

CONTRACT FOR THE SUPPLY, DELIVERY AND INSTALLATION OF PBX SYSTEM

KNOW ALL MEN BY THESE PRESENTS:

This *Contract for the Supply, Delivery and Installation of PBX System* (the "**Contract**"), made and entered, into by and between:

PHILIPPINE DEPOSIT INSURANCE CORPORATION, a government instrumentality created and existing under and by virtue of R.A. 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**, hereinafter referred to as the "**CLIENT**"

- and -

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

WITNESSETH: That -

WHEREAS, the **CLIENT** needs to update its existing private telephone network system in order to promote a more effective communication system and thus, ensure the over-all operational efficiency of the **CLIENT**;

WHEREAS, on _____, the **CLIENT** conducted a public bidding for the purpose pursuant to the provisions of Republic Act No. 9184 (*The Government Procurement Reform Act*);

WHEREAS, in said public bidding, the **CONTRACTOR** submitted the most responsive bid, offering the most advantageous terms and conditions;

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

I. SUBJECT MATTER

The **CONTRACTOR** agrees to supply, deliver and install to the **CLIENT** an updated private telephone communication network system (hereinafter

referred to as "PBX System"), subject to the terms and conditions set forth herein and in accordance with the specifications herein below indicated:

Fact Sheet of the PBX System	Minimum Mandatory Requirements
<p>a. Main Features</p>	<ul style="list-style-type: none"> • can operate with TCP/IP protocols and provide audio, video and instant messaging communication with the use of the existing internal network of the Client • can interconnect with Public Switched Telephone Network (PSTN) in order to allow external communications • can be able to establish communications between VoIP (Voice over Internet Protocol) users and a traditional telephone user • must be approved by National Telecommunications Commissions (NTC), with Certification for Type Approved Customer Premise Equipment or any other equivalent certification • must have provision for installation of Digital (E1/R2) Trunk and support for at least sixty-four (64) Analog Trunk ports • must include hardware and software licenses to support at least ninety-six (96) users of hardware IP Phones and soft-phones installed on a computer and/or voice over Wi-Fi phones operating on a wireless network and soft-clients installed on mobile phones. • must have a capacity for at least sixty (60) concurrent connections/channels or private PCM links between the new and existing PBX system • should be compatible with the existing network infrastructure of the Client and such other related systems/applications. It must also run in virtual machines using VMware vSphere 5 • can support any voice/data convergence and scalable to

	<p>accommodate expansion for least 1,000 users</p> <ul style="list-style-type: none"> • must be compatible with SIP end points as extensions for the users and SIP trunks for interconnection with other PBX systems • must be compatible with other value added applications like Collaboration or Unified Messaging, and other integrated contact center applications • must be manageable using centralized web-based or GUI management console • user management can be integrated with Active Directory which must be protected by administrative password • able to schedule backup of system database and retrieval/transfer of call logs/reports to a repository server • capable of operating in distributed or centralized configuration for communication servers and media gateways without affecting the VoIP links, features level and applications availability. • should have call admission control mechanisms to bar or allow listed contact numbers • can be integrated with Interactive Voice Response Systems (IVRS) to allow calling customers to interact with the system using their telephone keypads • can support and interoperate with other telephone systems and endpoints using other known standards such as QSIG, DPNSS, DSS1, etc. • can support the following external telephony interface signaling such as E1, T1, T0 ISDN, E & M and Analog Loop Start & Ground Start (with FSK and DTMF CLIP), etc. • must support native IP communications in direct or "peer-to-peer" with only the telephone signaling transmitting back toward the controlling communications
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	<p>server</p> <ul style="list-style-type: none"> • can support standard audio/voice encoding and must be compliant with the accepted standards such as G.711, G.723.1, G.729A, etc.
<p>b. Additional Features</p>	<ul style="list-style-type: none"> • must have auto attendant feature to allow callers to be automatically transferred to an extension without the intervention of an operator/receptionist. • must have auto-dialing feature that once a call has been answered, the auto-dialer either plays a recorded message or connects the call to a live person. • must have automatic call distributor feature for distribution of incoming calls to a specific group of terminals. This ensures the handling of large volumes of incoming phone calls from callers who have no specific person to talk to but requires assistance from any available support personnel • must support Automated Directory Services to allow callers to be routed by keying or entering the letters of the name of the person being called • must have automatic ring back, wherein a code can be dialed in the telephone keypad, such that, when the called line becomes available, the caller's phone will ring with a distinctive ringtone, which is different from the ring of a regular call. • must have call blocking feature to allow users to block incoming calls from specific telephone numbers • must have call forwarding feature on busy, no reply or absence to allow redirection of telephone calls to another destination such as on a mobile telephone, external number, voicemail box, hunting group, automated attendant or another telephone number where the desired called party is available • must have call parking to allow a

