



Republic of the Philippines
PROCUREMENT DEPARTMENT
Quezon City Government



PO Number **2111012**

Purchase Order Date: **DEC 24 2021**

Procuring Unit : **SCHOOLS DIVISION OFFICE**

Company Name : **SMART COMMUNICATIONS, INC.**

Address : **Smart Tower 6799 Ayala Avenue, Makati City**

Business Type : **Corporation Registration #186066**

Project Number : **SDO-21-IS-508**

Mode of Procurement : **Public Bidding**

Resolution No. : **21-PB-342**

TIN Number : **001-901-673-000**

Contact Number : **09189492594**

Sir/Madam:

Please furnish this office the following articles subject to the terms and conditions contained here:

Place of Delivery : CGSD CENTRAL WAREHOUSE

Delivery Schedule : three (3) Months

Payment Term : Credit

Stock No.	Item	Unit of Issue	QTY	Unit Cost	Amount
	<p>* After sales 1) Dedicated relationship manager to handle all sales and after sales concerns 2) E-mail support 3) Hotline support 4) Offline support (service centers within Metro Manila) 5) SIM Replacement (5% buffer SIM cards) 6) Monthly utilization report</p> <p>***with attached Terms of Reference which will form an integral part of the Philippine Bidding Documents***</p> <p>***** Nothing Follows *****</p>				

Total Amount : 42,432,816.00

Total Amount in Words (Pesos): Forty Two Million Four Hundred Thirty Two Thousand Eight Hundred Sixteen Pesos Only

MA. JOSEFINA G. BELMONTE
City Mayor

Signature Over Printed Name of Supplier / Date

Funds Available:

RUBY G. MANANGU
City Accountant



OBR : 200 - 21 - 11 - 000341

PR Amount : 42,432,816.00



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Procuring Unit	: SCHOOLS DIVISION OFFICE	Project Number	: SDO-21-IS-508
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Address	: Smart Tower 6799 Ayala Avenue, Makati City	Resolution No.	: 21-PB-342
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		Contact Number	: 09189492594

Sir/Madam:

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Place of Delivery : CGSD CENTRAL WAREHOUSE

Delivery Schedule : three (3) Months

Payment Term : Credit

Stock No.	Item	Unit of Issue	QTY	Unit Cost	Amount
1	DATA SUBSCRIPTION * Custom Prepaid Mobile Plan (94,928 learners for three (3) months) * Service Provider will create 1 account with 6 multiple user accounts Inclusions: * 10GB Data Allocation inclusive of 8GB open access Data and 2GB for Google Suite * Validity for thirty (30) days * Data stacking / roll-over Unused data rolled over to the next month if renewed before expiry * The following sites are blacklisted to ensure that data is utilized for studying and school related activities: 1) Tiktok 2) Iflix 3) Netflix 4) Hulu 5) iWantTV 6) HOOQ 7) Amazon Prime Video, 8) HBO Go 9) Tribe 10) Cinetropa 11) VIU 12) Disney Life 13) Fox+ 14) Cartoon Network 15) Crunchyroll 16) Twitch 17) NBA 18) Pornhub 19) Xvideos	month	3	14,144,272.00	42,432,816.00

MA. JOSEFINA G. BELMONTE
City Mayor

Signature Over Printed Name of Supplier / Date

Funds Available:

RUBY G. MANANGU
City Accountant

OBR :

PR Amount : 42,432,816.00



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SUPPLY AND DELIVERY AGREEMENT
SDO-21-IS-508

KNOW ALL MEN BY THESE PRESENTS:

This Agreement entered into by and between:

QUEZON CITY GOVERNMENT, a public corporation existing under the laws of the Philippines, represented herein by the Honorable **MA. JOSEFINA G. BELMONTE**, in her capacity as City Mayor, with office at Quezon City Hall Compound, Elliptical Road, Diliman, Quezon City, Metro Manila, and hereinafter referred to as the "**CITY**"

-and -

SMART COMMUNICATIONS, INC., a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at 26/F Smart Tower 6799 Ayala Avenue, Bel-Air, Makati City, herein represented by its First Vice President and Head of Enterprise Group / Authorized Representative, **MR. VICTOR Y. TRIA**, hereinafter referred to as "**SUPPLIER**";

(**CITY** and **SUPPLIER** may be referred to individually as a "Party" and collectively, as "Parties.")

