

CONTRACT FOR THE CONSTRUCTION MANAGEMENT AND SUPERVISION FOR THE CONSTRUCTION OF AIRPORT (CIA) TO NEW CLARK CITY (NCC) ACCESS ROAD (PHASE 1)

THE PUBLIC IS INFORMED:

This Contract made and executed by and between:

BASES CONVERSION AND DEVELOPMENT AUTHORITY, a government instrumentality vested with corporate powers created and existing under Republic Act No. 7227, as amended, with principal office and place of business at BCDA corporate Center, 2/F Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, Metro Manila, represented herein by its President and CEO, **VIVENCIO B. DIZON**, who is duly authorized for this purpose, as evidenced by the Secretary's Certificate dated SEP 18 2018, a certified true copy of which is hereto attached as Annex "A" and made an integral part hereof, hereinafter referred to as "BCDA";

- and -

FILIPINAS DRAVO CORPORATION/PERTCONSULT INTERNATIONAL JOINT VENTURE, a joint venture duly organized and existing under the laws of the Republic of the Philippines, with office address at 5th Floor, Aurora Milestone Bldg., 1045 Aurora Blvd., Quezon City, Metro Manila, represented herein by its Authorized Representative, **COL. CRISOSTOMO S. RAMOS (RET.)**, who is duly authorized for this purpose, as stated in Item No. 3.4 of the Joint Venture Agreement dated November 09, 2018 executed between Filipinas Dravo Corporation, represented by its Vice-Chairman and PCEO, **COL. CRISOSTOMO S. RAMOS (RET.)**, who is authorized for this purpose as evidence by a duly notarized Secretary Certificate dated August 24, 2018 which is attached hereto as Annex "B" and Pertconsult International, represented by its General Manager, **HOMOBONO C. PIQUE**. A copy of the Joint Venture Agreement dated November 09, 2018 is hereby attached as Annex "C" and made an integral part hereof, herein referred to as the "CONSTRUCTION MANAGER".

Each referred to as "PARTY" and collectively as "PARTIES",

ANTECEDENTS

WHEREAS, BCDA, is mandated under Republic Act No. 7227, as amended by Republic Act No. 7917, to accelerate the sound and balanced conversion into alternative productive civilian uses of the military reservations and their extensions, including the former Clark Air Base in Angeles, Pampanga; to raise funds by the sale of portions of Metro Manila Military Camps; and to apply said funds for the

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development and conversion into alternative productive civilian uses of these properties;

WHEREAS, in 1993, the Clark Special Economic Zone (CSEZ), was established by virtue of Proclamation No. 163 covering a total area of 33,653 hectares, more or less, in which 4,400 hectares is the former U.S. Clark Air Base proper (Main Zone) and the remaining areas are the Subzones A, B, D and the Sacobia Resettlement Area which became part of CSEZ by virtue of Proclamation No. 805;

WHEREAS, on 29 May 2014, the National Economic and Development Authority (NEDA) Board approved the Master Plan for the development of 9,450 hectares of idle land within the CSEZ - the "Clark Green City" Project now "New Clark City." Subsequently, the House of Representatives passed Resolution No. 116 on 28 July 2014 expressing support to the New Clark City Project;

WHEREAS, in line with its mandate, BCDA is implementing the New Clark City (NCC) Project - a flagship project of the Government of the Republic of the Philippines - which is a modern metropolis with a mix of residential, commercial, agro-industrial, institutional and information technology development as well as a community of residents, workers, and business establishments within a balanced, healthy and safe environment.

WHEREAS, to encourage prospective locators to start investing, BCDA will undertake the construction of major road network within the NCC to promote better accessibility, herein referred to as the "Project."

WHEREAS, BCDA needs the services of a Construction Management and Supervision (CMS) firm to oversee, supervise, monitor and control the day-to-day operations of the Project and to see to it that the Project is completed on schedule, in accordance with plans and specifications and within the approved budget;

WHEREAS, on July 23, 2018, the BCDA received and opened the bids of participating consulting firms for the Project. After careful evaluation and review of the technical and financial proposals, the BCDA - Bids and Award Committee for Consultancy Services (BAC-C) found the proposal of the CONSTRUCTION MANAGER to be the Highest Rated and Responsive Bid (HRRB);

WHEREAS, the CONSTRUCTION MANAGER represents that it has the necessary training, experience, capability, technology, manpower, equipment and financial resources required to provide construction management services strictly in accordance with the requirements of BCDA;

WHEREAS, pursuant to Resolution No. BC-2018-038, the BCDA President and CEO, during its meeting on October 10, 2018, approved the award of the Contract to the CONSTRUCTION MANAGER for the Construction Management and Supervision of the Project, in the amount of Pesos: **Eighty-Eight Million Nine Hundred Sixty-Seven Thousand Two Hundred and 00/100 (₱88,967,200.00)**, inclusive of all applicable taxes and fees;

ACCORDINGLY, the parties agree as follows:

    
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**ARTICLE I
DEFINITION OF TERMS**

Unless the context otherwise indicates, the following terms shall have the meanings provided in this Article:

- 1.1 **BCDA** refers to Bases Conversion and Development Authority.
- 1.2 **Construction Manager** refers to **JOINT VENTURE OF FILIPINAS DRAVO CORPORATION AND PERTCONSULT INTERNATIONAL**, which has been contracted by BCDA to undertake the Construction Management and Supervision (CMS) of the Project.
- 1.3 **Contract** means this contract including the Annexes pertinent to the Construction Management and Supervision of the Project.
- 1.4 **Constructor** is the duly licensed general engineering and building Contractor contracted by **BCDA** to undertake the works of the Project.
- 1.5 **Government** refers to the Government of the Republic of the Philippines.
- 1.6 **Parties** refer to **BCDA** and the **CONSTRUCTION MANAGER**.
- 1.7 **Project** refers to the Construction of New Clark City Roads.

**ARTICLE II
THE SERVICES**

- 2.1 **Scope of Work.** The **CONSTRUCTION MANAGER** shall perform the services described in the Terms of Reference (TOR) for Construction Management and Supervision (CMS) for the Project, hereto attached as Annex "C" and made an integral part hereof.
- 2.2 **Completion of the Services.** Upon completion of the Project and issuance of the Certificate of Completion and Preliminary Acceptance by **BCDA** to the Constructor, **BCDA** shall issue to the **CONSTRUCTION MANAGER** a Certificate of Completion upon submission of the following:
 - a) Project Final Report;
 - b) Clearance from the BCDA Project Manager that it has turned-over all equipment, furniture and appliances used for the performance of its Services;
 - c) All pertinent project documents; and
 - d) Such other documents as BCDA may reasonably require.

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**ARTICLE III
CONSIDERATION**

3.1 **Construction Manager's Service Fee.** For and in consideration of the full, satisfactory and faithful performance of the Services by the **CONSTRUCTION MANAGER, BCDA** shall pay the **CONSTRUCTION MANAGER** Service Fee in the Fixed Contract Amount of Pesos: **Eighty-Eight Million Nine Hundred Sixty-Seven Thousand Two Hundred and 00/100 (₱88, 967,200.00)**, inclusive of all applicable taxes and fees, subject to the provision of paragraph 3.2 and 3.3 hereof.

