

CONTRACT OF SERVICE

KNOW ALL MEN BY THESE PRESENTS:

This Contract of Service (Contract), made and executed on _____ day of _____, 2020 in the Philippines, by and between:

The **DEVELOPMENT BANK OF THE PHILIPPINES**, a government financial institution operating under and by virtue of Executive Order No. 81, as amended by Republic Act No. 8523, with principal office at DBP Building, Sen. Gil Puyat Avenue cor. Makati Avenue, Makati City, represented in this act by its **President and Chief Executive Officer, MR. EMMANUEL G. HERBOSA**, hereinafter referred to as the "**DBP**",

and

MR. GAMALIEL C. PASCUAL, JR., of legal age, single/married, Filipino and with postal address at 153 Neptune Street Bel-Air Village, Makati City, Philippines, hereinafter referred to as the "**CONSULTANT**"

(also referred to individually as a "**Party**" and collectively, the "**Parties**").

WITNESSETH:

WHEREAS, **DBP** needs the advisory and consultancy services of a professional for the Bank's IT Applications and Digital Solutions;

WHEREAS, the procurement of a consultant is necessary in order for the consultant to render competent professional services not performed by the regular personnel of **DBP**;

WHEREAS, the **DBP** Board of Directors has approved the engagement of an IT consultant per Board Resolution No. 0505 dated 19 August 2020;

WHEREAS, the **CONSULTANT** represents and warrants that he possesses the necessary education, technical expertise and experience required for the deliverables as described therein;

WHEREAS, the **CONSULTANT** also represents that he is qualified to render said services as an independent Contractor and further warrants that he is not related within the third degree of consanguinity or affinity to any of the directors, officers, personnel or representatives of **DBP** negotiating and/or approving this Contract of Service and that, he has not been previously dismissed from government service by reason of an administrative offense;

NOW, THEREFORE, for and in consideration of the above premises, the Parties hereto agree to enter into this Contract of Service, subject to the following terms and conditions:

1. **DBP** shall engage the services of the **CONSULTANT** under the terms and conditions hereinafter set forth.
2. The **CONSULTANT** agrees to perform the advisory and consultancy services as described above, pursuant to and in accordance with the terms and conditions of this Contract and the deliverables more particularly described in the Terms of Reference, Evaluation of Requirements/Qualifications and Notice of Award attached hereto as Annexes "A" "B" and "C" respectively (the "Services").
3. The **CONSULTANT** is an independent contractor and is not, by this Contract or anything herein contained, constituted or appointed as an agent or employee of **DBP** for any purpose whatsoever, nor shall anything herein contained be deemed or construed as granting to the **CONSULTANT** any right or authority to assume or to create any obligation or responsibility, express or implied, for or on the behalf of **DBP**, or bind **DBP** in any way whatsoever.
4. For the Services rendered, **DBP** shall pay the **CONSULTANT** a professional fee in the amount of **Pesos: One Million Four Hundred Thirty Nine Thousand One Hundred (PhP 1,439,100.00)**, subject to applicable tax, payable via credit to his deposit account with **DBP** no later than fifteen (15) days following the submission by the **CONSULTANT** of invoices or billing statements in duplicate to the designated



Coordinator and the issuance by **DBP** of the Certificate of Acceptance, subject to the usual government audit/ accounting/ procurement policies.

The **Expanded Withholding Tax (EWT)** due to the government shall be withheld by the **DBP** from any payment made to the **CONSULTANT**. The EWT deducted by **DBP** shall be at the rate prescribed by the Bureau of Internal Revenue (BIR), and shall be remitted directly to the BIR. It shall be indicated in the creditable withholding tax return to be filed with the BIR that the tax being withheld is to be credited to the **CONSULTANT**. The **Certificate of Creditable Tax Withheld** at Source shall be submitted by **DBP** to the **CONSULTANT** within fifteen (15) calendar days from receipt of payment by the **CONSULTANT**.

