REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT

INSTRUCTIONS TO BIDDERS (ITB)

10 JANUARY 2014
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DISCLAIMER

The information contained in the Bidding Documents, Information Documents and any other information, whether verbal or written, provided by the Department of Transportation and Communications ("DOTC") or any of its employees or advisors, or on behalf of the DOTC, is provided to Bidders on the terms and conditions set out in the Bidding Documents and such other terms and conditions subject to which such information is provided.

The Bidding Documents and Information Documents are not agreements and are neither offers nor invitations by the DOTC to the Bidders or any other person. The DOTC, its employees and advisors are not bound by any of the contents of the Bidding Documents or Information Documents. The purpose of the Bidding Documents and Information Documents is to provide interested parties with information that may be useful to them in making their Bids pursuant to the Bidding Documents. The Bidding Documents and Information Documents include statements that reflect various assumptions and assessments arrived at by the DOTC in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. The Bidding Documents and Information Documents may not be appropriate for all persons, and it is not possible for the DOTC, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses the Bidding Documents and Information Documents. The assumptions, assessments, statements and information contained in the Bidding Documents, Information Documents and associated documents may not be complete, adequate, accurate or correct. Each Bidder should therefore, conduct its own investigations and analysis and should check the completeness, adequacy accuracy, correctness, and reliability of the assumptions, assessments, statements and information contained in the Bidding Documents and Information Documents and obtain independent advice from appropriate sources.

Information provided in the Bidding Documents and the Information Documents is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The DOTC accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The DOTC, its employees and advisors make no undertaking, assurance, representation or warranty and shall have no liability to any person, including any Bidder, under any law, statute, rules or regulations, principles of restitution or unjust enrichment or otherwise, for any loss, damages, cost or expense that may arise from or be incurred or suffered on account of anything contained in the Bidding Documents, Information Documents or other information provided to Bidders, including the completeness, adequacy accuracy, correctness, and reliability
of the Bidding Documents, Information Documents and any assessment, assumption, statement or information contained therein or deemed to form part of the Bidding Documents, Information Documents or arising in any way from participation in the Bidding Process.

The DOTC also accepts no liability of any nature, whether resulting from negligence or howsoever caused, arising from reliance of any Bidder upon the statements contained in the Bidding Documents or Information Documents.

The DOTC may, in its absolute discretion, but without being under any obligation to do so, amend, update, or supplement the information, assessments or assumptions contained in the Bidding Documents or Information Documents. However, the DOTC, its employees and advisors shall not be liable to any Bidder (including the Winning Bidder) in respect of any failure to (i) disclose or make available any information, documents or data; (ii) amend, update, or supplement the Bidding Documents or Information Documents; or (iii) provide any information regarding any inaccuracy, error, omission, defect or inadequacy in the Bidding Documents or Information Documents.

The issuance of the Bidding Documents or Information Documents does not imply that the DOTC is bound to select a Bidder or to appoint the selected Bidder, as the case may be, for the Project, and the DOTC reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.
Republic of the Philippines
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT

INSTRUCTIONS TO BIDDERS

INTRODUCTION

The Department of Transportation and Communications invites bidders to submit Bids to finance, design, construct, operate and maintain the Southwest Integrated Transport System Project ("Project"). The Project consists of the development of a mass transportation intermodal terminal at the southwestern outskirts of Metropolitan Manila in order to provide effective interconnection between different transport modes and services and thus ensure efficient and seamless travel for the commuting public.

These Instructions to Bidders provide for the procedures and requirements for the preparation and submission of Qualification Documents and Bid Proposals by Bidders and the evaluation criteria and rules to be followed by the DOTC in the selection of a Winning Bidder to undertake the Project. The selection of a Winning Bidder shall be done pursuant to a single-stage public bidding in accordance with the BOT Law, the applicable provisions of which are deemed incorporated by reference into these Instructions to Bidders.

SECTION 1: BIDDING PROCESS

1.1 PRE-QUALIFICATION BIDS AND AWARDS COMMITTEE

The Pre-Qualification Bids and Awards Committee for Public Private Partnership Projects of the DOTC ("PBAC") created by DOTC Order No. 2013-349 (issued on 26 November 2013) shall administer the Bidding Process for the Project.

1.2 BIDDING DOCUMENTS

1.2.a The Bidding Documents issued by the PBAC shall set out the rules and procedures applicable to the Bidding Process. They consist of the following documents:
1.2.a(1) these Instructions to Bidders and its Annexes;

1.2.a(2) the draft Concession Agreement and its Schedules; and

1.2.a(3) the Information Memorandum.

1.2.b The Concession Agreement and its Schedules will be the principal document governing the relationship between the DOTC and the Concessionaire.

1.2.c In case of conflict among any of the Bidding Documents, the provisions of the Concession Agreement shall prevail.

1.2.d General Rules of Interpretation

1.2.d(1) In case of ambiguities or discrepancies within these Instructions to Bidders, the following rules of interpretation shall apply:

(a) between two or more Sections of these Instructions to Bidders, the provisions of a specific Section relevant to the issue under consideration shall prevail over those in other Sections;

(b) between the Sections of these Instructions to Bidders and the Annexes, the Sections shall prevail;

(c) between any two Annexes, the Annex relevant to the issue shall prevail; and

(d) between any value written in numerals and that in words, the latter shall prevail.

The rule of construction, if any, that a contract should be interpreted against the party responsible for the drafting and preparation thereof, shall not apply.

1.2.d(2) Unless the context otherwise requires:
(a) “Include”, “includes”, and “including” are deemed to be followed by “without limitation” or “but not limited to”, whether or not actually followed by such words or words of like import.

(b) References to any Annex or Schedule shall be deemed to include references to such document or agreement as amended, supplemented, novated, varied or replaced from time to time.

(c) References to a person include his successors and permitted assigns.

(d) References to any gender include all genders, and references to the singular include the plural, and vice versa.

(e) References to Sections or Annexes which do not specify what document they are referenced to are Sections or Annexes or Schedules to these Instructions to Bidders.

(f) Headings are for convenience only and shall not affect the interpretation or construction of any provision of this Agreement.

(g) References to a “day” shall be to a calendar day, to a “month” shall be to a calendar month, and to a “year” shall be to a period of time commencing on a particular date and ending on the day before the anniversary of such date.

1.3 INFORMATION DOCUMENTS

In addition to the Bidding Documents, some documents will be provided to the Bidders solely to provide background information on the Project (“Information Documents”), which documents shall be made available in the Data Room.

1.4 INDICATIVE BIDDING SCHEDULE
Table 1 below provides an indicative schedule for the Bidding Process, as follows:

Table 1. Indicative Schedule

<table>
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<tr>
<th>Milestone</th>
<th>Responsibility</th>
<th>Target date</th>
</tr>
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<tbody>
<tr>
<td>Publication of advertisement</td>
<td>DOTC</td>
<td>27 December 2013</td>
</tr>
<tr>
<td>Opening of Data Room</td>
<td>DOTC</td>
<td>Upon payment for the Bidding Documents</td>
</tr>
<tr>
<td>Release of 1st version of Project Information Memorandum, Instruction to Bidders and Concession Agreement</td>
<td>DOTC</td>
<td>10 January 2014</td>
</tr>
<tr>
<td>Site Visit</td>
<td>DOTC</td>
<td>Upon request to DOTC</td>
</tr>
<tr>
<td>Submission of 1st batch of queries/comments</td>
<td>Bidders</td>
<td>31 January 2014</td>
</tr>
<tr>
<td>Pre-Bid Conference</td>
<td>DOTC</td>
<td>10 February 2014</td>
</tr>
<tr>
<td>One-on-One Meeting: 1st Round</td>
<td>DOTC</td>
<td>11 to 14 February 2014</td>
</tr>
<tr>
<td>Issuance of response to 1st batch of queries/comments</td>
<td>DOTC</td>
<td>17 February 2014</td>
</tr>
<tr>
<td>Submission of 2nd batch of queries/comments</td>
<td>Bidders</td>
<td>3 March 2014</td>
</tr>
<tr>
<td>One-on-One Meetings: 2nd Round</td>
<td>DOTC</td>
<td>4 to 7 March 2014</td>
</tr>
<tr>
<td>Issuance of response to 2nd batch of queries/comments</td>
<td>DOTC</td>
<td>17 March 2014</td>
</tr>
<tr>
<td>Issuance of final Bidding Documents</td>
<td>DOTC</td>
<td>4 April 2014</td>
</tr>
<tr>
<td>Bid Submission Date</td>
<td>Bidders</td>
<td>15 May 2014</td>
</tr>
<tr>
<td>Evaluation of Qualification Documents (Envelope 1)</td>
<td>DOTC</td>
<td>Ten (10) days from Bid Submission Date</td>
</tr>
<tr>
<td>Second Envelope Opening Date</td>
<td>DOTC</td>
<td>June 2014</td>
</tr>
<tr>
<td>Evaluation of Technical Proposal (Envelope 2)</td>
<td>DOTC</td>
<td>Within twenty (20) days from Second Envelope Opening Date</td>
</tr>
<tr>
<td>Third Envelope Opening Date</td>
<td>DOTC</td>
<td>June 2014</td>
</tr>
</tbody>
</table>
### 1.5 SUMMARY OF BIDDING PROCESS

The competitive bidding for the Project will be conducted in accordance with the rules and procedures for the single-stage bidding process provided under the BOT Law and its Revised Implementing Rules and Regulations (2012), the applicable provisions of which are deemed incorporated herein by reference.

The general procedure for the Bidding will be as follows:

1.5.a The PBAC shall conduct a Pre-Bid Conference in accordance with Section 1.13 (Pre-Bid Conference).
1.5.b On the Bid Submission Date, the Bidders shall submit to the PBAC their Qualification Documents and Bid Proposals in three (3) separate sealed envelopes. The First Envelope shall contain the Qualification Documents, the Second Envelope shall contain the Technical Proposal, and the Third Envelope shall contain the Financial Proposal.

1.5.c On the Bid Submission Date, the PBAC shall open the First Envelope and ascertain whether the same is complete. The PBAC shall then evaluate the Qualification Documents of each Bidder in accordance with Sections 2 (Qualification Requirements) and 4 (Qualification Documents). The PBAC shall determine the qualified and disqualified Bidders and notify them of the results in accordance with Sections 9.2 and 9.3. The Qualified Bidders shall be informed of the date, time and venue for the opening of the Second Envelope. Disqualified Bidders shall be informed of the reasons for their disqualification and their Bid Proposals will be returned unopened together with their Bid Securities.

1.5.d On the Second Envelope Opening Date, the PBAC shall open the Second Envelope of each Qualified Bidder and ascertain whether the same is complete and accompanied by the required Bid Security. The PBAC shall then evaluate the Technical Proposal of each Qualified Bidder in accordance with Section 5.1 (Technical Proposal). The PBAC shall determine which of the Technical Proposals meet the evaluation criteria and notify the Qualified Bidders of the results of the evaluation. The Qualified Bidders whose Technical Proposals meet the evaluation criteria and are rated as “Complying” shall be informed of the date, time and venue for the opening of the Third Envelope in accordance with Section 10.1. Qualified Bidders with “Non-Complying” Technical Proposals shall be informed of the reasons why their Technical Proposals were found to be “Non-Complying” and their Financial Proposals will be returned unopened together with their Bid Securities.

1.5.e On the Third Envelope Opening Date, the PBAC shall compare the Bid Amounts submitted by the Qualified Bidders with “Complying” Technical Proposals. The PBAC shall rank the Bid Amounts in accordance with Section 10.2.d and determine the Bidder who submitted the Best Bid. The PBAC shall recommend to the Secretary of the DOTC for the award of the Project to such Bidder.

1.5.f The DOTC Secretary shall issue the Notice of Award to the Qualified Bidder with a Complying Technical Proposal who submitted the Best Bid.
1.6  REVISIONS AND CLARIFICATIONS TO THE BIDDING DOCUMENTS

The PBAC reserves the right to amend, revise, modify, or clarify any section of the Bidding Documents at any stage of the Bidding Process. Such amendments, revisions, modifications, or clarifications, if any, shall be communicated in writing to all parties who purchased the Bidding Documents through bid bulletins issued by the PBAC. Upon the issuance of a bid bulletin, the same shall automatically be incorporated into and made an integral part of the relevant Bidding Document. Failure of a Bidder to secure the bid bulletins shall constitute a waiver of its right to be informed thereof.

1.7  RESPONSIBILITIES OF BIDDERS

1.7.a  Notwithstanding any information given in the Bidding Documents, Information Documents and any additional communications from the DOTC or the PBAC, including any notices and bid bulletins, it is the sole responsibility of each Bidder to:

1.7.a(1)  be fully acquainted with the requirements, terms, and conditions of the Bidding Process;

1.7.a(2)  examine all of the Bidding Documents and Information Documents and verify the correctness, accuracy, completeness, and reliability of the information contained in these documents;

1.7.a(3)  familiarize itself with all the applicable laws and administrative issuances and regulations of the Philippines, whether national or local, that may affect the Bidding Process and the Project; and

1.7.a(4)  determine and satisfy itself, at its own cost and risk, and by such means as it considers necessary and desirable, as to all matters pertaining to the execution of the Project, including but not limited to the location and nature of the Project; the terrain, geological, meteorological, and hydrological conditions; existing works and plans for future works in the area; existing and planned above ground and sub-level utilities; easements; existing or threatened legal disputes or issues; environmental and social concerns and issues; the requirement and availability of labor, materials, equipment,
aggregate sources, water, power, roads, communications and other relevant factors; resource requirements; traffic and ridership projections; the financial viability of the Project; and risks and contingencies that may affect the cost, duration, execution and completion of the Project.

1.7.b The Bidders (including any Consortium Members, proposed contractors or Affiliates), the Winning Bidder and the Concessionaire shall not be entitled to and shall not make any claim against the DOTC or any other associated party, whether on the basis of contract, quasi-delict or delict, for damages, extensions of time or payments on the grounds:

1.7.b(1) of any misunderstanding or misapprehension in respect of the Bidding Documents or Information Documents; or

1.7.b(2) that incorrect or insufficient information relating to the Bidding Documents and/or Information Documents was given to them by the DOTC or any other associated party.

1.7.c By submitting its Bid, a Bidder shall be presumed to have fully examined and accepted all of the terms and conditions provided in all of the Bidding Documents.

1.8 COSTS AND EXPENSES OF PARTICIPATION

Interested parties and Bidders shall bear all costs, liabilities, losses and damages associated with or resulting from their participation in the Bidding Process. The DOTC shall not be held responsible or liable in any way for any such costs, losses or damages incurred by any Bidder (whether incurred by it directly or indirectly, or by its advisors, contractors, Affiliates or other persons), regardless of the results of the Bidding Process.

Bidders must pay one hundred fifty thousand Philippine Pesos (PhP150,000) for the Bidding Documents, payable in cash or manager's check issued by a bank in the Philippines made out to the Department of Transportation and Communications, which payment shall be non-refundable. A Bidder may, however, be entitled to a refund of the amount it paid for the Bidding Documents if the DOTC should cancel or terminate the Bidding Process without any fault on the part of such Bidder, except if it is disqualified.
pursuant to these Instructions to Bidders or there is a failed bidding. The person duly authorized by a Bidder to purchase the Bidding Documents must present to the PBAC Secretariat, as identified in Section 1.9 (Queries and Comments on Bidding Documents), his authorization from the Bidder. Upon receipt of payment for the Bidding Documents, the Bidder will be issued an official receipt and given copies of the Bidding Documents and access to the Data Room where the Information Documents will be made available.

1.9 QUERIES AND COMMENTS ON BIDDING DOCUMENTS

1.9.a A Bidder may submit queries and/or comments on the Bidding Documents. All queries and/or comments should be sent by (1) personal delivery of the original copy of the queries/comments and (2) email of a scanned signed copy in Portable Document Format (.pdf) to all addressees below, at the following addresses and emails:

PBAC Chairman for the Project
Attention: Undersecretary Jose Perpetuo M. Lotilla
Address: 16 Floor, The Columbia Tower, Ortigas Avenue, Mandaluyong City
E-mail: juloti1@gmail.com
Telephone: (+63 2) 7277960/7241728
Fax: (+63 2) 7256609

PBAC Vice-Chairman for the Project
Attention: Undersecretary Rene K. Limcaoco
Address: 16 Floor, The Columbia Tower, Ortigas Avenue, Mandaluyong City
E-mail: reneklimcaoco@yahoo.com (cc: jaimecfeliciano@gmail.com)
Telephone: (+63 2) 7277960/7250204
Fax: (+63 2) 726 6221

PBAC Secretariat for Southwest Integrated Transport System Project
Attention: Undersecretary Catherine P. Gonzales
Address: 15 Floor, The Columbia Tower, Ortigas Avenue, Mandaluyong City
E-mail: bacsec@dotc.gov.ph
cpg.dotc@gmail.com
catherinepgonzales@yahoo.com
Telephone: (+63 2) 727 7960 or 726 7128
Fax: (+63 2) 654 7725
Technical Working Group Chairman
Attention: Florencia A. Creus
Address: 6 Floor, The Columbia Tower, Ortigas Avenue, Mandaluyong City
E-mail: florcreus@yahoo.com
Telefax: (+63 2) 727 1703

PPP Center
Attention: Executive Director Cosette V. Canilao
Address: Public-Private Partnership Center
        NEDA Complex, Diliman, Quezon City
E-mail: cvcanilao@ppp.gov.ph
Telephone: (+63 2) 929 5187

Feedback Infra Private Limited
Attention: Amandeep Singh Virk
        Vice President
E-mail: amandeep.virk@feedbackinfra.com
        abhishek.rathore@feedbackinfra.com
Telephone: (+63) 906 436 1741 / (+91) 9711686667
           (+63) 927 365 8722 / (+91) 9868932923

Project E-mail: its-swp@ppp.gov.ph

In case of a discrepancy between copies personally delivered and emailed, the copy personally delivered shall prevail.

1.9.b Bidders must submit their queries and/or comments in sets on or before the dates indicated in Table 1.

1.9.c For all of its queries/comments submitted by personal delivery and email, Bidders must use the Excel template provided in Schedule 1.

1.9.d Queries on the Bidding Documents must be concrete or clarificatory, and not purely hypothetical in nature.
1.9.e The PBAC will endeavor to respond to all reasonable queries submitted in accordance with these Instructions to Bidders. Responses to queries and any modifications to the Bidding Documents will be made on a non-attributable basis and shall be in writing and made known to Bidders through bid bulletins issued by the PBAC. All bid bulletins issued by the PBAC shall be deemed to be incorporated in and made an integral part of relevant Bidding Document.

1.10 OWNERSHIP OF DOCUMENTS

All documents submitted by a Bidder to the PBAC pursuant to these Instructions to Bidders shall become the property of the DOTC and any information obtained by the DOTC from such documents may be reasonably used by them subject to the confidentiality clause in Section 11 (Confidentiality).

1.11 LANGUAGE AND FOREIGN DOCUMENTS

1.11.a The Bid, and all correspondence and documents relating to the Bidding Documents and the Bidding Process, shall be prepared and written in the English language.

1.11.b All documents issued or executed in a foreign country must be authenticated before a Philippine consular official at the relevant Philippine consulate.

1.11.c If the document was issued by a foreign authority, the Bidder should also submit a certified true copy of such document issued by such foreign authority, in addition to the authentication by the Philippine consular official referred to in Section 1.11.b.

1.11.d If the document is written in a foreign language, the Bidder should also submit an accurate English translation of such document, accompanied by a notarized certification by the Bidder that such translation is accurate, in addition to the authentication by the Philippine consular official referred to in Section 1.11.b. In case of conflict, the English translation shall prevail.
1.12 SITE VISITS

The PBAC shall make arrangements for Bidders who wish to visit the site for the Project, the details of which shall be provided in a bid bulletin to be issued to all Bidders.

1.13 PRE-BID CONFERENCE & ONE-ON-ONE MEETINGS

The PBAC shall conduct a Pre-Bid Conference on the date indicated in Table 1. The purpose of the Pre-Bid Conference is to clarify any part of the Bidding Documents and/or the Bidding Process and to answer any relevant questions from Bidders regarding the Bidding Documents, or such other relevant issues that the Bidders may raise. The details of the Pre-Bid Conference are as follows:

Date: 10 February 2014
Time: To be announced
Venue: To be announced

No provisions, terms, or conditions in the Bidding Documents shall be modified by statements made at the Pre-Bid Conference unless these are made in writing and contained in a bid bulletin issued by the PBAC.

The PBAC shall arrange for two (2) rounds of one-on-one meetings with Bidders on scheduled dates, which will be announced through a bid bulletin. A Bidder scheduled for a one-on-one meeting is requested to submit its questions and/or comments at least three (3) calendar days prior to such meeting, following the same procedures indicated in Section 1.9. No provision, term, or condition in the Bidding Documents shall be modified by statements made during these meeting unless these are made in writing and contained in a bid bulletin issued by the PBAC.

