

INTERNAL MEMO

FOR : **ARISTOTLE E. GUERRERO, VP-RMOSD**
FROM : **ATTY. JOANNA EILEEN M. CAPONES, VP-IPMD**
ANA TRINA A. SULIT, CAS-IPMD
DATE : **15 FEBRUARY 2021**
SUBJECT : **TURN-OVER OF DOCUMENTS RE CLARK VIDEO PRODUCTION**

The BCDA Investment Promotions and Marketing Department (IPMD) is respectfully submitting the following documents in relation to the procurement of a consultant for the Clark Video Production, to wit:

- (A) Contract, GCC, SCC
Annex A: Manual of Approval,
Annex B: DDB Philippines Inc., Secretary's Certificate
- (B) Notice of Award
- (C) OGCC Review
- (D) Terms of Reference
- (E) BAC-C Resolution No. BC-2020-049 (Declaration of Bidder with the Highest Rated and Responsive Bid)
- (F) Performance Securing Declaration
- (G) Request for Expression of Interest
- (H) Bidding Documents
- (I) Schedule of Requirements/Activity (Work) Schedule

For RMOSD safekeeping. Thank you.

INTERNAL MEMO

FOR : **MS. AILEEN AN. R. ZOSA** *de Zosa 01-26-2021*
Executive Vice President

FROM : **JOANNA EILEEN M. CAPONES** *Joanna*
VP, Investment Promotions and Marketing Department (IPMD)

ANA TRINA A. SULIT *Trina*
Creative Arts Specialist, IPMD

DATE : **11 January 2021**

SUBJECT : Notice to Proceed for the Consulting Services for the Clark
Video Production

We endorse, for the Executive Vice President's approval, the attached Notice to Proceed for **DDB Philippines Inc.**, for the consulting services for the Clark Video Production.

For the Executive Vice President's consideration and approval, please.

Thank you.

Attachment/s:

- (1) Notice to Proceed
- (2) Notice of Award
- (3) BAC-C Resolution No. BC-2020-049 (Declaration of Bidder with the Highest Rated and Responsive Bid)
- (4) LSG Contract Review
- (5) Terms of Reference

18 January 2021

JUDD B. BALAYAN

Group Chief Financial Officer

DDB Philippines Inc.

22 Upper McKinley Road, McKinley Hill,
Fort Bonifacio, Taguig City

Subject: NOTICE TO PROCEED
For the CONSULTING SERVICES FOR THE
CLARK VIDEO PRODUCTION

Dear **Mr. Balayan:**

Please be informed that notice is hereby given to DDB PHILIPPINES INC. to proceed, within seven (7) calendar days from the receipt hereof, with the implementation of the provisions of the Contract for the Consulting Services for the Clark Video Production.

Please advise this Office of the actual date of commencement of your services within three (3) days from the receipt of this Notice.

We look forward to a mutually beneficial relationship with you.

Very truly yours,



AILEEN ANUNCIACION R. ZOSA
Executive Vice President

Conforme:



MR. JUDD B. BALAYAN
Group Chief Financial Officer
Date: January 29, 2021

NOTICE OF AWARD

29 December 2020

Judd B. Balayan
Group Chief Financial Officer
DDB Philippines Inc.
16F TWO WORLD SQUARE
22 Upper Mckinley Road, Mckinley Hill,
Fort Bonifacio, Taguig City

Dear **Mr. Balayan**:

We are pleased to inform you that the contract for the CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION is hereby awarded to DDB Philippines, Inc. at a contract price of Pesos: Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees, reckoned from the date stated in the Notice to Proceed to be issued to the Consultant.

In this regard, you are hereby required, within 10 calendar days from receipt of this Notice of Award to: 1) formally enter into contract with BCDA, provided that all documentary requirements are complied with; and 2) Submit the performance security in the form and amount stipulated in the Instruction to Bidders, which shall be posted in favor of BCDA and with validity until the issuance of the Certificate of Completion.


Failure to enter into the said contract or provide the performance security shall constitute sufficient grounds for cancellation of the award and forfeiture of the bid security.

Please indicate your concurrence by signing on the space below "Conforme" and return the same upon signing.

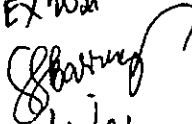
Very truly yours,


AILEEN ANUNCIACION R. ZOSA
Executive Vice President

Conforme:


Judd B. Balayan
Group Chief Financial Officer
DDB Philippines Inc.

Date: _____

EX 1021 - 0066

1/6/21
5:00 pm

BACC2020-0228

BAC-C RESOLUTION NO. BC2020-049

DECLARATION OF HIGHEST RATED AND RESPONSIVE BID (HRRB)

CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION

WHEREAS, BCDA approved the procurement of the above consulting service with an Approved Budget for the Contract (ABC) in the amount of **FOUR MILLION PESOS (PHP4,000,000.00)**, inclusive of all applicable taxes and fees, to commence upon receipt of the Notice to Proceed (NTP).

WHEREAS, On 25 November 2020, the Bids and Award Committee for Consulting Services (BAC-C) advertised the Request for Expression of Interest for the **CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION** in the BCDA Website, PhilGEPS and in a conspicuous place in the premises of BCDA continuously for seven (7) days.;

WHEREAS, Pursuant to the approved BAC-C Resolution No. BC2020-046 dated 23 December 2020, DDB Philippines Inc. was declared as the Highest Rated Bid (HRB) for the **CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION**. Likewise, the said resolution resolved to proceed with the opening of financial proposal and negotiation with the HRB;

WHEREAS, On 23 December 2020, the BAC-C proceeded with the opening and evaluation of the Financial Proposal of DDB Philippines Inc. in the amount of Pesos: Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees was found to be within the Approved Budget for the Contract (ABC).

WHEREAS, on 23 December 2020, the BAC-C proceeded with the negotiation regarding the Terms of Reference (TOR), scope of services and provisions of the contract pursuant to Section 33.2.5 of the revised IRR of RA 9184;

WHEREAS, after the conduct of successful negotiation, pursuant further to RA 9184 revised IRR, the Technical Working Group (TWG) conducted post-qualification activities to verify, validate and ascertain all statements made and the documents submitted by the HRB;

WHEREAS, on 28 December, 2020, the results of the post qualification activities conducted by the TWG are as follows:

1. The official address of DDB Philippines Inc. at 16F TWO WORLD SQUARE, 22 Upper Mckinley Road, Mckinley Hill, Fort Bonifacio, Taguig City as validated during an ocular visit at the office.
2. DDB Philippines Inc. is compliant with the labor laws such as the latest payment to SSS, PhilHealth, and Pag-ibig Fund, upon verification of original copies of Class A legal documents. Supporting documents for completed and on-going projects were also found to be legitimate.
3. The nominated key personnel have sufficient work experiences as stated in their curriculum vitae based on the conduct of interviews through on-line platforms (google meet/zoom) and phone calls.

4. Previous clients have positive feedback on the performance of DDB Philippines Inc. when verified through phone calls.

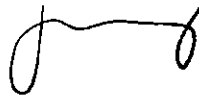
WHEREAS, The BACC-TWG members and its provisional members recommended to declare the bid of DDB Philippines Inc. as Highest Rated and Responsive Bid (HRRB).

NOW, THEREFORE, after deliberation and premises considered, we, the members of the Bids and Awards Committee for Consulting Services, hereby RESOLVE, as it is hereby RESOLVED to:

1. DECLARE DDB Philippines Inc. as the bidder with the Highest Rated and Responsive Bid (HRRB) for the CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION;
2. AWARD the Contract to DDB Philippines Inc. in the amount of Pesos: Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees; and
3. Require the end user to furnish the BAC-C Secretariat original copies of the duly conformed Notice of Award, Executed Contract and Notice to Proceed.

Done in Taguig City this 29th day of December 2020.

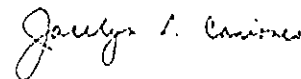
BIDS AND AWARDS COMMITTEE FOR CONSULTING SERVICES



JOSHUA M. BINGCANG
Chairperson

-on leave-

JOANNA EILEEN M. CAPONES
Vice-Chairperson



JOCELYN L. CANIONES
Member



VIRGIL M. ALVAREZ
Member



MADONNA M. CINCO
Member

Approved by:



AILEEN ANUNCIACION B. ZOSA
Executive Vice President

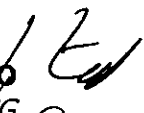
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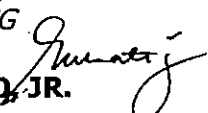
LSG CONTRACT REVIEW NO. 2020-061


FOR : **MICHELLE SAN JUAN-DE VERA**
Marketing and Promotions Officer, IPMD

ANA TRINA A. SULIT
Creative Arts Specialist, IPMD

THRU : **JOANNA EILEEN M. CAPONES**
Vice-President, IPMD

ELVIRA V. ESTANISLAO 
Senior Vice-President, LSG

EDILBERTO R. REBATO, JR. 
Officer-in-Charge, LSD

FROM : **MARICEL C. CORONACION-SANTOS** 
Attorney V, LSD

DATE : **10 DECEMBER 2020**

SUBJECT : **REQUEST FOR REVIEW OF THE DRAFT CONTRACT FOR CONSULTING SERVICES FOR THE PRODUCTION OF THE CLARK VIDEO**

REFERENCE:

Endorsed to LSG for review are the draft Contract, General and Special Conditions of Contract related to the procurement of Consulting Services for the Production of the Clark Video.

BACKGROUND:

The development of Clark is one of BCDA's flagship projects. To drive a certain level of awareness and interest from international investors, BCDA believes that it needs to aggressively communicate what makes Clark really stand out today even in this time of pandemic and how it is preparing for the future. Thus, as a follow-up on the brand campaign video called "Clark: It Works. Like a Dream.", BCDA, through the IPMD, will be procuring the services of a consultant for the production of an audio visual presentation (AVP) that is aligned with the previous video but also captures Clark's resiliency, thriving business community, sustainability features and other relevant developments, not only in sports, health and wellness.

The procurement of the consulting services for the production of the Clark Video shall be pursuant to the provisions of Republic Act (RA) No. 9184 and its Revised Implementing Rules and Regulations (IRR). The Project has an approved budget of Four Million Pesos (PhP4,000,000.00), inclusive of any and all applicable taxes, fees and expenses.

COMMENTS:

The documents endorsed for review are found to be in order. The GCC for Consulting Services was correctly adopted and no revisions were made thereto. On the other hand, the SCC embodies sufficient details to supplement the GCC although we have some minor modifications in the said document. Furthermore, we noticed that the Terms of Reference, which is an essential document for the subject procurement, is missing. Hence, we trust that prior to the procurement/bidding, the said document has already been provided. As regards the draft Contract, we proposed some revisions for your consideration. Attached is the draft Contract with our proposed revisions.

**CONTRACT FOR CONSULTING SERVICES
FOR THE CLARK VIDEO PRODUCTION**

This **CONTRACT** is executed between:

BASES CONVERSION AND DEVELOPMENT AUTHORITY, a government instrumentality vested with corporate powers, created by virtue of Republic Act No. 7227, as amended, with principal office address at the BCDA Corporate Center, 2nd Floor Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, represented herein by its Executive Vice President and Chief Operations Officer, **AILEEN ANUNCIACION R. ZOSA**, duly authorized for this purpose under Item 178 of the revised Manual of Approval which was approved by the BCDA Board on 22 November 2017, a copy of which is hereto attached as **Annex "A"**, hereinafter referred to as "**BCDA**";

- and -

The (**Name of Consulting Firm**), a private corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at (*address of the consulting firm*), represented herein by (**Consultant's Authorized Representative**), duly authorized for this purpose as evidenced by a *Secretary's Certificate* dated (*date of the submitted secretary's certificate*), a copy of which is hereto attached as **Annex "B"**, hereinafter referred to as "**Consultant**".

BCDA and Consultant shall hereinafter be referred to, individually, as Party or, collectively, as Parties.

ANTECEDENTS

Republic Act (RA) No. 7227, as amended, mandates the BCDA to accelerate the sound and balanced conversion into alternative productive civilian uses of the Clark and Subic military reservations and their extension, and to enhance the benefits to be derived from said properties in order to promote the economic and social development of Central Luzon in particular and the country in general as well as to provide funds for the AFP Modernization Program.

In 2018, the Bases Conversion and Development Authority (BCDA) launched the rebranded Clark, aggressively positioning Clark as Asia's next investment, lifestyle and outdoor destination. One of Clark's strategic location and access to vital infrastructure is New Clark City. BCDA developed an updated, global, strong and holistic brand concept, positioning an identity for Clark, which covers the Freeport Zone, International Airport, New Clark City and Clark Global City.

The procurement of the services of the Consultant is undertaken through [mode of procurement] pursuant to Republic Act No. 9184 and its Revised Implementing Rules and Regulations.

The Bids and Awards Committee for Consulting Services issued Resolution No. _____ dated _____ recommending the award of the Contract to _____ in the amount of Pesos: _____ (PhP _____), inclusive of all applicable taxes and fees, after having been determined that it has complied with and is responsive to all the requirements and conditions in the Terms of Reference of the Project.

BCDA is desirous that the Consultant perform the Contract for Consulting Services for the Clark Video Production (hereinafter called the "Project") and thus, BCDA has accepted the ~~proposal~~ bid for (***Specify winning bid price in words***) (*winning bid price in figures*) by the Consultant for the execution and completion of such Consulting Services and the remedying of any defects therein.

ACCORDINGLY, for and in consideration of the foregoing premises, and in accordance with the stipulations and conditions hereinafter stated, the Parties hereby agree and bind themselves to the following:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Agreement, to wit:
 - (a) General Conditions of Contract;
 - (b) Special Conditions of the Contract;
 - (c) Terms of Reference and/or Technical Specifications;
 - (d) Request for Proposal;
 - (e) Bid Form and Price Schedule;
 - (f) Schedule of Requirements;
 - (g) Notice of Award of Contract and the Bidder's *conforme* thereto; and
 - (h) Performance Security.
3. In consideration of the full and satisfactory performance of the services rendered by the Consultant, BCDA shall pay the Consultant the Total Contract Price of (***Bid Amount in Words***) (***Bid Amount in Figure***), inclusive of applicable taxes and fees.
4. In consideration of the payments to be made by the BCDA to the Consultant as hereinafter mentioned, the Consultant hereby covenants with the BCDA to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Contract in all respects.
5. The BCDA hereby covenants to pay the Consultant in consideration of the execution and completion of the Consulting Services the amount of Pesos: [Contract Price in words] [Contract Price in figures].
6. The invalidity or unenforceability of a provision of this Contract shall not affect the validity or enforceability of its other provisions which shall remain valid and effective.
7. Amendments to this Contract shall only be made upon mutual written agreement of the parties subject to the review and approval of the Office of the Government Corporate Counsel. Any of its ensuing comments, recommendations or directives shall form part of this Contract.