	<p>person to put a call on hold at one telephone set and continue the conversation from any other telephone set.</p> <ul style="list-style-type: none"> • must have call pick-up to allow a user to answer someone else's telephone call by pressing a pre-programmed button on the telephone set • must have call transfer to enable a user to relocate an existing telephone call to another phone, voicemail or attendant console • must have call waiting feature to allow a called party, who is currently engaged to a call, to suspend the current telephone call and switch to the new incoming call. It must also have a camp-on - signal to inform the busy telephone user that another call originator is waiting for a connection • must support multi- conference call for at least ten (10) users. The conference calls may be designed to allow the called party to participate during the call, or the calling party calls the other participants to add them to the conference call. The call may be set up so that the called party merely listens into the call and cannot speak. • supports public address announcement/voice paging to allow authorized personnel to address the public using the phone units connected to the system. • greetings can be customized to suit the requirements of the Client • must have customized abbreviated dialing (Speed Dialing) function to allow the user to place a call by pressing a reduced number of keys. This function is particularly useful for phone users who dial certain numbers on a regular basis. • supports Direct Inward Dialing (DID) and Direct Outward Dialing
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	<p>(DOD)</p> <ul style="list-style-type: none"> • must have the capability to prevent calls from ringing on an extension when Do Not Disturb (DND) attribute is activated and allow re-direction of the call to a pre-assigned extension or respond with busy signal or route to a recorded message • must have a follow-me or find-me feature to set the route of incoming calls so that when a call is received, the system routes it to each number on the list until the call is answered or until the list is exhausted before routing to a voice mail system • supports music on hold to allow playing of recorded music to fill the silence that would be heard by telephone callers who have been placed on hold • must have the capability to activate night service, wherein for a period that normal operator services cannot be provided, incoming calls can be automatically redirected by the switchboard to particular telephones, answering machine, auto attendant or voice mail system • supports voice mail to allow users to exchange personal voice messages and conveying a stored telecommunications voice messages. Shared message boxes shall be allowed where a department can have a shared voicemail box. • allows protected access or retrieval of voice messages using external line • allows sending of text messages between user devices/terminals • has Manager/Secretary features which include call filtering with manager control, setting a hotline, enable private line for Manager Set, configurable when the Secretary is absent, and support
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	<p>for multiple Managers/Multiple Secretaries configuration.</p> <ul style="list-style-type: none"> • allows setting of personal passwords to protect access to special features of the device • has Call Accounting or Call Logging feature that facilitates the collection and analyzes phone call data which can be used to generate reports regarding the telephone network's cost, performance, capacity and quality of service. Call logging reports should be able to generate the following: <ul style="list-style-type: none"> ➤ Cost Control Reports to show cost of calls, cost of trunk lines, and costs by department or individual extension, number of unused extensions, etc. ➤ Performance Management Reports to provide information on how long it takes for the operator or user to answer his/her phone calls, unanswered calls, dropped calls, etc. ➤ Capacity Management Reports to show if the system is over or under-utilized, show trunk usage and identify call patterns
<p>c. End User Devices/Terminals</p>	<ul style="list-style-type: none"> • ability for the users to change the language presented on the station display • capability to call, transfer or forward calls to other parties by entering the names using alphanumeric integrated keyboard • allows the user to simultaneously establish several outgoing or incoming calls • must be able to support text messaging services to allow exchange of short messages • supports auto-attendant which sets welcome address for external callers and instructions on how to

