

# Special Conditions of Contract

GCC Clause	
1.	<p data-bbox="200 476 380 498"><b>Scope of Contract:</b></p> <p data-bbox="200 526 934 692">The Contract involves the delivery by the Supplier of a web-based client-server and mobile application which shall seamlessly integrate with the PROCURING ENTITY's ROPAMS (Real and Other Properties Monitoring System) and enable the PROCURING ENTITY and its clients to have a real time visual access to its Real and Other Properties Acquired (ROPA) as well as those of the closed banks under its liquidation (hereinafter referred to as the "Project").</p> <p data-bbox="200 719 934 765">The Project which shall be known as Geographic Information System- Real and Other Properties Acquired (ROPA) is aimed at -</p> <ul data-bbox="295 792 934 1079" style="list-style-type: none"><li data-bbox="295 792 934 934">• Setting up a Geographic Information System (GIS) platform that will help the Procuring Entity's Management, the prospective buyers and/or stakeholders get a better view of all ROPAs managed by the Procuring Entity, and facilitate the decision-making process with the help of real-time geospatial data;</li><li data-bbox="295 961 934 1006">• Improving the efficiency in the visual presentation for disposal of ROPAs through public bidding and/or negotiated sale; and</li><li data-bbox="295 1034 934 1079">• Improving the efficiency in the real-time capture of field/inspection data via field mobility</li></ul> <p data-bbox="200 1106 934 1176">Towards this, the Supplier shall, to the satisfaction of the Procuring Entity shall supply, deliver, develop, customize, and install the following in relation to the Procuring Entity's GIS-ROPA:</p> <ul data-bbox="295 1203 934 1339" style="list-style-type: none"><li data-bbox="295 1203 934 1339">• <b>Software.</b> It is the base system to be subjected to customization by the Supplier in accordance with the business and functional requirements of the Procuring Entity as specified in pages 11-18 of the Terms of Reference: Business Requirements and Functional Requirements. Licensing shall cover different roles/functions as described in therein.</li></ul>

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- **Implementation Services.** The services shall encompass a series of implementation activities which include, among others, submission of approved project plans, review of current requirements, gap analysis, customization of the base system and documentation of the user tested and accepted final version of the system.
- **Migration.** Migration is the uploading of readable digitized land titles/shape files to the system. The Procuring Entity's Project Working Team shall ensure the availability of the shape files of properties as identified for uploading.
- **Training.** There will be two types of training, one for the users and another for the technical support. The users training aims to have the participants gain knowledge on how the system works, i.e., configuration of dashboards and widgets, as well as the creation and maintenance of dashboards and shapefiles in particular. It shall be conducted in two stages. The first one has the application testers as target and the other one for all the users of the system. On the other hand, the Technical Support (System Administration and Server Configuration) Trainings are aimed at familiarizing the deployment of the system, as well as the maintenance of user access rights and roles, among others.
- **Others.** All other project activities, like Project Status update meetings, monthly status reporting, and Go-Live strategies are to be conducted for more effective coordination between the Supplier's Team and the Procuring Entity's Team and to be documented and reported. The output documents shall form part of the official references of the Project.

*For a more detailed technical specifications and requirements of the Project, refer to Section VII. – Technical Specification/Terms of Reference of the Philippine Bidding Documents issued/posted for this Project.*

**Incidental Services –**

The Supplier shall, to the satisfaction of the Procuring Entity, undertake the following non-functional requirements of the Project:

- Migration of Digitized Land Titles/Data Build-up
  - The migration shall cover pre-identified land titles and related data, as well as master or reference data and other relevant electronic files maintained by the Procuring Entity which is

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necessary for the successful operation of the GIS-ROPA.