8. The failure of one Party to insist upon a strict performance of any of the terms, conditions and covenants hereof shall not be deemed a relinquishment or waiver of any right/remedy that said party may have, nor shall it be construed as a waiver of any subsequent breach of the same or other terms, conditions or covenants. No waiver by any one Party or any of its rights under this Contract shall be deemed to have been made unless expressed in writing and signed by that Party.
9. This Contract shall take effect upon the issuance of Notice to Proceed and shall remain in force and effect for until all the requirements specified in the Terms of Reference have been submitted.

SIGNED BY THE PARTIES on _____ in Taguig City, Philippines.

BASES CONVERSION AND DEVELOPMENT AUTHORITY

By:

By:

AILEEN ANUNCIACION R. ZOSA
Executive Vice President

Authorized Representative

Signed in the presence of:

JOANNA EILEEN M. CAPONES

ACKNOWLEDGMENT

Republic of the Philippines)
Taguig City) ss.

BEFORE ME, a Notary Public for and in Taguig City, personally appeared the following:

Name	Government Issued ID	Date of Issue / Expiry	Place of Issue
Aileen Anunciacion R. Zosa			

who are personally known to me and who represented to me that they are the same persons to be the same persons who signed and executed the foregoing Consulting Services Contract and acknowledged to me that the same is their voluntary act and deed as well as of the entities herein represented.

I further certify that said Consulting Services Contract consists of ____ (____) pages including the page whereon the Acknowledgment is written and signed by the above-signed individuals and their witnesses.

SIGNED AND SEALED on _____ in Taguig City, Philippines.

Doc. No. ____
Page No. ____
Book No. ____
Series of 2020.

GENERAL CONDITIONS OF CONTRACT

1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Philippines as they may be issued and enforced from time to time.
 - (b) “Consultant” refers to the short listed consultant with the HRRB determined by the Procuring Entity as such in accordance with the ITB.
 - (c) “Consulting Services” refer to services for Infrastructure Projects and other types of projects or activities of the Government of the Philippines (GoP) requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the Procuring Entity to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies.
 - (d) “Contract” means the agreement signed by the Parties, to which these General Conditions of Contract (GCC) and other sections of the Bidding Documents are attached.
 - (e) “Effective Date” means the date on which this Contract comes into full force and effect.
 - (f) “Foreign Currency” means any currency other than the currency of the Philippines.
 - (g) “Funding Source” means the entity indicated in the **SCC**.
 - (h) “GCC” means these General Conditions of Contract.
 - (i) “Government” means the Government of the Philippines (GoP).
 - (j) “Local Currency” means the Philippine Peso (Php).

- (k) "Member," in case the Consultant is a Joint Venture (JV) of two (2) or more entities, means any of these entities; and "Members" means all these entities.
- (l) "Party" means the Procuring Entity or the Consultant, as the case may be, and "Parties" means both of them.
- (m) "Personnel" means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof; "Foreign Personnel" means such persons who at the time of being so hired had their domicile outside the Government's country; "Local Personnel" means such persons who at the time of being so hired had their domicile inside the Philippines; and "Key Personnel" means the Personnel referred to in **GCC** Clause 39.
- (n) "Procuring Entity" refers to any branch, constitutional commission or office, agency, department, bureau, office or instrumentality of the Government, including GOCC, GFI, SUC, LGU, and autonomous regional government procuring Goods, Consulting Services, and Infrastructure Projects.
- (o) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (p) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix I.
- (q) "Subconsultant" means any person or entity to whom/which the Consultant subcontracts any part of the Services in accordance with the provisions of **GCC** Clause 50.
- (r) "Third Party" means any person or entity other than the Government, the Procuring Entity, the Consultant or a Subconsultant.

2. Headings

The headings shall not limit, alter or affect the meaning of this Contract.

3. Location

The Services shall be performed at such locations as are specified in Appendix I and, where the location of a particular task is not so specified, at such locations, whether in the Philippines or elsewhere, as the Procuring Entity may approve.

4. Law Governing Contract and Services

- 4.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 4.2 The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Subconsultant, as well as the Personnel of the Consultant and any Subconsultant, complies with the Applicable Law. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.
- 4.3 If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased on a no loss-no gain basis, and corresponding adjustments shall be made to the ceiling amounts specified in GCC Clause 52, provided that the cost is within the Approved Budget for the Contract (ABC).

5. Language

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.

6. Consultants and Affiliates Not to Engage in Certain Activities

- 6.1 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Subconsultant and any entity affiliated with such Subconsultant, shall be disqualified from providing goods, works, or consulting services for any project resulting from or closely related to this Contract other than the

Services and any continuation thereof provided there is no current or future conflict.

6.2 The Consultant shall not engage, and shall cause their Personnel as well as their Subconsultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the **SCC**.

7. Authority of Member in Charge

In case the Consultant is a JV, the Members hereby authorize the entity specified in the **SCC** to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

8. Resident Project Manager

If required by the **SCC**, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the Government's country, a resident project manager, acceptable to the Procuring Entity, shall take charge of the performance of such Services.

9. Entire Agreement

This Contract, including the documents specified in Section 37.2.3 of the IRR of RA 9184, contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make any statement, representation, promise, or agreement not set forth herein of which the Parties shall not be bound by or be liable for.

10. Modification

Unless otherwise specified in the **SCC**, no modification of the terms and conditions of this Contract, including any modification of the scope of the Services shall be allowed. Pursuant to **GCC** Clause 14 hereof,

however, each Party shall give due consideration to any proposal for modification made by the other Party.

11. Relationship of Parties

11.1 Nothing contained herein shall be construed as establishing a relation of employer and employee or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of its Personnel and Subconsultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

11.2 The Consultant shall during the performance of the Services be an independent contractor, retaining complete control over its Personnel, conforming to all statutory requirements with respect to all its employees, and providing all appropriate employee benefits.

12. Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the **SCC**.

13. Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

14. Operation of the Contract

The Parties recognize that it is impractical for this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them; and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties shall use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with **GCC** Clause 34 hereof.

15. Notices

15.1 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.

15.2 Notice shall be deemed to be effective as specified in the SCC.

15.3 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 with respect to **GCC** Clause 15.2.

16. Warranty as to Eligibility

16.1 The Consultant represents, warrants, and confirms that it, as well as its Subconsultant, if any, is eligible, *i.e.*, has the legal personality to act as a consultant in accordance with Part I, Section II. issued for this project.

16.2 The Consultant shall fulfill its obligations under this Contract by using knowledge according to the best accepted professional standards. The Consultant shall exercise all reasonable skill, care and diligence in the discharge of duties agreed to be performed and shall work in the best interest of the GoP.

17. Confidentiality

Except with the prior written consent of the Procuring Entity, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services. For purposes of this clause, "confidential information" means any information or knowledge acquired by the Consultant and/or its Personnel arising out of, or in connection with, the performance of the Services under this Contract that is not otherwise available to the public.

18. Payment

18.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make to the Consultant such payments and in such manner as is provided by **GCC** Clause 53 of this Contract. However, the Procuring Entity may refuse to make payments when the terms and conditions of the contract are not satisfactorily performed by the Consultant.

18.2 Subject to the ceilings specified in **GCC** Clause 52 hereof, the Procuring Entity shall pay to the Consultant: (i) remuneration as set forth in **GCC** Clause 53.2; and (ii) reimbursable expenditures as set forth in **GCC** Clause 53.4. Said remuneration shall not be subject to price adjustment.

18.3 All payments under this Contract shall be made to the account of the Consultant specified in the **SCC**.

19. Currency of Payment

Unless otherwise specified in the **SCC**, all payments shall be made in Philippine Pesos.

20. Liability of the Consultant

Subject to additional provisions, if any, set forth in the **SCC**, the Consultant's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.

21. Insurance to be Taken Out by the Consultant

21.1 The Consultant, at its own cost, shall be responsible for taking out or maintaining any insurance policy against any risk related to the project.

21.2 The Procuring Entity undertakes no responsibility in respect of life, health, accident, travel or any other insurance coverage for the Personnel or for the dependents of any such Personnel.

22. Effectivity of Contract

The contract effectivity date shall be the date of contract signing, provided that the effectiveness of the conditions, if any, listed in the **SCC** have been met.

23. Commencement of Services

The Consultant shall begin carrying out the Services starting from the effectivity date of this Contract, as mentioned in **GCC** Clause 22.

24. Expiration of Contract

Unless sooner terminated pursuant to **GCC** Clauses 27 or 28 hereof, this Contract shall terminate at the end of such time period after the effectivity date as shall be specified in the **SCC**.

25. Force Majeure

25.1 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 Consultant 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 Consultant.

25.2 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of force majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

25.3 Unless otherwise agreed herein, force majeure shall not include:

- (a) any event which is caused by the negligence or intentional action of a Party or such Party’s Subconsultants or agents or employees;
- (b) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder;
- (c) insufficiency of funds or failure to make any payment required hereunder; or

(d) the Procuring Entity's failure to review, approve or reject the outputs of the Consultant beyond a reasonable time period.

25.4 A Party affected by an event of force majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder immediately or within a reasonable time.

25.5 A Party affected by an event of force majeure shall notify the other Party of such event as soon as possible, and in any event not later than fifteen (15) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

25.6 The Parties shall take all reasonable measures to minimize the consequences of any event of force majeure.

25.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a direct and proximate result of force majeure.

25.8 During the period of their inability to perform the Services as a direct and proximate result of an event of force majeure, the Consultant shall be entitled to continue receiving payment under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period, provided that such costs are still within the total contract price. However, the foregoing provision shall not apply if the Procuring Entity suspends or terminates this Contract in writing, notice thereof duly received by the Consultant, pursuant to GCC Clauses 26 and 27 hereof with the exception of the direct and proximate result of force majeure.

25.9 Not later than fifteen (15) days after the Consultant, as the direct and proximate result of an event of force majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures considering the circumstances.

25.10 In the case of disagreement between the parties as to the existence, or extent of force majeure, the matter shall be

submitted to arbitration in accordance with GCC Clause 34 hereof.

26. Suspension

26.1 The Procuring Entity shall, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fail to perform any of their obligations due to their own fault or due to force majeure or other circumstances beyond the control of either party (*e.g.* suspension of civil works being supervised by the consultant) under this Contract, including the carrying out of the Services, provided that such notice of suspension:

- (a) shall specify the nature of the failure; and
- (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

26.2 The Consultant may, without prejudice to its right to terminate this Contract pursuant to **GCC** Clause 28, by written notice of suspension, suspend the Services if the Procuring Entity fails to perform any of its obligations which are critical to the delivery of the Consultant's services such as, non-payment of any money due the Consultant within forty-five (45) days after receiving notice from the Consultant that such payment is overdue.

27. Termination by the Procuring Entity

27.1 The Procuring Entity shall terminate this Contract when any of the following conditions attends its implementation:

- (a) Outside of force majeure, the Consultant fails to deliver or perform the Outputs and Deliverables 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 Consultant prior to the delay;
- (b) As a result of force majeure, the Consultant is unable to deliver or perform a material portion of the Outputs and Deliverables for a period of not less than sixty (60) calendar days after the Consultant's receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased;

- (c) In whole or in part, at any time for its convenience, the HoPE may terminate the Contract for its convenience 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;
- (d) If the Consultant is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction; in which event, termination will be without compensation to the Consultant, 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 Consultant;
- (e) In case it is determined prima facie that the Consultant has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following: corrupt, fraudulent, collusive, coercive, and obstructive practices; drawing up or using forged documents; using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and any other act analogous to the foregoing. For purposes of this clause, corrupt, fraudulent, collusive, coercive, and obstructive practices shall have the same meaning as that provided in **ITB** Clause 3.1
- (f) The Consultant fails to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to GCC Clause 15.2 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Procuring Entity may have subsequently approved in writing;
- (g) The Consultant's failure to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 34 hereof; or
- (h) The Consultant fails to perform any other obligation under the Contract.

27.2 In case of termination, written notice shall be understood to mean fifteen (15) days for short term contracts, *i.e.*, four (4) months or less, and thirty (30) days for long term contracts.

28. Termination by the Consultant

The Consultant must serve a written notice to the Procuring Entity of its intention to terminate this Contract at least thirty (30) calendar days before its intended termination. This Contract is deemed terminated if no action has been taken by the Procuring Entity with regard to such written notice within thirty (30) calendar days after the receipt thereof by the Procuring Entity. The Consultant may terminate this Contract through any of the following events:

- (a) The Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within sixty (60) calendar days following its receipt of the Consultant's notice specifying such breach;
- (b) The Procuring Entity's failure to comply with any final decision reached as a result of arbitration pursuant to **GCC** Clause 34 hereof
- (c) As the direct and proximate result of force majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) The Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to **GCC** Clause 32 hereof within eighty four (84) days after receiving written notice from the Consultant that such payment is overdue.

29. Procedures for Termination of Contracts

The following provisions shall govern the procedures for the 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 Procuring Entity 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 Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Consultant conveying such termination. The notice shall state:
 - (i) that the contract is being terminated for any of the ground(s) afore-mentioned, 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 Consultant to show cause as to why the contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;

- (c) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Consultant shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Consultant fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
- (d) The Procuring Entity may, at anytime before receipt of the Consultant's verified position paper to withdraw the Notice to Terminate if it is determined that certain services subject of the notice had been completed or performed before the Consultant's receipt of the notice;
- (e) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Consultant of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Consultant of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- (f) The HoPE 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 HoPE.

30. Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to **GCC** Clauses 27 or 28 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by **GCC** Clauses 35 or 36 hereof.

31. Payment Upon Termination

Upon termination of this Contract pursuant to **GCC** Clauses 27 or 28 hereof, the Procuring Entity shall make the following payments to the Consultant:

- (a) remuneration pursuant to **GCC** Clause 53 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to **GCC** Clause 53 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) in the case of termination pursuant to **GCC** Clause 27(b) hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel and their eligible dependents.

32. Disputes about Events of Termination

If either Party disputes whether an event specified in **GCC** Clause 27.1 or in **GCC** Clause 28 hereof has occurred, such Party may refer the matter to arbitration pursuant to **GCC** Clause 34 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

33. Cessation of Rights and Obligations

Upon termination of this Contract pursuant to **GCC** Clauses 27 or 28 hereof, or upon expiration of this Contract pursuant to **GCC** Clause 24, all rights and obligations of the Parties hereunder shall cease, except:

- (a) such rights and obligations as may have accrued on the date of termination or expiration;

- (b) the obligation of confidentiality set forth in **GCC** Clause 17 hereof; and
- (c) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Clauses 51(b) and 51(c) hereof, any right which a Party may have under the Applicable Law.

34. Dispute Settlement

- 34.1 If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with the implementation of this Contract, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 34.2 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in accordance with the rules of procedure specified in the **SCC**.

35. Documents Prepared by the Consultant and Software Developed to be the Property of the Procuring Entity

- 35.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract shall become and remain the property of the Procuring Entity, and the Consultant shall, prior to termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. The plans, drawings, specifications, designs, reports, other documents and software, including restrictions on future use of such documents and software, if any, shall be specified in the **SCC**.
- 35.2 All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Procuring Entity; provided, however, that the Consultant may use such programs for its own use with prior written approval of the Procuring Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements. In such cases, the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

36. Equipment and Materials Furnished by the Procuring Entity

Equipment and materials made available to the Consultant by the Procuring Entity, or purchased by the Consultant with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure it at the expense of the Procuring Entity in an amount equal to their full replacement value.

