CONTRACT FOR SAP SOFTWARE MAINTENANCE SUPPORT FOR THE INTEGRATED FINANCIAL SYSTEM

KNOW ALL MEN BY THESE PRESENTS:

This Contract for SAP Software Maintenance Support for the Integrated Financial System (the "Contract"), made and entered into, by and between:

PHILIPPINE DEPOSIT, INSURANCE CORPORATION (PDIC), a government instrumentality organized and existing under Republic Act No. 3591, as amended, with principal office address at SSS Bldg., 6782 Ayala Avenue cor. Rufino St., Makati City, Metro Manila, represented herein by its Vice President for Information Technology Group, Ms. MARIA BELINDA C. SAN JOSE, and hereinafter referred to as "LICENSEE"

WITNESSETH: That -

WHEREAS, the LICENSEE has in its computer system SAP Enterprise Control Component (ECC) 6.0 Software (the "SAP Software"), a software necessary to run the critical applications of the LICENSEE's Integrated Financial System (IFS), which is the Licensee's financial and investment system;

WHEREAS, SAP Software requires comprehensive maintenance support in order to ensure the continuous operation of the LICENSEE's IFS and thus, promote the LICENSEE's over-all operational efficiency;

WHEREAS, in line with the foregoing, the LICENSEE conducted a public bidding pursuant to the provisions of R.A. 9184 otherwise known as the "Government Procurement Reform Act":

WHEREAS, upon careful examination and evaluation of the technical specifications and financial proposals of the service providers who responded to the LICENSEE's notice under a public bidding mode of procurement, the proposal of the LICENSOR was found to be the lowest and the most responsive.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants herein contained, the parties hereby agree as follows:

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I. SCOPE OF SERVICE

The LICENSOR agrees to fully and faithfully render, accomplish and provide, to the satisfaction of the LICENSEE, maintenance support to the LICENSEE's SAP Software in order to ensure the continuous operation of the LICENSEE's IFS, which maintenance support shall include, but not limited to, the following:

- a. Provide maintenance support for the following modules of the LICENSEE's SAP Software:
 - One (1) Enterprise Foundation Package (including 5 professional users)
 - Two (2) SAP Treasury and Risk Management, Public Sector
 - Three (3) SAP Application Developer User
 - Thirty-Seven (37) SAP Application Professional Users
 - Four (4) SAP Application Limited Professional Users
- b. Undertake continuous improvement and innovation for:
 - New software releases of the licensed Enterprise Supported Solution.
 - Support packages These are correction packages necessary to reduce the effort of implementing single corrections or changes to existing functionality. Support packages also contain corrections to adapt to existing functionality to change legal and regulatory requirements.
 - Technology updates to support third-party operating systems and databases.
 - Available Advance Business Application Programing (ABAP) source code for SAP applications and additional releases and supported function modules.
 - Software change management such as changed configuration settings or software upgrades.
- c. Provide global support backbone for:
 - SAP Service Marketplace refers to SAP's knowledge database and SAP's extranet which transfer the SAP content and services to licensees and partners of SAP.
 - SAP Notes on the SAP Service Marketplace Document Software Errors – refers to information on how to remedy, avoid and bypass errors, coding corrections that customers can implement into their SAP system, document related issues, customer questions, and recommended solutions (e.g. customizing settings).
 - SAP Note Assistant enables the installation of specific corrections and improvements to SAP components.
 - SAP Manager Enterprise Edition for Licensee's interactions with the Value Added Reseller (VAR) in accordance with the terms and conditions defined by SAP.

