

PRO-FORMA

CONTRACT OF MANPOWER SERVICES

KNOW ALL MEN BY THESE PRESENTS:

This Contract made and entered into by and between:

_____, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at _____, represented herein by its _____, hereinafter referred to as the "**Contractor**"

- and -

PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC), a government instrumentality created and existing under R.A. No. 3591, as amended, with principal office address at SSS Building, Ayala Avenue corner V.A. Rufino Street, Makati City, Metro Manila, represented herein by its _____, hereinafter referred to as the "**CLIENT**"

WITNESSETH: That, Whereas

1. The **CLIENT** needs to engage the services of a qualified and licensed firm which will provide manpower services to the **CLIENT** on a contractual basis to perform project-based and task-specific assignments to help the **CLIENT** carry out its mandate;
2. For the procurement of the required services, a public bidding was conducted by the **CLIENT** pursuant to the provisions of Republic Act No. 9184 (The Government Procurement Reform Act);
3. In said public bidding, the **Contractor** offered the lowest calculated responsive bid based on the bidding criteria set by the **CLIENT**;
4. The **CLIENT** accepted the bid of the **Contractor** and the latter conformed to such acceptance.

NOW, THEREFORE, for and in consideration of the foregoing premises and of the terms and conditions hereinafter set forth, the parties hereby agree as follows:

1. **Agreement** – The **Contractor** shall provide the **CLIENT** within five (5) days from receipt of request, the manpower services they need in accordance with the schedule provided by the **CLIENT**. Such personnel provided by the **Contractor** shall hereinafter be referred to as the "**Agency Personnel**."

The **Contractor** affirms its capacity to provide the **CLIENT** with at least ____ **Agency Personnel**, excluding janitorial and security personnel, who meet the qualifications set in this Contract. The **Contractor** acknowledges that its capacity to provide the minimum number of qualified **Agency Personnel** is one of the **CLIENT**'s primary considerations in entering into this Contract and that the **Contractor**'s failure to meet this requirement at any time during the term of the Contract shall be a ground for the **CLIENT** to terminate the Contract without need of demand.

Depending on the need, the **CLIENT** shall have the right, at any time, to demand from the **Contractor** for the increase in the number of the **Agency Personnel** to be hired and also, shall have the right to request the **Contractor** to re-assign deployed **Agency Personnel**.

Likewise, the **CLIENT** shall have the right to reduce the number of **Agency Personnel**, at any time.

2. **Contract Duration** - This Contract shall take effect for a period of _____ commencing on _____ and ending on _____, unless sooner terminated by the **CLIENT** in accordance with this Contract.
3. **Personnel Qualification** - The **Contractor** shall provide **Agency Personnel** who possess the necessary qualifications and have passed the standards set by the **CLIENT**.

Prior to the assignment of the **Agency Personnel** to the **CLIENT**, each **Agency Personnel** shall attest that he/she is not related within the third degree of consanguinity or affinity to any regular employee of the **PDIC** and that he/she has not been previously dismissed from any government or private service by reason of an administrative offense. A false declaration concerning the same shall be a ground for the replacement of such **Agency Personnel**.

4. **Obligations of the Contractor** - The **Contractor** undertakes to: (a) cause the **Agency Personnel** to perform the functions and duties identified by the **CLIENT** with efficiency, economy and effectiveness, (b) pay **Agency Personnel** the agreed salaries/wages, regular benefits, overtime pay, allowances and other monetary benefits mandated by law, and (c) make arrangements for deployment of **Agency Personnel** to perform specific assignments in any designated site and as may be requested by the **CLIENT**, and pay travel expenses in line with procedure and rates prescribed in Annex "A".

In addition to the foregoing, the Contractor, at its expense, shall:

(1) give additional benefits to each **Agency Personnel**, in an amount/value of not less than _____ PESOS (P____), Philippine Currency, per day. The additional benefits may be in the form of, but not limited to, meal subsidy/allowance, additional incentive leave, or other similar benefits;

(2) provide to the **Agency Personnel** an annual health protection benefit/coverage through a Health Maintenance Organization of at least _____ PESOS (P_____), Philippine Currency;

(3) provide to the **Agency Personnel** accident insurance coverage of at least _____ PESOS (P_____), Philippine Currency.

