

**NOTICE TO PROCEED**

October 25, 2012

**ERGOTRONICS AUTOMATION ENTERPRISE CORPORATION**

LG-31 Cityland Condominium, Calle Estacion,

Pasong Tamo, Makati City

Tel: 752-6603 / 844 -4928 / (045) 887-3395

Email: [ergotronics\\_ae@yahoo.com](mailto:ergotronics_ae@yahoo.com)**Mr. Jonathan C. Pili**

President

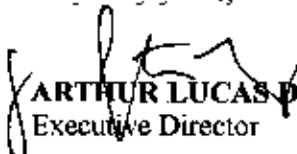
Dear Sir,

The attached Contract Agreement having been approved, notice is hereby given to **Ergotronics Automation Enterprise Corporation**, that work may proceed on the project for "**Supply of Labor and Materials for the Development of the Robotic Arm**", effective upon receipt hereof.

Upon receipt of this notice, you are responsible for performing the services under the terms and conditions of the Agreement and in accordance with the Implementation Schedule.

Please acknowledge receipt and acceptance of this notice by signing both copies in the space provided below. Keep one copy and return the other to Metals Industry Research and Development Center.

Very truly yours,

  
**ARTHUR LUCAS D. CRUZ, CESO IV**  
Executive DirectorI acknowledge receipt of this Notice on Oct. 25, 2012 (date of receipt)Name of the Representative of the Bidder: CANDIZORIA E. BOSTAUNAuthorized Signature: 

*The Head of the Procuring Entity or his duly authorized representative shall issue the Notice to Proceed within seven (7) calendar days from the date of the approval of the contract.*

## SUPPLIER'S CONTRACT

For the "Supply of Labor and Materials for the Development of Robotic Arm"

### KNOW ALL MEN BY THESE PRESENTS:

This CONTRACT made and executed by and between:

**METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER**, an attached agency under the DEPARTMENT OF SCIENCE AND TECHNOLOGY, with office address at Gen. Santos Avenue, Bicutan, Taguig, represented herein by its Deputy Executive Director for Technical Services, **AGUSTIN M. FUDOLIG**, hereinafter referred to as "**MIRDC**";

--- and ---

**ERGOTRONICS AUTOMATION ENTERPRISE CORPORATION**, a corporation duly existing and organized under and by virtue of the Republic of the Philippines, with office address at LG-31 Cityland Condominium, Calle Estacion, Pasong Tamo, Makati City, represented herein by its President, **JONATHAN C. PILL**, hereinafter referred to as "**SUPPLIER**;"

### WITNESSETH:

**WHEREAS**, **MIRDC** is undertaking the "Development of Robotic Arm" hereinafter referred to as the **PROJECT**;

**WHEREAS**, **MIRDC** conducted a public bidding in accordance with the Government Procurement Reform Act (R.A. 9184) and, after evaluating all the Bid proposals submitted, determined that herein **SUPPLIER** was the Lowest Calculated Bid/Highest Rated Responsive Bid;

**WHEREAS**, a Notice of Award was issued to the **SUPPLIER** who has accepted to supply the labor and materials for the **PROJECT** under set terms and conditions and warrants itself to be competent and fully equipped with the necessary materials, manpower and equipment necessary for undertaking the **PROJECT**;

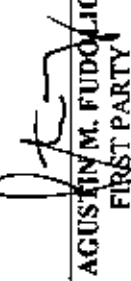
**WHEREAS**, Deputy Executive Director for Technical Services **AGUSTIN M. FUDOLIG** was authorized to execute and sign this Contract through Referendum No. 26 dated September 28, 2012 by the **MIRDC** Governing Council;

**NOW, THEREFORE**, for and in consideration of the foregoing premises the **PARTIES** have agreed as follows:

  
CANDELA F. BOLALUN  
WITNESS

  
FRED P. LIZA  
WITNESS

  
JONATHAN C. PILL  
SECOND PARTY

  
AGUSTIN M. FUDOLIG  
FIRST PARTY

**ARTICLE I  
SCOPE OF CONTRACT**

**1.1 SUPPLIER shall:**

- a. Supply and provide all labor, materials, tools, and equipment, including transportation and other facilities, services, and all related work for the PROJECT, in accordance with the issued plans, drawings, schedule, technical specifications and other related contract documents necessary to prosecute the work to completion, specifically:
- i. Fabrication of all mechanical parts as per MIRDC design and specification;
  - ii. Design and installation of electrical system as per MIRDC technical specification;
  - iii. Supply of all mechanical, electrical, electronic parts;
  - iv. Provide necessary documents and technical report in designing (such as wiring instruction, circuit diagram), operating, maintenance and troubleshooting of the robotic arm;
  - v. Integration of mechanical, electrical and software components up to its working and functional operation which will be performed at the **SUPPLIER's** site of work;
  - vi. Final assembly, testing and debugging up to its functional operation and within the specifications which will be performed at the **MIRDC's** site of work.

