



Raymund C. Yap
 First Datacorp's Witness

PROJECT: Procurement of Supply and Delivery of Adobe License

CONTRACT NO.: 2021c-ICTS2(006)-BII-CB-012- C138

CONTRACT AGREEMENT

SEP 03 2021

THIS AGREEMENT made and entered into this ___ day of _____ 2021 by and between **DEPARTMENT OF EDUCATION**, located at DepEd Complex, Meralco Avenue, Pasig City, Philippines, represented herein by its Undersecretary, **ALAIN DEL B. PASCUA**, as per DepEd Order No. 008, s. 2021, as amended by DepEd Order No. 023, s. 2021, (hereinafter referred to as "**DEPED**"); and **FIRST DATACORP**, represented herein by its Authorized Representative, **SHEREE LYN B. LEPAOPAO**, with office address at 3rd Floor Citibank Center, Paseo de Roxas, Makati City, Philippines (hereinafter referred to as "**FIRST DATACORP**").

SHEREE LYN B. LEPAOPAO
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DEPED and **FIRST DATACORP** are collectively called "**PARTIES**".

WHEREAS, DEPED invited bids for the supply and delivery of Adobe License for a subscription period of **TWELVE (12) MONTHS**, consisting of **one (1) lot**, and received bid from a single bidder; **DEPED** opened, read, and evaluated the bid of the single bidder and declared **FIRST DATACORP** as having the single calculated bid for the above-captioned project; after evaluation, **DEPED** post-qualified and declared the bid of **FIRST DATACORP** as the single calculated responsive bid in the sum of **PHILIPPINE PESOS SEVENTY-TWO MILLION, THREE HUNDRED NINETY-FIVE THOUSAND, THREE HUNDRED SIXTEEN and 00/100 (PhP 72,395,316.00) ONLY**, inclusive of the cost of all taxes, such as, but not limited to, VAT, (hereinafter called the "Contract Price") detailed as follows:

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Lot No.	Description	Item	Quantity (unit)	Amount (PhP)
1	Procurement of Supply and Delivery of Adobe Licenses Subscription	Adobe Creative Cloud Applications	108,000	72,395,316.00
		Adobe Captivate	300	
TOTAL				72,395,316.00

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 part of this Agreement, viz:
 - i. Philippine Bidding Documents (PBD);
 - a. Schedule of Requirements;
 - b. Technical Specifications;
 - c. General and Special Conditions of the Contract;
 - d. Bid Bulletin No. 1 dated 28 June 2021;
 - ii. **FIRST DATACORP's** bid, including the Eligibility Requirements, Technical and Financial Proposals, and all other documents or statements submitted;
 - iii. Performance Security;
 - iv. Notice of Award of Contract and **FIRST DATACORP's** conforme thereto; and
 - v. Other contract documents required by existing laws and/or DepEd in the PBD. **FIRST DATACORP** 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 Order, and Warranty Security, shall form part of the Contract.
3. The Goods and Services shall be delivered within **TWENTY-EIGHT (28) CALENDAR DAYS** from receipt of **FIRST DATACORP** of the Notice to Proceed or as may be indicated in the Notice to Proceed.
4. **FIRST DATACORP** shall post a Performance Security within ten (10) calendar days from receipt of the Notice of Award in the form and amount prescribed therein. The performance security shall be posted in favor of **DEPED**, and shall be forfeited in the event it is established that **FIRST DATACORP** is in default of any of its obligation under this contract. **FIRST DATACORP** shall be responsible for the extension of its performance security and/or undertake to renew its performance security whenever necessary, and without need of prior notice or instruction from the **DEPED**, to ensure that it is in force and effect for the whole duration of the contract and until a Certificate of Final Acceptance is duly issued.


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5. The Goods and Services supplied under this Contract should conform to and comply with the standards mentioned in Section VI. Schedule of Requirements of the bidding documents and the following final specifications:

Item	Specifications
1	<p>Adobe Creative Cloud Applications</p> <ul style="list-style-type: none"> • Adobe Creative Cloud subscription for 108,000 users for 12 months • Includes at least 20 Adobe Creative Cloud Applications including Creative Cloud for Desktop, Photoshop, Illustrator, InDesign, Premiere Pro, After Effects, XD and Lightroom • Allows for cloud storage and sharing of synced files, cloud documents and mobile content • Allows for assignment and reassignment of licenses to users through a web-based Administration Console
2	<p>Adobe Captivate</p> <ul style="list-style-type: none"> • 300 Adobe Captivate Licenses for 12 months • Allows creation of eLearning content, conversion of PowerPoint content to interactive videos, capture of all onscreen actions for simulation • Allows for assignment and reassignment of licenses to users through a web-based Administration Console

Any proposal to deliver items of equivalent, higher or superior technical specifications, in lieu of the abovestated, shall be discretionary to **DEPED** and is subject to the evaluation and recommendation of the end-user or implementing units and the approval of the herein authorized representative and signatory.

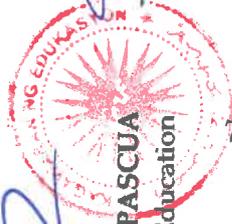
6. Goods with defects or non-compliant with the required specifications shall be rejected by **DEPED** and replaced by **FIRST DATACORP**. **DEPED** shall have the option to inspect **FIRST DATACORP's** premises covered by the Contract, at any time or stage of contract implementation, to monitor and assess **FIRST DATACORP's** capacity to discharge its contractual obligations.

