

## SOFTWARE MAINTENANCE SUBSCRIPTION AGREEMENT

This **Software Maintenance Subscription Agreement** ("Agreement") executed this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ by and between:

**SOLUTIONS EXCHANGE, INC.**, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Unit A17 Trident Tower, 312 Sen. Gil Puyat Avenue, Bel-air, Makati City, represented herein by its President and CEO, **MR. ULYSES SIMOUN K. TY**, per Board Resolution as shown in the attached Secretary's Certificate dated 24 February 2025 (Annex "K"), hereinafter referred to as "**SUPPLIER**;"

- and -

**DEVELOPMENT BANK OF THE PHILIPPINES**, a government financial institution duly created and existing under and by virtue of the provisions of Executive Order No. 81, otherwise known as the "1986 Revised Charter of DBP", as amended by Republic Act No. 8523 dated 14 February 1998, with principal office at DBP Building, Sen. Gil Puyat Avenue corner Makati Avenue, Makati City, represented in this act by its Senior Vice-President and Officer-in-Charge (OIC) of Branch Banking Sector, **M**

**D**, duly authorized for this purpose as evidenced by a Secretary's Certificate dated 18 June 2024 (Annex "L"), hereinafter referred to as "**DBP**."

(Each, a "Party", and collectively, the "Parties").

WITNESSETH: That

**WHEREAS**, the **SUPPLIER** has provided **DBP** with: (a) a license for **Cash Management System** (the "Software") under the Software License Agreement dated 5 November 2015 ("Software License Agreement"); and (b) Maintenance Services subscription for the Software (the "Subscription") under the Software Maintenance Agreement dated 09 October 2020, Supplemental Agreement dated 19 January 2022, Software Maintenance Agreement dated 06 October 2022, Software Maintenance Subscription Agreement dated 03 August 2023 and Software Maintenance Subscription Agreement dated 12 September 2024 (collectively, the "Contract");

**WHEREAS**, the Software Maintenance Subscription Contract has expired on 31 March 2025 and **DBP** has agreed to renew the same, through Direct Contracting as an alternative method of procurement under the Implementing Rules and Regulations of Republic Act No. 12009, otherwise known as the "New Government Procurement Act", for **DBP**'s continued operations, support and maintenance of the Software;

**NOW THEREFORE**, for and in consideration of the foregoing premises, the Parties have agreed to enter into this Agreement under the terms and conditions set forth below, including the Annexes.

### 1. DEFINITIONS

Certain terms used in this Agreement are defined in **Annex "A"**. Other terms used in this Agreement are defined where they are used and have the meanings there indicated in the Software License Agreement and Contract. Unless otherwise specifically defined herein or the Software License Agreement or the Contract, those terms, acronyms and phrases in this Agreement that are utilized in the IT services industry or other pertinent business context shall be interpreted in accordance with their generally understood meaning in such industry or business context.

### 2. SOFTWARE AND SCOPE OF SUBSCRIPTION

The Software and the Scope of Subscription covered by this Agreement are set forth in **Annexes "B" and "C"**, respectively.

### 3. CONTRACT PRICE

For and in consideration of the Subscription under this Agreement, **DBP** shall pay the amount of **PESOS: ELEVEN MILLION SIX HUNDRED SEVEN THOUSAND FIVE HUNDRED TWENTY-THREE AND 20/100 (PhP11,607,523.20)** for the entire Term as herein defined, inclusive of all applicable taxes and fees, hereinafter referred to as the "Contract Price".

### 4. PAYMENT TERMS AND CONDITIONS

**DBP** shall pay the Contract Price on a quarterly basis as set forth below to the **SUPPLIER** via credit to its deposit account with **DBP** within fifteen (15) calendar days from its receipt of the **SUPPLIER**'s sales invoice and the issuance by **DBP** of the Certificate of Acceptance (which shall be issued and delivered by **DBP** to the **SUPPLIER** on a quarterly basis within five (5) business days from issuance of the sales invoice by the **SUPPLIER**), as well as the **SUPPLIER**'s submission of the documentary requirements enumerated under the Technical Specifications (Annex "G"), hereof, if any, subject to the usual government audit/accounting/procurement policies, provided the **SUPPLIER** has generated a positive performance assessment to be conducted by **DBP** in accordance with established metrics, which shall be mutually agreed in writing by the Parties.