SECTION 2: QUALIFICATION REQUIREMENTS

To qualify to bid for the Project, Bidders must comply with all the Legal Qualification Requirements, Technical Qualification Requirements and Financial Capability Qualification Requirements provided in this Section 2 (Qualification Requirements).
2.1   LEGAL QUALIFICATION REQUIREMENTS

2.1.a  If the Bidder is a partnership or corporation, it must be registered with the SEC. If the Bidder is a foreign partnership or corporation, it must be registered with the appropriate government agency equivalent to the SEC in the foreign country where the foreign partnership or corporation was registered for creation or recognition of its juridical personality or capacity. The Bidder must certify that it and its Affiliates whose projects and experience are being submitted as evidence of fulfillment of the Technical Qualification Requirements or Financial Capability Qualification Requirements have no record of Unsatisfactory Performance.

2.1.b  If the Bidder is a Consortium, its members must be partnerships or corporations registered with the SEC. If any member of the Consortium is a foreign partnership or corporation, such member must be registered with the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. Each Consortium Member must certify that it and its Affiliates whose projects and experience are being submitted as evidence of fulfillment of the Technical Qualification Requirements or Financial Capability Qualification Requirements have no record of Unsatisfactory Performance.

2.1.c  If the Bidder is a partnership or corporation, the Bidder itself or its Affiliates cannot be a Public Transport Operator.

If the Bidder is a Consortium and any Consortium Member or any Affiliate of such Consortium Member is a Public Transport Operator, such Consortium Member or its Affiliate that is a Public Transport Operator (1) cannot own, directly or indirectly, more than thirty-three percent (33%) of the Concessionaire’s total number of outstanding shares of stock, whether or not entitled to vote in the election of directors and (2) the number of such Public Transport Operator’s representatives in the board of directors of the Concessionaire shall be limited to its proportionate ownership in the outstanding shares of stock in the Concessionaire, which shall not be more
than thirty-three percent (33%) of the total membership of the board of directors; provided that if there is more than one Consortium Member or Affiliate of a Consortium Member that is a Public Transport Operator, then for the duration of the Concession Period such Consortium Members and its Affiliates that are Public Transport Operators collectively cannot own, directly or indirectly, an aggregate of more than thirty-three percent (33%) of the Concessionaire’s total number of outstanding shares of stock, whether or not entitled to vote in the election of directors and (2) the aggregate number of such Public Transport Operators’ representatives in the board of directors of the Concessionaire shall be limited to their proportionate ownership in the outstanding shares of stock in the Concessionaire, which shall not be more than thirty-three percent (33%) of the total membership of the board of directors.

A Public Transport Operator cannot be designated as the Facility Operator or own any equity in the Facility Operator. However, if a Public Transport Operator was the entity that was qualified by the PBAC as meeting the O&M Experience, (1) such entity shall be allowed to own up to thirty-three percent (33%) of the Facility Operator’s total number of outstanding shares of stock, whether or not entitled to vote in the election of directors and (2) the number of such Public Transport Operator’s representatives in the board of directors of the Facility Operator shall be limited to its proportionate ownership in the outstanding shares of stock in the Facility Operator, which shall not be more than thirty-three percent (33%) of the total membership of the board of directors.

In all cases, the participation of a Public Transport Operator in the governing body of the Concessionaire or the Facility Operator shall be limited to its proportionate share in the Concessionaire’s or Facility Operator’s outstanding shares of stock. In no case shall the control, management, administration, and operation of the Concessionaire and the Facility Operator vest, directly or indirectly, in a Public Transport Operator.

The Bidder and each Consortium Member that is not a Public Transport Operator must certify that it is not a Public Transport Operator.
2.1.d If an Affiliate of the Bidder, Consortium Member, Development Contractor or O&M Contractor is proposed to meet either the Technical Qualification Requirements or Financial Capability Qualification Requirements, such proposed entity must remain an Affiliate of such Bidder, Consortium Member, Development Contractor or O&M Contractor from the Bid Submission Date until the execution of the Concession Agreement.

2.2 TECHNICAL QUALIFICATION REQUIREMENTS

2.2.a DEVELOPMENT EXPERIENCE

2.2.a(1) The Bidder, or a related entity as described in Section 2.2.a(3), must have local or international experience, within the last ten (10) years prior to the Bid Submission Date, in having successfully completed the development of one or more Eligible Projects with a cumulative cost of at least two billion Philippine Pesos (PhP2,000,000,000) and with a cumulative capacity of at least three hundred (300) parking bays for land surface vehicles with four (4) or more wheels, excluding rail.

2.2.a(2) The Bidder must prove that an entity proposed to meet the Development Experience possesses the required experience through the submission of projects where such entity actively participated in the development works for such project, whether as principal or primary contractor or as lead development manager, and was directly responsible and accountable for the outcome of such development works.

2.2.a(3) The entity proposed to meet the Development Experience may be any of the following:

2.2.a(3)(i) if the Bidder is a partnership or corporation:

- the Bidder itself; or
- a Construction Contractor; or

2.2.a(3)(ii) if the Bidder is a Consortium:

- a Consortium Member; or
• A Construction Contractor.

2.2.a(4) A Bidder shall be allowed to nominate not more than three (3) entities to meet the Development Experience. If the entity nominated to meet the Development Experience is a Construction Contractor, such contractor must be a single juridical entity registered with the SEC, or if the contractor is a foreign entity, with the appropriate government agency equivalent to the SEC in the foreign country where the contractor was registered for creation or recognition of its juridical personality or capacity.

2.2.a(5) Each entity proposed by the Bidder to meet the Development Experience must meet such experience on its own. Entities are not permitted to cumulate their experience in order to meet the Development Experience.

2.2.a(6) For the purpose of determining whether the Bidder fulfills the Development Experience, a project completed by the Affiliate of a Bidder shall be considered to have been completed by the Bidder, a project completed by the Affiliate of a Consortium Member shall be considered to have been completed by such Consortium Member, and a project completed by the Affiliate of a Construction Contractor shall be considered to have been completed by such Construction Contractor.

2.2.a(7) Any entity proposed to meet the Development Experience must certify that it has no record of Unsatisfactory Performance.

2.2.a(8) Any entity proposed to meet the Development Experience must possess a valid license issued by the Philippine Contractors Accreditation Board (“PCAB”) for General Building Classification – Large B for Buildings and Industrial Plants – AAA License Category, in the case of a Filipino Construction Contractor, or an equivalent license issued by an equivalent accreditation institution in the Construction Contractor’s country of origin, in the case of a foreign Construction Contractor, provided that such foreign Construction Contractor must secure a license and accreditation from the PCAB after the Bidder is awarded the Project.
2.2.a(9) Any entity proposed to meet the Development Experience must possess a valid ISO 9001:2008 certification or its equivalent. For this particular requirement, an “equivalent” of the ISO 9001:2008 certification would be a notarized certification from a competent regulatory authority stating that: (i) it is the regulatory authority in the country where the entity proposed to meet the Development Experience was registered for creation or recognition of its juridical personality or capacity and it has jurisdiction over such entity; (ii) the laws in such country do not require entities like the entity proposed to meet the Development Experience to secure ISO certifications; (iii) the entity proposed to meet the Development Experience is compliant with the relevant policies, procedures and programs required by applicable laws, rules and regulations of such country; and (iv) the entity proposed to meet the Development Experience has in place internal procedures and processes equivalent to those required under the ISO 9001 certification; in addition, the entity proposed to meet the Development Experience must prove that it has substantially equivalent internal procedures as those required for the ISO 9001:2008 certification, as evidenced by the submission of a notarized document describing the entity’s approved internal quality and environmental management system.

2.2.a(10) Any Consortium Member, Construction Contractor or Affiliate of the Consortium Member or Construction Contractor proposed to meet the Development Experience must submit a statement under oath of its willingness to participate in, and capacity to undertake, the requirements of the Project, and commitment to enter into an agreement with the Concessionaire to undertake the construction of the ITS Terminal.

2.2.a(11) The entity or entities proposed to meet the Development Experience that are qualified by the PBAC will be identified in the Concession Agreement. The Concessionaire may use the entity or entities identified in the Concession Agreement without need for further consent from the DOTC. The use of any entity other than those identified in the Concession Agreement shall require the prior written consent of the DOTC and shall be subject to the Concessionaire’s demonstration that the proposed entity meets the Development Experience.
2.2.a(12) Without prejudice to the Bidding Period Lock-Up Rules, a Bidder shall be disqualified from the Bidding if all of the entities qualified by the PBAC as meeting the Development Experience withdraw from the Bidding between the Bid Submission Date and the execution of the Concession Agreement by the Concessionaire.

2.2.b OPERATION & MAINTENANCE EXPERIENCE

2.2.b(1) The Bidder, or a related entity as described in Section 2.2.b(2), must have local or international experience in the operation and maintenance of -

2.2.b(1)(i) one or more bus terminals with a cumulative bus parking capacity for at least forty (40) passenger buses, and a minimum parking capacity of at least twenty (20) passenger buses in each bus terminal; or

2.2.b(1)(ii) one or more commercial complexes, shopping malls, airport terminals, parking complexes (either stand alone or as a part of any building/project), freight terminals with a cumulative parking capacity of at least one hundred sixty (160) parking bays for land surface transport vehicles with four (4) or more wheels, but excluding rail, and a minimum parking capacity of at least eighty (80) parking bays for land surface transport vehicles with four (4) or more wheels, excluding rail, in each commercial complex, shopping mall, airport terminal, parking complex (either stand alone or as a part of any building/project), freight terminal,

for a period of at least three (3) full consecutive years, within the last ten (10) years prior to the Bid Submission Date

2.2.b(2) The entity proposed to meet the O&M Experience may be any of the following:

2.2.b(2)(i) if the Bidder is a partnership or corporation:

- the Bidder itself; or
- an O&M Contractor.
2.2.b(2)(ii) if the Bidder is a Consortium:

- a Consortium Member; or
- an O&M Contractor.

2.2.b(3) A Bidder shall be allowed to nominate not more than three (3) entities to meet the O&M Experience.

2.2.b(4) Each entity proposed by the Bidder to meet the O&M Experience must meet such experience on its own. Entities are not permitted to cumulate their experience in order to meet the O&M Experience.

2.2.b(5) For the purpose of determining whether the Bidder fulfills the O&M Experience, a project performed by the Affiliate of a Bidder shall be considered to have been performed by the Bidder, a project performed by the Affiliate of a Consortium Member shall be considered to have been performed by such Consortium Member, and a project performed by the Affiliate of an O&M Contractor shall be considered to have been completed by such O&M Contractor.

2.2.b(6) Any entity proposed to meet the O&M Experience must certify that it has no record of Unsatisfactory Performance.

2.2.b(7) Any Consortium Member, O&M Contractor or Affiliate of the Consortium Member or O&M Contractor proposed to meet the O&M Experience must submit a statement under oath of its willingness to participate in, and capacity to undertake, the requirements of the Project, and commitment to enter into an agreement with the Concessionaire to undertake the operation and maintenance of the ITS Terminal or to provide technical support to the Concessionaire in the operation and maintenance of the ITS Terminal should the Concessionaire decide to operate the ITS Terminal itself.

2.2.b(8) The entity or entities proposed to meet the O&M Experience that are qualified by the PBAC will be identified in the Concession Agreement. Unless it decides to operate the ITS Terminal itself, the Concessionaire may designate as its Facility Operator any of the entities identified in the Concession Agreement without need for further consent from the DOTC. The designation as Facility Operator
of any entity other than those identified in the Concession Agreement shall require the prior written consent of the DOTC. In addition, the entity that operates and maintains the ITS Terminal must (i) be registered with the SEC before it commences to operate and maintain the ITS Terminal, (ii) be owned up to at least sixty percent (60%) by Filipinos and (iii) comply with the Constitution and other applicable laws and jurisprudence relating to public utilities. If the Concessionaire designates a Facility Operator to operate and maintain the ITS Terminal, at least thirty percent (30%) of the Facility Operator’s voting and non-voting shares must be owned by any one of the entities qualified by the PBAC for the O&M Experience for the Lock-Up Period.

2.2.b(9) Without prejudice to the Bidding Period Lock-Up Rules, a Bidder shall be disqualified from the Bidding if all of the entities qualified by the PBAC as meeting the O&M Experience withdraw from the Bidding between the Bid Submission Date and the execution of the Concession Agreement by the Concessionaire.

2.2.c QUALIFIED KEY PERSONNEL

2.2.c(1) The Bidder, Consortium Members, Construction Contractors, O&M Contractors and any Affiliates of any of these entities whose projects are being submitted to meet the Technical Qualification Requirements, must have, among their personnel, individuals with the following required qualifications and experience:

<table>
<thead>
<tr>
<th>Minimum Experience Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual having experience in the planning, direction, coordination, integration, implementation, and administration of development activities for at least two (2) Eligible Projects</td>
</tr>
<tr>
<td>Individual having experience in the coordination of operations and maintenance activities for at least two (2) Eligible Projects</td>
</tr>
<tr>
<td>Individual having experience in the supervision/implementation of at least two (2) Eligible Projects</td>
</tr>
</tbody>
</table>
Minimum Experience Required

| Individual having experience in the design of at least two (2) Eligible Projects, including site planning, landscaping and the architectural design of building structures |

2.2.c(2) In order to meet the qualifications and experience required in Section 2.2.c, a Bidder may propose persons who are employed or engaged, including external experts, by the Bidder itself, a Consortium Member or any of their proposed Construction Contractors, O&M Contractors or Affiliates.

2.2.c(3) In the event that it is selected as the Winning Bidder, a Bidder must assign these key personnel to implement the Project. In the event of a substitution of key personnel, personnel with same or better qualification shall be deployed with prior approval of DOTC.

2.3 FINANCIAL CAPABILITY QUALIFICATION REQUIREMENTS

2.3.a The Bidder, or a related entity as described in Section 2.3.b, must –

2.3.a(1) possess a net worth of at least six hundred million Philippine Pesos (PhP600,000,000) or its equivalent as of its latest audited financial statements which must be for a fiscal period ending in any month of 2013 and

2.3.a(2) provide evidence that it has the capability to raise loans of at least one billion four hundred million Philippine Pesos (PhP1,400,000,000) for the Project.

2.3.b The entity proposed to meet the Financial Capability Qualification Requirements may be any of the following:

2.3.b(1) if the Bidder is a partnership or corporation:

- the Bidder itself; or
- an Affiliate of the Bidder, or
2.2.b(2) if the Bidder is a Consortium:

- the Lead Member of the Consortium; or
- an Affiliate of the Lead Member of the Consortium.

2.3.c For a Bidder that is a Consortium, the entity proposed to meet the Financial Capability Qualification Requirements shall be the Lead Member of the Consortium. As Lead Member, such entity must be the Consortium Member with the most significant equity interest in the Concessionaire, and this interest must be at least thirty-three percent (33%) of both voting and non-voting shares of the Concessionaire.

2.3.d A Bidder shall be allowed to nominate only a single entity to meet the Financial Capability Qualification Requirements, which entity must meet all of the requirements in Section 2.3.a on its own.

2.3.e The entity proposed to meet the Financial Capability Qualification Requirements must certify that it has no record of Unsatisfactory Performance.

SECTION 3: BID PROPOSAL REQUIREMENTS

3.1 TECHNICAL PROPOSAL REQUIREMENTS

The Technical Proposal of the Qualified Bidder must comply with all of the requirements provided in Section 5.1 (Technical Proposal). The Technical Proposal of the Qualified Bidder shall be rated as “Complying” if all the requirements under Section 5.1 (Technical Proposal) have been complied with; otherwise, the Technical Proposal shall be rated as “Non-Complying”. All Bidders whose Technical Proposals have been rated as “Complying” shall be considered on equal footing insofar as their Technical Proposals are concerned.
3.2. FINANCIAL PROPOSAL REQUIREMENTS

The Financial Proposal of the Qualified Bidder with a Complying Technical Proposal must comply with all of the requirements provided in Section 5.2 (Financial Proposal). In addition, it must be consistent with the Bidder’s Technical Proposal. The Bidder with the highest Concession Fee shall be declared as the Winning Bidder.

SECTION 4: QUALIFICATION DOCUMENTS (FIRST ENVELOPE)

On the Bid Submission Date, the Bidder must submit the First Envelope consisting of the following Qualification Documents, using the relevant forms indicated in this Section 4 (Qualification Documents):

4.1 Bid Letter, using the form in Annex QD-1.

4.2 Notarized Certification of No Relationship with Public Transport Operator, using the form in Annex QD-1A.

4.3 Business Structure, using the form in Annex QD-2A for partnerships or corporations, or Annex QD-2B for Consortiums.

   4.3.a The Business Structure must indicate the entities that fulfill the Technical Qualification Requirements and the Financial Capability Qualification Requirements, and any Affiliates of these entities whose projects, experience, or financial capabilities are being submitted to comply with such Qualification Requirements.

   4.3.b For Consortiums, the Business Structure must indicate the Lead Member and all Consortium Members, the proposed equity interest of each Consortium Member in the Concessionaire, and the total percentage interest of all Consortium Members in the Concessionaire must be one hundred percent (100%).

   4.3.c If an Affiliate will be used to comply with any of the Technical Qualification Requirements or the Financial Qualification Requirements, evidence of affiliation must be submitted.

4.4 Basic Information Sheet, using the form in Annex QD-3.
4.4.a The Basic Information Sheet must be submitted for all entities identified in the Business Structure.

4.4.b For each entity identified in the Business Structure, the following attachments must also be submitted:

4.4.b(1) Certified true copy of its latest General Information Sheet, stamped “received” by the SEC or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copies may be issued by either the SEC or its equivalent in a foreign country, or the entity’s corporate secretary. If it is issued by the entity’s corporate secretary, the certification must be under oath and notarized.

4.4.b(2) Certified true copy of its SEC Certificate of Incorporation or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copy of the SEC Certificate of Incorporation, or the equivalent document for a foreign entity, must be issued by the SEC or its equivalent in a foreign country.

4.4.b(3) Certified true copy of its Articles of Incorporation and By-Laws or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copy of the Articles of Incorporation and By-Laws may be issued either by the SEC or its equivalent in a foreign country, or by the entity’s corporate secretary. If the certified true copies are issued by the entity’s corporate secretary, the certification must be under oath and notarized.

4.5 Notarized Certification of Absence of Unsatisfactory Performance Record, using the form in Annex QD-4. The Notarized Certification of Absence of Unsatisfactory Performance Record must be submitted for all entities identified the Business Structure.
4.6 Development Experience, using the form in Annex QD-5.

4.6.a This document must be submitted by the entity or entities proposed to meet the Development Experience, as identified in the Business Structure.

4.6.b For each entity required to submit this document, the following attachments must also be submitted:

4.6.b(1) Notarized certification of project completion from the project’s owner or a copy of the original certificate of project completion accompanied by a notarized certification issued by an officer of the entity proposed to meet the Development Experience that such copy is a true and faithful reproduction of the original certificate.

4.6.b(2) Certified true copy of a valid license issued by the PCAB for General Building Classification – Large B for Buildings and Industrial Plants – AAA License Category, in the case of a Filipino Construction Contractor, or an equivalent license issued by an equivalent accreditation institution in the entity’s country of origin, in the case of a foreign entity, provided that such foreign entity must secure a license and accreditation from the PCAB after the Bidder is awarded the Project. The certified true copy of the PCAB license or the equivalent license must be issued by the PCAB or by the equivalent accreditation institution, respectively.

4.6.b(3) Certified true copy of a valid ISO 9001:2008 certification or its equivalent.

4.7 Notarized Statement of Willingness to Participate In, and Capacity to Undertake the Construction Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the Construction of the ITS Terminal, using the form in Annex QD-6. This must be submitted by any Consortium Member, Construction Contractor or Affiliate of the Consortium Member or Development Contractor proposed to meet the Development Experience, as identified in the Business Structure.

4.8 Operation and Maintenance Experience, using the form in Annex QD-7.
4.8.a This document must be submitted by the entity or entities proposed to meet the O&M Experience, as identified in the Business Structure.

4.8.b The entity required to submit this document must also submit

(i) a notarized certification of the project completion from the project’s owner; or

(ii) a notarized certification from the project’s owner that the project is ongoing or in operation; or

(iii) a copy of the original certificate of project completion accompanied by a notarized certification issued by an officer of the entity proposed to meet the O&M Experience that such copy is a true and faithful reproduction of the original certificate; or

(iv) a certificate that the project is ongoing or in operation accompanied by a notarized certification issued by an officer of the entity proposed to meet the O&M Experience that such copy is a true and faithful reproduction of the original certificate.

4.9 Notarized Statement of Willingness to Participate In, and Capacity to Undertake the O&M Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the O&M of the ITS Terminal or to Provide Technical Support to the Concessionaire in the O&M of the ITS Terminal, using the form in Annex QD-8. This must be submitted by any Consortium Member, O&M Contractor or Affiliate of the Consortium Member or O&M Contractor proposed to meet the O&M Experience, as identified in the Business Structure.

