

**CONTRACT FOR THE  
COMPREHENSIVE NETWORK MANAGEMENT TOOL (AXENCE nVISION)**

This CONTRACT made and entered into by and between the following:

**DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)**, a government agency created by virtue of the laws of the Republic of the Philippines, with principal office address at Boncodin Hall, General Solano Street, San Miguel, Manila, represented herein by its Secretary, **FLORENCIO B. ABAD**, hereinafter called the "**DBM**";

- and -

**MULTI-FOLD LINKS, INC.**, a corporation duly organized and existing under the law of the Philippines, with office address at Platinum 2000 Building, #7 Annapolis St., Greenhills, San Juan City represented by its Chief Operating Officer, **ARLYN L SOLITARIO**, hereinafter referred to as the "**Supplier**";

**WHEREAS**, pursuant to Article XVI, Section 48(b), R.A. 9184, in relation to Section 50 (a), Rule XVI of the Implementing Rules and Regulations of Republic Act No. 9184, alternative methods of procurement through Direct Contracting shall be allowed with a technically, legally and financially capable supplier and contractor to provide goods/services that are highly technical or proprietary in nature and which can be obtained only from one source or exclusive dealer;

**WHEREAS**, the Information and Communication Technology System Service (ICTSS) requested for the procurement of the maintenance support service for the Comprehensive Network Management Tool (Axence nVision) through alternative mode of procurement for continuity of service and expertise and considering that the current maintenance support for the Network Management Tool of DBM expired last January 31, 2013.

**WHEREAS**, the Supplier submitted a proposal for the maintenance support service of 924 user licenses of Axence nVision to DBM, amounting to **Six Hundred Forty Thousand Eight Hundred Two Pesos (PhP 640,802.00)** good for one (1) year support service agreement from the date of the Notice to Proceed, inclusive of all applicable taxes;

**WHEREAS**, the DBM Bids and Awards Committee (BAC) recommended to the Head of the Procuring Entity the award of the contract to the Supplier having found that the goods/services subject of procurement is indeed proprietary in nature and the Supplier, being the current service provider of DBM is already familiar with the Network Management Tool of DBM, and the exclusive dealer of Axence nVision in the Philippines;

**WHEREAS**, the Notice of Award (NOA) was issued on May 27, 2013 and the supplier posted its performance security on June 5, 2013;

**NOW THIS CONTRACT WITNESSETH AS FOLLOWS:**

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the General and Special Conditions of Contract referred to in Annexes B and C, respectively.

2. The following documents shall be deemed to form and be read and construed as part of this Contract:

- Annex A - Proposal;
- B - General Conditions of Contract;
- C - Special Conditions of Contract
- D - Service Level Agreement (SLA);
- E - Notice of Award; and
- F - Performance Security.

3. In consideration of the payment to be made by the DBM to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the DBM to provide the goods and ancillary services therein in conformity in all aspect with the provisions of the Contract.

4. The DBM hereby covenants to pay the Supplier in consideration of the provision of the goods and ancillary services therein, the Contract Price or such other sum as may be payable under the provisions of the Contract at the time and in the manner prescribed by the Contract.

5. This Contract cannot be changed, amended or modified without the express written consent of both parties.

This agreement shall take effect on July 15, 2013 until July 14, 2014.

**IN WITNESS WHEREOF**, the parties hereto have signed this Contract this 12<sup>th</sup> day of July, 2013 at the DBM, Malacanang, Manila, Philippines.

**DEPARTMENT OF BUDGET  
AND MANAGEMENT**

By:

  
**FLORENCIO B. ABAD**  
Secretary

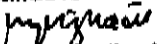
**MULTI-FOLD LINKS, INC.**

By:

  
**ARLYN L. SOLITARIO**  
Chief Operating Officer

Signed In the presence of:

  
**VINZON R. MANANSALA**  
Officer-in-Charge, ICTSS

Funds Available:  
  
**ESPERANZA Q. IGNACIO**  
Chief Accountant

DBM 2013-7-1198  
7/10/13

*M.*

**ACKNOWLEDGMENT**

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

BEFORE ME, a Notary Public and In the City of Manila, Philippines on this 12<sup>th</sup> day of July, 2013 personally appeared the following:


NAME	VALID ID	VALID UNTIL
<b>FLORENCIO B. ABAD</b>	DBM ID No. 3706 CTC # 20042118	2014 1/28/13 - Basco, Batanes
<b>ARLYN L. SOLITARIO</b>	SSS No. 13-8516201-1 CTC No. 21827838 issued on Jan. 8, 2013 at San Juan, Ala.	