3.2 **Manner of Payment.** BCDA shall pay the **CONSTRUCTION MANAGER** for the Services as specified in this Clause and as set forth in the TOR, to wit:

3.2.1 Advance Payment

3.2.1.1 **BCDA**, if it considers fair and reasonable, upon written request by the **CONSTRUCTION MANAGER**, may allow advance payment to the latter in the amount which shall not exceed fifteen percent (15%) of the Service Fee to cover mobilization expenses.

3.2.1.2 In case **BCDA** deems it fair and reasonable to make the advance payment, the same shall be made only after the execution of the Contract between **BCDA** and the **CONSTRUCTION MANAGER** and upon submission by the **CONSTRUCTION MANAGER** to, and the acceptance of **BCDA**, of an irrevocable standby letter of credit of equivalent value from a commercial bank.

3.2.1.3 The advance payment shall be recouped by **BCDA** by deducting an amount equal to twenty percent (20%) of the value of invoice issued from the monthly progress payments until the aforementioned advance payment shall have been fully recouped or recovered.

3.2.2 Progress Payment

3.2.2.1 Progress payment shall be made to the **CONSTRUCTION MANAGER** as follows:

3.2.2.1.1 Payment shall be made on a monthly progress billing, which shall be proportionate to the value of actual work accomplished by the Constructor and acceptable to **BCDA**. The **CONSTRUCTION MANAGER's** billing shall be accompanied by a certification issued by an authorized officer of **BCDA** certifying to the percentage of actual and acceptable works accomplished by the Constructor and that the amount being claimed based on the percentage of

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accomplishment of the Constructor for the period by the **CONSTRUCTION MANAGER** is due and payable under the terms of this Contract.

- 3.2.2.1.2 All billings including request for the release of retention monies shall be accompanied by an affidavit of the **CONSTRUCTION MANAGER** that it has paid all the costs of labor, equipment or equipment rentals, materials, tools and supplies which are hired or used in the Services as well as all claims related thereto. Billing for Services rendered shall be consistent with and supported by a Manpower Deployment Schedule duly approved by **BCDA** for the pertinent period to ensure that the **CONSTRUCTION MANAGER** has complied with the minimum requirements of the Services.
- 3.2.2.1.3 All applicable taxes and fees shall be for the account of the **CONSTRUCTION MANAGER**.
- 3.2.2.1.4 Should additional supporting information be required and/or an error in the computation be found in the submitted invoices after processing and the same can no longer be corrected without processing or canceling the whole billing, said invoices may still be submitted for payment but **BCDA** shall advise the **CONSTRUCTION MANAGER** of the matter, whereupon the latter will undertake to take appropriate adjustments and/or provide the necessary additional documentation in the subsequent invoices. Actual payment shall only be made after **BCDA** has determined to its satisfaction that the same is due the **CONSTRUCTION MANAGER**.
- 3.2.2.1.5 Payment for Services billed shall not be construed as an admission by **BCDA** that the **CONSTRUCTION MANAGER** has satisfactorily performed the Services in accordance with what is incumbent upon it or with the instruction of **BCDA**, or that such Services are free from defects of any kind, hidden or otherwise, are complying or have complied with provisions, terms and conditions of the Contract or any of the **CONSTRUCTION MANAGER's** obligations thereunder.

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3.2.3 Final Payment

3.2.3.1 The Final Payment shall be made to the **CONSTRUCTION MANAGER** upon its submission of the Final Billing together with the following documents:

- a) Certificate of Completion issued by **BCDA** to the **CONSTRUCTION MANAGER**;
- b) Sworn statement that all liabilities incurred by the **CONSTRUCTION MANAGER** have been paid and that there are no outstanding liens, garnishments, attachments or claims relative to the Project;
- c) Quitclaim and release by the **CONSTRUCTION MANAGER**, in a form satisfactory to **BCDA**, releasing **BCDA** from any further claim relating to the Contract; and
- d) Such other documents as **BCDA** may reasonably require.

3.2.3.2 In no case shall the remaining billable amount for final Billing be less than five percent (5%) of the **CONSTRUCTION MANAGER**'s Service Fee.

3.2.4 Time Extension

Any time extension granted by **BCDA** to the Construction of the Project and/or **CONSTRUCTION MANAGER** during the implementation of the Project shall not entitle the **CONSTRUCTION MANAGER** to any claim or additional payment of Services rendered during such extended period.

3.2.5 Retention

3.2.5.1 **BCDA** shall retain ten percent (10%) of the gross amount billed (quarterly) by the **CONSTRUCTION MANAGER** to answer for any and all defect/s and/or deficiency/ies in the performance of the **CONSTRUCTION MANAGER**'s undertaking herein. All accumulated retention monies shall be released within thirty (30) days from the date of issuance of the Certificate of Completion by **BCDA** to the **CONSTRUCTION MANAGER** and upon submission by the **CONSTRUCTION MANAGER** of its request for release of the retention monies.

3.2.5.2 **BCDA** shall have the right to withhold within one (1) year, as the **CONSTRUCTION MANAGER** hereby vests **BCDA** with authority to withhold, all amounts or portion/s thereof including the retention money due and payable by **BCDA** to the **CONSTRUCTION MANAGER** under this Contract, to answer for claims of labor, services, materials, supplies, equipment or rental for equipment, fuel and others, which are hired, used and/or incorporated in the Project as well as expenses for reparation/remedial measures, cost of defective

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materials or faulty Services; liquidated damages, duties, fees, levies and such other amounts required to be paid and assessed under, by reason of, pursuant to or in connection with this Contract.

**ARTICLE IV
PERFORMANCE BOND**

- 4.1 Within ten (10) days from its receipt of the Notice of Award from **BCDA**, the **CONSTRUCTION MANAGER** shall secure at its own cost and expense a Performance Security in favor of **BCDA** in the amount and form specified below, callable on demand, to guarantee and answer for the faithful performance of the **CONSTRUCTION MANAGER** of its Services as well as the other obligations under this contract:
- 4.1.1 Five percent (5%) of the Contract Amount, if in the form of an irrevocable letter of credit issued by a universal or commercial bank.
- 4.1.2 Five percent (5%) of the Contract Amount, if in the form of cash, cashier's/manager's check, bank draft/guarantee confirmed by a universal or commercial bank.
- 4.1.3 Thirty percent (30%) of the Contract Amount in the form of Surety Bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.
- 4.2 The following provisions shall form part of the Performance Bond: "The right to institute action on the bond of any individual, firm, partnership, corporation and association supplying the **CONSTRUCTION MANAGER** with labor and materials for the prosecution of the work is hereby acknowledged and confirmed."
- 4.3 The Performance Security may be released only after submission of the documents required under Item 3.2.3.1 and only if there are no claims for labor and materials filed against the **CONSTRUCTION MANAGER**.
- 4.4 The Performance Bond shall be valid and effective for the duration of this Contract including the time extension granted, if any. The **CONSTRUCTION MANAGER** shall renew the Performance Bond to ensure the continuity of its coverage when necessary.
- 4.5 Subject to the provision of Section 5.4 of Article V hereof, should the **CONSTRUCTION MANAGER** fail to complete the Services or any portion thereof within the period prescribed, including any time extension that may be allowed, the **CONSTRUCTION MANAGER** shall pay **BCDA** by way of liquidated damages for every day delay for the whole or any part of the Services, an amount equal to one-tenth of one percent (1/10 of 1%) of the total Service Fee until the Services are satisfactorily completed. Said amount may be charged against the Performance bond.