5. **Consideration** - For and in consideration of the service/s rendered, the **CLIENT** hereby agrees to pay the **Contractor** the billing rates as provided in Annex "B" hereof. The rates quoted therein are based on eight (8) - hours' work per day, which shall include the amount due to the **Agency Personnel** and to the government representing statutory deductions from the salaries for SSS, Philhealth, Pag-Ibig, and ECC contributions, as well as the applicable Value Added Tax and other taxes.

All billings shall be submitted no later than 30 days from end of billing period and to be paid within sixty (60) calendar days from receipt thereof provided the requirements enumerated in the next paragraphs are complied with.

5.1 Prior to the release of each payment, the **Contractor** shall submit the following as attachments to their billing:

5.1.1 Certification under oath by the President of the **Contractor** or his/her duly authorized representative attesting that:

5.1.1.1 Each and every **Agency Personnel** employed under this Contract have been fully paid their respective salaries and wages, overtime and allowances for the preceding month by the **Contractor** in the amount provided under this Contract including any adjustment thereof;

5.1.1.2 All premiums/sums due to the BIR, SSS, Philhealth, Pag-Ibig and such other government agencies have been duly remitted by the **Contractor** to the proper agencies concerned; and,

5.1.1.3 Said **Agency Personnel** have no claim for any deficiency in their wages and benefits from the **Contractor**.

For this purpose, the **Contractor** shall also furnish the **CLIENT** a copy of the monthly payroll slips of the **Agency Personnel** to be attached to the billing.

5.1.2 Proof of quarterly payment to the SSS (i.e., Form R3, R5 & SBR), Philhealth and Pag-Ibig.

- 5.2. No adjustment in the contract price shall be allowed during the term of this Contract except when a law, order, rule or regulation is promulgated or issued increasing the minimum wage or providing for payment of additional benefits to employees after the execution of this Contract, in which case, a contract price

adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

- 5.3 In compliance with existing laws and issuances, the **Contractor** shall pay and remit the correct taxes to the Bureau of Internal Revenue (BIR) in full and on time and that failure to do so will entitle the **CLIENT** to suspend payment for any services rendered. For the duration of this Contract, the **Contractor** shall submit to the **CLIENT** a current tax clearance duly issued by the BIR as well as copy of its current income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.
6. **Minimum Daily Wage** – Without prejudice to item 4 of this Agreement, the **Agency Personnel** shall receive a minimum daily wage of _____ (P_____), Philippine Currency, plus Emergency Cost of Living Allowance (ECOLA). If the **CLIENT** requires certain **Agency Personnel** to possess higher qualifications and more extensive experience, the **Contractor** shall provide the **CLIENT** with such **Agency Personnel** who may be paid a daily wage higher than the minimum daily wage as provided herein.
7. **Administrative Fee** – The **Contractor** shall be entitled to an administrative fee of _____ percent (___%) of the Total Amount Paid to **Agency Personnel** and Government, which comprise the **Agency Personnel** salaries/wages, regular benefits, overtime pay, allowances, if any, and the statutory deductions from the salaries for SSS, Philhealth, Pag-Ibig, and ECC contributions. The additional benefit stated in item 4 (1) of this Contract shall be excluded from the imposition of administrative fee.

The travel allowances and expenses, as well as the other non-regular monetary benefits whether or not paid in advance by the **Contractor** to the **Agency Personnel** shall not be subject to administrative fee. However, the actual travel expenses of deployed Agency Personnel can be subject to a service charge which shall not be more than _____ percent (___%), pursuant to the instructions and standardized rates provided by the **CLIENT** as specified in Annex "A".

8. **No Employer-Employee Relationship** –

- 8.1 It is expressly understood and agreed that the **Agency Personnel** assigned to the **CLIENT** are, for all legal intents and purposes, the employees of the **Contractor** and not of the **CLIENT**; hence, there is no employer-employee relationship between the **CLIENT** and the **Agency Personnel**. Accordingly, the **Contractor** binds itself to hold the **CLIENT** or any of their officials, employees and/or agents free and harmless from any liability for any personal injury or damage, including death, sustained or caused by any of the **Agency Personnel** during the lawful performance of their duties or in the course of their stay within their places of assignment. The **Contractor** shall, at all times, stand fully and solely liable for the enforcement of and/or compliance with all applicable and existing wage, labor, and social legislation as well as other

pertinent laws and government regulations, and those that may be enacted hereafter.