RECITAL

WHEREAS, on 21 October 2021, the Bids and Awards Committee conducted a public competitive bidding for the Procurement of Data Allocation under Project No. SDO-21-IS-508 (the "**Project**").

WHEREAS, the **SUPPLIER** participated in the competitive bidding and was declared to be the single bid as read;

WHEREAS, the **SUPPLIER** passed both the detailed evaluation and post qualification stages, and was declared as the Single Calculated and Responsive Bid;

WHEREAS, on DEC 29 2021, the Notice of Award was issued to the **SUPPLIER**;

NOW THEREFORE, for and in consideration of the foregoing premises and of the mutual covenants and undertakings hereinafter provided, the parties hereto agree, as they have hereby agreed, as follows:

Section 1. Deliverables. Pursuant to and in accordance with the Contract Documents provided herein, the **SUPPLIER** undertakes to deliver to the **CITY** the Custom Prepaid Mobile Plain for 94,928 learners for three (3) months required by the Project, the technical specifications of which are defined under the Terms of Reference, including:



MA. JOSEFINA G. BELMONTE
City Mayor

VICTOR Y. TRIA
Authorized Representative



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- 10 Gb data allocation: 8GB Open Access Data and 2 Gb for Google Suite
- 30 days validity; Data stacking if new data is seeded prior to the expiration date. Unused data rolled over to the next month if renewed before expiry;
- Blacklisting of identified sites to ensure data is utilized for studying and school related activities.

Section 2. Contract Documents. The following documents shall be read and deemed incorporated in this Agreement, viz.:

- Invitation to Bid;
- Instruction to Bidders;
- Bid Data Sheet;
- General Conditions of Contract;
- Special Conditions of Contract;
- Schedule of Requirements;
- Technical Specifications;
- Supplemental Bid Bulletins, if any;
- Notice of Award;
- Bid Form;
- Schedule of Prices;
- Certificate of Availability of Fund (CAF); and
- Performance Security;
- Terms of Reference (TOR)

The documents mentioned above shall be collectively referred to as "Contract Documents".

Section 3. Delivery Schedule. Consistent with the TOR, the **SUPPLIER** shall deliver to the **CITY** one hundred percent (100%) of the required Mobile Sim Card Accounts within fifteen (15) calendar days from the issuance of the Notice of Proceed. Likewise, one hundred percent (100%) of the Data Allocation seeding requirement for identified Mobile Prepaid LTE Sim cards must be conducted within fifteen (15) calendar days from the issuance of the Notice of Proceed.

Section 4. Term. This Agreement shall be effective for the period of three (3) months commencing on DEC 29 2021 and to end on JAN 29 2022, subject to a regular performance rating by the **CITY**.

Section 5. Contract Price. In consideration of the complete and faithful delivery of the deliverables defined herein and the performance of any and all obligations of the **SUPPLIER** under this Agreement, the **SUPPLIER** shall be paid the total amount of **Forty-Two Million Four Hundred Thirty-Two Thousand Eight Hundred Sixteen Pesos (Php42,432,816.00)** inclusive of the 12% Value Added Tax (VAT) (the "Contract Price").

Section 6. Terms of Payment. The payment of the Contract Price shall be made on a monthly load seeding basis. Payments will be settled within 60 days after billing.

The processing of payments will entail the approval by the **CITY** of the **SUPPLIER's** complete documentation and deliverables before invoices may be processed for payment. The **CITY** likewise reserves the right to validate billing/invoice before payment of fees.