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To be entitled to such liquidated damages, **BCDA** does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due to the **CONSTRUCTION MANAGER** under the contract and/or collect such liquidated damages from the retention money or securities posted by **CONSTRUCTION MANAGER** whichever is convenient to **BCDA**.

**ARTICLE V
OBLIGATIONS AND UNDERTAKING
OF THE CONSTRUCTION MANAGER**

- 5.1 **Services of the CONSTRUCTION MANAGER.** The **CONSTRUCTION MANAGER** shall secure the prior written approval of **BCDA** on the employment of all key personnel and members of the technical staff to be assigned to the Project, as well as all facilities needed; carry out the Services with due diligence and efficiency in conformity with best accepted engineering, administrative and financial practices; always work for and in the best interest of **BCDA** and the Government; and take all reasonable steps to keep expenses to the minimum, consistent with sound engineering practices. The **CONSTRUCTION MANAGER** shall perform all the activities stipulated in the **CONSTRUCTION MANAGER**'s Scope of Work as shown in Annex "C" hereof.

Except as **BCDA** may otherwise agree, no changes shall be made in the Personnel. If for any reason it becomes necessary to replace any of the Personnel, the **CONSTRUCTION MANAGER** shall forthwith provide as replacement, a person of equivalent or better qualifications subject to the prior written approval of **BCDA**; Provided no replacement shall be allowed until after 50% of the personnel's man-months has been served except for justifiable reason as stated in IRR Section 33.3 of Republic Act 9184. Violators shall be fined with the refund of the replaced personnel's basic rate for the duration of the engagement. Failure to seek the written approval of **BCDA** for replacement shall not entitle the **CONSTRUCTION MANAGER** to any remuneration for such personnel. The remuneration to be paid to such personnel, when replacement is duly authorized, shall not exceed the remuneration which would have been payable to the person replaced.

- 5.2 **Assignment and Sub-Contracting.** Except with the prior written approval of **BCDA**, the **CONSTRUCTION MANAGER** shall neither assign nor sub-contract any part of the Services herein contracted. Notwithstanding the approval by **BCDA** of the assignment or sub-contracting of any part of the Services, the same shall not relieve the **CONSTRUCTION MANAGER** who remains the principal obligor under this Contract.

The **CONSTRUCTION MANAGER** may subcontract work relating to the project to an extent and with such specialist and entities as may be approved in advance by **BCDA**, provided that it submits to the **BCDA** for prior approval the text of any proposed subcontract and any amendments thereto which may subsequently be proposed. Furthermore, the work to subcontracted should not be a material or significant portion of the project, or should not exceed twenty

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percent (20%) of the Service fee. Notwithstanding the approval of the subcontract, the **CONSTRUCTION MANAGER** shall retain full responsibility for the project and for the content of all reports required therefore.

In the event that any subcontractor is found by **BCDA** to be incompetent or incapable of discharging his assigned duties, **BCDA** may request the **CONSTRUCTION MANAGER** to provide a replacement, with qualifications and experience acceptable to **BCDA**, or to resume performance of the work itself.

- 5.3 **Confidentiality.** Except with the prior written consent of the **BCDA**, neither the **CONSTRUCTION MANAGER** nor its Personnel shall at any time communicate to any person or entity other than **BCDA**, any information which has been disclosed for the purpose of the Services, nor shall the **CONSTRUCTION MANAGER** or its Personnel make public any information as to the recommendations and decisions formulated in the course of, or as a result of the Services.
- 5.4 **Notice of Delays.** In the event that the **CONSTRUCTION MANAGER** encounters delay in performing the Services, the **CONSTRUCTION MANAGER** shall promptly notify **BCDA** of such delay in writing, giving the reasons thereof, and may request for appropriate time extension for completion of the Services. **BCDA** may, by written notice, grant the extension, provided that it is established that the cause of the delay was beyond the control of the **CONSTRUCTION MANAGER**, and provided further that **BCDA** shall not be liable for additional Service Fee.
- 5.5 **Indemnification.** The **CONSTRUCTION MANAGER** agrees to indemnify, protect and defend, at its own expense, **BCDA** and its agents from and against any and all actions, claims and liabilities arising from the actions of the **CONSTRUCTION MANAGER** or its Personnel in the performance of the Services, including the use of, or violation of the provisions of the Intellectual Property Laws.
- 5.6 **Records.** The **CONSTRUCTION MANAGER** shall keep accurate and systematic record and accounts of the Services in such form and details as is customary and sufficient to establish accurately that the costs and expenditures have been duly incurred. The **CONSTRUCTION MANAGER** shall allow the duly authorized representative of **BCDA** from time to time to inspect its record and accounts as well as to audit the same.
- 5.7 **Information and Progress Reports.** The **CONSTRUCTION MANAGER** shall furnish **BCDA** monthly progress reports and any such information relative to the Services and the Project as **BCDA** may reasonably request from time to time.
- 5.8 **Preparation and Submission of all Forms.** The **CONSTRUCTION MANAGER** shall be responsible for the preparation and submission of all forms and supporting documents required by the Commission on Audit (COA) and other government agencies.

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**ARTICLE VI
OBLIGATIONS OF BCDA**

- 6.1 **Available Reports, Data and Materials.** BCDA shall provide the **CONSTRUCTION MANAGER**, free of charge, such data, materials, documents and reports available to BCDA as may be related and necessary for the execution of its Services.
- 6.2 **Access to Land and Property.** BCDA shall arrange with the agencies concerned with the Project for the free and unimpeded access by the **CONSTRUCTION MANAGER's** Personnel to all lands and properties in respect of which access is required for the performance of the Services.
- 6.3 BCDA shall furnish the **CONSTRUCTION MANAGER** at least two (2) complete sets of approved final construction drawings and specifications, free of charge, which the **CONSTRUCTION MANAGER** shall use as reference in the performance of its daily construction management activities. The **CONSTRUCTION MANAGER** may request for additional copies, chargeable to its account, subject to the approval of BCDA.