4.10 Key Personnel, using the form in Annex QD-9. This is a list of key personnel who fulfill the requirements of Section 2.2.c of these Instructions to Bidders. More than one name may be submitted for each position.


4.11.a The Notarized Statement of Financial Capability must be executed by the entity proposed to meet the Financial Capability Qualification Requirements, as identified in the Business Structure.

4.11.b This document must be submitted together with the following attachments:

4.11.b(1) Certified true copy of the latest audited financial statements which must be for a fiscal period ending in any month of 2013 and certified true copy of the latest unaudited quarterly financial statements for
the quarter ending prior to the month of the Bid Submission Date, and provided that both financial statements must be stamped “received” by the Bureau of Internal Revenue or any Bureau of Internal Revenue authorized agent bank, or for foreign entities, the appropriate government agency equivalent to the Bureau of Internal Revenue in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certification may be issued by an officer of the entity proposed to meet the Financial Capability Qualification Requirements, in which case the certification must be under oath and notarized, provided that the certification relating to the unaudited quarterly financial statements must be issued by the entity’s chief financial officer. If there is a discrepancy between the financial statements, the entity must submit the relevant supporting documents to explain the discrepancy.

4.11.b(2) Letter(s) from the potential lenders of the entity proposed to meet the Financial Capability Qualification Requirements expressing their willingness to lend it, or the Concessionaire, at least one billion four hundred million Philippine Peso (PhP1,400,000,000). Such a letter or letters should come from financial institutions licensed to lend money in the country where it is registered for creation or recognition of its juridical personality or capacity (for financial institutions incorporated in the Philippines, the license to lend must come from the Bangko Sentral ng Pilipinas).

4.12 Notarized Application to Participate in the Bidding, using the form in Annex QD-11. This must be submitted by the Bidder.

4.13 Notarized Corporate Authorizations and Designation of Authorized Representative

4.13.a If the Bidder is a partnership or corporation, it must submit a Notarized Authority to Participate in the Bidding and Designation of Authorized Representative, using the form in Annex QD-12A.

4.13.b If the Bidder is a Consortium, each Consortium Member must submit a Notarized Authority to Participate in the Consortium and in the Bidding, and Designation of Lead Member and Authorized Representative of the Consortium, using the form in Annex QD-12B.
SECTION 5: BID PROPOSALS

5.1 TECHNICAL PROPOSAL (SECOND ENVELOPE)

On the Bid Submission Date, the Bidder must submit its Technical Proposal in the Second Envelope consisting of the following Documents, using the relevant forms indicated in this Section 5.1 (Technical Proposal):

5.1.a Bid Security, as described in Section 7.1 (Form of Bid Security), using the form in Annex TP-1 without modification.

5.1.b Conceptual Layout, using the form in Annex TP-2 This shall include the following elements:

5.1.b(1) architectural analysis of the Project site and its surroundings;

5.1.b(2) key design concepts considered for the design of the ITS Terminal;

5.1.b(3) area program and the project components comprising the ITS Terminal;

5.1.b(4) components proposed for the Commercial Business; and

5.1.b(5) conceptual layout of the ITS Terminal and Commercial Business on 1:1000 scale illustrating location of entry/exit points, interconnection/interconnectivity between the various modes of transport, parking facilities, public utilities, passenger amenities and the flow of vehicular and pedestrian movements within the Project site.

5.1.c Construction Plan, using the form in Annex TP-3. This shall include the following elements consistent with the prescribed Minimum Performance Standards and Specifications for the construction of the ITS Terminal:

5.1.c(1) construction organization for the Project, identifying key personnel and positions;

5.1.c(2) construction methodology and procedures;

5.1.c(3) quality control system;
5.1.c(4) construction schedule and milestones;

5.1.c(5) traffic management plan during construction; and

5.1.c(6) health, safety, and security program for construction.

5.1.d Operation and Maintenance Plan, using the form in Annex TP-4. This shall include the plan for the operation and maintenance of the ITS Terminal, containing the key performance requirements under the Minimum Performance Standards and Specifications.

5.1.e Business Plan, detailing the bankability and financial feasibility of the Bidder’s offer and further detailing the matters outlined in Annex TP-5.

5.1.f Acceptance/Compliance Statements, using the form in Annex TP-6, unconditionally accepting all the terms and conditions of the Bidding Documents, including any revisions made by the PBAC to any terms and conditions in the Bidding Documents prior to the Bid Submission Date.

5.2 FINANCIAL PROPOSAL (THIRD ENVELOPE)

On the Bid Submission Date, the Bidder must submit its Financial Proposal in the Third Envelope consisting of the following Documents, using the relevant forms indicated in this Section 5.2 (Financial Proposal):

5.2.a Bid Amount, using the form in Annex FP-1, which must be a fixed number, expressed in Philippine Pesos, stated in both words and figures, which shall be indicated up to two (2) decimal places, and expressed in current prices. If there is a discrepancy between the words and figures, the amount in words shall prevail. The Bid Amount shall be the Concession Fee payable by the Concessionaire to the DOTC.

5.2.b Financial Model, using the form in Annex FP-2, to be submitted only in electronic form in a CD, in Microsoft Excel format, showing all relevant formulas, with amounts stated in Philippine Pesos and expressed in 2014 prices. It should detail the bankability and financial feasibility of the Bidder’s offer and should be consistent and synchronous with the Technical Proposal submitted by
the Bidder (i.e. Conceptual Layout, Construction Plan, Operation and Maintenance Plan and Business Plan).

5.2.c Project Financing Plan, using the form in Annex FP-3, which must show that the proposed financing plan can adequately fund the Works required for the Project and still enable the Concessionaire to service its debt obligations, fulfill its covenants with its lenders, and realize a reasonable return on equity, with amounts stated in Philippine Pesos and expressed in 2014 prices.

SECTION 6: VALIDITY OF BIDS

6.1 VALIDITY OF BIDS

A Bid shall be valid for a period of not less than one hundred and eighty (180) days from the Bid Submission Date.

6.2 RIGHT TO REJECT BIDS, WAIVE MINOR DEFECTS AND TO TERMINATE BIDDING PROCESS

6.2.a The DOTC reserves the right to accept or reject any or all of the Bids.

6.2.b The DOTC reserves the right to waive any minor defects in the Qualification Documents and Bid Proposals, and accept the offer it deems most advantageous to the Government.

6.2.c At any time prior to the execution of the Concession Agreement by the Concessionaire, the DOTC reserves the right not to proceed with the Bidding Process and the execution of the Concession Agreement, without prior notice or incurring liability, and without any obligation to give any reason not to proceed.

SECTION 7: BID SECURITY

7.1 FORM OF BID SECURITY

The Bid Security required to be submitted as part of the Bid Proposal must be an irrevocable standby letter of credit in the amount of fifty million Philippine Pesos (PhP50,000,000) and in the form of Annex TP-1 without modification. The letter of credit
must be issued by a universal bank or commercial bank licensed by the Bangko Sentral ng Pilipinas, a list of which is provided in Schedule 2.

7.2 VALIDITY AND PURPOSE

The Bid Security shall be valid for one hundred eighty (180) days from the Bid Submission Date. The Bid Security shall guarantee that a Bidder shall comply with all of the terms of these Instructions to Bidders, and if declared the Winning Bidder, that it shall comply with all of the Post-Award Requirements and that the Concessionaire shall execute the Concession Agreement.

7.3 FORFEITURE OF BID SECURITY

The Bid Security shall be subject to forfeiture in its entirety in favor of the DOTC upon the occurrence of any of the following events:

7.3.a the Bidder withdraws its Bid at any time before one hundred eighty (180) days after the Bid Submission Date;

7.3.b the Bidder (including the Winning Bidder), any Consortium Member, any proposed contractor or Affiliate, or any of the officers, employees, agents, or advisors of any of these entities (i) commits any Corrupt, Fraudulent, Collusive, Coercive, Undesirable or Restrictive Practice, (ii) has a Conflict of Interest or (iii) violates the Bidding Period Lock-Up Rules, regardless of the stage of the Bidding Process when the violation existed, was committed, or discovered;

7.3.c the Bidder is disqualified due to a material misrepresentation in any statement made or document submitted as part of its Qualification Documents or Bid Proposal;

7.3.d the Winning Bidder (or the Concessionaire) fails to comply with the Post-Award Requirements within twenty (20) days from official receipt by the Winning Bidder of the Notice of Award, or within any extension period granted by the PBAC;

7.3.e the Concessionaire fails to sign the Concession Agreement within five (5) days from receipt by the Winning Bidder of notice from the DOTC that all of the Post-
Award Requirements have been complied with;

7.3.f the Winning Bidder (or the Concessionaire) fails to post the Construction Performance Security on or before the Signing Date; or

7.3.g other events as described in these Instructions to Bidders and the BOT Law as grounds for forfeiture of the Bid Security.

7.4 RETURN OF BID SECURITY

Bidders who (a) are disqualified, or (b) fail to submit a compliant Technical Proposal or Financial Proposal for reasons other than those provided in Section 7.3 (Forfeiture of Bid Security) of these Instructions to Bidders, will have their Bid Security returned to them without interest within ten (10) days from receipt of written notice of their disqualification. Within ten (10) days after the signing of the Concession Agreement by the Concessionaire, or one hundred eighty (180) days after the Bid Submission Date, whichever comes earlier, the Bid Securities of all Bidders, except for that of the Winning Bidder, whose Bid Securities have not been forfeited or previously returned will be returned without any interest. Any Bidder who has not been disqualified may extend the validity of its Bid Security.

SECTION 8: PREPARATION AND SUBMISSION OF QUALIFICATION DOCUMENTS AND BID PROPOSALS

8.1 FORMAT OF SUBMISSION OF QUALIFICATION DOCUMENTS

8.1.a A Bidder must submit its Qualification Documents in the following form:

8.1.a(1) one (1) complete original set, clearly marked on each page as “QUALIFICATION DOCUMENTS-ORIGINAL,” and numbered continuously;

8.1.a(2) four (4) sets of photocopies, clearly marked on each page as “QUALIFICATION DOCUMENTS-COPY NO. ___”; and

8.1.a(3) five (5) readable compact discs (CD-R), each containing electronic files of all of the Qualification Documents in either Portable Document Format (.pdf) or Microsoft Word (.doc) formats, with the pages
arranged in exactly the same sequence as the sequence in the original set of the Qualification Documents; provided that in the event of any conflict between the printed (paper) copies and the electronic copies, the original printed (paper) copies shall prevail.

8.1.b Each page of the original set of Qualification Documents, including any required attachments, shall be initialed using blue ink on the right margin by the Bidder’s authorized representative as identified in the form in Annex QD-12A or QD-12B. In case of conflict between the original set and the photocopies, the original set shall prevail.

8.1.c Each set of the Qualification Documents should contain a table of contents.

8.1.d Whenever possible, the Qualification Documents must be printed either in standard A4 or letter size (8 ½” x 11”) paper and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least of 12-font size.

8.1.e Each set of the Qualification Documents must be placed in an envelope. The five (5) CDs should also be placed in an envelope. Each of the five (5) envelopes containing the Qualification Documents and the envelope containing the five (5) CDs must be sealed and appropriately addressed and marked as follows:

| DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS |
| SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT |
| QUALIFICATION DOCUMENTS – [ORIGINAL / COPY NO.(___)] |
| [STATE NAME AND ADDRESS OF BIDDER] |
| DO NOT OPEN UNTIL [●], 2014 |

8.1.f If any of the envelopes are not properly sealed and/or marked as instructed above, the PBAC shall not assume any responsibility for the loss of the Qualification Documents.
8.2 FORMAT OF SUBMISSION OF TECHNICAL PROPOSAL

8.2.a A Bidder shall submit its Technical Proposal (Envelope 2) in the following form:

8.2.a(1) one (1) complete original set, clearly marked on each page as “TECHNICAL PROPOSAL-ORIGINAL,” and numbered continuously;

8.2.a(2) four (4) sets of photocopies, clearly marked on each page as “TECHNICAL PROPOSAL-COPY NO. __”; and

8.2.a(3) five (5) readable compact discs (CD-R), each containing electronic files of all the documents comprising the Technical Proposal in either Portable Document Format (.pdf), Microsoft Excel format or Microsoft Word (.doc) format, as may be applicable, with the pages arranged in exactly the same sequence as the sequence in the original set of the Technical Proposal; provided that in the event of any conflict between the printed (paper) copies and the electronic copies, the original printed (paper) copies shall prevail.

8.2.b Each page of the original set of the Technical Proposal, including any required attachments, shall be initialed using blue ink on the right margin by the Bidder’s authorized representative as identified in the form in Annex QD-12A or QD-12B. In case of conflict between the original set and the photocopies, the original set shall prevail.

8.2.c Each set of the Technical Proposal should contain a table of contents.

8.2.d Whenever possible, the Technical Proposal must be printed either in standard A4 or letter size (8 ½” x 11”) paper and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least of 12-font size.

8.2.e Each set of the Technical Proposal must be placed in an envelope. The five (5) CDs should also be placed in an envelope. Each of the five (5) envelopes containing the Technical Proposal and the envelope containing the five (5) CDs must be sealed and appropriately addressed and marked as follows:
8.2.f If any of the envelopes are not properly sealed and/or marked as instructed above, the PBAC shall not assume any responsibility for the loss of the Technical Proposal.

8.3 FORMAT OF SUBMISSION OF FINANCIAL PROPOSAL

8.3.a A Bidder shall submit its Financial Proposal (Envelope 3) in the following form:

8.3.a(1) one (1) complete original copy of the Bid Amount, clearly marked on each page as “BID AMOUNT-ORIGINAL”;

8.3.a(2) one (1) complete original set of the Financial Model and Project Financing Plan, clearly marked on each page as “FINANCIAL MODEL & PROJECT FINANCING PLAN-ORIGINAL,” and numbered continuously;

8.3.a(3) four (4) sets of photocopies of the Financial Model and Project Financing Plan, clearly marked on each page as “FINANCIAL MODEL & PROJECT FINANCING PLAN-COPY NO. ___”; and

8.3.a(4) five (5) readable compact discs (CD-R), each containing electronic files of all the documents comprising the Financial Model and Project Financing Plan, with the Financial Model in Microsoft Excel format and the Project Financing Plan in Portable Document Format (.pdf), with the pages arranged in exactly the same sequence as the sequence in the original set of the Financial Model and Project Financing Plan; provided that in the event of any conflict between the printed (paper) copies and the electronic copies, the original printed (paper) copies shall prevail.
8.3.b Each page of the original set of the Financial Proposal, including any required attachments, shall be initialed using blue ink on the right margin by the Bidder’s authorized representative as identified in the form in Annex QD-12A or QD-12B. In case of conflict between the original set and the photocopies, the original set shall prevail.

8.3.c Each set of the Financial Proposal should contain a table of contents.

8.3.d Whenever possible, the Financial Proposal must be printed either in standard A4 or letter size (8 ½” x 11”) paper and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least of 12-font size.

8.3.e The original copy of the Bid Amount must be placed in a sealed envelope and appropriately addressed and marked as follows:

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DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT
BID AMOUNT – ORIGINAL
[STATE NAME AND ADDRESS OF BIDDER]
DO NOT OPEN UNTIL [•], 2014
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8.3.f Each set of the Financial Model and Project Financing Plan must be placed in an envelope. The five (5) CDs should also be placed in an envelope. Each of the five (5) envelopes containing the Financial Model and Project Financing Plan and the envelope containing the five (5) CDs must be sealed and appropriately addressed and marked as follows:

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DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT
FINANCIAL MODEL & PROJECT FINANCING PLAN – [ORIGINAL / COPY NO.(__)]
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8.3.g If any of the envelopes are not properly sealed and/or marked as instructed above, the PBAC shall not assume any responsibility for the loss of the Financial Proposal.

8.4 FORMAT OF SUBMISSION OF BID

8.4.a The Bidder shall place the original sets of the Qualification Documents (Envelope 1), Technical Proposal (Envelope 2) and Financial Proposal (Envelope 3), and the CDs containing the electronic copies, in one outer sealed box marked as follows:

| DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS |
| SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT |
| BID - ORIGINAL |

[STATE NAME AND ADDRESS OF BIDDER]

8.4.b The Bidder shall place each of the four (4) sets of photocopies of the Qualification Documents (Envelope 1), the Technical Proposal (Envelope 2) and the Financial Model and Project Financing Plan (Envelope 3) in one or more outer sealed boxes, which should be marked as follows:

| DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS |
| SOUTHWEST INTEGRATED TRANSPORT SYSTEM PROJECT |
| BID - COPY NO. __ |

[STATE NAME AND ADDRESS OF BIDDER]

8.4.c If Bids are not sealed and marked as required, the PBAC shall assume no responsibility for the misplacement or premature opening of the Bids.
8.5 DEADLINE AND PLACE OF SUBMISSION OF BIDS

8.5.a Bidders shall submit their Bids to:

Pre-Qualification Bids and Awards Committee of
Department of Transportation and Communications
For Southwest Integrated Transport System Project
Room No. 167, 16th Floor, The Columbia Tower,
Ortigas Avenue, Mandaluyong City

8.5.b The Bids must be submitted on or before 2:00 p.m. of the Bid Submission Date. The time of submission of Bids shall be determined by reference to Philippine Standard Time as determined by the Philippine Atmospheric, Geophysical and Astronomical Services Administration and displayed at the following website: http://www.dost.gov.ph. A Bid submitted outside of the prescribed time shall not be accepted by the PBAC and such Bidder shall be automatically disqualified from the Bidding.

8.5.c Each Bid submitted shall be numbered in the order received and stamped with the time of receipt. In addition, the receipt of Bids shall be recorded in a register in the order of receipt specifying the date, time and name of the Bidder submitting the same.

SECTION 9: OPENING AND EVALUATION OF QUALIFICATION DOCUMENTS

9.1 OPENING OF FIRST ENVELOPE

9.1.a Immediately after 2:00 p.m. on the Bid Submission Date, the PBAC will begin the opening proceedings by announcing the names of the Bidders who have submitted Bids and such other details as the PBAC may consider appropriate. The PBAC shall then open the First Envelope of each Bidder, one at a time, in the order in which the Bids were received.

9.1.b The PBAC shall examine the contents of the First Envelope to determine whether it contains all of the Qualification Documents required in Section 4 (Qualification Documents). If the contents of the First Envelope are found to be incomplete or non-responsive, the PBAC shall automatically disqualify the entire
Bid, and immediately return the unopened Second Envelope and unopened Third Envelope to the Bidder concerned.

9.1.c Each Bidder may send a representative to witness the opening of the First Envelope. Such representative shall sign the register confirming his attendance. A Bidder who does not send a representative to witness the opening of the First Envelope shall be deemed to have waived the opportunity to witness the opening.

9.2 EVALUATION OF QUALIFICATION DOCUMENTS

9.2.a The PBAC shall evaluate the Qualification Documents over a period of no longer than ten (10) days from the Bid Submission Date. The detailed evaluation of the compliance by the Bidder with the Legal Qualification Requirements, Technical Qualification Requirements and Financial Capability Qualification Requirements for the Project shall be based solely upon the Qualification Documents submitted.

9.2.b The PBAC reserves the right to seek clarification from any Bidder on the form and contents of its Qualification Documents. The PBAC also reserves the right to make inquiries with any person, government authority, client organization, Consortium Member, officer, director, employee or other agent of any Bidder, Consortium Member, proposed contractor, or Affiliate of any of these entities for the purpose of clarifying any matter included in its Qualification Documents. The PBAC shall make all requests for clarification in writing.

9.2.c All submitted information and any clarifications requested by the PBAC shall be assessed against the criteria for qualification provided in Section 2 (Qualification Requirements) and the documents required under Section 4 (Qualification Documents) and rated on a “pass-or-fail” basis. The Bidder will be considered as “qualified” if all Qualification Requirements are rated “passed” and all required Qualification Documents and attachments are completely submitted in the proper form. The Bidder will be considered as “disqualified” if any Qualification Requirement is rated “failed” or if any required Qualification Document or attachment is missing or not in the proper form.

9.2.d In determining a Bidder’s compliance with any of the Technical Qualification
Requirements, if a Bidder submits the name of more than one entity to fulfill the Development Experience and/or the O&M Experience, for as long as at least one entity is rated “passed” for each of the Development Experience and O&M Experience, then the Bidder will be rated “passed” for the Technical Qualification Requirements.

9.3 NOTIFICATION OF RESULTS OF EVALUATION OF QUALIFICATION DOCUMENTS

9.3.a Within five (5) days from the completion of the evaluation of the Qualification Documents, the PBAC shall notify all Bidders as to whether or not they passed the qualification stage (“Notice of Qualification”). All Bidders that pass the qualification stage shall be known as “Qualified Bidders.”

9.3.b Qualified Bidders shall be informed of the date, time and venue of the Second Envelope Opening Date and invited to witness the same. Such Bidders may send a representative to observe the opening of the Second Envelope. Qualified Bidders who do not send a representative are deemed to have waived the opportunity to witness the opening of the Second Envelope.