MA. JOSEFINA G. BELMONTE
City Mayor

VICTOR Y. TRIA
Authorized Representative



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Section 7. Price Adjustment. The Contract Price shall be fixed and there shall be no price adjustment and escalation for the duration of the Agreement until and unless there exists an extraordinary circumstance as may be determined by the National Economic Development Authority that may warrant an increase of the Contract Price in accordance with Section 61 of the Implementing Rules and Regulations of RA 9184, otherwise known as the Government Procurement Reform Act.

Section 8. Penalties. The SUPPLIER shall be liable for penalty for any breach of contract under all applicable laws, issuances and regulations.

Section 9. Liquidated Damages. It is understood and agreed that time is of the essence of this Agreement. In the event the SUPPLIER refuses or fails to completely supply and deliver to the CITY the Tablets for the Project defined herein within the delivery schedule provided under Section 3 hereof at no fault of the CITY, the SUPPLIER shall be liable for liquidated damages in the amount equivalent to one tenth of one percent (1/10 of 1%) of the Contract Price for every day of delay until the Project is completely delivered: *Provided*, that, the total cumulative amount of liquidated damages shall not exceed ten percent (10%) of the Contract Price: *Provided*, further, that, once the cumulative amount of liquidated damages exceeds ten percent (10%) as provided herein, the CITY, in accordance with Section 68 of the IRR of R.A. 9184, may rescind or terminate this Agreement without prejudice to other remedies and other courses of action available to the CITY under this Agreement and pursuant to any and all applicable laws.

Section 10. Authority to Deduct Liquidated Damages. For purposes of assessment and enforcement of the liquidated damages provided under Section 8 hereof, the CITY, upon written notice to the SUPPLIER, is hereby authorized to deduct any amount due as liquidated damages from any amount due or may become due and owing to the SUPPLIER or from any and all bonds or securities posted by the SUPPLIER in favor of the CITY, at the option of the latter. It is hereby agreed and understood that the assessment of liquidated damages are cumulative and not alternative remedies of the CITY under this Agreement.

Section 11. Representations and Warranties of the Supplier. The SUPPLIER hereby represents and warrants to the CITY as follows:

a. The SUPPLIER is an entity duly organized, validly existing and in good standing under the laws of the Republic of the Philippines.

b. The SUPPLIER has full legal right, power and authority to carry on its present business, to own its properties and assets, and to execute and deliver this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, and to perform and observe the terms and conditions thereof.

c. All appropriate and necessary corporate and legal actions have been taken by it to authorize the execution and delivery of this Agreement, and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of all provisions, conditions, covenants, and other terms hereof and thereof, as well as all the transactions contemplated herein.

d. This Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, constitute, or when executed and delivered pursuant thereto, will constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms.

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City Mayor

VICTOR Y. TRIA
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e. The execution and delivery of this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of its obligations hereunder will not

i. conflict with its Articles of Incorporation, By-Laws or other constitutive documents, as may be applicable;

ii. conflict with, result in the breach of, or constitute an event which would either immediately or with the lapse of time or giving of notice or both, result in a default under, or accelerate the performance required by, the terms of any agreement, document, contract, instrument or commitment to which it is a party or by which it or any of its assets is bound;

iii. conflict with or require any written consent or approval under any judgment, order, writ, decree, permit or license to which it is a party or by which any of its assets is bound; or

iv. require the written consent or approval of any other party to any agreement, document, contract, instrument or commitment to which it is a party or by which any of its assets is bound.

f. There are no actions, suits or proceedings existing, pending or, threatened against or directly affecting the SUPPLIER and/or any of its assets before any court, arbitrator or governmental or administrative body or agency that affect the validity or enforceability of this Agreement or that would affect the ability of the SUPPLIER to perform its obligations hereunder.

g. No event has occurred and is continuing which might materially and adversely affect the carrying out of its obligations under this Agreement.

h. It is in compliance with all applicable laws and regulations in connection with the delivery of the Project.

i. Each of the representations and warranties herein shall survive the execution of this Agreement and shall be deemed repeated during the effectivity of this Agreement.