Known to me to be the same person who executed the foregoing Contract and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they respectively represent.

This Contract for the Project, "Comprehensive Network Management Tool (Axence nVision)" was signed by the parties and their material witness on each and every page thereof.

WITNESS MY HAND AND SEAL this 12<sup>th</sup> day of July, 2013.

Doc No. 857 ;  
Page No. 73 ;  
Book No. I ;  
Series of 2013

  
**ROWENA CANDICE M. RUIZ**  
 NOTARY PUBLIC-MANILA  
 COMMISSION SERIAL NO. 2012-091  
 UNTIL DECEMBER 31, 2015  
 ROLL NO. 49404, LUP LRN 88888  
 PTR NO. 147368 (Manila) 10, 2013  
 LEGAL SERVICE, DBM  
 NABINI HALL, MALACARANG  
 MANILA





# MULTI-FOLD LINKS, INC.

Any Time, Any Place, Any Way, Non-Stop Computing

tel: +632-744-8062 | 726-1440

fax: +632-654-6903

November 27, 2012

**For:** Usec. Richard E. Moya  
Undersecretary  
Chief Information Officer

**Thru:** Dir. Romeo Hordejan  
Information and Communication Technology Systems Service

**Cc:** Mr. Roderick Suarez  
ITO III, Network and Infrastructure Division

**Department of Budget and Management**  
3/F Boncodin Hall, General Solano Street,  
San Miguel, Manila 1005

**Subject:** Axence nVision User Activity Management Software Maintenance Renewal

Dear Sir,

We are writing to you in relation to the Department of Budget and Management's Axence nVision User Activity Management annual software maintenance and services that is due to expire on January 31, 2013.

The use of this management software has been beneficial in monitoring DBM's entire network performance and end user workstation activity. nVision's monitoring and report generation provides DBM a more concrete and intelligent reference on how the entire network behaves and is utilized.

We take the liberty of providing DBM the Indicative price proposal for the software maintenance renewal of the 924 licenses of Axence nVision as shown below.

<b>Axence nVision 1 Year Software Maintenance Renewal (924 nVision licenses)</b>	<b>Php 640,802.00</b>
<b>Axence nVision 2 Years Software Maintenance Renewal (924 nVision licenses)</b>	<b>Php 1,281,604.00</b>
<b>Axence nVision 3 Years Software Maintenance Renewal (924 nVision licenses)</b>	<b>Php 1,922,405.00</b>

We are looking forward to assist you, should you have further clarification on this renewal process.

Thank you.

Respectfully,  
**MULTI-FOLD LINKS, INC.**

  
Mr. Edgardo Favila  
PRESIDENT

28 NOV 2012  
paw - IUTBS

WWW.MULTIFOLDLINKS.COM



Platinum 2000, Annapolis St., Greenhills • San Juan, Metro Manila • Philippines 1902

# *General Conditions of Contract*

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## 1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the SCC.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the SCC.
- (j) The "Funding Source" means the organization named in the SCC.
- (k) "The Project Site," where applicable, means the place or places named in the SCC.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of receipt by the Supplier of the Notice to Proceed or the date provided in the Notice to Proceed. Performance of all obligations shall be reckoned from the Effective Date of the Contract.
- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the Head of the Procuring Entity setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

## 2. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 2.1. The Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
    - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
    - (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
    - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
  - (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.
- 2.2. Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

## 3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.



#### 4. **Governing Law and Language**

- 4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.
- 4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

#### 5. **Notices**

- 5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SCC, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.
- 5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC for GCC Clause 5.1.

#### 6. **Scope of Contract**

- 6.1. The GOODS and Related Services to be provided shall be as specified in **Error! Reference source not found.**
- 6.2. 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. Any additional requirements for the completion of this Contract shall be provided in the SCC.

#### 7. **Subcontracting**

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the Procuring Entity.

## 8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with GCC Clause 6.

## 9. Prices

Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with GCC Clause 29, or if applicable, adjustments authorized in accordance with the price adjustment provisions specified in the SCC.