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d. Provide mission critical support for:

- VAR Support Advisory
- Technical Quality Check
- Advanced Proactive Remote Service for the prevention of technical problems before they occur (e.g. SAP Early Watch Alert).
 The Licensee must be able to activate SAP Early Watch Alert as mandatory part of SAP Enterprise Support for data transfer to VAR.
 The Licensee acknowledges and confirms that VAR might hand over SAP Early Watch Alert data to SAP critical situations for further analysis.
- Global message handling by VAR and SAP for incidents related software with high priority.
- Global 24x7 Root Cause Analysis and Procedures –to get access to resources needed to provide solutions to severe problems.
- Global Top-issue Procedures This would provide access to resources available to the Licensee during critical escalations.

e. Render/provide on-site/off-site technical support, as follows:

- 16 Man-days of Service Level Agreement (SLA) which includes:
 - i. Root-Cause Analysis.
 - ii. System Configuration.
 - iii. Status Reporting: 🔗 🦠
 - iv. Support Documentation.
 - v. Unit Testina.
 - vi. Check System Version.
- Additional 14 Man-days of SLA to cover the following activities:
 - i. Creation/configuration of new investment Maturity Monitoring Facility of Treasury Module (12 Man-days)
 - ii: Other tasks related to the new AR Payment Facility of the Treasury Module & Accounts Receivable Module (2 Mandays)
- All unused/excess Man-days shall be converted into training hours thru Academy (classroom-type session) or eAcademy (on-line session) as determined by the Licensee.
- Services and support shall be covered by the following authorized SAP Consultants:
 - i. SAP ECC Modules Consultants for:
 - > Financials
 - > Treasury
 - ii. Advanced Business Application Programming (ABAP)
 - iii. System Administration
- 1 SAP eAcademy training for any eAcademy available course
- Submission of detailed and current information on new versions of the SAP Software, its latest releases and other relevant information and topics.
- Assistance in the analysis, isolation and troubleshooting of any SAP-IFS incidents/problems.

 Standard 24x7 on-site/off-site troubleshooting and repair of SAP software within 2-hour response time, including weekends and holidays

- Configuration, health check or fine tuning of the SAP-IFS or respond to request for technical assistance.
- Email and phone support for technical assistance.
- Prepare recommendations in fine tuning the SAP-IFS
- Supply of qualified SAP Basis/ System Administrator to perform support services as may be required by the Licensee.
- Ensure that a 24/7 maintenance support services via telephone, web, email, fax or any similar media is available to the Licensee at no extra charge.
- Conduct a comprehensive and thorough analysis of the current set up, provide inputs on areas of improvement, as well as the impact of the changes to the operability and efficiency of the system. And, in line with the foregoing, submit to the Licensee an analysis report on the results thereof.
- All updates, upgrades, patches, releases, health check/fine tuning, configuration and other requirements (i.e., reinstatement, novation, etc.) necessary for the non-interruption or proper transition of the software maintenance and/or support services on the LICENSEE's SAF-IFS, thereby covering the period adjoining the expiration date of the previous maintenance contract for the LICENSEE's SAF-IFS and the effectivity date of this Contract.
- Such other services/assistance necessary to ensure the continuous operation and availability of the Licensee's SAP-IFS based on SAP Software applications/systems.

II. COVERAGE

This Contract shall be for a period of one (1) year, reckoned from the date of the issuance of the Notice to Proceed, unless renewed or extended upon such terms and conditions mutually acceptable to both parties.

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For purposes of this Contract, the LICENSOR shall perform any and all updates or processes necessary for the non-interruption or proper transition of software maintenance and/or support services on the LICENSEE's SAF-IFS, thereby covering the period adjoining the expiration date of the previous maintenance contract for the LICENSEE's SAP-IFS and the effectivity date of this Contract.

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III. MAINTENANCE FEE

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IV. PAYMENT SCHEDULE

The Maintenance Fee, net of the 10% retention fee under Section IX (b) of this Contract, shall be released within _____ (__) working days after issuance by the **LICENSEE** of the certificate of acceptance, which shall be issued only upon acceptance by the **LICENSEE** from the **LICENSOR** of the certificate of coverage to maintenance support herein required.

V. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

The **LICENSOR** represents, warrants, and undertakes to the **LICENSEE** that:

- a. It is a domestic corporation duly registered and existing under and by virtue of the laws of the Republic of the Philippines.
- b. It has full legal power, authority and right to carry on its present business. It further warrants that its representative ______ has full legal power to sign, execute and deliver this Contract and that it will comply, perform and observe the terms and conditions hereof.
- c. All corporate and other actions necessary to validate or authorize the execution and delivery of this Contract have been taken.
- d. This Contract, when executed and delivered, will be legal, valid and enforceable in accordance with its terms.

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e. To the knowledge of the **LICENSOR**, there are no pending or threatened action or proceeding before any court or administrative agency of any jurisdiction, which may materially or adversely affect the financial condition or operation of the **LICENSOR** or the **LICENSOR**'s ability to comply with the terms and conditions of this Contract.

If the LICENSOR should thereafter learn of the existence or occurrence of the same, the LICENSOR undertakes to report such fact to the LICENSEE within five (5) calendar days therefrom.

Failure to do so shall constitute a sufficient ground for the cancellation of this Contract and the enforcement of remedies which the **LICENSEE** may exercise under this Contract, pertinent laws, rules and regulations.

f. It warrants the integrity, competency, independence, professionalism and qualifications of the personnel, staff or representative that it will assign to undertake the services required herein.

The **LICENSEE** reserves the right to demand at anytime, without need to present proof to substantiate its request, the immediate replacement of any of the **LICENSOR's** personnel, staff or representative assigned to the

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services herein required who is wanting in competence, honesty, integrity, or whose services is deemed to be or will otherwise be prejudicial to the interest of the **LICENSEE**.

- g. It undertakes to provide the LICENSEE with the needed technical documentations and such other related documentations which indicate the process flows of resolution.
- h. It warrants that all product updates/upgrades shall be performed by a certified SAP personnel.
- i. It warrants that it shall have the right or authority to provide the services herein required; and that, it shall render the LICENSEE free and harmless from any claim that may arise between SAP and the LICENSOR.
- j. It warrants the quotations for the cost of man-day in excess of the required 30 man-day specified in the Terms of Reference.

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VI. CONFIDENTIALITY

The LICENSOR agrees and acknowledges that the services covered by this Contract may expose the LICENSOR to confidential information and that any disclosure of such information may subject the LICENSEE to financial, material and operational loss, and therefore, the LICENSOR hereby agrees as follows:

- a. The **LICENSOR**, or any of its employees, agents or representatives, shall not, either during the term of this Contract or at anytime thereafter, reveal, disclose or furnish, in any manner, to any person, firm or corporation any information relating to the **LICENSEE** which it or other members of the work staff/team, may have acquired or which came to its/ their knowledge or possession during the subsistence of this Contract.
- b. The LICENSOR shall not, during the effectivity of this Contract and extending for a period of one (1) year reckoned from the termination of this Contract, be directly or indirectly engaged or have an interest in any business undertaking or operation of other group, office or company which, in the normal course of operation, would necessitate the use of the information or knowledge gained or acquired during its engagement herein, unless it is granted written consent by the LICENSEE;
- c. The LICENSOR agrees to assume sole responsibility and hereby undertakes to indemnify the LICENSEE, for any damage, which the LICENSEE may sustain by reason of breach of any of the above conditions.

VII. RELATION OF THE PARTIES

The **LICENSOR** shall have no authority, express or implied, to assume or create any obligation or responsibility on behalf of or in the name of the

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LICENSEE or to bind LICENSEE in any manner whatsoever. The LICENSOR's personnel shall not be construed as employees of the LICENSEE. The LICENSOR is being engaged herein as an independent contractor. Nothing herein shall be construed as creating an employer/employee relationship between the LICENSOR's employee and the LICENSEE.

VIII. PERFORMANCE EVALUATION

- a. **PERFORMANCE EVALUATION**. The performance of the **LICENSOR** shall be evaluated by **LICENSEE**, through its Information Technology Group (ITG).
- b. **SPOT INSPECTION/MEETINGS**. From time to time and/or whenever necessary, **LICENSEE**, through its ITG, shall conduct a review of the activities or call for meetings in connection with the services of the **LICENSOR** for the purpose of determining compliance with its obligations under the Contract.