9.3.c If a Qualified Bidder proposed more than one entity to meet the Development Experience or O&M Experience, the PBAC shall notify such Qualified Bidder as to which of the entities it proposed passed the qualification process.

9.3.d Disqualified Bidders shall be informed of the reason/s for their disqualification.

9.3.e The PBAC shall return to the disqualified Bidders their unopened Bid Proposals, unless the ground for their disqualification was any of the events listed in Section 7.3 (Forfeiture of Bid Security), in which case the Bid Security shall be forfeited.

9.3.f Within fifteen (15) working days from receipt of the “Notice of Disqualification,” a disqualified Bidder may appeal its disqualification to the Secretary of the DOTC, upon the filing of a non-refundable appeal fee equivalent to one-half of one percent (0.5%) of the project cost as approved by the NEDA-ICC. The appeal will be resolved following the procedure laid down in the BOT Law.
SECTION 10: OPENING AND EVALUATION OF BID PROPOSALS

10.1  OPENING OF SECOND ENVELOPE AND EVALUATION OF TECHNICAL PROPOSAL

10.1.a  On the Second Envelope Opening Date, the PBAC will begin the opening proceedings by announcing the names of the Qualified Bidders and such other details as the PBAC may consider appropriate. The PBAC shall then open the Second Envelope of each Qualified Bidder one at a time, in the order in which the Bids were received.

10.1.b  The PBAC shall examine the contents of the Second Envelope to determine whether it contains all of the documents required in Section 5.1 (Technical Proposal). If the contents of the Second Envelope are found to be incomplete or non-responsive, the PBAC shall automatically disqualify the entire Bid, and immediately return the Bid Security and unopened Third Envelope to the Bidder concerned.

10.1.c  Each Qualified Bidder may send a representative to witness the opening of the Second Envelope. Such representatives shall sign the register confirming their attendance. Qualified Bidders who do not send a representative to witness the opening of the Second Envelope shall be deemed to have waived the opportunity to witness the opening.

10.1.d  Over a period of no longer than twenty (20) days from the Second Envelope Opening Date, the PBAC shall conduct a detailed evaluation of the Technical Proposal of each Bidder based on the completeness and responsiveness of the following documents to the requirements of Section 5.1 (Technical Proposal) -

10.1.d(1)  Bid Security (Annex TP-1);
10.1.d(2)  Conceptual Layout (Annex TP-2);
10.1.d(3)  Construction Plan (Annex TP-3);
10.1.d(4)  Operation and Maintenance Plan (Annex TP-4);
10.1.d(5)  Business Plan (Annex TP-5); and

10.1.e During the examination and evaluation of the contents of a Qualified Bidder’s Technical Proposal, the PBAC may request such Qualified Bidder to clarify certain portions of its Technical Proposal. The PBAC shall make all requests for clarification in writing. Clarifications shall be limited to providing explanations and/or supporting documentation for information included as part of the Qualified Bidder’s Technical Proposal, but shall not include the submission of additional elements to the Technical Proposal, nor its modification in any way.

10.1.f If the PBAC determines after its detailed evaluation of the Technical Proposal that the Bidder has complied with all the requirements for the Technical Proposal in Section 5.1 (Technical Proposal), the Bidder shall be rated “Complying”, otherwise, it shall rate the Qualified Bidder as “Non-Complying.”

10.1.g Within five (5) days from the completion of the evaluation of the Technical Proposals, the PBAC shall notify in writing all the Qualified Bidders as to whether or not their Technical Proposals were rated as “Complying” or “Non-Complying.”

10.1.h Qualified Bidders with Complying Technical Proposals shall be informed of the date, time and venue of the Third Envelope Opening Date and invited to witness the same. Such Bidders may send a representative to observe the opening of the Third Envelope. Qualified Bidders who do not send a representative are deemed to have waived the opportunity to witness the opening of the Third Envelope.

10.1.j Qualified Bidders with Non-Complying Technical Proposals shall be informed of the reason/s why their Technical Proposals were considered as “Non-Complying.”

10.1.j The PBAC shall return to the disqualified Bidders their unopened Financial Proposals and Bid Securities, unless the ground for their disqualification was any of the events listed in Section 7.3 (Forfeiture of Bid Security), in which case the Bid Security shall be forfeited.

10.1.k All Bidders whose Technical Proposals were found to be “Complying” shall be
considered on equal footing insofar as the Technical Proposals are concerned. Hence, the Winning Bidder shall be determined exclusively on the basis of the Bid Amount.

10.2 OPENING OF THIRD ENVELOPE AND EVALUATION OF FINANCIAL PROPOSAL

10.2.a On the Third Envelope Opening Date, the PBAC will begin the opening proceedings by announcing the names of the Qualified Bidders with Complying Technical Proposals and such other details as the PBAC may consider appropriate. The PBAC shall then open the Third Envelope of each Qualified Bidder one at a time, in the order in which the Bids were received.

10.2.b The PBAC shall evaluate the Financial Proposal of each Qualified Bidder with a Complying Technical Proposal based on the completeness and responsiveness of the following documents to the requirements of Section 5.2 (*Financial Proposal*) -

10.2.b(1) Bid Amount (Annex FP-1);
10.2.b(2) Financial Model (Annex FP-2); and
10.2.b(3) Project Financing Plan (Annex FP-3).

If the contents of the Third Envelope are found to be incomplete or non-responsive, the PBAC shall automatically disqualify the entire Bid, and immediately return the Bid Security to the Bidder concerned.

10.2.c Each Qualified Bidder with a Complying Technical Proposal may send a representative to witness the opening of the Third Envelope. Such representatives shall sign the register confirming their attendance. Qualified Bidders with a Complying Technical Proposal who do not send a representative to witness the opening of the Third Envelope shall be deemed to have waived the opportunity to witness the opening.

10.2.d The Financial Proposals that meet the requirements of Section 5.2 (*Financial Proposal*) shall be ranked by the PBAC based on the Bid Amount alone. The Bidder that offers the highest Concession Fee shall be considered the Best Bid
10.2.e In the event of a tie, the tied top-ranked Bidders shall be requested to resubmit their Financial Proposals within four (4) hours from the time the PBAC adjourns the opening of the Financial Proposals. Immediately upon the resubmission of the Financial Proposals of the tied Bidders, the revised Financial Proposals shall be opened and ranked by the PBAC based on the Bid Amount alone, and the top-ranked Bidder based on the criteria in Section 10.2.d shall be considered the Best Bid. The same procedure shall be followed until the tie is broken.

SECTION 11: CONFIDENTIALITY

11.1 CONFIDENTIALITY DURING BIDDING PROCESS

Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations concerning the award of the Project shall not be disclosed to any of the Bidders or other persons not officially involved with the Bidding Process; provided, that the DOTC, including the PBAC, shall not have the obligation to keep any information submitted by a Bidder confidential after the signing of the Concession Agreement or the lapse of one hundred eighty (180) days after the Bid Submission Date, whichever comes earlier.

11.2 BIDDING DOCUMENTS

The PBAC shall not return either the original or the copies of any Bid submitted by a Bidder, other than as specified in Section 9 (Opening and Evaluation of Qualification Documents) and Section 10 (Opening and Evaluation of Bid Proposals).
SECTION 12: NOTICE OF AWARD, POST-AWARD REQUIREMENTS & EXECUTION OF CONCESSION AGREEMENT

12.1 ISSUANCE OF NOTICE OF AWARD

Within five (5) days from the approval of the award by the DOTC Secretary, the DOTC Secretary shall issue the Notice of Award to the Qualified Bidder with a Complying Technical Proposal and who submitted the Best Bid, who shall thereafter be known as the “Winning Bidder”.

12.2 POST-AWARD REQUIREMENTS

The Notice of Award shall prescribe that, within twenty (20) days from the Winning Bidder’s official receipt of the Notice of Award, the Winning Bidder shall submit the following documents to the PBAC as conditions precedent for the execution and signing of the Concession Agreement (“Post-Award Requirements”):

12.2.a Notice of Award signed by the authorized representative of the Winning Bidder;

12.2.b evidence of the formation of a domestic corporation which will be the Concessionaire, consisting of certified true copies issued by the Philippine Securities and Exchange Commission (“SEC”) of the certificate of incorporation, articles of incorporation and by-laws of the Concessionaire (collectively, the “Concessionaire Constitutional Documents”); if the Winning Bidder is a consortium, the shareholders of the Concessionaire and the respective percentage shareholdings of its members should be the same as those shown in the Winning Bidder’s Annex QD-2B; whereas if the Winning Bidder is a corporation, the shareholding structure of the Concessionaire should comply with Section 12.2.f;

12.2.c certified true copies issued by the authorized officer of the Concessionaire, duly notarized, of resolutions adopted by the board of directors of the Concessionaire attesting that the Concessionaire conducted an organizational meeting of its stockholders and elected its regular board of directors and corporate officers and authorizing the execution, delivery and performance of the Concession Agreement and the Transaction Documents (as this term is
defined in Section 1.1 of the Concession Agreement) (collectively, the “Concessionaire Resolutions”);

12.2.d If the Winning Bidder is a Consortium, an agreement, using the form in Annex CP-1, indicating that the Consortium Members are jointly and severally liable for the obligations of the Concessionaire under the Concession Agreement;

12.2.e If the Winning Bidder is a Consortium, compliance with the Equity Requirements, as evidenced by an original copy of each of the Equity Documents which have been duly authorized and validly executed and which are in full force and effect and delivered by the parties to them, and in respect of which all conditions required under them have been fully satisfied;

12.2.f If the Winning Bidder is a corporation, proof that all of the equity of the Concessionaire will be owned by the Winning Bidder, as shown by (i) a treasurer’s affidavit attesting to the actual paid-up capital of the Concessionaire and (ii) subscription agreement between the Winning Bidder and the Concessionaire or shareholders agreement between the Winning Bidder and the Concessionaire;

12.2.g Letters from reputable financial institutions expressing their willingness to provide sufficient credit facilities as required in the Winning Bidder’s Financial Proposal, and also indicating the terms and conditions for such facilities, using the form in Annex CP-2;

12.2.h Payment of at least eighty percent (80%) of the Concession Fee to the DOTC, while the balance will be paid in accordance with the Concession Agreement;

12.2.i Proof of payment of the fees for Transaction Advisory Services for the Project disbursed from the Project Development and Monitoring Facility (PDMF), the final amount of which shall be provided in the Notice of Award to be issued to the winning bidder.

12.2.j Certified true copy of a valid Tax Clearance Certificate (TCC), issued by the appropriate office in the Bureau of Internal Revenue (BIR), pursuant to Executive Order No. 398 (series of 205), as implemented by Revenue
12.3 NOTIFICATION OF COMPLIANCE WITH POST-AWARD REQUIREMENTS

Within five (5) days from the DOTC’s timely receipt of the Post-Award Requirements from the Winning Bidder in accordance with Section 12.2, the DOTC Secretary shall determine and notify the Winning Bidder of its compliance with all of the Post-Award Requirements.

12.4 FAILURE TO COMPLY WITH POST-AWARD REQUIREMENTS

Failure to comply with the Post-Award Requirements within the prescribed twenty (20)-day period, or within any additional extensions granted by the PBAC, without reasonable justification acceptable to the DOTC, shall result in the forfeiture of the Winning Bidder’s Bid Security and the withdrawal of the Notice of Award.

12.5 DISQUALIFICATION OF WINNING BIDDER

If at any time after the issuance of the Notice of Award and prior to the signing of the Concession Agreement, the Winning Bidder (and/or the Concessionaire) is found to have (i) engaged in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable or Restrictive Practice, (ii) a Conflict of Interest or (iii) violated the Bidding Period Lock-Up Rules, it will be disqualified, its Notice of Award shall be withdrawn, and its Bid Security shall be forfeited.

12.6 CONSTRUCTION PERFORMANCE SECURITY

On or before the Signing Date, and as condition for the return by the DOTC of the Bid Security of the Winning Bidder, the Winning Bidder must post an Construction Performance Security in the amount of one hundred million Philippine Pesos (PhP100,000,000), in the form of an irrevocable letter of credit, using the form in Annex.
CP-3 of the Concession Agreement, without modification. The Construction Performance Security must be issued by a universal bank or commercial bank licensed by the Bangko Sentral ng Pilipinas, a list of which is provided in Schedule 2.

12.7 EXECUTION OF CONCESSION AGREEMENT

Within five (5) days from the receipt by the Winning Bidder of notice from the DOTC Secretary that all of the Post-Award Requirements have been complied with, the Concessionaire shall execute the Concession Agreement with the DOTC. The failure by the Concessionaire to execute the Concession Agreement within the prescribed period shall be a ground for the forfeiture of the Winning Bidder’s Bid Security and the withdrawal of the Notice of Award.

12.8 NEXT HIGHEST COMPLYING BIDS

The Bidder with next Best Bid (“Second Best Bid”) shall be notified in writing by the PBAC of its selection (in lieu of the Bidder with the Best Bid) and issued a Notice of Award if any of the following events or circumstances occurs:

12.8.a the Winning Bidder (or the Concessionaire) does not fulfill the Post-Award Requirements or execute the Concession Agreement within the prescribed periods; or

12.8.b the Winning Bidder (or the Concessionaire), any of the Winning Bidder’s Consortium Members, proposed contractors or Affiliates, or the officers, employees, agents, and advisors of any of these entities is found to have (i) engaged in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable or Restrictive Practice, (ii) a Conflict of Interest, or (iii) violated the Bidding Period Lock-Up Rules.

The Bidder with the Second Best Bid shall assume the status of the Winning Bidder from and after the date of receipt of the Notice of Award and must then comply with the Post-Award Requirements. If such Bidder fails in any of these requirements, the process may again be repeated with the next Best Bid and so on. This process will be repeated every time a Winning Bidder is unable to fulfill the requirements of Section 12 (Notice of Award, Post-Award Requirements and Execution of Concession Agreement), until one hundred eighty (180) days after the Bid Submission Date.
12.9 SINGLE BIDDER

If only one Bidder submits a Bid Proposal, or there is only one Qualified Bidder, or only one Bidder submits a Technical Proposal and Financial Proposal that is complete and responsive, the PBAC shall proceed with the Bidding Process subject to the relevant provisions of the BOT Law.

SECTION 13: GENERAL CONDITIONS AND PROHIBITIONS

13.1 GENERAL CONDITIONS

By submitting its Bid, the Bidder acknowledges and agrees that:

13.1.a it, including all Consortium Members, proposed contractors and Affiliates, and their respective officers, employees, agents and advisors shall observe the highest standard of ethics during the Bidding Process;

13.1.b it, including all Consortium Members, proposed contractors and Affiliates, and their respective officers, employees, agents and advisors shall not commit any Corrupt, Fraudulent, Collusive, Coercive, Undesirable or Restrictive Practice;

13.1.c it, including all Consortium Members, proposed contractors and Affiliates, and their respective officers, employees, agents and advisors, shall not engage in any form of political or other lobbying with respect to the Project or attempt to influence the outcome of the Bidding Process; and

13.1.d it accepts all the terms and conditions of the Bidding Documents.

13.2 CORRUPT, FRAUDULENT, COLLUSIVE, COERCIVE, UNDESIRABLE, AND RESTRICTIVE PRACTICES

13.2.a If a Bidder, any Consortium Member, any proposed contractor or Affiliate, the Winning Bidder or the Concessionaire, as the case may be, is found to have, directly or indirectly, engaged in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable or Restrictive Practice during the Bidding Process, or after the issuance of the Notice of Award or the execution of the Concession Agreement,
the PBAC/DOTC shall –

13.2.a(1) reject or disqualify the Bid of or withdraw the Notice of Award to such Bidder, without being liable in any manner whatsoever to the Bidder;

13.2.a(2) forfeit and appropriate the Bid Security of such Bidder, without prejudice to any other right or remedy that may be available to the DOTC;

13.2.a(3) seek to impose the maximum penalties for civil and criminal liability available under the applicable law on individuals and/or entities involved in such practices; and

13.2.a(4) permanently prohibit or disqualify individuals and/or entities involved in such practices from participating in any bidding of the DOTC from the date that they are found to have directly or indirectly engaged in any such practices.

13.2.b For the purposes of this Section, the following terms shall have the meanings hereinafter assigned to them:

13.2.b(1) “Corrupt Practice” means any of the prohibited acts and omissions punishable under Republic Act No. 3019 (“Anti-Graft and Corrupt Practices Act”), Act No. 3815 (“Revised Penal Code”), Republic Act No. 6713 (“Code of Conduct and Ethical Standards for Public Officials and Employees”), Republic Act No. 7080 (“Plunder Law”), and other applicable laws and relevant rules and procedures, by which a person improperly and unlawfully enriches or benefits himself or others, or induces others to do so, and includes the offering, giving, receiving, or soliciting of anything of value to influence the actions of any person connected with the Bidding Process or the execution of the Concession Agreement;

13.2.b(2) “Fraudulent Practice” means any hoax, delusion, falsification, scheme, artifice, dishonesty, trickery, deceit, cheating and the like, especially when involving misrepresentation, omission, concealment,
suppression, non-disclosure or disclosure of incomplete facts, in order to influence the Bidding Process or the execution of the Concession Agreement;

13.2.b(3) **“Collusive Practice”** means a scheme or arrangement between two or more Bidders, with or without the knowledge of the government, designed to establish the Bid Amount at artificial, non-competitive levels;

13.2.b(4) **“Coercive Practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, or exercising undue influence upon any person or property in order to influence any person’s participation in the Bidding Process or the execution of the Concession Agreement;

13.2.b(5) **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by the DOTC or the PPP Center with the objective of canvassing or lobbying or (ii) in any manner influencing or attempting to influence the Bidding Process; and

13.2.b(6) **“Restrictive Practice”** means any act, scheme, plan or agreement such as forming a group, clique, cartel, trust, syndicate, combine, pool and the like or arriving at any understanding or arrangement among Bidders, Consortium Members, Construction Contractors, O&M Contractors, or the Affiliates of any of these entities, with the objective of restricting, subverting or manipulating a full and fair competition in the Bidding Process.

13.3 **CONFLICT OF INTEREST**

13.3.a Bidders and Consortium Members (if the Bidder is a Consortium), including their contractors or Affiliates, must not have any Conflict of Interest.

13.3.b Without limiting the generality of what would constitute a Conflict of Interest, any of the following shall be considered a Conflict of Interest:
13.3.b(1) a Bidder, any Consortium Member, or any of their Affiliates (of either a Bidder or of the Consortium Member) is a member of another Consortium, or an Affiliate of a member of another Consortium;

13.3.b(2) a Bidder, any Consortium Member, or any of their Affiliates (of either a Bidder or of the Consortium Member) is proposed as a Construction Contractor or O&M Contractor of another Bidder;

13.3.b(3) a Bidder, any Consortium Member, or any of their Affiliates (of either a Bidder or of the Consortium Member) which are used to meet any of the Technical Qualification Requirements or Financial Qualification Requirements has ownership interest of at least twenty percent (20%) in any other Bidder, any Consortium Member of any other Bidder, or any of their Affiliates (of either the other Bidder or any of its Consortium Members) that are used to meet any of the Qualification Requirements;

13.3.b(4) a member of the board of directors, partner, officer, employee, professional advisor or agent of a Bidder, any Consortium Member, or any of their Affiliates (of either the Bidder or any of its Consortium Members), is also directly involved in any capacity related to the Bidding Process for the Project for another Bidder, any Consortium Member of any other Bidder, or any of their Affiliates (of either the Bidder or any of its Consortium Members), within a period of two (2) years prior to the publication of the Invitation to Qualify and Bid and one (1) year after the award of the Project; provided, however, that in relation to a professional advisor, there shall be no Conflict of Interest if prior written disclosure is submitted by such professional advisor to its client Bidder and the DOTC, together with a conflict management plan which must be approved by the DOTC;

13.3.b(5) a Bidder, any of its Consortium Members, any of its proposed Contractors, or any Affiliate of any of these entities, has participated as a consultant to the DOTC or the PPP Center in the preparation of any Bidding Documents or the design, or technical specifications of the Project or in connection with the Bidding Process; or
13.3.b(6) a Bidder, any of its Consortium Members, any of its proposed Contractors, or any Affiliate of any of these entities, engages any legal, financial, or technical advisor of the DOTC or the PPP Center in relation to the Project, or anyone who is or was an employee of the DOTC or the PPP Center less than two (2) years before his or her engagement by the Bidder, any of its Consortium Members, any of its proposed Contractors, or any Affiliate of any of these entities.

13.3.c If at any time prior to the signing of the Concession Agreement, any Bidder, Consortium Member, proposed Contractor, or any Affiliate of any of these entities, is found to have a Conflict of Interest as defined in this Section 13.3 (Conflict of Interest), it shall be disqualified from further participating in the Bidding Process. If the Conflict of Interest involves another Bidder, then both Bidders shall be disqualified.

13.3.d A Construction Contractor or O&M Contractor may be proposed by more than one Bidder provided that such contractor is not a Bidder, Consortium Member or Affiliate of any Bidder or Consortium Member.