## 10. Payment

- 10.1. Unless otherwise specified in the SCC, payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the SCC provision for GCC Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to GCC Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.
- 10.4. Unless otherwise specified in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.

## 11. Advance Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.

- 11.2. For Goods supplied from abroad, ten percent (10%) of the Contract price shall be paid within sixty (60) calendar days from signing of the contract and upon submission of a claim and a bank guarantee issued by a licensed bank for the equivalent amount valid until the Goods are delivered and in the form provided in **Error! Reference source not found.**
- 11.3. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

## 12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

## 13. Performance Security

- 13.1. Unless otherwise specified in the SCC, within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the ITB Clause **Error! Reference source not found.**
- 13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 13.4. Unless otherwise specified in the SCC, the performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
  - (b) The Supplier has no pending claims for labor and materials filed against it; and
  - (c) Other terms specified in the SCC.
- 13.5. In case of a reduction of the contract value, the Procuring Entity 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.

#### 14. Use of Contract Documents and Information

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity'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 the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

#### 15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the **Error! Reference source not found.**; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

#### 16. Inspection and Tests

- 16.1. The Procuring Entity 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 the Procuring Entity. The **SCC** and **Error! Reference source not found.** shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.
- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Clause 5.

- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

## 17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract 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 the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the SCC. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the Contract Price or other such amount if so specified in the SCC. The said amounts shall only be released after the lapse of the warranty period specified in the SCC; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in GCC Clause 17.4, the Procuring Entity 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 the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

## 18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in **Error! Reference source not found.**
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for

under GCC Clause 22, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.

- 18.3. Except as provided under GCC Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 19, unless an extension of time is agreed upon pursuant to GCC Clause 29 without the application of liquidated damages.

## **19. Liquidated Damages**

Subject to GCC Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Procuring Entity shall rescind the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.

## **20. Settlement of Disputes**

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

## 21. Liability of the Supplier

- 21.1. Subject to additional provisions, if any, set forth in the SCC, the Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## 22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

## 23. Termination for Default

- 23.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:
- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
  - (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
  - (c) The Supplier fails to perform any other obligation under the Contract.

- 23.2. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 23 to 26, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.
- 23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

#### **24. Termination for Insolvency**

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

#### **25. Termination for Convenience**

- 25.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the Procuring Entity may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.
- 25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:
- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
  - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.
- 25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.



## 26. Termination for Unlawful Acts

26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in **ITB Clause Error! Reference source not found.**;
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

## 27. Procedures for Termination of Contracts

27.1. The following provisions shall govern the procedures for termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the Head of the Procuring Entity shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
  - (i) that this Contract is being terminated for any of the ground(s) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
  - (ii) the extent of termination, whether in whole or in part;
  - (iii) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
  - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period,

either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;

- (e) The Procuring Entity may, at anytime before receipt of the Supplier's verified position paper to withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The Head of the Procuring Entity may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the Procuring Entity; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

## **28. Assignment of Rights**

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

## **29. Contract Amendment**

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

## **30. Application**

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;

- (e) The Procuring Entity may, at anytime before receipt of the Supplier's verified position paper to withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
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**30. Application**

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

## *Special Conditions of Contract*

GCC Clause	
1.1 (g)	The Procuring Entity is the <i>Department of Budget and Management</i> .
1.1(i)	The Supplier is <i>Multi-Fold Links, Inc.</i>
1.1(j)	The Funding Source is the Government of the Philippines (GOP) through the authorized appropriations under the FY 2013 General Appropriations Act in the amount of Six Hundred Forty Thousand Eight Hundred Two Pesos (PhP 640,802.00).
1.1(k)	Department of Budget and Management Boncodin Hall, Gen. Solano St., San Miguel, Manila
5.1	<p><b><u>The Procuring Entity's address for Notices is :</u></b></p> <p>Department of Budget and Management Administrative Service, Ground Floor, DBM Building III, Gen. Solano St., San Miguel, Manila Tel No. (02) 735-4902 Fax No. (02) 735-4979</p> <p><b><u>The Supplier's address for Notices is:</u></b></p> <p>Multi-Fold Links, Inc. Platinum 2000 Building, #7 Annapolis St., Greenhills, San Juan City Tel No. Fax No.</p>
6.1	The term of the contract shall be for twelve (12) months up to a maximum of twenty four (24) months from the receipt of Notice to Proceed.
10.4	No further instructions.
13.4 (c)	No further instructions.
15.	<b>As a condition for the renewal of this Contract in FY 2014, the supplier shall be subjected to a performance evaluation during the first twelve (12) months by the Department of Budget and</b>

		<b>Management – ICTSS. The evaluation shall be the basis for the recommendation to the Head of the Procuring Entity on the continuation or termination of the Contract for FY 2014.</b>		
16.1		No additional provision.		
17.3		No additional provision.		
17.4		No additional provision.		
21.1		No additional provision.		



