposals, and all other documents/statements submitted;
   b) Resolution to Award No. 2019-08-BLR4(001)-BI-CB-005 dated 25 October 2019 and its Annexes;
   c) Notice of Award;
   d) Schedule of Requirements;
   e) Technical Specifications;

f) General and Special Conditions of the Contract;
g) Quality Assurance Procedures during Sample Evaluation;
h) Inspection and Test Protocol;
i) Quality Assurance Procedures During Contract Implementation;
j) Warranty Period;
k) Bid Bulletin Nos. 1, 2 and 3, dated 24 August 2019, 31 August 2019, and 7 September 2019, respectively;
l) Submitted Price Schedule Form of the Bidder;
m) Allocation List.

3. The items shall be delivered within three hundred (300) calendar days from receipt of **NIKKA** of the Notice to Proceed;

4. **NIKKA** shall post a Performance Security within ten (10) calendar days from receipt of the Notice of Award in the form and amount prescribed in the Notice of Award. The performance security shall be posted in favor of **DEPED**, and shall be forfeited in the event it is established that **NIKKA** is in default of any of its obligation under the contract. The performance security shall be in force and effect until issuance by **DEPED** of the Certificate of Final Acceptance. For this purpose, **NIKKA** undertakes to renew its performance security whenever necessary and without need of prior notice or instruction from **DEPED**, to ensure that it is in force and effect for the whole duration of the contract delivery period and until a Certificate of Final Acceptance is duly issued.;

5. The goods supplied under this **Contract** should conform to Section VII. Technical Specifications and standards mentioned in Section VI -Schedule of Requirements;

6. In consideration of the **Contract Price** mentioned herein to be paid by **DEPED** to **NIKKA**, **NIKKA** hereby covenants to provide all of the incidental and additional services as specified in Section VI – Schedule of Requirements, and should be in accordance with the terms and/or specifications indicated therein or otherwise contemplated by the parties;

7. **NIKKA** hereby covenants to provide all of the materials, notifications, and information pertaining to spare parts manufactured by **NIKKA**, such as but not limited to the spare parts as **DEPED** may elect to purchase from **NIKKA**, provided that this election shall not relieve **NIKKA** of any warranty obligations under this **Contract**;

8. **NIKKA** hereby covenants to provide advance notification to **DEPED** in the event of termination of production of the spare parts, in sufficient time to permit **DEPED** to procure needed requirements and to furnish, at no cost, to **DEPED**, the blueprints, drawings, and specifications of the spare parts, upon request by the **DEPED**;

9. Goods delivered with defects or non-compliant with the required specifications shall be rejected by **DEPED** and replaced by the **NIKKA. DEPED** shall have the option to inspect **NIKKA'S** premises covered by the contract, at any time or stage of contract

JONATHAN R. ZOLUETA
NIKKA'S WITNESS

ANDRONICA T. ROMA
NIKKA

PAUL C. LA ROSA
DEPED'S WITNESS

DIOSDADO M. SAN ANTONIO
DEPED

implementation, to monitor and assess **NIKKA'S** capacity to discharge its contractual obligations;

10. **NIKKA** shall deliver the goods to the appropriate recipient schools only as indicated in the allocation list attached to the Bidding Documents unless otherwise instructed by **DEPED**, for justifiable cause. Goods delivered to another school other than the recipient school without **DEPED'S** written authorization and/or approval may be rejected by the latter. Violation of this provision, based on documents, reports submitted and validated by the authorized receiving personnel may be a possible cause for termination of the Contract;

11. The procured goods or items contemplated under this Contract shall be inspected and/or tested by **DEPED** either prior to delivery at **NIKKA'S** premises, or at the delivery sites, or both, at the option of **DEPED**, in accordance with the provisions of Special Conditions of the Contract, the Schedule of Requirements, the Inspection and Acceptance Protocol or otherwise indicated in other parts of the bidding documents;

12. In case **NIKKA** encounters condition(s) impeding timely delivery of the goods, **NIKKA** shall promptly notify **DEPED** in writing of such condition(s) and any request for work suspension and/or contract delivery period extension shall be promptly done in writing as soon as circumstances providing justification for such requests have become apparent. **NIKKA** must provide sufficient proof to support any request for work suspension and/or contract delivery period extension;

13. The **Contract Price** shall be paid to **NIKKA** through the Government disbursement procedures as follows:

    13.1. Upon submission of an irrevocable letter of credit or Bank Guarantee issued by a Universal or Commercial Bank, advance payment not to exceed fifteen percent (15%) of the contract amount shall be allowed and paid within sixty (60) calendar days from signing of the contract;

    13.2. **NIKKA** may submit a request for payment based on **NIKKA's** monthly Progress Reports which shall be attached to the progress billing and include the following: (i) cumulative quantities of items delivered based on the schedule of deliveries and other relevant terms and conditions of the contract; (ii) Inspection and acceptance reports, including certification by **NIKKA**, as approved by the duly authorized representative of **DEPED**, that the items have been delivered and/or properly installed and commissioned;