	<p>reach a desired service or party</p> <ul style="list-style-type: none"> • allows the user to play music in digital form when putting the caller on hold <p>The End User Devices/Terminals must also include or be bundled with the following:</p> <ul style="list-style-type: none"> ➤ at least forty (40) units of high end user devices/terminals/ IP Phones with the following technical specifications: <ul style="list-style-type: none"> ○ at least 7" WGA touch screen with sensitive feedback ○ sensitive keys ○ 70 programmable soft keys ○ supports hand-free mode with volume control and mute key with LED ○ supports external loudspeaker or headset ○ alphanumeric keyboard ○ blue tooth capable ○ one (1) USB connector ○ with additional PC connectivity (Gigabit Ethernet 10/100/1000) ○ includes external power supply ○ supports Ethernet auto-sending and configurable ➤ at least fifty-four (54) units of basic end user devices/terminals/IP Phones with the following technical specifications: <ul style="list-style-type: none"> ○ single line display ○ 70 programmable soft keys ○ supports hand-free mode with volume control and mute key with LED ○ with alphanumeric keyboard ○ supports external loudspeaker or headset ○ with additional PC connectivity (Gigabit Ethernet 10/100/1000) ○ with external power supply
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	<ul style="list-style-type: none"> o supports Ethernet auto-sending and configurable o with option for wall-mounting <p>➤ at least two (2) screen-based Attendant Console plus headsets with the following features:</p> <ul style="list-style-type: none"> o attendant loop release o attendant night transfer o attendant lock out o attendant over ride o attendant camp-on with tone indication o attendant busy verification
d. Warranty	<ul style="list-style-type: none"> • One (1) year on parts and labor, reckoned from the date of issuance of the certificate of completion by the Client
e. Others	<ul style="list-style-type: none"> • must have back-up power supply for at least four (4) hours • with option to implement remote maintenance and diagnostic • except for the LAN cabling requirements, it must include all cables and other ancillary materials necessary to install, setup, commission and operate the system • must include other required software utilities, drivers and other SW licenses necessary to make the system operational • must include installation, configuration, setup and commissioning of the hardware and software components of the system and other ancillary materials

II. OBLIGATIONS AND UNDERTAKING

The **CONTRACTOR** shall fully and faithfully perform the following:

- a. Complete delivery and supply of the hardware and software components of the PBX System, including all the required licenses, within forty-five (45) working days upon the execution of this Contract.

- b. Set-up/installation/configuration of the new PBX System within three (3) months from the execution of this Contract. The set-up/installation/configuration herein referred to shall include the following:
- set-up and testing of the software and hardware components of the new system, including integration with the existing system;
 - transfer of the existing digital and analog trunks from the existing system to the new equipment;
 - interconnection, configuration and set-up to integrate the new equipment with the existing system;
 - installation of patch panels;
 - labeling and tagging of the installed equipment and communication ports;
 - assistance in the set-up of the Local Area Networking (LAN) which will be used by the new system; and
 - other activities/assistance as may be deemed necessary to ensure the successful implementation of the project.
- c. Conduct the necessary testing and final implementation of the project and ensure that the new system will run smoothly.
- d. Provide the **CLIENT** with complete documentation of user, system and administrator manuals of the new PBX System.
- e. Provide the **CLIENT** with all the necessary requirements such as software/database licenses and such other requirements not specified in the fact sheet but are deemed necessary towards the successful implementation of the new system, at no extra cost to the **CLIENT**.
- f. Provide the **CLIENT** with hands-on training/knowledge transfer on the proper use and operation of the new PBX System to at least three (3) of the **CLIENT's** personnel in the Information Technology Group in order to ensure that the **CLIENT's** ITG personnel can sufficiently provide the necessary support and assistance during the implementation of the project as well as during the maintenance/management of the same after its implementation.
- g. Provide quarterly preventive maintenance on the new PBX System during the warranty period at no extra charge to the **CLIENT**.
- h. In case the system is in need of repair within the warranty period hereinabove specified, the **CONTRACTOR** shall make the necessary on-