5. The professional fee mentioned above shall represent all that is demandable under this Contract of Service. The **CONSULTANT** shall not be entitled to the usual benefits afforded to regular, casual and contractual **DBP** personnel like vacation leave, sick leave, forced leave, rice subsidy, representation and travel allowance.
6. All taxes and other charges levied with respect to any and all payments made by reason of this Contract of Service or execution thereof shall be borne by the **CONSULTANT**.
7. This Contract of Service shall be effective for a period of six (6) months that will commence upon receipt of the **CONSULTANT** of the Notice to Proceed, unless sooner terminated with or without cause by either of the parties upon service of thirty (30) days' prior written notice.
8. The **CONSULTANT** obligates himself to perform and complete all services within the specified period beginning from the starting date, exclusive of such extensions of time as may be mutually agreed upon. Should the **CONSULTANT** fail to complete the services within the stipulated time, liquidated damages, not by way of penalty, shall be paid to **DBP** by the **CONSULTANT** in an amount equal to one-tenth of one percent (1/10 of 1%) of the unfulfilled milestone/deliverable for each calendar day of delay until the services are completed.
9. The Parties fully understand the following:
 - a. This contract of service does not create an employer-employee relationship between the **DBP** and the **CONSULTANT**.
 - b. That the Services rendered hereunder will not be credited as government service.
 - c. The **CONSULTANT** shall work closely with the Head of IT Planning who is the designated as the Coordinator for the activities under the subject Contract. The Coordinator shall be responsible for the following: *i*) overseeing the aforesaid activities; *ii*) acceptance and approval of the required reports and other deliverables to **DBP**; and *iii*) receipt and approval of invoices submitted for payment of consultancy fees.
 - d. The **CONSULTANT** undertakes to perform the herein Services with the highest standards of professional and ethical competence and integrity.
 - e. The **CONSULTANT** likewise agrees to protect and maintain the confidentiality of **DBP**'s confidential data and information acknowledged or received by the **CONSULTANT** under this Contract of Service. The **CONSULTANT** shall not disclose or transfer any confidential information to any third party without **DBP**'s prior written consent.
 - f. Upon termination or expiration of this Contract of Service, the **CONSULTANT** shall return any and all documents, information or software containing any of such confidential information to **DBP** or destroy or delete all of such confidential information from any memory devices in the presence of a **DBP** representative, and cease to use them for any purpose whatsoever.

g. The **CONSULTANT**'s breach of the confidentiality provision shall entitle DBP to legal and other equitable remedies including but not limited to the immediate cancellation of the contract and shall entitle **DBP** for claim for damages and injunctive relief under the circumstances. **DBP** may also elect to terminate further access by the **CONSULTANT** to any data and information.

h. Section 9e, f, and g shall survive the expiration or termination of this Contract of Service.

i. Any report on studies or other material, graphic, software or otherwise prepared by the **CONSULTANT** for **DBP** under this Contract shall belong to and remain the property of **DBP**. The **CONSULTANT** may retain a copy of such documents and software.

j. The **CONSULTANT** agrees that it shall give **DBP**, the Bangko Sentral ng Pilipinas (BSP), and other regulatory agencies the right to audit/ examine the/ access to the (i) necessary information regarding the Services in order for **DBP**, BSP, or such other regulatory agencies to fulfill their respective responsibilities; (ii) the operations of the **CONSULTANT** in order to review the same in relation to the Services; and, (iii) necessary financial information of the **CONSULTANT**.

k. The **CONSULTANT** warrants that it shall be required to immediately take the necessary corrective measures to satisfy the findings and recommendations of the BSP examiners and those of the internal and/or external auditors of **DBP**.

10. The **CONSULTANT** shall not assign this Contract or sub-contract any portion thereof without the prior written consent of the **DBP**.

11. Should any provision of this Contract be declared or become wholly or partly illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions of this Contract shall not be affected as a result. The same applies in case the Contract contains a gap in its provisions. Instead of the provisions which are ineffective or impracticable, or to fill the gap, a suitable provision should apply which, insofar as legally possible, comes closest to the original intention of the Parties. Should individual stipulations exceed the duration of this Contract, such stipulations will remain valid even after the effectivity thereof.