13.4 GROUNDS FOR DISQUALIFICATION

A Bidder may be disqualified from participation in the Bidding for any of the following reasons:

a) late submission of its Bid or any part thereof;

b) material or willful misrepresentation in the Bidding Process;

c) any form of politicking or other lobbying with respect to the Bidding Process;

d) illegal conduct or attempt to influence the PBAC’s evaluation of the Qualification Documents or the Bid Proposal;

e) failure to comply with any of the terms, conditions and instructions of these Instructions to Bidders; or

f) other grounds for rejection or disqualification of Bidders under the BOT Law, and other applicable laws.
The grounds for disqualification in this Section 13 (*General Conditions and Prohibitions*) shall also apply to all Consortium Members (in case the Bidder is a Consortium), and any Affiliates or contractors proposed by the Bidder to meet any of the Qualification Requirements.

**SECTION 14: BIDDING PERIOD LOCK-UP RULES**

**14.1 BIDDING PERIOD LOCK-UP RULES**

From the Bid Submission Date until the execution of the Concession Agreement ("**Bidding Period**"), the following rules shall apply:

14.1.a For a Bidder who is a corporation or a partnership, no changes shall be made in the equity or ownership structure of such Bidder, as provided in the Bidder’s Business Structure (Annex QD-2A).

14.1.b For a Bidder who is a Consortium, no changes shall be made in the composition of the Consortium and in the committed percentage equity interest of each Consortium Member in the Concessionaire, as provided in the Bidder’s Business Structure (Annex QD-2B).

**14.2 CONSEQUENCE OF VIOLATION OF BIDDING PERIOD LOCK-UP RULES**

Any violation of the Bidding Period Lock-Up Rules shall be a ground for disqualification from the Bidding.

**SECTION 15: GOVERNING LAW AND RULES**

The provisions of the BOT Law and other applicable Philippine laws shall govern all matters not specifically covered by these Instructions to Bidders and other Bidding Documents.
SECTION 16: DEFINITIONS

Unless otherwise provided, the following terms used in these Instructions to Bidders shall have the following meanings:

16.1 “Affiliate” means a corporation or other juridical entity effectively Controlled by or Controlling the Bidder or associated with the Bidder under common ownership and Control.

16.2 “Annex QD” or “QD” along with the relevant number refers to the relevant Qualification Document submitted by the Bidder as part of its Bid, and as numbered in the Instructions to Bidders.

16.3 “Best Bid” is defined in Section 10.2.d of these Instructions to Bidders.

16.4 “Bid” means the offer submitted by a Bidder to the DOTC to undertake the Project, consisting of the Bidder’s Qualification Documents and Bid Proposals.

16.5 “Bid Amount” is defined in Section 5.2.a of these Instructions to Bidders.

16.6 “Bid Letter” is defined in Section 4.1 of these Instructions to Bidders.

16.7 “Bid Proposal” means the Technical Proposal and Financial Proposal submitted by a Bidder to the DOTC.

16.8 “Bid Security” means the instrument to be provided by the Bidder as part of its Bid Proposal in accordance with Sections 5.1.a and 7 (Bid Security) of these Instructions to Bidders.

16.9 “Bid Submission Date” means the date when Bidders must submit their Bids to the DOTC.

16.10 “Bidder” means any partnership, corporation or Consortium that participates in the Bidding Process by submitting its Bid to the DOTC on the Bid Submission Date.

16.11 “Bidding Documents” means the documents that are issued to Bidders, as enumerated in Section 1.2.a of these Instructions to Bidders, including any notices and bid bulletins issued by the PBAC from the date of the first publication of the Invitation to Qualify and Bid until the Bid Submission Date.
16.12 **Bidding Period Lock-Up Rules**” is defined in Section 14 (*Bidding Period Lock-Up Rules*) of these Instructions to Bidders.

16.13 “**Bidding Process**” or “**Bidding**” means the procurement process beginning from the first publication of the Invitation to Qualify and Bid until the signing of the Concession Agreement, as described in Section 1.5 (*Summary of Bidding Process*).

16.14 “**BOT Law**” means Republic Act No. 6957, as amended by Republic Act No. 7718, entitled “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector and for Other Purposes” and the “Revised Implementing Rules and Regulations of Republic Act No. 6957, as amended by Republic Act No. 7718” that became effective in 2012.

16.15 “**Business Day**” means a day (other than Saturday and Sunday) when banks are open for business in Makati City, Philippines.

16.16 “**Coercive Practice**” is defined in Section 13.2.b(4) of these Instructions to Bidders.

16.17 “**Collusive Practice**” is defined in Section 13.2.b(3) of these Instructions to Bidders.

16.18 “**Concession Agreement**” means the contract to be executed by the DOTC and the Concessionaire. A copy of the draft Concession Agreement is included as part of the Bidding Documents.

16.19 “**Concession Period**” is defined in Section 1.1 of the Concession Agreement.

16.20 “**Concessionaire**” means the special purpose corporation that must be formed by the Winning Bidder and who will be the counter-party of the DOTC under the Concession Agreement.

16.21 “**Concessionaire Constitutional Documents**” is defined in Section 12.2.b of these Instructions to Bidders and in Section 1.1 of the Concession Agreement.

16.22 “**Concessionaire Resolutions**” is defined in Section 12.2.c of these Instructions to Bidders and in Section 1.1 of the Concession Agreement.

16.23 “**Conflict of Interest**” is defined in Section 13.3 (*Conflict of Interest*) of these Instructions to Bidders.
16.24 “Consortium” means an unincorporated association of natural or juridical persons bound by contract or law, solidarily undertaking by mutual written agreement to participate in the Bidding Process for the Project.

16.25 “Consortium Member” means any of the natural or juridical persons comprising a Consortium, each having a definite interest in the common undertaking, solidarily liable in the Bid and whose interest will be converted into an equivalent equity participation in the Concessionaire if the Consortium is awarded and accepts the Project.

16.26 “Construction Contractor” means a single juridical entity, such as a partnership or corporation, proposed by the Bidder to meet the Development Experience and that may be engaged by the Concessionaire to undertake the development of the ITS Terminal in accordance with the Concession Agreement. The Construction Contractor must not have any equity participation, directly or indirectly, in the Concessionaire.

16.27 “Construction Start Date” is defined in Section 1.1 of the Concession Agreement.

16.28 “Commercial Business” is defined in Section 1.1 of the Concession Agreement.

16.29 “Completion Date” is defined in Section 1.1 of the Concession Agreement.

16.30 “Construction Performance Security” is defined in Section 12.6 (Construction Performance Security) of these Instructions to Bidders and in Section 1.1 of the Concession Agreement.

16.31 “Control” means, for purposes of defining an Affiliate, the power to direct or cause the direction of the management policies of a body corporate whether through:

16.31.a ownership, whether directly or indirectly, of at least fifty one percent (51%) of the outstanding voting shares or

16.31.b ownership, whether directly or indirectly, of at least twenty percent (20%) of the outstanding voting shares and (a) possession of at least fifty one percent (51%) of the voting rights through voting trust or other voting agreements entered into at least one year before the Bid Submission Date or (b) the ability to elect a majority of the members of the Affiliate’s board of directors.

16.32 “Corrupt Practice” is defined in Section 13.2.b(1) of these Instructions to Bidders.

16.33 “day” means a calendar day, unless otherwise specified.
16.34 “development” of a project means when the relevant entity has either paid for or received payment for the design and construction of that project.

16.35 “Development Experience” is one of the Technical Qualification Requirements and is defined in Sections 2.2.a of these Instructions to Bidders.

16.36 “DOTC” means the Department of Transportation and Communications.

16.37 “Eligible Project” means a project for development of any of the following: a bus terminal, commercial complex, shopping mall, airport terminal, parking complex, freight terminal; provided that a project must have a minimum development cost of at least four hundred million Philippine Pesos (PhP400,000,000) and a capacity of at least thirty (30) parking bays for land surface transport vehicles with four (4) or more wheels, excluding rail.

16.39 “Equity Documents” is defined in Section 1.1 of the Concession Agreement.

16.40 “Equity Requirements” is defined in Section 1.1 of the Concession Agreement.

16.41 “Facility Operator” is defined in Section 1.1 of the Concession Agreement.

16.42 “Financial Capability Qualification Requirements” is defined in Section 2.3 (Financial Capability Qualification Requirements) of these Instructions to Bidders.

16.43 “Financial Proposal” is defined in Section 5.2 (Financial Proposal) of these Instructions to Bidders.

16.44 “First Envelope” means the portion of the Bid containing the Bidder’s Qualification Documents and consists of the documents described in Section 4 (Qualification Documents).

16.45 “Fraudulent Practice” is defined in Section 13.2.b(2) of these Instructions to Bidders.

16.46 “ICC” means the Investment Coordination Committee of NEDA.

16.47 “Information Documents” is defined in Section 1.3 (Information Documents) of these Instructions to Bidders.

16.48 “Instructions to Bidders” means these Instructions to Bidders issued by the PBAC on 10
January 2014, as amended by bid bulletins that may subsequently be issued by the PBAC.

16.49 “Invitation to Qualify and Bid” means the invitation by the DOTC to all interested parties to qualify and bid for the Project.

16.50 “ISO” means the International Organization for Standardization.

16.51 “ITS” means the Integrated Transport System.

16.52 “ITS Terminal” means the terminal to be designed and constructed by the Concessionaire for the use of passengers, in accordance with the Concession Agreement.

16.53 “Lead Member” is defined in Section 2.3.c of these Instructions to Bidders.

16.54 “Legal Qualification Requirements” is defined in Section 2.1 (Legal Qualification Requirements) of these Instructions to Bidders.

16.55 “Lock-Up Period” is defined in Section 1.1. of the Concession Agreement.

16.56 “Minimum Performance Standards and Specifications” or “MPSS” means the set of minimum performance or functional standards and specifications that the Concessionaire must comply with in undertaking the design, construction, operation and maintenance of the ITS Terminal.

16.57 “NEDA” means the Philippine National Economic and Development Authority.

16.58 “Notice of Award” is defined in Section 12.1 (Issuance of Notice of Award) of these Instructions to Bidders.

16.59 “Notice of Qualification” is defined in Section 9.3.a of these Instructions to Bidders.

16.60 “O&M” means operation and maintenance.

16.61 “O&M Contractor” means a single juridical entity, such as a partnership or corporation, proposed by the Bidder to meet the Operation and Maintenance Experience and that may be engaged by the Concessionaire to undertake the operation and maintenance of the ITS Terminal in accordance with the Concession Agreement.
16.62 “O&M Experience” is one of the Technical Qualification Requirements and is defined in Sections 2.2.b of these Instructions to Bidders.

16.63 “PBAC” means the Pre-Qualification Bids and Awards Committee for the Project created by the DOTC under DOTC Order No. 2013-349 issued on 26 November 2013, pursuant to the BOT Law.

16.64 “PCAB” means the Philippine Contractors Accreditation Board.

16.65 “Post-Award Requirements” mean the requirements which must be complied with by the Winning Bidder and the Concessionaire as a pre-condition to the execution of the Concession Agreement, as described in Section 12.2 (Post-Award Requirements) of these Instructions to Bidders.

16.66 “PPP Center” means the Philippine Public-Private Partnership Center.

16.67 “Pre-Bid Conference” is defined in Section 1.13 (Pre-Bid Conference) of these Instructions to Bidders.

16.68 “Project” is defined in the Introduction of these Instructions to Bidders.

16.69 “Public Transport Operator” means a partnership, corporation, sole proprietorship or any other juridical entity that engaged in the operation of public land transportation utilities and services, except rail transport, in the Philippines, including any Affiliate of such entity, whether or not it is a holder of a certificate of public convenience or permit authorizing the operation of public land transportation utilities and services in the Philippines, including any Affiliate of such entity.

16.70 “Qualification Documents” is defined in Section 4 (Qualification Documents) of these Instructions to Bidders.

16.71 “Qualification Requirements” mean the criteria that a Bidder must meet to qualify for the Project, as described in Section 2 (Qualification Requirements) of these Instructions to Bidders, and includes Legal Qualification Requirements, Technical Qualification Requirements and Financial Capability Qualification Requirements.

16.72 “Qualified Bidder” is defined in Section 9.3.a of these Instructions to Bidders.

16.70 “Restrictive Practice” is defined in Section 13.2.b(6) of these Instructions to Bidders.

16.72 “Second Envelope” means the portion of the Bid containing the Bidder’s Technical Proposal and consists of the documents described in Section 5.1 (Technical Proposal).

16.73 “Signing Date” is defined in Section 1.1 of the Concession Agreement.

16.74 “Technical Proposal” is defined in Section 5.1 (Technical Proposal) of these Instructions to Bidders.

16.75 “Technical Qualification Requirements” is defined in Section 2.2 (Technical Qualification Requirements) of these Instructions to Bidders.

16.76 “Third Envelope” means the portion of the Bid containing the Bidder’s Financial Proposal and consists of the documents described in Section 5.2 (Financial Proposal).

16.77 “Undesirable Practice” is defined in Section 13.2.b(5) of these Instructions to Bidders.

16.78 “Unsatisfactory Performance” means any of the following:

16.78.a in relation to any project or contract that was commenced or in the process of implementation within the last five (5) years prior to the Bid Submission Date by any entity whose experience is proposed by the Bidder to meet any of the Technical Qualification Requirements –

16.78.a(1) the failure by such entity to satisfactorily perform any of its material obligations for such project or contract, as evidenced by the imposition of a judicial pronouncement or arbitration award;

16.78.a(2) the expulsion by such entity from any such project or contract;

16.78.a(3) the termination or suspension of any such project or contract due to such entity’s breach of its obligations; or

16.78.a(4) the material violation of laws and/or regulations applicable to any such projects or contracts, including but not limited to environmental, health, safety, labor and social welfare laws and regulations;

16.78.b for any entity whose experience or qualifications is proposed by the Bidder to
meet any of the Technical Qualification Requirements or Financial Capability Qualification Requirements, inclusion in a blacklist issued by any governmental agency of the Philippines or in the Debarred and Cross-Debarred Firms & Individuals list posted in the World Bank website (www.worldbank.org/debarr), whether as an individual contractor, partnership or corporation or as a member of a joint venture or consortium; or

16.78.c for any entity whose experience is proposed by the Bidder to meet any of the Technical Qualification Requirements or Financial Capability Qualification Requirements, involvement in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable, or Restrictive Practice or having a Conflict of Interest insofar as the current Project is concerned.

16.79 “Winning Bidder” is defined in Section 12.1 (Issuance of Notice of Award) of these Instructions to Bidders.

16.80 “Works” is defined in Section 1.1 of the Concession Agreement.

16.81 “Year” means a calendar year, unless otherwise specified.
ANNEX QD-1: Bid Letter

[Letterhead]

Republic of the Philippines) s.s.

I, (name), (citizenship), of legal age, with office address at (address), as the authorized representative of (name of Bidder), a (corporation/partnership/Consortium), (organized and existing under and by virtue of the laws of [(place of incorporation/registration) or (organized by agreement among its Consortium Members)], after having been duly sworn according to law, hereby declare for and on behalf of (name of Bidder) that:

1. In accordance with the Bidding Documents for the Southwest Integrated Transport System Project, (name of Bidder), a (partnership/corporation/Consortium) with business address at [__], hereinafter referred to as the Bidder, submits its Qualification Documents and Bid Proposals in accordance with the Instructions to Bidders to finance, design, construct, operate and maintain the Southwest Integrated Transport System Project in accordance with the Concession Agreement.

2. Bidder’s Bid consists of the following components:
   a. Qualification Documents;
   b. Technical Proposal; and
   c. Financial Proposal.

3. (Name of Bidder) declares that all statements made and the information and documents submitted in its Qualification Documents and Bid Proposals are true and correct as of the date of this statement, and any misrepresentation or false statement made therein shall be a ground for its disqualification.

4. (Name of Bidder) authorizes the DOTC to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Qualification Documents and Bid Proposals, and to seek clarification from its clients and bankers regarding any technical and financial aspects. (Name of Bidder) also permits third parties
to supply information required to verify statements and information submitted in its Qualification Documents and Bid Proposals.

5. (Name of Bidder)'s Bid Proposal is unconditional and unqualified. (Name of Bidder) understands and accepts all of the terms, conditions and other provisions of the Bidding Documents, including the final version of the Concession Agreement and its Schedules and the Information Memorandum.

6. (Name of Bidder) acknowledges the right of the DOTC to reject its Qualification Documents and Bid Proposal without assigning any reason and to cancel the Bidding process at any time, without incurring any liability to the (name of Bidder).

7. (Name of Bidder), including all its Consortium Members, and all of the entities it has identified to comply with the Qualification Requirements under the Instructions to Bidders, have not at any time (i) engaged in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable, or Restrictive Practices, (ii) have a Conflict of Interest (iii) violated the Bidding Period Lock-Up Rules.

8. (Name of Bidder) waives any right to and shall not seek or obtain any restraining order, writ of injunction or prohibition or any other form of coercive judicial, quasi-judicial or administrative writ, process or issuance against the DOTC to restrain, prevent, suspend, or in any manner forestall, hinder or render inconvenient the Bidding Process, the award of the Project to the Winning Bidder, and the implementation of the Concession Agreement. (Name of Bidder) acknowledges that the DOTC is undertaking this Bidding in the performance of its functions to ensure the provision of a critical basic necessity and that, therefore, the Project is of paramount public interest and importance and that the DOTC will suffer serious and irreparable damage on account of any breach by (name of Bidder) of these undertakings, and agrees that the breach of these undertakings shall result in its automatic disqualification to bid for the Southwest Integrated Transport System Project.

9. (Name of Bidder) agrees to keep its Bid Proposal valid for one hundred eighty (180) days from the Bid Submission Date.

10. In the event that (name of Bidder) is declared as the Winning Bidder, (name of Bidder) agrees to comply with the requirements of Section 12 (Notice of Award, Post-Award Requirements & Execution of Concession Agreement) of the Instructions to Bidders and
execute the Concession Agreement with the within the deadlines set in the Instructions to Bidders.

(Date and Place of Execution.)

For and on behalf of (Name of Bidder/Name of Consortium and List of Consortium Members)

By: (Name, Designation and Signature of Authorized Representative)

SUBSCRIBED AND SWORN TO before me this _____ day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations) issued at (City) on (date).

NOTARY PUBLIC

Doc. No.: ________
Page No.: ________
Book No.: ________
Series of 201__. 
ANNEX QD-1A: Notarized Certification of No Relationship with Public Transport Operator

Note: To be submitted by the Bidder and any Consortium Members that are not Public Transport Operators and are not Affiliates of Public Transport Operators, as identified in the Basic Information Sheet of each entity (Annex QD-3).

Republic of the Philippines   )
                                 ) s.s.

Notarized Certification of No Relationship with Public Transport Operator

I, (name), (citizenship), of legal age, with office address at (address), as the (position/designation) of (name of entity represented), a (corporation/partnership) organized and existing under and by virtue of the laws of (place of incorporation/registration) hereby certify, for and on behalf of (name of entity represented), that (name of entity represented) is not a Public Transport Operator as this term is defined in Section 16 of the Instructions to Bidders and is not an Affiliate, as this term is defined in Section 16 of the Instructions to Bidders, of a Public Transport Operator.

*Date and Place of Execution.*

For and on behalf of (Name of Entity)

(Signature of Authorized Representative)

________________________________________________________
(Name)
(Designation)

SUBSCRIBED AND SWORN TO before me this (____) day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: _________
Page No.: _________
Book No.: _________
Series of 201__.
ANNEX QD-2A: Business Structure (for a Bidder that is a partnership or corporation)

1. Name of Bidder: _____________________________________________________________

2. Contact Information of Bidder

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3. Entity Proposed to Meet Development Experience

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[Note: If more than one entity is proposed to meet the Development Experience, replicate table above.]

4. Affiliate, if any, of the entity proposed to meet the Development Experience, whose experience is being submitted as evidence of that entity’s Development Experience.

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<table>
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<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Name of Affiliate</td>
</tr>
<tr>
<td>b.</td>
<td>Entity With Whom It Is Affiliated</td>
</tr>
<tr>
<td>c.</td>
<td>Address</td>
</tr>
<tr>
<td>d.</td>
<td>Website</td>
</tr>
<tr>
<td>e.</td>
<td>Contact Person</td>
</tr>
<tr>
<td>i.</td>
<td>Telephone</td>
</tr>
<tr>
<td>ii.</td>
<td>Fax</td>
</tr>
<tr>
<td>iii.</td>
<td>E-mail</td>
</tr>
</tbody>
</table>

[Note: If the experience of more than one Affiliate is submitted to meet the Development Experience, replicate table above.]
5. Entity Proposed to Meet O&M Experience

<table>
<thead>
<tr>
<th>a. Name of Entity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Relationship to Bidder</td>
<td></td>
</tr>
<tr>
<td>c. Address</td>
<td></td>
</tr>
<tr>
<td>d. Website</td>
<td></td>
</tr>
<tr>
<td>e. Contact Person</td>
<td></td>
</tr>
<tr>
<td>i. Telephone</td>
<td></td>
</tr>
<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

[Note: If more than one entity is proposed to meet the O&M Experience, replicate table above.]