- 8.2 It is likewise understood that the services rendered hereunder by the **Agency Personnel** shall not be considered and accredited as government service. Neither shall such services entitle the **Agency Personnel** to the benefits enjoyed by regular personnel of the **CLIENT**.
- 8.3 The non-compliance by the **Contractor** with the minimum wage law, provisions of law on the grant of other benefits, as well as its failure to make the remittances and payments due to the BIR, SSS, Philhealth, Pag-ibig and such other government agencies shall be a ground for the automatic termination of this Contract.
- 8.4 The **Contractor** guarantees that each **Agency Personnel** shall be paid with the rate not lower than what is stipulated in this Contract plus the other benefits that the **Contractor** agreed to pay the **Agency Personnel** as provided in this Contract, as well as those provided for in the Labor Code and other existing labor or social legislation.
9. **Supervision and Control** – The **Contractor** hereby retains and maintains control and supervision over the **Agency Personnel**, but authorizes the **CLIENT** to give direct instructions to such **Agency Personnel** during their term of duty pertaining to the end-result desired by the **CLIENT**. The exercise of this authority shall not be deemed or interpreted as a relinquishment by the **Contractor** of its powers or status as employer of the **Agency Personnel**. The **CLIENT** may allow the **Agency Personnel** to sit in/attend seminars/trainings conducted by the **CLIENT** relevant to the **Agency Personnel's** work/assignment. Said seminars/trainings shall be provided by the **CLIENT** free of charge to the **Agency Personnel**.
10. **Liability for Losses and Damages** – The **Contractor** shall be liable for losses and damages on the properties and facilities of the **CLIENT** due to the fault or negligence of the **Agency Personnel** while in the performance of their official duties or in the course of their stay within their places of assignment.

The **Contractor** shall indemnify the **CLIENT** and the claimants and/or borrowers of the **CLIENT** for loss or damage, actual or otherwise, suffered and/or caused unto them as a result of the unauthorized/illegal activities of the **Agency Personnel**. Damage or loss shall be determined by a committee of five (5) consisting of three (3) representatives of the **CLIENT** and two (2) representatives of the Contractor. The chairman of the committee shall be a representative of the **PDIC**.

The **Contractor** binds itself to hold the **CLIENT** or any of its officials, employees and/or agents free and harmless from any liability for any personal injury or damage, including death, sustained or caused by or to any of the **Agency Personnel** assigned to the **CLIENT** during the lawful performance of their duties or in the course of their stay within their places of assignment or in the course of their field work.

11. **Bonding of Agency Personnel** - At the request of the **CLIENT**, all **Agency Personnel** who are designated to functions involving money and/or property accountability shall be bonded in the form of surety from the Government Service Insurance System at such amount as agreed by the **Contractor** and the **CLIENT**, with the premiums charged to the **Contractor**. The bond shall answer for any loss or damage suffered by the **CLIENT** due to the fault or negligence of the **Agency Personnel** while in the performance of their official duties that are inherent to their designation; *Provided*, that the **CLIENT** shall inform the **Contractor** in writing, complete with supporting documents, of such loss or damage within five (5) working days from discovery thereof by the **CLIENT**.
12. **Replacement of Personnel** - Should the **CLIENT** find the performance of any of the **Agency Personnel** to be unsatisfactory or should any of the **Agency Personnel** commit acts inimical to the interest of the **CLIENT**, the **CLIENT** shall immediately notify the **Contractor** in writing and bar the said **Agency Personnel** from rendering further services, and the **Contractor** shall, within five (5) days from receipt of the **CLIENT**'s written notice and request, replace the same with one acceptable to the **CLIENT**. The undue refusal of the **Contractor** to replace the concerned **Agency Personnel** shall be a ground for the **CLIENT** to terminate this Contract.
13. **Services Rendered Out of Regular Working Hours** - For services authorized by the **CLIENT** to be rendered over and above the eight (8) - hour regular working time, the **Contractor** shall be entitled to charge the **CLIENT** overtime premium, night differential and holiday pay, whenever applicable, in accordance with existing labor laws, rules and regulations. Billings for overtime shall be submitted no later than 30 days after end of each month.
14. **Services Rendered Outside of PDIC Offices (Field Work)** - The **CLIENT** may deploy the **Agency Personnel** outside of the offices of the Philippine Deposit Insurance Corporation (PDIC) located at Chino Roces Avenue (Pasong Tamo) and Ayala Avenue both in Makati City, to do field work. In such instances, the **Contractor** shall advance the payment of travel expenses and per diems of **Agency Personnel** on field, within three (3) days from receipt of the request (Job Order), to be reimbursed by the **CLIENT** with service charge of ____ percent (___%) pursuant to Section 7 hereof.