Section 12. Indemnification. The SUPPLIER shall indemnify and save the CITY and all its officers, employees, personnel and persons acting as agents or representatives and render them free and harmless from any and all claims, actions, liabilities, losses and suits which may be brought or instituted against them arising out of or resulting from the SUPPLIER's supply, delivery and performance of its obligations under this Agreement.

Section 13. Events of Default of the Supplier. Any of the following shall constitute an Event of Default under this Agreement:

a. When the SUPPLIER becomes insolvent, or commits or suffers any act of bankruptcy, which term shall include: (i) the filing of a petition, by or against the SUPPLIER, in any bankruptcy, insolvency, administration, suspension of payment, reorganization, winding-up or liquidation proceeding, or any other proceeding analogous in purpose and effect; (ii) the making of an assignment by the SUPPLIER for

MA. JOSEFINA G. BELMONTE
City Mayor

VICTOR Y. TRIA
Authorized Representative



Republic of the Philippines
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the benefit of its creditors; (iii) the admission in writing by the **SUPPLIER** of its inability to pay its debts; (iv) the entry of any order of judgment of any competent court, tribunal or administrative agency or body confirming the bankruptcy or insolvency of the **SUPPLIER** or approving its reorganization, winding-up or liquidation, or (v) the lawful appointment of a receiver or trustee to take possession of the properties of the **SUPPLIER**;

b. When the **SUPPLIER** suspends or discontinues all or a substantial portion of its business operations, whether voluntarily or involuntarily, for a period of at least sixty (60) days;

c. Any material breach by the **SUPPLIER** of any of its warranty, representation or covenant made under this Agreement.

Section 14. Consequences of Default. Upon occurrence of any Events of Default under this Agreement, the **CITY** may declare the **SUPPLIER** in default and shall have the right to:

- Terminate this Agreement;
- Call on the Performance Security to answer for any and all damages of whatever nature suffered by the **CITY** resulting or arising from the **SUPPLIER**'s default; and
- Take such other steps or actions against the **SUPPLIER** for the full protection and enforcement of the **CITY**'s rights and interests.

Section 15. Compliance with Laws, Ordinances and Regulations. The **SUPPLIER** shall comply with any and all laws, ordinances and regulations of the national and local government applicable to or binding upon the parties hereto. For this purpose, any and all pertinent provisions of RA 9184 and its IRR, and other applicable laws and regulations are deemed written and incorporated in this Agreement. In case of conflict between any of the provisions of this Agreement and those of the applicable laws and regulations, the latter shall prevail.

Section 16. Indemnities and Attorney's Fees. Should any of the parties resort to court action in order to enforce their respective rights under this Agreement, the prevailing party or its successors-in-interest shall be entitled to be indemnified by the other party by way of attorney's fees, a reasonable sum equivalent to the actual amount of fees paid or to be paid by the prevailing party.

Section 17. Notification. All notices and communications shall be done in writing and shall be directed as follows:

CITY : **OFFICE OF THE CITY MAYOR**
c/o Bids and Awards Committee Secretariat
2nd Floor Finance Bldg, Quezon City Hall Complex,
Elliptical Road, Diliman, Quezon City

SUPPLIER : **SMART COMMUNICATIONS, INC.**
26/F Smart Tower
6799 Ayala Avenue, Bel-Air, Makati City

MA. JOSEFINA G. BELMONTE
City Mayor

VICTOR Y. TRIA
Authorized Representative



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PROCUREMENT DEPARTMENT
Quezon City Government



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Section 18. Effectivity. This Agreement shall be effective upon execution by the parties hereto.