Quarter	Quarterly Payment	Date of Issuance of sales invoice by the Supplier
1 <sup>st</sup> (April 1, 2025 – June 30, 2025)	Pesos: Two Million Nine Hundred One Thousand Eight Hundred Eight & 80/100 (PhP 2,901,880.80)	July 1, 2025
2 <sup>nd</sup> (July 1, 2025 – September 30, 2025)	PhP 2,901,880.80	October 1, 2025
3 <sup>rd</sup> (October 1, 2025 – December 31, 2025)	PhP 2,901,880.80	January 1, 2026
4 <sup>th</sup> (January 1, 2026 – March 31, 2026)	PhP 2,901,880.80	April 1, 2026

The **Expanded Withholding Tax (EWT)** due to the government shall be withheld by the **DBP** from any payment made to the **SUPPLIER**. 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 **SUPPLIER**. The **Certificate of Creditable Tax Withheld** at Source shall be submitted by **DBP** to the **SUPPLIER** within fifteen (15) calendar days from receipt of payment by the **SUPPLIER**.

### 5. TERM AND TERMINATION

- A. TERM.** This Agreement shall be for a period of **one (1) year** commencing on **01 April 2025** until **31 March 2026** and shall be terminated earlier when either or both Parties decide to terminate it in accordance with the provisions on *Termination*, hereinafter set forth.
- B. TERMINATION BY EITHER PARTY.** When either of the Parties commits a substantial breach of its obligation and such breach is not

corrected within thirty (30) days from the date of receipt of written notice of termination, duly served to the defaulting Party by the other Party, the other Party may terminate this Agreement.

**C. TERMINATION DUE TO DBP'S DEFAULT.** In the event of termination due to **DBP's** default of any of its obligations under this Agreement, the following shall apply:

1. The **SUPPLIER** shall retain any payment received under this Agreement. **DBP** shall pay any outstanding invoices within fifteen (15) days from the effectivity of the termination date less any amount due to **DBP** and provided all those covered in the invoices are delivered and accepted by **DBP** as provided in Sections 4 and 7.
2. **DBP** shall pay for any agreed deliverables as stated in the Agreement delivered by the **SUPPLIER** but not yet invoiced within fifteen (15) days from the receipt of the invoices.
3. When payments have been made by **DBP**, the **SUPPLIER** shall deliver all materials and other deliverables due as of termination date.

The **SUPPLIER's** right to the foregoing payments is without prejudice to its rights to claim for damages and all costs incurred in claiming the same as provided under this Agreement, the Software License Agreement, and applicable law as a consequence of the default.

**D. TERMINATION DUE TO SUPPLIER'S DEFAULT.** In the event of termination due to the **SUPPLIER's** default, the **SUPPLIER** shall refund to **DBP**, within thirty (30) days from receipt of notice of termination thereof, the applicable Contract Price from termination date to expiry date of the Agreement pro-rated on a per month basis. **DBP's** right to refund is without prejudice to its right to claim damages and act on/claim against the Warranty Security set forth in Section 6 hereof, subject to the limitation of liability under Section 10 hereof.

**E. TERMINATION WITHOUT DEFAULT.** Either of the Parties may terminate this Agreement by serving a thirty-(30) day written notice to the other party prior to the intended date of termination upon the written instruction of the Bangko Sentral ng Pilipinas (BSP), subject to Section 5 (C).

**F. DATA DICTIONARY.** **DBP** shall provide a written notice to the **SUPPLIER** at least sixty (60) days prior to the termination of this Agreement for any cause in order to transition to a replacement solution from a different provider. Upon receipt of the written notice, the **SUPPLIER** shall provide the Data Dictionary to **DBP**. Should **DBP** request for any consultancy services from the **SUPPLIER** in relation to the Data Dictionary, this shall be a chargeable service, based on the prevailing man-day rate of the **SUPPLIER**.

In case of merger, consolidation and/or change in name, change in ownership, assignment, attachment of assets, insolvency, or receivership of the **SUPPLIER**, and **DBP** exercises its right of termination under Section 5 (D) and 5(E) hereof, the **SUPPLIER** shall likewise provide **DBP** the consultancy services relative to the Data Dictionary, **subject to the payment by DBP of the SXI's fees and charges relative to such consultancy services** and in accordance with the provisions of this Section 5 (F), provided that the merger, consolidation, change in name and change of ownership of the **SUPPLIER**, where there is no adverse effect on **SUPPLIER's** ability to perform its obligation under this Software Maintenance Subscription Agreement, shall not constitute a ground for the termination of this Software Maintenance Subscription Agreement. For the avoidance of

doubt, the surviving or consolidated corporation shall assume all liabilities and obligations under the terms of this Agreement, provided that the **SUPPLIER** and/or the surviving or consolidated corporation submits proof of such merger or consolidation acceptable to **DBP**.