Deployment of additional **Agency Personnel** and the payment of their travel expenses and per diems shall be made by the **Contractor** within five (5) days from receipt of the request (Job Order) of the **CLIENT**.

15. **Tardiness and Absences** - Tardiness and absences incurred by the **Agency Personnel** shall be deducted accordingly from the Monthly Billing of the **Contractor**. Habitual tardiness and absences incurred by the **Agency Personnel**, as determined by the **CLIENT**, shall be a ground for the replacement of concerned **Agency Personnel**.
16. **Clearance** - Before any **Agency Personnel** assigned to the **CLIENT** is separated from service or allowed to resign by the **Contractor**, the **Contractor** shall secure the necessary clearance from the Human Resource and Management Department of

the **CLIENT** to ensure that all financial or other accountabilities of the **Agency Personnel** to the **CLIENT**, if any, are duly settled and complied with. Should the **Contractor** fail to secure the necessary clearance from the **CLIENT**, the **Contractor** agrees to hold itself solidarily liable with the concerned **Agency Personnel** for any accountabilities the latter may have with the **CLIENT**.

17. **Confidentiality of Information** – The Parties hereby agree that the services covered by this Contract are fiduciary in nature such that the **Contractor** covenants that it or any of the **Agency Personnel** shall not, during the duration of this Contract or at any time thereafter, disclose nor furnish to any person, firm or corporation any information relating to the **CLIENT** that may be acquired/possessed in the course of the performance of services to the **CLIENT**, or in the course of their stay within their places of assignment, or as an incident to this Contract.

The **Contractor** shall ensure that the **Agency Personnel** will comply with this obligation.

18. **Violation of Terms and Conditions** – In case of violation by the **Contractor** of any of the terms and conditions of this Contract, the **CLIENT** may terminate this Contract by giving written notice to the **Contractor** at least fifteen (15) working days before the intended date of termination, which termination shall become effective upon receipt of the notice by the **Contractor**; *Provided*, however, that the termination shall be without prejudice to the settlement of any obligation or claim for damages, loss or injury which the **CLIENT** may have against the **Contractor**.

19. **Performance Bond/Liquidated Damages** –

- 19.1 To guarantee the faithful performance of its obligations under this Contract, the **Contractor** shall, prior to the execution of this Contract, post a performance security in favor of the **CLIENT**. Any changes made in this Contract shall in no way annul, release, affect or modify the liability of the **Contractor** and the performance security. The performance security may be in any of the following forms at the discretion of the **CLIENT**:

Form of Security	Minimum Amount in % of Total Contract Price
1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Five percent (5%)
2. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: <i>Provided</i> , however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
3. Surety bond callable on demand issued by	Thirty percent (30%)

a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	
4. Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security.