**ARTICLE VII
GENERAL CONDITIONS**

- 7.1 BCDA shall be the sole owner of all reports, drawings, documents and materials prepared or submitted in the course of the performance of the Services, and the same shall not be used by the **CONSTRUCTION MANAGER** for purposes unrelated to this Contract, without the prior written approval of BCDA. Copies of any such documents prepared in connection with the performance of the Services shall be turned over to BCDA upon completion of the Project, except that the **CONSTRUCTION MANAGER** shall retain one (1) copy of the same for its record/file. Any equipment supplied by BCDA, or for which payment is made or reimbursed under this Contract shall be properly identified upon mobilization and shall become and remain the property of BCDA. Such equipment and appliances shall be transferred to BCDA in good working condition upon the completion of the Project, or as soon as the same is no longer needed to perform the Services, whichever is earlier.
- 7.2 BCDA may, at any time, by written notice to the **CONSTRUCTION MANAGER**, issue additional instructions, make changes or alterations in the Scope of Services as may be requested in the completion of the Project without additional cost to BCDA.
- 7.3 It is agreed that this Contract expresses all the agreements and covenants of the Parties, and supersedes all prior negotiations. All bidding documents shall be read and construed as an integral part of this Contract.
- 7.4 This Contract shall be governed by the laws of the Republic of the Philippines. The **CONSTRUCTION MANAGER** and its Personnel shall conform to all applicable laws of the same and shall take prompt corrective action with regard to any violation which has come to its knowledge.

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- 7.5 The documentation, notarial fees and documentary stamps in connection with this Contract shall be for the account of the **CONSTRUCTION MANAGER**.
- 7.6 If any of the terms and condition or any part or clause of this Contract be declared void or unenforceable by competent authority, the same shall not invalidate the other terms and conditions, parts or clauses of this Contract, which shall continue to be in full force and effect.
- 7.7 The **CONSTRUCTION MANAGER** hereby warrants that it has not given, nor promised to give any money or gift to any official or employee of **BCDA** or the Government in consideration of this Contract. Any violation of this warranty shall be sufficient ground for the revocation or cancellation of this Contract.

**ARTICLE VIII
DISPUTE SETTLEMENT**

- 8.1 If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 8.2 During the pendency of any such dispute, the **CONSTRUCTION MANAGER** shall proceed diligently with the performance of its obligations and undertakings under this Contract as directed by **BCDA**.
- 8.3 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": Provided, however, That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto.

**ARTICLE IX
SUSPENSION AND TERMINATION**

- 9.1 **Suspension of Work**
 - 9.1.1 If any of the following events shall happen and be continuing, **BCDA** may, by written notice to the **CONSTRUCTION MANAGER**, suspend the whole, or any part of the work under the Contract:
 - 9.1.1.1 A default, failure or refusal on the part of the **CONSTRUCTION MANAGER** to perform the Services which is tantamount to a violation of its obligations under this Contract, or its non-compliance with the provisions hereof;

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9.1.1.2 Reasons not attributable to **BCDA** including but not limited to labor problems, shortage of construction materials and squatter problem in the construction area; and

9.1.1.3 Any other condition which in the reasonable opinion of **BCDA** interferes, or threatens to interfere with the proper execution of the Project.

9.1.2 If the Suspension of Work Order is lifted or expires, the **CONSTRUCTION MANAGER** shall resume work.

9.1.3 In case of suspension of work which is not due to any fault of the **CONSTRUCTION MANAGER**, **BCDA** upon its written consent/approval may allow the **CONSTRUCTION MANAGER** to extend the completion time of the Contract for a period equivalent to the times the work was suspended.

9.2 Termination by **BCDA**

9.2.1 The performance of work under the Contract may be terminated by **BCDA** in whole or in part in accordance with this clause. Termination will be resorted to when the same will serve the best interest of **BCDA** or when the **CONSTRUCTION MANAGER** defaults in the performance of this Contract or part thereof and shall fail to cure such default within a period of thirty (30) days after receipt from **BCDA** of a written notice specifying the default. For the purpose of this clause, "default" means:

9.2.1.1 Failure to perform the work within the time specified or any extension thereof without just cause as may be determined by **BCDA**;

9.2.1.2 Failure to comply with any of the provisions of this Contract without just cause as may be determined by **BCDA**; or

9.2.1.3 Failure to prosecute the work as to endanger performance of the Services under this Contract in accordance with its terms.

9.2.2 Termination shall be effected by **BCDA** through a Notice of Termination to the **CONSTRUCTION MANAGER**, specifying the reason for the termination, the extent to which performance of the Services under the Contract is terminated; and the date upon which such termination becomes effective.

9.2.2.1 Reasons for termination due to the default of the **CONSTRUCTION MANAGER** include, but are not limited to the following:

a) Refusal by the **CONSTRUCTION MANAGER** to comply with the instructions of **BCDA** concerning the proper execution of the Services or works;

- b) Breach of the **CONSTRUCTION MANAGER** of any of the representations and warranties made or violation of any of the provisions of this Contract as determined by **BCDA**;
- c) Abandonment of the contract works, or failure to deliver to the work site the needed equipment, materials or personnel required in the performance of the Services;
- d) When the **CONSTRUCTION MANAGER** becomes insolvent, applies for a suspension of payments, is adjudged bankrupt, disposes all or substantially all of its assets for the benefit of creditors, or when the **CONSTRUCTION MANAGER** is subjected to voluntary or involuntary dissolution; and
- e) Other causes analogous to the foregoing.

9.2.2.2 **BCDA** may terminate this Contract should, in its opinion, the continued operation and existence thereof or the performance of the Services unduly prejudice the interest of **BCDA**. This right to terminate shall be subject to the following conditions:

- a. If the ground(s) for termination shall be any of those enumerated under 9.2.1 and 9.2.2, **BCDA** shall immediately take over the works, take possession of all materials, tools and appliances in connection with the Services and finish the same by whatever method it may deem expedient. In such a case, **BCDA** shall pay the **CONSTRUCTION MANAGER** for Services actually rendered as of the time of termination as may be determined by the **BCDA** pursuant to paragraph 3.2.2.1.1. If the unpaid balance of the Service Fee shall exceed the expense of finishing the work, such excess shall be paid to the **CONSTRUCTION MANAGER**. If such expenses shall exceed such unpaid balance, the **CONSTRUCTION MANAGER** shall pay the **MANAGER** shall pay the difference to **BCDA**.
- b. If the grounds for termination is not directly attributable to the **CONSTRUCTION MANAGER**, the latter shall be paid what **BCDA** reasonably determines as fair compensation, taking into account Services actually rendered.
- c. In any case, it is understood that the **CONSTRUCTION MANAGER** shall exercise due diligence to protect the property and interest of **BCDA** and shall, after final accounting, reimburse **BCDA** of any excess payment it received under this Contract.