IX. PERFORMANCE GUARANTEE/SECURITY

a. PERFORMANCE SECURITY. To guarantee the faithful performance of the obligations and services required under this Contract, the LICENSOR shall, upon execution of this Contract, post in favor of the LICENSEE a Performance Security in the form of _______ in an amount equivalent to ______ (_%) of the total contract price.

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In the event that the Performance Security offered by the LICENSOR would be deemed inadequate or otherwise rendered unacceptable, the LICENSEE shall have the right to require the LICENSOR to post additional performance security in the form and amount determined by the LICENSEE and allowed under existing laws and regulations.

The Performance Security shall be released not later than seven (7) working days from the end of this Contract's term and upon issuance by the LICENSEE of the Certificate of Satisfactory and Complete Performance of its obligations and acceptance by the LICENSEE of all the outputs/deliverables pursuant to this Contract. The Performance Security shall answer for any damage that the LICENSEE may suffer by reason of the LICENSOR's default of any of its obligations and/or breach of the terms and conditions of this Contract. It shall likewise guarantee payment for any loss, damage or injury that may be caused by the LICENSOR to the LICENSEE, its employees and guests.

The Performance Security shall be forfeited in favor of the **LICENSEE** in the event that the **LICENSOR** is in default or breach of its obligation under this Contract. Any changes made in this Contract shall in no way annul, release or affect the liability of the **LICENSOR** and the surety.

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Failure of the **LICENSOR** to comply with any of the terms and conditions of this Contract shall result in the forfeiture of the Performance Security.

b. **RETENTION MONEY.** To ensure the full and faithful compliance by the **LICENSOR** of all the terms and conditions of this Contract, a retention money equivalent to ten percent (10%) of the total Maintenance Fee shall be retained by the **LICENSEE**.

The retention money shall be released to the **LICENSOR** not later than seven (7) working days from the end of this Contract's term and upon issuance by the **LICENSEE** of the Certificate of Satisfactory and Complete Performance of the **LICENSOR's** obligations under this Contract.

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X. REMEDIES AND SANCTIONS

- a. FORFEITURE OF PERFORMANCE SECURITY. The Performance Security shall be forfeited in favor of the LICENSEE in the event that the LICENSOR is in default or breach of its obligations under this Contract. It shall also answer for any loss, damage or injury caused to the LICENSEE, its employees and guests, as a result of the willful, unlawful or negligent act or omission of the LICENSOR or any of its representative. Any changes made in this Contract shall in no way annul, release or affect the liability of the LICENSOR and the surety.
- LIQUIDATED DAMAGES. In the event that the LICENSOR violates or breaches any of the terms and conditions of this Contract, which includes neglecting to perform in a timely manner any of the works, duties, functions, responsibilities or obligations stipulated herein. inclusive of the duly granted time extension, if any, or fails to carry out the tasks herein required in an acceptable manner for any reason whatsoever, the LICENSOR shall be liable for damages for such failure and shall pay the LICENSEE liquidated damages in an amount equivalent to one-tenth (1/10) of one percent (1%) of the total contract price for every day of delay or breach, in addition to other remedies that the LICENSEE may exercise under this Contract, pertinent laws, rules and regulations, until such services are finally delivered and accepted by the LICENSEE. In the event that the total sum of liquidated damages or the total cost to the LICENSEE of any such delay or inability by the LICENSOR to deliver its obligations exceeds 10% of the contract price, the LICENSEE may terminate this Contract upon giving the LICENSOR written notice at least five (5) calendar days prior to the intended date of termination.