- G. BUSINESS CONTINUITY PLAN.** The **SUPPLIER** warrants that it has existing Business Continuity Plan which includes continuity service and disaster recovery plans that minimize the probability and impact of interruptions to **DBP** and an exit plan to be implemented upon termination of this Agreement that provides, among others, for transition assistance should the **SUPPLIER** convert to other service providers or other arrangements.

**6. WARRANTY SECURITY**

The **SUPPLIER** is required to submit a Letter of Confirmation for the Warranty Security in the form of Retention Money in the amount equivalent to five percent (5%) of the Contract Price. The Warranty Security shall be effective for the Term as provided in Section 5 (A) and will only be released after the lapse of the Term, provided, however, that **DBP** has no claims filed against the **SUPPLIER** in connection with this Agreement, and provided further, that the Subscription delivered are free from patent and latent defects and all the conditions imposed upon **SUPPLIER** under this Agreement for the payment and/or release of the Warranty Security have been fully complied with by the **SUPPLIER**.

In the event of any extension of the Agreement, the Warranty Security shall be renewed accordingly, provided that the extension is mutually agreed upon by the Parties. The amount of the Warranty Security for the subsequent contract term/extension period shall be determined subject to the terms and conditions of the said extension.

**7. CHANGE REQUESTS**

Additional **SUPPLIER** man-days will be charged at **Pesos: Twenty-Eight Thousand (Php28,000.00)** (VAT Inclusive) per man-day for servicing of approved Change Order Request ("COR"), which shall likewise be governed by the terms and conditions of the Software License Agreement and this Agreement. The **SUPPLIER** shall not implement any COR unless the Parties agree in writing therefore, and comply with applicable governmental procurement requirements.

**8. GOOD FAITH**

The Parties shall assist each other with fairness, equity and efficiency in overcoming their difficulties for the satisfactory performance of their obligations under this Agreement.

**9. RIGHT TO AUDIT AND CORRECTIVE ACTION CLAUSES**

The **SUPPLIER** agrees that it shall give **DBP**, **BSP**, and the Commission on Audit (COA) the right to audit/examine/access to the (i) necessary information regarding the Subscription in order for **DBP** to fulfill their respective responsibilities; (ii) the operations of the **SUPPLIER** in order to review the same in relation to the Subscription; and (iii) necessary financial information of the **SUPPLIER**.

The **SUPPLIER** agrees that **DBP** shall have the right to conduct **SUPPLIER**'s performance assessment with respect to its Subscription based on established metrics, which shall be provided to the **SUPPLIER** upon signing this Agreement.

The **SUPPLIER** 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**,

provided that the parties shall agree in writing on the appropriateness and terms and conditions, and the payment of the corresponding service fees, if any, for the implementation of the necessary corrective measures.

The immediately preceding fiscal/calendar year-end was the last independent and/or third-party audit/review conducted by **DBP**.

#### 10. **LIABILITY CLAUSE**

- A. The **SUPPLIER** acknowledges that time is of the essence in this Agreement. Should the **SUPPLIER** fail to respond within the time specified in Annex "C", the **SUPPLIER** shall be liable to **DBP** with a penalty in the amount of one tenth of one percent (0.1%) of the Maintenance Fee, as liquidated damages for every ticket. Once the amount of liquidated damages reaches ten percent (10%), **DBP** may rescind or terminate this Agreement pursuant to Section 5 hereof, without prejudice to other courses of action and remedies open to it. The aforesaid penalty shall be due only if the delay in meeting the Response Time is caused solely or principally by **SUPPLIER**'s own fault or gross negligence, and such delay is not the direct effect of the **DBP**'s failure to meet its obligation(s) towards the **SUPPLIER** as provided under this Agreement or if the reason is not due to any force majeure event. The amount of liquidated damages shall be deducted from the Retention Money.
- B. Any and all claims, liabilities, damages, suits, or causes of action of whatever nature or kind, now or hereafter arising from or in connection with this Agreement, including but not limited to those resulting from or as a consequence of the acts of employees, personnel, or representatives of the **SUPPLIER**, shall be for the account of the **SUPPLIER**. The **SUPPLIER** shall indemnify **DBP**, its directors, officers, employees, successors, and assigns against any and all claims for losses, liabilities, and damages, and hold them free and harmless therefrom. The obligations of the **SUPPLIER** under this provision shall survive the termination of this Agreement.
- C. Notwithstanding any provision to the contrary under this Agreement, however, the aggregate amount of damages which the **SUPPLIER** shall be liable to **DBP** or any other party under this Agreement for any cause whatsoever, shall not exceed the aggregate amount of the Maintenance Fees received by **SUPPLIER** under this Agreement.

