Procurement of Consultancy Services for the Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works, and Project Management for the New PEZA Business and Investment Center (PEZA HO-2024-01)

CONTRACT AGREEMENT

This Contract Agreement ("Contract") is made and entered into by and between:

PHILIPPINE ECONOMIC ZONE AUTHORITY, a government corporation created and operating under Republic Act No. 7916, as amended, with office address at the 10th Floor, DoubleDragon Center West Building, DD Meridian Park, Macapagal Avenue, Pasay City, represented herein by its Director General, **TERESO O. PANGA**, who is duly authorized, hereinafter referred to as "the **Entity**";

-and-

ARKINOVUS ASIA CORP., a corporation duly organized and existing under Philippine laws, with office address at 36B DBP Avenue DBP Village Almanza Dos, City of Las Piñas, Fourth Disctrict, National Capital Region and **MEINHARDT PHILIPPINES, INC.,** a corporation duly organized and existing under Philippine laws, with office address at the 25th Floor, Chatham House, 116 Valero cor. V.A. Rufino Sts., Salcedo Village, Makati City;

The two corporations are acting under a Joint Venture Agreement dated 25 March 2024, with office address at 36B DBP Avenue DBP Village Almanza Dos, City of Las Piñas, and represented herein by their duly authorized representative, **ALLAN P. NAPOLES**, herein collectively referred to as "the **Consultant**",

WHEREAS, the Entity invited Bids for engaging the services of a Consultant, particularly for the **Procurement of Consultancy Services for the Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works, and Project Management for the New PEZA Business and Investment Center** and has accepted a Bid by the Consultant for the Consultancy Services mentioned above in the sum of **Thirty-Six Million Nine Hundred Forty-Eight Thousand Two Hundred Fifty-Two and 75/100 Pesos (Php 36,948,252.75)**, in Philippine Currency, inclusive of all applicable charges and taxes (hereinafter called "the Contract Price").

WHEREAS, on 24 May 2024, the Entity issued a Notice of Award to the Consultant and the Consultant gave its Conforme on 29 May 2024;

WHEREAS, the payment for the services of the CONSULTANT shall be staggered based on project milestones / stages of works set forth hereof.

NOW THIS AGREEMENT WITNESSETH 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 herein referred to.

2. The Consultant's services shall mean the Consultancy Services, with the details as follows (see **Annex "A"**):

PEZA - DTS
1410-2024-00030

Stage 1 - Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works

A. Green Certification Services
B. Architectural and Engineering Services
    a. Pre-Design Services
    b. Basic Design Services
    c. Support Services During Constriction
C. Quantity Surveying

Stage 2 - Project Management of Fit Out Works
    a. Pre-Construction Phase
    b. Construction Phase
    c. Post Construction Phase

3. The following documents as required by the 2016 Revised Implementing Rules and Regulations of Republic Act (RA) No. 9184 shall be deemed to form and be read and construed as integral part of this Contract, *viz.*:

    3.1 Philippine Bidding Documents (PBDs);

        i. Terms of Reference;
        ii. Bid Data Sheet
        iii. General and Special Conditions of Contract; and
        iv. Supplemental or Bid Bulletins

    3.2 The Consultant's bid, including the Eligibility requirements, Technical and Financial Proposals, Joint Venture Agreement dated 25 March 2024, and all other documents or statements submitted;

    3.3 Bid form, including all the documents/statements contained in the Consultant's bidding envelopes, as annexes, and all other documents submitted (*e.g.*, the Consultant's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Entity's bid evaluation;

    3.4 Performance Security/Bond;

    3.5 Notice of Award of Contract; and the Consultant's *Conforme* thereto; and

    3.6 Other contract documents that may be required by existing laws and/or the Entity concerned in the PBDs. The Consultant 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 Orders, and Warranty Security, shall likewise form part of the Contract.

4. In consideration for the sum of **Thirty-Six Million Nine Hundred Forty-Eight Thousand Two Hundred Fifty Two and 75/100 Pesos in Philippine Currency (Php 36,948,252.75,** inclusive of all applicable charges and taxes, the Consultant agrees to provide the **Consultancy Services for the Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works, and Project Management for the New PEZA Business and Investment Center** in accordance with the Consultant's Bid.

5. This Contract shall take effect upon issuance of the Notice to Proceed and shall remain in full force for the period of three hundred (300) days or upon completion of the project, unless otherwise terminated earlier by the Entity.

6. The Entity agrees to pay the Consultant, in consideration of the provision of the required consultancy services, or the Contract Price under the provisions of this Contract in time and manner prescribed, and in accordance with the terms of the Bidding.