The **LICENSEE** need not prove that it has incurred actual damages to be entitled to liquidated damages. Furthermore, the **LICENSEE**Page 8 of 14

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reserves the right to deduct any and all of the liquidated damages from any money due or payments which may become due to the **LICENSOR** under the terms of this Contract and/or from the securities/warranties filed/submitted by the **LICENSOR** as the **LICENSEE** may deem convenient and expeditious under the prevailing circumstances.

c. SUSPENSION OF WORK. The LICENSEE shall have the right to suspend, in whole or in part, any of the work under this Contract in the event there is delay, default, failure or refusal on the part of the LICENSOR to perform its obligations under this Contract. Further, the LICENSEE shall have the right to procure/engage, upon such terms and manner as the LICENSEE shall deem appropriate, the services of another contractor to undertake the unperformed/undelivered service(s) of the LICENSOR. Any and all expenses that may be incurred in relation thereto shall be for the exclusive account of the LICENSOR.

The LICENSOR hereby agrees that the remedies mentioned herein shall be understood to be without prejudice to other rights that the LICENSEE may exercise under this Contract.

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d. **PRE-TERMINATION.** The **LICENSEE** reserves the right to pre-terminate this Contract, subject only to five (5) calendar day notice prior to the intended date of termination, for any cause which may include failure of the **LICENSOR** to perform in a timely manner any of their works, duties, functions, responsibilities or obligations stipulated herein or failure to carry out the task herein required in a manner acceptable to the **LICENSEE** or violation by the **LICENSOR** of any of the terms and conditions of this Contract.

XI. OTHER GROUNDS FOR TERMINATION

- a. **TERMINATION FOR UNLAWFUL ACTS.** The **LICENSEE** may terminate this Contract, after giving the **LICENSOR** written notice at least five (5) calendar days prior to the intended date of termination, whenever it is determined by the **LICENSEE** that the **LICENSOR** has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to Contract acquisition and implementation. Unlawful acts shall include, but not necessarily be limited to, the following:
 - Corrupt, fraudulent, and coercive practices as defined under R.A 9184 otherwise known as the "Government Procurement Reform Act;"
 - Drawing up or using forged document/s;

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- Using materials, means or methods which are covered by rules/laws on copy right and/or plagiarism; and
- Any other act analogous to the foregoing.
- b. TERMINATION FOR CONVENIENCE. The LICENSEE may also terminate this Contract, in whole or in part, at any time for its convenience, after giving written notice to the LICENSOR, at least five (5) calendar days prior to the intended date of termination, if it has been determined by the LICENSEE that the continuance of this Contract would be economically, financially or technically impractical and/or unnecessary on the part of the LICENSEE such as, but not limited to fortuitous event(s), changes in law or LICENSEE's or the national government policies.

XII. EXERCISE OF RIGHTS

a. **NATURE OF RIGHTS.** The **LICENSEE** shall have the right to exercise alternatively, concurrently or cumulatively all the rights and remedies now or hereafter available under this Contract and other applicable laws, rules and regulations.

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b. NON-WAIVER OF RIGHTS. The failure of the LICENSEE to insist upon the strict performance of any of the terms, conditions and covenants hereof shall not be deemed a relinquishment or waiver of any right or remedy that the LICENSEE may have nor shall it be construed as a waiver of any subsequent breach or default of the terms, conditions and covenants hereof, which in turn, shall continue to be in full force and effect. No waiver by the LICENSEE of any of its rights under this Contract shall be deemed to have been made unless expressed in writing and signed by the LICENSEE.

XIII. FREE AND HARMLESS

The LICENSOR agrees and binds itself to save and hold the LICENSEE and/or its officials, employees, or agents free and harmless from any and all liabilities, suits, actions, demands for damages arising from death or injuries to persons, properties, or any loss resulting from or caused by any of its personnel or staff, directly or indirectly, incidental to or in connection with the performance of the services under this Contract.

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Further, the **LICENSOR** agrees to indemnify the **LICENSEE** against any loss, injury or damage either to person or property which the **LICENSEE** may suffer by reason of the willful, unlawful or negligent act or omission of the **LICENSOR** or any of its personnel or representative.

