

## MASTER AGREEMENT FOR SUBCONTRACTORS

KNOW ALL MEN BY THESE PRESENTS:

This Master Agreement for Subcontractors (the "Agreement") is made and this 15th day of January in 2026 by and between:

**ACCENT MICRO TECHNOLOGIES INC.**, a corporation duly organized and existing under and by virtue of the laws of the Philippines with office address at 8th Floor, East Tower, PSE Tektite Building, Ortigas Center, Pasig City, represented herein by its Sr. Vice President, Mr. Laurence Chan, hereinafter referred to as the "CONTRACTOR";

- and -

**KENMA CONSTRUCTION SERVICES CO.**, a sole proprietor duly organized and existing under and by virtue of the laws of the Philippines with office address 2F Lim Bldg., Malhacan Rd. Meycauayan, Bulacan represented herein by its Lead Operations, Mr. Gerard Christian SM. Inandan, hereinafter referred to as the "SUBCONTRACTOR";

**WITNESSETH: That –**

WHEREAS, CONTRACTOR desires to engage SUBCONTRACTOR to supply certain goods and/or services to be particularly described in the Schedule/s herein, Purchase Order and/or Supplemental Agreement (the "Supply") in relation to the Project;

WHEREAS, SUBCONTRACTOR has represented itself as a company financially sound and duly licensed, with adequate capital, labor/human resources, equipment and tools, competence, expertise and skill necessary to carry out fully and satisfactorily, within the stipulated completion period, the Supply required by CONTRACTOR;

WHEREAS, on the basis of SUBCONTRACTOR's firm and final proposal and its representations herein, CONTRACTOR has decided to engage the services of SUBCONTRACTOR subject to the terms and conditions herein stipulated;

NOW THEREFORE, for and in consideration of the foregoing, the parties hereby agree to the terms of this Agreement:

### ARTICLE 1 NATURE AND TERM OF THE AGREEMENT

1.1 This Agreement provides the terms and conditions that will govern the relationship between CONTRACTOR and SUBCONTRACTOR in the event that the CONTRACTOR engages SUBCONTRACTOR to perform the Supply at any time during the Term (as defined below) of this Agreement.

1.2 The Agreement shall be valid for one (1) year (the "Term") starting on the execution of this Agreement (the "Effectivity Date") and shall terminate 1 year thereafter, unless renewed by mutual written agreement of the Parties for another year, or otherwise earlier terminated pursuant to the terms and conditions of the Agreement. Insofar as concerns a Purchase Order and/or a Supplemental Agreement that is issued and/or executed within the Term, but shall be effective beyond the Term, the Agreement shall be valid until the termination date of the Purchase Order and/or the Supplemental Agreement.

1.3 The execution of the Agreement does not compel CONTRACTOR to (a) engage SUBCONTRACTOR to perform the Supply, (b) supplant or supersede CONTRACTOR's bidding, tender or other purchase process, or (c) give SUBCONTRACTOR any preference, exclusivity or advantage in any of CONTRACTOR's purchase process.

1.4 The CONTRACTOR may invite SUBCONTRACTOR to participate together with other subcontractors in any purchase process as a prerequisite to making a decision, and shall issue a Purchase Order and/or execute a Supplemental Agreement in favor of the winning subcontractor in such purchase process.

## ARTICLE 2 ISSUANCE OF PURCHASE ORDERS AND/OR EXECUTION OF SUPPLEMENTAL AGREEMENTS

2.1 To engage SUBCONTRACTOR to perform the Supply, CONTRACTOR must first issue a Purchase Order and/or execute a Supplemental Agreement mutually agreed by the Parties. The Purchase Order and/or Supplemental Agreement shall contain the following information:

- a. Project Name and Description,
- b. Contract Price and Payment Terms,
- c. Term of the Purchase Order and/or the Supplemental Agreement,
- d. Bond and Insurance Requirements,
- e. Reference to this Agreement and the applicable Schedule, and Scope of Work,
- f. Other terms and conditions that the Parties may agree upon in writing.

2.2 SUBCONTRACTOR shall confirm acceptance or rejection of any Purchase Order in writing within forty-eight (48) hours from the date of CONTRACTOR's issuance without need of a wet signature. Upon SUBCONTRACTOR's acceptance of the Purchase Order, SUBCONTRACTOR binds itself to all prices and terms indicated therein and no changes shall be made without the consent and approval of CONTRACTOR.

2.3 Upon the lapse of the forty-eight (48) hour period and SUBCONTRACTOR did not accept or reject the Purchase Order, the Purchase Order shall be deemed automatically accepted by SUBCONTRACTOR. Also, performance, whether full or partial, of the Supply covered by the Purchase Order shall be deemed as an acceptance of the Purchase Order. Consequently, the Purchase Order shall be valid and binding on both CONTRACTOR and SUBCONTRACTOR.

2.4 The Parties shall notify each other of its respective authorized representative(s) for the purpose of issuing and accepting/rejecting the Purchase Order and its Annexes.

2.5 Each Purchase Order, alone or pursuant to this Agreement and the applicable Schedule and/or a Supplemental Agreement, may be issued and accepted electronically.

The Purchase Orders shall be based on the result of SUBCONTRACTOR's performance, prices, and CONTRACTOR's internal evaluation result. CONTRACTOR reserves the right to adjust the Purchase Order if SUBCONTRACTOR does not have enough personnel to provide the Supply for a specified Purchase Order or there is a delay in the provision of the Supply based on CONTRACTOR's evaluation result or defined time schedule, or such other reasonable grounds as CONTRACTOR may determine. In such a case, CONTRACTOR shall notify SUBCONTRACTOR in writing of the adjustment in the Purchase Order.

SUBCONTRACTOR shall only provide the Supply that has been specified in a duly accepted Purchase Order. SUBCONTRACTOR shall not provide Supply outside of those specified in the Purchase Order and CONTRACTOR shall not be obliged to compensate SUBCONTRACTOR for such unauthorized services or works performed or be responsible for any cost or expense, whether direct or indirect, that may accrue as a consequence thereof.

2.6 There may be multiple Purchase Orders issued for this Agreement and/or a Supplemental Agreement.

2.7 The CONTRACTOR may terminate, suspend performance or issue a hold order on any Purchase Order, in whole or in part, only with SUBCONTRACTOR's prior written consent unless such termination, suspension of performance or issuance of a hold order is:

- a. necessary by reason of a default or breach of this Agreement, Purchase Orders and/or Supplemental Agreement by SUBCONTRACTOR;
- b. necessary for the safety of the carrying out of the Supply; or
- c. necessary to prevent further delay due to the failure of the SUBCONTRACTOR to deliver in full or in part the items in the Purchase Order and/or Supplemental Agreement on time or in accordance with the Implementation Schedule.

In the event of any Purchase Order being terminated under this Article 2.7, CONTRACTOR's liability shall be limited to the direct incurred costs up to the date of such termination.

2.8 A Purchase Order and/or a Supplemental Agreement may include (without limitation) the following annexes:

Annex 1	Scope of Work
Annex 2	Commercial Terms
Annex 3	Data Privacy and Cyber Security Agreement
Annex 4	Implementation Schedule

### ARTICLE 3 ORDER OF PRECEDENCE

3.1 In the event of conflict or inconsistency between any of the following:

- a. Supplemental Agreement
- b. Schedule
- c. This Agreement
- d. Purchase Order
- e. Annexes to a Supplemental Agreement, or Annexes to a Purchase Order

the order of priority shall be in accordance with the sequence stated in this Article 3.1, provided that the conflicting or inconsistent documents pertain to or cover the same Supply.

3.2 Conflict Between Annexes. In the event of conflict or inconsistency between or among any of the annexes to a Supplemental Agreement, or Annexes to a Purchase Order, the order of priority shall be in accordance with the sequence provided in Article 2.8

3.3 Conflict Between Sub-Annexes. In the event of conflict or inconsistency between or among the sub-annexes within an annex to a Supplemental Agreement, or an annex to a Purchase Order, the order of priority shall be in accordance with the sequence provided in the applicable Schedule.

## ARTICLE 4 REQUEST FOR CLARIFICATION AND APPROVAL OF CHANGE ORDERS

### 4.1 Clarification on Purchase Order and/or Supplemental Agreement

Either Party shall have the right to request in writing from the other Party any clarification on a Purchase Order and/or a Supplemental Agreement. The Party to whom such written request for clarification is addressed shall respond within seven (7) days from receipt thereof.

### 4.2 Change Order

4.2.1 Either Party may also request ("Requesting Party") the other Party ("Recipient Party") for a variation to the agreed scope of service, implementation schedule, contract price, etc. ("Change Order Request").

4.2.2 A change order may be requested by the Requesting Party by: (a) delivering to the Recipient Party a Change Order Request, in the form prescribed by CONTRACTOR, setting forth the nature, purpose and specifics of the change requested; and (b) furnishing the Recipient Party with the Requesting Party's proposed modification in the Contract Price as stated in the Purchase Order or the applicable Supplemental Agreement, which may be affected by the Change Order Request.

Within three (3) days from receipt of the Change Order Request, the Recipient Party shall reply to the Requesting Party and furnish the latter with (a) the former's acceptance and approval or non-acceptance and disapproval of the Change Order Request, or (b) the former's counterproposal. In case of a counterproposal, each party shall have three (3) days from receipt of the counterproposal within which to reply to the communication of the other party until the Change Order Request is accepted and approved.

4.2.3 A Change Order Request consisting of a reduction in the agreed scope of service shall be coupled with a corresponding reduction in the Contract Price. The amount of the reduction in the Contract Price shall be at least proportionate to the cost of the reduction of the agreed scope of service, where any work or item is removed from the agreed scope of service.

4.3 The Parties shall negotiate the final terms of the change order. The SUBCONTRACTOR shall not undertake any modifications prior to CONTRACTOR's acceptance of the final terms of the change order. The agreed change order must be in writing, dated and signed by the parties in order to be valid and binding.

## ARTICLE 5 CONTRACT PRICE, INVOICE, AND PAYMENT

### 5.1 Contract Price

5.1.1 The price stated in the Purchase Order and/or Clause E (Contract Price and Payment) of the applicable Supplemental Agreement is firm, fixed and inclusive of all costs of labor, materials and tools that are necessary for SUBCONTRACTOR to perform the Supply. There will be no upward adjustment to the Contract Price under the Purchase Order or the applicable Supplemental Agreement hereof by reason of escalation in the price of labor, materials and tools, or the changes in Key Performance Indicators stated in the Purchase Order or in the Supplemental Agreement.

5.1.2 The SUBCONTRACTOR shall shoulder all out-of-pocket expenses (i.e., board and lodging, meals and/or transportation) that are necessary and incidental to perform the Supply. If an expense is for CONTRACTOR's account and SUBCONTRACTOR has, upon

CONTRACTOR's written request or prior written approval, advanced payment therefore, SUBCONTRACTOR may request for reimbursement of authorized and reasonable out-of-pocket expenses upon submission of the following documents: (a) original official receipt issued in the name of either CONTRACTOR or SUBCONTRACTOR, (b) statement of account, (c) original delivery receipt duly signed by CONTRACTOR, if applicable, and (d) CONTRACTOR's request or approval forms duly signed by CONTRACTOR's authorized representative. Absence of any of such supporting documents shall invalidate SUBCONTRACTOR's claim for reimbursement.

## 5.2 Invoice

5.2.1 The SUBCONTRACTOR shall invoice CONTRACTOR in accordance with the payment terms stated in the Purchase Order or the applicable Supplemental Agreement.