1.2 This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein.

**ARTICLE II  
CONTRACT DOCUMENTS**

2.1 The following documents are incorporated hereto and made an integral part of this Agreement, to wit:

- (a) Bid Documents, including the General and Special Conditions of Contract, if any;
- (b) Drawings/Plans;
- (c) Specifications;
- (d) Invitation to Apply for Eligibility and to Bid;
- (e) Instructions to Bidders;
- (f) Bid Data Sheet;
- (g) Addenda and/or Supplemental/Bid Bulletins, if any;

  
CANZELARIA F. BOLALIN  
WITNESS

  
FRED P. LIZA  
WITNESS

  
JONATHAN C. PILI  
SECOND PARTY

  
AGUSTIN M. FUDONG  
FIRST PARTY

- (h) Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes;
- (i) Eligibility requirements, documents and/or statements;
- (j) Performance Security;
- (k) Credit line issued by a licensed bank, if any;
- (l) Notice of Award of Contract and the Bidder's *conforme* thereto;
- (m) Other contract documents that may be required by existing laws and/or by MIRDC.

2.2 In case of doubt or conflict between and among any items or provisions of the Contract Documents, and/or between and among any of the Contract Documents and this Agreement, **SUPPLIER** shall refer the same in writing to **MIRDC** for clarification and guidance. The clarification or determination made by **MIRDC** in writing shall be binding and conclusive upon the Parties.

2.3 **SUPPLIER** shall not make any changes or alteration in the drawings, designs, or specifications in the **PROJECT** without prior written approval by **MIRDC**.

2.4 The parties may, in writing, agree to any revision, alteration, or addition to the terms and conditions of this Agreement or the Contract Documents.

### ARTICLE III CONTRACT PRICE

3.1 For and in consideration of the performance and accomplishment of the **PROJECT**, **MIRDC** shall pay **SUPPLIER** the total amount of **PESOS NINE HUNDRED NINETY SIX THOUSAND FOUR HUNDRED TWENTY EIGHT and 57/100 only (Php 996,428.57)**, subject to pertinent laws on government contracts and auditing procedures.

3.2 The Contract Price is inclusive of all taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

3.3 The Contract Price shall be fixed and not subject to variation or price escalation on any account except under conditions specified by law. Any adjustments in Contract Price shall be done in accordance with the guidelines provided by law.

3.4 Any amount payable to **SUPPLIER** may be compensated against any amount payable to **MIRDC**.

### ARTICLE IV PAYMENTS and WARRANTY

4.1 **MIRDC** shall, upon written request of **SUPPLIER**, which shall be submitted as a contract document, make an advance payment to **SUPPLIER** in an amount not exceeding fifteen percent (15%) of the total contract price, to be made in lump sum.

  
CANDALARIA F. BOLALIN  
WITNESS

  
FRED F. LIZA  
WITNESS

  
JONATHAN C. PILI  
SECOND PARTY

  
AGUSTIN M. FUDOLIG  
FIRST PARTY

4.2 The advance payment shall be made only upon the submission to and acceptance by **MIRDC** of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by **MIRDC**.

4.3 The advance payment shall be repaid by **SUPPLIER** by deducting fifteen percent (15%) from his periodic progress payments or in an amount equal to the percentage of the total contract price used for the advance payment until the amount of advance payment is fully applied.

4.4 **MIRDC** shall pay **SUPPLIER** progress payments based on the billings or invoice describing, as appropriate, the Goods delivered and/or Services performed, and other documents required under this Contract, and upon fulfillment of other obligations stipulated in this Contract.

4.5 Payments shall be made only upon a certification by the Executive Director or his duly authorized representative that the Goods/Services have been delivered/rendered in accordance with the terms of this Contract and have been duly inspected and accepted.

4.5 All progress payments shall be subject to a retention fee of ten percent (10%). Such retention shall be based on the total amount due to **SUPPLIER** prior to any deduction and shall be retained from every progress payment.

4.7 **SUPPLIER** warrants that the materials used for the **PROJECT** are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by **MIRDC** provides otherwise.

4.8 **SUPPLIER** further warrants that the Goods shall have no defect, arising from materials or workmanship or from any act or omission of **SUPPLIER** that may develop under normal use of the supplied Goods in the conditions currently prevailing.

