

CLERICAL SERVICE CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

This Contract made and executed by and between:

UNIVERSITY OF SOUTHEASTERN PHILIPPINES, a State University, created and existing by virtue of Batas Pambansa Bilang 12, with principal office at the USEP Main Campus, Bo. Obrero, Davao City, represented herein by its President **DR. LOURDES C. GENERALAO**, hereinafter referred to as the 'CLIENT';

-and-

LSERV CORPORATION, a corporation duly organized with office address 21F Petron Mega Plaza, 358 Sen. Gil Puyat Ave., Makati City, and local office in Door R, TMNT Building, Doña Vicenta Drive, Bajada, Davao City, representative by its Executive Vice President, **JOSEPH V. ANGELES**, duly authorized for this purpose, hereinafter referred to as 'AGENCY'.

WITNESSETH:

WHEREAS, the CLIENT conducted a public bidding last 25 September 2020 for the Procurement of Clerical Services (41 Clerks) for FY 2020-2021 of USEP - Obrero & Mintal Campuses;

WHEREAS, the AGENCY, an independent services contractor with substantial capital for the said business, was found to have the Single Calculated and Responsive Bid (SCRB);

WHEREAS, the USEP Board of Regents, per BOR Resolution no.144 s.2019, granted authority to the University President to sign contracts involving procurement with an amount of P15 million and below, subject to Board confirmation;

NOW, THEREFORE, for and in consideration of the foregoing premises and of the terms and conditions hereinafter set forth, the parties hereby agree as follows:

1. **Agreement** – the CLIENT hereby engages the AGENCY to provide the services mentioned hereinabove. Personnel to render the services shall be referred to as "Contractor's Personnel".
2. **Qualification** – The AGENCY shall assign Contractor's Personnel who possess the necessary skills and utmost qualifications as required by the CLIENT for the functions, duties, or services to be performed by the said personnel.
3. **Scope of Work** – The AGENCY agrees to cause the performance of any work related to the Contractor's Personnel's functions or duties assigned by the CLIENT.
4. **Consideration** – For and in consideration of the service/s rendered, the CLIENT hereby agrees to pay the AGENCY the amount of **Six Million Four Hundred Ninety-Five Thousand One Hundred Sixty-One Pesos and 29/100 (Php 6,495,161.29)** for the first year for forty-one (41) clerical personnel. The CLIENT may request the deployment of additional personnel for the same monthly contract cost per clerk. The rates quoted are based on actual regular eight (8) hours work per day per person, and inclusive of all government mandated dues

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Reviewed By:
OFFICE OF THE GENERAL COUNSEL
LSERV CORPORATION

LSERV CORPORATION
JOSEPH V. ANGELES
Executive Vice-President

ROLANDO B. ENRIQUEZ
Finance Director

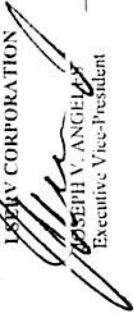
MA. LUISA B. FAUNILLAN
Vice President for Administration

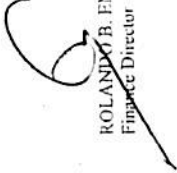
UNIVERSITY OF SOUTHEASTERN PHILIPPINES

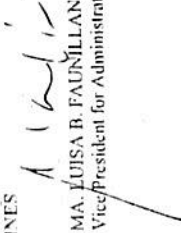
LOURDES C. GENERALAO
President

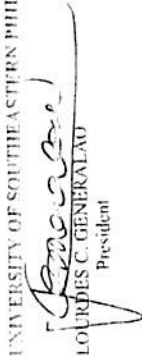
including the present 12% Value Added Tax (VAT), subject to deduction from the billing of the amount equivalent for every man-hour lost due to absence and/or tardiness incurred by the Contractual Personnel. The rates, however, shall be adjusted in case of future legally mandated VAT, wage increases, benefits, mandatory government premium contributions and other charges.