5.2.2 The invoice shall be supported by the following, a) For Downpayment - Guarantee Bonds & Insurances (as maybe required), b) For Progress Billing - Progress Report duly signed by the CONTRACTOR's Project Manager and/or Project Engineer, c) For Final Billing - Certificate of Completion and Final Acceptance Report corresponding to the Supply, and/or such other documents as may be required by CONTRACTOR to process and effect such payment which shall be made known to the SUBCONTRACTOR within reasonable time.

## 5.3 Payment

5.3.1 The CONTRACTOR shall only pay valid invoices that reflect the actual Supply provided based on the Purchase Order:

- a. within twenty-one (21) days from receipt of the invoice and all required supporting documents specified in Article 5.2.2 hereof to its authorized representative,
- b. in the currency stated in the Purchase Order or the applicable Supplemental Agreement hereof, and
- c. by way of:
  - i. check or by remittance to a bank account designated by SUBCONTRACTOR, at CONTRACTOR's option. If payment is made by check, SUBCONTRACTOR shall:
    - (1) notify CONTRACTOR in writing of the name of its authorized collector. Notwithstanding, a collector who presents SUBCONTRACTOR's official receipt upon collection of payment is deemed SUBCONTRACTOR's authorized collector; and
    - (2) pick up the check at CONTRACTOR's designated releasing counter on designated check releasing dates.
  - ii. wire transfer for which all bank charges related thereto shall be for SUBCONTRACTOR's account.

5.3.2 Before payment has been made or if CONTRACTOR, in good faith, disputes any portion of an invoice, CONTRACTOR shall pay the amount of the undisputed portion of such invoice when due and may, at its option, withhold the disputed portion pending

resolution of the dispute in accordance with Article 27 (Dispute Resolution and Arbitration) hereof. The CONTRACTOR shall then make payment within within twenty-one (21) days from the date the dispute is settled or resolved. Non-payment by CONTRACTOR of the invoice within the period provided in Article 5.3.1 hereof by reason of disputed invoices shall not be deemed a delay in payment.

5.3.3 After payment has been made, CONTRACTOR may, at its option and after written notice to SUBCONTRACTOR, set-off any overpayment against any amount that is or may be subsequently due to SUBCONTRACTOR. The foregoing is without prejudice to CONTRACTOR's recourse to other available means to recover the overpayment from SUBCONTRACTOR.

5.3.4 The CONTRACTOR shall be entitled to set-off any sums that SUBCONTRACTOR owes CONTRACTOR by virtue of this Agreement, the Purchase Order and/or any Supplemental Agreement against any payments due to SUBCONTRACTOR under any other agreements with CONTRACTOR. For the avoidance of any doubt, CONTRACTOR shall notify SUBCONTRACTOR of the set-off at least five (5) days prior to performing the set-off.

5.3.5 The CONTRACTOR may release the down payment to SUBCONTRACTOR within fifteen (15) days from presentation by SUBCONTRACTOR of the original copy of the required documentary requirements mentioned in the Purchase Order such as the Guarantee Bonds and Insurances, which must be secured through the insurance broker or insurance company accredited with the CONTRACTOR.

#### 5.4 Tax and Charges

5.4.1 The SUBCONTRACTOR shall pay all taxes that may be imposed by law by reason of the Agreement, the Purchase Order and/or the Supplemental Agreement, including but not limited to Value-Added Tax ("VAT"). The SUBCONTRACTOR shall issue VAT-registered invoices and official receipts to CONTRACTOR when payment is made.

5.4.2 The SUBCONTRACTOR shall assume responsibility for and shall hold CONTRACTOR free from payment of any tax including withholding tax or tax on corporate income that may be imposed by the Republic of the Philippines or any other foreign country by reason of or arising from the Agreement. SUBCONTRACTOR shall likewise assume responsibility and hold CONTRACTOR free from payment of any personal income tax and any contribution to SUBCONTRACTOR'S employees and/or agents which may be required at any time under any laws in force in the Republic of the Philippines, SUBCONTRACTOR's country of origin, or any other country, which may become due by reason of the performance of work under the Agreement and SUBCONTRACTOR shall execute and deliver such requirements of the said laws as may be necessary, including the making of payment of any interest and/or penalties related to or arising from such taxes and/or contributions.

5.4.3 The CONTRACTOR shall withhold such taxes required by the government to be withheld at source from all payments due to SUBCONTRACTOR, remit the same to the Bureau of Internal Revenue ("BIR") for SUBCONTRACTOR's account, and provide SUBCONTRACTOR the original withholding tax certificates in support of taxes withheld.

## ARTICLE 6 BONDS AND INSURANCE

6.1 The SUBCONTRACTOR shall submit the certificates evidencing the bonds and/or insurances when required by the CONTRACTOR, and in the amount stated in the Purchase Order and/or the applicable Supplemental Agreement within ten (10) days from the issuance of the Purchase Order and/or the execution of the Supplemental Agreement.

### 6.1.1 A Performance Bond, which shall:

a. serve as security for (i) SUBCONTRACTOR's complete and faithful performance of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement, (ii) the recovery of the down payment and/or advance payment to SUBCONTRACTOR in case of breach of the Agreement, the Purchase Order and/or the Supplemental Agreement and (iii) the settlement of claims which any of SUBCONTRACTOR's employees, agents or assigns performing the Service for CONTRACTOR may make against CONTRACTOR for unpaid wages, salaries, fees, overtime pay, and other benefits. In the event of any breach of the Agreement, the Purchase Order and/or the Supplemental Agreement by SUBCONTRACTOR, the Performance Bond or any part thereof as may be necessary to remedy such breach shall be forfeited in favor of CONTRACTOR. The Performance Bond shall likewise be considered as the bond, which may be required of independent contractors under Article 108 of the Labor Code of the Philippines (as may be amended and/or renumbered);

b. be effective throughout the Term of the Purchase Order and/or the term of the applicable Supplemental Agreement, or until Final Acceptance of the applicable Supply, whichever is later;

c. be equivalent to any down payment and/or or advance payment paid by CONTRACTOR, or at least thirty percent (30%) of the Contract Price (exclusive of Value-Added Tax and inclusive of withholding tax) stated in the Purchase Order or the applicable Supplemental Agreement, whichever is higher; and

d. be callable on demand.

### 6.1.2 A Comprehensive General Liability Insurance, in case SUBCONTRACTOR shall perform Supply, which shall:

- a. expressly name CONTRACTOR as the additional insured;
- b. be valid until Final Acceptance of the applicable Supply;
- c. cover third party bodily injury and property damage; and
- d. include a cross liability clause.

### 6.1.3 A Contractor's All Risk Insurance, which shall:

- a. expressly name CONTRACTOR as the additional insured;
- b. be valid until Final Acceptance of the applicable Supply;
- c. cover the insurable interests of both CONTRACTOR and the SUBCONTRACTOR;
- d. be equal to the Contract Price as provided in the Purchase Order and/or the applicable Supplemental Agreement; and
- e. include a Third Party Liability Insurance rider, which shall:
  - i. expressly name CONTRACTOR as the additional insured;

- ii. be valid throughout the Term of the Purchase Order or the applicable Supplemental Agreement hereof, or until Final Acceptance of the applicable Supply, whichever is later;
- iii. be equivalent to at least Twenty Million Philippine Pesos (PhP20,000,000.00) combined single limit for bodily injury or property damage, for any one (1) occurrence, and in the aggregate during the Term of the relevant Purchase Order and/or the Term of the applicable Supplemental Agreement; and
- iv. cover third party bodily injury and property damage arising out of any occurrence in the site where the Supply shall be performed or during the performance of the Supply.

6.1.4 A Fidelity Insurance, which shall:

- a. be valid throughout the Term of the Purchase Order and/or the Term of the applicable Supplemental Agreement hereof, or until Final Acceptance of the applicable Supply, whichever is later;
- b. cover fraud or dishonesty of employees, agents or assigns of SUBCONTRACTOR who have access to CONTRACTOR-owned equipment and items; and
- c. be equivalent to the replacement cost of CONTRACTOR-owned equipment and items supplied to SUBCONTRACTOR.

6.1.5 A Warranty Bond, which shall:

- a. be valid for one (1) year or more, as required by the CONTRACTOR, and made known to the SUBCONTRACTOR, from Final Acceptance of the applicable Supply (the "Warranty Period");
- b. be equivalent to ten percent (10%) of the amount stated in the Contract Price of the Purchase Order and/or the applicable Supplemental Agreement hereof or the amount indicated in the bond and insurance requirements in the Purchase Order or applicable Schedule and any Supplemental Agreement hereof, whichever is higher; and
- c. be callable on demand.

6.1.6 A Professional Indemnity Insurance, which shall:

- a. be valid throughout the Term of the Purchase Order and/or the Term of the applicable Supplemental Agreement hereof, or until Final Acceptance of the applicable Supply, whichever is later;
- b. cover acts, errors or omissions of SUBCONTRACTOR in the performance of its Service; and
- c. insure against liabilities of SUBCONTRACTOR arising from financial loss and loss of data and/or documents of CONTRACTOR.

6.2 Only when the CONTRACTOR requires the SUBCONTRACTOR to obtain the bonds and insurances mentioned in Article 6.1 that the SUBCONTRACTOR has the right to charge the costs of procuring these bonds and insurances to the CONTRACTOR. When the SUBCONTRACTOR procures the bonds and insurances without the approval of the CONTRACTOR, the SUBCONTRACTOR is solely liable for the costs of these bonds and insurances and has no right to pass these costs to the CONTRACTOR.

6.3 All bonds and insurance shall be obtained from Philippine bonding or insurance companies or banks acceptable to CONTRACTOR and Client. Upon submission of the bonds and insurance policies to CONTRACTOR, SUBCONTRACTOR shall also submit proof of premium payments or the original official receipt(s) from the bonding and insurance companies or banks.

6.4 In the event SUBCONTRACTOR has an existing global insurance sourced overseas, SUBCONTRACTOR shall submit certificates of insurance to CONTRACTOR for the review and determination by CONTRACTOR and its insurance adviser as to whether they cover CONTRACTOR's insurable interests. The certificates of insurance to be issued by the insurer shall state that the cover is in full force and effect and the insurance company shall confirm that the premium is fully paid. Once approved, SUBCONTRACTOR shall have such global insurance fronted and covered by a Philippine insurance company acceptable to CONTRACTOR in accordance with the Insurance Code of the Philippines for locally situated risks and shall submit to CONTRACTOR the corresponding certificate(s) to be issued by the Philippine insurance company fronting the global insurance.

6.5 All required bonds and insurance to be purchased from persons other than CONTRACTOR's acceptable bonding and/or insurance companies shall be subject to CONTRACTOR's prior written approval. The CONTRACTOR reserves the right to determine with finality the quality, quantity, value and adequacy of such bonds and insurance policies and the acceptability of their issuers. The SUBCONTRACTOR shall not proceed to have any bonds and insurance policies issued until said bonds and insurances quotations have been approved by CONTRACTOR.

6.6 The bonds and insurance policies shall be issued in the same currency as stated in the Purchase Order and/or in the bond and insurance requirements indicated in the applicable Schedule and any Supplemental Agreement hereof, or the prevailing foreign exchange rate on the date the Purchase Order is issued, or in case no Purchase Agreement shall be issued, then on the date that the relevant Supplemental is signed by the Parties. The CONTRACTOR shall be a beneficiary of all bonds and insurance policies obtained, unless otherwise specified.

6.7 By express and clear terms, the bonds and insurance policies shall provide that CONTRACTOR shall be paid upon first written demand declaring SUBCONTRACTOR to be in breach under the Agreement, the Purchase Order and/or the Supplemental Agreement or the occurrence of the insurable risk. The bonds shall be callable upon demand by CONTRACTOR.