- The Project Team shall agree on the set of land titles to be uploaded to the system. Files for uploading/migration to the GIS shall be provided by Land Registration Authority (LRA).

o Qualification Criteria of the System

- Ensure that the GIS should interface directly and/ or be integrated with the ROPAMS that will be providing and requiring information to and from GIS and should allow cross company/multi-company transaction.
- Ensure that the GIS should be readily available as packaged applications, which can be configured and customized, if needed, to meet specific requirements of the Procuring Entity.

o General Requirements

- Ensure that all outputs can be viewed on screen, printed and saved to a file (PDF, Excel, or Text).
- Ensure availability of report writer for all other ad hoc reports.
- Ensure that all reports shall be date stamped, date and time of printing, and with three signatories i.e., maker, reviewer and approver, as applicable.
- Ensure that the system shall be highly parameterized and whenever applicable, shall make use of reference tables for easy updating.
- Ensure that all modules shall have the search functionality.

o Look and feel

Screen should be maximized in an 800x600/1366x768 resolution screen but has an auto-resize feature according to the screen resolution of the user.

o Maintainability Requirements

The system must be designed to be highly parameterized in terms of business rules. This means that business rules shall not be hard-coded but rather database driven for the system to be flexible

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and maintainable without recompiling the User interface codes, as far as practicable.

o Installation and Operations Requirements

- The GIS shall be packaged with all the required literature and installed by the Supplier. It shall be turned-over to the Procuring Entity's IT Group for subsequent installations. The Supplier shall train the Procuring Entity's system support staff to be able to install and support the GIS during actual system deployment.
- Training sessions for the actual system users shall include the following:
  - o User's Training
  - o Technical Support Training
  - o System Administration
  - o Server Configuration
- A warranty period of twelve (12) months, which shall commence upon issuance of the Certificate of Completion by the Procuring Entity.
- A maintenance subscription for a period of twelve (12) months, which shall commence upon issuance of the Certificate of Completion by the Procuring Entity.
- The Supplier should provide technical support equivalent to 2 days per month for one (1) year. This will start upon full completion of the Project. The accumulated and unused technical support hours shall be convertible to training hours.
- The Supplier shall provide/disclose to the Procuring Entity its standard computations for the annual software maintenance and onsite/offsite technical support fees.

o System Environment Requirements

The GIS shall be able to operate in the hardware and software environment of the Procuring Entity as specified in the table:

	SOFTWARE	HARDWARE
Server	Windows Server OS 2016 MS SQL SERVER 2019 Internet Information	Procuring Entity is running in a virtualized environment.

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	Services (IIS) 10.0	
Client PC / Browser	Windows 10 Compatible with all browser (latest version) Latest Windows Active Directory 2012 or higher	Desktops/Notebooks – at least Intel Core i5 Minimum of 2 GB RAM 500 GB Hard Disk

o Security Requirements

- User Authentication – User authentication shall be done by Microsoft Active Directory (MAD) and only registered users with appropriate access rights can access the system. Shall also be capable of implementing multifactor authentication.
- User Access Rights – Access rights are controlled within the system. Defined per user role created in the system, access rights may vary depending on the access level assigned for each role.
- System Audit Trail – changes made by the user of the system are logged in the audit trail. This audit trail is able to track all committed changes on the data and transactions done by user in the system.

o Report Type Requirements

All reports generated by the system shall come in the following file types: text file (.txt), portable document format (.pdf) and MS Excel (.xls).

o Assumptions/Constraints

- User Performance Support Requirements

Access to the system is limited only to workstations or computers within the Procuring Entity's Domain (Microsoft AD) and authorized mobile devices for field works, and shall work with the existing Internet access or bandwidth of the Procuring Entity or the mobile data subscription of the authorized mobile devices.

- Business Requirements

The herein defined requirements are stated for purposes of estimating the extent of work and the corresponding work only.

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As such, should there be a change in the business requirements during the contract period, the Supplier shall undertake such change at no extra charge to the Procuring Entity.

- Project

The Supplier shall provide manpower and technical support to the Procuring Entity for the UAT and deployment of the system.

- Such other assumptions or constraints as may later be determined or identified by the Procuring Entity.

**Delivery Period -**

The Supplier shall fully and faithfully perform, undertake, and accomplish to the satisfaction of Procuring Entity all deliverables herein required within six (6) months from receipt of the Notice to Proceed.

**Intellectual Property Rights –**

The Supplier shall indemnify the Procuring Entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof.