site repair within 24 hours after the problem is reported. If the **CONTRACTOR** fails to do the necessary repair within the 24-hour period, the **CONTRACTOR** shall provide the **CLIENT** with a service unit of the same or higher specification before the expiration of the 24-hour grace period provided for herein.

- i. The **CONTRACTOR** shall, throughout the period of warranty, promptly respond to technical consultations as may be propounded by the **CLIENT** regarding the system from 9:00 a.m. to 5:00 p.m., Monday to Friday, except during legal holidays. The **CONTRACTOR's** Technical and Support Group/s shall respond no later than 4 hours after receipt of call or request for assistance from the **CLIENT**.

III. REPRESENTATIONS AND WARRANTIES

The **CONTRACTOR** represents and warrants to the **CLIENT** 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. The **CONTRACTOR** further warrants that its representative M. _____ 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.
- e. To the knowledge of the **CONTRACTOR**, 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 **CONTRACTOR** or the **CONTRACTOR's** ability to comply with the terms and conditions of this Contract.

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

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

- f. It warrants that the software supplied under this Contract are brand new, unused, of the most recent models, and that they incorporate all recent improvements in design and materials.

- g. It warrants to the **CLIENT**, in an unconditional, unqualified, absolute, full and direct manner the project subject of this Contract against incompatibilities or any defect, hidden, inherent or otherwise, which would render them unfit for the use for which they were intended, or which would diminish the fitness of their use to the extent that, had the **CLIENT** been aware thereof, it would not have acquired the same.

The acceptance of the project by the **CLIENT** shall not, at any given time, be deemed a waiver of any of the causes of action which the **CLIENT** may subsequently exercise by reason of any defect mentioned in the immediately preceding paragraph.

- h. It shall undertake to repair and/or replace during the warranty period any of the components of the system referred to in this Contract within the period stated above at no extra charge to the **CLIENT**. Should the **CONTRACTOR** fail to undertake the necessary remedial action within the required period, the **CLIENT** shall have the right to proceed to take such remedial action as may be necessary, at the **CONTRACTOR's** risk and expense and without prejudice to other rights which the **CLIENT** may have against the **CONTRACTOR** under the Contract and the applicable law.
- i. The obligation of the **CONTRACTOR** under this Contract, and other ancillary documents which may be executed in connection herewith, shall constitute its direct, absolute and unconditional obligation.

IV. CONSIDERATION/CONTRACT PRICE

For and in consideration of the supply, delivery and installation of the PBX System referred to in this Contract, as well as the services required to be provided thereon, and the compliance by the **CONTRACTOR** with any and all the terms and conditions specified herein, the **CLIENT** agrees to pay the **CONTRACTOR** the sum total of _____ (**Php**_____), Philippine currency, inclusive of any and all taxes (including, but not limited to, the applicable Value Added Tax), fees, duties and such other imposts or levies which may be required by the government, both national and local.

V. PAYMENT SCHEDULE

The amount of consideration referred to in the immediately preceding Section shall be paid by the **CLIENT** to the **CONTRACTOR** not earlier than seven (7) working days after the issuance by the **CLIENT** of a preliminary certificate of completion in favor of the **CONTRACTOR**.

All payments made under this Contract shall be subject to the auditing and accounting rules of the **CLIENT** and the Commission on Audit.

VI. RELATION OF THE PARTIES

The **CONTRACTOR** shall have no authority, express or implied, to assume or create any obligation or responsibility on behalf of or in the name of the **CLIENT** or bind the **CLIENT** in any manner whatsoever. The **CONTRACTOR's** personnel, representatives or staff shall not be construed as employees of the **CLIENT**. The **CONTRACTOR** is being engaged herein as an independent contractor. Nothing herein shall be construed as creating an employer/employee relationship between the **CONTRACTOR's** employees, representatives or staffs and the **CLIENT**.