**SERVICE LEVEL AGREEMENT (SLA)**  
**for the COMPREHENSIVE NETWORK MONITORING**  
**TOOLS ("AXENCE NVISION")**  
**BETWEEN**  
**THE DEPARTMENT OF BUDGET AND**  
**MANAGEMENT**  
**AND**  
**MULTI-FOLD LINKS, INC.**



# SERVICE LEVEL AGREEMENT

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## **I. General Information**

### **A. Purpose**

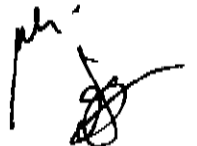
The purpose of this SLA is to provide effective technical support service between the Multi-Fold Links, Inc. (MFL, Inc.) and Department of Budget and Management (DBM). This SLA will:

- i. outline support services to be offered and working assumptions between MFL, Inc. and DBM;
- ii. quantify and measure service level expectations;
- iii. outline the potential methods used to measure the quality of service provided;
- iv. define mutual requirements and expectations for critical support assistance performance; and
- v. strengthen communications between MFL, Inc. and DBM.

### **B. Vision**

Multi-Fold Links, Inc. will provide technical support service for the Department of Budget and Management. The service performance will continuously enhance service, compliance and productivity to maintain DBM's productivity. The primary goals for the service centers include:

- i. Software Maintenance
- ii. Software Re-Installation and Re-configuration both on server(s) and clients
- iii. Technical Escalation/Support





## **II. Service Performance**

### **A. Scope**

Multi-Fold Links, Inc. shall provide technical support service for the Network System and User Activity Management Solution project based on the requirements specified in the Schedule of Requirements and Technical Specifications of the Bid Documents.

### **B. Hours of Operations**

Multi-Fold Links, Inc. will perform the service within 8:00am to 5:00pm/ Monday-Friday, with the exception of approved holidays. Working hours may be adjusted due to system/power outages, emergency situations, or disaster.

### **C. Working Assurance**

The Service Performance will be fully staffed and backed by MFL, Inc. back office support, and the Original Software Manufacturer's (OSM) technical support team.

### **D. Software Maintenance**

Multi-fold links Inc. shall provide software maintenance:

- i. Product Updates will be provided during the one (1) year maintenance period.
- ii. Version upgrade will be provided during the one (1) year maintenance period.
- iii. 24 x 7 email, web-based access to product technical support website.

### **E. Software Re-Installation and Re-Configuration**

- i. Multi-Fold Links, Inc. shall activate/re-activate the required software to its proper operating state as efficiently and effectively required by DBM in running its computer and network and user monitoring system. All monthly system health check shall be provided with a service report and professional service record to be acknowledged by the ICTSS.
- ii. Multi-Fold Links, Inc. will conduct a meeting with DBM representatives to discuss all necessary preparations, ideal setup, and other re-installation matters before the start of the activity schedule.

Relatively, conduct regular post implementation meeting with DBM representative(s) and current Managed Network Services Provider to discuss findings, issues and recommendable solutions.

- iii. Multi-Fold Links, Inc. recommended re-Installation plan will be presented to DBM for validation and approval.
- iv. Re-installation of Network and User Activity Management Server Software in DBM's assigned server.
- v. Re-installation of Network and User Activity Management Software in DBM clients as to be identified.
- vi. A client representative with the necessary Network administration rights must be present to assist the deployment.
- vii. System preparation for Network and User Activity Management Software.
- viii. Re-configuration of Network and User Activity Management Software.
- ix. Network and User Activity Management policy configuration monitoring and testing.
  - a. Check Network Monitoring and User Activity Management Service and accessibility.
  - b. Monitoring policy configuration for DBM network environment.
  - c. Deployment of specific user activity monitoring policy for specific monitored devices.
- x. Configuration and testing of other features / services.
- xi. Alert notification-configuration of specific alerts for defined alert recipients.
- xii. Report configuration of client's desired report output.
- xiii. Submit monthly report of user activity management report on software and hardware audit.