#### 11. **INFRINGEMENT INDEMNITY**

The **SUPPLIER**, at its own expense, agrees to (a) defend any claim or suit against **DBP** on the basis of infringement of any copyright, trademark, trade secret or patent ("Intellectual Property Rights") in connection with **DBP**'s use of the Software, and (b) pay any final judgment entered against **DBP** on such issue or any settlement thereof, provided that **DBP** shall:

- (i) Give the **SUPPLIER** sole control of the defense and/or settlement;
- (ii) Notify the **SUPPLIER** promptly in writing of each of such claim or suit and give the **SUPPLIER** all information known to **DBP** relating thereto, and
- (iii) Cooperate with the **SUPPLIER** in the settlement and/or defense.

**DBP** will be reimbursed for all reasonable out-of-pocket expenses incurred in providing any cooperation requested by the **SUPPLIER**.

If all or any part of the Software is, or in the opinion of the **SUPPLIER** may become, the subject of any claim or suit for infringement of any Intellectual Property Right, or in the event of any adjudication that the Software or any part does infringe, or if **DBP**'s use of the Software or any part is enjoined, the **SUPPLIER**, at its expense, may either: (a) procure for **DBP** the right to Use the Software or the affected part; (b) replace the Software or affected part; (c) modify the Software or affected part to make it non-infringing; or (d) if none of the



foregoing remedies are commercially and reasonably feasible, refund to **DBP** the license fees received by the **SUPPLIER** for the Software.

The **SUPPLIER** shall have no obligation to the extent a claim is based upon (a) use of any version of the Software other than a current, unaltered version, if infringement would have been avoided by a current, unaltered version; (b) combination, operation or use of the Software with other software and/or hardware not delivered by the **SUPPLIER** or recommended by the **SUPPLIER** in the Documentation, if such infringement could have been avoided by not combining, operating or using the Software with such other software and/or hardware, or (c) any modifications to the Software which were not made by the **SUPPLIER**.

## **12. CONFIDENTIALITY**

The Parties hereby agree to comply with confidentiality requirements set forth in **Annex "D"** hereof.

In the event of any violation of R.A. No. 1405 (the "Bank Secrecy Law"), the Parties shall be solidarily liable, thus, **DBP** may take action against the **SUPPLIER** for breach of confidentiality or any form of disclosure of Confidential Information, and the **SUPPLIER** may be held liable for the applicable penalties as may be provided by prevailing laws, rules and regulations, subject to the Limitation of Liability as stated under Section 10 (C).

## **13. DATA PROTECTION AND SEGREGATION**

Unless prohibited by applicable law, the **SUPPLIER** may disclose **DBP** Information to third parties providing services on its behalf who Process in the various jurisdictions in which they operate either for purposes related to the provisions of the Subscription, and/or to comply with regulatory requirements, to check conflicts, for quality, risk management or financial accounting purposes and/or the provision of other administrative support services (collectively "Process Purposes"), provided that the written consent of **DBP** has been secured, and provided further that the **SUPPLIER**, its affiliates and third parties to whom the confidential information were disclosed shall strictly adhere to the confidentiality of the information. The **SUPPLIER** shall be responsible for maintaining the confidentiality of **DBP** Information.

Whenever applicable in performing its obligations under this Agreement, the **SUPPLIER** shall, at all times, comply with the provisions of Republic Act No. 10173 or "the Data Privacy Act of 2012," its Implementing Rules and Regulations, and all other laws and government issuances which are now or will be promulgated relating to data privacy, segregation and the protection of personal information.