37. Services, Facilities and Property of the Procuring Entity

The Procuring Entity shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix V at the terms and in the manner specified in said appendix, provided that if such services, facilities and property shall not be made available to the Consultant as and when so specified, the Parties shall agree on:

- (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services;
- (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources; and
- (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to **GCC** Clause 52 hereinafter which should be within the agreed contract ceiling.

38. Consultant's Actions Requiring Procuring Entity's Prior Approval

The Consultant shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in Appendix III merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood that:
 - (i) the selection of the Subconsultant and the terms and conditions of the subcontract shall have been approved in

writing by the Procuring Entity prior to the execution of the subcontract; and

- (ii) the Consultant shall remain fully liable for the performance of the Services by the Subconsultant and its Personnel pursuant to this Contract;
- (c) replacement, during the performance of the contract for any reason, of any Personnel as listed in Appendix III of this Contract requiring the Procuring Entity's prior approval; and
- (d) any other action that may be specified in the **SCC**.

39. Personnel

- 39.1 The Consultant shall employ and provide such qualified and experienced Personnel and Subconsultants as are required to carry out the Services.
- 39.2 The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix III.
- 39.3 The Key Personnel and Subconsultants listed by title as well as by name in Appendix III are hereby approved by the Procuring Entity. In respect of other Key Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their biographical data and, in the case of Key Personnel to be assigned within the GoP, a copy of a satisfactory medical certificate attached as part of Appendix III. If the Procuring Entity does not object in writing; or if it objects in writing but fails to state the reasons for such objection, within twenty-one (21) calendar days from the date of receipt of such biographical data and, if applicable, such certificate, the Key Personnel concerned shall be deemed to have been approved by the Procuring Entity.
- 39.4 The Procuring Entity may request the Consultants to perform additional services not covered by the original scope of work but are determined by the Procuring Entity to be critical for the satisfactory completion of the Services, subject to **GCC** Clause 55.6.

- 39.5 No changes shall be made in the Key Personnel, except for justifiable reasons as may be determined by the Procuring Entity, as indicated in the **SCC**, and only upon prior approval of the Procuring Entity. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications. If the Consultant introduces changes in Key Personnel for reasons other than those mentioned in the **SCC**, the Consultant shall be liable for the imposition of damages as described in the **SCC**.
- 39.6 Any of the Personnel provided as a replacement under **GCC** Clauses 39.5 and 39.7, the rate of remuneration applicable to such person as well as any reimbursable expenditures the Consultant may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Procuring Entity. Except as the Procuring Entity may otherwise agree, the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.
- 39.7 If the Procuring Entity finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action as defined in the Applicable Law, or has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Procuring Entity's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.

40. Working Hours, Overtime, Leave, etc.

- 40.1 Working hours and holidays for Key Personnel are set forth in Appendix III. Any travel time prior to and after contract implementation shall not be considered as part of the working hours.
- 40.2 The Key Personnel shall not be entitled to claim payment for overtime work, sick leave, or vacation leave from the Procuring Entity since these items are already covered by the Consultant's remuneration. All leaves to be allowed to the Personnel are included in the staff-months of service set forth in Appendix III.

Taking of leave by any Personnel should not delay the progress and adequate supervision of the Services.

- 40.3 If required to comply with the provisions of **GCC** Clause 43.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix III may be made by the Consultant by prior written notice to the Procuring Entity, provided that:
- (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%); and
 - (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in **GCC** Clause 52.1 of this Contract. Any other such adjustments shall only be made with the Procuring Entity's prior written approval.

41. Counterpart Personnel

- 41.1 If so provided in Appendix III hereto, the Procuring Entity shall make available to the Consultant, as and when provided in such Appendix III, and free of charge, such Counterpart Personnel to be selected by the Procuring Entity, with the Consultant's advice, as shall be specified in such Appendix III. Counterpart Personnel shall work with the Consultant. If any member of the Counterpart Personnel fails to perform adequately any work assigned to such member by the Consultant which is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.
- 41.2 The responsibilities of the Counterpart Personnel shall be specified in Appendix III, attached hereto, and the Counterpart Personnel shall not perform any work beyond the said responsibilities.
- 41.3 If Counterpart Personnel are not provided by the Procuring Entity to the Consultant as and when specified in Appendix III, and or if the Counterpart Personnel lack the necessary training, experience or authority to effectively undertake their responsibilities, the Procuring Entity and the Consultant shall agree on how the affected part of the Services shall be carried out, and the additional payments, if any, to be made by the Procuring

Entity to the Consultant as a result thereof pursuant to **GCC** Clause 52 hereof.

42. Performance Security

- 42.1 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 Consultant shall furnish the performance security in any the forms prescribed in the **ITB** Clause 30.2.
- 42.2 The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Consultant is in default in any of its obligations under the contract.
- 42.3 The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 42.4 The performance security may be released by the Procuring Entity and returned to the Consultant after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Consultant or the surety company filed by the Procuring Entity;
 - (b) The Consultant has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the **SCC**.
- 42.5 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.

43. Standard of Performance

- 43.1 The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods.

43.2 The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subconsultants or third parties.

43.3 The Consultant shall furnish to the Procuring Entity such information related to the Services as the Procuring Entity may from time to time reasonably request.

43.4 The Consultant shall at all times cooperate and coordinate with the Procuring Entity with respect to the carrying out of its obligations under this Contract.

44. Consultant Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultant pursuant to **GCC** Clause 53 hereof shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and, subject to **GCC** Clause 45 hereof, the Consultant shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultant shall use its best efforts to ensure that any Subconsultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

45. Procurement by the Consultant

If the Consultant, as part of the Services, has the responsibility of advising or procuring goods, works or services, for the Procuring Entity, the Consultant shall comply with any applicable procurement guidelines of the Funding Source, and shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or advantages obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Procuring Entity.

46. Specifications and Designs

46.1 The Consultant shall prepare all specifications and designs using the metric system and shall embody the best design criteria applicable to Philippine conditions. The Consultant shall specify standards which are accepted and well-known among industrial nations.

46.2 The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services for this Contract are prepared on an impartial basis so as to promote national and international competitive bidding.

47. Reports

The Consultant shall submit to the Procuring Entity the reports, deliverables and documents in English, in the form, in the numbers, and within the time periods set forth in Appendix II.

48. Assistance by the Procuring Entity on Government Requirements

48.1 The Procuring Entity may assist the Consultant, Subconsultants, and Personnel in the payment of such taxes, duties, fees and other impositions as may be levied under the Applicable Law by providing information on the preparation of necessary documents for payment thereof.

48.2 The Procuring Entity shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultant, Subconsultants, and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Subconsultants, or Personnel to perform the Services;
- (b) arrange for the foreign Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, and any other documents required for their stay in the Philippines for the duration of the Contract;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the necessary personal effects of the foreign Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services; and
- (e) grant to foreign Consultant, any foreign Subconsultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Government's country

reasonable amounts of foreign currency for purposes of the Services or for the personal use of the foreign Personnel and their dependents.

49. Access to Land

The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to all lands in the Philippines in respect of which access is required for the performance of the Services. The Procuring Entity shall be responsible for any damage to such land or any property thereon resulting from such access and shall indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Subconsultant or the Personnel of either of them.

50. Subcontract

50.1 Subcontracting of any portion of the Consulting Services, if allowed in the **BDS**, does not relieve the Consultant of any liability or obligation under this Contract. The Consultant will be responsible for the acts, defaults, and negligence of any subconsultant, its agents, servants or workmen as fully as if these were the Consultant's own acts, defaults, or negligence, or those of its agents, servants or workmen.

50.2 Subconsultants 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.

51. Accounting, Inspection and Auditing

51.1 The Consultant shall:

- (a) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as shall clearly identify all relevant time changes and costs, and the bases thereof;
- (b) permit the Procuring Entity or its designated representative and or the designated representative of the Funding Source at least once for short-term Contracts, and annually in the case of long-term Contracts, and up to one year from the

expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Procuring Entity; and

- (c) permit the Funding Source to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors approved by the Funding Source, if so required.

51.2 The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to this Contract. The Consultant shall cooperate with and assist the Procuring Entity and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the Procuring Entity, the Consultant shall immediately reimburse the Procuring Entity an amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Procuring Entity (or, as the case may be, the Funding Source) determines to constitute corrupt, fraudulent, or coercive practices, as defined in **GCC** Clause 27(e) and under the Applicable Law, the Procuring Entity shall, unless the Procuring Entity decides otherwise, terminate this Contract.

51.3 The determination that the Consultant has engaged in corrupt, fraudulent, coercive practices shall result in the Procuring Entity and/or the Funding Source seeking the imposition of the maximum administrative, civil and criminal penalties up to and in including imprisonment.

52. Contract Cost

52.1 Except as may be otherwise agreed under **GCC** Clause 10, payments under this Contract shall not exceed the ceiling specified in the **SCC**. The Consultant shall notify the Procuring Entity as soon as cumulative charges incurred for the Services have reached eighty percent (80%) of this ceiling.

52.2 Unless otherwise specified in the **SCC**, the cost of the Services shall be payable in Philippine Pesos and shall be set forth in the Appendix IV attached to this Contract.

53. Remuneration and Reimbursable Expenditures

- 53.1 Payments of Services do not relieve the Consultant of any obligation hereunder.
- 53.2 Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services including other additional factors indicated in the **SCC** after the date determined in accordance with **GCC** Clause 22, or such other date as the Parties shall agree in writing, including time for necessary travel via the most direct route, at the rates referred to, and subject to such additional provisions as are set forth, in the **SCC**.
- 53.3 Remuneration for periods of less than one month shall be calculated on an hourly basis for time spent in home office (the total of 176 hours per month shall apply) and on a calendar-day basis for time spent away from home office (1 day being equivalent to 1/30th of a month).
- 53.4 Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services are provided in the **SCC**.
- 53.5 Billings and payments in respect of the Services shall be made as follows:
- (a) The Procuring Entity shall cause to be paid to the Consultant an advance payment as specified in the **SCC**, and as otherwise set forth below. The advance payment shall be due after the Consultant provides an irrevocable standby letter of credit in favor of the Procuring Entity issued by an entity acceptable to the Procuring Entity in accordance with the requirements provided in the **SCC**.
 - (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Procuring Entity, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to **GCC** Clauses 52.1 and 53 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each separate monthly statement shall

distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.

- (c) The Procuring Entity shall cause the payment of the Consultant's monthly statements within sixty (60) days after the receipt by the Procuring Entity of such statements with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments. Interest shall be paid for delayed payments following the rate provided in the **SCC**.

54. Final Payment

- 54.1 The final payment shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the Procuring Entity and the final report and final statement shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Procuring Entity unless the Procuring Entity, within such ninety (90)-day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections within a maximum period of ninety (90) calendar days, and upon completion of such corrections, the foregoing process shall be repeated.
- 54.2 Any amount which the Procuring Entity has paid or caused to be paid in accordance with this clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with the above.

55. Lump Sum Contracts

- 55.1 For Lump Sum Contracts when applicable, notwithstanding the terms of **GCC** Clauses 10, 18.1, 31(c), 41.3, 53.2, 53.3, 53.4, 53.5, and 54.1, the provisions contained hereunder shall apply.
- 55.2 Personnel - Any replacement approved by the Procuring Entity in accordance with **ITB** Clause 25.3 shall be provided by the Consultant at no additional cost.
- 55.3 Staffing Schedule - Should the rate of progress of the Services, or any part hereof, be at any time in the opinion of the Procuring Entity too slow to ensure that the Services are completed in accordance with the Staffing Schedule, the Procuring Entity shall so notify the Consultant in writing and the Consultant shall at its sole cost and expense, thereupon take such steps as necessary, subject to the Procuring Entity's approval, or as reasonably required by the Procuring Entity, to expedite progress so as to ensure that the Services are completed in accordance with the Staffing Schedule.
- 55.4 Final payment pursuant to the Payment Schedule in Appendices IV and V shall be made by the Procuring Entity after the final report has been submitted by the Consultant and approved by the Procuring Entity.
- 55.5 Termination - Upon the receipt or giving of any notice referred to in **GCC** Clause 29 and if the Consultant is not in default under this Contract and has partly or substantially performed its obligation under this Contract up to the date of termination and has taken immediate steps to bring the Services to a close in prompt and orderly manner, there shall be an equitable reduction in the maximum amount payable under this Contract to reflect the reduction in the Services, provided that in no event shall the Consultant receive less than his actual costs up to the effective date of the termination, plus a reasonable allowance for overhead and profit.
- 55.6 Unless otherwise provided in the **SCC**, no additional payment for variation order, if any, shall be allowed for this Contract.

56. Liquidated Damages for Delay

If the Consultant fails to deliver any or all of the Services within the period(s) specified in this Contract, 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 one-tenth of one percent of the price of the unperformed portion of the Services for each day of delay based on the approved contract schedule up to a maximum deduction of ten percent (10%) of the contract price. Once the maximum is reached, the Procuring Entity may consider termination of this Contract pursuant to **GCC** Clause 27.