6.8 The SUBCONTRACTOR shall be responsible for notifying the bonding and/or insurance company for any pertinent change in the Agreement, the Purchase Order and/or the Supplemental Agreement and obtaining the necessary endorsement(s) to reflect such change. In the event the parties extend the Term of the Purchase Order and/or the Term of the applicable Supplemental Agreement, SUBCONTRACTOR shall also seek the extension of the validity of the bonds and insurance policies without need of advice from CONTRACTOR.

6.9 In the event that the Purchase Order includes pertinent terms and conditions that materially deviate from the provisions of the applicable Schedule and any Supplemental Agreement, CONTRACTOR shall have the right to evaluate, validate and/or revise the required bond or insurance or their respective specifications or limits for that particular Purchase Order.

6.10 Failure to submit the required bonds and insurance policies, including changes or extensions on the bonds and insurance policies under Article 6.8 hereof, does not negate SUBCONTRACTOR's liability for any losses and/or damages incurred by all affected parties under the Agreement, the Purchase Order and/or the Supplemental Agreement.

6.11 No advance payment or initial payment will be released without SUBCONTRACTOR's submission of the bonds and insurance policies required by CONTRACTOR under the Purchase Order and/or the applicable Schedule and any Supplemental Agreement except as provided in Section 5.3.5 hereof. Moreover, subject to the payment terms stated in the Purchase Order and/or in the applicable Schedule of the Agreement and any Supplemental Agreement, final payment of 10% will only be released upon SUBCONTRACTOR's submission of the Warranty Bond required by

CONTRACTOR, under the Purchase Order and/or the applicable Schedule of the Agreement and any Supplemental Agreement.

6.12 In relation to the foregoing, CONTRACTOR has released and may continue to release, as it deems necessary, bulletins regarding bond and insurance requirements. These bulletins are meant to clarify questions on CONTRACTOR's policies with respect to its bond and insurance requirements insofar as its SUBCONTRACTORS are concerned. It is not intended to amend or in any way change the terms and conditions of the Agreement, the Purchase Order and/or the Supplemental Agreement. In case of any conflict, the terms of this Agreement, the Purchase Order and/or the Supplemental Agreement shall survive and prevail over statements in the bulletin.

6.13 The CONTRACTOR, through its insurance adviser, shall provide SUBCONTRACTOR all pertinent details of all bonds and insurance required (e.g. extensions, exclusions and such other relevant details not otherwise enumerated herein).

6.14 In the event a claim against SUBCONTRACTOR has been filed by CONTRACTOR pursuant to the Agreement, the Purchase Order and/or the Supplemental Agreement, any claim on the bonds and insurance shall continue to be in full force and effect until such claim has been paid or otherwise finally settled.

6.15 Subject to Article 18 (Limits of Liability) hereof, the amount covered by the bonds and insurance policies shall not in any way limit the liability of SUBCONTRACTOR to CONTRACTOR.

6.16 The CONTRACTOR reserves the right to demand new or additional bonds and insurance in the event the bonding and/or insurance company and/or bank issuing such bond and/or insurance policy becomes delinquent, insolvent or is blacklisted by CONTRACTOR or by the appropriate agency accrediting or licensing the bonding or insurance companies, or when CONTRACTOR determines that the bond or insurance has become insufficient or inadequate.

6.17 Failure to secure the bonds and insurance as required under the Purchase Order and/or the applicable schedule of the Agreement and any Supplemental Agreement to the satisfaction of CONTRACTOR shall be a sufficient ground for CONTRACTOR to terminate the Purchase Order and/or the applicable Schedule and any Supplemental Agreement.

Notwithstanding, CONTRACTOR, at its sole option and discretion, may keep in force and effect any such bonds and insurance and pay such premiums as may be necessary for that purpose, and from time to time deduct the amount so paid by it from any money due or which may become due to SUBCONTRACTOR, or recover the same as debt due from SUBCONTRACTOR to CONTRACTOR.

6.18 The CONTRACTOR shall release the bonds and insurance to SUBCONTRACTOR within sixty (60) days from issuance by CONTRACTOR of a certificate stating that SUBCONTRACTOR has fully complied with its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement and upon a determination by CONTRACTOR that no event has occurred that would require a call on the bond or a claim on the insurance.

6.19 The CONTRACTOR may, on behalf of SUBCONTRACTOR and with the consent of SUBCONTRACTOR, secure the required bonds and insurances at such values as may be required by the Client for the entire Project, and the cost of said insurances and bonds corresponding to the value of the contract awarded to SUBCONTRACTOR as secured by CONTRACTOR on behalf of SUBCONTRACTOR shall be deducted by CONTRACTOR from the receivables of SUBCONTRACTOR.

## ARTICLE 7 THE CONTRACTOR'S RIGHT OF INSPECTION AND/OR SUPERVISION

7.1 The CONTRACTOR may, at its option, designate its representatives who will:

- a. monitor SUBCONTRACTOR's performance of the Supply, and
- b. conduct inspection and/or testing procedures, if applicable.

The SUBCONTRACTOR shall fully cooperate with all inspection and/or testing procedures.

7.2 The SUBCONTRACTOR shall coordinate and strictly comply with CONTRACTOR's requirements and policies regarding work standards, security and safety. However, the lack of such requirements and policies shall not exempt SUBCONTRACTOR from performing the Supply in a diligent, safe, proper and workmanlike manner.

7.3 The CONTRACTOR shall have the right to deny access to SUBCONTRACTOR's employees, agents and assigns or order a suspension of the Supply when an unsafe act is committed by SUBCONTRACTOR's employees, agents and assigns or when an unsafe condition exists that threatens the safety of persons and property within or around the place where SUBCONTRACTOR performs the Supply. The order for suspension of the Supply shall take effect immediately and shall be enforced until CONTRACTOR or SUBCONTRACTOR (if the denial of access or work stoppage was due to an unsafe condition) has implemented corrective measures. If the denial of access was due to the existence of an unsafe condition, CONTRACTOR shall notify SUBCONTRACTOR in writing when access has been re-established, except when the unsafe condition is a result of an unsafe act of SUBCONTRACTOR's employees, agents, or assigns. In such case, SUBCONTRACTOR shall notify CONTRACTOR of the presence or occurrence of the unsafe condition, and its rectification or removal of such condition when applicable.

## ARTICLE 8 SUBCONTRACTOR PERFORMANCE EVALUATION and AUDIT

8.1 SUBCONTRACTOR agrees to be subject to CONTRACTOR's SUBCONTRACTOR Performance Evaluation. The mechanics of the performance evaluation and the frequency of conducting the performance evaluation shall be stated in the Purchase Order or the Supplemental Agreement.

8.2 SUBCONTRACTOR agrees on the conduct of an audit of SUBCONTRACTOR's information security and internal control procedures, including the systems supporting such procedures, relative to the performance of the Supply and the reasonable requirements of CONTRACTOR's internal or external audit partner, as support to CONTRACTOR's internal or external audit partner's review of CONTRACTOR's financial statements. CONTRACTOR's regular internal audit reviews and the schedules of activities throughout the period stated in Term of the Supplemental Agreement and/or the Purchase Order shall be agreed upon by the Parties.

8.3 SUBCONTRACTOR agrees on the conduct of any surprise audit and/or investigation that may be conducted by CONTRACTOR anytime as a result of exceptional circumstances as determined by CONTRACTOR.

8.4 In the conduct of an audit (regular or surprise) or investigation by CONTRACTOR, SUBCONTRACTOR agrees that such audit shall be made by a third party who is not SUBCONTRACTOR's Competitor to perform audit or investigation of specific areas of SUBCONTRACTOR's information security and internal control procedures, including the systems supporting such procedures which are directly relevant to the Supply. In such cases, CONTRACTOR and SUBCONTRACTOR shall jointly appoint a qualified independent party to audit or investigate and report to the parties. The terms of reference of the audit or investigation shall be mutually agreed between the Parties and the costs in undertaking such audit or investigation and reports shall be shouldered by CONTRACTOR. Prior to the commencement of the audit or investigation, the third party shall have signed a direct non-disclosure and confidentiality agreement with

SUBCONTRACTOR and shall confirm and conform, throughout the audit or investigation and thereafter, to SUBCONTRACTOR's reasonable security policies and guidelines. For the purposes of this Agreement, a SUBCONTRACTOR's Competitor shall refer to an entity in the same or a similar industry which offers a product or service the same or similar to SUBCONTRACTOR's.

8.5 SUBCONTRACTOR shall cooperate fully with CONTRACTOR and with the designated third party in carrying out the audit or investigation; subject only to the withholding of such commercially confidential or other information as may have been agreed by the parties and included in the agreed terms of reference.

8.6 An audit or investigation may raise any number of recommendations relative to the Supply. Following receipt of such recommendations, the parties shall discuss and agree on the implementation of the said recommendations and SUBCONTRACTOR shall cause SUBCONTRACTOR's representatives to promptly take actions to comply with the said recommendations. SUBCONTRACTOR shall bear the expense of any such compliance that is solely attributable to SUBCONTRACTOR's failure to comply with any provision of the Agreement, the Purchase Order and/or the Supplemental Agreement. On the other hand, CONTRACTOR shall be responsible for taking actions for recommendations attributable to CONTRACTOR.

## ARTICLE 9 ACCEPTANCE

9.1 SUBCONTRACTOR shall submit a compliance report as may be required by CONTRACTOR to determine SUBCONTRACTOR's compliance with the Purchase Order and/or the Supplemental Agreement.

9.2 After CONTRACTOR's inspection and verification of the compliance report, CONTRACTOR shall submit all defects and deficiencies in the Supply. The SUBCONTRACTOR shall immediately rectify or remedy any and all such defects. Thereafter, CONTRACTOR shall conduct another inspection or verification to confirm SUBCONTRACTOR's compliance therewith.

9.3 The CONTRACTOR shall issue the Certificate of Completion and Acceptance when CONTRACTOR and Client find that SUBCONTRACTOR: (a) has met the acceptance criteria for the entire Supply, (b) has complied with its obligations under the Agreement, the Purchase Order and/or the applicable Schedule and any Supplemental Agreement, and (c) has submitted such other documents as may be required by CONTRACTOR and Client. Final Acceptance of the applicable Supply shall not be implied from any act of CONTRACTOR or Client other than the issuance of a Certificate of Completion and Acceptance by CONTRACTOR and Client.

## ARTICLE 10 TIME OF COMPLETION AND PENALTIES

10.1 The SUBCONTRACTOR acknowledges that time is of the essence under the Agreement, the Purchase Order and/or the Supplemental Agreement. Therefore, it shall strictly adhere to the Implementation Schedule in the Supplemental Agreement or Purchase Order.

10.2 If at any time during the progress of work, the SUBCONTRACTOR should fail, refuse or neglect to perform the Supply or provide the required tools, materials, supplies, equipment, facilities and workmen, or should abandon or fail to continue with the Performance of the Supply, the CONTRACTOR may at its option, take over the Supply and complete the same or engage the services of another contractor to do the same work all at the expense and for the account of the SUBCONTRACTOR. In any case, the SUBCONTRACTOR shall also be liable to the CONTRACTOR for all damages and/or penalties incurred by the CONTRACTOR or Client.

### 10.3 Penalty for Delay

In the event of delay in the performance of the Supply as stated in the Implementation Schedule of the Supplemental Agreement or Purchase Order, and such delay is not excused by any other provision of the Agreement, the Purchase Order and/or the Supplemental Agreement, SUBCONTRACTOR shall be liable to pay penalties as may be determined by CONTRACTOR in accordance with the Penalties Per Day of Delay and/or Service Level Agreement in the applicable Schedule and any Supplemental Agreement or Purchase Order, or in the absence thereof, 2/10<sup>th</sup> of 1% of the Total Contract Price as stated in the relevant Purchase Order and/or the applicable Supplemental Agreement per each day of delay.