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- 9.2.3 Upon receipt of the Suspension of Work Order or Notice of Termination, the **CONSTRUCTION MANAGER** shall stop, suspend or do as directed, and shall have no claim whatsoever for damages by reason thereof, but shall receive payment for work done in full discharge and satisfaction of all demands of **BCDA**. Any notice given by **BCDA** under this paragraph shall be in writing, signed by the proper **BCDA** representative, and shall be delivered to the **CONSTRUCTION MANAGER** or its representative at least three (3) days prior to the intended suspension, stoppage or reduction.
- 9.2.4 After the receipt of a Suspension of Work Order or Notice of Termination and except as otherwise directed by **BCDA**, the **CONSTRUCTION MANAGER** shall:
- 9.2.4.1 Stop or suspend work under the Contract on the date and up to the extent specified in the Notice of Termination or Work Suspension Order. Such stoppage or suspension shall cover works or orders arising from subcontracts, if any;
- 9.2.4.2 Assign to **BCDA** as it may direct, all the rights, title and interest of the **CONSTRUCTION MANAGER** under the Contract and subcontracts, if any, in which case, **BCDA** shall have the right and discretion to settle, pay or deny any claim arising out of the termination or suspension of work, unless the same are outstanding liabilities and claims for which **BCDA** has previously given its written approval;
- 9.2.4.3 Transfer and deliver to **BCDA** all completed or partially completed plans, drawings, information and other property required to be furnished and turned over to **BCDA** under the Contract, except that this requirement shall not apply to property and goods for which the **CONSTRUCTION MANAGER** has not been reimbursed;
- 9.2.4.4 Complete the part of the work that has not been terminated by the Notice of Termination; and
- 9.2.4.5 Take such actions as may be necessary for the protection of the property involved in this Contract that is in the possession of the **CONSTRUCTION MANAGER**.
- 9.2.5 Unless otherwise agreed upon in writing, the **CONSTRUCTION MANAGER** shall submit to **BCDA** its written claim promptly but not later than three (3) months from the effective date of termination.
- 9.2.6 The **CONSTRUCTION MANAGER** shall consult **BCDA** within thirty (30) days from submission of the claim concerning the whole or any part of the amount to be paid to the **CONSTRUCTION MANAGER** by reason of termination of the Services.

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9.2.7 If the Parties fail to agree on the amounts to be paid to the **CONSTRUCTION MANAGER** pursuant to this clause, **BCDA** shall pay the amount, if any, which it determines to be due the **CONSTRUCTION MANAGER** considering the following:

9.2.7.1 The costs in accordance with this Contract, not previously paid to the **CONSTRUCTION MANAGER**, prior to the effective date of the Notice of Termination, and such costs as may continue for a reasonable time thereafter with the approval of, or as directed by **BCDA**; and

9.2.7.2 The cost incurred by the **CONSTRUCTION MANAGER** in settling and paying claims arising out of the termination of work under subcontracts or orders which are to be performed/delivered covering the terminated portion of the Contract; provided that such order/subcontract was granted prior approval by **BCDA**.

9.2.8 In deciding the amount due the **CONSTRUCTION MANAGER**, the following shall be deducted: 1) all unliquidated advances and other payments made to the **CONSTRUCTION MANAGER** applicable to the terminated portion of this Contract; 2) all unsettled claims which **BCDA** may have against the **CONSTRUCTION MANAGER** in connection with this Contract; 3) forfeited surety bond to guaranty the completion of the Services under this Contract.

9.2.9 If the total payment for the terminated portion of this Contract exceeds the amount determined to be due under this clause, such excess shall be payable by the **CONSTRUCTION MANAGER** to **BCDA** upon demand.

9.2.10 It shall be understood that the total amount paid to the **CONSTRUCTION MANAGER** shall not exceed the service fee stated in Section 3.1.

9.2.11 In case of conflict between the above provisions and Annex I (Guidelines on Termination of Contracts) of the Revised Implementing Rules and Regulations of RA 9184, the latter shall prevail.

9.3 Termination by the **CONSTRUCTION MANAGER**

9.3.1 The **CONSTRUCTION MANAGER** shall promptly notify **BCDA** in writing of any situation or occurrence beyond its reasonable control which makes it impossible to carry out its obligations under this Contract. Upon confirmation by **BCDA** in writing of the existence of such an event, the **CONSTRUCTION MANAGER** shall be relieved of all the liabilities for its failure to carry out such obligations and the **CONSTRUCTION MANAGER** may, thereupon, terminate the Contract by giving not less than thirty (30)-day prior written notice to **BCDA**.

CERTIFIED TRUE COPY

ARISTOTELE GUERRERO
BCDA RECORDS MANAGER

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9.3.2 Within sixty (60) days after the effective date of the Notice of Termination, the **CONSTRUCTION MANAGER** shall submit to **BCDA** its termination claim which shall be processed and settled in the same manner as provided for under Section 9.2 hereof.

**ARTICLE X
FORCE MAJEURE**

10.1 **Definition.** As used herein, the term "force majeure" shall mean events attributable to the following:

10.1.1 Human causes, such as war, armed invasion, revolution, insurrection, blockades, riots, civil disturbances, strikes, new governmental regulations or issuances and other analogous or similar causes affecting the project, to the extent that any of the same makes it impossible or impracticable for either party to carry out, in whole or in part, its obligations under this Contract; and



10.1.2 Natural causes, such as earthquakes, storms, epidemics, landslides, lightning, floods and other similar phenomena affecting the Project, to the extent that any of the same makes it impossible or impracticable for either Party to carry out, in whole or in part, its obligations under this Contract.

10.2 **Notices.** If either Party is temporarily unable by reason of force majeure to meet any of its obligations under this Contract, and if such Party gives to the other Party written notice of any of the foregoing event within fourteen (14) days after its occurrence, such obligations of the Party shall be suspended for as long as the inability continues. Neither Party shall be liable to the other for loss or damage sustained by reason of force majeure or delays arising from such event; provided that said Party has taken reasonable steps or exercised due diligence to prevent such losses or damages; provided further that the required written notice has been complied with.

10.3 **Extension of Period.** In the event of force majeure resulting in a suspension of work, this Contract shall be extended for a period equal to that during which the **CONSTRUCTION MANAGER** was prevented from performing; provided that the Services are still necessary to **BCDA**.

10.4 **Termination.** If such event shall continue for a period of more than thirty (30) days after notice thereof has been given to **BCDA** as herein provided, and after its existence, duration and extent have been verified, either Party may terminate this Contract by giving a notice in writing to the other of at least fifteen (15) days before the effective date of termination. Upon receipt of such notice of termination, the **CONSTRUCTION MANAGER** shall take immediate steps to bring the work to a close in a prompt and orderly manner and, as far as practicable, to reduce expenditures to a minimum.

10.5 **Payment Upon Termination.** Upon termination of this Contract pursuant to the foregoing provisions under this Article, **BCDA** shall not be liable to make any payment to the **CONSTRUCTION MANAGER** except for the work or


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ARISTOTEL GUERRERO
BCMA PROJECTS MANAGEMENT

Services performed, or expenditures incurred prior to the date of such termination and for those incidents leading to the orderly liquidation of its work and the settlement of its obligations incurred hereunder. The payment shall include actual costs and expenses incurred in the event of a force majeure as are reasonably necessary to prevent loss, damage, or deterioration of the property. The **CONSTRUCTION MANAGER** shall give **BCDA** all data compiled, drawings and preliminary conclusions made up to the date of the termination.