12. This Contract shall be governed and construed in accordance with the provisions of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act and other applicable laws of the Republic of the Philippines. Venue of all actions arising from this Contract shall be brought exclusively to the jurisdiction of the appropriate courts of Makati City, Philippines.

13. The **CONSULTANT** acknowledges that under existing **DBP** policy, no gift, fee, commission or benefit in favor of any of **DBP**'s officers and/or employees and/or any other persons is required as a condition to, or **CONSULTANT** as an additional consideration for, the award of the Contract to the **CONSULTANT**. The **CONSULTANT** further acknowledges that under **DBP**'s Code of Ethics, **DBP**'s personnel have the duty to report to superior officers any possible violation of the policy.

14. The **CONSULTANT** is aware that **DBP** is a government-owned and controlled corporation and that the receipt by any of **DBP**'s officers and/or employees and/or other persons, as well as the giving by the **CONSULTANT** unless opportunely disclosed pursuant to the provisions of (Presidential Decree No. 749) of such gift, fee or commission, are crimes punishable under the provisions of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019), Title VII of the Revised Penal Code on Crimes Committed by Public Officers, the Code of Conduct and Ethical Standards for Public Officers and Employees (R.A. No. 6713), the Plunder Law (R.A. No. 7080), as well as under other applicable laws and governing presidential decrees. The **CONSULTANT** further acknowledges **DBP**'s policy to refer any such violation to the proper government agency for criminal prosecution.

15. Either Party warrants that the execution and delivery of the Contract, and the performance of its obligations herein does not contravene or constitute a default in any agreement it has with a third party. Either Party shall hold the other Party free

and harmless from any suits or damages that a third party may file or claim against either contracting Party in the conduct of either Party's business dealings and transactions.

16. Both Parties acknowledge that this Contract constitutes the entire agreement between them and shall completely supersede all other prior understandings, previous communications or contracts, oral or written, between the Parties relating to the subject matter hereof.
17. The Parties agree to supplement/amend/restate this Contract, including all its amendments/supplements, to incorporate the comments/revisions, if any, of the Office of the Government Corporate Counsel, with effect from the date of signing thereof.
18. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, all of which shall be considered an original, and which when taken together shall be deemed to constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have signed these presents at the place and on the date above written.

**DEVELOPMENT BANK
OF THE PHILIPPINES**

BY:

EMMANUEL G. HERBOSA

President & CEO

AVP DEXTER I. TAN

GAMALIEL C. PASCUAL, JR.

Consultant

Signed in the presence of:

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
Makati City

) SS.

NOV 20 2020

Name	Competent Evidence of Identity	Place & Date Issued
Development Bank of the Philippines	TIN No. 000-449-609-000	
Emmanuel G. Herbosa	Passport # P0038751A	DFA NCR South/ 25 Aug. 2016

Known to me to be the same person who executed the foregoing instrument and acknowledged to me that the same is his free and voluntary act and deed, as well as that of the corporation President Herbosa represents. This instrument refers to a Contract of Service consisting of eleven (11) pages, including Annexes A, B, & C and all pages have been signed by the parties and witnesses.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the date above written.

Notary Public

Atty. PATRICIA C. VELARDE

Notary Public

Appointment No. *M-460*

Makati City, Until December 31, 2020

10th Flr. DBP Bldg., Sen. Gil Puyat Ave., Makati City

Roll No. 63138, IBP No. 012609 (Lifetime)

PTR Exempt Under RA7160

Doc No. *408*
Page No. *43*
Book No. *10*
Series 2020.

ACKNOWLEDGMENT

Name	Competent Evidence of Identity	Place & Date Issued
Gamaliel C. Pascual, Jr.	DL X01-81-012165	Makati City, 01 April 2019

Known to me to be the same person who executed the foregoing instrument and acknowledged to me that the same is his free and voluntary act and deed. This instrument refers to a Contract of Service consisting of eleven (11) pages, including Annexes A, B & C and all pages have been signed by the parties and witnesses.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the date above written.

Notary Public

Doc No. _____
Page No. _____
Book No. _____
Series 2020.

