

**INVITATION FOR NEGOTIATION**

**PROCUREMENT OF CONSULTANCY SERVICES FOR THE CONDUCT OF  
DETAILED ENGINEERING DESIGN OF THE EXPANSION OF PASSENGER  
TERMINAL BUILDING (PTB) AT DAVAO INTERNATIONAL AIRPORT**

**Bid No. 19-056-11 BRAVO**

**(Negotiated Procurement: Two-Failed Biddings)**



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**BIDS AND AWARDS COMMITTEE – BRAVO**

**INVITATION FOR NEGOTIATION  
(Negotiated Procurement – Two Failed Biddings)**

In view of the two (2) failed biddings for the Procurement of Consultancy Services for the Conduct of Detailed Engineering Design of the Expansion of Passenger Terminal Building (PTB) at Davao International Airport through its Bids and Awards Committee - BRAVO (BAC-BRAVO) invites Phil-GEPS registered consultants, to apply for eligibility and to participate in the negotiation for the **Procurement of Consultancy Services for the Conduct of Detailed Engineering Design of the Expansion of Passenger Terminal Building (PTB) at Davao International Airport** in accordance with Section of the Revised Implementing Rules and Regulations (R-IRR) of Republic Act No. 9184, otherwise known as the “Government Procurement Reform Act”.

The Approved Budget for the Contract is **Eleven Million Eight Hundred Forty-Three Thousand Six Hundred Pesos (Php 11,843,600.00)**.

The schedule of bidding activities are as follows:

<b>ACTIVITIES</b>	<b>SCHEDULE</b>
Posting of Request for Proposal	18 February 2022
Issuance and Availability of Request for Proposal	18 February 2022
Pre-Bid Conference/ Negotiation Meeting	22 February 2022, 1:30 p.m.
Submission of Eligibility, Technical Components and Financial Documents, and best offer.	04 March 2022, 1:30 p.m.

The complete set of Request for Proposal may be purchased at the BAC Office, 4<sup>th</sup> Floor, Main Building, CAAP Compound, Old MIA Road, Pasay City upon payment of a non-refundable fee provided as follows not later than the submission of their proposals. Consultants who have been declared “eligible” during the first two-failed biddings need not pay for the tender documents.

The proposal with required documents of interested consultants must be duly received by the BAC Secretariat on or before 04 March 2022, 01:30 PM at the BAC Office or Conference Room, 4th Floor Main Building, CAAP Compound, Old MIA Road corner Ninoy Aquino Avenue, 1300 Pasay City, Metro Manila. For further information, please refer to:

**DR. ROLLY T. BAYABAN**

**Overall Head, BAC Secretariat**

Civil Aviation Authority of the Philippines  
Old MIA Road corner Ninoy Aquino Avenue  
1300 Pasay City, Metro Manila  
Telephone number – (02) 7944-2358  
[www.caap.gov.ph](http://www.caap.gov.ph)

CAAP reserves the right to waive any formality in the responses to the eligibility requirements and to this invitation. CAAP further reserves the right to reject any and all proposals, or declare a failure of quotation or not award the contract, and makes no assurance that the contract shall be entered into as a result of this invitation without thereby incurring any liability in accordance with Republic Act No. 9184 and its Revised Implementing Rules and Regulations.

**CAPTAIN DONALDO A. MENDOZA**

**Chairperson, Bids and Awards Committee – BRAVO**

**Section I.**  
***Instructions to Consultants***

## A. General

### 1. Scope

The Civil Aviation Authority of the Philippines (CAAP) wishes to receive bids for the Procurement of Consultancy Services for the Conduct of Detailed Engineering Design of the Expansion of Passenger Terminal Building (PTB) at Davao International Airport.

### 2. Source of Funds

The Funding Source shall be from the Department of Transportation (DOTr) Downloaded Infrastructure Projects in the amount of **Eleven Million Eight Hundred Forty-Three Thousand Six Hundred Pesos (Php 11,843,600.00)**.

### 3. Eligible Consultants

#### 3.1. The following persons shall be eligible to participate in this procurement:

- (a) Duly licensed Filipino citizens/sole proprietorships;
- (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
- (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- (d) Cooperatives duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines; and
- (e) Persons/entities forming themselves into a JV, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%).

For purposes of determination of technically, legally and financially capable service provider for this particular negotiated procurement, the hereunder service provider shall be deemed qualified:

- (a) All Consultants who participated in the two (2) earlier failed biddings provided that they have been declared eligible by the CAAP BAC-BRAVO.
- (b) New Consultants provided that will comply with the same eligibility and technical requirements prescribed under the most recent failed bidding.

#### 3.2. Government-owned or –controlled corporations (GOCCs) may be eligible

to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.

#### **4. Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices**

The Procuring Entity as well as the Consultants shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Procuring Entity:

a) defines, for purposes of this provision, the terms set forth below as follows:

i. "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the GoP, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.

ii. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

iii. "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.

iv. "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

v. "obstructive practice" is

aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

- b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in **ITC**.

Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a Consultant in the bidding for and performance of a contract themselves or through independent auditors as reflected in the **GCC** Clause 51.

## **5. Consultant's Responsibilities**

The Consultant or its duly authorized representative shall submit a sworn statement in the form prescribed in Bidding Documents.

The Consultant is responsible for the following:

- a) Having taken steps to carefully examine all of the Bidding Documents;
- b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
- c) Having made an estimate of the facilities available and needed for this Project, if any;
- d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under ITB Clause 8.4.
- e) Ensuring that it is not "blacklisted" or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
- f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- g) Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
- h) Ensuring that the signatory is the duly authorized representative of the Consultant, and 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 ensuing contract, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;
- i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of Republic Act 3019;
- j) Complying with existing labor laws and standards, in the case of procurement of services. Moreover, Consultant undertakes to:
  - a. Ensure the entitlement of workers to wages, hours of work,



safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- b. Comply with occupational safety and health standards and to correct deficiencies, if any.  
In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and
- c. Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and
- k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of compensation, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.
- l) Failure to observe any of the above responsibilities shall be at the risk of the Consultant concerned.

## **B. Preparation of Bids**

### **1. Eligibility, Technical and Financial Documents**

#### **A. Eligibility Requirements**

- a. Certificate of PhilGEPS Registration and Platinum Membership including its Annex "A";
- b. Registration Certificate from Securities and Exchange Commission (SEC) or Certificate of Incorporation or Article of Incorporation or Amended Articles of Incorporation or Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives;
- c. Mayor's/Business Permit where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit: Provided, That the renewed permit shall be submitted as a post-qualification requirement in accordance with Section 34.2 of the

- IRR of RA No. 9184;
- d. Tax Clearance per E.O 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR);
  - e. Audited Financial Statements stamped “received” by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year, which should not be earlier than two (2) years from the date of proposal submissions;
  - f. Legal Clearance issued by the CAAP – Enforcement and Legal Service with respect to the non-pendency of any cases of prospective Bidder against the Procuring Entity;
  - g. Certification under oath that the bidder has no pending case(s) against the government; and
  - h. Form A. Notarized Omnibus Sworn Statement

## **B. Technical Proposal**

- a. TFP 1. Statement of ongoing projects
- b. TFP 2. Statement of completed projects;
- c. TFP 3. Statement of key staff;
- d. TFP 4. Curriculum vitae of the key personnel/staff using the prescribed template;
- e. TFP 5. Consultant’s References - Relevant Services Carried Out in the Last Ten Years That Best Illustrate Qualifications;
- f. TFP 6. Description of the Methodology and Work Plan for Performing the Project;
- g. TFP 7. Team Composition and Task;
- h. TFP 8. Time Schedule for Professional Personnel; and
- i. TFP 9. Activity (Work) Schedule.

## **C. Financial Proposal**

- a. FPF 1. Financial Proposal Submission Form
- b. FPF 2. Summary of Costs
- c. FPF 3. Breakdown of Price per Activity
- d. FPF 4. Breakdown of Remuneration per Activity
- e. FPF 5. Reimbursables per Activity
- f. FPF 6. Miscellaneous Expenses

## **2. Format and Signing of Bids**

- i. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided.
- ii. Each bidder shall submit one (1) original and two (2) copies of the first and second components of its bid.