SPECIAL CONDITIONS OF CONTRACT

GCC Clause	PARTICULARS
1.1(g)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through the BCDA Corporate Budget.</p>
6.2 b	<p>For a period of two (2) years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Sub-Consultants and its Personnel (a) not to engage, in the activity of a purchaser (directly or indirectly) of the assets in which they advised the Procuring Entity under this Contract nor in the activity of an adviser (directly or indirectly) of potential purchasers of such assets (b) not to engage, not give or render services (directly or indirectly) as an employee or CONSULTANT by any person or entity whose business or interests are in conflict or against the interest of BCDA or any of its subsidiaries and affiliates. The Consultant also agrees that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>
7	Not applicable
8	Not applicable
10	No further instructions.
11	<p>BCDA shall not in any way, be liable or responsible for any loss, damage, or injury, including death, which the Consultant, its officers, personnel, agents, representatives, or subcontractors may sustain in the course of the performance of the services under this Contract.</p> <p>The Consultant shall be solely liable and responsible for the compliance with all existing laws and issuances that may affect its services under the Contract, which include the Labor Code of the Philippines.</p> <p>The Consultant holds BCDA and its representatives free and harmless from any claim, liability, loss, or damage resulting</p>


	<p>from, or related to, the performance of its services and obligations under the Contract.</p>
<p>12</p>	<p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity:</p> <p style="text-align: center;">AILEEN ANUNCIACION R. ZOSA Executive Vice President and Chief Operations Officer</p> <p>For the Consultant:</p> <p style="text-align: center;">Official of the firm as authorized in the Secretary Certificate</p>
<p>15.1</p>	<p>BCDA's address is:</p> <p>Bases Conversion and Development Authority 2/F, Bonifacio Technology Center, 31st Street, corner 2nd Avenue, Bonifacio Global City, Taguig City</p> <p>Any notice, request or consent required or permitted pursuant to this Contract shall be addressed to:</p> <p style="text-align: center;">AILEEN ANUNCIACION R. ZOSA Executive Vice President and Chief Operations Officer Bases Conversion and Development Authority 2/F, Bonifacio Technology Center 31st Street corner 2nd Avenue Bonifacio Global City, Taguig City Email address: arzosa@bcda.gov.ph Tel No. 8575-1700; Fax No. 8816-0917</p> <p>Consultants: _____</p> <p>Attention: _____</p> <p>Address: _____</p> <p>Facsimile: _____</p> <p>Email Address: _____</p>


15.2	<p>Notice shall be deemed to be effective as follows:</p> <p>(a) in the case of personal delivery or registered mail, on the date of actual delivery or receipt by the concerned party;</p> <p>(b) in the case of facsimiles, within twenty-four (24) hours following confirmed transmission.</p>
18.3	<p>All payments under this Contract shall be made to the account of the Consultant.</p>
19	<p>No further instructions.</p>
20	<p>No additional provision.</p>
22	<p>This Contract shall take effect upon the issuance of Notice to Proceed and shall remain in force and effect for until all the requirements specified in the Terms of Reference have been submitted.</p>
24	<p>The contract term shall be for a period of three (3) months. The contract shall take effect upon the issuance of Notice to Proceed (NTP) and shall remain in force and effect until all requirements specified in the Terms of Reference have been submitted.</p>
34.2	<p>Any dispute arising from the implementation of this Contract shall be submitted to arbitration in the Philippines consistent with Republic Act (R.A.) Nos. 876 and 9285 (Arbitration Law) as required in Section 59 of the IRR of RA 9184. The governing law shall be Philippine law and the seat of arbitration shall be Metro Manila, Philippines. Any court action which is allowed under the Arbitration Law shall be filed in the courts of Taguig City to the exclusion of other courts.</p>
35.1	<p>The plans, reports, documents, software and all other outputs prepared by the Consultant for the BCDA under this Contract shall be considered confidential and shall become and remain the property of the BCDA. The Consultant shall not retain for its record copies of plans, reports, documents and all other outputs prepared for the BCDA under this Contract.</p>


38.1(d)	No additional action.
39.5	<p>The Consultant may change its Key Personnel only for justifiable reasons as may be determined by BCDA, such as death, serious illness, incapacity of an individual Consultant, or resignation, among others, or until fifty percent (50%) of the Personnel's mon-months have been served. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall provide as a replacement Personnel of equivalent or better qualifications.</p> <p>Violators will be fined an amount equal to the refund of the replaced Personnel's basic rate, which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement.</p>
42.1	No further instructions.
42.4 (c)	No further instructions.
52.1	The total ceiling amount in Philippine Pesos: <i>Four Million Pesos (Php 4,000,000.00)</i> , inclusive of all applicable taxes and fees.
52.2	No further instructions.
53.2	No additional instructions.
53.4	Not applicable.
53.5 (a)	No advance payment is allowed.
53.5 (c)	The interest rate is zero.
55.6	No further instructions.

INTERNAL MEMO

FOR : **ATTY. ELVIRA V. ESTANISLAO**
General Counsel, Legal Services Department

FROM : **JOANNA EILEEN M. CAPONES** 
Vice President, Investment Promotions and Marketing
Department (IPMD)

MICHELLE SAN JUAN-DE VERA 
Marketing and Promotions Officer (IPMD)

ANA TRINA A. SULIT 
Creative Arts Specialist (IPMD)

DATE : 25 November 2020

SUBJECT : **REQUEST FOR REVIEW OF THE DRAFT CONTRACT FOR
THE PROCUREMENT OF THE CLARK VIDEO
PRODUCTION**

REFERENCE:

This refers to the draft contract for the procurement of the Consulting Services for the Clark Video Production

BACKGROUND

- 1.) The Investment Promotion and Marketing Department (IPMD) is bidding out the consultancy services for the production of the Clark Video through the Bids and Awards Committee-Consulting services (BAC-C)
- 2.) The said project has an approved budget of **Four Million Pesos (Php 4,000,000.00)**, inclusive of any and all applicable taxes, fees and incidental expenses chargeable against IPMD 2020 budget under Consultancy Services - Clark Video Production.

OBJECTIVE:

The Investment Promotion and Marketing Department (IPMD) has been handling the overall marketing campaign, brand strategy, and promotional programs in BCDA (Bases Conversion and Development Authority). One of our key initiatives for this year is to drive awareness on BCDA projects by developing communication tools and scaling up on marketing activities and promotional engagements online and offline.

Clark, one of BCDA's flagship projects, has been getting a lot of attention as a resilient city that thrives despite the challenges brought by the global health crisis. To sustain this level of awareness and interest in Clark and to generate investments across the globe, IPMD believes that we need to aggressively communicate what makes Clark really stand out today amid this pandemic and how it is preparing for the future.

As a follow-up on the brand campaign video called *Clark: It Works. Like a Dream.*, IPMD intends to produce an audio visual presentation (AVP) that is aligned with our previous video, but also captures Clark's unmatched connectivity, resiliency, thriving business community, sustainability features and other relevant developments in sports, health, and wellness.

REQUESTED ACTION:

We are requesting LSD to review the attached draft contract and TOR for the procurement of the consulting services for the Clark Video Production.

The said documents are patterned after similar creative projects previously procured through the BAC for Consultancy (i.e. BCDA Annual Report). The project serves as a marketing/communications tool and is similar to the deliverables of the AR such as shoot, copywriting, editing, among others.

FOR YOUR CONSIDERATION. THANK YOU.

AF2020-0258

Terms of Reference

PROCUREMENT OF CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION

RATIONALE:

The Investment Promotion and Marketing Department (IPMD) has been handling the overall marketing campaign, brand strategy, and promotional programs in BCDA (Bases Conversion and Development Authority). One of our key initiatives for this year is to drive awareness on BCDA projects by developing communication tools and scaling up on marketing activities and promotional engagements online and offline.

Clark, one of BCDA's flagship projects, has been getting a lot of attention as a resilient city that thrives despite the challenges brought by the global health crisis. To sustain this level of awareness and interest in Clark, and to generate investments across the globe, IPMD believes that we need to aggressively communicate what makes Clark really stand out today amid this pandemic and how it is preparing for the future.

As a follow-up on the brand campaign video called *Clark: It Works. Like a Dream.*, IPMD intends to produce an audio visual presentation (AVP) that is aligned with our previous video, but also captures Clark's unmatched connectivity, resiliency, thriving business community, sustainability features and other relevant developments in sports, health, and wellness.

OBJECTIVE:

The production of the Clark Video aims to communicate the following objectives:

1. To introduce Clark and highlight its readiness to potential investors, locators, government, business community, media and the general public;
2. To build a strong awareness, appreciation, desire and partnership among various stakeholders i.e., investors, government, media, civil society and the general public; and
3. To ensure that Clark remains highly visible, different, distinctive and memorable compared to its competitors.

The consultant shall be in charge of developing a creative concept including but not limited to script or narrative, filming, editing and other production requirements to effectively communicate the objectives of this project.

BUDGET

The approved budget of the contract is **Four Million Pesos (Php4,000,000.00)** inclusive of any and all applicable taxes, fees and incidental charges.

QUALIFICATIONS OF THE CONSULTANT

- 2.1.** The Consultant must be a full-service creative agency or production agency that is duly registered in the Philippines with the appropriate staff and employees.
- 2.2.** The Consultant must be registered online with the Philippine Government Electronic Procurement System (<http://www.philgeps.gov.ph>) as a legitimate service provider for government requirements.
- 2.3.** The Consultant must have been operating for at least three (3) years;
- 2.4.** The Consultant must have produced at least two (2) projects which are similar in nature to the requirement (e.g. brand films, animation videos, corporate AVPs, product videos, audio visual production, etc.) during the last three (3) years.

3. PRODUCTION TEAM

The production team shall be composed of three (3) members. The proposed members are:

- 3.1. One (1) over-all Account Director/Manager** dedicated to the BCDA account and on call by BCDA to ensure quality output and timely execution of the plan;
- 3.2. One (1) Creative/Art Director** who will provide the overall concept design as well as provide creative/art directions;
- 3.3. One (1) Copywriter/Screenplay Writer** who will provide the overall copy treatment as well as provide copywriting tone.

Aside from the main members of the creative team, the consultant may assign

other project staff whose functions and specializations are necessary to accomplish the aforementioned deliverables.

4. COMPONENTS OF TECHNICAL PROPOSAL

The Consultant shall prepare a comprehensive creative proposal for the Production of Clark Audio Visual Presentation which will include:

- 4.1.** Two (2) proposed Concept, Theme and Copy Treatment of the Clark Video, and the corresponding script and storyboard;

4.2. One (1) proposed comprehensive video.

5. TIMETABLE

The timetable from concept to submission of the final report for this project will be three (3) months from the Consultant's actual receipt of the Notice to Proceed (NTP).

Date may be subject to change. BCDA will inform the Consultant of any changes to the project schedule.

6. SCOPE OF WORK AND DELIVERABLES

The Consultant shall be in charge of the conceptualization and development of:

CONCEPT, THEME, AND STORY TREATMENT FOR THE CLARK AVP

- a. Conceptualization of a distinct concept, theme and story treatments (both production and communication) for Clark;
- b. Production of a Script for the Clark AVP;
- c. Submission of pre-production visuals as storyboard for the Clark AVO;
- d. Conduct of filming in various spots in Clark per approved script and storyboard;
- e. Engage IPMD-BCDA personnel in the production of the Clark AVP particularly in pre production, video shooting and postproduction;
- f. Make use of motion graphics, animation and information graphics, combined with actual footage or photographs, as required in the approved story treatments; and
- g. Undertake rough and final post production, specifically non-linear editing, AV dubbing, musical scoring and subtitling, among others.

CLARK KEY VISUALS

Conceptualization development of the Key Visuals to be used for communicating Clark concept and identity for traditional and digital channels

DELIVERABLES

1. Produce a 10s, 30s, 1min version of the new Clark video.
2. Video should have a mobile (portrait) and desktop (landscape) version.
3. Video should be voiced over in English.
4. Provide subtitles in English, Mandarin, Japanese, and Korean.
5. Packaging and entry of the Clark Video in at least one (1) award-giving body/event (e.g. Adobo Awards, City/Nation/Place Place Branding Awards, Anvil, Stevie Awards, Quill, etc.) or in any reputable award-giving body.

Turn-over all other BCDA raw materials (designs, photos, videos, writings, Adobe files (.psd, .pr, .ae), and/or documents) and all electronic files, official design, manual/guidelines, and key visuals in an external hard drive.

8. METHODOLOGY

The Bids and Awards Committee – Consultancy Services (BAC-C) shall conduct a detailed evaluation of bids using the **Quality-Based Evaluation (QBE)**.

A two-stage procedure shall be adopted whereby each consultant shall be required to submit their technical and financial proposals simultaneously in separate sealed envelopes. After the receipt of bids, the technical proposal shall first be opened and evaluated, in accordance with Section 33.2.2 of the IRR.

The technical proposal shall be considered in the evaluation of the consultants and shall be given a weight of one hundred percent (100%).

9. EVALUATION CRITERIA FOR SELECTION OF BIDDERS

The Bids and Awards Committee – Consultancy Services (BAC-C) shall draw up a shortlist of at most three (3) bidders from those who have submitted Expressions of Interest, in accordance with the provisions of the revised Implementing Rules and Regulations (IRR) of Republic Act 9184 (R.A. 9184).

The evaluation criteria for shortlisting is as follows:

Evaluation Criteria for Shortlisting	Weight
a.) Applicable Experience of the Consultant/Firm	40%
b.) Similar projects handled	40%
c.) Current Workload of the personnel relative to capacity	20%
Total	100%

The prospective Consultant(s) must pass the required minimum score of sixty percent (60%) to be shortlisted.

Further, the following criteria shall be used for evaluating the technical proposal of shortlisted bidders:

Technical Proposal Evaluation Criteria	Weight
a.) Applicable Experience of the Consultant/Firm	20%
b.) Similar projects handled	20%
c.) Plan of Approach and Project Methodology	60%
Total	100%

An oral presentation of the Technical Proposal and the corporate profile of the Consultant is required as part of the evaluation.

The BAC shall rank the consultants in descending order based on the combined numerical ratings of their technical proposals, from which the highest rated bid will be identified.

Only the financial proposal of the Consultant who gets the highest technical rating shall be opened—in their presence. Total calculated bid prices which exceed the approved budget for the contract shall not be considered. The name of the consultant, the quality scores and the proposed prices shall be read and recorded when the financial proposals are opened. Negotiations shall be undertaken with the Consultant who is first in rank.

The financial proposal shall not exceed the approved budget for the contract (ABC) which is Four Million Pesos (PhP4,000,000.00) and shall be deemed to include the cost of all taxes, duties, fees, levies and other charges imposed under applicable laws.

10. STANDARD OF SERVICES

The Consultant shall fulfill its obligations under the agreement by using its technical expertise and according to the best-accepted professional and industry standards. The Consultant shall exercise all reasonable skill, care, diligence, and prudence in the discharge of the duties agreed to be performed and shall always work in the best interest of BCDA. To attain these, the consultant shall provide personnel with sufficient qualifications and experience to ensure the full and satisfactory accomplishment of the required services/undertakings.

The services shall be conducted by the Consultant in accordance with the instructions or directions made or to be made by the BCDA at any time before its completion. The Consultant shall conduct regular consultation with BCDA in relation to the undertaking of its responsibilities under the Contract Agreement.

11. CONFIDENTIALITY CLAUSE

The Consultant warrants the full confidentiality of all information gathered for the consultancy contract given by BCDA, unless the latter indicates the contrary. The Consultant shall not disclose any communication disclosed to him for the purpose of this Services. After the completion of the contract, all materials, data, and other related documents provided must be returned to BCDA.

13. LIQUIDATED DAMAGES

The Consultant obligates itself to perform and complete all the Services within the period specified in the TOR, beginning from the starting date exclusive of such extensions of time as may be mutually agreed upon in writing. Should the Consultant fail to complete the Services within the stipulated time, liquidated damages, not by way of penalty, shall be paid to BCDA by the CONSULTANT in an amount equal to one-tenth of one percent (1/10 of 1%) of the total Contract price minus the value of the completed portions of the Contract certified by BCDA for each calendar day of delay until the Services are completed.

14. CONFLICT OF INTEREST

The Consultant and its key staff, who may be directly associated with entities that may have an interest in or bias against any BCDA project, shall divulge the extent of its conflict with BCDA. The Consultant agrees that the conflict of interest may be a ground for BCDA to terminate the Contract.

15. TERMS OF PAYMENT

For services to be rendered, BCDA shall pay the consultant in the following manner:

	(%)	Accomplishment
15.1	10%	Upon submission and approval of the Concept, Theme and Copy Treatment of the Clark Video.
15.2	20%	Upon approval of the Copy and storyboards.
15.3	10%	Upon approval of the first pass of the Clark video
15.4	10%	Upon approval of the second pass based on revisions.
15.5	30%	Final approval of the Clark video.