The indemnity required herein shall be in addition to the foregoing remedies and sanctions which PDIC may exercise under this Contract.

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XIV. MISCELLANEOUS PROVISIONS

- a. **Severability** If any provision of this Contract should, for any reason, be held void or unenforceable, the legality and enforceabilty of the remaining provisions contained herein shall not in any way be affected or impaired, and shall remain in full force and effect.
- b. **Binding Effect/Assignment of Rights** This Contract shall be binding upon the **LICENSOR**, its partners, successors-in-interest, its legal representatives and assigns.
- c. Amendment This Contract may be amended or modified only in writing upon mutual agreement of the parties hereto.
- d. Governing Law and Language The rights and obligation of the parties hereto shall be governed and interpreted in accordance with the laws of the Republic of the Philippines, specifically, the provisions of R.A. 9184 otherwise known as the "Government Procurement Reform Act" and other applicable laws, rules and regulations.
- e. **Documents Incorporated** The provisions of this Contract shall be read in harmony with the Terms of Reference and other related bid documents. In case of conflict, the provisions of this Contract shall prevail.

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- f. Venue of Action It is hereby agreed that any and all actions that shall arise from this Contract shall be instituted and tried before the proper court (s) of the City of Makati only.
- g. Attorney's Fees In the event that the LICENSEE is compelled to seek judicial relief to enforce the provisions of this Contract, it shall be entitled to attorney's fees and liquidated damages equivalent to ten percent (10%) and fifteen percent (15%), respectively, of the contract price or the amount claimed in the judicial action, whichever is higher, aside from the costs of litigation and other expenses incidental thereto.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures on the date and place as stated below their respective signatures.

PHILIPPINE DEPOSIT INSURANCE CORPORATION

Licensee

By:

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	MARIA BELINDA C. SAN JOSE
	Vice President Information Technology Group
	Date:
	Place:
	Licensor
	D. O.
	By:
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	Date: Place:
	Place:
	CERTIFICATION
and made available if or the year Maintenance of SAP S year The	that pursuant to PDIC Board Resolution No. e amount of PhP has been set aside in the Corporate Operating Budget (COB) of the PDIC to cover the implementation of the approved Software oftware for the Integrated Financial System (IFS) for the e remaining amount of the contract, if any, shall be COB of the PDIC for the succeeding year.
	IRENE DL ARROYO
	Vice President, Treasury Group
	SIGNED IN THE PRESENCE OF:
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S. Salar

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REPUBLIC OF THE PHILIPPINES) City of Makati

BEFORE ME , a Notary Pu of, 2016, perso	blic for and in the nally appeared th	e City of Makati on this _ day ne following:
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lame	CTC No.	Date/Place issued
Maria Belinda C. San Jose DIC		
pregoing instrument and who	acknowledged to d and that of	ne person who executed the or me that the same is her free the Corporations which she purpose.
upport for the Integrated Find	incial System (IFS) he Acknowledgr	SAP Software Maintenance consisting of xxxx (xx) pages nent is written, signed by the hereof.
WITNESS MY HAND AND	SEAL on the day o	and place first above written.
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ACK	NOWLEDGMI	ENT
EPUBLIC OF THE PHILIPPINES)) SS.	
BEFORE ME, a Notary Pu day of	blic for and in th _, 2016 personally	e City of, this appeared:
Name	CTC No.	Date/Place Issued
Benediction of the control of the co		
nown to me to be the same p	erson who execu hat he is duly	ted the foregoing instrument authorized to execute this

instrument and that the same is his free and voluntary act and deed, as well

as that of the entity he represents.

This document refers to Contract for SAP Software Maintenance Support for the Integrated Financial System (IFS) consisting of xxxxx (xx) pages, including this page on which this Acknowledgment is written, signed by the party and his witness on each and every page thereof and thereafter sealed with my notarial seal.

WITNESS MY HAND AND SEAL on the date and place first above written.

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