The duplicates i.e. copies 1 and 2 must include the same documents as that of the original set of documents.

Any omission of document in the copies shall be a ground for the bidder’s disqualification/ineligibility.

- iii. The bid, except for unamended printed literature, shall be signed and each and every page thereof shall be initialed, by the duly

authorized representative/s of the Bidder.

- iv. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.
- v. The financial proposal must be sealed in a small envelope to be part of the submission.

### **3. Sealing and Marking of Bids**

- i. Bidders shall enclose their original in one sealed envelope marked "ORIGINAL BID".
- ii. Each copy shall be similarly sealed duly marking the inner envelopes as "COPY NO. 1" and "COPY NO. 2", respectively. These envelopes containing the original and the copy shall then be enclosed in one single envelope.
- iii. The original and the copy of the Bid shall be typed or written in indelible ink and shall be signed by the bidder or its duly authorized representative/s.
- iv. All envelopes shall be addressed to the CAAP BAC-BRAVO and shall bear or indicate:
  - 1. the name of the contract to be bid in capital letters;
  - 2. the name and address of the Bidder in capital letters;
  - 3. the specific identification of this bidding process; and
  - 4. a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids.
- vi. If bids are not sealed and marked as required, the CAAP BAC BRAVO will assume no responsibility for the misplacement or premature opening of the bid.

## **C. Submission and Opening of Eligibility, Technical and Financial Requirements**

### **1. Deadline for Submission of Bids**

The address for submission of eligibility, technical and financial components of the bid is:

CAAP Bids and Awards  
Committee – BRAVO c/o BAC  
Secretariat  
BAC Office, 4<sup>th</sup> Floor Building,  
Main Building, Old MIA Road,  
Pasay City

The deadline for submission of the requirements is on **04 March 2022 at 1:30 PM.**

## **2. Late Submission**

Any bid submitted after the deadline for submission and receipt of bids as stated in C.1 hereof, shall be declared “Late” and shall not be accepted by the CAAP BAC-BRAVO.

## **3. Modification and Withdrawal of Bids**

- i. The Participant may modify its bid after it has been submitted; provided that the modification is received by the CAAP BAC-BRAVO prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as “BID MODIFICATION” and stamped “received” by the CAAP BAC-BRAVO. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Participant unopened.
- ii. A Participant may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the CAAP BAC-BRAVO prior to the deadline prescribed for submission and receipt of bids.
- iii. Bids requested to be withdrawn shall be returned unopened to the Participant. A Bidder may also express its intention not to participate in the negotiated procurement through a letter which should reach and be stamped by the CAAP BAC-BRAVO before the deadline for submission and receipt of bids. A Participant that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- iv. No quotation/proposal may be modified after the deadline for its submission. No quotation/proposal may be withdrawn in the interval between the deadline for its submission and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form.

## **4. Opening and Preliminary Examination of Bids**

- i. The CAAP BAC-BRAVO shall open the bid envelopes of Bidders in public to determine each Bidder’s compliance with the documents prescribed in B.1 hereof. For this purpose, the CAAP BAC-BRAVO shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary “pass/fail” criterion. If a bidder submits the required document, it shall be rated “passed” for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently

insufficient shall be considered as “failed”. Otherwise, the CAAP BAC-BRAVO shall rate the said first bid envelope as “passed”.

- ii. During the opening of bids only the authorized representative shall be allowed to assist in the opening of bids. In case the authorized representative is not present, any employee or representative of the authorized representative may be allowed to “assist” in the opening of bids provided that a separate written authorization from the authorized representative shall be presented for the purpose. Provided further, that the authorized representative is duly authorized to issue such authority and the same is reflected in the Board Resolution and/or Secretary’s Certificate.
- iii. Letters of withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened. If the withdrawing Bidder’s representative is in attendance, the original bid and all copies thereof shall be returned to the representative during the bid opening. If the representative is not in attendance, the bid shall be returned unopened by registered mail. The Bidder may withdraw its bid prior to the deadline for the submission and receipt of bids, provided that the corresponding Letter of Withdrawal contains a valid authorization requesting for such withdrawal, subject to appropriate administrative sanctions.
- iv. A Bidder determined as “failed” has three (3) calendar days upon written notice or, if present at the time of bid opening, upon verbal notification, within which to file a request or motion for reconsideration within the CAAP BAC-BRAVO: Provided, however, that the motion for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the Bidder concerned: Provided, further, that the CAAP BAC-BRAVO shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed Bidder signifies his intent to file a motion for reconsideration, the CAAP BAC-BRAVO shall keep the bid envelopes of the said failed Bidder unopened and/or duly sealed until such time that the motion for reconsideration or protest has been resolved.
- v. The CAAP BAC-BRAVO shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price, findings of preliminary examination; and (b) attendance sheet.

#### **D. Evaluation and Comparison of Bids**

##### **1. Clarification of Bids**

To assist in the evaluation, comparison, and post-qualification of the bids, the CAAP BAC-BRAVO may ask in writing any Bidder for a clarification of its bid. All responses to requests for

clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the CAAP BAC-BRAVO shall not be considered.

## 2. Detailed Evaluation and Comparison of Bids

The CAAP BAC-BRAVO will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids, in order to determine the Highest Rated Bid.

The CAAP BAC-BRAVO shall immediately conduct a detailed evaluation of all bids rated “passed,” using non-discretionary pass/fail criteria. The CAAP BAC-BRAVO shall consider the following in the evaluation of bids:

1. Completeness of the bid. Bids not addressing or providing all of the required items in the Eligibility, Technical and Financial Documents shall be considered non-responsive and, thus, **automatically disqualified**. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a “0” (zero) for the said item would mean that it is being offered for free to the CAAP BAC-BRAVO; and

2. Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications, if applicable. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Highest Rated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered.

The CAAP BAC-BRAVO’s evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form.

Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.

## 3. Negotiation

Negotiations with the Consultant that submitted the Highest Rated Bid shall be held at the address indicated in the **ITC**. The aim is to reach agreement on all points.

Negotiations shall cover the following:

- a) Discussion and clarification of the TOR and Scope of Services;
- b) Discussion and finalization of the methodology and work program proposed by the Consultant;
- c) Consideration of appropriateness of qualifications and pertinent compensation, number of man-months and the personnel to be assigned to the job, taking note of over-qualified personnel to be commensurate with the compensation of personnel with the appropriate qualifications, number of man-months and schedule of activities (manning schedule);
- d) Discussion on the services, facilities and data, if any, to be provided by Procuring Entity concerned;
- e) Unless otherwise indicated in the **ITC**, discussion on the Financial Proposal submitted by the Consultant; and
- f) Provisions of the contract.

Having selected the Consultant on the basis of, among other things, an evaluation of the proposed key professional staff, the Procuring Entity expects to negotiate a contract on the basis of the experts named in the bid. Before contract negotiations, the Procuring Entity shall require assurances that the experts shall be actually available. The Procuring Entity shall not consider substitutions during contract negotiations except for justifiable reason as may be determined by the Procuring Entity, such as illness, death, or resignation, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the Project. If this is not the case and if it is established that key staff were offered in the bid without confirming their availability, the Consultant may be disqualified. Once the contract has been awarded, no replacement shall be allowed until after fifty percent (50%) of the personnel's man-months have been served, except for justifiable reasons as may be determined by the Procuring Entity. Violators shall 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.

Negotiations shall include a discussion of the technical proposal, the proposed methodology (work plan), staffing and any suggestions made by the Consultant to improve the TOR. The Procuring Entity and Consultant shall then work out the final TOR, staffing, and bar charts indicating activities, staff, periods in the field and in the home office, staff-months, logistics, and reporting. The

agreed work plan and final TOR shall then be incorporated in Appendix I and form part of the contract. Special attention shall be paid to getting the most the Consultant can offer within the available budget and to clearly defining the inputs required from the Procuring Entity to ensure satisfactory implementation of the Project.