15.6	20%	Upon the submission of the accomplishment report, final artworks, raw materials to BCDA.
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18. SETTLEMENT OF DISPUTES

The Parties agree to resolve any dispute that may arise between them with respect to this CONTRACT through good faith and amicable negotiation. If at any time during such negotiation, one Party determines in good faith that the Parties cannot resolve the dispute through negotiations, that Party will deliver a notice to the other Party that the dispute will be settled by arbitration in accordance with Republic Act No. 9285 otherwise known as the "Alternative Dispute Resolution Act of 2004", as amended, failing which, the Parties may resort to the filing of the appropriate case in the proper courts of Taguig City to the exclusion of the other courts. The arbitration shall be conducted in Metro Manila, Philippines.

19. ANTI-CORRUPTION POLICY

The Consultant warrants that no money or material consideration was given or has been promised to be given to any director, officer, or employee of BCDA to obtain the approval of this CONTRACT. The violation of this warranty shall constitute a sufficient ground for the rescission or termination of this CONTRACT without need of judicial action. Such rescission or termination shall be immediately effective upon service of notice to the Consultant.

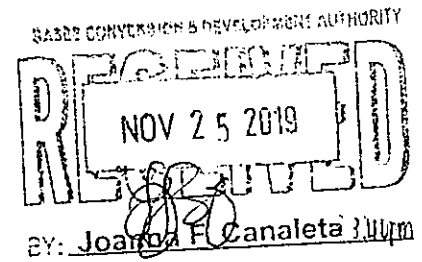
20. CONTRACT TERM

The CONTRACT shall take effect from the date stated in the Notice to Proceed (NTP) and shall remain in force and effective until the submission of the Consultant of an accomplishment report, final artworks and acceptance by BCDA.

21. OWNERSHIP

BCDA shall be the proprietor of all promotional and artistic ideas and original (raw and edited) materials produced and crafted in accordance with this campaign, with complete and exclusive rights, with respect to their potential use both in the Philippines and internationally.

All materials should be submitted in a hard drive/s.



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
OFFICE OF THE GOVERNMENT CORPORATE COUNSEL
3rd Floor MWSS Administration Building, Katipunan Avenue
Balara, Quezon City
Tel. Nos. 927-0030 / 920-7477 • Fax No. 436-4405
www.ogcc.gov.ph

CONTRACT REVIEW

No. 935
Series of 2019

FOR : BASES CONVERSION AND DEVELOPMENT
AUTHORITY (BCDA)

ATTENTION : AILEEN ANUNCIACION R. ZOSA
Executive Vice President

RE : REVIEW OF THE DRAFT CONTRACT AND TERMS
OF REFERENCE FOR CONSULTING SERVICES FOR
THE PRODUCTION OF THE BASES CONVERSION
AND DEVELOPMENT AUTHORITY 2019 ANNUAL
REPORT

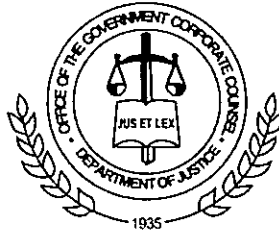
DATE : 11 NOVEMBER 2019

1. Antecedents:

This pertains to your request for review of the Draft Contract and Terms of Reference (TOR) for the production of the Bases Conversion and Development Authority (BCDA) 2019 Annual Report.

According to you, the BCDA Annual Report is a major communication tool of the BCDA in informing the public about its critical role in the Armed Forces of the Philippines' (AFP) Modernization Program pursuant to Republic Act No. 7227¹. The BCDA Annual Report is one of the major tools of its Corporate Communication Office (CCO) in the information dissemination campaign on its various programs and projects.

¹ Bases Conversion and Development Act of 1992.



You also mentioned that the annual report is consistent with the Government policy on transparency and in compliance with the requirement under Section 10(d) of RA No. 7227, which provides that "BCDA has to submit an annual report of the Conversion Authority to the President of the Philippines, President of the Senate, and Speaker of the House of Representatives."

It can be recalled that the 2018 version of the Annual Report was subject of this Office's Contract Review No. 155, Series 2019 dated 12 March 2019.

Attached to your request are the draft contract, including the General Condition of Contract (GCC), the Special Conditions of the Contract (SCC) and TOR for consulting services for the production of the annual report.

II. Discussions:

From a perusal of the draft contract, including its attachments, it appears that its contents are similar to that of the contract for the 2018 BCDA Annual Report. In line with this observation, we find the draft contract in order save for the following comments/suggestions:

Contract Form Agreement

1. Antecedents

Insert another paragraph that states, in wise:

"THIS AGREEMENT, made this [insert date] day of [insert month], [insert year] between [name and address of Procuring Entity] (hereinafter called the "Entity") and [name and address of Consultant] (hereinafter called the "Consultant")."

Insert the foregoing paragraph as the first paragraph or the second to the last paragraph. After the insertion, please adjust the numbering of the paragraphs accordingly.

2. GCC

BCDA is advised to fully comply with the Philippine Bidding Documents (PBD) for Consulting Services 5th Edition. Further, kindly refer to this Office

.....committed to uphold justice
under the rule of law



Contract Review No. 155, s 2019 for reference with respect to the other comments for the GCC.

3. SCC

Similar with the GCC, BCDA is again advised to strictly comply with the PBD for Consulting Services 5th Edition for the SCC.

For item 18.3, BCDA must ensure that the winning bidder must complete the details for its account prior to the signing of the contract.

With respect to item 24, we underscore the fact that under the No. 07 and 18 of the TOR, there is a timetable/contract term for production, which will be a minimum of three months and maximum of six months from Consultant's actual receipt of the Notice to Proceed (NTP). Thus, such minimum time for delivery must also be reflected under this item.

4. TOR

We surmise that the TOR was crafted in view of BCDA's sound business judgment and prerogative. Nonetheless, BCDA should have strictly complied with the provisions of the Government Procurement Reform Act in crafting the TOR for this particular project and in the procuring if the said consulting services.

III. Conclusion:

Subject to the foregoing comments and recommendations, the draft contract and TOR, may be given due course.

This review, however, did not pass upon the financial and technical aspect of the contract or the propriety of entering into it, as these matters are better left to the sound business judgment of BCDA's management.


ELPIDIO J. VEGA
Government Corporate Counsel

.....committed to uphold justice
under the rule of law

**CONTRACT FOR CONSULTING SERVICES
FOR THE CLARK VIDEO PRODUCTION**

This **CONTRACT** is executed between:

BASES CONVERSION AND DEVELOPMENT AUTHORITY, a government instrumentality vested with corporate powers, created by virtue of Republic Act No. 7227, as amended, with principal office address at the BCDA Corporate Center, 2nd Floor Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, represented herein by its Executive Vice President and Chief Operations Officer, **AILEEN ANUNCIACION R. ZOSA**, duly authorized for this purpose under Item 178 of the revised Manual of Approval which was approved by the BCDA Board on 22 November 2017, a copy of which is hereto attached as **Annex "A"**, hereinafter referred to as "**BCDA**";

- and -

The **DDB Philippines Inc.**, a private corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at *16F Two World Square, 22 Upper McKinley Road, McKinley Hill, Fort Bonifacio, Taguig City*, represented herein by **JUDD B. BALAYAN**, duly authorized for this purpose as evidenced by a *Secretary's Certificate* dated *December 21, 2020*, a copy of which is hereto attached as **Annex "B"**, hereinafter referred to as "**Consultant**".

BCDA and Consultant shall hereinafter be referred to, individually, as Party or, collectively, as Parties.

ANTECEDENTS

Republic Act (RA) No. 7227, as amended, mandates the BCDA to accelerate the sound and balanced conversion into alternative productive civilian uses of the Clark and Subic military reservations and their extension, and to enhance the benefits to be derived from said properties in order to promote the economic and social development of Central Luzon in particular and the country in general as well as to provide funds for the AFP Modernization Program.

In 2018, the Bases Conversion and Development Authority (BCDA) launched the rebranded Clark, aggressively positioning Clark as Asia's next investment, lifestyle and outdoor destination. One of Clark's strategic location and access to vital infrastructure is New Clark City. BCDA developed an updated, global, strong and holistic brand concept, positioning an identity for Clark, which covers the Freeport Zone, International Airport, New Clark City and Clark Global City.

The procurement of the services of the Consultant is undertaken through Quality-Based Evaluation pursuant to Republic Act No. 9184 and its Revised Implementing Rules and Regulations.

The Bids and Awards Committee for Consulting Services issued Resolution No. BC2020-049 dated December 28, 2020 recommending the award of the Contract to DDB Philippines Inc., in the amount of Pesos: Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees, after having

been determined that it has complied with and is responsive to all the requirements and conditions in the Terms of Reference of the Project.

BCDA is desirous that the Consultant perform the Contract for Consulting Services for the Clark Video Production (hereinafter called the "Project") and thus, BCDA has accepted the bid for **Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00)** by the Consultant for the execution and completion of such Consulting Services and the remedying of any defects therein.

ACCORDINGLY, for and in consideration of the foregoing premises, and in accordance with the stipulations and conditions hereinafter stated, the Parties hereby agree and bind themselves to the following:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Agreement, to wit:
 - (a) General Conditions of Contract;
 - (b) Special Conditions of the Contract;
 - (c) Terms of Reference and/or Technical Specifications;
 - (d) Request for Proposal;
 - (e) Bid Form and Price Schedule;
 - (f) Schedule of Requirements;
 - (g) Notice of Award of Contract and the Bidder's *conforme* thereto; and
 - (h) Performance Security.

~~3. In consideration of the full and satisfactory performance of the services rendered by the Consultant, BCDA shall pay the Consultant the Total Contract Price of **Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00)** inclusive of applicable taxes and fees.~~

~~3.~~

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

4. The BCDA hereby covenants to pay the Consultant in consideration of the execution and completion of the Consulting Services the amount of Pesos: **Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00)**, inclusive of applicable taxes and fees.

5. The invalidity or unenforceability of a provision of this Contract shall not affect the validity or enforceability of its other provisions which shall remain valid and effective.

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6. Amendments to this Contract shall only be made upon mutual written agreement of the parties subject to the review and approval of the Office of the Government Corporate Counsel. Any of its ensuing comments, recommendations or directives shall form part of this Contract.
7. The failure of one Party to insist upon a strict performance of any of the terms, conditions and covenants hereof shall not be deemed a relinquishment or waiver of any right/remedy that said party may have, nor shall it be construed as a waiver of any subsequent breach of the same or other terms, conditions or covenants. No waiver by any one Party or any of its rights under this Contract shall be deemed to have been made unless expressed in writing and signed by that Party.
8. This Contract shall take effect upon the issuance of Notice to Proceed and shall remain in force and effect for until all the requirements specified in the Terms of Reference have been submitted.

SIGNED BY THE PARTIES on _____ in Taguig City, Philippines.

BASES CONVERSION AND DEVELOPMENT AUTHORITY

DDB Philippines Inc.

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By:

By:

AILEEN ANUNCIACION R. ZOSA
Executive Vice President

JUDD B. BALAYAN
Group Chief Financial Officer

Signed in the presence of:

JOANNA EILEEN M. CAPONES

ACKNOWLEDGMENT

Republic of the Philippines)
Taguig City) S.Sss.

 BEFORE ME, a Notary Public for and in Taguig City, personally appeared the following:

Name	Government Issued ID	Date of Issue / Expiry	Place of Issue
Aileen Anunciacion R. Zosa			
<u>Judd B. Balayan</u>			

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who are personally known to me and who represented to me that they are the same persons to be the same persons who signed and executed the foregoing Consulting Services Contract and acknowledged to me that the same is their voluntary act and deed as well as of the entities herein represented.

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I further certify that said Consulting Services Contract consists of four (4) pages including the page whereon the Acknowledgment is written and signed by the above-signed individuals and their witnesses.

SIGNED AND SEALED on _____ in Taguig City, Philippines.

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Doc. No. ____
Page No. ____
Book No. ____
Series of ____.

INTERNAL MEMO

FOR : **MS. AILEEN AN. R. ZOSA** *ok. Aileen 01-26-2021*
Executive Vice President

THROUGH : **ATTY. ELVIRA V. ESTANISLAO** *[Signature]*
General Counsel, Legal Services Department

FROM : **JOANNA EILEEN M. CAPONES** *[Signature]*
Vice President, Investment Promotions and
Marketing Department (IPMD)

ANA TRINA A. SULIT *[Signature]*
Creative Arts Specialist, IPMD

DATE : **11 January 2021**

SUBJECT: **EXECUTION COPIES OF THE CONTRACT BETWEEN
BCDA AND DDB PHILIPPINES INC., FOR THE
CONSULTING SERVICES FOR THE CLARK VIDEO
PRODUCTION**

We endorse, for the Executive Vice President's approval, the attached execution copies of the contract between Bases Conversion and Development Authority (BCDA) and **DDB Philippines Inc.**, for the Consulting Services for the Clark Video Production.

For the Executive Vice President's consideration and approval, please.

Thank you.

Attachment/s:

- (A) Contract, GCC, SCC, Annex A: Manual of Approval, Annex B: DDB Philippines Inc., Secretary's Certificate
- (B) Notice of Award
- (C) OGCC Review
- (D) Terms of Reference
- (E) BAC-C Resolution No. BC-2020-049 (Declaration of Bidder with the Highest Rated and Responsive Bid)
- (F) Performance Securing Declaration
- (G) Request for Expression of Interest
- (H) Bidding Documents
- (I) Schedule of Requirements/Activity (Work) Schedule

CONTRACT FOR CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION

This **CONTRACT** is executed between:

BASES CONVERSION AND DEVELOPMENT AUTHORITY, a government instrumentality vested with corporate powers, created by virtue of Republic Act No. 7227, as amended, with principal office address at the BCDA Corporate Center, 2nd Floor Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, represented herein by its Executive Vice President and Chief Operations Officer, **AILEEN ANUNCIACION R. ZOSA**, duly authorized for this purpose under Item 178 of the revised Manual of Approval which was approved by the BCDA Board on 22 November 2017, a copy of which is hereto attached as **Annex "A"**, hereinafter referred to as "**BCDA**";

- and -

DDB Philippines Inc., a private corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at *16F Two World Square, 22 Upper McKinley Road, McKinley Hill, Fort Bonifacio, Taguig City*, represented herein by **JUDD B. BALAYAN**, duly authorized for this purpose as evidenced by a *Secretary's Certificate* dated *December 21, 2020*, a copy of which is hereto attached as **Annex "B"**, hereinafter referred to as "**Consultant**".

BCDA and Consultant shall hereinafter be referred to, individually, as Party or, collectively, as Parties.

ANTECEDENTS

Republic Act (RA) No. 7227, as amended, mandates the BCDA to accelerate the sound and balanced conversion into alternative productive civilian uses of the Clark and Subic military reservations and their extension, and to enhance the benefits to be derived from said properties in order to promote the economic and social development of Central Luzon in particular and the country in general as well as to provide funds for the AFP Modernization Program.