**Other Requirements -**

- **Service Standard** - The Supplier shall devote, with utmost efficiency and effectiveness, its skills/ knowledge, undivided attention, and the best of its ability to the performance/fulfillment of its obligations under this Project in accordance with the best professional standards. The Supplier shall exercise all reasonable skills, care, and diligence in the discharge of its services, and shall always work in the best interests of the Procuring Entity. To this end, the Supplier shall provide such personnel, with the required qualifications and experience, towards the efficient fulfillment of the services herein required.
- **Confidentiality** - The Supplier agrees and acknowledges that the services covered by this Project may expose the Procuring Entity to confidential information and that any disclosure of such information may subject the Procuring Entity to financial, material and operational loss. Therefore, the Contractor hereby agrees as follows:

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- The Supplier shall protect all confidential information which the Procuring Entity provides to it (whether orally, in writing or in any other form) using the same standards as the Supplier applies to its own comparable confidential information, but in no event less than reasonable measures, and subject to the implementation of appropriate technical, physical, and organizational/administrative measures to protect personal data against accidental or unlawful destruction or accidental loss or unauthorized alteration, disclosure, or access.
- The Supplier, or any of its employees, agents, or representatives, shall not, either during the term of this Contract or at any time thereafter, reveal, disclose, or furnish, in any manner, to any person, firm or corporation any information, document, method, design, or material relating to the Procuring Entity, or which otherwise are in the Procuring Entity's possession or custody, which the Supplier or other members of its work staff/team, or its employees, agents, or representatives may have acquired or which came to its/ their knowledge or possession by reason of this Contract.
- If any of the Supplier's employees, agents, or representatives, who has previously rendered services to the Procuring Entity, resigned or disengaged from the Supplier during the subsistence of this contract, the Supplier must inform the Procuring Entity of such fact within five (5) calendar days from resignation or disengagement of said employee, agent, or representative. The terms of confidentiality shall apply and bind the resigned or disengaged employee, agents, or representatives of the Supplier who have acquired confidential information by reason of their previous relation with the Supplier. The Supplier shall be liable for damages or injury to the Procuring Entity resulting from disclosure by them of such information, document, method, design, or material.
- The Supplier shall comply with the provisions of the Data Privacy Act, its Implementing Rules and Regulations and circulars issued by the National Privacy Commission pertaining to the processing and retention of personal information subject of this Project, as may be applicable. The Supplier strictly prohibited from accessing the records, making photocopies thereof, or transferring/allowing third parties access thereto without the prior written permission or instruction from the Procuring Entity.

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- The Supplier shall be liable for any disclosure of confidential information by its employees, agents, or representatives and other violations under the Data Privacy and Bank Secrecy Laws, without prejudice to other legal remedies available to the Procuring Entity.
- All data and information related to the Project furnished by the Procuring Entity to the Service Provider shall be treated with strict confidentiality and shall be returned to the Procuring Entity upon completion of the works without need of demand. The same shall not be released to third parties without the written consent of the Procuring Entity.
- The Supplier agrees to assume sole responsibility and hereby undertakes to indemnify the Procuring Entity, for any damage, which the Procuring Entity may sustain by reason of breach of any of the above conditions.
- Nothing in this Contract shall be deemed to limit or restrict the rights of the Procuring Entity to assert any claim for violation/infringement of patent, copyright, trade secrets or other intellectual property rights against the Supplier.

The Supplier and its project staff may be required by the Procuring Entity to sign a confidentiality or non-disclosure agreement.

- **Relation of the Parties** - Subject to the limitation imposed on the Supplier with respect to the replacement of personnel as mentioned above, the Supplier shall be free to use any means and methods not contrary to law, regulations and the provisions and the spirit of this Contract, which it believes will best enable it to perform the contracted services. The Supplier shall not be subject to control and supervision of the Procuring Entity insofar as the means and methods to be employed by the Supplier, it being understood that the Procuring Entity is interested only in the results of the Supplier's work under this Contract. The Procuring Entity shall have the exclusive right to decide any and all questions which may arise as to the quality or acceptability of the contracted services rendered by the Supplier.
- **Event of Default** - The Supplier shall be considered in default in the event that the Supplier or any of its personnel assigned in the Procuring Entity violates or breaches any of the terms and

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conditions of the Contract, which includes neglecting to perform and deliver in a timely manner any of the work, duties, functions, responsibilities or obligations stipulated herein, or fails for any reason whatsoever to carry out the tasks herein required in a satisfactory and acceptable manner.