6. Affiliate, if any, of the entity proposed to meet the O&M Experience, whose experience is being submitted as evidence of that entity’s O&M Experience.

<table>
<thead>
<tr>
<th>a. Name of Affiliate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Entity With Whom It Is Affiliated</td>
<td></td>
</tr>
<tr>
<td>c. Address</td>
<td></td>
</tr>
<tr>
<td>d. Website</td>
<td></td>
</tr>
<tr>
<td>e. Contact Person</td>
<td></td>
</tr>
<tr>
<td>i. Telephone</td>
<td></td>
</tr>
<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

[Note: If the experience of more than one Affiliate is submitted to meet the O&M Experience, replicate table above.]

7. Entity Proposed to Meet Financial Capability Qualification Requirements

<table>
<thead>
<tr>
<th>a. Name of Entity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Relationship to Bidder</td>
<td></td>
</tr>
<tr>
<td>c. Address</td>
<td></td>
</tr>
<tr>
<td>d. Website</td>
<td></td>
</tr>
<tr>
<td>e. Contact Person</td>
<td></td>
</tr>
<tr>
<td>i. Telephone</td>
<td></td>
</tr>
<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>
8. Affiliate, if any, of the entity proposed to meet the Financial Capability Qualification Requirements, whose financial capability is being submitted as evidence of that entity’s financial capability.

<table>
<thead>
<tr>
<th>a. Name of Affiliate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Address</td>
<td></td>
</tr>
<tr>
<td>c. Website</td>
<td></td>
</tr>
<tr>
<td>d. Contact Person</td>
<td></td>
</tr>
<tr>
<td>i. Telephone</td>
<td></td>
</tr>
<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)

(Signature of Authorized Representative)

(Name, Title, and Date)
ANNEX QD-2B: Business Structure (for a Bidder that is a Consortium)

Name of Consortium: ____________________________________________________________

1. Consortium Members

<table>
<thead>
<tr>
<th>Name</th>
<th>Lead Member</th>
<th>Other Member</th>
<th>Other Member</th>
<th>Other Member</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage Interest in the Consortium</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Legal Entity (corporation/partnership)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Contact Information of Consortium Members

a. Lead Member
b. Address
c. Website
d. Contact Person
   i. Telephone
   ii. Fax
   iii. E-mail

a. Consortium Member
b. Address
c. Website
d. Contact Person
   i. Telephone
   ii. Fax
   iii. E-mail

[Note: If there are more Consortium Members, replicate table above.]

3. Entity Proposed to Meet Development Experience

a. Name of Entity
b. Relationship to Bidder
Instructions to Bidders

ANNEX QD-2B

c. If Construction Contractor, Consortium Member to which it is related

d. Address

e. Website

f. Contact Person
   i. Telephone
   ii. Fax
   iii. E-mail

[Note: If more than one entity is proposed to meet the Development Experience, replicate table above.]

4. Affiliate, if any, of the entity proposed to meet the Development Experience, whose experience is being submitted as evidence of that entity’s Development Experience.

<table>
<thead>
<tr>
<th>a. Name of Affiliate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Entity With Whom It Is Affiliated</td>
<td></td>
</tr>
<tr>
<td>c. Address</td>
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<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

[Note: If the experience of more than one Affiliate is submitted to meet the Development Experience, replicate table above.]

5. Entity Proposed to Meet O&M Experience

<table>
<thead>
<tr>
<th>a. Name of Entity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Relationship to Bidder</td>
<td></td>
</tr>
<tr>
<td>c. If O&amp;M Contractor, Consortium Member to which it is related</td>
<td></td>
</tr>
<tr>
<td>d. Address</td>
<td></td>
</tr>
<tr>
<td>e. Website</td>
<td></td>
</tr>
<tr>
<td>f. Contact Person</td>
<td></td>
</tr>
<tr>
<td>i. Telephone</td>
<td></td>
</tr>
<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

[Note: If more than one entity is proposed to meet the O&M Experience, replicate table above.]
6. Affiliate, if any, of the entity proposed to meet the O&M Experience, whose experience is being submitted as evidence of that entity’s O&M Experience.

<table>
<thead>
<tr>
<th>a. Name of Affiliate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Entity With Whom It Is Affiliated</td>
<td></td>
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<td>c. Address</td>
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<td>ii. Fax</td>
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<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

[Note: If the experience of more than one Affiliate is submitted to meet the O&M Experience, replicate table above.]

7. Entity Proposed to Meet Financial Capability Qualification Requirements

<table>
<thead>
<tr>
<th>a. Name of Entity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Relationship to Bidder</td>
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<tr>
<td>i. Telephone</td>
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<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>

8. Affiliate, if any, of the entity proposed to meet the Financial Capability Qualification Requirements, whose financial capability is being submitted as evidence of that entity’s financial capability.

<table>
<thead>
<tr>
<th>a. Name of Affiliate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Address</td>
<td></td>
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<tr>
<td>c. Website</td>
<td></td>
</tr>
<tr>
<td>d. Contact Person</td>
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<tr>
<td>ii. Fax</td>
<td></td>
</tr>
<tr>
<td>iii. E-mail</td>
<td></td>
</tr>
</tbody>
</table>
For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)

(Signature of Authorized Representative)  
____________________________________
(Name, Title, and Date)
ANNEX QD-3: Basic Information Sheet

a. To be submitted by all entities listed in all sections of the Business Structure (Annex QD-2A or Annex QD-2B).

b. Required attachments: For all entities submitting this form:

1. Certified true copy of its latest General Information Sheet, stamped “received” by the SEC or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copies may be issued by either the SEC or its equivalent in a foreign country, or the entity’s corporate secretary. If it is issued by the entity’s corporate secretary, the certification must be under oath and notarized.

2. Certified true copy of its SEC Certificate of Incorporation or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copy of the SEC Certificate of Incorporation, or the equivalent document for a foreign entity, must be issued by the SEC or its equivalent in a foreign country.

3. Certified true copy of its Articles of Incorporation and By-Laws or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certified true copy of the Articles of Incorporation and By-Laws may be issued either by the SEC or its equivalent in a foreign country, or by the entity’s corporate secretary. If the certified true copies are issued by the entity’s corporate secretary, the certification must be under oath and notarized.

<table>
<thead>
<tr>
<th></th>
<th>Name of Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Type of entity</td>
</tr>
<tr>
<td></td>
<td>(please check one)</td>
</tr>
<tr>
<td>3.</td>
<td>Consortium Member or not?</td>
</tr>
<tr>
<td></td>
<td>(please check one)</td>
</tr>
</tbody>
</table>
4. Construction Contractor or not?  
   (please check one)  
   ☐ Yes  
   ☐ No

5. O&M Contractor or not?  
   (please check one)  
   ☐ Yes  
   ☐ No

6. Affiliate of an entity listed in Annex QD-2A or QD-2B?  
   (please check one)  
   ☐ Yes, Affiliate of _____________  
   ☐ No

7. Public Transport Operator or not?  
   (please check one)  
   ☐ Yes  
   ☐ No

8. Affiliate of Public Transport Operator or not?  
   (please check one)  
   ☐ Yes  
   ☐ No

9. Place of Incorporation or Registration

10. Year of Incorporation or Registration

11. Principal Purposes or Businesses

12. Shareholder or Partner Information

<table>
<thead>
<tr>
<th>Name of Shareholder or Partner</th>
<th>Nationality</th>
<th>Percentage Total of Shareholding or Partnership Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

[Note: Insert rows as necessary]

13. Information on Beneficial Owners who own more than 5% Beneficial Interest

<table>
<thead>
<tr>
<th>Name of Beneficial Owner</th>
<th>Nationality</th>
<th>Percentage Total of Beneficial Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[Note: Insert rows as necessary]
For and on behalf of (Name of Entity)  
(Signature of Authorized Representative)  
(Name, Title, and Date)  

For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)  
(Signature of Authorized Representative)  
(Name, Title, and Date)
ANNEX QD-4: Notarized Certification of Absence of Unsatisfactory Performance Record

Note: To be submitted by all entities proposed to meet the Technical Qualification Requirements or Financial Capability Qualification Requirements, as identified in the Business Structure (Annex QD-2A or QD-2B).

<table>
<thead>
<tr>
<th>Bidder</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Entity which fulfills a Qualification Requirement</td>
<td></td>
</tr>
<tr>
<td>Qualification Requirement</td>
<td></td>
</tr>
<tr>
<td>Relationship to Bidder</td>
<td></td>
</tr>
</tbody>
</table>

Republic of the Philippines )
) s.s.

Notarized Certification of Absence of Unsatisfactory Performance Record

I, (name), (citizenship), of legal age, with office address at (address), as the (position/designation) of (name of entity represented), a (corporation/partnership) organized and existing under and by virtue of the laws of (place of incorporation/registration) hereby certify, for and on behalf of (name of entity represented), that (name of entity represented) does not have any record of Unsatisfactory Performance, as defined in Section 16 of the Instructions to Bidders.

Date and Place of Execution.

For and on behalf of (Name of Entity)

(Signature of Authorized Representative)

____________________________________
(Name)
(Designation)

SUBSCRIBED AND SWORN TO before me this (___) day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).
Notary Public

Doc. No.: __________
Page No.: __________
Book No.: __________
Series of 201__.
ANNEX QD-5: Development Experience

Note: To be submitted by each entity proposed to meet the Development Experience, as identified in the Business Structure (Annex QD-2A or QD-2B).

Required Attachments:

1. Notarized certification of project completion from the project’s owner or a copy of the original certificate of project completion accompanied by a notarized certification issued by an officer of the entity proposed to meet the Development Experience that such copy is a true and faithful reproduction of the original certificate.

2. If the project was completed by an Affiliate of the entity proposed to meet the Development Experience, evidence of such affiliation.

3. Certified true copy of a valid license issued by the PCAB for General Building Classification – Large B for Buildings and Industrial Plants – AAA License Category, in the case of a Filipino Construction Contractor, or an equivalent license issued by an equivalent accreditation institution in the entity’s country of origin, in the case of a foreign entity, provided that such foreign entity must secure a license and accreditation from the PCAB after the Bidder is awarded the Project.


1. Entity proposed to meet the Development Experience, as identified in the Business Structure (Annex QD-2A or QD-2B).

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Entity Proposed to Meet Development Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Relationship to Bidder | (Bidder / Consortium Member / Construction Contractor) |

2. Project/s completed within the last ten (10) years prior to the Bid Submission Date consisting of the development of one or more Eligible Projects with a cumulative cost of at least two billion Philippine Pesos (PhP2,000,000,000) and with a cumulative capacity of at least three hundred (300) parking bays for land surface vehicles with four (4) or more wheels, excluding rail.
<table>
<thead>
<tr>
<th>Name of Project</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Date of Contract</td>
<td></td>
</tr>
<tr>
<td>Nature of Involvement</td>
<td></td>
</tr>
<tr>
<td>Client</td>
<td></td>
</tr>
<tr>
<td>Cost of Contract</td>
<td></td>
</tr>
<tr>
<td>Capacity of the Project (specify number of parking bays for various categories of vehicles)</td>
<td></td>
</tr>
<tr>
<td>Name of Entity that Completed the Project*</td>
<td></td>
</tr>
</tbody>
</table>

*Must be the entity identified in #1 or an Affiliate. If an Affiliate, please attach evidence of such affiliation.

[Note: If more than one project is submitted, replicate table above.]

For and on behalf of (Name of Entity)  
(Signature of Authorized Representative)  
(Name, Title, and Date)

For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)  
(Signature of Authorized Representative)  
(Name, Title, and Date)
ANNEX QD-6: Notarized Statement of Willingness to Participate In, and Capacity to Undertake the Construction Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the Development of the ITS Terminal

Note: To be submitted by each Consortium Member or Construction Contractor proposed by the Bidder to meet the Construction Experience, as identified in the Business Structure (Annex QD-2A or QD-2B).

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Entity Proposed to Meet Development Experience</th>
<th>Relationship to Bidder</th>
</tr>
</thead>
</table>

Republic of the Philippines    
} s.s.

Notarized Statement of Willingness to Participate In, and Capacity to Undertake the Construction Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the Construction of the ITS Terminal

I, (name), (citizenship), of legal age, with office address at (address), as the (position/designation) of (name of Consortium Member / Construction Contractor), a (corporation/partnership) organized and existing under and by virtue of the laws of (place of incorporation/registration) hereby declare for and on behalf of (name of Consortium Member / Construction Contractor) that:

1. (name of Consortium Member / Construction Contractor) is willing to participate, through the (name of Bidder) in the bidding for the Southwest Integrated Transport System Project in accordance with the Bidding Documents.

2. (name of Consortium Member / Construction Contractor) has the required experience and capacity to undertake the construction requirements for the Project in accordance with the terms and conditions of the Bidding Documents.

3. Based on my personal knowledge or authentic documents, the information provided in Annexes QD-4 and QD-5 are true and correct.
4. If selected by (name of Bidder), (name of Consortium Member / Construction Contractor) shall formally enter into a contract with the Concessionaire to undertake the Construction of the Southwest Integrated Transport System Terminal in accordance with the terms and conditions of the Concession Agreement.

Date and Place of Execution.

For and on behalf of (Name of Entity)

(Signature of Authorized Representative)

(Name)

(Designation)

SUBSCRIBED AND SWORN TO before me this (__ day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: _________
Page No.: _________
Book No.: _________
Series of 201__.
ANNEX QD-7: Operation and Maintenance Experience

NOTE: To be submitted by each entity proposed to meet the O&M Experience, as identified in the Business Structure (Annex QD-2A or QD-2B).

Required Attachments:

1. Notarized certification of project completion or that the project is ongoing or in operation, from the project’s owner or a copy of the original certificate of project completion or certificate that the project is ongoing or in operation accompanied by a notarized certification issued by an officer of the entity proposed to meet the O&M Experience that such copy is a true and faithful reproduction of the original certificate.

2. If the project was completed by an Affiliate of the entity which fulfills the O&M Experience, evidence of such affiliation.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Entity Proposed to Meet O&amp;M Experience</th>
<th>Relationship to Bidder</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Bidder / Consortium Member / O&amp;M Contractor)</td>
</tr>
</tbody>
</table>

2. Project/s demonstrating local or international experience in the operation and maintenance of –

2.1 one or more bus terminals with a cumulative bus parking capacity for at least Forty (40) passenger buses, and a minimum parking capacity of at least Twenty (20) passenger buses in each bus terminal; or

2.2 one or more commercial complexes, shopping malls, airport terminals, parking complexes (either stand alone or as a part of any building/project), freight terminals with a cumulative parking capacity of at least one hundred sixty (160) parking bays for land surface transport vehicles with four (4) or more wheels, but excluding rail, and a minimum parking capacity of at least eighty (80) parking bays for land surface transport vehicles with four (4) or more wheels, excluding rail, in each commercial complex, shopping mall, airport terminal, parking complex, freight terminal,
for a period of at least three (3) full consecutive years, within the last ten (10) years prior to the Bid Submission Date.

<table>
<thead>
<tr>
<th>Name of Project</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>Capacity of the Project (specify number of parking bays for various categories of vehicles)</td>
<td></td>
</tr>
<tr>
<td>Date of Contract</td>
<td></td>
</tr>
<tr>
<td>Total Number of Years of Operation by Proposed Entity</td>
<td></td>
</tr>
<tr>
<td>Start Date of Operation By Proposed Entity</td>
<td></td>
</tr>
<tr>
<td>End Date of Operation By Proposed Entity</td>
<td></td>
</tr>
<tr>
<td>Nature of Involvement</td>
<td></td>
</tr>
<tr>
<td>Client</td>
<td></td>
</tr>
<tr>
<td>Cost of Contract</td>
<td></td>
</tr>
<tr>
<td>Name of Entity that Completed the Project**</td>
<td></td>
</tr>
</tbody>
</table>

**Must be the entity identified in #1 or an Affiliate. If an Affiliate, please attach evidence of such affiliation.

[Note: If more than one project is submitted, replicate table above.]

For and on behalf of (Name of Entity)  
(Signature of Authorized Representative)  
(Name)  
(Designation)  

For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)  
(Signature of Authorized Representative)  
(Name)  
(Designation)
ANNEX QD-8: Notarized Statement of Willingness to Participate In, and Capacity to Undertake the O&M Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the O&M of the ITS Terminal or to Provide Technical Support to the Concessionaire in the O&M of the ITS Terminal

Note: To be submitted by each Consortium Member or O&M Contractor proposed by the Bidder to meet the O&M Experience, as identified in the Business Structure (Annex QD-2A or QD-2B).

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Entity Proposed to Meet O&amp;M Experience</th>
<th>Relationship to Bidder</th>
</tr>
</thead>
</table>

Republic of the Philippines

) s.s.

Notarized Statement of Willingness to Participate In, and Capacity to Undertake the O&M Requirements of, the Project, and Commitment to Enter into an Agreement with the Concessionaire to Undertake the O&M of the ITS Terminal or to Provide Technical Support to the Concessionaire in the O&M of the ITS Terminal

I, (name), (citizenship), of legal age, with office address at (address), as the (position/designation) of (name of Consortium Member / O&M Contractor), a (corporation/partnership) organized and existing under and by virtue of the laws of (place of incorporation/registration) hereby declare for and on behalf of (name of Consortium Member / O&M Contractor) that:

1. (name of Consortium Member / O&M Contractor) is willing to participate, through the (name of Bidder) in the bidding for the Southwest Integrated Transport System Project in accordance with the Bidding Documents.

2. (name of Consortium Member / O&M Contractor) has the required experience and capacity to undertake the O&M requirements for the Project in accordance with the terms and conditions of the Bidding Documents.
3. Based on my personal knowledge or authentic documents, the information provided in Form QD-4 and QD-7 are true and correct.

4. If selected by (name of Bidder), (name of Consortium Member / O&M Contractor) shall formally enter into a contract with the Concessionaire to undertake the operation and maintenance of the Southwest ITS Terminal or to provide technical support to the Concessionaire in the operation and maintenance of the ITS Terminal should the Concessionaire decide to operate the ITS Terminal itself.

Date and Place of Execution.

For and on behalf of (Name of Entity)

(Signature of Authorized Representative)

(Name)

(Designation)

SUBSCRIBED AND SWORN TO before me this (____) day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: _________
Page No.: _________
Book No.: _________
Series of 201___.
ANNEX QD-9: Key Personnel

Name of Bidder:

________________________________________________________________

1. Individual with local or international experience in the planning, direction, coordination, integration, implementation, and administration of design and construction activities for at least two (2) Eligible Projects.

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationality</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date of Birth</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1.1 Key Experience (add columns as necessary)

| Employer | | | |
| Position | | | |
| Start Date | | | |
| End Date | | | |
| Description of Projects Undertaken | | | |

1.2 Educational Background

<table>
<thead>
<tr>
<th>College Degree:</th>
<th>School:</th>
<th>Year Graduated:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Studies:</td>
<td>School:</td>
<td>Year Graduated:</td>
</tr>
<tr>
<td>Professional License:</td>
<td>Year:</td>
<td></td>
</tr>
</tbody>
</table>

2. Individual with local or international experience in the coordination of operations and maintenance activities for at least two (2) Eligible Projects

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer</td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
</tr>
<tr>
<td>Nationality</td>
<td></td>
</tr>
<tr>
<td>Date of Birth</td>
<td></td>
</tr>
</tbody>
</table>
2.1 Key Experience (add columns as necessary)

<table>
<thead>
<tr>
<th>Employer</th>
<th>Position</th>
<th>Start Date</th>
<th>End Date</th>
<th>Description of Projects Undertaken</th>
</tr>
</thead>
</table>

2.2 Educational Background

<table>
<thead>
<tr>
<th>College Degree</th>
<th>School</th>
<th>Year Graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Studies</td>
<td>School</td>
<td>Year Graduated</td>
</tr>
<tr>
<td>Professional License</td>
<td>Year</td>
<td></td>
</tr>
</tbody>
</table>

3. Individual with local or international experience in the supervision/implementation of at least two (2) Eligible Projects

<table>
<thead>
<tr>
<th>Name</th>
<th>Employer</th>
<th>Position</th>
<th>Nationality</th>
<th>Date of Birth</th>
</tr>
</thead>
</table>

3.1 Key Experience (add columns as necessary)

<table>
<thead>
<tr>
<th>Employer</th>
<th>Position</th>
<th>Start Date</th>
<th>End Date</th>
<th>Description of Projects Undertaken</th>
</tr>
</thead>
</table>

3.2 Educational Background

<table>
<thead>
<tr>
<th>College Degree</th>
<th>School</th>
<th>Year Graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Studies</td>
<td>School</td>
<td>Year Graduated</td>
</tr>
<tr>
<td>Professional License</td>
<td>Year</td>
<td></td>
</tr>
</tbody>
</table>
4. Individual with local or international experience in the design of at least two (2) Eligible Projects, including site planning, landscaping and the architectural design of building structures

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer</td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
</tr>
<tr>
<td>Nationality</td>
<td></td>
</tr>
<tr>
<td>Date of Birth</td>
<td></td>
</tr>
</tbody>
</table>

4.1 Key Experience (add columns as necessary)

<table>
<thead>
<tr>
<th>Employer</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Position</td>
<td></td>
</tr>
<tr>
<td>Start Date</td>
<td></td>
</tr>
<tr>
<td>End Date</td>
<td></td>
</tr>
<tr>
<td>Description of Projects Undertaken</td>
<td></td>
</tr>
</tbody>
</table>

4.2 Educational Background

<table>
<thead>
<tr>
<th>College Degree:</th>
<th>School:</th>
<th>Year Graduated:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Studies:</td>
<td>School:</td>
<td>Year Graduated:</td>
</tr>
<tr>
<td>Professional License:</td>
<td>Year:</td>
<td></td>
</tr>
</tbody>
</table>

If selected by (name of Bidder), (name of Concessionaire) undertakes to use the above-named key personnel in the implementation of the Southwest Integrated Transport System Project.