Annex A
Terms of Reference (TOR)

Terms of Reference (TOR)

Project Name : Consultancy Service for IT Applications and Digital Solutions

I. Approved Budget for the Contract (ABC)

One Million Four Hundred Thirty-Nine Thousand and One Hundred Pesos
(₱1,439,100.00) for six (6) months

II. Duration of Project

Six (6) Months

III. Minimum Requirements

A. Education:

Must have an Engineering background and Master's degree in Marketing or Management preferably from an International/reputable university.

B. Experience:

Must have at least two (2) decades of relevant experience and have engaged/served to at least three (3) banking and/or financial services institution

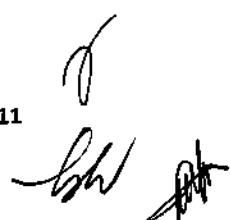
C. Exposure:

1. High Level interaction, engagement and/or relationships with Banco Sentral ng Pilipinas (BSP) regarding its regulations and fiduciary compliance covering digital payments;
2. Senior level experience with establishing and operating settlement and payment system;
3. Senior level experience with establishing and operating electronic commerce marketplaces;
4. Senior level experience with establishing digital legal document repositories/registries;
5. Multilateral engagements (e.g., paid consultancy with World Bank, Asian Development Bank, etc.) on digital commerce and cyber security;

6. Experience in implementing requirements on E-Commerce law and Supreme Court Rules of Evidence in electronic commerce marketplaces especially in the areas of electronic Know-Your-Customer (eKYC) and legal enforceability of digital contracts;
7. With programming experience;
8. Familiarity with ISO 20022 messaging standard;
9. Experience in cross border cross currency payments to be utilized for including lower class municipalities currently unserved by electronic banking service.

IV. Deliverables

Scope of Services	Milestones	Delivery Schedule/ Target Deadline	% of Total Contract Price
<p>A. Real time consumer and institutional settlements</p> <ol style="list-style-type: none"> 1. Establish a virtual team that includes the project teams of DBP & BSP responsible for the activation of PhilPass Plus. The team will document the progress of testing PhilPass Plus; 2. Document the potential of PhilPass Plus; 3. Develop a strategy for providing rural banks direct access to PhilPass Plus; 4. Develop a roadmap for establishing a universal digital wallet using DSWD's 4Ps program as Proof of Concept (POC) 	<p>Written reports on;</p> <p>A) detailing the results and achievements of the joint project team to be established between DBP and BSP.</p> <p>B) integration of rural banks that agree to form part of DBP's virtual extension branch strategy. This will include an association and membership framework mutually acceptable to DBP and Rural Banks</p> <p>C) technology roadmap for an interoperable digital wallet acceptable to schools, grocery stores, pharmacies, and health facilities</p>	<p>End of 6th Month</p>	<p>50%</p>



<p>B. Work from home business continuity policy and procedures manual using MS Teams</p> <p>DBP assumes that until a vaccine is delivered or the virus burns out, lockdowns will be the norm. DBP has yet to exploit its Office 365 suite of applications. Fully utilized, Office 365 renders the issue of location irrelevant as it has all the tools for DBP personnel to meet, set goals and measure results.</p>	<p>Written policy and procedure manual for regulating online attendance for work, accounting for work output against budgeted targets.</p> <p>Work environment will be patterned after how a university is run where a syllabus is prepared, classes are scheduled, and achievements are measured</p>	<p>End of 3rd Month</p>	<p>40%</p>
<p>C. Risk management policy and procedures manual for reopening the economy</p> <p>1. Establish an enterprise-wide risk management approach with LGUs for reopening their respective economies in the face of COVID-19;</p>	<p>Written enterprise wide risk management policy and procedure manual that is co-developed with participating local governments. Emphasis of the manual will be on reopening tourist destinations.</p>	<p>End of 6th Month</p>	<p>10%</p>

V. Other requirements if awarded the contract

1. **Availability of the services within seven (7) calendar days after receipt of Notice to Proceed (NTP)**
2. **Confidentiality**
 - a) Acknowledgement that any information which DBP furnishes are classified as confidential and will not be disclosed in any manner and to any person unless prior written consent approved by the DBP Management;

b) During the entire duration of the engagement and this agreement the Consultant is bound to a strict code of professional ethics and confidentiality and, as such,

shall not release the name or any commercial-in-confidence information of DBP to any person and entity without prior written consent approved by DBP Management;

c) The Consultant, within fifteen (15) days from the end of contract, shall turn over to the Bank all documents, tools and materials pertaining to the implementation of the project.