- **Retention Right** – The Procuring Entity is hereby given a lien upon any and all monies or other properties of the Service Provider which are in the Procuring Entity's possession or with any third party acting on behalf of the Procuring Entity including, but not limited to, those left with the Procuring Entity by or for the account of the Supplier. The Procuring Entity is hereby given the right to retain the same to guarantee the payment or performance of any obligation or liability, contingent or otherwise, on the part of the Supplier under the Contract.

- **Exercise of Rights –**

- **Alternative Remedies** – The Procuring Entity shall have the right to exercise alternatively, concurrently or cumulatively all the rights and remedies now or hereafter available under the Contract, such as, but not limited to, the forfeiture of the Supplier's Performance Security, as well as the availment by the Procuring Entity of other remedies under other applicable laws, rules and regulations.
- **Non-Waiver of Rights** – The failure of the Procuring Entity 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 Procuring Entity may exercise, nor shall it be construed as a waiver of any subsequent breach or default of the terms, conditions and covenants hereof, which shall continue to be in full force and effect.

No waiver by the Procuring Entity of any of its rights hereunder shall be binding or deemed to have been made unless expressed in writing and signed by the Procuring Entity through its duly authorized agents.

- **Representations and Warranties –**

The Supplier represents and warrants to the Procuring Entity that:

TECHNICAL REPRESENTATIONS

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- The software component supplied for this Project is brand new, unused, of the most recent models, and that it incorporates all recent improvements in design and materials.
- The Supplier represents that the manpower complement that it will assign to the Procuring Entity to handle the Project have the required qualifications, technical skills, and knowledge, and that they shall perform their assigned tasks with undivided attention and with utmost efficiency and effectiveness and in accordance with the best professional standards and ethical considerations. Further, the Supplier warrants that it shall exercise all reasonable skill, care and diligence in the discharge of its services, and shall always work to the best interests of the Procuring Entity. To this end, the Supplier shall provide personnel with adequate qualifications and experience, and of such number as may be required for the efficient fulfillment of the required services.
- The Supplier shall not replace key personnel without the consent of the Procuring Entity. Key personnel shall be understood to refer to the following: the Project Manager, Business Analyst, Systems Analyst, Application Architect, and Team Lead Programmer.

The Procuring Entity, however, reserves the right to demand at any time, without need to present proof or substantiate its request, the immediate replacement of any of the Supplier's personnel, staff or representative assigned to the Project who is wanting in competence, honesty, integrity, or whose services is deemed to be or will otherwise be prejudicial to the interest of the Procuring Entity.

Further, the Supplier undertakes that it shall not employ, in any capacity whatsoever, the Procuring Entity's personnel involved in the project. This prohibition shall be enforceable up to a period of two (2) years from the date of acceptance of the project by the Procuring Entity.

- It has full knowledge of the extent of work needed for

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the successful implementation of the Project; and that, it shall conform strictly with all the terms and conditions of this Contract.

#### LEGAL REPRESENTATIONS

- It is a domestic corporation duly organized and registered, validly existing, and in good standing under the laws of the Republic of the Philippines.
- It has full legal power, authority, and right to carry on its present business. The Supplier further represents that its representative M. \_\_\_\_\_ has full legal power to sign, execute, and deliver this Contract; and that, the Supplier will comply, perform and observe the terms and conditions hereof.
- All corporate and other actions necessary to validate or authorize the execution and delivery of this Contract have been taken.
- This Contract, when executed and delivered, will be legal, valid, and enforceable in accordance with its terms.
- The Supplier is an accredited reseller of the software supplied, and that said accreditation shall sufficiently cover the period for development and the one-year warranty and one year maintenance subscription. For this purpose, the Supplier shall issue in favor of the Procuring Entity a certification in that regard.
- The continuous use of the system by the Procuring Entity would not amount to infringement of any patent or copyright therein. For this purpose, the Contractor shall issue in favor of the Procuring Entity a proof of entitlement, which entitlement shall encompass the entire warranty period.
- To the knowledge of the Supplier, there are no pending or threatened actions or proceedings before any court or administrative agency of any jurisdiction, which may materially or adversely affect the financial condition or operation of the Supplier or the Supplier's ability to comply with the terms and conditions of this Contract.