VII. PERFORMANCE SECURITY

- a. To guarantee the faithful performance of the obligations and services required under this Contract, the **CONTRACTOR** shall, upon execution of this Contract, post in favor of the **CLIENT** a Performance Security in the form of (Form of Security) in an amount equivalent to (Minimum Amount in % of Total Contract Price).
- b. In the event that the Performance Security offered by the **CONTRACTOR** would be deemed inadequate or otherwise rendered unacceptable, the **CLIENT** shall have the right to require the **CONTRACTOR** to post additional performance security in the form and amount determined by the **CLIENT** and allowed under existing laws and regulations.
- c. The Performance Security shall be released not earlier than seven (7) working days from the end of this Contract's term upon the **CLIENT's** issuance of the certificate of completion. The Performance Security shall answer for any damage that the **CLIENT** may suffer by reason of the **CONTRACTOR'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 **CONTRACTOR** to the **CLIENT**, its employees and guests.
- d. The Performance Security shall be forfeited in favor of the **CLIENT** in the event that the **CONTRACTOR** 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 **CONTRACTOR** and the surety.
- e. Failure of the **CONTRACTOR** to comply with any of the terms and conditions of this Contract shall result in the forfeiture of the Performance Security.

VIII. LIQUIDATED DAMAGES

- a. In the event that the **CONTRACTOR** violates any of the terms and conditions of this Contract, or neglects 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 **CONTRACTOR** shall be liable for damages for such failure and shall pay the **CLIENT** liquidated damages in an amount equivalent to one-tenth (1/10) of one (1%) percent of the total contract price for every day of delay or breach, in addition to other remedies that the **CLIENT** may exercise under this Contract, pertinent laws, rules and regulations, until such services are finally delivered and accepted by the **CLIENT**. In the event that the total sum of liquidated damages or the total cost to the **CLIENT** of any such delay or inability by the Contractor to deliver its obligations exceeds 10% of the contract price, the **CLIENT** may terminate this Contract upon giving the **CONTRACTOR** written notice at least five (5) calendar days prior to the intended date of termination and impose other appropriate sanctions over and above the liquidated damages.

- b. The **CLIENT** need not prove that it has incurred actual damages to be entitled to liquidated damages. Furthermore, the **CLIENT** reserves the right to deduct any and all of the liquidated damages from any money due or payments which may become due to the **CONTRACTOR** under the terms of this Contract and/or from the securities/warranties filed/submitted by the **CONTRACTOR** as the **CLIENT** may deem convenient and expeditious under the prevailing circumstances.

IX. RETENTION MONEY

To ensure the full and faithful compliance by the **CONTRACTOR** 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 ten percent (10%) of the total amount due to the **CONTRACTOR** shall be deducted/retained or posted in favor of the **CLIENT** by the **CONTRACTOR**.

The retention money or the special bank guarantee shall be released to the **CONTRACTOR** only after the **CLIENT** shall have issued a final certificate of full acceptance of the project, which certificate shall be issued only after the lapse of the warranty period provided under Section I of this Contract; And provided, further, that the PBX System supplied/delivered/performed under this Contract are free from patent and latent defects and all conditions imposed under this Contract have been fully met.

X. INDEMNITY

The **CONTRACTOR** assumes full and complete responsibility as well as assumes any and all risks attendant or incidental to the selection of the equipment to achieve the intended result and for the installation, use and results obtained from it. The **CONTRACTOR** shall be directly, fully and solely liable to the **CLIENT** for any loss or damage that the **CLIENT** may sustain, and for any claim made against the **CLIENT** by a third party arising out of the use of a defective or malfunctioned equipment or inability to use such equipment. The loss or damage may be in the form of, but shall not be limited

to, loss of profits, revenue, data, records or costs of substitute goods or services, property damage, personal injury, interruption of business, loss of business information or for any special, direct, indirect, incidental, economic, cover, punitive, special or consequential damages, arising out of the use of or inability to use the equipment as intended.