## **14. PROPERTY RIGHTS**

- A. All memoranda, reports, working papers, schedules, computer records and data bases and any other such material (collectively defined as "**DBP** Data") produced/processed, provided and/or transferred by **DBP** to the **SUPPLIER** in the course of the use of the Software and performance of the Subscription shall at all times be the property of **DBP**, and the same shall not in any way be reproduced or duplicated. Upon termination or expiration of this Agreement or at such other time as **DBP** may request, the **SUPPLIER** shall return all the **DBP** Data to **DBP**.
- B. All memoranda, reports, working papers, schedules, computer records and data bases and any other such material (collectively defined as "**SUPPLIER** Data") produced/processed, provided and/or transferred by the **SUPPLIER** to **DBP** in the course of the use of the Software and performance of the Subscription shall at all times be the property of the **SUPPLIER**, and the same shall not in any way be reproduced or duplicated. Upon termination or expiration of this Agreement or at such

other time as the **SUPPLIER** may request, **DBP** shall return all the **SUPPLIER** Data to the **SUPPLIER**.

#### **15. PROPRIETARY AND OWNERSHIP**

All of the copyright and intellectual property rights in the Software and Documentation and all copies thereof are owned by the **SUPPLIER** or its subsidiaries, or their respective suppliers and are protected by copyright and/or trade secret laws and international treaty provisions. **DBP** acquires only the non-exclusive, non-transferable right to use the Software and Documentation as permitted herein and the Software License Agreement, and do not acquire any rights of ownership in the said Software or Documentation, subject to Section 26 hereof, "*Successors-In-Interest*."

#### **16. WAIVER**

No waiver of any Party with respect to a breach or default of any right or remedy and no course of dealing shall be deemed to constitute a continuing waiver of another breach or default or of another right or remedy, unless such waiver be expressed in writing and signed by the Party to be bound.

#### **17. FORCE MAJEURE**

In case of the occurrence of force majeure, such as but not limited to earthquakes, storms, floods, fires, epidemics, pandemics, strikes and other concerted labor actions, civil unrests, riots, wars, acts of government, or any other unforeseen or unavoidable Disaster or event which shall be beyond the control of a Party, the Party affected shall be excused from performing its obligation under this Agreement for a period equivalent to the number of days that they are affected or prevented by the event of force majeure, provided that:

- A.** The force majeure is the proximate cause which delayed or prevented the Party's performance of its obligation under this Agreement;
- B.** The Party concerned took all possible measures to overcome and mitigate the effects of such force majeure; and
- C.** The Party affected shall inform the other Party in writing of the occurrence as well as the abatement of such force majeure, including a detailed description thereof and the measures taken to overcome and mitigate the effects of the same.

Each Party shall hold the other free from any liability, claims, and/or damages of any kind and nature arising from or in connection with the occurrence of any force majeure, as well as for those incidents or events attributable to Third Parties.

#### **18. GOVERNING LAW AND VENUE OF ACTION**

This Agreement shall be governed and construed in accordance with the laws of the Republic of the Philippines.

The Parties shall endeavor to settle amicably between themselves any dispute or disagreement arising from or relating to this Agreement.

Unless amicably resolved, all disputes arising from this Agreement shall be referred to arbitration in accordance with the following arbitration procedures:

- a.** In case of any dispute or violation arising from this Agreement, the Parties hereby agree to resolve the same with finality by arbitration in Makati City, Philippines.
- b.** The arbitration proceedings shall be deemed commenced upon the lapse of the Grace Period of thirty (30) days from service by a Party herein

the other Party of a written notice of referral to arbitration. The matter shall be settled before a panel of three (3) arbitrators ("Arbitration Board") under the Domestic Arbitration Rules of the Philippine Dispute Resolution Center, Inc. (the "PDRCI Rules").

- i. The three (3) members of the Arbitration Board shall be appointed in accordance with the procedures set out in the PDRCI Rules regarding the appointment of arbitrators: provided that each of the Parties shall be entitled to nominate one arbitrator. The third arbitrator, who shall act as arbitral Chairman, shall be nominated jointly unless the Parties are unable to agree in which case the PDRCI Rules shall apply.
  - ii. The Arbitration Board shall be required to render a final award on the complaining Party's claim within ninety (90) days from the appointment of the third arbitrator.
  - iii. The arbitral award made and granted by the Arbitration Board shall be final, binding, non-appealable and incontestable and may be used as basis for judgment thereon in the Philippines or elsewhere. All costs of arbitration (including without limitation those incurred in the appointment of the three (3) members of the Arbitration Board) shall, unless the arbitral award provides otherwise, be shared equally by the Parties.
- c. During the period of submission to arbitration and thereafter until the granting of the arbitral award, the Parties shall, except in the event of termination, continue to perform all their obligations under this Renewal Agreement.
- d. The Parties hereto expressly waive any right under any applicable laws and regulations to appeal the decision of the Arbitration Board. The Parties agree that the appointment of the Arbitration Board shall not terminate within a specified time and the mandate of the Arbitration Board shall remain in effect until a final arbitral award has been issued.
- e. A Party may secure injunctive relief to protect its interests in connection with any such dispute arising out of or in connection with this Agreement before the appropriate courts of Makati City, Metro Manila, Philippines, to the exclusion of all other courts and venues, at the option of the Party filing the suit, and the Parties hereto hereby irrevocably submit to the jurisdiction of such courts. Any injunctive relief secured by a Party pursuant hereto shall be deemed automatically lifted upon issuance of the final arbitral award.