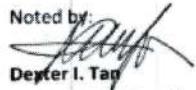
3. Terms of Payment

- a. Payment will depend on the percentage of Contract price based on Milestone submission set on the delivery schedule/target deadline of Deliverables, and shall be within fifteen (15) working days from the submission of statement of account/billing;
- b. Payment shall be made through provider's DBP Account number. The Consultant shall be required to open a bank account with DBP for the payment.
- c. All payments are subject to applicable withholding taxes.



Annex B
Evaluation of Requirements/Qualifications
(Refer to attachment)

REQUIREMENTS	EVALUATION CRITERIA
1. High Level interaction, engagement and/or relationships with Banco Sentral ng Pilipinas (BSP) regarding its regulations and fiduciary compliance covering digital payments;	<ul style="list-style-type: none"> - Specified in Personal profile/Curriculum Vitae - Document/s to prove completion of previous contract that necessitated close interaction with senior leaders
2. Senior level experience with establishing and operating settlement and payment system	<ul style="list-style-type: none"> - Supported by evidence e.g. any documentation that shows key participation in the implementation of the settlement and payment systems.
3. Senior level experience with establishing and operating electronic commerce marketplaces;	
4. Senior level experience with establishing digital legal document repositories/registries;	
5. Multilateral engagements (e.g., paid consultancy with World Bank , Asian Development Bank, etc.) on digital commerce and cyber security;	<ul style="list-style-type: none"> - Document/s to prove completion of previous contract that necessitated close interaction with senior leaders
6. Experience in implementing requirements on E-Commerce law and Supreme Court Rules of Evidence in electronic commerce marketplaces especially in the areas of electronic Know-Your-Customer (eKYC) and legal enforceability of digital contracts;	<ul style="list-style-type: none"> - Document/s to prove completion of previous contract that necessitated close interaction with senior leaders
7. With programming experience;	<ul style="list-style-type: none"> - Supported by evidence e.g. applicable certification, certificates of attendance/completion of trainings/seminar attended
8. Familiarity with ISO 20022 messaging standard;	
9. Experience in cross border cross currency payments to be utilized for including lower class municipalities currently unserved by electronic banking services	

Noted by:

Dexter I. Tan
Assistant Vice President

Annex C
Notice of Award

NOTICE OF AWARD

14 September 2020

MR. GAMALIEL C. PASCUAL, JR.
153 Neptune St., Bel Air Village
Makati City, Philippines 1209

Subject : Consulting Services for IT Applications and Digital Solutions

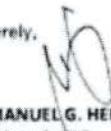
Dear Mr. Pascual,

We are pleased to inform you that the Development Bank of the Philippines hereby awards you the contract for the above-cited subject for six months period in the total contract amount of One Million Four Hundred Thirty Nine Thousand One Hundred Pesos (₱1,439,100.00) inclusive of all applicable taxes.

Please signify your conformity by affixing your signature on the space provided below. Kindly return the duly signed Notice of Award to the BAC Secretariat, 6/F DBP Building, Makati Avenue, Makati City.

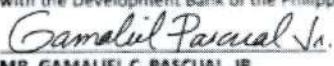
Thank you.

Sincerely,


EMMANUEL G. HERBOSA
President & CEO

ACCEPTANCE / CONFORME

The undersigned accepts the award of contract and signifies conformity to enter into contract with the Development Bank of the Philippines for the above requirement.


MR. GAMALIEL C. PASCUAL, JR.
Date: Sept 16, 2020

Note: Kindly email to the bac-sec@dbp.ph and bacsecretariat@dbp.ph or fax to (632) 8151614 to acknowledge receipt.