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- If the Supplier should thereafter learn of the existence or occurrence of the same, the Supplier undertakes to report such fact to the Procuring Entity within five (5) calendar days therefrom.
- Failure to do so shall constitute sufficient ground for the cancellation of this Contract and the enforcement of remedies which the Procuring Entity may exercise under this Contract, pertinent laws, rules, and regulations.
- The obligation of the Supplier under this Contract, and other ancillary documents which may be executed in connection herewith, shall constitute its direct, absolute, and unconditional obligation.
- In line with Executive Order No. 398, Series of 2005, the Supplier warrants and certifies that it is free and clear of all tax liabilities to the government. Further, it binds itself to pay taxes in full and on time; and that its failure to do so shall entitle the Procuring Entity to suspend payment for any goods and services delivered by the Supplier. Towards this, the Supplier shall regularly present to the Procuring Entity its tax clearance from the Bureau of Internal Revenue (BIR), as well as a copy of its income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.

#### WARRANTIES

- It warrants to the Procuring Entity, in an unconditional, unqualified, absolute, full, and direct manner, the Project against incompatibilities or any defect, hidden, inherent, or otherwise, which would render them unfit for the use for which it is intended, or which would diminish the fitness of its use to the extent that, had the Procuring Entity been aware thereof, it would not have acquired/accepted the same.

It also warrants to the Procuring Entity, in an unconditional, unqualified, absolute, full, and direct manner, that the Project upon its completion, shall be free from any defects arising from poor design/workmanship, inferior/substandard materials, or from any

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negligent act or omission of the Contractor that may develop during the normal use of the same.

➤ It warrants that, unless authorized in writing by the Procuring Entity, any updates/upgrades, algorithm or code associated with the services provided to the Procuring Entity, regardless if pre-existing or developed for the Procuring Entity, shall:

- contain no code and/or services, catering for unauthorized functionality, e.g., malware, backdoor, unauthorized remote access to or from the Procuring Entity's Network;
- not alter, damage, or erase any data or computer programs without control of the authorized person; and
- contain no key, node lock, time-out, or other functions, whether implemented by electronic, mechanical, or other means, that restricts or may restrict the Procuring Entity's use or access to any programs or data developed relative to the project.

➤ The acceptance of the Project by the Procuring Entity shall not, at any given time, be deemed a waiver of any causes of action which the Procuring Entity may subsequently exercise by reason of any defect maintenance and support services provided by the Supplier.

• **Miscellaneous Provisions –**

➤ **Severability** – If any provision of the Contract should, for any reason, be held void or unenforceable, the legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired, and shall remain in full force and effect.

➤ **Binding Effect/Assignment of Rights** – The Contract shall be binding upon the Supplier, its partners, successors-in-interest, legal representatives and assigns. The

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foregoing notwithstanding, the Supplier shall not in any way assign or transfer its rights and obligations under the Contract without the written approval of the Procuring Entity.

- **Entire Agreement** – The provisions of this SCC, together with all the documents attached and/or incorporated thereto, and/or referred to therein, constitutes the entire obligation of the parties with respect to the subject matter hereof and shall supersede any prior expression of intent or understanding, whether verbally or in writing, with respect to this transaction.

For this reason, the parties shall endeavor to interpret the various provisions of this SCC and other related Bid Documents in a manner that will render all of those provisions valid and enforceable. In case of conflict between the provisions of the Bid Documents and the provisions laid out in this SCC, the latter shall prevail.

- **Other Documents** – The parties agree to provide further assistance and execute such documents as may be necessary or reasonably desirable to accomplish the intents and purposes of the Contract.
- **Transfer of Location** - The transfer of the principal office of either party to any place, area or building in Metro Manila shall not affect the terms and conditions of the Contract.
- **OGCC Review** - The provisions of this SCC shall be submitted to the Office of the Government Corporate Counsel (OGCC) for its review prior to execution pursuant to Memorandum Circular No. 2018-02 issued by the Governance Commission for Government Owned and Controlled Corporations. Any and all comments of the OGCC as a result of its review shall be deemed incorporated in this SCC, as may be appropriate.
- **Dispute Resolution** - In case aAny dispute or difference of any kind whatsoever shall arises between the PROCURING ENTITY and the CONSULTANT in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference amicably by mutual consultation.
- If after thirty (30) calendar days, the parties have failed

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to resolve their dispute or difference by mutual consultation, then either the PROCURING ENTITY or the CONSULTANT may give notice to other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

Any dispute or difference in respect of which a notice to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after the delivery of the services under this Contract.