#### 19. ACKNOWLEDGMENT OF TRANSPARENCY OF TRANSACTION

The **SUPPLIER** acknowledges that in addition to other prevailing/applicable Philippine laws, rules and regulations, **DBP** has an existing Code of Ethics, which prohibits any gift, fee, commission or benefit in favor of any of **DBP's** officers and/or employees and/or any other persons to be given as a condition to, or as an additional consideration for, the award of the Agreement to the **SUPPLIER**. The **SUPPLIER** further acknowledges that under **DBP's** Code of Ethics and other prevailing rules and regulations, **DBP's** personnel have the duty to report to superior officers any possible violation of the policy. Furthermore, the **SUPPLIER** commits itself to conduct its business professionally and ethically by equally abiding by the provisions of **DBP's** Code of Ethics, particularly the norms of conduct and the rules on conflict of interest, insofar as applicable to the **SUPPLIER's** nature of business and for the duration of its business relationship with **DBP**.

Furthermore, in compliance with the Section 81 of R.A. No. 12009 or the "New Government Procurement Act" as well as the provisions on Conflict of Interest under **DBP's** Code of Ethics, the **SUPPLIER** warrants that it is not related to any of the directors of **DBP**, members of the Bids and Awards Committee, the



Technical Working Group (if any), the head of **DBP's** project management office and project consultants (if any), end-user or implementing unit, by consanguinity or affinity up to the third civil degree

The **SUPPLIER** is aware that **DBP** is a government-owned 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 **SUPPLIER**, 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 **SUPPLIER** further acknowledges **DBP's** policy to refer any such violation to the proper government agency for criminal prosecution.

## 20. NOTICES

All notices, demands, requests, or other communications under this Agreement shall be in writing and shall be deemed to have been duly given or made: (a) if made by hand delivery, when delivered; (b) if sent by mail, seven (7) days after being deposited in the mails, postage prepaid; and (c) if sent by facsimile to a facsimile receiver at the proper number of a party hereto as specified below, when receipt is acknowledged, addressed as follows:

For the **SUPPLIER**: (Please see Annex "E")

For the **DBP**:

Name	:	Development Bank of the Philippines
Address	:	DBP Bldg., Sen. Gil Puyat Avenue corner Makati Avenue, Makati City
Attention	:	SM CAROLINE D. VALLO
Fax No.	:	(02) 8-818 9511

In the event any party changes its address, it shall notify the other party of the change of address in writing within five (5) calendar days from the date the change of address took effect.

## 21. SEVERABILITY AND NON-ASSIGNABILITY

Should any provision of this Agreement be declared or become wholly or partly illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions of this Agreement shall not be affected as a result. The same applies in case the Agreement 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 Agreement, such stipulations will remain valid even after the effectivity thereof.

Neither party may assign, in whole or in part, any right, obligation and/or benefit under this Agreement without the prior written consent of the other party.

## 22. NO POACHING CLAUSE

**DBP** or any of its affiliates will not engage, either directly or through other service provider and/or agencies, the personnel or consultants engaged or provided by the **SUPPLIER** to the former within twelve (12) months from the day of the termination or expiration of this Agreement unless there is a written waiver from the **SUPPLIER**.