The **CONTRACTOR** agrees to fully compensate, indemnify and hold harmless the **CLIENT** and its officers, directors, employees, and agents for any loss, damage, cost, expense, liability or claim suffered or incurred by, or made against the **CLIENT** arising out of the **CONTRACTOR's**, fraud, misrepresentation, negligence, omission or willful misconduct or breach of its warranty as provided herein.

The indemnity required herein shall be in addition to the forfeiture of the Performance Security

XI. SUSPENSION OF PAYMENT/TERMINATION FOR DEFAULT

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

In the event that such delay, default, failure or refusal continues for a period of more than ten (10%) percent of the Contract price or time, whichever comes first, inclusive of the duly granted time extension, if any, the **CLIENT** shall have the right to terminate this Contract upon giving the **CONTRACTOR** written notice at least five (5) calendar days prior to the intended date of termination. In addition, the **CLIENT** shall have the right to procure/engage the services of another contractor to complete the services required of the **CONTRACTOR** under this Contract. Any and all expenses that the **CLIENT** may incur in connection thereto shall be for the sole account of the **CONTRACTOR**.

The **CONTRACTOR** hereby agrees that the remedies mentioned above shall be understood to be without prejudice to other rights and remedies that the **CLIENT** may exercise under this Contract, applicable laws, rules and regulations.

XII. TERMINATION FOR UNLAWFUL ACTS

The **CLIENT** may terminate this Contract, after giving the **CONTRACTOR** written notice at least five (5) calendar days prior to the intended date of termination, whenever it is determined by the **CLIENT** that the **CONTRACTOR**

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 limited to, the following:

- a. Corrupt, fraudulent, and coercive practices as defined under R.A 9184 otherwise known as the "Government Procurement Reform Act;"
- b. Drawing up or using forged document;
- c. Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- d. Any other act analogous to the foregoing.

The **CONTRACTOR** hereby agrees that the termination referred to herein shall be understood to be without prejudice to other rights and remedies available to the **CLIENT** under this Contract or the applicable laws.

XIII. OTHER GROUNDS FOR TERMINATION

The **CLIENT** may terminate this Contract, in whole or in part, at any time for its convenience, after giving written notice to the **CONTRACTOR** at least five (5) calendar days prior to the intended date of termination, if it has been determined by the **CLIENT** that this Contract would be economically, financially or technically impractical and/or unnecessary on the part of the **CLIENT**; Provided, however, that the **CLIENT** shall accept, at the Contract terms and prices, the goods or services that have already been delivered and/or performed within thirty (30) calendar days prior to receipt by the **CONTRACTOR** of the Notice of Termination. For goods not yet performed/delivered but have already been purchased by the **CONTRACTOR** and are ready for delivery or performance prior to the actual receipt of the Notice of Termination by the **CONTRACTOR**, the **CLIENT** may elect to:

- a. Have any portion thereof to be delivered and/or performed and pay at the Contract terms and prices; and/or
- b. Cancel the remainder and pay to the **CONTRACTOR** an agreed amount for materials and parts previously purchased by the **CONTRACTOR**.

Provided, further, if the **CONTRACTOR** suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the **CLIENT** which cannot be sold in the open market, the **CONTRACTOR** shall be allowed to recover partially from the Contract on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the **CONTRACTOR** to the satisfaction of the **CLIENT** before recovery may be made

XIV. CONFIDENTIALITY

The **CONTRACTOR** agrees and acknowledges that the subject of this Contract may expose the **CONTRACTOR** to confidential information and that any disclosure of such information may subject **PDIC** to financial, material and operational loss, and therefore, the **CONTRACTOR** hereby agrees as follows:

- a. The **CONTRACTOR**, 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 confidential information relating to **PDIC** 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 **CONTRACTOR** 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 confidential information or knowledge gained or acquired during its engagement herein, unless it is granted prior written consent by **PDIC**:
- c. The **CONTRACTOR** agrees to assume sole responsibility and hereby undertakes to indemnify **PDIC**, for any damage, which **PDIC** may sustain by reason of breach of any of the above conditions.