10.4 Any penalties imposed shall, at CONTRACTOR's option, be deducted from any payment due to SUBCONTRACTOR and/or charged against the Performance Bond. In the absence of any payment due to SUBCONTRACTOR or a Performance Bond, SUBCONTRACTOR shall pay the penalties due within fifteen (15) days from receipt of CONTRACTOR's written demand. The CONTRACTOR shall charge interest for any delay in the payment of the penalties equivalent to five percent (5%) per month.

10.5 The remedies available to CONTRACTOR are cumulative. Payment of penalties shall be without prejudice to the right of CONTRACTOR to:

- a. demand that SUBCONTRACTOR perform the Supply as soon as possible,
- b. take over the performance of the Supply and itself complete or have the same completed by a third party without need of prior notice to SUBCONTRACTOR, and demand that SUBCONTRACTOR pay for the cost of completion and for damages suffered by CONTRACTOR as a result of the delay or non-performance by SUBCONTRACTOR,
- c. rescind the Purchase Order and/or the Agreement and/or any Supplemental Agreement and demand from SUBCONTRACTOR actual damages suffered by CONTRACTOR as a result of such delay and/or failure to implement the Supply, and/or
- d. exercise such other rights and remedies that CONTRACTOR may have under the Agreement, the Purchase Order and/or the Supplemental Agreement, in law or in equity.

10.6 Delay may be excused if the same is due to:

- a. "Force Majeure," which refers to any unforeseen circumstance beyond the control of the Parties that directly prevents either of the Parties from performing their obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement, including but not limited to:
  - i. war and other hostilities, (whether war be declared or not), invasion, act of terrorism and act of foreign enemies,
  - ii. ionizing radiation or contamination by radio-activity from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear components thereof,
  - iii. riot, rebellion, revolution, insurrection and civil war, or
  - iv. a natural calamity and other acts of God.

Provided that, for the avoidance of doubt, the following are not Force Majeure events:

- i. flooding, unless severe storm or flood where the relevant area is placed under a state of calamity by the relevant government authority,
- ii. fire,
- iii. labor disputes, and
- iv. explosion

b. "Suspension of Supply Not Caused by SUBCONTRACTOR," which refers to a suspension of the Supply ordered by CONTRACTOR because of the existence of an unsafe condition that threatens the safety of persons and property within or around the place where SUBCONTRACTOR performs the Supply and not caused by or not attributable to SUBCONTRACTOR.

c. For brevity and unless otherwise indicated, the term "Grounds for Excusable Delay" shall refer to either Force Majeure or the Suspension of Supply Not Caused by SUBCONTRACTOR, provided that, notwithstanding the foregoing, a Party may not claim the benefit of Grounds for Excusable Delay to the extent the event of force majeure occurs as a direct result of such Party's own action or inaction or the action or inaction of its affiliates, subcontractors, or other persons under its control.

10.7 In the event of and during the Grounds for Excusable Delay,

a. neither party shall be considered to be in breach of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement to the extent that performance of such obligations is directly prevented by and to the extent and for the duration of the Grounds for Excusable Delay;

b. the Parties shall bear each of their own costs; and

c. CONTRACTOR shall not be obligated to pay SUBCONTRACTOR for the Supply or any portion thereof that SUBCONTRACTOR is unable to perform, in case of Force Majeure, or is ordered not to perform, in case of Suspension of Supply Not Caused by SUBCONTRACTOR.

10.8 The SUBCONTRACTOR shall:

a. endeavor to continue to perform its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement in so far as reasonably practicable;

b. notify CONTRACTOR of the steps it proposes to take to mitigate the effects of the Grounds for Excusable Delay, and any reasonable alternative means for the performance of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement that is not prevented by the Grounds for Excusable Delay; and

c. secure CONTRACTOR's written approval if the steps it proposes to take to mitigate the effects of the Grounds for Excusable Delay or the alternative means for the performance of its obligations will result to CONTRACTOR incurring additional cost or a revision of the implementation schedule.

10.9 Either Party shall promptly notify the other if it considers that any circumstance of Force Majeure or unsafe condition has occurred which may affect the performance of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement, but in any event not later than seven (7) calendar days from start of occurrence of a Force Majeure event or unsafe

condition, indicate an estimate of the extent and duration of its inability to perform, take all reasonable steps to remove that circumstance of Force Majeure or unsafe condition as quickly as possible and shall use its best efforts with the cooperation of the other Party, to resume performance as soon as reasonably possible.

10.10 Within three (3) days after receipt of notice required in the foregoing paragraph, the Parties shall meet to discuss in good faith a mutually satisfactory resolution to the suspension of the performance of the Supply by reason of the Grounds for Excusable Delay. In the event that there is a delay in the Supply due to causes that are Grounds for Excusable Delay and which SUBCONTRACTOR is unable to prevent or provide against by the exercise of reasonable diligence (but only to the extent that such cause in fact delays SUBCONTRACTOR'S performance hereunder, and excluding, however, any event caused by SUBCONTRACTOR'S negligence or intentional act) then in any such case, SUBCONTRACTOR shall, but only for the duration of such causes, be correspondingly relieved of its obligations to Supply affected thereby but the provisions of the Agreement shall remain in full force as regards any Supply which are not affected by such causes.

10.11 Either Party shall have the right to terminate the Purchase Order and/or the Agreement and any of the Supplemental Agreement if:

- a. within fifteen (15) days from the commencement of the Parties' discussion, the Parties cannot agree on a solution and the Supply, or any portion thereof, is not performed by reason of the Grounds for Excusable Delay, or
- b. within fifteen (15) days from receipt of notice, in case discussion is not commenced within five (5) days from receipt of notice, the Supply, or any portion thereof, is not performed due to the Grounds for Excusable Delay.

10.12 Notwithstanding the foregoing and subject to the provisions of Article 19 (Termination and Suspension), and Article 20 (Consequences of Termination) hereof, CONTRACTOR may, without incurring any liability or penalty for such termination, terminate the Purchase Order and/or the Agreement and/or any of the Supplemental Agreement by reason of delay, including due to Force Majeure or unsafe condition.

10.13 In the event of the Agreement is terminated under the provision of this Article 10, the total price payable by CONTRACTOR to SUBCONTRACTOR hereunder shall be the price of the Supply delivered and received by CONTRACTOR at the date of such termination.

## ARTICLE 11 CONFIDENTIALITY

11.1 The phrase "Confidential Information" shall include and mean any and all technical and business information, including any information from the Client, and CONTRACTOR Personal Data as defined in Article 12 (Information Security and Data Privacy), which are hereafter disclosed by a Party (the "Disclosing Party") to the other Party (the "Receiving Party") verbally, visually, electronically or in writing. All information, specifications or documentation such as but not limited to software license or planned software license, processes and/or procedures, technological achievements and interests, customers and potential customers, marketing information, business prospects, financial statements and information, financial situation and corporate plans, internal activities, future plans of both parties and other information deemed proprietary or confidential by the Disclosing Party and imparted in relation to the Agreement, the Purchase Order and/or the Supplemental Agreement, whether or not covered by any intellectual property right, shall be treated with utmost confidentiality and not be divulged or shared by the Receiving Party with any third party, during or after the termination or expiration of the Agreement, the Purchase Order and/or the Supplemental Agreement, without the Disclosing Party's prior written consent.

11.2 The Disclosing Party shall endeavor to mark or otherwise identify Confidential Information which is disclosed to the Receiving Party in written or electronic form as being "CONFIDENTIAL" (or with a substantially equivalent legend) and to confirm with the Receiving Party in writing within a reasonable period of time the substance of such Confidential Information which is first disclosed to the Receiving Party verbally or visually. However, any failure by the Disclosing Party to so mark or identify the Confidential Information shall not relieve the Receiving Party of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement with respect to Confidential Information, which is not so marked or identified.

11.3 The Receiving Party hereby agrees that it shall:

- a. use the Confidential Information solely for the purpose of undertaking its responsibilities under the Agreement, the Purchase Order and/or the Supplemental Agreement,
- b. not disclose, during the term and after the termination of the Agreement, the Purchase Order and/or the Supplemental Agreement, any such Confidential Information gained in confidence, directly or indirectly, to any third party save as it is necessary to comply with its responsibilities under the Agreement, the Purchase Order and/or the Supplemental Agreement and only upon the prior written consent of the Disclosing Party,
- c. disclose Confidential Information only to its stockholders, directors, officers, personnel and employees who need to have access to it for the purpose set out above, and ensure that they adhere and abide by these terms and conditions,
- d. ensure that its stockholders, directors, officers, employees and agents do not disclose to third parties, without prior and explicit authorization in writing by the Disclosing Party, all or part of the Confidential Information, and
- e. not copy or reproduce in whatever form any part of the Confidential Information except what may be reasonably necessary for the purpose set out above, in which event any copies or reproductions in writing so made shall be the property of the Disclosing Party.

The above requirements shall not apply to any part of information supplied by the Disclosing Party, which:

- a. is in or comes into the public knowledge without breach of the Agreement, the Purchase Order and/or the Supplemental Agreement,
- b. is lawfully received by the Receiving Party from a third party without breach of the Agreement, the Purchase Order and/or the Supplemental Agreement, or
- c. can be proven to have been in the Receiving Party's lawful possession prior to disclosure of information from the Disclosing Party.

11.4 Confidential Information may also be disclosed by the Receiving Party pursuant to any applicable statute, law, rule or regulation of any government authority or pursuant to an order of any court or tribunal of competent jurisdiction; provided, however, that the Receiving Party shall advise the Disclosing Party in a timely manner of such order to enable the Disclosing Party to apply for such legal protection as may be available with respect to the Confidential Information.

11.5 The Receiving Party shall immediately notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information or any other breach of the confidentiality provision and shall cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.

11.6 The Receiving Party agrees that the Disclosing Party may seek an injunctive relief prohibiting any violation of the Agreement, the Purchase Order and/or the Supplemental Agreement, in addition to any other rights and remedies available to it, in a court of competent jurisdiction.

11.7 The SUBCONTRACTOR further undertakes not to divulge or inform any third party in any manner whatsoever of CONTRACTOR's award of tender to SUBCONTRACTOR or the contents of the Agreement, the Purchase Order and/or the Supplemental Agreement without the prior written approval of CONTRACTOR.

11.8 Prior to the publication or use by a Party hereto of any advertising, promotion, press releases or other publicity matters relating to the Agreement, the Purchase Order and/or the Supplemental Agreement in which the names or logo of the other Party is mentioned or can be reasonably inferred, the Party shall obtain the written consent of the other Party.

## ARTICLE 12 INFORMATION SECURITY AND DATA PRIVACY

### 12.1 Definitions

The following terms used in this Article 12 (Information Security and Data Privacy) shall be defined as follows:

- a. Data Privacy Act of 2012 ("DPA") refers collectively to Republic Act No. 10173 of the Philippines and its corresponding Implementing Rules and Regulations ("IRR"), including any amendment thereto, and the issuances of the National Privacy Commission of the Philippines ("NPC");
- b. CONTRACTOR Personal Data refers to data or information pertaining to the Client, CONTRACTOR's employees, agents, representatives, clients, suppliers, etc., which:
  - i. Is disclosed by or on behalf of CONTRACTOR to SUBCONTRACTOR;
  - ii. The SUBCONTRACTOR processes or possesses on behalf of CONTRACTOR; or
  - iii. The SUBCONTRACTOR obtains as a result of or in connection with this Agreement or otherwise.