## 23. ANNEXES

The following Annexes shall, by this reference, form an integral part of this Agreement:

Annex A	: Definition of Terms
Annex B	: Software
Annex C	: Scope of Subscription
Annex D	: Confidentiality
Annex E	: Notice to Supplier
Annex F	: Notice of Award
Annex G	: Technical Specifications
Annex H	: Warranty Security
Annex I	: Data Privacy Consent Form
Annex J	: Performance Evaluation of 3rd Party Contracts/Agreements
Annex K	: Supplier's Secretary's Certificate for Board Resolution
Annex L	: DBP's Secretary's Certificate

The Parties shall endeavor to harmonize the provisions of this covering agreement and the Annexes so that each shall be effective. In the event of any inconsistency between the terms of this covering agreement and the Annexes, the terms of the Annexes shall prevail to the extent necessary to resolve such inconsistency. In the event of any conflict between the provisions of this Agreement including the annexes and the Technical Specifications, the terms of the Technical Specifications shall prevail.

## 24. MATERIALITY OF OUTSOURCING ARRANGEMENT

Pursuant to BSP Circular No. 1137, series of 2022 amending Section 112 of the Manual of Regulations for Banks, **DBP** confirms that the Subscription outsourced herein are considered non-material, hence the requirement for prior approval of the BSP is not applicable.

## 25. DISASTER RECOVERY

**DBP** shall notify the **SUPPLIER** of the location of its disaster recovery facility ("Disaster Recovery Site"), and the technical description of the dedicated server/s of the back-up copy of the Software, where it shall transfer, install, operate and/or use the back-up copy of the Software only in the event of a man-made or natural disaster which prevents the operation and use of the Software at the original site, and the **SUPPLIER** shall have the right to inspect the same prior to the installation of the back-up copy of the Software on the dedicated server. In the event of a Disaster, **DBP** shall have authority to avail of the Subscription at its Disaster Recovery site. If the circumstances warrant, **DBP** shall provide an initial oral notification on the request for the performance of the Subscription at the DBP Disaster Recovery site, but such oral notice must be followed by a written Disaster Notification within twenty-four (24) hours after initial notification, provided that, the twenty-four (24) hours written notice period may be extended depending on the circumstances. The availment of Subscription at the Disaster Recovery site shall also be allowed in case of a Disaster Recovery Testing.

## 26. SUCCESSORS-IN-INTEREST

The availment of the Subscription by **DBP's** affiliates, subsidiaries and/or acquired companies shall be subject to the prior written consent of the **SUPPLIER**. Likewise, in case of mergers, consolidation and/or change in name of **DBP**, the latter or its successor-in-interest can still avail of the Subscription under the terms of this Agreement, provided that there is prior written agreement of the **SUPPLIER** of such transfer of the Subscription under the

Agreement, at the sole discretion of the **SUPPLIER**, in the event of such merger, consolidation and/or change of name of **DBP**.

In the event that the parties are unable to reach an agreement on the availment of the Subscription on the account of the merger, consolidation and/or change of name of **DBP**, either party shall have the right to terminate the Agreement upon five (5) business days prior written notice to the other party.

## **27. SOURCE CODE ESCROW**

In order to ensure that **DBP** obtains access to the Source Code of the Software should the **SUPPLIER** cease to do business or fail to maintain and update the Software in accordance with its obligations under this Agreement, the Parties agree to enter into a Source Code escrow agreement ("Escrow Agreement") with an independent third party escrow agent whose principal business is providing intellectual property escrow services ("Escrow Agent"), to be mutually selected by the Parties within the period as may be agreed upon by the Parties. All fees relating to the execution of the Escrow Agreement and maintenance of Escrow Account shall be for the account of **DBP**.

## **28. SUB-CONTRACTING**

- a. Subcontracting of any portion of the Subscription does not relieve the **SUPPLIER** of any liability or obligation under the Agreement. The **SUPPLIER** shall be solely liable and responsible for the acts, defaults, and negligence of its sub-contractors, agents, servants or workmen as fully as if these were the **SUPPLIER**'s own acts, defaults, or negligence.
- b. In the event that any sub-contractor is found by **DBP** to be incompetent or incapable in discharging assigned duties, **DBP** may request the **SUPPLIER** to provide a replacement, with qualifications and experience acceptable to **DBP**, or to require the **SUPPLIER** to resume the performance of the work itself.
- c. Alternate service provider shall not be allowed, the same being inconsistent with the R.A. No. 9184 (the "Government Procurement Reform Act").

## **29. MODIFICATION AND AMENDMENT**

No modification/amendment or waiver of any provision of this Agreement shall in any event be effective unless the same be in writing and duly signed by the Parties.