    13.3. Payment shall be made to **NIKKA** as promptly as possible after the date of acceptance of Goods at the Project Site and upon submission of the documents (i) to (viii) specified in SCC Clause 6.2 and other documents required in accounting and auditing rules and regulations, in the following manner:

JONATHAN B. ZOLUETA
NIKKA'S WITNESS

ANDRONICA T. ROMA
NIKKA

RAUL C. LA ROSA
DEPED'S WITNESS

DIOSDADO M. SAN ANTONIO
DEPED

13.3.i. For the initial progress payment, a minimum of twenty five percent (25%) of the Contract Price of the lot shall be paid to **NIKKA** upon delivery of a minimum of twenty five percent (25%) of the requirement of the lot duly delivered and accepted by **DEPED'S** authorized representative;

13.3.ii. Final payment shall constitute release of the retention money in case of expiry of the warranty period, or whatever is left of it, after it has been called for use under the warranty provision.

14. Payments shall be subject to the "Warranty" provision in the form of either retention money in an amount equivalent to three percent (3%) of every progress payment, or a Special Bank Guarantee in the amount equal to three percent (3%)of the Contract Price as required under Section 62 of R.A. 9184 and its revised IRR;

15. **NIKKA** shall be liable for the damages for the delay in its performance of the Contract and shall pay **DEPED** liquidated damages, not by way of penalty, in an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the delayed goods scheduled for delivery for every day of delay until such goods are finally delivered and accepted by the recipient school concerned. **DEPED** shall deduct the liquidated damages from any money due or which may become due to **NIKKA**, or collect from any of the securities or warranties posted by **NIKKA** whichever is convenient to **DEPED**. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the Contract Price, **DEPED** may rescind or terminate the contract, without prejudice to other courses of action and remedies available under the circumstances.

16. The Parties shall make every effort to resolve amicably and by mutual consultation any and all disputes or differences arising between the parties in connection with the implementation of the Agreement. Should such dispute not be resolved amicably, it shall be submitted to arbitration in the Philippines according to the provisions of Presidential Decree No. 242 and Executive Order No. 292. Provided, however, that by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in accordance with governing laws on the day and year first above written.

JONATHAN R. ZULUETA
NIKKA'S WITNESS

ANDRONICA T. ROMA
NIKKA

RAUL C. LA ROSA
DEPED'S WITNESS

DIOSDADO M. SAN ANTONIO
DEPED

SIGNED, SEALED AND DELIVERED BY:

DIOSDADO M. SAN ANTONIO
Undersecretary
DEPED

ANDRONICA T. ROMA
Authorized Representative
NIKKA

SIGNED IN THE PRESENCE OF:

RAUL C. LA ROSA
DEPED's Witness

JONATHAN R. ZULUETA
NIKKA's Witness

APPROVED BY:

LEONOR MAGTOLIS BRIONES
Secretary
Department of Education

CERTIFIED FUNDS AVAILABLE: ₱52,478,899.84

MA. RHUNNA L. CATALAN
Chief Accountant
Chief Accountant

JONATHAN R. ZOLUETA
NIKKA'S WITNESS

REPUBLIC OF THE PHILIPPINES)
CITY OF MAKATI METRO MANILA) S.S

ACKNOWLEDGMENT

BEFORE ME, a Notary Public in and for CITY OF MAKATI, Philippines, this _____ day of FEB 19 2020 2020 personally appeared:

NAME	**GOVERNMENT ISSUED ID** *(Number, Issued On, Issued By)*
DIOSDADO M. SAN ANTONIO *Undersecretary* DEPED	
ANDRONICA T. ROMA *Authorized Representative* NIKKA	Passport No.: P8029632A Issued on: 21 July 2018 Issued by: DFA Manila

ANDRONICA T. ROMA
NIKKA

Known to me and to me known to be the same persons who executed the foregoing instrument and acknowledge to me that the same is the free and voluntary act and deed of the entities which they respectively represent.

The foregoing instrument is a CONTRACT consisting of six (6) pages (exclusive of attachments), including this page on which this acknowledgment is written and signed by the parties hereto and their instrument witness on the left-hand margin of each and every page hereof.

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

RAUL C. LA ROSA
DEPED'S WITNESS

Doc. No. 460;
Page No. 81;
Book No. 9;
Series of 2020.

NOTARY PUBLIC
EDILBERTO M. ATIENZA
Commission No. M-42
Notary Public for Makati City
Until December 31, 2020
131 H.V. Dela Costa, Suite 3511
Salcedo Village, Makati City 1227
Roll No. 24078/03-11-72
PTR No. 0116067 ; 1/2/20; Makati City
IBP Lifetime No. 02846; 02/11/02
MCLE Compliance No. V-0022293

DIOSDADO M. SAN ANTONIO
DEPED