In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolve in accordance with Republic Act 9285 (RA 9285), otherwise known as the "Alternative Dispute Resolution Act of 2004".

Notwithstanding any reference to arbitration herein, the parties shall perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

**Attorney's Fee** - In the event that the **PROCURING ENTITY** is compelled to commence arbitration or 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 arbitration, whichever is higher, aside from the costs of arbitration or litigation, whichever is applicable, and other expenses incidental thereto.

**Venue for Suit** - Whenever necessary to promote Arbitration or to seek judicial relief, the **PROCURING ENTITY** and the **SUPPLIER** agree that any legal action, suit or proceeding arising out or relating to the Contract may be instituted in any competent court in Makati City, to the exclusion of all other courts of equal jurisdiction.

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**Terms of Payment:**

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- a. In consideration of the required services to be provided by the Supplier to the Procuring Entity by reason of this Contract, as well as its compliance with all the terms and conditions of this Contract, the Procuring Entity agrees to pay the Supplier the total amount of \_\_\_\_\_ (Php \_\_\_\_\_), Philippine currency, inclusive of all applicable taxes (EVAT and all other related taxes) and other government mandated fees and other applicable fees and charges, for the execution and completion of the Project, including the incidental services, materials, equipment, accommodation, and operational expenses, and the remedying of any defects therein.
- b. The consideration/contract price referred to above shall be paid through progress billing. Each and every payment herein specified shall be net of any and all amounts required by law or this Contract to be retained or deducted by the Procuring Entity or paid by or charged against the Supplier under the terms of this Project. Payment shall be made according to the following schedule:

Milestones	Progress Billing (% of ABC)	Progress Billing and Documentary Requirements
1. Submission and approval of plans and completion of mobilization, delivery of software licenses	10%	<ul style="list-style-type: none"> <li>• Approved Project Management Plan/Charter</li> <li>• Approved Risk Management Plan</li> <li>• Approved Acceptance Plan</li> <li>• Certificate of Licenses</li> </ul>
2. Submission and approval of blue prints	10%	<ul style="list-style-type: none"> <li>• Approved Blueprints of current processes, Gap Analysis, and proposed processes</li> <li>• Data Privacy Impact Analysis Report</li> </ul>
3. Upon completion of UAT using dummy data	40%	<ul style="list-style-type: none"> <li>• Approved Test Plan</li> <li>• UAT Document (test cases/scripts)</li> <li>• Test Results/Error Logs</li> <li>• Approved Issue Management Plan</li> </ul>

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<p>4. Upon completion of data build-up and/or migration of pre-identified digitized land titles and related data</p>	<p>10%</p>	<ul style="list-style-type: none"> <li>• Approved Migration Strategy Plan</li> <li>• Approved Migration Logs and Issues</li> <li>• Completed data build-up and/or migration of pre-identified digitized land titles and related data</li> </ul>
<p>5. Upon completion of training</p> <ul style="list-style-type: none"> <li>• UAT</li> <li>• User's Training</li> <li>• Technical Support (System Administration and Server Configuration)</li> </ul>	<p>10%</p>	<ul style="list-style-type: none"> <li>• Approved Training Plan</li> <li>• Training Materials/Certificates</li> <li>• Approved User manual</li> <li>• Approved Technical Support (System Administrator and Server Configuration) manuals</li> </ul>
<p>6. Final Acceptance</p>	<p>20%</p>	<ul style="list-style-type: none"> <li>• Approved Blueprint of As-Built process</li> <li>• Certificate of entitlement of 1-year Maintenance</li> <li>• Monthly Status Update Reports</li> <li>• Minutes of Meetings</li> <li>• Final installation/setup program (including drivers, plug-ins, etc.)</li> <li>• System Architecture</li> <li>• E/R Diagram</li> <li>• List of Modules</li> <li>• List of Tables</li> <li>• Table-Module Matrix</li> <li>• Table Abstracts</li> <li>• Physical Data Model</li> <li>• High Level Design (HLD)</li> <li>• Other Technical Specifications</li> <li>• Signed User Acceptance Document</li> </ul>