7. In consideration of the payments to be made by the Entity to the Consultant as hereinafter mentioned, the Consultant hereby covenants with the Entity to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Contract in all aspects.

8. The Entity may terminate this Contract in whole or in part, in the event that the Fit-Out Works for the PEZA Business Investment Center (BIC) is indefinitely suspended or otherwise cancelled for any reason whatsoever. The Consultant may recover from this Contract in a *quantum meruit* basis, in accordance with the milestones set forth in Annex "B" – Detailed Breakdown of Contract Price hereof.

9. This Contract shall be binding upon and shall be enforceable by the parties hereto and their respective successors and assigns.

10. This Contract is personal to the Consultant and the Consultant shall not have the right to assign any of the Consultant's rights or delegate any of the Consultant's duties without the Entity's express written consent. Any non-consented-to assignment or delegation, whether expressed or implied or by operation of law, shall be void and shall constitute a breach and a default by the Consultant.

11. The Consultant understands and agrees that all records and documents of the Entity and all information, data, procedures, or processes pertaining to the PEZA BIC Building, and/or the Entity, or those of their clients are absolutely confidential and said Consultant shall not disclose or divulge any such information or date to any person on entity without the prior written clearance of the Entity, even after the termination of this Contract. Breach of this confidentiality shall render the Consultant liable for criminal and civil liabilities under the applicable laws and shall be cause for the immediate termination of this Contract.

12. It is hereby expressly understood that the Consultant is an independent service contractor, and nothing herein shall be construed as establishing or creating the relationship of employer and employee or principal and agent between the Entity and the Consultant. As such, the Contractual Personnel shall not be considered employees of the Entity but employees of the Consultant.

13. To guarantee the faithful performance of its obligations under this Contract, the Consultant shall post a Performance Security in favor of the Entity, which shall remain valid until the completion of the project. Accordingly, the Consultant shall ensure that a valid Performance Security is posted, renewed, and in place until such time that a Certificate of Final Acceptance is issued by the Entity. Failure of the Consultant to renew and/or provide the required Performance Security during the effectivity of this Contract shall be deemed as a breach of its obligations and will be considered an event of default.

14. The Consultant shall be answerable and hold the Entity free and harmless from any damage or liability arising from the actions of the former's personnel.

15. 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 this Contract. Should such dispute not be resolved amicably, it shall be submitted to arbitration in accordance with the provisions of Republic Act (RA) No. 876 and RA No. 9285.

16. The Parties hereto agree that any court action arising out of this Contract shall be filed exclusively with the proper court in the City of Pasay.

IN WITNESS WHEREOF, the parties hereto have signed these presents this _____ at Pasay City, Philippines.

PHILIPPINE ECONOMIC ZONE AUTHORITY (Entity)	**ARKINOVUS ASIA CORP. & MEINDHART PHILIPPINES INC.** (Consultant)
By:	By:
TERESO O. PANGA Director General	**ALLAN P. NAPOLES** President of Arkinovus Asia Corp. and Authorized Representative of Meindhart Philippines, Inc.

SIGNED IN THE PRESENCE OF:

ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in Makati City, this 04 JUL 2024, personally appeared:

NAME	COMPETENT EVIDENCE OF IDENTITY
TERESO O. PANGA (Philippine Economic Zone Authority)	PEZA ID No. 01000239

known to me and to me known to be the same person who executed the foregoing instrument and acknowledged to me that the same is his free and voluntary act and deed as well as that of the entity represented.

Said instrument refers to a Contract Agreement consisting of ten (10) pages, including this page, and its Annexes, signed by the party and his witness on each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto affixed my signature on the date and year first above written.

Doc No.: 230
Page No.: 47
Book No.: II
Series of 2024

ATTY. CHRISTINE HEIDE A. ROSALES
SC Roll No. 63616
Notary Public Until Dec. 31, 2024
IBP Lifetime Member No. 012672, Quezon City
PTR No. 10138370; 2/8/2024, Makati City
MCLE Compliance No. VII 0018328,
valid until 04/14/2025
3rd Floor Salcedo One Centre
170 Salcedo St., Legaspi Village MAkati City

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
Las Piñas City) S.S.

BEFORE ME, a Notary Public for and in Las Piñas City, this 27 JUN 2024, personally appeared:

NAME	COMPETENT EVIDENCE OF IDENTITY
ALLAN P. NAPOLES (Arkinovus Asia Corp. & Meindhart Philippines Inc.)	PRC ID w/no: 0012406 valid until: 12/13/2026

known to me and to me known to be the same person who executed the foregoing instrument and acknowledged to me that the same is his free and voluntary act and deed as well as that of the entity represented.