The financial negotiations shall include a clarification of the Consultant's tax liability in the Philippines, if any, and the manner in which it shall be reflected in the contract; and shall reflect the agreed technical modifications in the cost of the services. The negotiations shall conclude with a review of the draft form of the contract. To complete negotiations, the Procuring Entity and the Consultant shall initial the agreed contract. If negotiations fail, the Procuring Entity shall invite the Consultant whose Bid received the second highest score to negotiate a contract. If negotiations still fail, the Procuring Entity shall repeat the process for the next-in-rank Consultant until the negotiation is successfully completed.

#### **4. Post-Qualification**

The CAAP BAC-BRAVO shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Highest Rated Bid (HRB) complies with and is responsive to all the requirements and conditions specified in A (3) and B (1).

The determination shall be based upon an examination of the evidence of the Bidder's qualifications submitted pursuant to B (1), as well as other information as the CAAP BAC-BRAVO deems necessary and appropriate, using a non-discretionary "pass/fail" criterion.

If the CAAP BAC-BRAVO determines that the Bidder with the HRB passes all the criteria for post-qualification, it shall declare the said bid as the Highest Rated and Responsive Bid, and recommend to the Head of the CAAP BAC-BRAVO the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.

A negative determination shall result in rejection of the Bidder's Bid, in which event the CAAP BAC-BRAVO shall proceed to the next Highest Rated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Highest Rated Bid, and so on until the Highest Rated Responsive Bid is determined for contract award.

Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the CAAP BAC-BRAVO, the Head of the CAAP BAC-BRAVO shall approve or disapprove the said recommendation.

#### **5. Reservation Clause**



Notwithstanding the eligibility or post-qualification of a bidder, the CAAP BAC-BRAVO concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the CAAP BAC-BRAVO shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

Based on the following grounds, the CAAP BAC-BRAVO reserves the right to reject any and all bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:

- If there is *prima facie* evidence of collusion between appropriate public officers or employees of the CAAP BAC-BRAVO, or between the CAAP BAC-BRAVO and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- If the CAAP BAC-BRAVO is found to have failed in following the prescribed bidding procedures; or
- For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
  - i. If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
  - ii. If the project is no longer necessary as determined by the HoPE; and
  - iii. If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.

In addition, the CAAP BAC-BRAVO may likewise declare a failure of bidding when:

- i. No bids are received;
- ii. All prospective bidders are declared ineligible;
- iii. All bids fail to comply with all the bid requirements or fail post-qualification; or
- iv. The bidder with the Highest Rated and Responsive Bid (HRRB) refuses, without justifiable cause to accept the award of contract, and no award is made.

## **D. Award of Contract**

### **1. Contract Award**

The Procuring Entity shall award the contract to the Bidder whose bid has been determined to be the Highest Rated and Responsive Bid (HRRB).

Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the HRRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.

Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- i. Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the notice from the CAAP BAC-BRAVO that the Bidder has the HRRB;
- ii. Posting of the performance security;
- iii. Signing of the contract;
- iv. Approval by higher authority, if required.

### **2. Signing of the Contract**

The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period.

The following documents shall form part of the contract:

- i. Bidding Documents;
- ii. Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;

- iii. Notice of Award of Contract; and
- iv. Other contract documents that may be required by existing laws and/or specified in the Instruction to Consultants.

**F. Performance Security**

To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.

The performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount equal to the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the required percentage of the Total Contract Price)
a) Cash, or cashier's/ manager's check issued by a Universal or Commercial Bank.  For biddings conducted by LGUs the cashier's/manager's check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.	Goods and Consulting Services- Five percent (5%)  Infrastructure Projects – Ten percent (10%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.  For bidding conducted by LGUs, bank draft/guarantee, or irrevocable letter of credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

Within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than

the signing of the Contract between the successful bidder and the Procuring Entity the performance security in accordance with the Conditions of the Contract, and in the Form.

Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall initiate and complete the post qualification of the second Highest Rated Bid. The procedure shall be repeated until the HRRB is identified and selected for contract award. However, if no Bidder passed post-qualification, the CAAP BAC-BRAVO shall declare the bidding a failure and conduct a re-bidding with re-advertisement.

#### **G. Notice to Proceed**

Within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority.

The date of the Participant's receipt of the Notice to Proceed will be regarded as the effective date of the contract, unless otherwise specified in the **Instruction to Consultants**.

#### **H. Subcontract**

Performance of Services shall be the sole responsibility of the Consultant. Any form of subcontracting is prohibited.

#### **I. Delays in the Consultant's Performance**

Performance of Services shall be made by the Consultant in accordance with the time schedule prescribed by the Procuring Entity.

If at any time during the performance of this Contract, the Consultant should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Consultant shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Consultant's notice, the Procuring Entity shall evaluate the situation and may extend the Consultant's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.

A delay by the Consultant in the performance of its obligations shall render the Consultant liable to the imposition of liquidated damages unless an extension of time is agreed upon.

#### **J. Termination for Default**

The Procuring Entity may terminate this Contract for default when the Consultant fails to perform any other obligation under the Contract.

***Section II. 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 shortlisted consultant with the HRRB determined by the Procuring Entity as such in accordance with the ITC.
- (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, **Error! Reference source not found.** 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 **ITC**;
- (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) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
  - (ii) the extent of termination, whether in whole or in part;

- (iii) an instruction to the 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 **ITC**.

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 **ITC**, 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 **ITC** 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.

***Section III. Special Conditions of Contract***

## Special Conditions of Contract

GCC Clause	
1.1(g)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GoP) under the funds from Department of Transportation (DOTr) Downloaded Infrastructure Projects.</p>
6.2(b)	<p>For a period of two years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Subconsultants and its Personnel not to engage, in the activity of a purchaser (directly or indirectly) of the assets on 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. The Consultant also agrees that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>
7	<p>The Member in Charge is <i>[name of member, address, and other necessary contact information]</i>.</p> <p><b>NOTE:</b> <i>If the Consultant consists only of one entity, state "Not applicable".</i></p>
8	<p>The person designated as resident project manager in Appendix III shall serve in that capacity, as specified in <b>GCC</b> Clause 8.</p>
10	<p>No further instructions.</p>
12	<p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity: <b>Capt. Jim C. Sydiongco</b></p> <p>For the Consultant: _____.</p>
15.1	<p>The addresses are:</p> <p>Procuring Entity: Civil Aviation Authority of the Philippines</p> <p>Attention: <b>Capt. Jim C. Sydiongco – Director General</b></p> <p>Address: <u>Civil Aviation Authority of the Philippines, Old MIA Road corner Ninoy Aquino Avenue 1300 Pasay City, Metro Manila</u></p> <p>Facsimile: _____</p> <p>Email Address: _____</p>

	<p>Consultants: <i>[insert name of the Consultant]</i></p> <p>Attention: <i>[insert name of the Consultant's authorized representative]</i></p> <p>Address: _____</p> <p>Facsimile: _____</p> <p>Email Address: _____</p> <p><b>NOTE:</b> <i>Contact details to be filled out by winning consultant prior to contract signing.</i></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 delivery;</p> <p>(b) in the case of facsimiles, within <i>[insert hours]</i> following confirmed transmission; or</p> <p>(c) in the case of telegrams, within <i>[insert hours]</i> following confirmed transmission.</p>
18.3	<p>The consultant's account where payment may be made is:</p> <p>_____</p>
19	No further instructions.
20	<p>No additional provision.</p> <p>If the Consultant is a joint venture, all partners to the joint venture shall be jointly and severally liable to the Procuring Entity.</p>
22	<p>The effectiveness conditions are the following:</p> <p>a) Upon approval/signing of the contracting parties; and</p> <p>b) The effectivity of the contract is seven (7) calendar days from receipt of Notice to Proceed, provided that all the documentary requirements are complied with.</p>
24	The time period shall be two (2) months after the submission of the Consultant's Final Report or such other time period as the parties may agree in writing.
34.2	Any and all disputes arising from the implementation of this contract shall be submitted to arbitration in the Philippines according to the provisions of