#### **F. Technical/Escalation Support**

- i. Multi-Fold Links, Inc. shall provide 8 x 5 email and phone support for one (1) year.

- ii. Client may call our contact personnel at designated office telephone and mobile phone numbers for all issues, requests or inquiries that require urgent over-the-phone support.
- iii. Multi-Fold Links, Inc. will provide on-site technical support assistance with three (3) hours response time that requires urgent technical assistance available from 8AM to 5PM within Metro Manila, and requests that fall beyond 5PM to be addressed the Next Business Day (NBD) for the period of one (1) year.
- iv. During on-site support, MFL, INC. Technical Support Engineer shall:
  - a. Isolate reported issue in connection with the Network and User Activity Management Software.
  - b. Personally check the health, performance, availability and effectiveness of the Network Monitoring and User Activity Management Software to ensure that the system is running in good operating conditions.
  - c. Consolidate systems report and analysis to be submitted to DBM.
- v. Multi-Fold Links, Inc. will provide monthly system health check for the Network Monitoring and User Activity Management Software Solution component to ensure that the system is in good running condition and are updated in system patches and fixes.
- vi. Multi-Fold Links, Inc. shall provide monthly system health check service report to be provided to DBM.
  - a. System report consolidation and analysis.
  - b. Consolidation and inventory of rules and policies deployed.
- vii. Multi-Fold Links, Inc. shall provide detailed escalation procedure specially designed for DBM's proper isolation of issues encountered during the one (1) year maintenance period.
- viii. Monitoring Rules and Policy Hardening.
- ix. Thru continuous network management system check and reports assessment, Multi-Fold Links Inc. will provide evaluations and recommendations to continuously ensure reliable and secured management of the entire network.



REPUBLIC OF THE PHILIPPINES  
Department of Budget and Management  
Malacañang, Manila

### NOTICE OF AWARD

**MAY 27 2013**

**MR. EDGARDO FAVILA**  
President  
Multi-Fold Links, Inc.  
7 Platinum 2000 Bldg.,  
Annapolis St., Greenhills  
San Juan City

**Dear Mr. Favila:**

Based on Department of Budget and Management Bids and Awards Committee Resolution No. 2013-26, we are pleased to inform you that the contract for the Project "*Comprehensive Network Management Tool (Axence nVision)*" is hereby awarded to your company.

In this regard, you are hereby required to post a performance security in the amount and form stated in Section 39 of the Revised Implementing Rules and Regulations of Republic Act No. 9184 within ten (10) days from the receipt of this notice.

Very truly yours,

**FLORENCIO B. ABAD**  
Secretary

M. Inlanda  
Maybel S. Inlanda  
Deputy Head - Sales & Mktg  
RECEIVED BY:  
MAY 28, 2013

**PLARIDEL SURETY AND INSURANCE COMPANY**

Suite 2505, 25<sup>th</sup> Floor, 88 Corporate Center, Sedeño corner Valero Streets,  
Salcedo Village, Makati City  
Telephone Nos. 889-6101 to 03 Fax No. 752-1504  
TIN: 000-489-769-000

Manila Branch Office  
Rm 522 5<sup>th</sup> Floor  
Noah's Ark Bldg.  
Escolta, Manila  
Tel. Nos. 242-5631; 2427785  
Fax No. 242-2616

Prem \_\_\_\_\_  
D/S \_\_\_\_\_  
Eval \_\_\_\_\_  
N/S \_\_\_\_\_  
N/F \_\_\_\_\_  
Lgt \_\_\_\_\_  
Misc \_\_\_\_\_  
Total \_\_\_\_\_

PSIC MANILA BR. BOND No. 03341  
G(13)

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, MULTI-FOLD LINKS, INC. of \_\_\_\_\_

as PRINCIPAL, and PLARIDEL SURETY AND INSURANCE COMPANY, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Makati City and Manila Branch Office at Escolta, Manila, Philippines, as Surety are held and firmly bound unto DEPARTMENT OF BUDGET AND MANAGEMENT in the sum of PESOS ONE HUNDRED NINETY TWO THOUSAND TWO HUNDRED FORTY & 60/100 ONLY (P 192,240.60) Philippine Currency, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above-named Principal was awarded the bid to \_\_\_\_\_