In 2018, the Bases Conversion and Development Authority (BCDA) launched the rebranded Clark, aggressively positioning Clark as Asia's next investment, lifestyle and outdoor destination. One of Clark's strategic location and access to vital infrastructure is New Clark City. BCDA developed an updated, global, strong and holistic brand concept, positioning an identity for Clark, which covers the Freeport Zone, International Airport, New Clark City and Clark Global City.

The procurement of the services of the Consultant is undertaken through Quality-Based Evaluation pursuant to Republic Act No. 9184 and its Revised Implementing Rules and Regulations.

The Bids and Awards Committee for Consulting Services issued Resolution No. BC2020-049 dated December 28, 2020 recommending the award of the Contract to DDB Philippines Inc., in the amount of Pesos: Three Million Nine Hundred Fifty-Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees, after having



been determined that it has complied with and is responsive to all the requirements and conditions in the Terms of Reference of the Project.

BCDA is desirous that the Consultant perform the Contract for Consulting Services for the Clark Video Production (hereinafter called the "Project") and thus, BCDA has accepted the bid for **Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00)** by the Consultant for the execution and completion of such Consulting Services and the remedying of any defects therein.

ACCORDINGLY, for and in consideration of the foregoing premises, and in accordance with the stipulations and conditions hereinafter stated, the Parties hereby agree and bind themselves to the following:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Agreement, to wit:
 - (a) General Conditions of Contract;
 - (b) Special Conditions of the Contract;
 - (c) Terms of Reference and/or Technical Specifications;
 - (d) Request for Proposal;
 - (e) Bid Form and Price Schedule;
 - (f) Schedule of Requirements;
 - (g) Notice of Award of Contract and the Bidder's *conforme* thereto; and
 - (h) Performance Security.
3. In consideration of the payments to be made by the BCDA to the Consultant as hereinafter mentioned, the Consultant hereby covenants with the BCDA to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Contract in all respects.
4. The BCDA hereby covenants to pay the Consultant in consideration of the execution and completion of the Consulting Services the amount of Pesos: **Three Million Nine Hundred Fifty-Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00)**, inclusive of applicable taxes and fees.
5. The invalidity or unenforceability of a provision of this Contract shall not affect the validity or enforceability of its other provisions which shall remain valid and effective.
6. Amendments to this Contract shall only be made upon mutual written agreement of the parties subject to the review and approval of the Office of the Government Corporate Counsel. Any of its ensuing comments, recommendations or directives shall form part of this Contract.
7. The failure of one Party to insist upon a strict performance of any of the terms, conditions and covenants hereof shall not be deemed a relinquishment or waiver of any right/remedy that said party may have, nor shall it be construed as a waiver of any

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subsequent breach of the same or other terms, conditions or covenants. No waiver by any one Party or any of its rights under this Contract shall be deemed to have been made unless expressed in writing and signed by that Party.

8. This Contract shall take effect upon the issuance of Notice to Proceed and shall remain in force and effect for until all the requirements specified in the Terms of Reference have been submitted.

SIGNED BY THE PARTIES on FEB 15 2021 in Taguig City, Philippines.

**BASES CONVERSION AND
DEVELOPMENT AUTHORITY**

By:


AILEEN ANUNCIACION R. ZOSA
Executive Vice President

DDB Philippines Inc.

By:


JUDD B. BALAYAN
Group Chief Financial Officer

Signed in the presence of:


JOANNA EILEEN M. CAPONES


JOSEPHINE BARBA

ACKNOWLEDGMENT

Republic of the Philippines)
Taguig City) S.S.

BEFORE ME, a Notary Public for and in Taguig City, personally appeared the following:


Name	Government Issued ID	Date of Issue / Expiry	Place of Issue
Aileen Anunciacion R. Zosa	PASSPORT P0189070B	2021/01/09	DFA MANILA
Judd B. Balayan	DRIVER'S LICENSE	2022/12/31	

who are personally known to me and who represented to me that they are the same persons who signed and executed the foregoing Consulting Services Contract and acknowledged to me that the same is their voluntary act and deed as well as of the entities herein represented.

I further certify that said Consulting Services Contract consists of four (4) pages including the page whereon the Acknowledgment is written and signed by the above-signed individuals and their witnesses.

SIGNED AND SEALED on FEB 15 2021 in Taguig City, Philippines.

Doc. No. 102
Page No. 22
Book No. 1
Series of 2021


FERNANDO T. GALLARDO JR.
Notary Public for Taguig City, Philippines
2F BTC, 317 Street, BGC, Taguig City, 1634
Notarial Commission valid until 31 December 2021
PTR No. A-4751332 / Taguig City / 02 January 2020
IBP Life Member Roll No. 00365 / 19 July 1995
Attorney's Roll No. 38060 / 10 June 1992
MCLE Compliance No. VI-0003717/25 October 2017


BCDA
Bases Conversion and
Development Authority


Marketing Unit

AF2021-0011

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION
LAND TRANSPORTATION OFFICE
NON-PROFESSIONAL DRIVER'S LICENSE



BALAYAN, JUDD BITUIN

Photograph	Sex	Date of Birth	Height (M)	Weight (Kg)
PH	M	1978-12-21	1.74	73

Address:
6 GLENDORA ST, MANGYAT PLACE, TAGUIG CITY

License No.	Expiration Date	Agency Code
NO1-92-161247	2023/12/31	015

Special Type: **SP**
Issue Code: **ELCK**
Classification: **NONE**

2019-2027

Department of Transportation

[Signature]

REGIONAL ALTERNATE
MANAGING SUPERVISOR

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GENERAL CONDITIONS OF CONTRACT

1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Philippines as they may be issued and enforced from time to time.
 - (b) “Consultant” refers to the short listed consultant with the HRRB determined by the Procuring Entity as such in accordance with the ITB.
 - (c) “Consulting Services” refer to services for Infrastructure Projects and other types of projects or activities of the Government of the Philippines (GoP) requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the Procuring Entity to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies.
 - (d) “Contract” means the agreement signed by the Parties, to which these General Conditions of Contract (GCC) and other sections of the Bidding Documents are attached.
 - (e) “Effective Date” means the date on which this Contract comes into full force and effect.
 - (f) “Foreign Currency” means any currency other than the currency of the Philippines.
 - (g) “Funding Source” means the entity indicated in the **SCC**.
 - (h) “GCC” means these General Conditions of Contract.
 - (i) “Government” means the Government of the Philippines (GoP).
 - (j) “Local Currency” means the Philippine Peso (Php).

- (k) "Member," in case the Consultant is a Joint Venture (JV) of two (2) or more entities, means any of these entities; and "Members" means all these entities.
- (l) "Party" means the Procuring Entity or the Consultant, as the case may be, and "Parties" means both of them.
- (m) "Personnel" means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof; "Foreign Personnel" means such persons who at the time of being so hired had their domicile outside the Government's country; "Local Personnel" means such persons who at the time of being so hired had their domicile inside the Philippines; and "Key Personnel" means the Personnel referred to in **GCC** Clause 39.
- (n) "Procuring Entity" refers to any branch, constitutional commission or office, agency, department, bureau, office or instrumentality of the Government, including GOCC, GFI, SUC, LGU, and autonomous regional government procuring Goods, Consulting Services, and Infrastructure Projects.
- (o) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (p) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix I.
- (q) "Subconsultant" means any person or entity to whom/which the Consultant subcontracts any part of the Services in accordance with the provisions of **GCC** Clause 50.
- (r) "Third Party" means any person or entity other than the Government, the Procuring Entity, the Consultant or a Subconsultant.

2. **Headings**

The headings shall not limit, alter or affect the meaning of this Contract.

3. Location

The Services shall be performed at such locations as are specified in Appendix I and, where the location of a particular task is not so specified, at such locations, whether in the Philippines or elsewhere, as the Procuring Entity may approve.

4. Law Governing Contract and Services

- 4.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 4.2 The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Subconsultant, as well as the Personnel of the Consultant and any Subconsultant, complies with the Applicable Law. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.
- 4.3 If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased on a no loss-no gain basis, and corresponding adjustments shall be made to the ceiling amounts specified in GCC Clause 52, provided that the cost is within the Approved Budget for the Contract (ABC).

5. Language

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.

6. Consultants and Affiliates Not to Engage in Certain Activities

- 6.1 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Subconsultant and any entity affiliated with such Subconsultant, shall be disqualified from providing goods, works, or consulting services for any project resulting from or closely related to this Contract other than the

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Services and any continuation thereof provided there is no current or future conflict.

6.2 The Consultant shall not engage, and shall cause their Personnel as well as their Subconsultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the **SCC**.

7. Authority of Member in Charge

In case the Consultant is a JV, the Members hereby authorize the entity specified in the **SCC** to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

8. Resident Project Manager

If required by the **SCC**, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the Government's country, a resident project manager, acceptable to the Procuring Entity, shall take charge of the performance of such Services.

9. Entire Agreement

This Contract, including the documents specified in Section 37.2.3 of the IRR of RA 9184, contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make any statement, representation, promise, or agreement not set forth herein of which the Parties shall not be bound by or be liable for.

10. Modification

Unless otherwise specified in the **SCC**, no modification of the terms and conditions of this Contract, including any modification of the scope of the Services shall be allowed. Pursuant to **GCC** Clause 14 hereof,

however, each Party shall give due consideration to any proposal for modification made by the other Party.

11. Relationship of Parties

11.1 Nothing contained herein shall be construed as establishing a relation of employer and employee or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of its Personnel and Subconsultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

11.2 The Consultant shall during the performance of the Services be an independent contractor, retaining complete control over its Personnel, conforming to all statutory requirements with respect to all its employees, and providing all appropriate employee benefits.

12. Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

13. Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

14. Operation of the Contract

The Parties recognize that it is impractical for this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them; and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties shall use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with **GCC** Clause 34 hereof.

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15. Notices

- 15.1 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**.
- 15.2 Notice shall be deemed to be effective as specified in the **SCC**.
- 15.3 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** with respect to **GCC** Clause 15.2.

16. Warranty as to Eligibility

- 16.1 The Consultant represents, warrants, and confirms that it, as well as its Subconsultant, if any, is eligible, *i.e.*, has the legal personality to act as a consultant in accordance with Part I, Section II. issued for this project.
- 16.2 The Consultant shall fulfill its obligations under this Contract by using knowledge according to the best accepted professional standards. The Consultant shall exercise all reasonable skill, care and diligence in the discharge of duties agreed to be performed and shall work in the best interest of the GoP.

17. Confidentiality

Except with the prior written consent of the Procuring Entity, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services. For purposes of this clause, "confidential information" means any information or knowledge acquired by the Consultant and/or its Personnel arising out of, or in connection with, the performance of the Services under this Contract that is not otherwise available to the public.

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18. Payment

18.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make to the Consultant such payments and in such manner as is provided by **GCC** Clause 53 of this Contract. However, the Procuring Entity may refuse to make payments when the terms and conditions of the contract are not satisfactorily performed by the Consultant.

18.2 Subject to the ceilings specified in **GCC** Clause 52 hereof, the Procuring Entity shall pay to the Consultant: (i) remuneration as set forth in **GCC** Clause 53.2; and (ii) reimbursable expenditures as set forth in **GCC** Clause 53.4. Said remuneration shall not be subject to price adjustment.

18.3 All payments under this Contract shall be made to the account of the Consultant specified in the **SCC**.

19. Currency of Payment

Unless otherwise specified in the **SCC**, all payments shall be made in Philippine Pesos.

20. Liability of the Consultant

Subject to additional provisions, if any, set forth in the **SCC**, the Consultant's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.



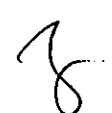

21. Insurance to be Taken Out by the Consultant

21.1 The Consultant, at its own cost, shall be responsible for taking out or maintaining any insurance policy against any risk related to the project.

21.2 The Procuring Entity undertakes no responsibility in respect of life, health, accident, travel or any other insurance coverage for the Personnel or for the dependents of any such Personnel.

22. Effectivity of Contract

The contract effectivity date shall be the date of contract signing, provided that the effectiveness of the conditions, if any, listed in the **SCC** have been met.



23. Commencement of Services

The Consultant shall begin carrying out the Services starting from the effectivity date of this Contract, as mentioned in **GCC** Clause 22.

24. Expiration of Contract

Unless sooner terminated pursuant to **GCC** Clauses 27 or 28 hereof, this Contract shall terminate at the end of such time period after the effectivity date as shall be specified in the **SCC**.

25. Force Majeure

25.1 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 Consultant 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 Consultant.

25.2 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of force majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

25.3 Unless otherwise agreed herein, force majeure shall not include:

- (a) any event which is caused by the negligence or intentional action of a Party or such Party’s Subconsultants or agents or employees;
- (b) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder;
- (c) insufficiency of funds or failure to make any payment required hereunder; or

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- (d) the Procuring Entity's failure to review, approve or reject the outputs of the Consultant beyond a reasonable time period.
- 25.4 A Party affected by an event of force majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder immediately or within a reasonable time.
- 25.5 A Party affected by an event of force majeure shall notify the other Party of such event as soon as possible, and in any event not later than fifteen (15) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- 25.6 The Parties shall take all reasonable measures to minimize the consequences of any event of force majeure.
- 25.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a direct and proximate result of force majeure.
- 25.8 During the period of their inability to perform the Services as a direct and proximate result of an event of force majeure, the Consultant shall be entitled to continue receiving payment under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period, provided that such costs are still within the total contract price. However, the foregoing provision shall not apply if the Procuring Entity suspends or terminates this Contract in writing, notice thereof duly received by the Consultant, pursuant to GCC Clauses 26 and 27 hereof with the exception of the direct and proximate result of force majeure.
- 25.9 Not later than fifteen (15) days after the Consultant, as the direct and proximate result of an event of force majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures considering the circumstances.
- 25.10 In the case of disagreement between the parties as to the existence, or extent of force majeure, the matter shall be

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submitted to arbitration in accordance with GCC Clause 34 hereof.

26. Suspension

26.1 The Procuring Entity shall, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fail to perform any of their obligations due to their own fault or due to force majeure or other circumstances beyond the control of either party (*e.g.* suspension of civil works being supervised by the consultant) under this Contract, including the carrying out of the Services, provided that such notice of suspension:

- (a) shall specify the nature of the failure; and
- (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

26.2 The Consultant may, without prejudice to its right to terminate this Contract pursuant to **GCC** Clause 28, by written notice of suspension, suspend the Services if the Procuring Entity fails to perform any of its obligations which are critical to the delivery of the Consultant's services such as, non-payment of any money due the Consultant within forty-five (45) days after receiving notice from the Consultant that such payment is overdue.