	Republic Acts 876 and 9285, as required in Section 59 of the IRR of RA 9184.
35.1	<p>The drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract that shall become and remain the property of the Procuring Entity are as follows:</p> <p>All submitted documents as required under the TOR. All reports and relevant data such as maps, plans, statistics and supporting records or materials compiled or prepared in the course of the services shall be confidential and shall be absolute property of the CAAP. The Consultant agrees to deliver all these materials to the CAAP upon completion of this contract. The Consultant may retain a copy of such data but shall not use the same for purposes unrelated to this contract without prior written consent of the CAAP.</p> <p>Computer software and programming works purchased or paid for by the Consultant for the CAAP shall be licensed in the name of the CAAP.</p>
38.1(d)	<p>The Consultant's actions requiring the Procuring Entity's prior approval are:</p> <p>Refer to the requirements specified in the Terms of Reference.</p>
39.5	<p>The Consultant may change its Key Personnel only for justifiable reasons as may be determined by the Procuring Entity, such as death, serious illness, incapacity of an individual Consultant, resignation, among others, or until after fifty percent (50%) of the Personnel's man-months have been served.</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 is <b>Eleven Million Eight Hundred Forty-Three Thousand Six Hundred Pesos (Php 11,843,600.00)</b> .
52.2	No further instructions.
53.2	No additional instructions.
53.4	No reimbursement shall be made with respect to the project.
53.5(a)	No advance payment is allowed.

(c)	The interest rate is zero (0).
55.6	No further instructions.

## Proposal Submission Form

*[Date]*

*[Name and address of the Procuring Entity]*

Ladies/Gentlemen:

In response to the Invitation to Bid for the *[Title of Project]*, of the Civil Aviation Authority of the Philippines which appeared at the *[name of newspaper or website or G-EPS]* on *[date of advertising / posting]*, we would like to express our intention to participate in the said bidding.

In this regard, we would like to purchase the set of Negotiation Documents for the project. Very truly yours,

Yours sincerely,  
Signature  
Name and Title of Authorized Signatory  
Name of Consultant  
Address

Received  
by the BAC: \_\_\_\_\_

Date: \_\_\_\_\_

## ***Section IV. Technical Specifications***



## **TERMS OF REFERENCE**

### **PROCUREMENT OF CONSULTANCY SERVICE FOR THE DETAILED ENGINEERING DESIGN OF THE EXPANSION OF PASSENGER TERMINAL BUILDING AT DAVAO INTERNATIONAL AIRPORT**

#### **I. INTRODUCTION**

Davao City is the largest city in the Philippines in terms of land area and the most populated city in Mindanao. A highly urbanized city with a total land area of 2,444 square kilometers.

The city serves as the main trade, commerce, and industry hub of Mindanao and the regional center of Davao Region. Davao is home to Mount Apo, the highest mountain in the Philippines. The city is also nicknamed as the "Durian Capital of the Philippines".

Tourist destinations in the city include the Philippine Eagle Foundation and Nature Center, Mount Apo, Gap Farming Resort, the Davao Crocodile Park, Malagos Garden Resort, Eden Nature Park, and People's Park in the center of the city which is popular for its sculptures of indigenous people and dancing fountain. Samal Island or the Island Garden City of Samal, a part of Metro Davao and located in Davao del Norte, is an island city situated immediately off the city's coast in the Davao Gulf, popularly known for its scenic beaches.

Davao is part of the East Asia Growth Area, a regional economic-cooperation initiative in Southeast Asia. The city has a projected average annual growth of 2.53 percent over a 15-year period; Davao was the only Philippine city to reach the top 100. As the largest economy outside Metro Manila, the city also serves as the largest local economy in southern Philippines.

#### **II. BACKGROUND**

Francisco Bangoy (Davao) International Airport is serving the general area of the Davao Region. It is the busiest airport on the island of Mindanao. The airport has a 3,000-meter runway and a partial parallel taxiway is being constructed. It is the busiest airport in Mindanao which operates domestic and international flights. The airport is located north of the central business area. The airport is bounded by commercial and housing development and the PAF Tactical Operations Group IX military base.

From the initial operations of the new Passenger Terminal Building (PTB) in 2003, commercial traffic has increased and even surpassed the design capacity of the PTB. Hence, there is an urgent need to expand the PTB to increase the level of service (LOS) of the passengers and to accommodate future growth.

The Government of the Republic of the Philippines, through the Department of Transportation (DOTr) and the Civil Aviation Authority of the Philippines (CAAP), intends to procure the services of a consulting firm for the detailed engineering and design for the upgrading of the existing Davao International Airport Passenger Terminal Building enhancing the passenger's comfort and safety.

The consulting services will cover the following: 1) preparation of the Passenger Terminal Building development plan, 2) preparation of Detailed Engineering Design for the Expansion of the Passenger Terminal Building, and 3) assistance in procurement process including the preparation of Tender Documents.

The CAAP as the "Executing Agency" and/or "Procuring Entity", wishes to engage a consulting firm with expertise in airport planning and engineering design to provide the necessary professional and technical services to ensure the successful implementation of the Project.

The term "Consultant" shall refer to the firm providing such consulting services in accordance with these Terms of Reference (TOR).

### **III. OBJECTIVES OF THE SERVICES**

The Consultant shall provide the Civil Aviation Authority of the Philippines all required inputs, relative to the development programs of the existing Davao International Airport Passenger Terminal Building. Objectives are as follows:

1. To assess and evaluate the present PTB capacity and to formulate a development plan for the improvement of the existing Davao International Airport PTB up to its optimum capacity for the enhancement of safety and efficiency;
2. To prepare the detailed engineering design for the expansion of existing Davao International Airport Passenger Terminal Building;
3. To prepare the cost estimates and bidding documents for the proposed expansion of the existing Davao International Airport Passenger Terminal Building;
4. To review, validate and conduct social and gender safeguards and incorporate the needs of Senior Citizens, Persons with Disability and gender responsiveness; and

5. To provide concise, comprehensive and descriptive report that will serve as basis for further undertaking/actions/decisions of proper authorities

#### **IV. STUDY AREA**

The study area shall cover the existing Davao International Airport Passenger Terminal Building and the Vehicular Parking Area (VPA). A special team from CAAP will be created to provide assistance in the study. Supplementary data including preliminary engineering surveys may be obtained from the Davao International Airport.

#### **V. SCOPE OF THE STUDY**

The consultant shall formulate the development plan of the Davao International Airport Passenger Terminal Building. It shall be prepared in Phases of Developments consisting of short-term, medium-term, and long-term(optimum) plans. It shall include the detailed engineering design for the expansion of the existing Terminal Building covering its **medium-term phase** five (5) to ten (10) years of development, cost estimate and implementation schedule.

##### **A. DETAILED ENGINEERING DESIGN**

The consultant shall prepare and submit the Detailed Engineering Design for the project.

##### **1. PREPARATION OF CONCEPTUAL/BASIC DESIGN**

The Consultant shall prepare the conceptual/basic design of the project which will be guided by four principles from the Philippine Architectural Design Paradigms: 1) climate-change adaptive; 2) disaster-resilient; 3) sustainable; and 4) tropicalized design for the passenger terminal building and other related airport facilities.

It should also comply with International Civil Aviation Organization (ICAO), Federal Aviation Administration (FAA) Standard & Recommended Practices, International Air Transport Association (IATA) Airport Design Manual and CAAP Manual of Standards (MOS) for Aerodrome requirements to meet the demand of the traffic projection, and consider also, as reference, the suggested airline operation.

The basic design shall include, among others, 1) design criteria, siting conditions, horizontal and vertical alignments, sizes, composition of the facilities, outline of specifications, etc.; 2) sequence and method of construction (taking into consideration the interfacing with existing facilities; and 3) preliminary cost estimates.