CONTRACTOR Personal Data pertains to either of the following data or information:

- i. Personal Information. Any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual; or
- ii. Sensitive Personal Information. Any information -
  - a. about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical, or political affiliations;

- b. about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such individual, the disposal of such proceedings, or the sentence of any court in such proceedings;
- c. issued by government agencies peculiar to an individual which includes, but is not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- d. specifically established by an executive order or an act of Congress to be kept classified.

12.2 The SUBCONTRACTOR shall:

- a. Comply with the requirements of the Data Privacy Act of 2012 in relation to the performance of this Agreement and the in handling CONTRACTOR Personal Data.
- b. Execute CONTRACTOR's standard Data Privacy and Cybersecurity Agreement, whichever may be applicable, based on the determination of CONTRACTOR that the same is applicable for the work to be performed by the SUBCONTRACTOR.

#### ARTICLE 13 LABOR RELATIONS AND RESPONSIBILITIES OF PARTIES

13.1 Nothing herein shall be construed as creating an agreement of partnership or agency between the parties. The SUBCONTRACTOR is not granted any right or authority to assume or create any obligation or responsibility, express or implied, in behalf of or in the name of CONTRACTOR, or to bind CONTRACTOR in any manner.

13.2 Nothing herein shall be construed as creating an employer-employee relationship between: (a) CONTRACTOR and SUBCONTRACTOR, (b) CONTRACTOR and SUBCONTRACTOR's employees, agents or assigns, or (c) SUBCONTRACTOR and CONTRACTOR's employees, agents or assigns.

13.3 The SUBCONTRACTOR warrants that it is an independent contractor and not a labor-only contractor. The SUBCONTRACTOR's employees, agents or assigns performing the Supply shall remain the employees, agents and assigns of SUBCONTRACTOR. The SUBCONTRACTOR shall solely be liable for and pay its employees, agents and assigns their wages, salaries, benefits and fees in accordance with their respective contracts and applicable labor laws.

13.4 The SUBCONTRACTOR warrants that it shall comply with Philippine labor laws.

- a. All the rights and benefits of its employees performing the Supply, comply with all legal requirements for safe and healthful working conditions and labor standards, as required by the Labor Code of the Philippines, including but not limited to service incentive leave, rest days, overtime pay, thirteenth (13th) month pay and separation pay, retirement benefits, contributions and remittance to Social Security Service (SSS), Employees' Compensation Commission (ECC), Philhealth, Pag-IBIG Fund, and other welfare benefits, and SUBCONTRACTOR shall respect the right to self-organization, collective bargaining and peaceful concerted action and the right to security of tenure of its employees.
- b. With respect to its employees, it shall directly remit monthly its share as employer, and the employees' contribution to the SSS, ECC, Philhealth and Pag-IBIG Fund.

c. It shall comply with the Implementing Rules and Regulations and other relevant issuances of the Department of Labor and Employment (DOLE) pertaining to its employees and subcontractors performing the Supply.

d. The SUBCONTRACTOR's relationship with its employees, agents and assigns performing the Supply is covered by separate duly executed contracts, which include the following terms and conditions: (i) the specific description of the job, work or service to be performed by the employee, agent and assignee; (ii) the place of work and terms and conditions of employment or engagement, including a statement of the wage or service rate applicable to the employee, agent and assignee; and (iii) the term or duration of employment or engagement that must be co-extensive with the Term as stated in the Purchase Order and/or Clause D (Term) of the applicable Supplemental Agreement or with the specific phase of the Supply for which SUBCONTRACTOR's employee, agent and assignee is performing the Supply.

e. It has informed its employees, agents and assigns performing the Supply of the foregoing terms and conditions of employment or engagement in writing, on or before the first day of employment or engagement with SUBCONTRACTOR.

13.5 The SUBCONTRACTOR shall have the sole and exclusive right to hire, discharge, supervise, control and discipline its employees, agents and assigns, and the entire charge, control, and supervision of functions, activities and services herein agreed upon. It shall hold the CONTRACTOR, its stockholders, directors, officers and employees free and harmless from any claim or suit for unpaid wages, salaries, fees or benefits due its employees, agents and assigns designated to perform the Supply, including from claims or suits relating to "labor-only contracting" or violation of DOLE Department Order Nos. 18-A (series of 2011) and 174 (series of 2017) or amendments thereof.

#### ARTICLE 14 INTELLECTUAL PROPERTY RIGHTS

14.1 Neither Party shall use the other Party's name, copyrights, trademarks, service marks, trade names or logos in any manner whatsoever without the other Party's prior written consent. For the avoidance of doubt, execution of this Agreement or any Supplemental Agreement, or issuance of a Purchase Order by CONTRACTOR, shall not be construed as written consent.

14.2 Intellectual or industrial property rights to all software, equipment or other material, including analyses, designs, documentation, reports, offers and preparatory materials made available by or on behalf of either CONTRACTOR or SUBCONTRACTOR under the Agreement, the Purchase Order and/or the Supplemental Agreement shall remain with either CONTRACTOR or SUBCONTRACTOR or with the third party from whom CONTRACTOR or SUBCONTRACTOR derives the right to make them available. Both Parties undertake not to reproduce, decompile or reverse engineer the software, equipment or any other material in violation of this Article.

14.3 Anything supplied by or paid for by CONTRACTOR for the use of SUBCONTRACTOR, including but not limited to data, ideas, concepts, know-how, databases, business processes, process flows, questionnaires and presentations, services and service descriptions, as well as any processes produced or commissioned by CONTRACTOR as part or as a key application of the Supply, shall be the property of CONTRACTOR. Where practicable, all intellectual property shall be so marked but the lack of CONTRACTOR proprietary markings does not deprive it of any of its intellectual property rights thereto. Moreover, when the Supply subject of the Purchase Order and/or any Supplemental Agreement is completed or terminated, SUBCONTRACTOR shall turn over to CONTRACTOR any and all of its intellectual property that may be in its possession, including all documents relevant to the Supply.

14.4 Notwithstanding anything in the Agreement, the Purchase Order and/or the Supplemental Agreement, the transfer of intellectual property to CONTRACTOR shall not include SUBCONTRACTOR's Intellectual Property. The "SUBCONTRACTOR's Intellectual Property" refers to materials existing prior to the commencement of SUBCONTRACTOR's engagement or materials developed outside the scope of Supply that are proprietary to SUBCONTRACTOR or to third parties, and all associated intellectual property rights and any enhancements and modifications to such materials, whether or not such enhancements and modifications are developed as part of the Supply. The SUBCONTRACTOR grants to CONTRACTOR and its Affiliates a perpetual, non-exclusive, non-transferable, worldwide use license over SUBCONTRACTOR's Intellectual Property as may be incorporated into a Supply for the benefit of CONTRACTOR and its Affiliates.

An Affiliate is any entity, whether incorporated or not, that is controlled by, controls, or is under the common control of a party; and "control" means the ability, whether directly or indirectly, to direct the affairs of another by means of ownership.

14.5 Subject to Articles 14.3 and 14.4 hereof, the following intellectual property shall belong to CONTRACTOR:

- a. copyrights, intellectual or industrial property rights over any work product arising from the Supply carried out by SUBCONTRACTOR under the Purchase Order and/or the Agreement and any Supplemental Agreement, and
- b. any materials, tools, information, applications, business processes, process flows, services or service descriptions developed by CONTRACTOR using the work product developed by SUBCONTRACTOR referred to under Article 14.5 a hereof.

14.6 SUBCONTRACTOR shall, at its expense, defend, indemnify and hold CONTRACTOR free and harmless from any claim or suit brought against CONTRACTOR alleging that a Supply infringes a patent, copyright or trade secret, and SUBCONTRACTOR will pay all costs and damages in a settlement or award resulting therefrom; provided that CONTRACTOR promptly notifies SUBCONTRACTOR of the claim and gives SUBCONTRACTOR reasonably requested information and cooperation and sole authority to defend and settle the claim.

- a. In handling the claim, SUBCONTRACTOR may obtain, at no additional charge to CONTRACTOR, the right for CONTRACTOR to continue using the Supply at issue, or replace or modify it so that it becomes non-infringing. If SUBCONTRACTOR is unable to reasonably secure these remedies, and if CONTRACTOR must discontinue the use of an infringing Supply then, in addition to providing the defense and indemnification set forth above, SUBCONTRACTOR shall also refund, on a five (5) year straight-line depreciation basis, the price paid to the SUBCONTRACTOR for the infringing Supply.
- b. SUBCONTRACTOR's indemnification does not apply, and CONTRACTOR correspondingly will defend, indemnify and hold SUBCONTRACTOR harmless, to the extent that the alleged infringement is caused by the use of the Supply in connection with goods, computer code, or services not furnished by SUBCONTRACTOR, or SUBCONTRACTOR's compliance with CONTRACTOR's designs or specifications, or modifications by anyone other than SUBCONTRACTOR or its contractors.
- c. Each Party's obligations and liabilities to the other for third party intellectual property infringement claims, and each Party's rights and remedies against the other for such claims, are solely and exclusively as provided in Article 18 (Limits of Liability) hereof.

## ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 Each Party represents and warrants that, with respect to the Agreement, and upon execution or acceptance of any succeeding Purchase Order and/or the Supplemental Agreement, (i) it has the requisite corporate power and authority to enter into it and to carry out their respective obligations therein, (ii) the execution, delivery and performance thereof has been duly authorized, and (iii) it has been duly executed and delivered by each Party, and it creates a lawful, valid and legally binding obligation in accordance with its terms.

15.2 The SUBCONTRACTOR represents and warrants that:

- a. it is a professional entity possessing the required expertise to perform the Supply. It further warrants that its employees, agents and assigns deployed to perform the Supply for CONTRACTOR are competent, skilled and possess the required expertise. SUBCONTRACTOR shall maintain at all times strict discipline among its employees and permitted subcontractors hereunder, and agrees not to employ for work or engage the services of any person unfit or without sufficient skill to provide the Supply. In the performance of this Agreement, SUBCONTRACTOR shall utilize only properly certified or licensed individuals who are sufficiently trained and experienced to provide the Supply. SUBCONTRACTOR shall ensure that these personnel have been thoroughly screened, have no police or criminal record, excluding minor traffic violations, are professionally, physically and mentally fit to perform their duties and are properly attired during the implementation of this Agreement in accordance with the requirements of CONTRACTOR and the Client;
- b. it is duly organized, validly existing and in good standing under the laws of its country of organization and has the requisite power and authority to execute, deliver and perform its obligations under the Agreement;
- c. it has obtained all licenses, authorizations, approvals, consents or permits required to perform its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement under all applicable laws and under all applicable rules and regulations of all Government authorities having jurisdiction over the Supply;
- d. it shall be exclusively liable for any violation of national laws, executive orders, municipal ordinances, rules and regulations of government agencies that may be committed by SUBCONTRACTOR or any of its employees in the performance of its obligations under the Agreement, Purchase Order and Supplemental Agreement; provided that the violation was not due to any act of omission of CONTRACTOR, its employees or agents;
- e. its execution, delivery and performance of all of its obligations under the Agreement have been duly authorized by the requisite corporate action on the part of the SUBCONTRACTOR (if SUBCONTRACTOR is a corporation), and shall be in compliance, in all respects, with the rules, regulations and laws of the Republic of the Philippines and under the rules, regulations and laws of its country of organization;
- f. it shall perform the Supply in accordance with the Purchase Order and/or the Agreement and any Supplemental Agreement as well as CONTRACTOR's instructions, in a diligent, orderly and workmanlike manner and shall strictly comply with industry standards and pertinent laws, government rules and regulations. In this regard, it further warrants that it shall maintain and repair any fault attributable to itself or any of its employees, agents or assigns or make any necessary or essential adjustment in the performance of the Supply, free of cost to CONTRACTOR;

g. it shall provide, at its own expense, adequate equipment and facilities;

h. it shall not use a subcontractor in the performance of the Supply without the prior written consent of CONTRACTOR. In the event CONTRACTOR gives consent, SUBCONTRACTOR shall, nevertheless, remain fully responsible for the proper fulfillment of its obligations herein and for the work performed by its subcontractors, and shall impose on its own contractors (and subcontractors), if any, the same standards required of it under the Agreement, the Purchase Order and/or the Supplemental Agreement. It shall likewise maintain and cause its contractors to maintain, during the Term of the Purchase Order and/or the Term of the Supplemental Agreement, appropriate business practices, standards, procedures and controls with the objective of avoiding any adverse impact on the interests of both Parties. Moreover, SUBCONTRACTOR shall be fully responsible for all acts and omissions of the subcontractors and of the persons directly or indirectly employed by such subcontractor in the performance of the Supply. CONTRACTOR's consent notwithstanding, SUBCONTRACTOR shall ensure that its subcontractors have the appropriate permits and licenses and are competent to perform the Contracted Works.