27. Termination by the Procuring Entity

27.1 The Procuring Entity shall terminate this Contract when any of the following conditions attends its implementation:

- (a) Outside of force majeure, the Consultant fails to deliver or perform the Outputs and Deliverables 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 Consultant prior to the delay;
- (b) As a result of force majeure, the Consultant is unable to deliver or perform a material portion of the Outputs and Deliverables for a period of not less than sixty (60) calendar days after the Consultant's receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased;

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- (c) In whole or in part, at any time for its convenience, the HoPE may terminate the Contract for its convenience 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;
- (d) If the Consultant is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction; in which event, termination will be without compensation to the Consultant, 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 Consultant;
- (e) In case it is determined prima facie that the Consultant has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following: corrupt, fraudulent, collusive, coercive, and obstructive practices; drawing up or using forged documents; using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and any other act analogous to the foregoing. For purposes of this clause, corrupt, fraudulent, collusive, coercive, and obstructive practices shall have the same meaning as that provided in **ITB** Clause 3.1
- (f) The Consultant fails to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to GCC Clause 15.2 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Procuring Entity may have subsequently approved in writing;
- (g) The Consultant's failure to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 34 hereof; or
- (h) The Consultant fails to perform any other obligation under the Contract.

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27.2 In case of termination, written notice shall be understood to mean fifteen (15) days for short term contracts, *i.e.*, four (4) months or less, and thirty (30) days for long term contracts.

28. Termination by the Consultant

The Consultant must serve a written notice to the Procuring Entity of its intention to terminate this Contract at least thirty (30) calendar days before its intended termination. This Contract is deemed terminated if no action has been taken by the Procuring Entity with regard to such written notice within thirty (30) calendar days after the receipt thereof by the Procuring Entity. The Consultant may terminate this Contract through any of the following events:

- (a) The Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within sixty (60) calendar days following its receipt of the Consultant's notice specifying such breach;
- (b) The Procuring Entity's failure to comply with any final decision reached as a result of arbitration pursuant to **GCC** Clause 34 hereof
- (c) As the direct and proximate result of force majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) The Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to **GCC** Clause 32 hereof within eighty four (84) days after receiving written notice from the Consultant that such payment is overdue.

29. Procedures for Termination of Contracts

The following provisions shall govern the procedures for the 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 Procuring Entity 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 Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Consultant conveying such termination. The notice shall state:
- (i) that the contract is being terminated for any of the ground(s) afore-mentioned, 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 Consultant to show cause as to why the contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;

- (c) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Consultant shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Consultant fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
- (d) The Procuring Entity may, at anytime before receipt of the Consultant's verified position paper to withdraw the Notice to Terminate if it is determined that certain services subject of the notice had been completed or performed before the Consultant's receipt of the notice;
- (e) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Consultant of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Consultant of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- (f) The HoPE 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 HoPE.

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30. Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to **GCC** Clauses 27 or 28 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by **GCC** Clauses 35 or 36 hereof.

31. Payment Upon Termination

Upon termination of this Contract pursuant to **GCC** Clauses 27 or 28 hereof, the Procuring Entity shall make the following payments to the Consultant:

- (a) remuneration pursuant to **GCC** Clause 53 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to **GCC** Clause 53 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) in the case of termination pursuant to **GCC** Clause 27(b) hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel and their eligible dependents.

32. Disputes about Events of Termination

If either Party disputes whether an event specified in **GCC** Clause 27.1 or in **GCC** Clause 28 hereof has occurred, such Party may refer the matter to arbitration pursuant to **GCC** Clause 34 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

33. Cessation of Rights and Obligations

Upon termination of this Contract pursuant to **GCC** Clauses 27 or 28 hereof, or upon expiration of this Contract pursuant to **GCC** Clause 24, all rights and obligations of the Parties hereunder shall cease, except:

- (a) such rights and obligations as may have accrued on the date of termination or expiration;

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- (b) the obligation of confidentiality set forth in **GCC** Clause 17 hereof; and
- (c) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Clauses 51(b) and 51(c) hereof, any right which a Party may have under the Applicable Law.

34. Dispute Settlement

- 34.1 If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with the implementation of this Contract, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 34.2 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in accordance with the rules of procedure specified in the **SCC**.

35. Documents Prepared by the Consultant and Software Developed to be the Property of the Procuring Entity

- 35.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract shall become and remain the property of the Procuring Entity, and the Consultant shall, prior to termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. The plans, drawings, specifications, designs, reports, other documents and software, including restrictions on future use of such documents and software, if any, shall be specified in the **SCC**.
- 35.2 All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Procuring Entity; provided, however, that the Consultant may use such programs for its own use with prior written approval of the Procuring Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements. In such cases, the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

36. Equipment and Materials Furnished by the Procuring Entity

Equipment and materials made available to the Consultant by the Procuring Entity, or purchased by the Consultant with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure it at the expense of the Procuring Entity in an amount equal to their full replacement value.

37. Services, Facilities and Property of the Procuring Entity

The Procuring Entity shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix V at the terms and in the manner specified in said appendix, provided that if such services, facilities and property shall not be made available to the Consultant as and when so specified, the Parties shall agree on:

- (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services;
- (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources; and
- (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to **GCC** Clause 52 hereinafter which should be within the agreed contract ceiling.

38. Consultant's Actions Requiring Procuring Entity's Prior Approval

The Consultant shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in Appendix III merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood that:
 - (i) the selection of the Subconsultant and the terms and conditions of the subcontract shall have been approved in

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writing by the Procuring Entity prior to the execution of the subcontract; and

- (ii) the Consultant shall remain fully liable for the performance of the Services by the Subconsultant and its Personnel pursuant to this Contract;
- (c) replacement, during the performance of the contract for any reason, of any Personnel as listed in Appendix III of this Contract requiring the Procuring Entity's prior approval; and
- (d) any other action that may be specified in the **SCC**.

39. Personnel

- 39.1 The Consultant shall employ and provide such qualified and experienced Personnel and Subconsultants as are required to carry out the Services.
- 39.2 The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix III.
- 39.3 The Key Personnel and Subconsultants listed by title as well as by name in Appendix III are hereby approved by the Procuring Entity. In respect of other Key Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their biographical data and, in the case of Key Personnel to be assigned within the GoP, a copy of a satisfactory medical certificate attached as part of Appendix III. If the Procuring Entity does not object in writing; or if it objects in writing but fails to state the reasons for such objection, within twenty-one (21) calendar days from the date of receipt of such biographical data and, if applicable, such certificate, the Key Personnel concerned shall be deemed to have been approved by the Procuring Entity.
- 39.4 The Procuring Entity may request the Consultants to perform additional services not covered by the original scope of work but are determined by the Procuring Entity to be critical for the satisfactory completion of the Services, subject to **GCC** Clause 55.6.

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- 39.5 No changes shall be made in the Key Personnel, except for justifiable reasons as may be determined by the Procuring Entity, as indicated in the **SCC**, and only upon prior approval of the Procuring Entity. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications. If the Consultant introduces changes in Key Personnel for reasons other than those mentioned in the **SCC**, the Consultant shall be liable for the imposition of damages as described in the **SCC**.
- 39.6 Any of the Personnel provided as a replacement under **GCC** Clauses 39.5 and 39.7, the rate of remuneration applicable to such person as well as any reimbursable expenditures the Consultant may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Procuring Entity. Except as the Procuring Entity may otherwise agree, the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.
- 39.7 If the Procuring Entity finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action as defined in the Applicable Law, or has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Procuring Entity's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.

40. Working Hours, Overtime, Leave, etc.

- 40.1 Working hours and holidays for Key Personnel are set forth in Appendix III. Any travel time prior to and after contract implementation shall not be considered as part of the working hours.
- 40.2 The Key Personnel shall not be entitled to claim payment for overtime work, sick leave, or vacation leave from the Procuring Entity since these items are already covered by the Consultant's remuneration. All leaves to be allowed to the Personnel are included in the staff-months of service set forth in Appendix III.
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Taking of leave by any Personnel should not delay the progress and adequate supervision of the Services.

- 40.3 If required to comply with the provisions of **GCC** Clause 43.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix III may be made by the Consultant by prior written notice to the Procuring Entity, provided that:
- (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%); and
 - (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in **GCC** Clause 52.1 of this Contract. Any other such adjustments shall only be made with the Procuring Entity's prior written approval.

41. Counterpart Personnel

- 41.1 If so provided in Appendix III hereto, the Procuring Entity shall make available to the Consultant, as and when provided in such Appendix III, and free of charge, such Counterpart Personnel to be selected by the Procuring Entity, with the Consultant's advice, as shall be specified in such Appendix III. Counterpart Personnel shall work with the Consultant. If any member of the Counterpart Personnel fails to perform adequately any work assigned to such member by the Consultant which is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.
- 41.2 The responsibilities of the Counterpart Personnel shall be specified in Appendix III, attached hereto, and the Counterpart Personnel shall not perform any work beyond the said responsibilities.
- 41.3 If Counterpart Personnel are not provided by the Procuring Entity to the Consultant as and when specified in Appendix III, and or if the Counterpart Personnel lack the necessary training, experience or authority to effectively undertake their responsibilities, the Procuring Entity and the Consultant shall agree on how the affected part of the Services shall be carried out, and the additional payments, if any, to be made by the Procuring

Entity to the Consultant as a result thereof pursuant to **GCC** Clause 52 hereof.

42. Performance Security

- 42.1 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 Consultant shall furnish the performance security in any the forms prescribed in the **ITB** Clause 30.2.
- 42.2 The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Consultant is in default in any of its obligations under the contract.
- 42.3 The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 42.4 The performance security may be released by the Procuring Entity and returned to the Consultant after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Consultant or the surety company filed by the Procuring Entity;
 - (b) The Consultant has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the **SCC**.
- 42.5 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.

43. Standard of Performance

- 43.1 The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods.

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43.2 The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subconsultants or third parties.

43.3 The Consultant shall furnish to the Procuring Entity such information related to the Services as the Procuring Entity may from time to time reasonably request.

43.4 The Consultant shall at all times cooperate and coordinate with the Procuring Entity with respect to the carrying out of its obligations under this Contract.

44. Consultant Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultant pursuant to **GCC** Clause 53 hereof shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and, subject to **GCC** Clause 45 hereof, the Consultant shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultant shall use its best efforts to ensure that any Subconsultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

45. Procurement by the Consultant

If the Consultant, as part of the Services, has the responsibility of advising or procuring goods, works or services, for the Procuring Entity, the Consultant shall comply with any applicable procurement guidelines of the Funding Source, and shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or advantages obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Procuring Entity.

46. Specifications and Designs

46.1 The Consultant shall prepare all specifications and designs using the metric system and shall embody the best design criteria applicable to Philippine conditions. The Consultant shall specify standards which are accepted and well-known among industrial nations.

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46.2 The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services for this Contract are prepared on an impartial basis so as to promote national and international competitive bidding.

47. Reports

The Consultant shall submit to the Procuring Entity the reports, deliverables and documents in English, in the form, in the numbers, and within the time periods set forth in Appendix II.

48. Assistance by the Procuring Entity on Government Requirements

48.1 The Procuring Entity may assist the Consultant, Subconsultants, and Personnel in the payment of such taxes, duties, fees and other impositions as may be levied under the Applicable Law by providing information on the preparation of necessary documents for payment thereof.

48.2 The Procuring Entity shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultant, Subconsultants, and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Subconsultants, or Personnel to perform the Services;
- (b) arrange for the foreign Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, and any other documents required for their stay in the Philippines for the duration of the Contract;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the necessary personal effects of the foreign Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services; and
- (e) grant to foreign Consultant, any foreign Subconsultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Government's country

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reasonable amounts of foreign currency for purposes of the Services or for the personal use of the foreign Personnel and their dependents.

49. Access to Land

The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to all lands in the Philippines in respect of which access is required for the performance of the Services. The Procuring Entity shall be responsible for any damage to such land or any property thereon resulting from such access and shall indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Subconsultant or the Personnel of either of them.

50. Subcontract

50.1 Subcontracting of any portion of the Consulting Services, if allowed in the **BDS**, does not relieve the Consultant of any liability or obligation under this Contract. The Consultant will be responsible for the acts, defaults, and negligence of any subconsultant, its agents, servants or workmen as fully as if these were the Consultant's own acts, defaults, or negligence, or those of its agents, servants or workmen.

50.2 Subconsultants 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.

51. Accounting, Inspection and Auditing

51.1 The Consultant shall:

- (a) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as shall clearly identify all relevant time changes and costs, and the bases thereof;
- (b) permit the Procuring Entity or its designated representative and or the designated representative of the Funding Source at least once for short-term Contracts, and annually in the case of long-term Contracts, and up to one year from the

expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Procuring Entity; and

- (c) permit the Funding Source to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors approved by the Funding Source, if so required.

51.2 The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to this Contract. The Consultant shall cooperate with and assist the Procuring Entity and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the Procuring Entity, the Consultant shall immediately reimburse the Procuring Entity an amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Procuring Entity (or, as the case may be, the Funding Source) determines to constitute corrupt, fraudulent, or coercive practices, as defined in **GCC** Clause 27(e) and under the Applicable Law, the Procuring Entity shall, unless the Procuring Entity decides otherwise, terminate this Contract.

51.3 The determination that the Consultant has engaged in corrupt, fraudulent, coercive practices shall result in the Procuring Entity and/or the Funding Source seeking the imposition of the maximum administrative, civil and criminal penalties up to and including imprisonment.

52. Contract Cost

52.1 Except as may be otherwise agreed under **GCC** Clause 10, payments under this Contract shall not exceed the ceiling specified in the **SCC**. The Consultant shall notify the Procuring Entity as soon as cumulative charges incurred for the Services have reached eighty percent (80%) of this ceiling.

52.2 Unless otherwise specified in the **SCC**, the cost of the Services shall be payable in Philippine Pesos and shall be set forth in the Appendix IV attached to this Contract.

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53. Remuneration and Reimbursable Expenditures

- 53.1 Payments of Services do not relieve the Consultant of any obligation hereunder.
- 53.2 Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services including other additional factors indicated in the **SCC** after the date determined in accordance with **GCC** Clause 22, or such other date as the Parties shall agree in writing, including time for necessary travel via the most direct route, at the rates referred to, and subject to such additional provisions as are set forth, in the **SCC**.
- 53.3 Remuneration for periods of less than one month shall be calculated on an hourly basis for time spent in home office (the total of 176 hours per month shall apply) and on a calendar-day basis for time spent away from home office (1 day being equivalent to 1/30th of a month).
- 53.4 Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services are provided in the **SCC**.
- 53.5 Billings and payments in respect of the Services shall be made as follows:
- (a) The Procuring Entity shall cause to be paid to the Consultant an advance payment as specified in the **SCC**, and as otherwise set forth below. The advance payment shall be due after the Consultant provides an irrevocable standby letter of credit in favor of the Procuring Entity issued by an entity acceptable to the Procuring Entity in accordance with the requirements provided in the **SCC**.
 - (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Procuring Entity, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to **GCC** Clauses 52.1 and 53 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each separate monthly statement shall

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distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.

- (c) The Procuring Entity shall cause the payment of the Consultant's monthly statements within sixty (60) days after the receipt by the Procuring Entity of such statements with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments. Interest shall be paid for delayed payments following the rate provided in the **SCC**.