A preliminary conceptual design is made an integral part of this TOR as **Annex A** which shall be considered by the consultant in their design process.

The designs to be proposed by the consultant shall embody similar characteristics of the existing structure as well as the preliminary design in Annex A.

In addition, the design shall cover an expansion of more or less 8,400sqm. subject to limitations due to existing site conditions. The design shall also include a seamless integration between the existing structure and the structure to be built.

The design shall be configured to ensure that there is minimum disruption to aerodrome operations during its implementation.

The Consultant, prior to the finalization of the basic design shall present at least three (3) basic design concept for evaluation and approval of CAAP.

- A. For the New Construction / Expansion, the Detailed Engineering Design (DED) and Program of Works (POW) Detailed Estimate, Scope of Work, and Specification needed are listed as follows:
  - a. Architectural
  - b. Structural
  - c. Electrical
  - d. Mechanical (Air-Conditioning System, Ventilation including Smoke Control System)
  - e. Plumbing (design of Water Supply, Storm Drainage System, Sewage System and Exterior Drainage System including relocation/demolition of existing Sanitary/Plumbing works affected by the proposed project)
  - f. Fire Protection System
    - i. Automatic Fire Sprinkler System (AFSS)

- ii. Fire Detection and Alarm System (FDAS)
    - iii. Clean Agent Fire Suppression System (if necessary)
  - g. Auxiliaries
    - i. Access Control System
    - ii. Public Address System
    - iii. Flight Information Display System (FIDS)
    - iv. CCTV
    - v. Telecommunication System (Telephone, LAN and WIFI)
    - vi. CATV System
    - vii. Master Clock System
    - viii. Structured Cabling System (SCS)
  - h. Special Equipment
    - i. Baggage Handling System (Check-In & Arrival Areas)
    - ii. Common Use Terminal Equipment (CUTE)
    - iii. Common Use Self Service (CUSS) Kiosk
    - iv. Elevator
    - v. Escalator
    - vi. Passenger Boarding Bridge
- B. PERT-CPM, Bar Chart, Equipment Utilization, Manpower Utilization, Specifications
- C. Analysis / Computations needed:
  - i. Structural Analysis
  - ii. Electrical Analysis
  - iii. Hydraulic Calculation  
(Automatic Fire Sprinkler System)

## **2. POST DESIGN STAGE (BIDDING DOCUMENTS)**

- a. Preparation of Draft Bid Document

In coordination with the CAAP on the proposed Infrastructure Development Program of the Project, the Consultant shall prepare and submit the individual draft bid documents for each scope of the project, each bid documents shall include but not limited to the following, for review and approval of CAAP:

- i. Eligibility, Technical and Financial Bid Documents
  - ii. Instructions to Bidders
  - iii. Special Conditions of Contract
  - iv. Bid Drawings
  - v. Technical Specifications
  - vi. Bill of Quantities
- b. Preparation of Final Bid Documents

The Consultant shall prepare and submit final bid documents for scopes of work containing the duly signed plans, design, drawings, and specifications of each respective professional discipline, incorporating the comments of CAAP on the draft bid documents.

## **2.1 PROCUREMENT STAGE (ASSISTANCE IN BIDDING)**

The Consultant shall assist CAAP in the bidding process of the Project to ensure compliance with RA. 9184 and its IRR. It shall execute the following tasks:

- 2.1.1 Provide professional advice to the Bids and Award Committee (BAC) during pre-procurement conference;
- 2.1.2 Assistance in holding a pre-bid conference(s) and in preparing reply to inquiries submitted by the Bidders;
- 2.1.3 Assist in the Evaluation of the eligibility documents submitted by the prospective bidders;
- 2.1.4 Assist in Evaluation of Bids (Technical and Financial) submitted by eligible Bidders;

## VI. CONSULTACY FIRM AND KEY STAFF

To effectively carry out the tasks for the consulting services, the consultancy firm should have gained experience within the last ten years in the conduct of the Feasibility Study/Master Plan and/or Detailed Engineering Design of airport and Airport Facilities or in other transport related projects. Further, the firm should be able to field key professional personnel with adequate educational and technical background, experience, and capability in the fields of airport planning and design, engineering, economics, finance and management.

Any changes or replacements of assigned personnel shall be subject to CAAP review and approval.

It is expected that all key personnel, as proposed, should be available for the duration of the study, especially during kick-off meeting, presentation of reports and anytime whenever their presence is essential in the discharge of their duties.

<b>DESIGNATION</b>	<b>MAN-MONTHS</b>
<b>Key Staff</b>	
Project Manager/Airport Planner	4
Deputy Project Manager/Senior Architect	4
Senior Civil Engineer	3
Senior Structural Engineer	2
Senior Mechanical Engineer	3
Senior Electrical Engineer	2
Senior Sanitary Engineer	2
Communications Engineer	2
Quantity/Cost Engineer	4
Contract Administrator/Procurement Specialist	3
<b>Sub-total</b>	<b>29</b>
<b>Technical Support Staff</b>	
Architect	4
Mechanical Engineer	3
Electrical Engineer	3
Sanitary Engineer	3
Cost Engineer	4
CAD Operator	4
CAD Operator	4
CAD Operator	4

<b>Admin Staff</b>	
Admin Officer/Accountant	7
Secretary	7
Admin Staff/Computer Operator	7
Machine Operator	7
Messenger/Utility Worker	7
<b>Sub-Total</b>	<b>64</b>
<b>TOTAL</b>	<b>93 M/M</b>

## 1. Professional Staff

The **Project Manager/Airport Planner** preferably a registered civil engineer or architect with at least ten (10) years of professional experience in planning and development of airports and other related projects. He shall be responsible for the overall conduct of the study. He shall be assigned full-time from commencement until completion of the project.

The **Deputy Project Manager/Senior Architect** must be a registered architect with at least ten (10) years of experience in architectural design for airport terminals and other related facilities/projects. He shall be assisting the Project Manager in supervising all the activities of the project.

The **Senior Civil Engineer** must be a registered civil engineer and with at least ten (10) years of professional experience in planning and development of airports and other related projects.

The **Senior Structural Engineer** must be a registered Civil Engineer (with Master's Degree in Structural Engineering), practiced at least ten (10) years in profession and attended adequate training, with experience in structural engineering design of horizontal and vertical structures, and shall have a track record as a Structural Engineer of at least three (3) government-funded projects and at least one (1) airport feasibility study.

The **Senior Mechanical Engineer** must be a licensed professional mechanical engineer with at least ten (10) years of demonstrated experience in planning, engineering design, and/or installation supervision of mechanical systems for vertical structures as well as air conditioning systems including its environmental and fire protection system.

The **Senior Electrical Engineer** must be a licensed professional electrical engineer with at least ten (10) years of demonstrated experience in planning, engineering design, and/or installation supervision of electrical systems for vertical structures as well as power supply/distribution systems and telecommunication systems.



The **Senior Sanitary Engineer** must be a licensed sanitary engineer with at least ten (10) years of demonstrated experience in planning and engineering design of water and sewage system.

The **Communications Engineer** must be a licensed electronic engineer with at least ten (10) years of demonstrated experience in planning and engineering design of communications system.

The **Quantity/Cost Engineer** must be a registered civil engineer or other engineering degree, practiced at least ten (10) years in profession and attended adequate training, with experience in transportation projects (airport/transport engineering, planning and development).

The **Contract Administrator/Procurement Specialist** must be a licensed civil engineer or architect, with at least five (5) years of demonstrated experience in preparation of bidding documents for related projects and should have a successful track record as document specialist for at least 10 projects.

**Technical Support Staff** must be qualified engineers/architects and technical personnel in the field relevant to the positions, who have at least five (5) years of professional experience in planning and design.

All registered professionals mentioned above should attach a copy of their valid PRC ID. Failure to do so shall be ground for disqualification from the bidding.