SUBCONTRACTOR may hire consultants for technical advise or expertise without need of prior written consent of CONTRACTOR, provided that such consultants will not perform any component of the Supply, but in such a case, these consultants shall be considered as subcontractors and CONTRACTOR's prior written consent shall be obtained before these consultants perform their obligations;

i. it shall take no action on behalf of CONTRACTOR that would subject either of them to liability or penalty under any law, decree, rules or regulations of any governmental authority. For this purpose, SUBCONTRACTOR's financial settlements, billings, records and invoices rendered to CONTRACTOR shall accurately and fairly reflect the facts about the activities and transactions undertaken by or on behalf of SUBCONTRACTOR in performing its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement;

j. all payments made or to be made by CONTRACTOR to SUBCONTRACTOR are for its own account. The SUBCONTRACTOR shall neither give nor promise any part of such payment or any other payment, loan or other consideration to any government office, political party or official, or to any member of the latter's family nor assign payment due to SUBCONTRACTOR to any third party without the prior written consent of CONTRACTOR, or to any entity that is the subject of economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by an authority having jurisdiction over CONTRACTOR and/or SUBCONTRACTOR or by United Nations Security Council directive;

k. it shall complete the Supply free and clear from any and all liens, claims, encumbrances, security interests, charges and assessments whatsoever;

l. during the Term stated in the Purchase Order and/or for the period stated in the applicable Supplemental Agreement and subject to the agreed implementation schedule thereof, if any, it shall perform the Supply continuously and without interruption. Thus, it shall not replace or substitute its employees, agents or assigns deployed to CONTRACTOR within the Term stated in the Purchase Order and/or the applicable Supplemental Agreement except in the following instances: (a) resignation or termination of SUBCONTRACTOR's employee, agent or assignee, or (b) with CONTRACTOR's prior written consent. In case of replacement of its employee, agent or assignee due to any of the

above exceptions stated, SUBCONTRACTOR shall assign a replacement within five (5) days from the date of resignation or termination of said employee, agent or assignee, or from receipt of CONTRACTOR's request or consent;

m. the execution, delivery and performance of the Agreement, the Purchase Order and/or the Supplemental Agreement shall not constitute a violation of any judgment, order or decree; a material default under any agreement by which it or any of its material assets are bound; or an event that would, with notice or lapse of time, or both, constitute such a default;

n. as of the Effectivity Date of the Agreement, each of the Purchase Orders and/or each of the Supplemental Agreements, there is, to SUBCONTRACTOR's knowledge, no pending claim, suit or proceeding against or affecting SUBCONTRACTOR or any of its Affiliates or subcontractors that would reasonably be expected to adversely affect SUBCONTRACTOR's ability to perform and fulfill its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement including without limitation actions pertaining to proprietary rights. The SUBCONTRACTOR shall notify CONTRACTOR of any claim, suit or proceeding which would reasonably be expected to adversely affect SUBCONTRACTOR's ability to perform and fulfill its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement within fifteen (15) days from SUBCONTRACTOR's knowledge thereof or within fifteen (15) days from the day when SUBCONTRACTOR is reasonably expected to have such knowledge, whichever is earlier. However, if process is served on SUBCONTRACTOR where such matter, in SUBCONTRACTOR's good faith judgment, may reasonably affect SUBCONTRACTOR's rights or obligations under the Agreement, any Purchase Order and/or any Supplemental Agreement, including any subpoena for SUBCONTRACTOR's records, SUBCONTRACTOR shall send a written notice of the service together with a copy of the same to CONTRACTOR within seventy two (72) hours of such service, provided that if CONTRACTOR should be informed of such process service on SUBCONTRACTOR through other means which CONTRACTOR believes may affect SUBCONTRACTOR's rights or obligations under the Agreement, any Purchase Order and/or any Supplemental Agreement, CONTRACTOR reserves the right to demand from SUBCONTRACTOR a copy of such service and SUBCONTRACTOR shall furnish CONTRACTOR a copy of the same within seventy two (72) hours of such demand;

o. it shall not commit Fraud, which is defined as an intentional deception made and/or conducted by SUBCONTRACTOR, its employees, agents or assigns, acting individually, together, or in collusion with a third party, for its, his or their personal gain, profit or some unfair or dishonest advantage, or to damage CONTRACTOR and/or CONTRACTOR's subscribers. In case of Fraud, CONTRACTOR may, at CONTRACTOR's option, exercise any, a combination of, or all of the following rights against SUBCONTRACTOR, if the Fraud is committed and/or participated in by SUBCONTRACTOR's employees, agents or assigns:

i. require full recovery/reimbursement for direct costs and expenses incurred by CONTRACTOR on account of the Fraud which costs shall be subject to verification by SUBCONTRACTOR;

ii. require SUBCONTRACTOR to remove the relevant involved employees, agents or assigns from providing the Supply or any of CONTRACTOR's project; and/or

iii. terminate the Agreement, the Purchase Order and/or the Supplemental Agreement. Such Fraud shall be considered as a material breach of the Agreement, the Purchase Order and/or the Supplemental Agreement;

p. if it is a consortium or a joint venture, each entity therein will be jointly and severally responsible for obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement unless CONTRACTOR agrees otherwise in writing;

q. it shall strictly comply with the Agreement, the Purchase Order and/or the Supplemental Agreement.

15.3 With regard to its due diligence, SUBCONTRACTOR warrants that:

a. it has made its own inquiries and evaluation to satisfy itself as to the adequacy of any information supplied to it by or on behalf of CONTRACTOR as to allow itself to take full responsibility of performing the Supply in the amount or price provided in the Purchase Order and/or the Agreement and any Supplemental Agreement.

b. it has raised all relevant questions with CONTRACTOR before the Effectivity Date of the Purchase Order and/or the Agreement and any Supplemental Agreement and has obtained the information deemed necessary and appropriate in order for it to perform the Supply in accordance with the Purchase Order and/or the Agreement and any Supplemental Agreement.

c. it has accepted the Purchase Order and/or the Agreement and any Supplemental Agreement in reliance on its own due diligence and is satisfied to enter into and be bound by the Agreement, the Purchase Order and/or the Supplemental Agreement.

15.4 The SUBCONTRACTOR, during the Warranty Period, shall at no additional charge to CONTRACTOR, remedy, correct, re-perform or repair any nonconforming Supply to make it conform to its warranties. If SUBCONTRACTOR fails to conform the Supply to its warranties within a reasonable time after receiving CONTRACTOR's warranty claim during the warranty period, SUBCONTRACTOR shall issue a refund of the amount paid for the Supply that does not meet the warranty.

15.5 The representations and warranties set out in this Article 15:

a. are made on the Effectivity Date; and

b. are deemed to be repeated by SUBCONTRACTOR on the date of each Purchase Order, Supplemental Agreement, any amendment to the Agreement and any Change Order with reference to the facts and circumstances then existing.

#### ARTICLE 16 CONFLICT OF INTEREST AND DISCLOSURE

16.1 Conflict of interest exists if SUBCONTRACTOR (a) is directly or indirectly competing with CONTRACTOR in relation to any project of the Client, (b) is effectively owned or controlled by an officer or employee of CONTRACTOR or the Client, or a relative within the fourth (4th) degree of consanguinity or affinity of any such officer or employee, or (c) is a former employer of an existing employee of CONTRACTOR or the Client within two (2) years prior to the execution of the Purchase Order and/or the Agreement or Supplemental Agreement.

The SUBCONTRACTOR warrants that it has no conflict of interest with CONTRACTOR or the Client. If SUBCONTRACTOR has knowledge of a conflict of interest with CONTRACTOR or the Client prior to entering into the Agreement, the Purchase Order and/or the Supplemental Agreement, SUBCONTRACTOR shall immediately make full disclosure of the same to CONTRACTOR and obtain CONTRACTOR's written approval to commence with the performance of the Supply despite the existence of the conflict of interest.

16.2 If during the Term of the Agreement, the Purchase Order and/or the Supplemental Agreement, a conflict of interest arises or SUBCONTRACTOR discovers that a conflict of interest exists, SUBCONTRACTOR shall make a full disclosure of the same to CONTRACTOR within fifteen (15) days and obtain CONTRACTOR's written approval to continue with the performance of the Supply despite the existence of the conflict of interest.

16.3 The CONTRACTOR or the Client may, at their sole option and discretion, in the case of conflict of interest other than where SUBCONTRACTOR is owned, managed or controlled directly or indirectly by CONTRACTOR or the Client's employee, or where CONTRACTOR or Client's employee owns or represents any share of stock in SUBCONTRACTOR, (a) accept SUBCONTRACTOR's request for a waiver of the conflict of interest; (b) require the SUBCONTRACTOR to cure the conflict of interest before proceeding with the performance of the Supply; or (c) immediately terminate the Agreement, the Purchase Order and/or the Supplemental Agreement and take over the performance of the Supply. The SUBCONTRACTOR shall have no cause of action against CONTRACTOR or the Client for terminating due to conflict of interest, it being understood that no conflict of interest is an absolute condition of the Agreement, the Purchase Order and/or the Supplemental Agreement.

16.4 The CONTRACTOR or the Client shall also have the right to immediately terminate the Agreement, the Purchase Order and/or the Supplemental Agreement if it discovers that SUBCONTRACTOR concealed or failed to disclose the existence of a conflict of interest on a timely basis. Failure to disclose any conflict of interest entitles CONTRACTOR the right to immediately terminate the Agreement, the Purchase Order and/or the Supplemental Agreement.

#### ARTICLE 17 GIFTS, INDUCEMENT AND AWARDS

The CONTRACTOR or the Client shall be entitled to terminate the Agreement, the Purchase Order and/or the Supplemental Agreement if SUBCONTRACTOR shall have offered, agreed or given any employee of CONTRACTOR or the Client, and/or its Affiliates, or any government office, official or employee, directly or indirectly, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the execution of the Agreement, the Purchase Order and/or the Supplemental Agreement with CONTRACTOR, and/or its Affiliates.