54. Final Payment

- 54.1 The final payment shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the Procuring Entity and the final report and final statement shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Procuring Entity unless the Procuring Entity, within such ninety (90)-day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections within a maximum period of ninety (90) calendar days, and upon completion of such corrections, the foregoing process shall be repeated.
- 54.2 Any amount which the Procuring Entity has paid or caused to be paid in accordance with this clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with the above.

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55. Lump Sum Contracts

- 55.1 For Lump Sum Contracts when applicable, notwithstanding the terms of **GCC** Clauses 10, 18.1, 31(c), 41.3, 53.2, 53.3, 53.4, 53.5, and 54.1, the provisions contained hereunder shall apply.
- 55.2 Personnel - Any replacement approved by the Procuring Entity in accordance with **ITB** Clause 25.3 shall be provided by the Consultant at no additional cost.
- 55.3 Staffing Schedule - Should the rate of progress of the Services, or any part hereof, be at any time in the opinion of the Procuring Entity too slow to ensure that the Services are completed in accordance with the Staffing Schedule, the Procuring Entity shall so notify the Consultant in writing and the Consultant shall at its sole cost and expense, thereupon take such steps as necessary, subject to the Procuring Entity's approval, or as reasonably required by the Procuring Entity, to expedite progress so as to ensure that the Services are completed in accordance with the Staffing Schedule.
- 55.4 Final payment pursuant to the Payment Schedule in Appendices IV and V shall be made by the Procuring Entity after the final report has been submitted by the Consultant and approved by the Procuring Entity.
- 55.5 Termination - Upon the receipt or giving of any notice referred to in **GCC** Clause 29 and if the Consultant is not in default under this Contract and has partly or substantially performed its obligation under this Contract up to the date of termination and has taken immediate steps to bring the Services to a close in prompt and orderly manner, there shall be an equitable reduction in the maximum amount payable under this Contract to reflect the reduction in the Services, provided that in no event shall the Consultant receive less than his actual costs up to the effective date of the termination, plus a reasonable allowance for overhead and profit.
- 55.6 Unless otherwise provided in the **SCC**, no additional payment for variation order, if any, shall be allowed for this Contract.

56. Liquidated Damages for Delay

If the Consultant fails to deliver any or all of the Services within the period(s) specified in this Contract, 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 one-tenth of one percent of the price of the unperformed portion of the Services for each day of delay based on the approved contract schedule up to a maximum deduction of ten percent (10%) of the contract price. Once the maximum is reached, the Procuring Entity may consider termination of this Contract pursuant to **GCC** Clause 27. *f*

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SPECIAL CONDITIONS OF CONTRACT


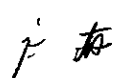
GCC Clause	PARTICULARS
1.1(g)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through the BCDA Corporate Budget.</p>
6.2 b	<p>For a period of two (2) years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Sub-Consultants and its Personnel</p> <p>(a) not to engage, in the activity of a purchaser (directly or indirectly) of the assets in which they advised the Procuring Entity under this Contract nor in the activity of an adviser (directly or indirectly) of potential purchasers of such assets</p> <p>(b) not to engage, not give or render services (directly or indirectly) as an employee or CONSULTANT by any person or entity whose business or interests are in conflict or against the interest of BCDA or any of its subsidiaries and affiliates. The Consultant also agrees that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>
7	Not applicable
8	Not applicable
10	No further instructions.
11	<p>BCDA shall not in any way, be liable or responsible for any loss, damage, or injury, including death, which the Consultant, its officers, personnel, agents, representatives, or subcontractors may sustain in the course of the performance of the services under this Contract.</p> <p>The Consultant shall be solely liable and responsible for the compliance with all existing laws and issuances that may affect its services under the Contract, which include the Labor Code of the Philippines.</p> <p>The Consultant holds BCDA and its representatives free and harmless from any claim, liability, loss, or damage resulting</p>

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	<p>from, or related to, the performance of its services and obligations under the Contract.</p>
<p>12</p>	<p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity:</p> <p style="text-align: center;">AILEEN ANUNCIACION R. ZOSA Executive Vice President and Chief Operations Officer</p> <p>For the Consultant:</p> <p style="text-align: center;">JUDD B. BALAYAN Group Chief Financial Officer DDB Philippines, Inc.</p>
<p>15.1</p>	<p>BCDA's address is:</p> <p>Bases Conversion and Development Authority 2/F, Bonifacio Technology Center, 31st Street, corner 2nd Avenue, Bonifacio Global City, Taguig City</p> <p>Any notice, request or consent required or permitted pursuant to this Contract shall be addressed to:</p> <p style="text-align: center;">AILEEN ANUNCIACION R. ZOSA Executive Vice President and Chief Operations Officer Bases Conversion and Development Authority 2/F, Bonifacio Technology Center 31st Street corner 2nd Avenue Bonifacio Global City, Taguig City Email address: arzosa@bcda.gov.ph Tel No. 8575-1700; Fax No. 8816-0917</p> <p style="text-align: center;">JUDD B. BALAYAN Group Chief Financial Officer DDB Philippines Inc. 16F Two World Square, 22 Upper Mckinley Road, Mckinley Hill, Fort Bonifacio Taguig City Email address: jbbalayan@ddbgroup.com.ph</p>

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Republic of the Philippines Office of the President  BCDA Bases Conversion and Development Authority	BASES CONVERSION AND DEVELOPMENT AUTHORITY	Page No. Page 26
	Manual of Approval	Issue No. 002
		BOD Approval Date 22 Nov. 2017

No.	Item	Upon Recommendation of, thru EVP/COO
	of Consulting Services	
161	Disposal through public bidding of Movable Properties considered unserviceable and serviceable but no longer needed as well as scrap materials (including authority to enter into negotiated sale) with an agency Appraised Value of above P10 Million	Disposal Committee/BAC for Disposal of unserviceable properties
162	Annual Physical Inventory Report of movable properties	Annual Inventory Committee/PPMD

FOR APPROVAL OF THE EXECUTIVE VICE PRESIDENT

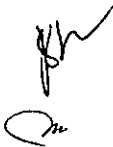
No.	Item	Upon Recommendation of
	BUSINESS MANAGEMENT (covers BCDA assets/properties and assets/properties under BCDA administration, supervision, and disposition)	
163	Permits and licenses for utilities requiring the approval of BCDA	BDOG Head
	FINANCE MANAGEMENT	
164	Realignment of budget P3 Million and below, summary of approved realignments shall be reported to BOD on a quarterly basis	BD Head/FSG Head
165	Request for issuance of Heritage Park Certificates	TID Head
	LEGAL REVIEW	
166	Transmittal letter to OGCC for Contract Review/Approval/Legal Opinion (Signing)	GC
	SUBSIDIARIES, AFFILIATES, AND PROJECTS MONITORING	
167	Issuance of second letters for violations of the JV contract, COL and other business contracts	SAPMD Head
168	Communication to the Utility and Facility Operator in SCTEX on infractions, violations, and/or non-compliance (Signing)	SAPMD Head
	CORPORATE AFFAIRS	
169	Corporate Social Responsibility (CSR) Projects with a budget of below P500,000.00	CSG head
	ADMINISTRATIVE MATTERS	
170	Authority to pay/release regular BCDA benefits/incentives and benefits/incentives authorized by regulatory authorities/agencies (alternate of PCEO)	CSG Head

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<p>Republic of the Philippines Office of the President</p> <p>BCDA Bases Conversion and Development Authority</p>	<p>BASES CONVERSION AND DEVELOPMENT AUTHORITY</p>	<p>Page No. Page 27</p>
	<p>Manual of Approval</p>	<p>Issue No. 002</p>
		<p>BOD Approval Date 22 Nov. 2017</p>

No.	Item	Upon Recommendation of
171	Vacation/Sick/Privilege Leave, within the Philippines for 15 days or more for all positions	Concerned Department Head through ODMD and CSG Head
172	Vehicle assignment/deployment to a particular office; use of vehicle to an office or entity, government or private, internal or external	CSG Head
173	Rehabilitation Leave on job-related injuries for all positions	CSG Head
174	Conduct of seminars, trainings, team building, and physical fitness activities	CSG Head
175	Request for new provision of mobile data or wi-fi as well as post-paid line and cellcard for ranks SG 24 and below	Concerned Group Head
176	Filing/Submission of claims for Directors and Officers Liability Fund (DOLF)	DOLF Committee (based on DOLF policy)
177	Performance Ratings of Group Heads, subject to review by P/CEO	
178	<p>Procurement covered by R.A. 9184 and its revised IRR for Goods with an ABC of above ₱1 Million to ₱10 Million and below as well as for Consulting Services and Infrastructure with an ABC of ₱10 Million and below:</p> <ol style="list-style-type: none"> Authority to procure Approved budget for the contract (ABC) Terms of Reference (TOR) Award of Contract BAC Resolution on re-bidding, authority to enter into negotiated procurement, use of alternative methods of procurement and delegation of authority to the concerned end-user or to the Procurement Division (involving goods) to process procurement using the allowed alternative methods of procurement, if applicable BAC Resolution on the ranking of shortlisted bidder/s and declaration of highest rated bid (HRB) for the procurement of Consulting Services with an ABC of ₱10 Million and below Contract Cancellation/termination of procurement, award, or contract Amendment to Order above ₱1 Million to ₱10 Million and below for Goods 	<p>Group Head of end-user (a, b, c, g, h, i, and j)</p> <p>BAC (d, e, f, and h)</p>

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<p>Republic of the Philippines Office of the President</p> <p>BCDA Bases Conversion and Development Authority</p>	BASES CONVERSION AND DEVELOPMENT AUTHORITY	Page No. Page 28
	Manual of Approval	Issue No. 002
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No.	Item	Upon Recommendation of
	j. Variation Order ₱10 Million and below for Consulting Services and Infrastructure	
179	Disposal through public bidding of movable properties considered unserviceable and serviceable but no longer needed as well as scrap materials (including authority to enter into negotiated sale) with an agency Appraised Value of ₱500,000.00 to ₱10 Million as well as other modes such as Transfer to other Government Agencies, Donation, Barter, and Condemnation/Destruction	Disposal Committee/BAC for disposal of unserviceable properties (public bidding); PPMD Head (other modes of disposal such as transfer, etc.) through CSG Head
180	Report on Deployment of Vehicles and Drivers as well as Report on Daily Parking Monitoring for submission on a quarterly basis	PATSD Head through CSG Head

FOR APPROVAL OF THE BUSINESS DEVELOPMENT AND OPERATIONS GROUP (BDOG) HEAD

No.	Item	Upon Recommendation of
	BUSINESS MANAGEMENT	
181	Deed of Absolute Sale or Contract to Sell/Lease with Option to Purchase for BCDA Housing Projects (i.e. Pamayanang Diego Silang (PDS), Philippine Centennial Village (PCV), Lupang Katuparan, Pabahay 2000, Summit Housing Project, etc.) (Signing)	Project Management Department (PMD) Head
182	Notice of Temporary Occupancy of a Housing Unit	PMD Head
183	Communication requesting for Issuance/Subdivision/ Segregation of Tax Declaration	LADD Head
184	Letter replies to housing related requests or queries	PMD Head
	FINANCE MANAGEMENT	
185	Payment of RPT, CWT, and DST (without penalty)	LADD
	SUBSIDIARIES, AFFILIATES, AND PROJECTS MONITORING	
186	Communication on operational issues affecting MNTC's management, operation & maintenance of the SCTEX	SAPMD Head

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

SECRETARY'S CERTIFICATE

I, **ATTY. ROLANDO H. RUGA** a duly elected and qualified Corporate Secretary of **DDB PHILIPPINES INC.** ("Corporation"), a corporation duly organized and existing under and by virtue of the laws of the Republic of Philippines with principal office and place of business at 16th Floor Two World Square, 22 Upper McKinley Road, McKinley Hill, Fort Bonifacio, Taguig City, DO HEREBY CERTIFY, that:

I am familiar with the facts herein certified and duly authorized to certify the same;

At the special meeting of the Board of Directors of the said Corporation duly convened and held on December 11, 2020 at which meeting a quorum was present and acted throughout, the following resolution was unanimously approved, and the same have not been annulled, revoked and amended in any way whatever and are in full force and effect on the date hereof:

"RESOLVED, that **DDB PHILIPPINES INC.** be, as it hereby is, authorized to participate in the bidding of Consulting Services for the Production of the Clark Video ("Project") of Bases Conversion and Development Authority (BCDA), and that if awarded the project shall enter into a contract with BCDA; and in connection therewith hereby appoint **Mr. Judd B. Balayan**, Group Chief Financial Officer, as the duly authorized and designated representative of **DDB PHILIPPINES INC.** who is granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid and to sign and execute the contract for the Project."

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of December 2020 at Taguig City, Philippines.

RHR
ATTY. ROLANDO H. RUGA

Corporate Secretary

MAKATI CITY

DEC 21 2020

SUBSCRIBED AND SWORN to before me this _____ at _____, Philippines. Affiant is personally known to me and was identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant exhibited to me his Driver's License with his photograph and signature appearing thereon with N01-96-194552

Witness my hand and seal this DEC 21 2020.

Doc. No. 328;
Page No. 67;
Book No. 66;
Series of 2020

RMR
RUBEN T. M. RAMIREZ

NOTARY PUBLIC

UNTIL DEC. 31, 2021

IBP NO. 093489/10-18-13 CY 2020

ROLL NO. 28947/MCLE 6/3-22-19

PTR NO. MKT.8117044/1-2-20 APPT.NO. M-127

NOTICE OF AWARD

29 December 2020

Judd B. Balayan
Group Chief Financial Officer
DDB Philippines Inc.
16F TWO WORLD SQUARE
22 Upper Mckinley Road, Mckinley Hill,
Fort Bonifacio, Taguig City

Dear **Mr. Balayan**:

We are pleased to inform you that the contract for the **CONSULTING SERVICES FOR THE CLARK VIDEO PRODUCTION** is hereby awarded to **DDB Philippines, Inc.** at a contract price of Pesos: Three Million Nine Hundred Fifty Eight Thousand Six Hundred Forty Pesos and 00/100 (Php3,958,640.00), inclusive of all applicable taxes and fees, reckoned from the date stated in the Notice to Proceed to be issued to the Consultant.

In this regard, you are hereby required, within 10 calendar days from receipt of this Notice of Award to: 1) formally enter into contract with BCDA, provided that all documentary requirements are complied with; and 2) Submit the performance security in the form and amount stipulated in the Instruction to Bidders, which shall be posted in favor of BCDA and with validity until the issuance of the Certificate of Completion.

Failure to enter into the said contract or provide the performance security shall constitute sufficient grounds for cancellation of the award and forfeiture of the bid security.

Please indicate your concurrence by signing on the space below "Conforme" and return the same upon signing.

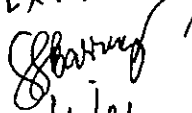
Very truly yours,


AILEEN ANUNCIACION R. ZOSA
Executive Vice President

Conforme:


Judd B. Balayan
Group Chief Financial Officer
DDB Philippines Inc.

Date: _____

EX 2021 - 0066

1/6/21
5:00 PM

BACC2020-0228