## **VII. CONSULTANCY SERVICE SCHEDULE**

The Consultancy Service Schedule shall be completed within a total period of seven (7) months, or two hundred ten (210) calendar days and shall commence seven (7) calendar days upon receipt of Notice to Proceed (NTP) and in accordance with the implementation schedule. The detailed work program/approach and methodology, organization and manning schedule, curriculum vitae of proposed personnel of the consulting firm shall form part of the technical proposal to be submitted to the Bids and Awards Committee (BAC).

## **VIII. SUBMISSION OF REPORTS**

The winning consultant shall submit officially study reports in compliance with the terms and conditions of the contract to be entered into by and between CAAP and Consultant, with due regard to timeliness of submissions and completeness in form and substance. *If found incomplete in form and substance, the report shall not be accepted and is considered as non-submission, thus if it incurs delay, a corresponding penalty shall be imposed.*

The Consultant shall prepare and submit the reports in the following order:

## **1. Detailed Engineering Design Study**

### **a. Draft Basic Design Report**

Four (4) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted within forty-five (45) calendar days from NTP.

### **b. Final Basic Design Report**

Four (4) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted within fifteen (15) calendar days after completion of review and approval of the Draft Basic Design Report, incorporating comments and agreements reached based on the review by CAAP on submitted draft.

### **c. Draft Detailed Design Report**

Four (4) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted within fifteen (15) calendar days after approval of Final Basic Design Report.

### **d. Final Detailed Design Report**

Four (4) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted within fifteen (15) calendar days after completion of review and approval of the Draft Detailed Design Report, incorporating comments and agreements reached based on the review by CAAP on submitted draft.

### **e. Draft Bid Documents**

Four (4) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted after fifteen (15) calendar days after approval of the Final Detailed Design Report.

### **f. Final Bid Documents**

Ten (10) hard copies and three (3) electronic copies (traceable format, if applicable) to be submitted within fifteen (15) calendar days after completion of review and approval of the Draft Bid Documents, incorporating comments and agreements reached based on the review by CAAP on submitted draft.

### **g. Assistance in the Bidding Process**

The consultant shall make their key personnel available in all meetings during the procurement process for the implementation of the project to answer queries of prospective bidders in meetings, pre-bid conferences, and the like.

## IX. SCHEDULE OF PAYMENT

Payments for the Consultant's services shall be as follows:

1. The consultant will be paid based on milestone submittals upon presentation of the following documents;
  - a. Copy of Submittals and Milestone Report
  - b. Certificate of Acceptance
  - c. Statement of Performance
  - d. Billing/Claim of Payment
  
2. Advance Engineering Study (AE) constitutes 15.00% of the total contract amount which comprises of the following milestone reports;
  - a. Inception report – 5.00% of the total contract amount
  - b. Progress report – 10.00% of the total contract amount
  
3. Detailed Engineering Design Study (DED) constitutes 85.00% of the total contract amount which comprises of the following milestone reports;

*Design Stage:*

- a. Draft Basic Design Report – 25.00% of the total contract amount
- b. Final Basic Design Report – 10.00% of the total contract amount
- c. Draft Detailed Design Report – 15.00% of the total contract amount
- d. Final Detailed Design Report – 10.00% of the total contract amount

*Post Design Stage:*

- a. Draft Bid Documents – 15.00% of the total contract amount
- b. Final Bid Documents – 10.00% of the total contract amount

The term “acceptance” as used above means the issuance by the CAAP of a Certificate of Acceptance and a Statement of Performance, upon satisfactory compliance of the consulting firm with all the comments/remarks/recommendations of the CAAP on the submitted reports.

Miscellaneous expenses such as, office operation cost, vehicle rental, communications expenses, and travelling expenses shall be included in the proposal.

All payments will be subject to the usual government accounting and auditing rules and regulations. The Consultant is expected to be familiar with the Government Accounting and Auditing Manual (GAAM).

#### **X. PROVISION OF SERVICES BY THE CAAP**

The CAAP shall provide all available data, studies, reports, and other documents that can be used in the conduct of the study. CAAP shall also provide assistance in the access to relevant offices and/or agencies and participate in the discussion/meetings/conferences/visits during the course of the study.

#### **XI. RESPONSIBILITY OF THE CONSULTANT**

1. The Consultant shall take charge of providing transportation fare and accommodations; equipment and furniture; office supplies and materials, office space and overhead expenses such as rental fees, utilities, communications, and vehicle.
2. The Consultant shall be responsible for the recording of discussions, preferably in digital format such as mp3 file, the preparation, distribution and storage, both in hard and soft copies, of the minutes of meetings, which shall be turned over to the Procuring Entity on a timely basis and at the completion of the Consultant’s work/study.
3. The Consultant shall also prepare slide show presentations, using Microsoft PowerPoint, for Progress Report, Draft Final Report and Final Report, at the least, and as may be required by the Procuring Entity. Hard and soft copies shall also be provided to the Procuring Entity.
4. The Consultant shall ensure the attendance by all members of the study team during the Kick-off Meeting. Submission of resumes, including copies of individual

satisfactory medical certificates, as they were submitted in the technical proposal attached with individual photos of all study team members (include a directory of contact numbers and email addresses), preferably in book-bind or ring-bind finish, and a schedule of reports submission shall be required to be submitted for the Kick-off Meeting as well.

5. The Consultant shall make sure that the members of the study team are expected to actively participate in the diligent fulfillment of their respective assigned duties and responsibilities, particularly in the meetings, visits and presentations during the entire course of the study.
6. The Consultant shall be required to submit weekly reports on the activities being undertaken during the entire course of the study, indicating the involvement of the concerned key personnel. Weekly meeting may also be required dependent on the degree of necessity.
7. All documents, drawings, maps, survey reports, and other forms relevant to the study shall become the property of the government and shall not be used or reproduced without the expressed consent of CAAP. Equipment and materials purchased for this project shall likewise be turned over, in good working condition, as applicable, complete with accessories, including official receipts and warranty cards/certificates under the name of CAAP and an inventory of all items, for proper accountability upon the completion of the Consultant's required man-months.

## **XII. CRITERIA FOR SELECTION OF CONSULTANTS**

1. The prospective firms shall have an experience of at least ten (10) years related to this TOR and shall be rated based on the criteria shown in Annex "A", Criteria for Short listing, and as summarized below:
  - a. Applicable Experience of the Firm;
  - b. Qualification of Key/Organic Personnel who may be assigned to the Project; and
  - c. Job Capacity

*Note: Related experience and relevant work. The Key Experts are requested to indicate (1) their role in a specific project; (2) the exact duration (in months and years)*

*that they have worked on the project; and (3) a brief description of the task that they have carried out.*

2. The firm shall be selected using the Quality Based Evaluation/Selection (QBE/QBS) procedure under Republic Act (RA) No. 9184, or the Government Procurement Reform Act (GPRA), and its Revised Implementing Rules and Regulations (IRR) and based on the following criteria for technical proposal:
  - a. Qualifications of Key Personnel to be Assigned to the Project – 45%
  - b. Applicable Experience of the Firm – 20%
  - c. Plan of Approach and Methodology – 35%

### **XIII. SOURCE OF FUNDS**

Funds for the conduct of the Consultancy Service for the Detailed Engineering Design for the Expansion of Passenger Terminal Building of Davao International Airport shall be from the DOTr GAA 2018 Downloaded to CAAP budget.

### **XIV. APPROVED BUDGET FOR THE CONTRACT (ABC)**

The procurement of the consulting services for the detailed engineering design of Expansion of Passenger Terminal Building of Davao International Airport shall be through competitive public bidding. The ABC shall not exceed ₱11,843,600.00 only, inclusive of all applicable Government taxes and charges, professional fees, and other incidental and administrative costs (e.g., travel expenses, communication expenses, office supplies, office space and other expenses deemed necessary for the project as certified by the Executing Agency).

I hereby certify to comply and deliver all of the above requirements.