7. The procured goods or items contemplated under this Contract shall be inspected by **DEPED** Inspectorate Team duly constituted for this Project prior to delivery to the project site in accordance with the provisions of the Special Conditions of the Contract, the Schedule of Requirements, or otherwise indicated in other parts of the bidding documents.


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8. **FIRST DATACORP** shall deliver the Goods and Services to the project site – DepEd Central Office, Meralco Avenue, Pasig City. Goods delivered to sites other than the DepEd Central Office without **DEPED's** written authorization and/or approval may be rejected by the latter. Violation of this provision, based on documents and reports submitted and validated by the authorized receiving personnel may be a cause for the termination of the Contract.

9. In case **FIRST DATACORP** encounters condition(s) impeding timely delivery of the goods, **FIRST DATACORP** shall promptly notify **DEPED** in writing of such condition(s). As a rule and on account of the emergency nature of this project, no work suspension and/or contract delivery period extension shall be allowed.

10. The Contract Price shall be paid to **FIRST DATACORP** in accordance with the following disbursement procedures:


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10.1. An advance payment of fifteen percent (15%) of the Contract Price shall be allowed and paid within sixty (60) calendar days from signing of the contract. An irrevocable Letter of Credit or Bank Guarantee of an equivalent amount must be submitted, and shall remain valid until the goods are delivered, and accompanied by a claim for advance payment.

10.2. **FIRST DATACORP** may submit a request for payment based on the following: (i) cumulative quantities of items delivered based on the schedule of deliveries and other relevant terms and conditions of the contract; (ii) duly signed Delivery Receipts; (iii) Inspection and Acceptance Reports (IARs), including certification by **FIRST DATACORP**, duly signed and dated by the authorized representative of the **DEPED** indicating that the items have been delivered in accordance with the Contract. Other documents in support of a request for payment may be prescribed by **DEPED** pursuant to existing disbursement, accounting and auditing rules and procedures.

10.3. Subject to recoupment of the advance payment contemplated in Clause 10.1. above, payment shall be made to **FIRST DATACORP** within sixty (60) days from submission of the documents specified in SCC Clause 2.2 and other documents as may be prescribed by **DEPED**, in the following manner:

10.3.1. 100% of the Contract Price shall be paid to **FIRST DATACORP** after acceptance of the required licenses on Adobe administration portal at DepEd Central Office;

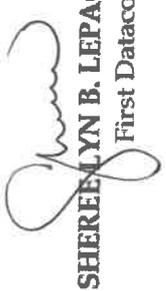

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10.3.2. Final payment shall constitute release of the retention money in case of expiry of the warranty period, or in case of use in part of the retention money by reason of a call upon the warranty, the final payment shall constitute the release of the balance amount.

11. Payments shall be subject to the "Warranty" provision in the form of a Special Bank Guarantee in the amount equal to at least five percent (5%) of the Contract Price required under Section 62.1 of R.A. 9184 and its revised IRR.
12. **FIRST DATACORP** shall be liable for liquidated damages for the delay in its performance 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 **DEPED**. **DEPED** shall deduct the liquidated damages from any money due or which may become due to **FIRST DATACORP**, or collect from any of the securities or warranties posted by **FIRST DATACORP**, 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.
13. **FIRST DATACORP** and its employees, as agents of **DEPED**, shall uphold strict confidentiality of any information relating to this Contract. **FIRST DATACORP** shall hold Proprietary Information in strict confidence. **FIRST DATACORP** agrees not to reproduce, transcribe or disclose Proprietary Information to third parties without prior written approval of **DEPED**.
14. 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 Agreement to be executed in accordance with governing laws on the day and year first above written.


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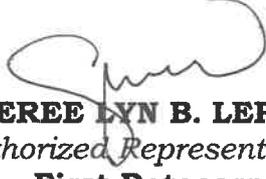

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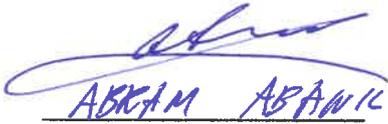

SIGNED, SEALED AND DELIVERED BY:


ALAIN DEL B. PASCUA
Undersecretary
DepEd




SHEREE LYN B. LEPAOPAO
Authorized Representative
First Datacorp

SIGNED IN THE PRESENCE OF:


ABRAM ABAWIC
Witness


Raymond C. Yap
Witness

CERTIFIED FUNDS AVAILABLE: ₱72,395,316.-


M.A. RHUNNA L. CATALAN

Chief Accountant

8/17

REPUBLIC OF THE PHILIPPINES)
PASIG CITY, METRO MANILA) S.S

ACKNOWLEDGMENT

BEFORE ME, a Notary Public in and for MAKATI CITY
Philippines, this SEP 03 2021 day of 2021 personally appeared:

NAME

GOVERNMENT ISSUED ID
(Number, Issued On, Issued By)

ALAIN DEL B. PASCUA
Undersecretary
Department of Education

SHEREE LYN B. LEPAOPAO
Authorized Representative
First Datacorp

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 seven (7) 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.

Doc. No. 2:
Page No. 2:
Book No. 2:
Series of 2021.

NOTARY PUBLIC

ATTY. SERVACIO B. ORTIZ JR.
NOTARY PUBLIC CITY OF MAKATI
UNTIL DECEMBER 31, 2022
IBP NO. 75729-LIFETIME MEMBER
MCLE COMPLIANCE NO. VI-0024212
APPOINTMENT NO. M-183 (2019-2020)
PTR NO. 8531011 JAN. 4, 2021
MAKATI CITY ROLL NO. 40691
GROUND FLOOR 8747 PASEO DE
ROXAS, LEPANTO BLDG.

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