**ARTICLE V  
TIME OF COMPLETION AND  
LIQUIDATED DAMAGES FOR DELAY**

5.1 **SUPPLIER** shall perform and complete the **PROJECT** to the satisfaction of **MIRDC** within **NINETY (90) CALENDAR DAYS** reckoned from the date of effectivity of this Contract as stated in the Notice to Proceed.

5.2 Time being of the essence of the **PROJECT**, delay in the completion of the **PROJECT** may be excusable only if the same is due to *force majeure*, additional work approved by **MIRDC**, or for any other special circumstances as may be determined by **MIRDC**.

  
CANDELA F. BOLALIN  
WITNESS

  
FRED P. LIZA  
WITNESS

  
JONATHAN C. PILI  
SECOND PARTY

  
AGUSTIN M. FUDOLIG  
FIRST PARTY

5.3 *Force majeure* shall be interpreted to mean an event that the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions **except for typhoons**; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by **SUPPLIER**.

5.4 If a *force majeure* situation arises, **SUPPLIER** shall promptly notify **MIRDC** in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of **SUPPLIER**'s notice, **MIRDC** shall evaluate the situation and may extend **SUPPLIER**'s time for performance, in which case the extension shall be ratified by the Parties by amending this Contract.

5.5 If **SUPPLIER** fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified under Section 5.1 of this Contract inclusive of duly granted time extensions, if any, **MIRDC** shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of **one tenth (1/10) of one (1) percent** of the cost of the delayed goods scheduled for delivery for every day of delay until such goods are finally delivered and accepted by **MIRDC**.

5.6 This Contract is automatically rescinded once the total sum of liquidated damages exceed ten percent (10%) of the total contract price, without prejudice to imposition of appropriate sanctions over and above the liquidated damages.

#### ARTICLE VI PERFORMANCE and WARRANTY SECURITY

6.1 The Performance Security shall be posted in favor of **MIRDC** in the form and amount prescribed under the Contract Documents or applicable laws, rules and regulations, and shall remain valid until the issuance of the Certificate of Final Acceptance. It may be released after the issuance of the Certificate of Final Acceptance subject to conditions mandated by law.


6.2 The Performance Security shall be forfeited in the event it is established that **SUPPLIER** is in default in any of its obligations under this Agreement.


6.3 In case of a reduction of the contract value, **MIRDC** shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.


6.4 The retention money shall cover the **SUPPLIER**'s warranty obligation. **SUPPLIER**, however, may opt to provide a special bank guarantee equivalent to at least 10% of the contract price in place of the retention money. The said amounts shall be released after the lapse of the one (1) year warranty period reckoned from date of acceptance of the delivered goods, provided, that the goods delivered are free from patent and latent defects and all the conditions under this Contract have been fully met.

6.5 **MIRDC** shall notify **SUPPLIER** in writing of any claims arising under the warranty. Upon receipt of such notice, the **SUPPLIER** shall, within seven (7) calendar

  
CANDEFARIA F. BOLALIN  
WITNESS

  
FRED P. LIZA  
WITNESS

  
JONATHAN C. PILI  
SECOND PARTY

  
AGUSTIN M. FUCOLIG  
FIRST PARTY

days and with all reasonable speed, repair or replace the defective GOODS or parts thereof, without cost to **MIRDC**.

6.6 If the **SUPPLIER**, having been notified, fails to remedy the defect(s) within seven (7) calendar days, **MIRDC** may proceed to take such remedial action as may be necessary, at the **SUPPLIER**'s risk and expense and without prejudice to any other rights which **MIRDC** may have against the **SUPPLIER** under this Contract and under the applicable law.

ARTICLE VII  
INSPECTION AND TESTS

7.1 **MIRDC** or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to **MIRDC**.

7.2 **MIRDC** may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. **SUPPLIER** shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to **MIRDC**, and shall repeat the test and/or inspection, at no cost to **MIRDC**.

7.3 **SUPPLIER** agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by **MIRDC** or its representative, shall release **SUPPLIER** from any warranties or other obligations under this Contract.

ARTICLE VIII  
ASSIGNMENTS AND SUB-CONTRACTING

8.1 **SUPPLIER** cannot assign, transfer, pledge, sub-contract, or otherwise dispose of this Agreement or any part or interest herein without the prior written approval of **MIRDC**. Any such approval shall not relieve **SUPPLIER** from any liability or obligation under the law or this Agreement, nor shall it create any contractual relation between the sub-contractor, pledgee, transferee, or assignee, and **MIRDC**.