WHEREAS, as a condition to said award the principal shall guarantee the complete performance for the Project COMPREHENSIVE NETWORK MANAGEMENT TOOL (Access rVision). THIS BOND IS CALLABLE ON DEMAND. Copy of Notice of Award hereto attached to form part of this bond. It is hereby understood that the liability of the Surety Company under this bond shall take effect upon submission of NOTICE TO PROCEED.

requires the above-named Principal to file a Performance Bond in the amount of Pesos ONE HUNDRED NINETY TWO THOUSAND TWO HUNDRED FORTY & 60/100 ONLY (P192,240.60) Philippine Currency.

WHEREAS, the insurance company shall require the principal to put up a collateral as a condition precedent for the issuance of this bond.

NOW, THEREFORE, if the above-named Principal shall in all respects duly and fully perform all and singular the terms and conditions, covenants, and agreements in said award to the intent and meaning thereof, then this obligation shall be null and void; otherwise, it shall remain in full and effect.

Liability of the Surety under this bond will expire on One (1) Year from the date of submission of NOTICE TO PROCEED and this Bond will be deemed automatically cancelled (70) days after its expiration, unless the Surety is notified in writing within said period of any existing obligations thereunder. It is hereby further agreed and understood that no action at law or equity shall be brought against the Surety under this Bond unless the same is brought before a competent Court within one year from the date said written notice of any existing obligations is received by the Surety, as herein stipulated.

IN WITNESS WHEREOF, we have set our hands and signed our names on this 4th day of June, 2013, at Manila City, Philippines.

WITNESSES:

MULTI-FOLD LINKS, INC.  
BY:

ARLENE P. SOLITARIO  
Chief Operating Officer  
Principal

PLARIDEL SURETY AND INSURANCE COMPANY

MR. GREGORIO A. RIVQ, JR.  
Branch Manager

ATTEST:

**PLARIDEL SURETY AND INSURANCE COMPANY**

Suite 2502, 25th Floor, 88 Corporate Center, Sedeño cor. Valero Sts., Salcedo Vill., Makati City  
 Tel. Nos.: 889-8101 to 03 Fax No. 752-1504  
 TIN: 000-489-789-000 VAT

**OFFICIAL RECEIPT A No 0654979**

Received from Multi-fold Links, Inc. June 4, 2013

Address \_\_\_\_\_ Business Style \_\_\_\_\_

Amount of pesos Three Thousand Seven Hundred Sixty  
Five & 1/100 only  
3,765.41 in payment of the following

	PESOS	QTS
Premium <u>1113)-03341</u> Policy No. _____	P <u>2,618</u>	<u>61</u>
Renewal Certificate No. _____		
Invoice No. _____		
from _____ to _____		
Documentary Stamps (12.5%) _____	<u>327</u>	<u>33</u>
Service Tax (2%) _____		
Premium Tax (5%) / E-VAT (12%) _____	<u>314</u>	<u>33</u>
Local Gov't Tax (20%) _____	<u>5</u>	<u>24</u>
Facultative Account due from _____		
Facultative Account due to _____	<u>500</u>	<u>00</u>
Others: _____		
Return Premium per Endt. No. _____		
Others: _____		
Table _____		
Exempt Sale _____		
Zero Rated Sale _____		
Taxable Sale _____		
Value Added Tax _____		
Total Payment _____	P <u>3,765</u>	<u>41</u>

PLARIDEL SURETY AND INSURANCE CO.

By: [Signature]  
 Cashier

WARRANTED NO KNOWN LOSS PRIOR TO THE ISSUANCE OF THIS RECEIPT

Ink and Paper Printing 673 M. dela Fuente St. Sampaloc, Manila  
 10,000 Bkts. (50x5) A 0250,001-A 0750,000 BIR Permit # 1AU0000825872 4-04-2012  
 BE ISSUED FOR NON-VAT/EXEMPT SALE OF GOODS PROPERTIES OR SERVICES IF ISSUED SALES SHALL BE SUBJECT TO 12% VAT

DEPARTMENT OF BUDGET  
 AND MANAGEMENT  
 BIDS AND AWARDS COMMITTEE  
 RECEIVED BY: [Signature]  
 DATE: 6/5/13  
 TIME: 2:05 PM