**Signature over Printed Name of  
the authorized representative:** \_\_\_\_\_

**Name of Company:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## ***Section V. Negotiation Forms***

**Eligibility Documents Submission Form**

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[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

In connection with your Request for Expression of Interest dated [insert date] for [Title of Project], [Name of Consultant] hereby expresses interest in participating in the eligibility and short listing for said Project and submits the attached eligibility documents in compliance with the Eligibility Documents therefore.

In line with this submission, we certify that:

- a) [Name of Consultant] is not blacklisted or barred from bidding by the GoP or any of its agencies, offices, corporations, LGUs, or autonomous regional government, including foreign government/foreign or international financing institution; and
- b) Each of the documents submitted herewith is an authentic copy of the original, complete, and all statements and information provided therein are true and correct.

We acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our submission irrespective of whether we are declared eligible and short listed or not.

We further acknowledge that failure to sign this Eligibility Document Submission Form shall be a ground for our disqualification.

Yours sincerely,

Signature  
Name and Title of Authorized Signatory  
Name of Consultant  
Address



## Form A. Omnibus Sworn Statement

REPUBLIC OF THE PHILIPPINES )  
CITY/MUNICIPALITY OF \_\_\_\_\_ ) S.S.

### AFFIDAVIT

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. **Select one, delete the other:**

*If a sole proprietorship:* I am the sole proprietor or authorized representative of *[Name of Consultant]* with office address at *[address of Consultant]*;

*If a partnership, corporation, cooperative, or joint venture:* I am the duly authorized and designated representative of *[Name of Consultant]* with office address at *[address of Consultant]*;

2. **Select one, delete the other:**

*If a sole proprietorship:* As the owner and sole proprietor or authorized representative of *[Name of Consultant]*, I have 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 ensuing contract for *[Name of the Project]* of the *[Name of the Procuring Entity]* *[insert "as shown in the attached duly notarized Special Power of Attorney" for authorized representative]*;

*If a partnership, corporation, cooperative, or joint venture:* I am 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 ensuing contract for *[Name of the Project]* of the *[Name of the Procuring Entity]*, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;

3. *[Name of Consultant]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;
4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;

5. *[Name of Consultant]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

6. **Select one, delete the rest:**

*If a sole proprietorship:* The owner or sole proprietor is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*If a partnership or cooperative:* None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*If a corporation or joint venture:* None of the officers, directors, and controlling stockholders of *[Name of Consultant]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. *[Name of Consultant]* complies with existing labor laws and standards; and

8. *[Name of Consultant]* is aware of and has undertaken the following responsibilities as a Bidder:

- a) Carefully examine all of the Bidding Documents;
- b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
- c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and
- d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.

9. *[Name of Bidder]* did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_ day of \_\_\_, 20\_\_\_ at \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Signatory]

[Bidder's Representative/Authorized

**SUBSCRIBED AND SWORN** to before me this \_\_\_ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were 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/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_.

Witness my hand and seal this \_\_\_ day of [month] [year].

**NAME OF NOTARY PUBLIC**

**Serial No. of Commission** \_\_\_\_\_  
**Notary Public for** \_\_\_\_\_ **until** \_\_\_\_\_  
**Roll of Attorneys No.** \_\_\_\_\_  
**PTR No.** \_\_\_, [date issued], [place issued]  
**IBP No.** \_\_\_, [date issued], [place issued]  
**Doc. No.** \_\_\_\_  
**Page No.** \_\_\_\_  
**Book No.** \_\_\_\_  
**Series of** \_\_\_\_\_.

**Technical Proposal Forms**

## Technical Proposal Submission Form

---

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for [Title of Project] in accordance with your Bidding Documents dated [insert date] and our Bid. We are hereby submitting our Bid, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

If negotiations are held during the period of bid validity, *i.e.*, before [insert date], we undertake to negotiate on the basis of the proposed staff. Our Bid is binding upon us and subject to the modifications resulting from contract negotiations.

In accordance with **GCC** Clause 51, we acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the Procuring Entity as a result of this Bid or not.

We understand you are not bound to accept any Bid received for the selection of a consultant for the Project.

We acknowledge that failure to sign this Technical Proposal Submission Form and the abovementioned Financial Proposal Submission Form shall be a ground for the rejection of our Bid.

We remain,

Yours sincerely,

Authorized Signature:  
Name and Title of Signatory:  
Name of Firm:  
Address:

**TPF 1. STATEMENT OF ON-GOING PROJECTS**

List of On-going Government and Private Contracts, including contracts awarded but not yet started, whether similar or not in nature and complexity to the contract to be bid within the last TEN (10) years prior to deadline for the submission and receipt of Eligibility Documents.

Name of Consultant : \_\_\_\_\_

Business Address : \_\_\_\_\_

Name and Location of Project	Description of the Project	Classification (Government/Private)	Date of Contract	Type of Consulting Services	Amount of Contract	Contract Duration
1						
2						
3						
4						
5						
6						
7						
8						

Attachment/s:

- 1 Notice of Award and/or Contract; and
- 2 Notice to Proceed issued by the Client (*for projects already started*).

Submitted by:

\_\_\_\_\_  
Name and Signature of the Authorized Representative of Bidder

Company Name:

Position:

Date:

## TPF 2. STATEMENT OF COMPLETED PROJECTS

List of Completed Government and Private Contracts, whether similar or not in nature and complexity to the contract to be bid within the last TEN (10) years prior to deadline for the submission and receipt of Eligibility Documents.

Name of Consultant : \_\_\_\_\_

Business Address : \_\_\_\_\_

Name and Location of Project	Description of the Project	Classification (Government/Private)	Date of Contract	Type of Consulting Services	Amount of Contract	Contract Duration
1						
2						
3						
4						
5						
6						
7						
8						

**NOTE: This statement shall be supported by certificate of satisfactory completion of contracts issued by the client.**

Submitted by:

\_\_\_\_\_  
Name and Signature of the Authorized Representative of Bidder

Company Name:

Position:

Date:

**TPF 3. STATEMENT OF KEY STAFF FOR CONSULTING SERVICES**

Name of Consultant : \_\_\_\_\_

Business Address : \_\_\_\_\_

Field of Expertise/Name of Personnel	Name of Related Study Involved	Position / Involvement in the Related Study	Nationality	Years with the Firm	Number of Study Currently Involved
A Project Manager/Airport Planner					
B Deputy Project Manager/ Sr. Architect					
C Senior Civil Engineer					
D Senior Structural Engineer					
E Senior Mechanical Engineer					
F Senior Electrical Engineer					
G Senior Sanitary Engineer					
H Communications Engineer					



I	Quantity/ Cost Engineer					
J	Contract Administrator/Procurement Specialist					

***It is hereby confirmed that the above consultants are registered professionals authorized by the appropriate regulatory body to practice their profession.***

Note:

1. Should the personnel mentioned above are “on-call” or not a permanent employee of the consulting firm, please provide evidence that said personnel agreed to be nominated and once the firm is shortlisted, the personnel will submit letter of commitment.
2. This shall be supported by curriculum vitae of each nominated key personnel.

Submitted by:

---

Name and Signature of the Authorized Representative of Bidder

Company Name:

Position:

Date:

## TFP 4. Curriculum Vitae (CV) for Proposed Professional Staff

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Proposed Position: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Name of Staff: \_\_\_\_\_

Profession: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Years with Firm/Entity: \_\_\_\_\_ Nationality: \_\_\_\_\_

Membership in Professional Societies: \_\_\_\_\_

---

Detailed Tasks Assigned: \_\_\_\_\_

---

### **Key Qualifications:**

*[Give an outline of staff member's experience and training most pertinent to tasks on project. Describe degree of responsibility held by staff member on relevant previous projects and give dates and locations. Use about half a page.]*

---

### **Education:**

*[Summarize college/university and other specialized education of staff members, giving names of schools, dates attended, and degrees obtained. Use about one quarter of a page.]*

---

### **Employment Record:**

*[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of projects. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about two pages.]*

---

**Languages:**

[For each language, indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing.]

\_\_\_\_\_

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

**Commitment:**

I also commit to work for the Project in accordance with the time schedule as indicated in the contract once the firm is awarded the Project.