8.2 **SUPPLIER** will be responsible for the acts, defaults, and negligence of any sub-contractor, its agents, servants or workmen as fully as if these were **SUPPLIER**'s own acts, defaults, or negligence, or those of its agents, servants or workmen.

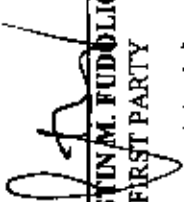
8.3 In case of sub-contracting, **SUPPLIER** shall submit, before Final Acceptance, a sworn statement executed by the sub-contractor attesting to the fact that the latter has been fully paid by **SUPPLIER** for the materials furnished and the labor performed under the sub-contract.

ARTICLE IX  
OBLIGATIONS/RESPONSIBILITIES OF SUPPLIER

  
CANDELA F. BOLALIN  
WITNESS

  
FRED F. LIZA  
WITNESS

  
JONATHAN C. FILI  
SECOND PARTY

  
AGUSTIN M. FUDDLIG  
FIRST PARTY

9.1 **SUPPLIER** shall comply with all laws, rules and regulations promulgated by the government of the Republic of the Philippines, including those on labor, environment, safety and sanitation and other pertinent laws. **SUPPLIER** shall be solely liable for any violation of the same.

ARTICLE X  
SETTLEMENT OF DISPUTES

10.1 Any dispute or difference arising between the Parties hereto in connection with or arising out of this Contract shall be resolve amicably through mutual consultation. Unresolved issues remaining after thirty (30) days shall be settled in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."

10.2 Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and **MIRDC** shall pay **SUPPLIER** any monies due them.

ARTICLE XI  
LIABILITY OF SUPPLIER

11.1 Subject to additional provisions, if any, set forth in the Contract Documents, **SUPPLIER's** liability under this Agreement shall be provided by the laws of the Republic of the Philippines.

ARTICLE XII  
CONFIDENTIAL INFORMATION

12.1 **SUPPLIER** shall not, except for purposes of performing the obligations in this Contract, without **MIRDC's** prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of **MIRDC**. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

ARTICLE XIII  
CONTRACT EFFECTIVITY

13.1 Contract effectivity date shall be provided in the Notice to Proceed.

ARTICLE XIV  
TERMINATION OF CONTRACT

14.1 **MIRDC** shall terminate this Contract on grounds stated under Republic Act No. 9184, otherwise known as the General Procurement Law, and it's implementing rules and regulations.

  
CANDELA MARIA F. BOLALIN  
WITNESS

  
FRED P. LIZA  
WITNESS

  
JONATHAN C. PILI  
SECOND PARTY

  
AGUSTIN M. FUDOLIG  
FIRST PARTY



IN WITNESS whereof the parties thereto have caused this Agreement to be executed this \_\_\_\_\_ at Bicutan, Taguig City.

**METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER**

**ERGOTRONICS AUTOMATION ENTERPRISE CORPORATION**

By:

By:

  
**AGUSTIN M. FUDOLIG**

Deputy Executive Director  
for Technical Services

  
**JONATHAN C. PILI**

President

SIGNED IN THE PRESENCE OF:

  
\_\_\_\_\_  
FRED P. LIZA

  
\_\_\_\_\_  
CANDELARIA F. BOLALIN

CERTIFIED FUNDS AVAILABLE:

**BLESILDA P. CABANA**  
Accountant IV

**ACKNOWLEDGMENT**

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


Before me a Notary Public for and in the \_\_\_\_\_ this OCT 25 2012  
2012, personally appeared:

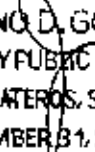
NAME	ID PRESENTED	DATE/PLACE ISSUED
AGUSTIN M. FUDOLIG	MIRDC ID NO. 118	AUGUST 25, 1989/MIRDC, BICUTAN, TAGUIG CITY
JONATHAN C. PILI	ERCOTRONICS ID. # 04-001-JCP	MAKATI CITY, PHILIPPINES

all known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free act and deed as well as of the principal they represent.

This instrument refers to SUPPLIER'S Agreement consisting of nine (9) pages, including this page in which the Acknowledgment is written, signed by the parties and their witnesses on each and every page and sealed with my notarial seal.

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

  
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Page No. VI  
Series of 2012.

  
JORGE BERNARDINO D. GONZALES, JR.  
NOTARY PUBLIC  
PASIG, TAGUIG PATEROS, SAN JUAN  
UNTIL DECEMBER 31, 2012  
PTR NO. 7515747/01-03-2012/PASIG CITY  
IBP NO. 877472/01-03-2012/MAKATI CITY  
ROLL OF ATTORNEY'S NO. 43676