## **30. SUBMISSION OF TAX CLEARANCE**

As required under Executive Order (EO) No. 398, the **SUPPLIER** shall submit income and business tax returns duly stamped and received by the Bureau of Internal Revenue before entering into and during the effectivity of this Agreement. The **SUPPLIER**, through its responsible officer/s, shall also certify under oath that it is free and clear of all tax liabilities to the government. The **SUPPLIER** shall pay taxes in full and on time and that failure to do so will entitle **DBP** to suspend or terminate this Agreement.

## **31. ENTIRE AGREEMENT**

Both Parties acknowledge that this Agreement and the relevant Annexes constitute 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.

**[signature page follows]**



**IN WITNESS WHEREOF**, the Parties hereto have signed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, in \_\_\_\_\_.

**SOLUTIONS EXCHANGE, INC.**  
Supplier

By:

(SIGNED)

~~MR. OLYCES SIMOUN R. IT~~  
President and CEO

**DEVELOPMENT BANK OF THE  
PHILIPPINES**  
DBP

By:

(SIGNED)

OIC, Branch Banking Sector

Signed in the presence of:

(SIGNED)

~~SAMANTHA~~ LUISA F. STEVENSON  
Witness for the Supplier

(SIGNED)

Assistant Vice President  
Witness for DBP

***[the remainder of this page is intentionally left blank]***

## ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)  
MAKATI CITY) SS.

**BEFORE ME**, a Notary Public for and in the City of MAKATI CITY, Philippines,  
this \_\_\_\_ day of JUL 31 2025 2025, personally appeared the  
following:

Name	Government ID presented	Place and date issued
Solutions Exchange, Inc. Represented by:  ULYSES SIMOUN K. TY		

known to me and to me known to be the same person who executed the foregoing document and identified by me through competent evidence of identity, to be the same person in the foregoing document, who exhibited to me the above IDs. It was acknowledged to me that the execution of this document is the free and voluntary act and deed of the entity represented and that herein signatory has the authority to sign in behalf of his principal.

The foregoing document is a Software Maintenance Subscription Agreement with Annexes "A" to "L" which consists of thirty-two (32) pages including the page where this Acknowledgment is written. This acknowledgment forms an integral part of the said document.

Doc. No. 34 ;  
Book No. 1 ;  
Page No. 9 ;  
Series of 2025.

(SIGNED)

**VIVEN ROSE O. DE GUZMAN**  
Appointment No. M-318  
Notary Public for Makati City  
Until December 31, 2026  
Liberty Center-Picazo Law  
104 H.V. Dela Costa Street, Makati City  
Roll of Attorney's No. 85310  
PTR No. 10468829/Makati City/01-03-2025  
IBP No. 510907/Quezon City/12-17-2024  
Admitted to the bar in 2023  
MCLE No. VIII-0026215/ April 7, 2025





## ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)  
MAKATI CITY) SS.

**BEFORE ME**, a Notary Public for and in the City of Makati, Philippines, this  
\_\_\_\_ day of 07 AUG 2025 2025, personally appeared the  
following:

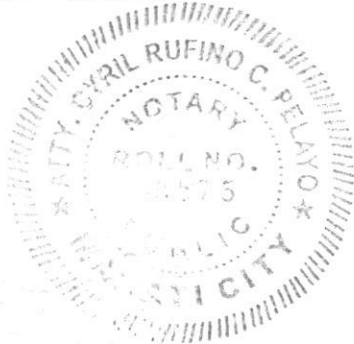
Name	Government ID presented	Place and date issued
Development Bank of the Philippines Represented by:  CAROLYN I. OLFINDO		

known to me and to me known to be the same person who executed the foregoing document and identified by me through competent evidence of identity, to be the same person in the foregoing document, who exhibited to me the above IDs. It was acknowledged to me that the execution of this document is the free and voluntary act and deed of the entity represented and that herein signatory has the authority to sign in behalf of her principal.

The foregoing document is a Software Maintenance Subscription Agreement with Annexes "A" to "L" which consists of thirty-two (32) pages including the page where this Acknowledgment is written. This acknowledgment forms an integral part of the said document.

Doc. No. 393;  
Book No. 80;  
Page No. X;  
Series of 2025.

DST NO. 03285583



**(SIGNED)**

Atty. CYRIL RUFINO C. PELAYO  
Notary Public  
Appointment No. M-146  
Makati City, Until December 31, 2025  
10th Flr. DBP Bldg., Sen. Gil Puyat Ave., Makati City  
Roll No. 68575, IBP No. 016409 (Lifetime)  
PTR Exempt Under RA7160