Said instrument refers to a Contract Agreement consisting of ten (10) pages, including this page, and its Annexes, signed by the party and his witness on each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto affixed my signature on the date and year first above written.

Doc No.: 112
Page No.: 24
Book No.: XIV
Series of 2024.

ATTY. JEAMIE Y. SALVATIERRA
Notary Public until December 31, 2025
Appointment No. LP-23-048
IBP Lifetime No. 010781 Roll No. 61151
MCLE Compliance No. VIII-0004670 11/14/2023
PTR No. 12652538 01/02/2024 Las Piñas City

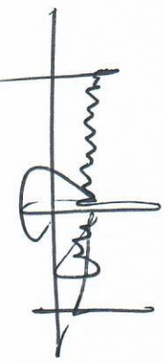
ANNEX "A"
PROGRAM OF WORK

The Consultant shall work with the Entity under reasonable terms of engagement of 300 calendar days or upon completion of the project and shall commence upon receipt of the Notice to Proceed (NTP) from the Entity.

The Parties agree to the following period, which is subject to adjustment as the circumstances require and upon written agreement of the Parties:

Stage 1 - Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works	**92 Calendar Days**
A. Project Initiation Meeting	1 calendar day
B. Pre-Design Phase • Preparation and Submission of Detailed Program of Work/ Work Plan Approach, On-Site Investigation Reports, Preliminary Design Plans, Cost Estimates, Specifications.	36 calendar days
C. Basic Design Phase • Preparation and Submission of Green Certification Study, and list of requirements for Green Certification. • Preparation and Submission of Final Plans of Approved Preliminary Plans for Fit-Outs, Technical Specifications, Detailed Cost Estimates. • Approval of the Final Architectural and Engineering (A&E) Design Drawings. • Processing of all necessary permits/clearances and documentation required for Green certification.	55 calendar days
Stage 2 - Project Management of Fit-Out Works	***varies***
A. Pre-Construction Phase • Preparation and Submission of Terms of Reference (TOR), Market studies for the establishment of the Approved Budget of the Contract (ABC) for the PEZA BIC Fit-Out Project. • Preparation and Submission of Contract Bidding documents • Processing of Certification for Green Building (must be applied within the time of construction period)	28 calendar days
B. Construction Phase • Construction kickoff meeting • Assist in pushing the Contractor on the timely submittals Building Permit application and other pertinent documents / clearances. • Processing of Permits and Licenses • On-site supervision and Monitoring of general progress and quality of work • Variation Orders-Change Order / Extra Work Order Request, Time Extension / Work Suspension / Work Resumption Order Request (if any) • Progress Billing Reports and Work Accomplishment, sample approvals, and other necessary documents for audit purposes until its completion and acceptance.	(5th to 10th month or until completion of Project)
C. Post-Construction Phase • Submission of all reportorial documents related to the project, but is not limited to the following:	

- Building Permit, Ancillary Permits, Occupancy Permit and Permit to Operate Certificate, FSEC, FSIC and other pertinent documents. - As-built Plans / Drawings and Shop Drawings - Status of Punch List, Test Reports, Safety reports - Final Inspection Reports, Certificates of Completion to the Contractors, Certificates of Acceptance and Turnover - Closeout / Final Report - Final Certification for Green Building - All other reports and documents that may be required by the PEZA.	



ANNEX "B"
DETAILED BREAKDOWN OF THE CONTRACT COST

I. Contract Price

SUMMARY OF COST	AMOUNT (PHP)
Consultancy Services for the Green Certification, Architectural and Engineering (A&E) Design, Including Quantity Surveying of Fit-Out Works, and Project Management for the New PEZA Business and Investment Center	
Local Taxes (VAT)	
Total Contract Cost	**36,948,252.75**

The Contract Cost above is inclusive of Value-Added Tax (VAT). The Consultant shall be paid by the Entity for services performed according to the Scope of Services stated herein for the duration of this Agreement but in no case shall the payment exceed the Contract Cost. If the Entity is Obliged to withhold tax at source in connection with the above cost, the Entity shall withhold and pay such withholding tax to the Bureau of Internal Revenue (BIR) on behalf of the Consultant. The Entity shall provide the Consultant with properly executed documentation, certificates, or receipts evidencing payment of such withholding tax.

II. Payment Schedule

a.

	ADVANCED PAYMENT Shall be released upon signing of contract between the Consultant and PEZA	**15%**

b.