For and on behalf of (Name of Bidder/if Consortium, Name of Consortium and Lead Member)

(Signature of Authorized Representative)

(Name, Title, and Date)
ANNEX QD-10: Notarized Statement of Financial Capability

Note: To be submitted by the entity proposed to meet the Financial Capability Qualification Requirements, as identified in the Business Structure (Annex QD-2A or QD-2B).

Required Attachments:

1. Certified true copy of the latest audited financial statements that must be for a fiscal period ending in any month in 2013 and certified true copy of the latest unaudited quarterly financial statements for the quarter ending prior to the month of the Bid Submission Date, and provided that both financial statements must be stamped “received” by the Bureau of Internal Revenue or any Bureau of Internal Revenue authorized agent bank, or for foreign entities, the appropriate government agency equivalent to the Bureau of Internal Revenue in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. The certification may be issued by an officer of the entity proposed to meet the Financial Capability Qualification Requirements, in which case the certification must be under oath and notarized, provided that the certification relating to the unaudited quarterly financial statements must be issued by the entity’s chief financial officer. If there is a discrepancy between the financial statements, the entity must submit the relevant supporting documents to explain the discrepancy.

2. Letter(s) from the potential lenders of the entity proposed to meet the Financial Capability Qualification Requirements expressing their willingness to lend it, or the Concessionaire, at least one billion four hundred million Philippine Pesos (PhP1,400,000,000). Such a letter or letters should come from financial institutions licensed to lend money in the country where it is registered for creation or recognition of its juridical personality or capacity (for financial institutions incorporated in the Philippines, the license to lend must come from the Bangko Sentral ng Pilipinas).

3. If an Affiliate of the Bidder or the Lead Member is proposed to comply with the Financial Capability Qualification Requirements, attach evidence of such affiliation.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Entity Proposed to Meet Financial Capability Qualification Requirements</th>
<th>Relationship to Bidder</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Bidder / Consortium Member)</td>
</tr>
</tbody>
</table>
Republic of the Philippines  )
) s.s.

Notarized Statement of Financial Capability

I, (name), (citizenship), of legal age, with office address at (address), as the (position/designation) of (name of entity), a (corporation/partnership) organized and existing under and by virtue of the laws of (place of incorporation/registration), after having been duly sworn according to law, hereby certify for and on behalf of (name of entity) that the information stated in this Notarized Statement of Financial Capability is true and that the attached documents are genuine and true copies of the original.

1. (name of entity) has a minimum net worth equivalent to at least six hundred million Philippine Pesos (PhP600,000,000) or its equivalent as of its audited financial statements which must be for a fiscal period ending in any month in 2013, a certified true copy of which is attached to this certificate.

2. The financial summary of (name of entity) from (most recent fiscal year) is as follows:

<table>
<thead>
<tr>
<th>Financial Information</th>
<th>(Most Recent Fiscal Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(indicate last day of accounting year)</td>
<td></td>
</tr>
<tr>
<td>1. Total assets</td>
<td></td>
</tr>
<tr>
<td>2. Total liabilities</td>
<td></td>
</tr>
<tr>
<td>3. Total net worth</td>
<td></td>
</tr>
<tr>
<td>4. Profits before taxes</td>
<td></td>
</tr>
<tr>
<td>5. Profits after taxes</td>
<td></td>
</tr>
</tbody>
</table>

3. (name of entity) is a client in good standing in the following financial institutions (provide the names of at least two financial institutions):

| Name of Financial Institution | |
| Address | |
| Contact Person | |
Date and Place of Execution.

For and on behalf of (Name of Entity)

(Signature of Authorized Representative)

______________________________
(Name)
(Designation)

SUBSCRIBED AND SWORN TO before me this (___) day of (month and year) at (place), each affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: _________
Page No.: _________
Book No.: _________
Series of 201___.
ANNEX QD-11: Notarized Application to Participate in the Bidding

Note: To be submitted by the Bidder.

[Letterhead]

Republic of the Philippines) ) s.s.

Application to Participate in the Bidding

I, (name), (citizenship), of legal age, with office address at (address), as the authorized representative of (name of Bidder), a (corporation/partnership or Consortium) (organized and existing under and by virtue of the laws of [place of incorporation/ registration] or organized by agreement among its Consortium Members), as indicated by the authorization certificate attached as [Annex QD-12A (for a partnership or corporation) or Annex QD-12B (for a Consortium)], after having been duly sworn according to law, hereby certify for and on behalf of (name of Bidder) that:

1. In accordance with the Bidding Documents for the Southwest Integrated Transport System Project (hereinafter referred to as the “Project”), the (name of Bidder), a (partnership/corporation/Consortium) with business address at (business address), is applying to participate in the Bidding for the Southwest Integrated Transport System Project and submits its Qualification Documents and Bid Proposals. (name of Bidder) accepts all the terms and conditions of the Bidding Documents.

2. (name of Bidder) confirms that all statements made and the information and documents provided in its Qualification Documents and Bid Proposals, including statements made and information and documents provided by all Consortium Members, their Affiliates, and proposed Construction Contractors and O&M Contractors, in any of the Qualification Documents and Bid Proposals are true and correct, and any misrepresentation or false statement made therein shall be a ground for its disqualification from the Bidding.

3. (name of Bidder) authorizes the DOTC to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Qualification Documents and Bid Proposals, and to seek clarification from its clients and bankers regarding any technical and financial aspects. (name of Bidder) also permits third parties to supply information required to verify statements and information submitted in its Qualification Documents and Bid Proposals.
4. 
(name of Bidder) acknowledges the right of the DOTC to reject its Qualification Documents and Bid Proposals without assigning any reason and to cancel the Bidding at any time, without incurring any liability.

5. 
(name of Bidder), including the entities it has proposed to meet the Qualification Requirements under the Instructions to Bidders, have not at any time engaged in any Corrupt, Fraudulent, Collusive, Coercive, Undesirable, or Restrictive Practices, nor have a Conflict of Interest.

6. 
(name of Bidder) waives any right to and shall not seek or obtain any restraining order, writ of injunction or prohibition or any other form of coercive judicial, quasi-judicial or administrative writ, process or issuance against the DOTC to restrain, prevent, suspend, or in any manner forestall, hinder or render inconvenient the Bidding for the Project. 
(name of Bidder) acknowledges that the DOTC is undertaking this Bidding in the performance of its function to ensure the provision of a critical basic necessity and that, therefore, the Project is of paramount public interest and importance and that the DOTC and the Government will suffer serious and irreparable damage on account of any breach by (name of Bidder) of these undertakings, and agree that the breach of these undertakings shall result in (name of Bidder)'s automatic disqualification from the Bidding.

For and on behalf of (Name of Bidder/Name of Consortium / List of Consortium Members)

(Signature of Authorized Representative)

________________________________________
(Name)
(Designation)

SUBSCRIBED AND SWORN TO before me this (__) day of (month and year) at (place), each affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: ______
Page No.: ______
Book No.: ______
Series of 201__
ANNEX QD-12A: Notarized Corporate Authorizations and Designation of Authorized Representative

Note: To be submitted by a Bidder that is a partnership or corporation

[Letterhead of Bidder]

Republic of the Philippines

I, (name of corporate secretary or equivalent officer), after having been duly sworn according to law, hereby depose and state that:

1. I am a (Filipino) citizen, of legal age and a resident of [___];

2. I am the duly elected (corporate secretary or equivalent officer) of (name of Bidder) (the “Bidder”), a (corporation/partnership) organized and existing under and by virtue of the laws of (the Philippines);

3. At a (regular/special) meeting of the (board of directors/partners) of the Bidder, held on (date) at (place), in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

   RESOLVED, AS IT IS HEREBY RESOLVED, that (name of Bidder) be, and is, authorized to participate in the Bidding for the Southwest Integrated Transport System Project (“Project”) and to submit the Qualification Documents and Bid Proposals for the Project;

   RESOLVED FURTHER, that in the event the Bidder is declared as the Winning Bidder, it commits to fulfill all the requirements in Section 12 (Notice of Award, Post-Award Requirements & Execution of Concession Agreement) of the Instructions to Bidders, including the submission and completion of the Post-Award Requirements, the posting of the Construction Performance Security and the signing of the Concession Agreement with the DOTC.

   RESOLVED FURTHER, that (name of representative) be and is hereby appointed as the authorized representative of the Bidder during the Bidding Process, authorized to execute, sign, submit and receive documents for, and otherwise act in the name of, the Bidder;
RESOLVED, FINALLY, that any and all acts done and/or performed by (name of representative) under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

4. These resolutions have not been revoked, amended or modified and remain valid and binding on the Bidder; and

5. The above resolutions are in accordance with the records of the Bidder.

Place, Date of Execution.

___________________________________
[Corporate Secretary or Equivalent Officer]

SUBSCRIBED AND SWORN TO before me this (____) day of (month and year) at (place), each affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Doc. No.: ________
Page No.: ________
Book No.: ________
Series of 201__.
ANNEX QD-12B: Consortium Member’s Notarized Authority to Participate in the Consortium and in the Bidding, and Designation of Lead Member and Authorized Representative of Consortium

Note: For a Bidder that is a Consortium, to be submitted by each Consortium Member

[Letterhead of Bidder]

Republic of the Philippines  

I, (corporate secretary or equivalent officer), after having been duly sworn according to law, hereby depose and state that:

1. I am a (Filipino) citizen, of legal age and a resident of [___];

2. I am the duly elected (corporate secretary or equivalent officer) of (name of Consortium Member), a (corporation/partnership) organized and existing under and by virtue of the laws of (the Philippines);

3. At a regular/special meeting of the (board of directors/partners) of (name of Consortium Member), held on (date) at (place), in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

   RESOLVED, AS IT IS HEREBY RESOLVED, that (name of Consortium Member) be, and is, authorized to participate, through a Consortium consisting of the following Members and their respective nationalities and committed percentage interests in the Consortium, in the Bidding for the Southwest Integrated Transport System Project (“Project”) and to submit the Qualification Documents and Bid Proposals for the Project;

<table>
<thead>
<tr>
<th>Name of Consortium Member</th>
<th>Nationality</th>
<th>% Interest</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

RESOLVED FURTHER, that (name of Consortium Member) in the exercise of its interest in the Consortium hereby:
(a) designates (name of Lead Member of Consortium) as Lead Member of the Consortium with the authority to represent Consortium during the Bidding for the Project;

(b) designates (name of authorized representative of Consortium) as the authorized representative of the Consortium during the Bidding for the Project, and for such purpose shall have the authority to execute, sign, submit and receive documents for, and otherwise act in the name of the Consortium.

RESOLVED, FURTHER, that any and all acts done and/or performed by (name of Lead Member of Consortium) and (name of authorized representative of Consortium) under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

RESOLVED FURTHER, that the (name of Consortium Member) shall maintain its percentage interest in the Consortium in accordance with its Bid, the Instructions to Bidders and the Concession Agreement, and thereafter shall comply with the requirements and restrictions on changes in ownership as stated in the Concession Agreement;

RESOLVED, FURTHER, that in the event that the Consortium is declared as the Winning Bidder, (name of Consortium Member) will cooperate with the other Consortium Members to register a domestic corporation with the Philippine Securities and Exchange Commission and comply with all other requirements specified in the Instructions to Bidders and the Concession Agreement;

RESOLVED FURTHER, that in the event the Bidder is declared as the Winning Bidder, it commits to fulfill all the requirements in Section 12 (Notice of Award, Post-Award Requirements & Execution of Concession Agreement) of the Instructions to Bidders, including the submission and completion of the Post-Award Requirements, the posting of the Construction Performance Security and the signing of the Concession Agreement with the DOTC.

RESOLVED, FINALLY, that (name of Consortium Member) jointly and severally binds itself with the other Consortium Members listed above in undertaking the obligations of the Consortium in the Bidding for the Project until, if the Consortium is selected as the Winning Bidder, the corporation formed by the Consortium signs the Concession Agreement, or if the Consortium is not declared as the Winning Bidder within one hundred eighty (180) days after the
Bid Submission Date, until one hundred eighty (180) days after the Bid Submission Date.

4. These resolutions have not been revoked, amended or modified and remain valid and binding on (name of Consortium Member); and

5. The above resolutions are in accordance with the records of (name of Consortium Member).

Place, Date of Execution.

[Corporate Secretary or Equivalent Officer]

SUBSCRIBED AND SWORN TO before me this (____) day of (month and year) at (place), each affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

Notary Public

Doc. No.: ________
Page No.: ________
Book No.: ________
Series of 201___.
ANNEX TP-1: Form of Bid Security

[Letterhead of Issuing Bank]

Department of Transportation and Communications
Philippines

Place:

Standby Letter of Credit No.

Date:

Dear Sirs:

We, [●], a corporation organized and existing under the laws of the Republic of the Philippines (the “Issuer”), hereby establish our Irrevocable Standby Letter of Credit No. [●] (the “Letter of Credit”) in your favor and for the account of [insert name of Bidder or Consortium’s Lead Member] (the “Bidder”) relating to the obligations of the Bidder under the Instructions to Bidders of the Southwest Integrated Transport System Project, which shall be valid and effective until [date that is one hundred eight (180) days after Bid Submission Date]. Capitalized terms used in this Letter of Credit shall have the meanings given to them in the Instructions to Bidders except as otherwise expressly defined herein.

1. The maximum aggregate amount available under this Letter of Credit is [___] Philippine Pesos (PhP [___]) (the “Stated Amount”).

2. Subject to the other provisions of this Letter of Credit, the Department of Transportation and Communications (“DOTC”) is hereby irrevocably authorized to make one drawing for the entire Stated Amount under this Letter of Credit by presenting to the Issuer, at its address set forth above, a demand for payment from the DOTC in substantially the form attached as Annex A, duly completed, and that is in the form of a letter on the DOTC’s letterhead signed by any of its authorized signatories.

3. The Issuer shall be deemed to have honored a drawing hereunder if the Issuer deposits the amount of such drawing in the account (the “Designated Account”) designated by the DOTC in accordance with Annex A. Any such drawing made hereunder shall be free and clear of all interest and charges and any sums due to the Issuer.
4. We hereby agree to honour the drawing hereunder made in compliance with this Letter of Credit notwithstanding any objection that the Bidder might raise against the DOTC’s entitlement to payment, by transferring in immediately available funds to the Designated Account the amount specified in a demand for payment at the opening of business on the first or second Business Day succeeding the date of such demand. As used herein, the term “Business Day” means a day (other than Saturday and Sunday) when banks are open for business in Makati City, Philippines.

5. If the demand for payment hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give prompt notice (but within the first Business Day succeeding the date of such demand) to the DOTC that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold the documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, the DOTC may attempt to correct the non-conforming demand and re-submit such demand in accordance with the terms and conditions hereof.

6. This Letter of Credit shall expire, unless otherwise extended in accordance with the provisions hereof, on the earliest of (i) 5 p.m. at the place of presentation on [insert date that is one hundred eighty (180) days after Bid Submission Date], (ii) the date on which we have honoured a drawing in an amount equal to the Stated Amount, or (iii) the date when we receive a written notice from the DOTC that a replacement letter of credit, which is in full force and effect, has been substituted for this letter of credit (the “Expiration Date”).

7. All documents presented to the Issuer in connection with a drawing hereunder, as well as all notices and other communications to the Issuer in respect of this Letter of Credit, shall be in writing and addressed and presented to the Issuer at its address set forth above. Such documents, notices, and communications shall make specific reference to this Letter of Credit by number. Such documents, notices, and other communications may be delivered or sent by courier to the Issuer at its address set forth above, or at such other address as the Issuer shall have specified in writing to the DOTC, or sent to the Issuer by fax to the following number:

Fax No. [●] (Answerback: [●]).
8. This Letter of Credit may not be cancelled or amended without the prior written consent of the Issuer and the DOTC.

9. This Letter of Credit sets forth our undertaking and our agreement with the DOTC and such undertaking and such agreement may not in any way be modified, amended, amplified, or limited by reference to any other document, instrument, or agreement referred to herein.

10. The Issuer hereby agrees that it shall have no recourse to the DOTC if the Bidder fails at any time to pay any amounts which may from time to time be due and payable by it to the Issuer in relation to this Letter of Credit.

11. References in this Letter of Credit to the Instructions to Bidders or any other document or instrument, except to the Annexes hereto, are for identification purposes only. The Instructions to Bidders and such other documents and instruments are not incorporated herein, nor are they made a part of this Letter of Credit.

12. This Letter of Credit is issued subject to the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (“ISP 98”), the provisions of which are incorporated into this Letter of Credit, except to the extent superseded by the express terms and conditions of this Letter of Credit. If this Letter of Credit should expire during an interruption of our business, the Issuer hereby agrees to honour any demand presented in accordance with this Letter of Credit within thirty (30) days after the resumption of our business.

13. To the extent that the provisions of this Letter of Credit are not governed by ISP 98, this Letter of Credit shall be governed by the laws of the Republic of the Philippines and construed in accordance with said laws, without regard to principles of conflicts of law.

IN WITNESS WHEREOF, we have caused these presents to be executed in our name on this [●] day of [●] 201__.

[Issuing Bank]

By

______________________________
SUBSCRIBED AND SWORN TO before me this _____ day of (month and year) at (place), affiant exhibiting to me his/her (proof of identity acceptable under Philippine notarial regulations), issued at (city) on (date).

NOTARY PUBLIC

Doc. No.: ________
Page No.: ________
Book No.: ________
Series of 201__.
ANNEX A TO ANNEX TP-1: Demand for Sight Payment

To:  [Name of Issuer]

[Address]

Attn:  [♦]

Re:  Irrevocable Standby Letter of Credit No. [♦]

The undersigned, a duly authorized officer of the Department of Transportation and Communications ("DOTC"), makes reference to the Instructions to Bidders of the Southwest Integrated Transport System Project ("Project").

1. The DOTC hereby demands payment (the "Drawing") under the Letter of Credit in the amount of [___] PHILIPPINE PESOS (PHP [___]) in order to satisfy liabilities of the Bidder under the Instructions to Bidders.

2. The amount of the Drawing does not exceed the Stated Amount.

Please wire transfer the amount of the Drawing to [account details to be inserted by the DOTC] (the "Designated Account").

IN WITNESS WHEREOF, the DOTC has executed and delivered this certificate as of the [♦] day of [♦],

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

By: __________________________

Name:

Title:
ANNEX TP-2: Conceptual Layout

Name of Project: Southwest Integrated Transport System Project
Name of Bidder: ____________________________________________________________

1. architectural analysis of the Project site and its surroundings

2. key design concepts considered for the design of the ITS Terminal

3. area program and the project components comprising the ITS Terminal

4. components proposed for the Commercial Business

5. conceptual layout of the ITS Terminal and Commercial Business on 1:1000 scale illustrating location of entry/exit points, interconnection/interconnectivity between the various modes of transport, parking facilities, public utilities, passenger amenities and the flow of vehicular and pedestrian movements within the Project site

For and on behalf of (Bidder)

(Signature of Authorized Representative)

(Name)
(Designation)
ANNEX TP-3: Construction Plan

Name of Project: Southwest Integrated Transport System Project
Name of Bidder: ________________________________________________________________

1. construction organization for the Project, identifying key personnel and positions, and subcontractors
2. construction methodology and procedures
3. quality control system
4. construction schedule and milestones
5. traffic management plan during construction
6. health, safety and security program for construction

For and on behalf of (Bidder)

(Signature of Authorized Representative)

(Name)
(Designation)
ANNEX TP-4: Operations and Maintenance Plan

I. Project Description

II. ITS Terminal Operations

a) Terminal toll collection system
b) Traffic safety and control system
c) Power and other utilities

III. ITS Terminal Maintenance

a) Maintenance of building
b) Maintenance of open areas
c) Maintenance of operating equipment and utilities.