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	<p>c. Payment shall be made by the Procuring Entity not later than seven (7) working days from receipt of the billing statement, and after issuance by the Procuring Entity of the certificate of completion of the corresponding set of tasks/works/milestone. Completion shall be understood to mean compliance by the Supplier of all of the standards/requirements set by the Procuring Entity for the Project. For purposes of this provision, the Supplier hereby acknowledges that the Procuring Entity shall be the final arbiter on the acceptability and sufficiency of the Supplier's deliverables and completed outputs.</p> <p>d. All payments made under this Contract shall be subject to the Procuring Entity's and government accounting rules and regulations which shall include, among others, the Commission on Audit (COA) Circular No. 2012-001 (Prescribing the Revised Guidelines and Documentary Requirements for Common Government).</p> <p>e. The Procuring Entity, at no additional cost to it, has the option to amend or modify the schedule provided above.</p>
3.	<p><b>Performance Security:</b></p> <p>The performance security posted in favor of the Procuring Entity in the form prescribed by law must be valid, sufficient, and effective for the entire Contract/Project Duration, inclusive of change order/extra work order/variation order, if any. The Supplier shall cause the extension of the validity of the performance security and its sufficiency to cover the approved contract time extension, if any, until the issuance by the Procuring Entity of the certificate of completion of the Project. The Supplier shall furnish the Procuring Entity with the corresponding proof thereof prior to the commencement of the contract time extension/change order/extra work/variation order, as the case may be.</p> <p>The Supplier shall cause the extension of the validity of the performance security to cover the approved contract time extension, if any, and furnish the Procuring Entity with the corresponding proof thereof.</p> <p>In the event that the performance security posted by the Supplier would be deemed inadequate, unacceptable, or otherwise rendered unenforceable or invalid at any time prior to the issuance of the Certificate of Completion, the Procuring Entity shall have the right to require the Supplier, and the Supplier shall have the obligation, to post another performance security in the form and amount determined by the Procuring Entity and allowed under existing laws and regulations.</p>

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	<p>If the performance security falls below the minimum amount required at any time prior to the issuance of the certificate of full completion, the Supplier shall post additional performance security to bring it to the required level.</p> <p>The performance security shall answer for any damage that the Procuring Entity may suffer by reason of the Supplier's default of any of its obligations and/or breach of the terms and conditions of this Contract and shall likewise guarantee payment for any loss, damage, or injury that may be caused by the Supplier to the Procuring Entity, its employees and guests. Any changes made in this Contract shall in no way annul, release or affect the liability of the Supplier and the performance security.</p> <p>The performance security shall only be released upon the Procuring Entity's issuance of the Certificate of Completion, which Certificate shall be issued only after the Supplier's full and faithful performance of its obligations under this Contract, and subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• The Procuring Entity has no claim against the Supplier or the surety company;</li> <li>• The Procuring Entity has no claim for labor and materials against the Supplier; and</li> <li>• The Supplier has faithfully and completely performed its obligations under this Project.</li> </ul> <p>The Procuring Entity is hereby given a lien upon any and all monies or other properties of the Supplier, which are in the Procuring Entity's possession or with any third party acting on behalf of the Procuring Entity, including without limitation to those left with the Procuring Entity by or for the account of the Supplier. The Procuring Entity is given the right to retain the same to guarantee the payment or performance of any and all liability of the Supplier under this Project, contingent or otherwise, which the Procuring Entity may be held jointly or solidarily liable.</p>
4.	<p><b>Inspection and Test:</b></p> <p>The inspections and tests shall be conducted at the Project Site (SSS Bldg., 6782 Ayala Ave., cor. Rufino St., Makati City) by the Procuring Entity's Information Technology Group to determine whether the output faithfully meets the minimum requirements specified for the Project.</p>
5.	<p><b>Warranty:</b></p> <p>To assure that defects on the Project shall be corrected by the Supplier, the Supplier shall provide a one (1) year warranty on the System, which shall be reckoned from the date of the Procuring Entity's issuance of the Certificate of Completion of the Project.</p>

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To ensure the full and faithful compliance by the Supplier of all the terms and conditions of this Contract as well as to cover for any defects on the Project, a retention money or a special bank guarantee equivalent to at least one percent (1%) of the total amount due to the Supplier shall be deducted/retained or posted in favor of the Procuring Entity by the Supplier.