#### ARTICLE 18 LIMITS OF LIABILITY

18.1 Except for liability arising from personal injury or death, breach of confidentiality, data privacy, infringement of intellectual property, rights, loss of or damage to property, negligence, fraud, indemnity obligations, of the SUBCONTRACTOR, non-competition, and non-assignment of rights and obligations:

a. In no event shall either Party's liability to the other for losses, damages, claims, demands, or causes of action, arising from or in connection with the Agreement, the Purchase Order and/or the Supplemental Agreement, whether arising in contract, tort, statute, equity or otherwise, exceed the Contract Price (excluding payment for taxes and expenses) stated in the Purchase Order and/or the Supplemental Agreement to which the claim relates; and

b. In no event shall either Party be liable to the other Party for any incidental, indirect, exemplary, special or consequential damages whatsoever (including damages for lost profits, income or savings, interest, goodwill, opportunities, or interruption of business) that may be suffered or incurred by the other Party or any person or entity affiliated or associated with the Party or any person or entity affiliated or associated with the other Party, even if advised of the possibility of such damages, whether arising in contract, tort, statute, equity, liability under indemnity or otherwise.

18.2 SUBCONTRACTOR agrees to fully indemnify, defend and hold CONTRACTOR, its stockholders, directors, officers, employees or representatives free and harmless from and against any and all losses arising from any third party claim relating to and arising from acts or omissions of SUBCONTRACTOR.

Provided, however, that CONTRACTOR gives SUBCONTRACTOR (a) prompt written notice of any such third party claim; (b) all requested information regarding the third party claim; (c) reasonable cooperation and assistance; and (d) authority to defend and settle the third party claim.

18.3 In case SUBCONTRACTOR fails to fully indemnify CONTRACTOR on time, the full amount of the claims for which CONTRACTOR was made liable shall, at CONTRACTOR's option, either be deducted from any payment due to SUBCONTRACTOR under the Agreement, the Purchase Order and/or the Supplemental Agreement and/or charged against the Performance Bond and the Fidelity Insurance, as may be applicable. In the absence of any payment due to SUBCONTRACTOR or a Performance Bond and/or Fidelity Insurance, SUBCONTRACTOR shall pay the full amount of the claims within fifteen (15) days from receipt of CONTRACTOR's written demand. The CONTRACTOR shall charge interest for any delay in the payment of the claims equivalent to five percent (5%) per month.

#### ARTICLE 19 TERMINATION AND SUSPENSION

19.1 Unless renewed by mutual agreement of the Parties, and subject to the provisions of Article 1.2 of the Agreement, this Agreement shall terminate upon the lapse of the Term.

19.2 Termination by Either Party. Either Party may immediately terminate the Agreement, the Purchase Order and/or the Supplemental Agreement upon written notice if:

- a. a Party enters into liquidation, suspension of payments or enters into or attempts to enter into any arrangement with its creditors for the general re-scheduling of its debt; appoints an administrative receiver over any or all of its assets; or suffers any similar action in consequence of debt other than for the purpose of amalgamation or reconstruction;
- b. a Party becomes subject of a petition for voluntary or involuntary insolvency or bankruptcy;
- c. a Party suffers execution against a material or substantial portion of its properties in consequence of debt;
- d. a Party is unable to pay its debts as they fall due;
- e. a Party passes a resolution shortening its corporate life or ceases to trade;
- f. a Party is in substantial delay in the performance of the Supply as stated in the Agreement, the Purchase Order and/or the Supplemental Agreement. For the avoidance of any doubt, substantial delay means accumulated delay of ten (10) days;
- g. a Party commits any material breach of the Agreement, the Purchase Order and/or the Supplemental Agreement, which cannot be remedied, or if capable of being remedied, has failed to remedy the same within ten (10) days from receipt of a written demand by the other Party to do so; or

h. any of the provisions of the Agreement, the Purchase Order, and/or the Supplemental Agreement shall be found void or unenforceable and the Party giving notice of termination would not have entered into the Agreement, the Purchase Order and/or the Supplemental Agreement without such provision(s).

Termination for cause is without prejudice to the aggrieved Party's right to avail itself of any remedies available at law or equity. Where termination for cause is exercised by CONTRACTOR, such termination shall be without prejudice to its right to secure the supply and/or services of another SUBCONTRACTOR to complete the delayed or abandoned Supply and right to recover from SUBCONTRACTOR the amounts spent in engaging the services of another SUBCONTRACTOR in addition to damages as a result of the delay or abandonment of SUBCONTRACTOR.

19.3 Termination by CONTRACTOR upon Notice. The CONTRACTOR may, at its sole discretion, terminate the Agreement, the Purchase Order and/or the Supplemental Agreement for any reason with at least fifteen (15) days prior written notice to SUBCONTRACTOR.

19.4 Immediate Suspension and/or Termination by CONTRACTOR. The CONTRACTOR may, without need of prior written notice, immediately suspend SUBCONTRACTOR and/or terminate the Agreement, the Purchase Order and/or the Supplemental Agreement in case SUBCONTRACTOR, in CONTRACTOR's reasonable opinion:

- a. has a conflict of interest with CONTRACTOR other than where SUBCONTRACTOR is owned, managed or controlled, directly or indirectly by CONTRACTOR, or where CONTRACTOR owns or represents any share of stock in SUBCONTRACTOR;
- b. failed to disclose the existence of a conflict of interest in a timely manner which SUBCONTRACTOR, in good faith, should know or presumed to know to be a conflict of interest considering among others SUBCONTRACTOR's industry and engagement with CONTRACTOR;
- c. misrepresented to CONTRACTOR any material fact or information. A fact or information shall be deemed "material" if CONTRACTOR would not have entered into the Agreement and/or the Supplemental Agreement or issued the Purchase Order had the representations on said fact or information been correct or truthful;
- d. defrauded or attempted to defraud CONTRACTOR;
- e. performed or attempted to perform acts inimical to CONTRACTOR;
- f. offered, agreed or given any gifts, inducement and awards under Article 17 (Gifts Inducements and Awards) hereof;
- g. Any representation or warranty made by SUBCONTRACTOR shall prove to have been incorrect or misleading as of the time it was made or deemed to have been made;
- h. The SUBCONTRACTOR fails to perform any other term, obligation or covenant contained in the Agreement, the Supplemental Agreement and/or Purchase Order, and such failure is, in the reasonable opinion of CONTRACTOR, not remediable, or, if remediable, continues un-remedied within thirty (30) calendar days after written notice of such failure shall have been given by CONTRACTOR to SUBCONTRACTOR; or
- i. Loses any license, authorization or registration or approval necessary to enable SUBCONTRACTOR to comply with its obligations under the Agreement, any Supplemental

Agreement and/or Purchase Order, or such shall be modified in a manner which, in the reasonable opinion of CONTRACTOR, would adversely affect the ability of SUBCONTRACTOR to comply with its obligations, or shall be withdrawn or withheld.

The CONTRACTOR may also, without need of prior written notice, immediately suspend SUBCONTRACTOR and/or terminate the Agreement, the Purchase Order and/or the Supplemental Agreement in case CONTRACTOR terminates any agreement or contract with any of SUBCONTRACTOR's subsidiaries, affiliates, and/or parent company or holding company, or the Client and/or any of the Client's Affiliate terminates any agreement or contract with any of SUBCONTRACTOR's subsidiaries, affiliates, and/or parent company or holding company.

The CONTRACTOR shall not be liable for any other fees, charges, interest or liabilities as a result of the immediate termination.

19.5 The CONTRACTOR may suspend SUBCONTRACTOR from its list of accredited SUBCONTRACTORS upon finding that any of the causes for termination in the foregoing Articles 19.2 (Termination by Either Party) and 19.4 (Immediate Suspension and/or Termination by CONTRACTOR) exists.

#### ARTICLE 20 CONSEQUENCES OF TERMINATION

20.1 Upon termination of the Agreement, the Purchase Order and/or the Supplemental Agreement,

- a. SUBCONTRACTOR, without need for demand, shall:
  - i. destroy or return to CONTRACTOR all information, programs, databases and Confidential Information pertaining to CONTRACTOR and the Client and all such copies thereof in all media forms, whether in whole or in part, at SUBCONTRACTOR's expense, to be witnessed by CONTRACTOR authorized representative and shall be certified as such by both parties; and
  - ii. furnish CONTRACTOR all summaries or reports due.
- b. CONTRACTOR shall:
  - i. pay SUBCONTRACTOR such portion of the Contract Price corresponding to the Supply implemented by SUBCONTRACTOR and accepted by CONTRACTOR and Client, as of the date of termination, or where notice is required, as of the date that notice is received by SUBCONTRACTOR;
  - ii. not be liable for any other fees, charges, interest or liabilities as a result of the termination by SUBCONTRACTOR;
  - iii. be entitled to a refund of the payments made for the Supply which SUBCONTRACTOR has implemented not in accordance with the Purchase Order and/or the Supplemental Agreement or as not fully implemented; and
  - iv. have the right to terminate any or all other agreements entered into with SUBCONTRACTOR, due to breach of the Agreement, the Purchase Order and/or the Supplemental Agreement.

20.2 The termination of the Agreement, the Purchase Order and/or the Supplemental Agreement is without prejudice to the settlement of liabilities and accountabilities or the exercise of any rights that may have accrued prior to such termination and shall not release any Party from

any obligation or cause of action that may have accrued or any liability incurred prior to termination of the Agreement, the Purchase Order and/or the Supplemental Agreement.

20.3 Articles or schedules, which are capable of continuing by their nature, will survive the termination or completion of the Agreement, the Purchase Order and/or the Supplemental Agreement.

#### ARTICLE 21 NON-SOLICITATION

21.1 The Parties shall not recruit or attempt to recruit the other Party's personnel who are directly involved in the performance of the Supply under the Purchase Order and/or the Agreement and any Supplemental Agreement, whether as employees, independent contractors or in any other capacity whatsoever for a period of twelve (12) months following the termination or expiration date of the Purchase Order and/or the Agreement and any Supplemental Agreement, unless the recruitment is made with the prior written consent of the other Party.

21.2 Notwithstanding, either Party shall not be prevented from hiring any such employee of the other Party who responds to a general hiring program conducted in the ordinary course of business and not specifically directed to such personnel. No penalty shall be imposed upon or shall be made payable by the recruiting party (a) if the employee of the other Party was hired through a general hiring program conducted in the ordinary course of business and not specifically directed by the recruiting party to such employee of the other Party, or (b) if the employee of the other Party was hired beyond the twelve (12) month period following the expiration date of the Purchase Order and/or the Agreement and any Supplemental Agreement.

#### ARTICLE 22 NON-COMPETITION

While the Purchase Order and/or the Agreement and any Supplemental Agreement is still in effect and within five (5) years from the expiration or termination thereof, SUBCONTRACTOR shall not:

- a. enter into any agreement directly or indirectly, with the Client of the CONTRACTOR with respect to the Supply or any work related or similar to the Supply or the scope of the Agreement, the Purchase Order and/or the Supplemental Agreement unless with prior consent from the CONTRACTOR. Any violation of this provision shall subject the SUBCONTRACTOR to pay liquidated damages to the CONTRACTOR in the amount equivalent to 200% of the contract value of the project or work taken by the SUBCONTRACTOR in violation of this provision.
- b. SUBCONTRACTOR shall not appoint, transfer or designate its employees who have been assigned to CONTRACTOR, directly or indirectly, as provided under the Agreement, the Purchase Order and/or the Supplemental Agreement, to any business in competition with CONTRACTOR or the Client. The SUBCONTRACTOR shall further require each of its employees, agents and assigns to sign an undertaking to comply with this prohibition prior to deploying them to CONTRACTOR and such undertaking shall remain in force and effect for the five (5) year period from the expiration or termination of the Purchase Order and/or the Agreement and any Supplemental Agreement, or the resignation or termination of said employee, agent or assign. Failure to comply with this Article shall entitle CONTRACTOR to compel specific performance or injunction, and damages against SUBCONTRACTOR.

**Provided**, That this Article shall not apply when the SUBCONTRACTOR has worked with the Client of the CONTRACTOR before the execution of this Agreement, and/or the Client of the CONTRACTOR directs the CONTRACTOR to avail the services of the SUBCONTRACTOR.