- 19.2 The Performance Security shall only be released upon the **CLIENT**'s issuance of the final Certificate of Acceptance subject to the following conditions:
- 19.2.1 The **CLIENT** has no claims against the **Contractor** or the surety company;
- 19.2.2 The **CLIENT** has no claims for labor and materials against the **Contractor**;
- 19.2.3 The **Contractor** has faithfully and completely performed its obligations under this Contract.
- 19.3 The Performance Security shall guarantee the payment of any amount due to the **CLIENT** as penalty or for any damage, loss or injury that may be caused by the **Contractor** or any of the **Agency Personnel** to the **CLIENT**.
- 19.4 In the event the **Contractor** breaches any provision of this Contract, the amount of liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion for every day of delay. In cases wherein the **Contractor** fails to satisfactorily provide the **CLIENT** with the requested **Agency Personnel** within the required period, inclusive of the time extensions approved by the **CLIENT**, if any, the **Contractor** shall be liable for damages for the said delay and shall pay the **CLIENT** liquidated damages in an amount of at least ONE THOUSAND PESOS (P 1,000.00), Philippine Currency, for every day of delay until said **Agency Personnel** are finally provided and accepted by the **CLIENT**.
- 19.5 The **CLIENT** need not prove that it incurred actual damages to be entitled to liquidated damages referred to in the immediately preceding paragraph. The liquidated damages shall be deducted from any money due or which may become due to the **Contractor**, or the same may be collected from the security posted by the **Contractor**, whichever is convenient to the **CLIENT**. In case the total sum of liquidated damages exceeds ten percent (10%) of the total contract price, in which case the **CLIENT** may terminate this Contract and impose appropriate sanctions over and above the liquidated damages to be paid.

20. **Attorney's Fees** – In the event that the **CLIENT** shall be compelled to seek judicial relief, it shall be entitled to attorney's fees equivalent to ten percent (10%) of the amount claimed in the judicial action or of the contract price, whichever is higher, apart from the costs of litigation and other incidental expenses.
21. **Non-exclusivity of the Contract** – It is understood that this Contract is non-exclusive. The **CLIENT** shall have the right, at any time, in its sole discretion, to engage the services of other manpower agencies to supply the **CLIENT** such additional and qualified personnel for its manpower needs.
22. **Retention Right** – The **CLIENT** is hereby given a lien upon any and all monies or other properties of the **Contractor** which are in the **CLIENT**'s possession or with any third party acting on behalf of the **CLIENT** including, but not limited to, those left with the **CLIENT** by or for the account of the **Contractor**. The **CLIENT** 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 **Contractor** under this Contract, for which the **CLIENT** may be held jointly or solidarily liable.
23. **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 this Contract.
24. **Non-Waiver** - It is understood that failure of the **CLIENT** to demand compliance or enforcement with any of the terms and conditions of this Contract shall not be considered a waiver on the part of the **CLIENT** of its rights under this Contract.
25. **Venue of Legal Action** – The parties agree that any and all actions that may arise from this Contract shall be instituted and tried only in the proper court/s of Makati City, Metro Manila.

IN WITNESS WHEREOF, the parties have hereunto signed and executed this Contract on the day and place stated under their respective names.

PHILIPPINE DEPOSIT INSURANCE CORPORATION

TIN No. _____

By:

Date: _____

Place: _____

SIGNED IN THE PRESENCE OF:

TIN _____

By:

Date: _____

Place: _____

SIGNED IN THE PRESENCE OF:

CERTIFICATION OF AVAILABILITY OF FUNDS

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
Makati City)S.S.

BEFORE ME, a Notary Public for and in the City of Makati, this ____ day of _____ 2015 personally appeared:

Name	Proof of Identity	No./Date/Place Issued
PDIC	_____	_____
_____	_____	_____
_____	_____	_____

known to me to be the same person who executed the foregoing Contract and who acknowledged to me that he/she is duly authorized to execute this Contract and that the same is his/her free and voluntary act as well as that of the entity he/she represents.

This document refers to a Contract of Manpower Services consisting of _____ (____) pages, including its Annexes and this page on which this Acknowledgment is written, signed by the parties and their witnesses on each and every page thereof and thereafter sealed with my notarial seal.

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

Doc. No. ____;
Page No. ____;
Book No. ____;
Series of 2015.

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
_____)S.S.

BEFORE ME, a Notary Public for and in the City of Makati, this ____ day of _____ 2015 personally appeared:

Name	Proof of Identity	No./Date/Place Issued
_____	_____	_____
_____	_____	_____

known to me to be the same person who executed the foregoing Contract and who acknowledged to me that she is duly authorized to execute this Contract and that the same is her free and voluntary act as well as that of the entity she represents.

This document refers to a Contract of Manpower Services consisting of ____ (____) pages, including its Annexes and this page on which this Acknowledgment is written, signed by the parties and their witnesses on each and every page thereof and thereafter sealed with my notarial seal.

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

Doc. No. ____;
Page No. ____;
Book No. ____;
Series of 2015.