\_\_\_\_\_ Date: \_\_\_\_\_  
[Signature of staff member and authorized representative of the firm] Day/Month/Year

Full name of staff member: \_\_\_\_\_

Full name of authorized representative: \_\_\_\_\_

**SUBSCRIBED AND SWORN** to before me this \_\_\_ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were 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/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_.

Witness my hand and seal this \_\_\_ day of [month] [year].

**NAME OF NOTARY PUBLIC**

**Serial No. of Commission** \_\_\_\_\_  
**Notary Public for** \_\_\_\_\_ **until** \_\_\_\_\_  
**Roll of Attorneys No.** \_\_\_\_\_  
**PTR No.** \_\_\_, [date issued], [place issued]  
**IBP No.** \_\_\_, [date issued], [place issued]  
**Doc. No.** \_\_\_\_  
**Page No.** \_\_\_\_  
**Book No.** \_\_\_\_  
**Series of** \_\_\_\_\_.

## TPF 5. CONSULTANT'S REFERENCES

### Relevant Services Carried Out in the Last Ten Years That Best Illustrate Qualifications

Using the format below, provide information on each project for which your firm/entity, either individually, as a corporate entity, or as one of the major companies within an association, was legally contracted.

Project Name:		Country:
Location within Country:		Professional Staff Provided by Your Firm/Entity(profiles):
Name of Client:		Nº of Staff:
Address:		Nº of Staff-Months; Duration of Project:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (in Current US\$):
Name of Associated Consultants, if any:		Nº of Months of Professional Staff Provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of Project:		
Description of Actual Services Provided by Your Staff:		

Consultant's Name: \_\_\_\_\_

## TPF 6. Description of the Methodology and Work Plan for Performing the Project

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## TPF 7. Team Composition and Task

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<b>1. Technical/Managerial Staff</b>		
Name	Position	Task

<b>2. Support Staff</b>		
Name	Position	Task

3. Where applicable, indicate relationships among the Consultant and any partner and/or subconsultant, the Procuring Entity, the Funding Source and other parties or stakeholders.

--

**TPF 8. Time Schedule for Professional Personnel**

Name	Position	Reports Due/Activities	Months (in the Form of a Bar Chart)												Number of Months			
			1	2	3	4	5	6	7	8	9	10	11	12				
																	Subtotal (1)	
																		Subtotal (2)
																		Subtotal (3)
																		Subtotal (4)

Full-time: \_\_\_\_\_  
 Reports Due: \_\_\_\_\_  
 Activities Duration: \_\_\_\_\_  
 Location \_\_\_\_\_

Part-time: \_\_\_\_\_

Signature: \_\_\_\_\_  
 (Authorized representative)

Full Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_

**TPF 9. Activity (Work) Schedule**

**A. Field Investigation and Study Items**

	<i>[1st, 2nd, etc. are months from the start of project.]</i>												
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	
Activity (Work)													
_____													
_____													
_____													
_____													

**B. Completion and Submission of Reports**

Reports	Date
1. Inception Report	
2. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	



***Financial Proposal Forms***

## FPF 1. Financial Proposal Submission Form

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[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for [Title of Project] in accordance with your Bidding Documents dated [insert date] and our Bid (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of [amount in words and figures]. This amount is exclusive of the local taxes, which we have estimated at [amount(s) in words and figures].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the bid validity period, i.e., [Date].

We acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the Procuring Entity as a result of this Bid.

We confirm that we have read, understood and accept the contents of the Request for Proposal, Terms and Conditions, and Terms of Reference (TOR), the provisions relating to the eligibility of Consultant and the applicable guidelines for the procurement rules of the Funding Source, any and all Bid bulletins issued and other attachments and inclusions included in the Bidding Documents sent to us.

We understand you are not bound to accept any Bid you receive.

We remain,

Yours sincerely,  
Authorized Signature:  
Name and Title of Signatory:  
Name of Firm:  
Address:

## FPF 2. Summary of Costs

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Costs	Currency(ies) <sup>1</sup>	Amount in Philippine Peso
Subtotal		
Local Taxes		
Total Amount of Financial Proposal		<hr/>

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<sup>1</sup>In cases of contracts involving foreign consultants, indicate the exchange rate used.

**FPF 3. Breakdown of Price per Activity**

---

Activity No.: _____	Activity No.: _____	Description: _____
Price Component	Currency(ies) <sup>2</sup>	Amount in Philippine Peso
Remuneration		
Reimbursables		
Miscellaneous Expenses		
Subtotal		_____

---

<sup>2</sup>In cases of contracts involving foreign consultants, indicate the exchange rate used.

**FPF 4. Breakdown of Remuneration per Activity**

Activity No. _____		Name: _____		
Names	Position	Input <sup>3</sup>	Remuneration Currency(ies) Rate	Amount
Regular staff				
Local staff				
Consultants				
Grand Total				_____

<sup>3</sup> Staff months, days, or hours as appropriate.

**FPF 5. Reimbursables per Activity**

Activity No: \_\_\_\_\_

Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price In PhP	Total Amount In PhP
1.	International flights _____	Trip			
2.	Miscellaneous travel expenses	Trip			
3.	Subsistence allowance	Day			
4.	Local transportation costs <sup>4</sup>				
5.	Office rent/accommodation/ clerical assistance				
	Grand Total				_____

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<sup>4</sup> Local transportation costs are not included if local transportation is being made available by the Entity. Similarly, in the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Entity.

### FPF 6. Miscellaneous Expenses

Activity No. \_\_\_\_\_ Activity Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs between _____ and _____ (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: vehicles, computers, etc.				
4.	Software				
	Grand Total				_____

## Form of Bid Security (Bank Guarantee)

WHEREAS, *[insert name of Participant]* (hereinafter called the “Participant”) has submitted his bid dated *[insert date]* for the *[insert name of contract]* (hereinafter called the “Bid”).

KNOW ALL MEN by these presents that We *[insert name of Bank]* of *[insert name of Country]* having our registered office at *[insert address]* (hereinafter called the “Bank” are bound unto *[insert name of PROCURING ENTITY]* (hereinafter called the “Entity”) in the sum of *[insert amount]*<sup>5</sup> for which payment well and truly to be made to the said Entity the Bank binds himself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

THE CONDITIONS of this obligation are:

1. If the Participant:
  - (a) withdraws his Quotation/Proposal during the period of its validity specified in the Form of Bid; or
  - (b) does not accept the correction of arithmetical errors of his Quotation/Proposal in accordance with the Instructions to Participant; or
  - (c) Submits Quotation/Proposal and eligibility requirements that contains false information or falsified documents, or conceals such information in the Quotation/Proposal in order to influence the outcome of eligibility screening or any other stage of the procurement activity; or
  - (d) Allows the use of one’s name, or using the name of another for purposes of the procurement activity; or
  - (e) Refuses to clarify or validate in writing its Quotation/Proposal during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification; or
  - (f) (Any documented unsolicited attempt) unduly influences the outcome of the procurement activity in his favor.

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<sup>5</sup> *The Participant should insert the amount of the guarantee in words and figures, denominated in the currency of the Entity’s country or an equivalent amount in a freely convertible currency. This figure should be the same as shown of the Instructions to Bidders.*



2. If the Participant having been notified of the acceptance of his Quotation/Proposal by the Employer during the period of its validity:
- (a) fails or refuses to execute the Contract Form in accordance with the Instructions to Participant, if required; or
  - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Participant.

We undertake to pay to the Entity up to the above amount upon receipt of his first written demand, without the Entity having to substantiate his demand, provided that in his demand the Entity will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two (2) conditions, specifying the occurred condition or conditions.

The Guarantee will remain in force up to 120 days after the deadline for submission of Quotation/Proposal as such deadline is stated in the Instructions to Bidders or as it may be extended by the Entity, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE SIGNATURE OF THE BANK \_\_\_\_\_

WITNESS \_\_\_\_\_ SEAL \_\_\_\_\_

(Signature, Name and Address)