**ARTICLE XI
LIABILITY OF THE CONSTRUCTION MANAGER**

- 11.1 **Professional Quality and Technical Accuracy.** The **CONSTRUCTION MANAGER** shall be responsible for the professional quality, technical accuracy, and coordination of all Services performed under this Contract. The **CONSTRUCTION MANAGER** shall, without additional compensation, correct or revise any defect, error or deficiency in its Services.
- 11.2 **Rights and Remedies.** The rights and remedies of **BCDA** provided for under this Contract are in addition to any other right and remedy provided by pertinent laws and other issuances.

**ARTICLE XII
NO EMPLOYER-EMPLOYEE RELATIONSHIP**

- 12.1 There is no employer-employee relationship between **BCDA** and the **CONSTRUCTION MANAGER**, its employees, agents, suppliers, and consultants. Consequently, **BCDA** shall not in any way be liable and/or responsible for any personal injury including death or damage to property sustained or caused by or attributed to any of the employees of the **CONSTRUCTION MANAGER** whether or not occurring during the performance of their duties. The **CONSTRUCTION MANAGER** agrees and binds itself to indemnify **BCDA** for whatever injuries or damages directly or indirectly caused or occasioned or attributed to the fault, negligence or conduct of the **CONSTRUCTION MANAGER** and/or its employees, agents, suppliers or consultants arising out of, or in connection with, or on the occasion of the performance of their duties and to be liable and/or responsible for the enforcement of, and compliance with all existing laws, including the Labor Code of the Philippines, executive or administrative orders, rules and regulations, and binds itself to save and hold **BCDA** free and harmless from any and all liabilities in respect thereof and/or arising therefrom and/or by reason of this Contract and its implementation.

**ARTICLE XIII
MISCELLANEOUS**

- 13.1 **Government Accounting and Auditing Rules and Regulations.** All payments under this Contract shall be subjected to the usual government accounting and auditing rules and regulations, including COA Circular No.

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ARISTOTLE GUERRERO
BCDA RECORDS MANAGEMENT

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2009-001, dated 12 February 2009, which requires all government agencies and instrumentalities to submit to the Auditor for review, all contracts, purchase orders and the like, within five (5) working days from execution thereof.

- 13.2 **Compliance to Executive Order No. 398.** The **CONSTRUCTION MANAGER** shall pay taxes in full and on time and that failure to do so shall entitle **BCDA** to suspend payment for Services delivered. In this regard, the **CONSTRUCTION MANAGER** shall regularly submit to **BCDA** a valid tax clearance from the BIR as well as a copy of its income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.
- 13.3 **Effectivity.** The Contract shall remain in force until the completion of all necessary documents required for payments and turnover of the completed Project in accordance with government accounting and auditing rules and regulations from the date reflected in the Notice to Proceed.
- 13.4 **Notices and Addresses.** All notices called for by the terms of this Contract shall be effective only at the time of receipt thereof and only when received by the Parties to whom they are addressed at the following addresses:

Notice to **BCDA**

Bases Conversion and Development Authority
BCDA Corporate Center
2/F Bonifacio Technology Center
31st Street, corner 2nd Avenue,
Bonifacio Global City, Taguig City, Philippines

Attention:

VIVENCIO B. DIZON
President & Chief Executive Officer

Notice to **CONSTRUCTION MANAGER**

Filipinas Dravo Corporation/Pertconsult
International Joint Venture
5th Floor, Aurora Milestone Bldg., 1045
Aurora Blvd., Quezon City, Metro Manila

Attention:

COL. CRISOSTOMO S. RAMOS (RET.)
Authorized Representative

It shall be the obligation of the **CONSTRUCTION MANAGER** to inform **BCDA** in writing of any change of address within three (3) calendar days from such change. In the absence of valid notice of change of address, all such correspondence and papers shall be legally considered to have been received by the **CONSTRUCTION MANAGER** when sent to such address even if not actually received by it.

13.5 **Amendments.** No amendments, modifications or alterations to this contract shall be valid or binding on either Party unless stipulated and agreed upon by the Parties in writing and executed with the same formality as this Contract.

13.6 **Counterparts.** This Contract shall be executed and delivered in five (5) copies, four (4) copies to be retained by **BCDA** and one (1) for the **CONSTRUCTION MANAGER**, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have hereunto set their hands this _____ day of _____, 2018 at Taguig City, Metro Manila, Philippines.

**BASES CONVERSION AND
DEVELOPMENT AUTHORITY**

**FILIPINAS DRAVO CORP./
PERTCONSULT INT. JOINT
VENTURE**

By:

By:


VIVENCIO B. DIZON
President & CEO


COL. CRISOSTOMO S. RAMOS (RET.)
Vice Chairman & CEO



PERTCONSULT INTERNATIONAL

By:


HOMOBONO C. FIGUE
General Manager

Signed in the Presence of

ACKNOWLEDGEMENT

Republic of the Philippines)
Taguig City) S.S.

BEFORE ME, a Notary Public, for and in the City of Taguig City,
this DEC 11 day of 2018, 2018, personally appeared the following:

Name	Evidence of Identity	Date/Place Issued
VIVENCIO B. DIZON		
COL. CRISOSTOMO S. RAMOS (RET.)		
HOMOBONO C. PIQUE		

NOTARY PUBLIC

Doc. No. 342 ;
Page No. 70 ;
Book No. 12 ;
Series of 2018.

gy
GUALBERTO J. OYZON, JR.
Notary Public for Taguig City, Philippines
Appointment No. 22, Until 31 December 2019
2/F BTC 21st St, BGC, Taguig City, 1634
PTR No. A-3774071/Taguig City/16 January 2018
Roll of Attorneys No. 48062/IBP Lifetime Member No. 04862
MCLE Compliance No. V-0005517/14 January 2015

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ANISTOLA GUERRERO
BCRA REGISTRAR GENERAL

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SECRETARY'S CERTIFICATE

Republic of the Philippines
Taguig City 1855

CERTIFIED TRUE COPY
 JOHN HOSKINS, JR.
 CHIEF OF MANAGEMENT SERVICES
 JOHN HOSKINS, JR.
 CHIEF OF MANAGEMENT SERVICES

I, JOANNA EILEEN M. CAPONES, of legal age, being the Assistant Corporate Secretary of the Bases Conversion and Development Authority (BCDA), with office address at the 2/F Bonifacio Technology Center, 5th Street corner 2nd Avenue, Bonifacio Global City, Taguig City, do hereby certify that on the occasion of the 506th Regular BCDA Board Meeting held on 13 December 2017 with a quorum being present, the Board of Directors, upon motion duly seconded, unanimously approved the following resolution:

Resolution No. 2017-12-197

Resolve, as it is hereby resolved, that the Approved Budget for the Contract (ABC) in the amount of Pnp7,476,255,000.00 be, as it is hereby APPROVED.