Section 19. Miscellaneous Provisions.

a. This Agreement, including the documents and/or agreements specifically incorporated herein by reference, constitutes the entire agreement between the parties. This Agreement may be amended and supplemented in writing at any time as decided and agreed upon by mutual consent of the parties.

b. This Agreement and all documents related thereto shall be binding upon and inure to the benefit of the parties herein and/or their respective heirs, agents, representatives, successors-in-interest, and assigns. The **SUPPLIER** shall not assign its rights and obligations under this Agreement without the written consent of the **CITY**.

c. This Agreement embodies the entire arrangement or agreement of the parties and no undertaking, verbal or otherwise, in relation thereto, shall exist between the parties except as herein expressly set forth.

d. The parties hereby certify that they have read or caused to be read to them all the provisions of the foregoing Agreement, receipt of a signed copy of which is hereby expressly acknowledged by the parties and that they have fully understood the same.

e. The parties hereby represent and warrant that they have the necessary power and corporate authority to execute and deliver this Agreement and perform their obligations as incorporated herein and that such execution, delivery and performance do not and will not contravene any provision of their respective Articles of Incorporation, by-laws, any agreements or instruments to which they are a party or any laws or regulations of any governmental authority.

f. If any provision of this Agreement be declared by any court or other authorized agency of the government to be null and void, the nullity thereof shall not affect the validity of this transaction or any other provisions herein which shall then be considered as valid and binding between the parties.

g. Any and all disputes arising from the implementation of this Agreement shall be submitted to arbitration in the Philippines according to the provisions of RA 876, otherwise known as the "Arbitration Law" and RA 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": Provided, that, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

MA. JOSEFINA G. BELMONTE
City Mayor

VICTOR Y. TRIA
Authorized Representative



Republic of the Philippines
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IN WITNESS WHEREOF the parties have hereunto set their hands to this Agreement on ____ day of DEC 29 2021 at Quezon City, Philippines


QUEZON CITY GOVERNMENT

By:


MA. JOSEFINA G. BELMONTE
City Mayor

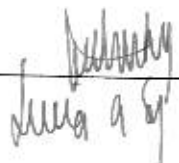
SMART COMMUNICATIONS,
INC

By:


VICTOR Y. TRIAS
First Vice President and Head of
Enterprise Group
Authorized Representative

SIGNED IN THE PRESENCE OF:


RUBY G. MANANGU
City Accountant



Ruby G. Manangu



Republic of the Philippines
PROCUREMENT DEPARTMENT
Quezon City Government



2111012

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES

}
}s.s.

DEC 29 2021

BEFORE ME, a Notary Public for and in _____, this _____, personally appeared:

Name

Competent Proof of Identity

HON. MA. JOSEFINA G. BELMONTE, in her
capacity as Mayor of the Local Government of
Quezon City

DCM-0081744

VICTOR Y. TRIA, in his capacity as the First
Vice President and Head of Enterprise Group /
Authorized Representative of Smart
Communications, Inc.

[Signature]

P-879 4830 A

EXP. DATE 9/17/2028

all known to me and to me known to be the same persons who executed this Agreement,
and they acknowledged to me that the same is their free and voluntary act and deed, and
the free and voluntary act and deed of the parties which they respectively represent.

I certify that the foregoing Supply and Delivery Agreement, signed by the parties
and their instrumental witnesses, consists of eight (8) pages, including this page on which
the acknowledgement is written.

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

Doc. No. 103;
Page No. 21;
Book No. XX;
Series of 2021.



[Signature]
ATTY. CRIS T. PACULANANG
Notary Until December 31, 2021
IBP LRN No. 05331, Quezon City
PTR No. 7588226-B / 1-4-2021
Roll No. Attorney's No. 49756 / QC
MCLE COMM. No. 0004852/02-05