5. **No Employer-Employee Relationship** – It is expressly understood that there is **NO EMPLOYER-EMPLOYEE RELATIONSHIP** between the **CLIENT** and the **Contractor's Personnel**. The **Contractor's Personnel** are employees of the **AGENCY** and not of the **CLIENT**, hence, compliance with any and all applicable laws, rules and regulations such as remittance of withholding taxes, social security and health premiums and other fees and charges imposed by the government and its related agencies shall be the sole responsibility of the **AGENCY**. The **CLIENT** has no responsibility for any injury, damage and/or death which would befall any of the **Contractor's Personnel** or to any person where such afore-cited circumstances arise from the course of performance of their duties and responsibilities, or traceable to their fault or negligence, except when such injury/damage or death arises from the overt act, fault or negligence of the **CLIENT** or its authorized representatives.
6. **Supervision and Control** – The **AGENCY** hereby maintains at all times administrative and functional control and supervision over its Personnel assigned to the **CLIENT** during their term of duty. The **Contractor's Personnel**, upon instruction of the **AGENCY** shall observe the policies, rules and regulations on discipline, conduct and proper decorum in the performance of its services with the **CLIENT**, with due consideration that the latter is a public Higher Educational Institution.
7. **Liability for Losses and Damages** – The **AGENCY** shall only be liable for losses and damages on the properties and facilities of the **CLIENT** which may be caused through the gross negligence or fault of the **Contractor's Personnel** assigned to the **CLIENT** while in the performance of their official duties, provided that such losses or damages are brought to the attention of the **AGENCY** in writing seventy-two (72) hours from the discovery of the occurrence.
8. **Change/Replacement of Personnel** – Should the **CLIENT** find any of the **Contractor's Personnel** undesirable, with unsatisfactory performance or commits acts inimical to the interest of the **CLIENT**, among other grounds, the **AGENCY** shall, within five (5) working days from receipt of the **CLIENT's** written request for replacement, provide such personnel concerned with one acceptable to the latter. All administrative acts relative to replacement or change of personnel shall be done by the **AGENCY**.
9. **Performance Bond** –The **AGENCY** will execute and deliver a performance bond in favor of US&P in the form and amount authorized by and in accordance with R.A. 9184, otherwise known as the Government Procurement Reform Act.
10. **Service Rendered Out of Regular Working Hours** – For services rendered over and above the eight (8) hour regular working time or during holiday/rest day, the **AGENCY** shall charge overtime, night differential and holiday pay as the case may be based on billing rate per day/hour plus applicable overtime premiums in accordance with the Labor Code, subject to Government accounting rules and regulations.
11. **Personal Data Protection** –

LSERV CORPORATION

 JOSEPH V. ANGELES
 Executive Vice-President

ROLANDO B. ENRIQUEZ

 Finance Director

UNIVERSITY OF SOUTHEASTERN PHILIPPINES

 MA. LUISA B. FAUNILLAN
 Vice-President for Administration

UNIVERSITY OF SOUTHEASTERN PHILIPPINES

 LOURDES C. GENERALAO
 President

11.1. It shall be recognized by both parties the need to adhere to the provisions of the Data Privacy Act of 2012. The CLIENT progressively implements and observes the provision of the law as embodied in its University Data Privacy Policy. To this end, the Parties of this Agreement shall comply with the requirements under the Data Privacy Act of 2012, and such rules, orders, and regulations as may be issued by the National Policy Commission ("NPC") and the University Data Privacy Policy in relation to the processing and possession of Personal Information and/or Sensitive Personal Information (as such terms are defined in the Data Privacy Act of 2012) comprising the Data. Both PARTIES shall see to it that substantial compliance of the law shall be reasonably observed. Any concerns arising out of personal data protection shall be addressed by both parties through their mutually agreed internal mechanism.

11.2. The CLIENT shall ensure and warrant that only authorized employee shall process or have access to the Data.

11.3. The AGENCY and the CLIENT shall each be responsible for the safekeeping of the Data from the receipt of such Data until the same is destroyed. All data shall be returned to the originating party within thirty (30) days from the date of the termination of the Agreement. Both Party shall not make or retain a copy of any data collected in the course of the life of the contract. Furthermore, collected data shall be either returned or destroyed by the Parties. Any data erroneously transferred in the process of returning to the originating party certain personal data which should have not otherwise included shall be returned immediately or otherwise destroyed. No personal data pertaining to each party shall be transferred to third parties without prior consent.

The PARTIES shall notify their counterpart immediately of any breach of its Data Privacy and Security System which compromises any of the Data, within a reasonable time in case of any occurrence of such breach. The Parties shall provide the other every assistance necessary to comply with the notification requirement under existing privacy laws and regulations, as well as in any investigation that may be conducted in connection with the breach. Corrective action must be immediately undertaken by the parties to mitigate possible harm or negative consequences to the individuals affected by the breach;

(a) Ownership of any Data shall remain with the AGENCY, and the CLIENT shall not use the same in other projects; and

(b) The CLIENT shall immediately inform the AGENCY, if, in its opinion, an instruction given by the latter, infringes the Data Privacy Act, its Implementing Rules and Regulations, or any other issuance of the NPC.