XV. NON-WAIVER OF RIGHTS

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

XVI. MISCELLANEOUS PROVISIONS

- a. **Severability** - If any one or more provisions of this Contract shall, 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.
- b. **Binding Effect/Assignment of Rights** – This Contract shall be binding upon the **CONTRACTOR**, its partners, successors-in-interest, its legal representatives and assigns. Foregoing notwithstanding, the

CONTRACTOR shall not in any way assign, or transfer its rights and obligations under this Contract without the written approval of the **CLIENT**.

- 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 primarily, by the provisions of this Contract, and suppletorily by the provisions of R.A. 9184 otherwise known as the "Government Procurement Reform Act" and other applicable law, rules and regulations.

This Contract has been executed in English language, which shall be the binding and controlling language for all matters relating to the meaning and interpretation of this Contract. All correspondences and other documents pertaining to this Contract exchanged by the parties shall be written in English.

- e. **Documents Incorporated** – The provisions of this Contract shall be read together with the Terms of Reference and other related bid documents, which documents shall be considered integral part of the provisions and requirements of this Contract.
- f. **Notices** – Any notice, request or consent required or permitted to be given hereunder shall be in writing and shall be personally delivered or transmitted by registered mail with postage prepaid to the parties as follows:

To PDIC : Maria Belinda C. San Jose
c/o Renar M. Gonzales
Department Manager, TSD
6th Floor SSS Bldg.
6782 Ayala cor. V.A. Rufino
Makati City, 1226

To _____ :

- g. **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.
- h. **Attorney's Fees** - In the event that either party 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 incidental expenses 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**
Client

By:

MARIA BELINDA C. SAN JOSE
Vice President,
Information Technology Group
Date: _____
Place: _____

Contractor

By:

Date: _____
Place: _____

CERTIFICATION

This is to certify that pursuant to PDIC Board Resolution No. _____ dated _____, the amount of P _____ has been set aside and made available in the Corporate Operating Budget (COB) of the PDIC for the year _____ to cover the implementation of the approved _____ (name of the procurement project) for the year _____. The remaining amount of the contract, if any, shall be made available in the COB of the PDIC for the succeeding year.

IRENE DL ARROYO
Vice President, Treasury Group

SIGNED IN THE PRESENCE OF:

RENAR M. GONZALES
Manager, Technical Support Department

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
MAKATI CITY) S.S

BEFORE ME, a Notary Public, for and in the City of Makati on this ___ day of _____, 2014, personally appeared Ms. Maria Belinda C. San Jose with Community Tax Certificate/identification No. _____, issued on _____ at _____.

Known to me and to me known to be the same person who executed the foregoing document and she acknowledged to me that the same is her own free and voluntary act and deed as well as the Corporation which she represents, and that she is duly authorized to sign the same.

This instrument refers to a *Contract for the Supply, Delivery and Installation of PBX System*, consisting of twenty one (21) pages, including this page where the Acknowledgment is written, signed on each and every page thereof by the party and the instrumental witness and thereafter sealed with my notarial seal.

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

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2014.

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

BEFORE ME, a Notary Public for and in Makati City, on this _____ day of _____, 2014, personally appeared M _____, with Community Tax Certificate/Identification No. _____ issued on _____ at _____.

Known to me and to me known to be the same person who executed the foregoing instrument and he/she acknowledged to me that the same is his/her free and voluntary act and deed as well as of the corporation he/she represents, and that he/she is duly authorized to sign the same.

This instrument refers to *Contract for the Supply, Delivery and Installation of PBX System*, consisting of twenty one (21) pages, including this page where the acknowledgement is written, signed on each and every page thereof by the parties and their witness and thereafter sealed with my notarial seal.

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

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2014.

/contract PBX System2014/lsl1mydoc/jmcg