## ARTICLE 23 NON-ASSIGNMENT OF RIGHTS AND OBLIGATIONS

23.1 The SUBCONTRACTOR may not assign nor transfer any of its rights, nor delegate the performance of its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement without the prior written consent of CONTRACTOR. Any attempted assignment, transfer or delegation without such consent shall be void and of no effect. Failure to comply with this Article shall entitle CONTRACTOR to compel specific performance or injunction and damages against SUBCONTRACTOR.

23.2 The SUBCONTRACTOR shall remain responsible for the performance of its contractors engaged to perform the Supply; and cause its contractors to comply with the provisions of the Agreement, the Purchase Order and/or the Supplemental Agreement.

23.3 The CONTRACTOR shall not be liable to SUBCONTRACTOR's contractors.

23.4 The CONTRACTOR may revoke its approval of the assignment in the following instances:

- a. when SUBCONTRACTOR contractor's performance is found to be deficient or non-compliant, or
- b. when SUBCONTRACTOR is acquired by a competitor of CONTRACTOR or the Client's competitor. In such cases, SUBCONTRACTOR shall ensure that all confidential materials related to the Supply are returned to CONTRACTOR.

## ARTICLE 24 NON-WAIVER; REMEDIES CUMULATIVE

24.1 Any failure of either Party to insist upon the strict performance of any term or condition of the Agreement, the Purchase Order and/or the Supplemental Agreement shall not be deemed a waiver of any of the Party's rights or remedies, including the right to insist on the strict performance of the same. No waiver or other modification to the Agreement, the Purchase Order and/or the Supplemental Agreement shall be valid unless it is in writing, dated and signed by the authorized representative of the Parties.

24.2 The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any of the Parties would otherwise have.

## ARTICLE 25 AUDIT

25.1 SUBCONTRACTOR shall agree to the conduct of an annual audit of SUBCONTRACTOR's information security and internal control procedures, including the systems supporting such procedures, relative to the performance of the services and the requirements of CONTRACTOR's external audit partner. The annual audit shall be pre-arranged with SUBCONTRACTOR and the schedules of activities throughout the year will be mutually agreed upon.

25.2 In the conduct of the audit, CONTRACTOR may opt to nominate a third party other than CONTRACTOR's external audit partner to perform reviews of specific areas of SUBCONTRACTOR's information security and internal control procedures, including the systems supporting such procedures. In such cases, CONTRACTOR and SUBCONTRACTOR shall jointly appoint a qualified independent party to examine and report to the Parties. The auditor's terms of reference shall be mutually agreed between the Parties.

25.3 SUBCONTRACTOR shall agree on the conduct of any surprise audit and/or investigative reviews that may be conducted by CONTRACTOR or its contracted third party anytime as the need arises. The auditor's terms of reference will be based on the assessment of CONTRACTOR.

25.4 SUBCONTRACTOR shall cooperate fully with CONTRACTOR and with the designated auditors subject only to the withholding of such commercially confidential or other information as may have been agreed by the Parties and included in the auditor's terms of reference.

25.5 The SUBCONTRACTOR shall promptly take actions or refrain or discontinue from certain actions to comply with audit recommendations. The SUBCONTRACTOR shall bear the expense of any such compliance that is (1) required by law, regulation or audit requirement relating to SUBCONTRACTOR business or (2) necessary due to SUBCONTRACTOR non-compliance with any law, regulation or audit requirement imposed on SUBCONTRACTOR or (3) SUBCONTRACTOR'S failure to comply with any provision of the Agreement or (4) due to SUBCONTRACTOR'S or SUBCONTRACTOR'S subcontractors' fault negligence or fraud or (5) necessary for the security and safety of the services and confidentiality of information. On the other hand, CONTRACTOR shall be responsible for taking actions for audit recommendations attributable to CONTRACTOR.

25.6 The CONTRACTOR shall bear the fees of its audit partner or the third party relative to the audit.

25.7 The SUBCONTRACTOR shall have the right to refuse to be audited by an auditor that is currently engaged as an auditor of any telecommunications company in direct competition with SUBCONTRACTOR.

25.8 The CONTRACTOR shall furnish SUBCONTRACTOR with any findings or audit report resulting from an audit under this Article.

#### ARTICLE 26 GOVERNING LAW

This Agreement shall be subjected to and construed in accordance with the laws of the Republic of the Philippines.

#### ARTICLE 27 DISPUTE RESOLUTION AND ARBITRATION

27.1 Any dispute, controversy or claim arising under, out of or relating to the Agreement, the Purchase Order and/or the Supplemental Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be resolve by the Parties within fifteen (15) days from receipt of a written request to meet in good faith in order to resolve any dispute, controversy or claim in accordance with the Purchase Order and/or in the Agreement and any Supplemental Agreement.

27.2 The levels of escalation shall be to the representatives referred to in the Purchase Order and/or the Agreement and any Supplemental Agreement, or to any other person of equivalent level, seniority, expertise and experience as may be notified in writing from time to time by one Party to the other Party.

27.3 If the dispute remains unresolved after a further period of thirty (30) days from receipt of a written escalation, either Party may request for the matter to be finally resolved by arbitration in Metro Manila before the Philippine Dispute Resolution Center Inc. ("PDRCI") and in accordance with the arbitration rules of the PDRCI then currently in force.

27.4 Notwithstanding the foregoing, either party has, at all times, the right to commence proceedings for interim injunctive relief or similar preliminary or provisional relief from a court of competent jurisdiction in Pasig City in accordance with Philippine law. However, in the event of threatened or actual breach of Intellectual Property rights or provisions regarding protection and nondisclosure of Confidential Information, either party has the right to commence proceedings for interim injunctive relief or similar preliminary or provisional relief from a court of competent jurisdiction of its choice.

27.5 The validity, interpretation and performance of the Agreement, the Purchase Order and/or the Supplemental Agreement is governed by the laws of the Republic of the Philippines.

27.6 Notwithstanding the existence of a dispute, each Party must continue to perform its obligations under the Agreement, the Purchase Order and/or the Supplemental Agreement.

#### ARTICLE 28 VENUE

Any dispute arising from the execution of or in connection with this Agreement shall be brought before the PDRCI and in accordance with the arbitration rules of the PDRCI to the exclusion of all other courts, irrespective of the Philippines' and other countries' choice of law principles. FOR EVERYTHING RELATED TO THE VALIDITY, INTERPRETATION OF, COMPLIANCE WITH, OR PERFORMANCE OR ENFORCEMENT OF ANY OF THE TERMS AND CONDITIONS UNDERTAKEN IN THE AGREEMENT, SUBCONTRACTOR AND CONTRACTOR HEREBY IRREVOCABLY AND EXPRESSLY SUBMIT TO THE JURISDICTION OF THE PDRCI, AND SUBCONTRACTOR HEREBY IRREVOCABLY AND EXPRESSLY SUBMITS TO THE JURISDICTION OF PDRCI.

#### ARTICLE 29 NOTICE AND CORRESPONDENCE

29.1 All notices that are required under the Agreement, the Purchase Order and/or the Supplemental Agreement shall be in writing and shall be considered effective only upon receipt thereof. The notices shall be sent to the representatives specified in the Purchase Order and/or any Supplemental Agreement.

29.2 A Party shall give written notice of any change of address to the other Party. Any substitute address of a Party shall be effective only after the lapse of fifteen (15) days from receipt of the written notice thereof. Absent such written notice of any change of address, service to the currently known address of a Party shall be deemed effective.

29.3 Any communication or document made or delivered by one Party to another under the Agreement, the Purchase Order and/or the Supplemental Agreement shall be deemed received upon actual receipt thereof or if by way of letter, when it has been left at the relevant address or fifteen (15) days after being deposited in the post addressed to the recipient.

#### ARTICLE 30 INTERPRETATION

30.1 The titles to the provisions in the Agreement, the Purchase Order and/or the Supplemental Agreement are for convenience or reference only and shall not in any way affect the interpretation thereof.

30.2 The Agreement, the Purchase Order and/or the Supplemental Agreement shall not be construed in favor of or against any Party, but shall be construed equally as to both Parties.

#### ARTICLE 31 SEVERABILITY

31.1 If any of the provisions of the Agreement, the Purchase Order and/or the Supplemental Agreement shall be found void or unenforceable, such invalidity or unenforceability shall not entirely invalidate or render the Agreement, the Purchase Order and/or the Supplemental Agreement unenforceable, but rather the Agreement, the Purchase Order and/or the Supplemental Agreement shall be construed as if not containing the particular void or unenforceable provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

31.2 If the CONTRACTOR or the SUBCONTRACTOR would not have entered into the Agreement, the Purchase Order and/or the Supplemental Agreement without such provision, that Party shall

have the right to terminate the Agreement, the Purchase Order and/or the Supplemental Agreement upon written notice to the other Party.

#### ARTICLE 32 ENTIRE AGREEMENT

32.1 The Agreement shall contain the entire understanding between the Parties and supersedes any prior understanding and agreement between the Parties with regard to the terms and conditions that will govern the relationship of the Parties, including those stated in a Purchase Order and/or a Supplemental Agreement before the Agreement. There are no representations, agreements, arrangements or understanding, verbal or written, between the Parties hereto relating to the subject matter of the Agreement, the Purchase Order and/or the Supplemental Agreement, which are not fully expressed herein.

32.2 Any amendment or revision of the Agreement, the Purchase Order and/or the Supplemental Agreement shall be in writing, dated and signed by the authorized representatives of both Parties.

#### ARTICLE 33 AMENDMENT OF AGREEMENT

No waiver or variation of the Agreement shall be of any force unless such waiver or variation is agreed upon in writing signed by an authorized officer or representative of each of the Parties to the Agreement.

#### ARTICLE 34 COUNTERPARTS SIGNING; ELECTRONIC SIGNATURE

The Agreement and any Supplemental Agreement may be executed in any number of counterparts, each of which is an original, but all of which together constitute one and the same agreement. The Agreement and any Supplemental Agreement may be executed electronically or by way of electronic signature and such electronic signatures shall be deemed original signatures, have the same force and effect as manual signatures and binding upon the Parties. The Agreement and any Supplemental Agreement shall be executed electronically, the best evidence of the Agreement and/or the Supplemental Agreement shall be a copy of the Agreement bearing an electronic signature, in portable document format (.pdf) form, or in any other electronic format intended to preserve the original graphic and pictorial appearance of a document.

The CONTRACTOR and the SUBCONTRACTOR acknowledge that they have read and understood this Agreement and they shall faithfully and strictly comply with its terms and conditions.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures.

**ACCENT MICRO TECHNOLOGIES INC.**

First Party

**KENMA CONSTRUCTION SERVICES CO.**

Second Party

By:

By:

Signed in the Presence of:

Mr. Laurence Chan

Mr. Gerard Christian SM. Inandan

**ACKNOWLEDGMENT**

REPULIC OF THE PHILIPPINES        )  
PASIG CITY                                ) S.S.

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

NAME	Competent Evidence of Identity	Date of Issue / Place of Issue

known to me and to me known to be the same person who executed the foregoing instrument, and he acknowledged to me that the same are their voluntary act and deed, as well as that of the entities represented herein.

This instrument refers to a Master Agreement for Subcontractors consisting of \_\_\_\_ pages, including that on which this acknowledgment is written, each and every page signed by the parties and their instrumental witnesses.

WITNESS MY HAND AND SEAL on this \_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_.

Doc. No. \_\_\_\_\_;  
Page No. \_\_\_\_\_;  
Book No. \_\_\_\_\_;  
Series of 202\_.