12. **Violation of Terms and Condition** – In case of violation by either party of any of the foregoing terms and conditions, the other party may terminate this Contract by giving at least thirty (30) working days prior written notice. The termination shall take effect immediately after the lapse of thirty (30) working days from receipt by the other party of the notice of termination; Provided, however that the termination shall be without prejudice to the settlement of any obligation or claim for damages one may have against the other; Provided, further, that failure on the part of either party to enforce any of the provisions of this Contract shall not be considered as waiver of its rights.

ISERV CORPORATION

JOSEPH V. ANGELES
Executive Vice-President


ROLANDO B. ENRIQUEZ
Finance Director


MA LUISA B. PAUNILLAN
Vice President for Administration

UNIVERSITY OF SOUTHEASTERN PHILIPPINES

ANDRES C. GERNALAO
President

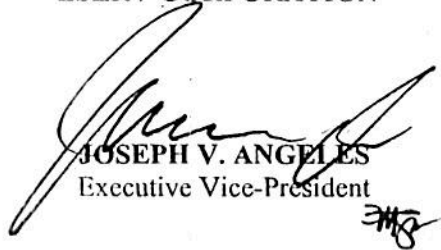
13. **Venue of Legal Action** – All possible administrative remedies must first be exhausted before disputes are brought before the courts of proper jurisdiction. Thereafter, actions on disputes arising from this Contract shall be brought before the courts of Davao City.
14. **Contract Duration** -- This Contract shall take effect on 1 January 2021 to 31 December 2021, unless sooner terminated by either party upon mutual agreement or pursuant to the provisions of Paragraph 12 hereof. This Contract is subject to yearly renewal, but not to exceed two (2) years, subject to the following conditions:
1. **Contract price** during contract implementation shall be fixed and shall not be adjusted except for the following cases:
 - i. Increase in minimum daily wage pursuant to law or new wage order issued after date of bidding; and
 - ii. Increase in taxes.
 2. The **AGENCY** shall maintain a **VERY SATISFACTORY** level of performance throughout the term of the contract based on a prescribed set of performance criteria. The performance criteria to be applied shall include, among others, the following: (i) quality of service delivered; (ii) time management; (iii) management and suitability of personnel; (iv) contract administration and management; and, (v) provision of regular progress reports, among others.
15. The **CLIENT** may conduct a quarterly assessment or evaluation of the performance of the **AGENCY** based on the above-mentioned set of performance criteria.

IN WITNESS WHEREOF, the parties have hereunto set their hands this ___ day of _____ 2020 at the City of _____, Philippines.

UNIVERSITY OF SOUTHEASTERN
PHILIPPINES (USeP)


LOURDES C. GENERALAO
President

LSERV CORPORATION


JOSEPH V. ANGELES
Executive Vice-President


SIGNED IN THE PRESENCE OF:


MA. LUISA B. FAUNILLAN
Vice President for Administration, USeP


GENEROSO T. CANLAS, JR.
Vice President

Witness for LSERV Corp

Certified as to availability of Funds:


ROLANDO E. ENRIQUEZ
Finance Director, USeP

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Reviewed By:
OFFICE OF THE GENERAL COUNSEL
LSERV CORPORATION

REPUBLIC OF THE PHILIPPINES)
Davao City)S.S

ACKNOWLEDGMENT

BEFORE ME, as the Notary Public for and within the City of Davao, personally appeared

Name	Valid I.D.	Date/Place Issued
LOURDES C. GENERALAO	GSIS ID # 006-0085-6444-5	Davao City

known to me to be the same person who executed the foregoing **CONTRACT AGREEMENT** and they acknowledged to me that the same is their true act and deed for and in behalf of the parties they represented.

This instrument consists of six (6) pages, including this page, on which this Acknowledgement is written duly signed by the contracting parties and their witnesses on the margins thereof.

IN WITNESS WHEREOF, I have hereunto affixed my Signature and Official Seal this ____ day of _____, 2020.

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Page No. _____
Book No. _____
Series of 2020

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Reviewed By:
**OFFICE OF THE GENERAL COUNSEL
LSERV CORPORATION**