	MODE OF PAYMENT	PERCENTAGE
2	**PRE-DESIGN PHASE** The 10% of the consultant's fee shall be released after submission of Green Certification Study/ Outline including the list of requirements for Green Certification, Preliminary Design Plans, Cost Estimates, Specifications and other documents required as specified in ***Section IV: Deliverables and Timelines_ Pre-Design Phase*** of the TOR Note: The 10% of the consultant's fee is subject to 10% retention.	**10%**
3	**BASIC DESIGN PHASE** To be paid in two (2) equal payments subject to 10% retention. • **1st tranche** equivalent to 15% of the consultant's fee shall be released upon submission of the following: 1) Final Plans of Approved Preliminary Plans for Fit-Outs and Design for Architectural/ Civil, Sanitary/ Plumbing, Electrical, Mechanical, Auxiliary Works/Network/ Cabling/Data System/BMS, Fire Detection and Alarm System, PA/BGM System, Telephone System, Security/ CCTV System, Parking Management and Building Traffic System, Furnishings, Specialty Works including Working Drawings, Technical Specifications, Detailed Cost Estimates, wherever required.	**30%**

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	• **2nd tranche** equivalent to 15% of the consultant's fee shall be released upon completion of the following: 1) Evaluation and Approval of Final Design Drawings and other documents required as specified in ***Section IV: Deliverables and Timelines_Basic Design Phase*** of the TOR. 2) Processing of all necessary permits/clearances and documentation required for Green certification.	
4	**PRE-CONSTRUCTION PHASE** To be paid in two (2) equal payments subject to 10% retention. • **1st tranche** equivalent to 15% of the consultant's fee shall be released upon submission and approval of the following: 1) Terms of Reference (TOR) for the PEZA BIC Fit-Out Project. 2) Market studies for the establishment of the Approved Budget of the Contract (ABC) for the PEZA BIC Fit-Out Project. 3) Contract Bidding documents, which shall include the following: a. Complete Approved Construction Drawings b. Program of Works (POW) c. Detailed Cost Estimation/ Bill of Quantities (BOQ) d. Detailed Unit Price Analysis (DUPA) e. Technical Specifications f. Scope of Works g. General Specifications h. General Notes & Conditions i. Instruction to Bidders j. Bid Data Sheet k. General Conditions of Contract l. Special Condition of Contract m. Bid Form / Itemized Bid n. Other documents, as specified in ***Section IV: Deliverables and Timelines_Pre-Construction Phase*** of the TOR. • **2nd tranche** equivalent to 15% the consultant's fee shall be released upon: 1) Issuance of Notice to Proceed (NTP) to General Contractor and Specialty Contractors. 2) Submission of documentation confirming the application for Green Building Certification (must be applied within the time of construction period)	**30%**
5	**CONSTRUCTION & POST-CONSTRUCTION PHASE** To be paid in three (3) equal payments subject to 10% retention. • **1st tranche** equivalent to 10% of the consultant's fee shall be released upon completion of at least 35% of the fit-out project.	**30%**

	• **2nd tranche** equivalent to 10% of the consultant's fee shall be released upon completion of at least 70% of the fit-out project. • **3rd tranche** equivalent to 10% of the consultant's fee shall be released upon completion of the fit-out project and submission of the following: 1) Contractor turnover the following: a. Building Permit, Ancillary Permits and other pertinent documents / clearances b. Occupancy Permit and Permit to Operate Certificate c. Fire Safety Evaluation Clearance (FSEC) d. Fire Safety Inspection Certificate (FSIC) e. As-built Plans//Drawings f. Final Inspection Reports 2) Certificates of Completion to the Contractors 3) Closeout/ Final Report 4) Certification of Acceptance from PEZA for the completed project *5)* Final Certification for Green Building (BERDE 5 Star Rating) *6)* Other documents and reports, as specified in ***Section IV: Deliverables and Timelines_Post-Construction Phase*** of the TOR.	
	TOTAL	**100%**

- The Consultant shall send the Entity an invoice on progress billings. All invoices must be accompanied by an actual accomplishment report duly validated by both Entity and Consultant. Payment of invoices shall be made, without need of demand, no later than thirty (30) days from receipt by the Entity of the invoice from the Consultant.
- Upon determination of the winning General Contactor, the Parties shall amend this provision to include a specific breakdown of payments to the Consultant of the 70%, based on the Percentage of Completion to be agreed upon the winning General Contractor.

III. Insurance

The Consultant shall have in force and maintain at its on cost such policy or policies of insurance with a reputable insurer which provides adequate insurance cover in respect of the provision of the Services to the Entity. The Consultant shall procure that each of the Consultant's representative who is not an employee of the Consultant has in force and maintain adequate insurance cover in respect of the provision of the Services to the Entity. The availability of such insurance cover is acknowledged by the Consultant to be in the Consultant's interest. The Consultant shall procure the following insurance as may be required:

A. Comprehensive / General Liability
B. Professional Liability