Package	Project Title	Project Cost
1	NCC to SCTEx Access Road (12.054 km road, 4 bridges & 2 interchanges)	3,358,500,000.00
2	Airport to NCC Access Road (3.50 km road, Sacobia Bridge & 2 minor)	3,900,000,000.00
A	CMS for Package 1	100,755,000.00
B	CMS for Package 2	117,000,000.00
Total		7,476,255,000.00

Resolve further, as it is hereby further resolved, that the 2017 Budget of BCDA in the amount of Pnp16,442 million be, as it is hereby APPROVED.

Particulars	Amount
BCDA Operation	5,257
New Clark City Project	8,514
Subic-Clark-Tarlac Expressway Project	1,496
Subsidiaries	532
Clark Airport Expansion Project	279
Iconic Building Project	273
National Government Administrative Center	39
Total	16,440

Resolve further, as it is hereby further resolved, that the use of BCDA's 27.5% share pursuant to Section 3 of RA 7227, as amended, to fund the following projects (COA requirements) be, as it is hereby APPROVED:

Particulars	Amount
New Clark City Project – CAPEX	2,474
Clark Airport Expansion Project	279
John Hay Management Corporation	125
Poro Point Management Corporation	93
National Government Administrative Center	39
Total	3,010



Resolve finally, as it is hereby finally resolved, that the following recommendations be, as it is hereby APPROVED.

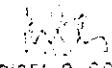
- a) Inclusion of the projects in the 2018 Annual Procurement Plan (APP);
- b) Authority to proceed with the bidding of the projects; and
- c) Authority of BCDA President and Chief Executive Officer to approve the bidding including contracts and all other documents related to the implementation of the projects.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 10th day of September 2018

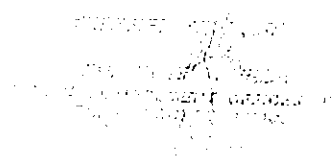

JOANNA EILEEN M. CAPONES
Assistant Corporate Secretary

SUBSCRIBED AND SWORN to before me this SEP 10 2018 at Taguig City, Philippines, by Atty. JOANNA EILEEN M. CAPONES who exhibited to me her LTO Driver's License NO. _____ issued at the City of _____ on _____ and valid until _____.

Doc. No. 213
Page No. 111
Book No. 17
Series of 2018


ATTY. MARICEL C. CORONACION-SANTOG
NOTARY PUBLIC FOR AND IN TAGUIG CITY
NOTARIAL COMMISSION UNTIL DECEMBER 31, 2018
ROLL OF ATTORNEYS NO. 33834
JEP NO. 031551 / 1-29-13 / RIZAL
PTR NO. A-3810486 / 1-28-10 / TAGUIG CITY
SOLE COMMISSIONER NO. V-210574 / 16 MARCH 2011

Prepared As an attachment to BCD-2018-0477
BCD-2018-0477



REPUBLIC OF THE PHILIPPINES)
MAKATI CITY, METRO MANILA) S.S.

SECRETARY'S CERTIFICATE

KNOW ALLMEN BY THESE PRESENTS:


I, MAGILYN T. LOJA, of legal age, Filipino and resident of the Philippines, under oath, depose and state:

1. I am the duly elected and qualified Assistant Corporate Secretary of FILIPINAS DRAVO CORPORATION (the "Corporation"), a corporation duly organized and existing under and by virtue of the laws of the Philippines with principal offices at the 5th Floor, Aurora Milestone Building, 1045 Aurora Boulevard, Loyola Heights, Quezon City;

2. At the special meeting of the Board of Directors of the Corporation held at its principal offices on 02 April 2018, at which a quorum was present and acting throughout, the following resolutions were unanimously adopted and approved:

"RESOLVED, to authorize Engr. VIRGILIO G. DE ASIS, President/COO or Engr. CRISOSTOMO S. RAMOS, Vice-Chairman/CEO or Engr. ALFREDO R. REVILLA, Senior Vice President-Construction Management Supervision, to sign, apply for, negotiate, and submit the appropriate documents for and in behalf of Filipinas Dravo Corporation ("Corporation"), relative to any of the following:

1. General correspondence essential to the company business operations;
2. Proposal, Tenders, Contracts, involving the following services in Consulting Engineering and Consultancy:
 - 2.1 Master Planning (MP);
 - 2.2 Architectural and Engineering (A&E);
 - 2.3 Combination of Master Planning and Architectural Design;
 - 2.4 Combination of Architectural and Engineering and Contract Administration and Construction Supervision;
 - 2.5 Pre-investment of Feasibility Study and Detailed Engineering Design (FS & DE);
 - 2.6 Detailed Engineering Design (DE);
 - 2.7 Combination of Feasibility Study and Detailed Engineering Design (FS & DE);
 - 2.8 Construction Supervision (CS);
 - 2.9 Combination of Detailed Engineering and Construction Engineering and Construction Supervision (DE&CS);
 - 2.10 Construction Management Services (CMS) or Works Engineering (WE);
 - 2.11 Integrated Development Studies;
 - 2.12 Advisory and Review Services;
 - 2.13 Specific Technical Services and Specific Studies in Engineering.

FILIPINAS DRAVO CORPORATION
CERTIFIED TRUE COPY
BY: 
DATE: NOV 07 2018

JOINT VENTURE AGREEMENT

This Joint Venture Agreement entered into this day between:

FILIPINAS DRAVO CORPORATION, a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5th Floor, Aurora Milestone Bldg., 1045 Aurora Blvd., Quezon City, Metro Manila, represented herein by its Authorized Representative under a Board Resolution (see attached Secretary's Certificate) Vice Chairman & CEO, **COL. CRISOSTOMO S. RAMOS (RET.)**, herein referred to as the "FILIPINAS DRAVO;"

- and -

PERTCONSULT INTERNATIONAL, a single proprietorship firm duly organized and existing under and by virtue of the laws of the Philippines, with office address located at the 9th Floor, The Excelsior Building, 161 Roxas Blvd., Parañaque City, Metro Manila, represented herein by its General Manager, **Mr. HOMOBONO C. PIQUE**, herein referred to as the "PERTCONSULT".

WITNESSETH:

WHEREAS, the joint venture of FILIPINAS DRAVO and PERTCONSULT was awarded the Contract to undertake the Consulting Services for the Construction Management and Supervision of the Airport (CIA) TO New Clark City (NCC) Access Road (Phase 1), herein referred to as the "Services"

NOW, THEREFORE, for and in consideration of the above, both parties agree to undertake the services under the following terms and conditions

Article 1 – Sharing Scheme

- 1.1 The sharing scheme of parties on the total contract amount shall be 50% for FILIPINAS DRAVO and 50% for PERTCONSULT.

Article 2 – Joint and Several Obligations

- 2.1 Both parties shall be jointly and severally responsible for the obligations and civil liabilities arising from the performance of Services.

Article 3 – Organization

- 3.1 FILIPINAS DRAVO shall act as Lead Consultant
- 3.2 Principal issues, such as changes to or deviations from the Contract, or entering into major contractual obligations with others shall be referred to and decided upon by both parties. Likewise, both parties must be represented when meeting with Client to discuss issues that will affect the Contract.