IV. Others

a) Uninterrupted Operations
b) Customer Service and Satisfaction
c) Environmental Compliance Program
d) Aesthetics
e) Operation and Maintenance Manuals
f) Asset Register
g) To meet Key Performance Indicators for Operation
h) To meet Key Performance Indicators for Maintenance

Note: Annex TP-4 is only a guide. Bidders may adopt their own format for the Operations and Maintenance Plan, provided it contains all the requirements of the Minimum Performance and Standards and Specifications
ANNEX TP-5: Business Plan

1. To be submitted by the Bidder, and to be signed by all entities listed in the Business Structure (Annex QD-2A or QD-2B) or the authorized representative of the Bidder.

2. The Business Plan details the Bidder’s approach to the Project and outlines the investment plan, the maintenance costs, the operational costs, the revenue generation, etc. for the entire life of the concession.

3. The Business plan shall also quantify the Bidder’s Project Development Plan.

4. The Business Plan shall contain a section on the financing strategy and the process of obtaining financing, including supporting evidence that said strategy and process is feasible and acceptable by financiers.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

5. The Business Plan shall also describe its required rate of return (Post tax blended equity return and Project IRR) and the covenants it needs to meet to ensure a smooth execution of the Business Plan.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

6. The Business Plan shall also contain a section on scenario and sensitivity analyses, which will present the outcome of the following sensitivity analyses:
   a. Investment costs: +25%
   b. Operating costs: +25%
   c. Traffic forecast: -25%
   d. Cost of (senior) debt (interest cost): +2%-point
   e. Gearing (ratio of senior debt to total funds): -10%-point
   f. Indexation rate: + and -3%-point

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]
7. The Business Plan will describe what actions the Bidder will take if and when the financial results do not meet the required return parameters and or the described covenants.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

8. The Business Plan is required to be consistent with the Financial Model and vice versa. Cross references between the two are appreciated.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

9. The evaluation of the Business Plan will be based on the following:
   a. each and every requirement on the content of the Business Plan, as stated in this Annex, is responded to in full;
   b. The Business Plan is:
      I. internally consistent;
      II. consistent with the Concession Agreement and its Schedules;
      III. consistent with the remainder of the Technical Proposal.

[Fill in the box. Demonstrate that the Business Plan is (i) internally consistent, (ii) consistent with the Concession Agreement and its Schedules, and (iii) consistent with the remainder of the Technical Proposal. Maximum of 1 page.]

For and on behalf of (Name of Bidder/ if Consortium, Name of Consortium)

(Signature of Authorized Representative)

(Name, Title, and Date)
ANNEX TP-6: Acceptance and Compliance Letter

[Letterhead]

[date]

Department of Transportation and Communications
Pre-Qualification Bids and Awards Committee for PPP Projects

[address]

Attention: [name]
Chairman

Acceptance and Compliance Letter

[name of Bidder] hereby declares, represents, and warrants that it has read and understood each and every section and page of the Bidding Documents, its provisions, terms and conditions, and all amendments, supplements, or modifications thereto, as well as the decisions of the PBAC; and accepts and agrees to be bound and fully abide by and comply with the terms and conditions of the Bidding Documents and all amendments, supplements, or modifications thereto, as well as the decisions of the PBAC.

For and on behalf of (Name of Bidder/Name of Consortium and List of Consortium Members)

By:
(Name, Designation and Signature of Authorized Representative)
ANNEX FP-1: Bid Amount

I, (name), (citizenship), of legal age, with office address at (address), as the authorized representative of (Bidder), a (corporation/partnership or Consortium) (organized and existing under and by virtue of the laws of [place of incorporation/registration] or organized by agreement among its Consortium Members), hereby declare for and on behalf of (name of Bidder) that:

10. In accordance with the Bidding Documents for the Southwest Integrated Transport System Project (hereinafter referred to as the “Project”), (name of Bidder), a (partnership/corporation/Consortium) with business address at [___], hereinafter referred to as the Bidder, submits the Bid Amount.

11. Bidder’s Bid Amount is Concession Fee of:

<table>
<thead>
<tr>
<th>Bid Amount in words</th>
<th>Bid Amount in figures</th>
</tr>
</thead>
</table>

3. The Concession Fee shall be paid by Concessionaire in accordance with the Concession Agreement.

For and on behalf of (Name of Bidder/Name of Consortium / List of Consortium Members)

By:
(Name and Signature of Authorized Representative)
Date: __________________________
ANNEX FP-2: Financial Model

Name of Project: Southwest Integrated Transport System Project
Name of Bidder:

[Note: All amounts should be stated in Philippine Pesos and in base 2014 prices.]

Electronic copy. The financial model must be submitted in electronic form, using Microsoft Excel, with the following minimum information per year from 2014-2038.

1. **Project Costs**
   - Engineering Design
   - Civil Works
   - Terminal toll Collection System
   - Insurance during construction
   - Interest during construction
   - Others

2. **Projected Income and Expenses**
   - Terminal Toll Revenues¹
   - Other revenues
   **Total Revenues**
   - Operating expenses
   - Personnel
   - Maintenance
   - Others
   - Business and Property Taxes
   **Total Expenses**
   - Earnings before Interest Taxes Depreciation and Amortization (EBITDA)
   - Depreciation and amortization
   - Earnings before Interest and Taxes (EBIT)
   - Interest expenses
   - Earnings before Taxes (EBT)
   - Taxes
   - Net income

¹ Revenues and expenses are to be reflected exclusive of VAT (Value added Tax)
3. **Projected Balance Sheet**

   Assets
   - Current Assets
   - Long-Term Assets
   - Other Assets
   - Total Assets

   Liabilities and Stockholder's Equity
   - Short-term Debt
   - Current Portion of Long-Term Debt
   - Other current liabilities

   Long-term debt
   - Other long-term liabilities

   Total Liabilities

   Total Stockholder's Equity
   - Capital
   - Retained Earnings

   Total Liabilities and Stockholder's Equity

   Total (Short-term and Long-term) Debt / Total Capital Ratio

4. **Projected Cash flow Statement**

   Cash flow from Operations
   - EBITDA
   - Changes in working capital
   - Taxes
   - **Net Cash flow from Operations**

   Cash flow from Investing
   - Construction
   - Acquisition of Property and equipment
   - **Net Cashflow from Investing Activities**

   Cashflow from Financing
Interest Income
Interest Expense
Gross Borrowing
Gross Debt Repayment
Equity contributions
Payments to Shareholders
**Net Cash flow from Financing Activities**

Net Cash flow

Cash at beginning
Cash at end

5. **Rates of Return and Cost of Capital**
   Project IRR and Weighted Average Cost of Capital
   (please show calculations to derive the project IRR and breakdown of WACC in each year)

   Equity IRR
   (please show calculations to derive the equity IRR and compare with cost of equity)

For and on behalf of *(Bidder/Lead Member)*

*(Signature of Authorized Representative)*

______________________________

*(Name)*
*(Designation)*
ANNEX FP-3: Project Financing Plan

The Project Financing Plan should describe the Bidder’s sources of funds and the terms of financing for both debt and equity required for the implementation of the Works for the Southwest Integrated Transport System Project.

The Project Financing Plan should be in an amount sufficient to cover all estimated costs for all of the Works and the Concession Fee that shall be payable by the Concessionaire to the DOTC in accordance with the Concession Agreement.

Financing must be in the form of equity and debt. At least thirty percent (30%) of the total financing, inclusive of contingencies, must be in the form of equity, and the remainder in debt or subordinated debt. For the avoidance of doubt, shareholder loans will be treated as equity provided that they are subordinated to all other debt.

<table>
<thead>
<tr>
<th>SOURCES OF FUNDS</th>
<th>Items / Sources</th>
<th>USD (if applicable)</th>
<th>PHP Equivalent</th>
<th>Local Currency (PHP)</th>
<th>Equivalent Total in Philippine Peso (PHP)</th>
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<td></td>
<td>Exchange Rate</td>
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<td>1.1 Total Project Costs (excluding stand-by credit facility)</td>
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<td>1.2 Equity</td>
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</table>
### Instructions to Bidders

**ANNEX FP-3**

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<th>Other sources (specify)</th>
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<td>Name: __________________</td>
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**Total Equity:**

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#### 1.3 Debt

- **Export Credit Agencies**
  - *List individually*
  - Export Credit Agency
    - Name: __________________
  - Export Credit Agency
    - Name: __________________
  - Export Credit Agency
    - Name: __________________
  - Export Credit Agency
    - Name: __________________

- **Commercial Sources**
  - *List individually*
  - Commercial Source
    - Name: __________________
  - Commercial Source
    - Name: __________________
  - Commercial Source
    - Name: __________________

- **Multilateral Sources**
  - *List individually*
  - Multilateral Source
    - Name: __________________
  - Multilateral Source
    - Name: __________________

- **Other Sources**
  - *List individually*
  - Other Source
    - Name: __________________

**Total Debt:**

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#### 1.4 Projected Free Cash Flows

*Note: These projections should be consistent with figures shown in the financial model.*
1.5 Concession Fee

*Note: This refers only to the Concession Fee that shall be payable by the Concessionaire to the DOTC on or before the Construction Start Date.*

In support of the financing plan provided above, the following documents must be provided:

1. For each entity providing equity identified in Section 1.2, a notarized certification from its chief executive officer or treasurer/controller that such entity will provide the amount of equity stated in Section 1.2 at the relevant time.

2. If the Bidder plans to obtain an underwriter for all or part of the debt, a letter from the proposed underwriter that it agrees to underwrite the specified amount.

3. As needed, breakdown of the financial projections (including explanation of assumptions) for free cash flows from Construction Start Date through Completion Date should be attached. These assumptions and financial projections should be consistent with the calculations and figures in the financial model.
ANNEX CP-1: Form of Undertaking to be Jointly and Severally Liable

[date]

Department of Transportation and Communications
Pre-Qualification Bids and Awards Committee for PPP Projects

[Address]

Attention: [name]
Chairman

Undertaking to be Jointly and Severally Liable

We refer to the Instructions to Bidders, as amended or otherwise supplemented, for the Southwest Integrated Transport System Project.

We, the undersigned Consortium Members of (name of Consortium), jointly and severally bind ourselves with the Concessionaire in undertaking the obligations of the Concessionaire under the Concession Agreement.

For and on behalf of (Name of Each Consortium Members)

By:
(Name and Signature of Authorized Representative of Consortium Member)
Date: [___]
ANNEX CP-2: Form of Willingness to Lend

(Name of Institution)

(Date)

Gentlemen:

In connection with the participation of (name of Bidder) in the Bidding Process for the Southwest Integrated Transport System Project, we wish to express our interest and willingness, subject to the conduct of our internal due diligence processes, to provide or arrange the following credit facility/facilities for the special purpose corporation that the Bidder will incorporate, if and when it is declared by the Department of Transportation and Communications as the Winning Bidder, with the following indicative terms:

<table>
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<tr>
<th>Type of Facility</th>
<th>Amount</th>
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<tr>
<td>Interest Rate</td>
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<tr>
<td>Tenor and Grace Period (if any)</td>
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<tr>
<td>Repayment Schedule</td>
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<td>Subordination</td>
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<tr>
<td>Other Relevant Information</td>
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</tbody>
</table>

We acknowledge that all of the terms and conditions of the final draft of the Concession Agreement, including all of its Schedules, as of the Bid Proposals Submission Date are no longer subject to any amendments or revisions.

Very truly yours,

(Signature of Authorized Representative)

(Name)

(Designation)
ANNEX CP-3: Construction Performance Security

Form of Construction Performance Security

To: Department of Transportation and Communications
   
   [Address]
   
   (the "Beneficiary")
   
   [Date]

Irrevocable Standby Letter of Credit No. [ ]

At the request of the [Concessionaire] (the "Applicant"), we, [name of the bank], with business address at [address of bank], a corporation organized and existing under the laws of the Republic of the Philippines (the "Issuing Bank") issue this irrevocable, unconditional, standby letter of credit ("Letter of Credit") in your favour for [insert value] ("Face Value") effective from [insert date] on the following terms and conditions:

1. DEFINITIONS

   Except as provided below, or to the extent that the context requires otherwise, words and expressions defined in the Agreement shall have the same meaning in this Letter of Credit:

   "Agreement" the Concession Agreement to be entered into between the Government of the Republic of the Philippines, acting through its Department of Transportation and Communications and the [Beneficiary].

   "Business Day" means a day (other than Saturday and Sunday) when banks are open for business in Makati City, Philippines

   "Demand" means a demand for a payment under this Letter of Credit in the form of the Schedule to this Letter of Credit under Clause 5.

   "_EXPIRY_DATE" means the date falling [__] days/months from the date of issue of this Letter of Credit.
2. **ISSUING BANK’S AGREEMENT**

(a) The Beneficiary may request drawing or drawings under this Letter of Credit by submitting to the Issuing Bank a duly completed Demand. All Demands must be received by the Issuing Bank, as stated in Clause 5, before close of banking hours on or before the Expiry Date.

(b) Subject to the terms of this Letter of Credit, the Beneficiary may request partial and/or multiple drawings under this Letter of Credit by submitting a Demand in relation to each such drawing.

(c) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary (or such other payee or payees as the Beneficiary specifies in the Demand) that it will pay to the Beneficiary (or such other payee or payees) the amount demanded in that Demand upon the due presentation by the Beneficiary of the Demand to the Issuing Bank.

(d) We hereby agree to honour each Demand hereunder made in compliance with this Letter of Credit notwithstanding any objection that the Applicant might raise against the Beneficiary's entitlement to payment, by transferring in immediately available funds to the designated account the amount specified in a demand for payment at the opening of business on the first or second Business Day following the date of the Demand.

(e) The Letter of Credit shall not be discharged by any change in the Issuing Bank's constitution, constitution of Beneficiary or that of the Applicant or change in applicable laws.

(f) All charges, payments, commissions and other costs associated with the opening, amendment and renewal or any other act related to this Letter of Credit shall be paid by the Applicant. Failure of the Applicant to make such payments shall not affect our obligation under this Letter of Credit and the Beneficiary shall be paid the money due to it under this Letter of Credit without any deduction.
3. **RENEWAL AND EXPIRY**

(a) This Letter of Credit shall be renewable at the option of the Issuing Bank and the Issuing Bank shall exercise such option upon receipt of a written request from the Applicant seeking such renewal.

(b) The Issuing Bank will be released from its obligations under this Letter of Credit at the close of the banking hour on the Expiry Date.

(c) On the Expiry Date, the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid. For the avoidance of doubt, in the event that a Demand has been made on the Issuing Bank prior to the Expiry Date, the Issuing Bank’s obligation to pay hereunder shall be deemed accrued notwithstanding that the due date for payment may fall after the Expiry Date.

(d) When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Issuing Bank forthwith.

4. **PAYMENTS**

All payments under this Letter of Credit shall be made in Philippine Peso and for value on the due date to the account of the Beneficiary specified in the Demand.

5. **DELIVERY OF DEMAND**

(a) All Demands under this Letter of Credit shall be presented in full compliance with the terms and conditions hereof by hand delivery at the [place] office of the Issuing Bank (or such other address of the Issuing Bank as the Issuing Bank may from time to time notify the Beneficiary for this purpose). Any Demand presented after 11.00 am shall be deemed received on the next Business Day.
(b) If a Demand hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give prompt notice (but within the first Business Day succeeding the date of such demand) to the Beneficiary that the Demand was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold the documents at your disposal or return the same to you. Upon being notified that a Demand was not effected in conformity with this Letter of Credit, the Beneficiary may attempt to correct any such non-conforming Demand and re-submit such Demand in accordance with the terms and conditions hereof.

[Alternate mechanism(s) for presentation of Demands to be agreed on a case by case basis with Issuing Bank and Beneficiary and this Clause will be amended accordingly.]

6. AMENDMENT

(a) Any amendment or cancellation of this Letter of Credit shall be operative only with the prior written consent of the Beneficiary.

(b) This Letter of Credit sets forth our undertaking and our agreement with the Beneficiary and such undertaking and such agreement may not in any way be modified, amended, amplified, or limited by reference to any other document, instrument, or agreement referred to herein or there amendments.

7. GOVERNING LAW

This Letter of Credit is issued subject to the International Standby Practices 1998 (ISP98), the provisions of which are incorporated into this Letter of Credit, except to the extent superseded by the express terms and conditions of this Letter of Credit. To the extent that the provisions of this Letter of Credit are not governed by ISP98 this Letter of Credit shall be governed by the laws of the Republic of the Philippines.
8. TRANSFERABLE CREDIT

(a) This Letter of Credit is a transferable credit.

(b) This Letter of Credit is transferable any number of times to such person as may be specified in a transfer request provided that (i) this Letter of Credit may only be transferred for the full amount of this Letter of Credit and not in part; and (ii) transfer may only be made to a person or entity who has been appointed as a successor of the Beneficiary.

(c) Transfer of the letter of Credit to successor shall be effective only by the presentation to the Issuing Bank of this Letter of Credit accompanied by a transfer request.

(d) The Issuing Bank shall be obliged to effect the requested transfer unless the Issuing Bank, within ten (10) Business Days of receipt of the transfer request objected to the proposed transfer certifying that such transfer would or could reasonably be expected to result in it being in breach of a law or regulation applicable to it.

(e) If the Issuing Bank objects pursuant to the above clause, it shall promptly notify the Beneficiary and it shall not effect the requested transfer.

(f) If the Issuing Bank is obliged in accordance with Clause 8(d) above to effect the requested transfer it shall forthwith effect the same to the designated successor of the Beneficiary by endorsing the transfer on the reverse of this Letter of Credit and the transfer shall be effective only on return of this Letter of Credit to the new Beneficiary.

(g) Neither the Beneficiary nor the successor of the Beneficiary shall be liable to the Issuing Bank for any charges (including commissions, Payments, costs and expenses) of the Issuing Bank payable in connection with the transfer. Such charges shall be for the account of the Applicant. The Issuing Bank shall be obliged to effect the transfer regardless of whether or not those charges have been paid by the Applicant.

(h) No previous Beneficiary shall retain or have the right to make any Demand. All such rights shall be vested solely in the new Beneficiary.
Yours faithfully,

[Issuing Bank]

By:

Note: Each of the irrevocable standby letter of credit shall be issued by an universal bank or a commercial bank which is licensed by the Bangko Sentral ng Pilipinas and which is acceptable to the Beneficiary.
SCHEDULE 1: Template for Queries and Comments on Bidding Documents

NAME OF BIDDER: 
DATE: 

1. INSTRUCTIONS TO BIDDERS

<table>
<thead>
<tr>
<th>Reference No.*</th>
<th>Section No./Annex No.</th>
<th>Question or Comment (including proposed revised language, if any)</th>
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2. CONCESSION AGREEMENT

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<tr>
<th>Reference No.*</th>
<th>Section No./Annex No.</th>
<th>Question or Comment (including proposed revised language, if any)</th>
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3. INFORMATION MEMORANDUM

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<th>Reference No.*</th>
<th>Section No./Annex No.</th>
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SCHEDULE 2: List of Universal & Commercial Banks Licensed by the Bangko Sentral Ng Pilipinas

**UNIVERSAL BANKS**

**DOMESTIC UNIVERSAL BANKS**
1. ALLIED BANKING CORP
2. BANCO DE ORO UNIBANK INC
3. BANK OF THE PHILISLANDS
4. CHINA BANKING CORP
5. METROPOLITAN BANK & TCO
6. PHIL NATIONAL BANK
7. PHIL TRUST CORPORATION
8. RIZAL COMM’L BANKING CORP
9. SECURITY BANK CORP
10. UNION BANK OF THE PHILS
11. UNITED COCONUT PLANTERS BANK

**SPECIALIZED GOVERNMENT BANKS**
1. DEVELOPMENT BANK OF THE PHIL
2. LAND BANK OF THE PHILIPPINES
3. AL-AMANAH ISLAMIC INV BNK OF THE PH

**FOREIGN BANK BRANCHES**
1. ANZ BANKING GROUP LTD
2. MIZUHO CORPORATE BANK LTD-MANILA BR
3. HONGKONG & SHANGHAI BANKING CORP
4. INTERNATIONALE NEDERLANDEN GROEP BK
5. STANDARD CHARTERED BANK

**COMMERCIAL BANK**

**DOMESTIC COMMERCIAL BANKS**
1. ROBINSONS BANK CORPORATION
2. ASIA UNITED BANK CORPORATION
3. BDO PRIVATE BANK, INC.
4. BANK OF COMMERCE
5. EAST WEST BANKING CORP
6. EXPORT AND INDUSTRY BANK INC
FOREIGN BANK BRANCHES
1  BANK OF AMERICA N.A.
2  BANGKOK BANK PUBLIC CO LTD
3  BANK OF CHINA LIMITED-MANILA BRANCH
4  THE BK OF TOKYO-MITSUBISHI UFJ LTD
5  JP MORGAN CHASE BANK NATIONAL ASSN.
6  CITIBANK, N.A.
7  DEUTSCHE BANK AG
8  KOREA EXCHANGE BANK
9  MEGA INT’L COMM’L BANK CO LTD

FOREIGN BANK SUBSIDIARIES
1  CHINATRUST(PHILS) CBC
2  MAYBANK PHILIPPINES INC.