**CLIENT'S COPY**

[Handwritten marks]

Reg. 2012/50-R  
10/12/2012



Republic of the Philippines  
Department of Finance  
INSURANCE COMMISSION

**KATIBAYAN NG PAGKAMATKAPANGYARIHAN  
CERTIFICATE OF AUTHORITY**

ITOG AY PATURAY SA : **PLARIDEL SURETY & INSURANCE COMPANY  
NG LUNGSOD NG MAKATI, PILIPINAS**

para sa **DI-REHAY  
NON-LIFE  
OYRE, MARINE, CASUALTY & SURETY**

na kompaniya ng seguro ng pagkamatkapan ng lahat ng mga kalat, pang-ayon ng batas  
insurance company of all risks and all agreements of law

na Pinaglabanan ng gawing mga kompaniya ng seguro, kung kaya pinaglabanan  
of the Philippines and other countries and it is hereby granted

ang **KATIBAYAN NG PAGKAMATKAPANGYARIHAN** upang mapagpatibayan ng  
this **CERTIFICATE OF AUTHORITY** to transact

ang mga negosyo ng seguro ng pagkamatkapan ng lahat ng mga kalat, pang-ayon ng batas  
all lines of insurance of all risks and all agreements of law

na may lugar ng negosyo sa Makati, Lungsod ng Makati  
with office in Makati, City of Makati

na may mga negosyo sa Makati, Lungsod ng Makati  
with office in Makati, City of Makati

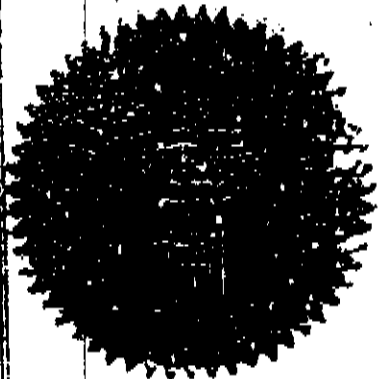
Ang **KATURAYAN** NITO, inilagay ko sa aking pangalan  
I have hereunto subscribed my name

sa aking opisyal na Tatak ng aking Tungkulan  
with my Official Seal to be attested

sa Lungsod ng Maynila, Pilipinas, noyong Mayo 2012  
in the City of Manila, Philippines, this 20th day of May 2012

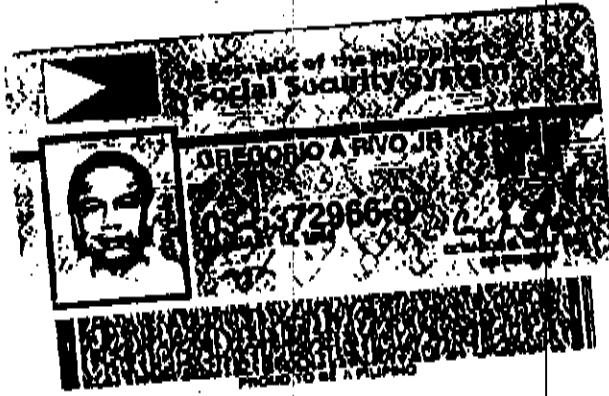
Emmanuel F. Inoc  
July 2012

*Emmanuel F. Inoc*  
**EMMANUEL F. INOC**  
Insurance Commissioner



070212

*[Handwritten signature]*



*[Handwritten Signature]*  
MR. GREGORIO A. RIVO JR.  
Branch Manager

*[Handwritten Signature]*





REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF BUDGET AND MANAGEMENT  
MALACAÑANG, MANILA

**NOTICE TO PROCEED**

**MS. ARLYN L. SOLITARIO**  
Chief Operating Officer  
Multi-Fold Links, Inc.  
Platinum 2000 Building,  
#7 Annapolis St., Greenhills  
San Juan City

Dear **Ms. Solitario:**

This is to inform you that performance of the obligations specified in the attached Contract for the project, "Comprehensive Network Management Tool (AXENCE nVision)" shall commence upon receipt of this Notice to Proceed.

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 the Department of Budget and Management.

Very truly yours,

  
**FLORENCIO B. ABAD**  
*Secretary*

**CERTIFIED TRUE COPY**

Received by:  
Name and Signature : ARLYN L. SOLITARIO  
Designation : Chief Operating Officer  
Date : \_\_\_\_\_