- 3.3 Wherever possible, decisions of both parties shall be made unanimously. Meetings shall be set to discuss opposing issues and should be unanimously agreed prior to meeting or discussion with Client.
- 3.4 Col. Crisostomo S. Ramos (Ret.) shall be the official Authorized Representative of the Joint Venture.

Article 4 – Financial Control of the Joint Venture

- 4.1 The Joint Venture shall open and maintain a bank account in such bank as the parties may mutually agree upon, in which all funds advanced by both parties for the performance of the Services as well as the collection received from Client shall be deposited. Withdrawals shall be made from the bank account in such manner and in such form as may be mutually agreed upon in writing by the parties from time to time.
- 4.2 A Common Fund shall be established and administered by FILIPINAS DRAVO to fund Miscellaneous Contract Expenses as defined and agreed by both parties.
- 4.3 Both parties shall initially contribute equally to the common fund: Expenses incurred in the project not chargeable against miscellaneous contract expenses such as bonds, shall be allocated to both parties based on equal sharing.
- 4.4 FILIPINAS DRAVO shall prepare monthly accounting report of the common fund which shall be distributed to both parties.
- 4.5 Each party shall be responsible for funding its own expenditures on personnel cost.
- 4.6 Vehicles assigned to each party in the performance of the Services, the full cost, including full operation and maintenance, shall be funded by the respective parties, except for one vehicle purchased by the Joint Venture. Expenses for the joint venture owned-vehicle shall be derived from the common fund.
- 4.7 The interest of the parties in and to any profit and assets derived from the performance of the Services specifically under Miscellaneous Contract Expenses as defined and agreed by both parties shall be equally distributed in accordance to sharing scheme.
- 4.8 FILIPINAS DRAVO shall be responsible for the preparation, submission, and collection of billing from CLIENT.
- 4.9 The TIN number to be submitted to CLIENT for collection purposes shall be agreed by both parties.
- 4.10 Each party shall be responsible for filing its own returns and payments of taxes as required by the laws of the Philippines.

Article 5 –Obligations of FILIPINAS DRAVO and PERTCONSULT

- 5.1 Each party shall be responsible for assigning their respective qualified staff in accordance to the Contract Manning Schedule.
- 5.2 Key, support and administrative personnel assigned to the Services shall remain employed by the respective parties.
- 5.3 Each party binds itself, its successors, assignees and legal representatives to the other with respect to all of its covenants of this Joint Venture Agreement, and further agree that it shall not assign, subcontract, divide, transfer its interest in this Joint Venture Agreement or any part thereof without the express consent of the other.
- 5.4 The Services shall be carried out in the spirit mutual respect and cooperation by both parties.

Article 6 – Access to Documentation

- 6.1 Each party shall have the right of access to work carried out by other in connection with the Project.
- 6.2 Copies of all final documents submitted to the Client shall be made available to each party.
- 6.3 During the execution of the Services, all documentation shall be treated in a confidential manner, and shall not be used for any applications other than those covered by the Contract. Any request made by the other party to have a part of its work treated in a confidential manner with respect to third parties shall be honored by the other. The requirements of this provision shall survive the term of this Joint Venture Agreement.
- 6.4 All non-proprietary data, information, reports, drawings, renderings, or other documents or materials prepared by each party hereunder shall become the property of the JV, or the Client if imposed by that contract, whether or not the work covered thereby is executed, provided that each party may retain a record copy for its file.

Article 7 – Failure of the Party to Fulfill its Obligations

- 7.1 In the event that one party is unable to fulfill its obligations, in whole or in part, or cause delay to the other or to the Services, and the other party cannot promptly remedy such default, the other party may demand that a part or the whole of the defaulting party share of the work be passed over to the other party who is competent and in a position to undertake the work. Said defaulting party shall fully compensate the other for all costs and expenses incurred by them in performing the duties. The defaulting party shall remain responsible for providing bonds as provided in the contract agreement for the Services until the completion of the project.

7.2 The party not in default shall have the right:

- a) To continue and complete the Services without participation by the other party in default its successors, receivers or other legal representatives.
- b) To retain for the performance of the Services all equipment and materials purchased by the defaulting party, and all assets owned by the defaulting party, and all assets owned by the defaulting party maintained at the Project Office at the time default, until the completion of the Services.

Article 8 – Arbitration

8.1 Both parties shall make every attempt to resolve in an amicable way any differences concerning the interpretation of this Joint Venture Agreement and the execution of the Services. Any dispute or disagreement which cannot be resolved by parties, and any controversy and claim or dispute otherwise arising out of or in connection with this Joint Venture Agreement, or breach thereof of the Services shall be finally settled in the court of Quezon City.

Article 9 – Term and Termination

9.1 This Joint Venture Agreement shall remain in effect co-terminus with the completion of the Services.

Article 10 – Notices

10.1 All notices shall be sent by email or handcarried, addressed as set-forth below:


FILIPINAS DRAVO CORPORATION: Col. CRISOSTOMO S. RAMOS (Ret.)
5th Floor Aurora Milestone Building,
1045 Aurora Blvd., Loyola Heights,
Quezon City, Metro Manila

PERTCONSULT INTERNATIONAL: HOMOBONO C. PIQUE
General Manager
The Excelsior Bldg., 161 Roxas Blvd.,
Parañaque City, Metro Manila

IN WITNESS WHEREOF, the parties hereto have cause this MOU to be signed by their duly authorized representatives;

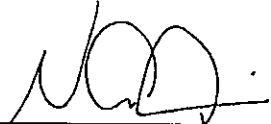
For and in behalf of
 FILIPINAS DRAVO CORPORATION
 By:

For and in behalf of
 PERTCONSULT INTERNATIONAL
 By:


 Col. CRISOSTOMO S. RAMOS (Ret.)
 Vice-Chairman and CEO


 HOMOBONO C. PIQUE
 General Manager

Signed in the Presence of





ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
 CITY OF _____)
QUEZON CITY

09 NOV 2018

SUBSCRIBED AND SWORN to before me this _____ at Quezon City, Metro Manila, Philippines. Affiants exhibited to me their respective Passport No./PRC No., to wit:

Name	Passport No./PRC No.	Issued on	Issued at
COL. CRISOSTOMO S. RAMOS(Ret.)			
HOMOBONO C. PIQUE			

Doc. No. : 204
 Page No. : _____
 Book No. : _____
 Series of 2018. : 2018

ATTY. HERONILSS P. GUZMAN
NOTARY PUBLIC Metro Manila
 Notary Public for and in Metro Manila, Quezon City
 Until Dec 31, 2018, Quezon City
 PTR No 552277A, Quezon City
 MCLE Exemption IV No. 000000 Exp on Dec 31, 2019
 IBP No 1058088, Quezon City
 Admin No NP-123 (2018-2019)
 Jurisdiction, Quezon City
 118A Luna St., Project 4, Quezon City

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CERTIFIED COPY OF PHOTOCOPY

ARISTOTE GUERRERO
 BCDA RECORDS MANAGEMENT