The retention money or the special bank guarantee shall be released to the Supplier only after the Procuring Entity shall have issued a Certificate of Full Acceptance for the Project, which Certificate shall be issued only after the lapse of the warranty period; and provided, further, that the Project delivered and supplied under this Contract, are free from patent and latent defects, and all conditions imposed under this Contract have been fully met.

6. **Liability of the Supplier:**

In the event that the Supplier violates or breaches any of the terms and conditions of the contract, which includes neglecting to perform and deliver within the prescribed period any of the works, duties, functions, responsibilities or obligations stipulated herein, inclusive of the duty granted time extension, if any, or fails for any reason whatsoever to carry out the tasks herein required in a satisfactory and acceptable manner, the Supplier shall be liable in any or all of the following consequences of default:

- a. **Forfeiture of Performance Security** - The performance security shall be forfeited in favor of the Procuring Entity in the event that the Supplier is in default or breach of its obligations under the contract and shall answer for any loss, damage or injury caused to the Procuring Entity as a result of the willful, unlawful or negligent act or omission of the Supplier or any of the Supplier's representative.
- b. **Liquidated Damages and Penalties** - The Supplier shall, without need of demand, be liable for damages for such default and shall pay the Procuring Entity liquidated damages in an amount equivalent to one-tenth (1/10) of one percent (1%) of the cost of the unperformed portion for every day of delay or breach. In the event that the total sum of liquidated damages or the total cost to the Procuring Entity of any such delay or inability by the Supplier to deliver its obligations reaches 10% of the contract price, the Procuring Entity may, at its option, (i) proceed to terminate the contract in accordance with the procedures laid down in Annex I of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, or (ii) allow the Supplier to continue and complete the Project subject to continuous accrual and imposition of liquidated damages at the rate herein prescribed until such services are finally delivered and accepted by the

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Procuring Entity.

The Procuring Entity need not prove that it has incurred actual damages to be entitled to remedies above provided. Furthermore, the Procuring Entity reserves the right to deduct any and all of the damages/penalties from any money due or payments which may become due to the Supplier under the terms of the contract and/or from the securities/warranties filed/submitted by the Supplier as the Procuring Entity may deem convenient and expeditious under the prevailing circumstances.

- c. **Stoppage of Work/Payment** - The Procuring Entity shall have the right to stop, in whole or in part, any of the work or payment due under the contract in the event of default on the part of the Supplier to perform its obligations under the contract.
- d. **Take-over of Contract** - The Procuring Entity shall have the right to procure/engage, upon such terms and manners as the Procuring Entity shall deem appropriate, the services of another contractor to undertake the unperformed/undelivered service(s) of the contractor pursuant to the provisions of the IRR of R.A No. 9184. Any expenses that may be incurred to engage another contractor shall be for the exclusive account of the Service Provider. The Supplier shall likewise be liable to pay for all the incremental expenses that the Procuring Entity may incur to fully complete the Project.
- e. **Termination of Contract** - In the event that such delay, default, failure or refusal to deliver or perform any or all of the goods or services within the limit prescribed herein, including with any extension thereof granted, if any, the Procuring Entity shall have the right to terminate the contract, subject to provisions of Annex I of the IRR of R.A No. 9184.

Upon the commencement of the termination, the Supplier shall stop the work immediately, in case no prior work stoppage has been issued by the Procuring Entity against the Supplier. The Supplier shall also turn over all documents/records which came to its possession by reason of the contract.

- f. **Blacklisting of the Supplier** - Upon termination of the contract due to default of the Supplier, the Procuring Entity shall have the right to issue a Blacklisting Order disqualifying the Supplier from participating in the bidding of all government projects during the period of suspension.
- g. **Non-exclusivity** - The sanctions and remedies mentioned herein shall be understood to be without prejudice to other rights that the Procuring Entity may exercise under the contract, pertinent laws, rules,

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and regulations.

- h. **Indemnity** - The Supplier agrees to indemnify the Procuring Entity against any and all loss, injury or damage either to person or property which the Procuring Entity may suffer by reason of the willful misconduct, unlawful or negligent act or omission of the Supplier or any of its personnel or representative.

The indemnity required herein shall be in addition to the foregoing remedies and sanctions which the Procuring Entity may exercise under the contract, pertinent laws, rules, and regulations.

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