TERMS AND CONDITIONS

1. ALL PRICES INDICATED HEREIN ARE VALID, BINDING AND EFFECTIVE AT LEAST WITHIN THIRTY (30) CALENDAR DAYS FROM DATE OF RECEIPT.
2. AWARDEE shall be responsible for the source(s) of its supplies/materials/equipment and shall make deliveries in accordance with the schedule, quality and specification of the award and purchase order. Failure by the AWARDEE to comply with the same shall be a ground for cancellation of the award and purchase order issued to that AWARDEE and for re-awarding the item(s) to the ALTERNATE AWARDEE.
3. AWARDEE shall pick up purchase order(s) issued in its favor within three (3) days after receipt of notice to that effect. A telephone call, fax transmission or electronic mail (e-mail) shall constitute an official notice to the AWARDEE. Thereafter, if the purchase order(s) remains unclaimed, the said purchase order(s) shall be sent by mailing or courier, messengerial service to the AWARDEE. To avoid delay in the delivery of the requesting end-user's requirement, all DEFAULTING AWARDEES shall be precluded from proposing or submitting a substitute sample.
4. Subject to the provisions of the preceding paragraph, where AWARDEE has accepted a purchase order but fails to deliver the required product(s) within the time called for in the same order, the delivery period may be extended a maximum of fifteen (15) calendar days under liquidated damages to make good the delivery. Thereafter, if AWARDEE has not completed the
5. delivery within the extended period, the subject purchase order shall be cancelled and the award for the undelivered balance, withdrawn from that AWARDEE. The BAC-Goods and Services shall then purchase the required item(s) from such other source(s) as it may determine, with the difference in price to be charged against the DEFAULTING AWARDEE. Refusal by the DEFAULTING AWARDEE to shoulder the price difference shall be ground for its disqualification from future bids of the same items, without prejudice to the imposition of other sanction as prescribed under RA 9184 and its RIRR.
6. When the supplier fails to satisfactorily deliver goods/services under the contract within the specified delivery schedule, inclusive of duly granted time extensions, if any, the supplier shall be liable for damages for the delay and shall pay the procuring entity liquidated damages, not by way of penalty, an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the delayed goods/services scheduled for delivery for everyday of delay until such goods/services are finally delivered and accepted by the procuring entity concerned.
7. Rejected deliveries shall be construed as non-delivery of product(s)/item(s) so ordered and shall be subject to liquidated damages, subject to the terms and conditions prescribed under paragraph 4 hereof.
8. Supplier shall guarantee its deliveries to be free from defects. Any defective item(s)/product(s), therefore that maybe discovered by the **Quezon City Government** within three (3) months after acceptance of the same, shall be replaced by the supplier within seven (7) calendar days upon receipt of a written notice to that effect.
9. All duties, excise and other taxes and revenue charges, if any, shall be for the supplier's account.
10. As a pre-condition to payment, IMPORTANT DOCUMENTS specifically showing the condition and serial numbers of the imported equipment purchased should be submitted by the supplier to the **Quezon City Government**.
11. All transactions are subject to applicable withholding taxes in accordance with existing BIR rules and regulations.
12. Supplier shall furnish the End-user through the City General Services Department stockroom, the articles, described above;
13. The **Quezon City Government** reserves the right to accept or reject delivered articles if found not in conformity to the specifications, terms and conditions stipulated.
14. Provisions contained in Title VI, Book IV of the Civil Code of the Philippines on Sales are hereby incorporated and made as an Integral part hereof.
15. This contract shall also serve as **Notice to Proceed**, to take effect on DEC 29 2021 and to expire on -

CONFORME:

SIGNATURE OVER PRINTED NAME

IN THE CAPACITY OF

DATE

Duly authorized to sign this Purchase Order for and on behalf of

COMPANY NAME

SUBSCRIBED AND SWORN to before me this ____ day of _____, _____ at _____, Philippines. Affiant personally known to me and were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiants exhibited to me his/her _____ with his/her photograph and signature appearing thereon with No. _____.

Doc. No. 104

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Book No. XX

Series of 2021

ATTY. CRIST P. PACULANANG

Notary Until December 31, 2021

IBP LRN No. 05331, Quezon City

PIR No. 7588226-B / 1-4-2021

Roll No. Attorney's No. 49756 / QC

MCLE COMM. No. 0004852/07-05

***This Purchase Order shall be deemed invalid without Notary Seal (for project amounting to Php2,500,000.00 and above only)