

## CONTRACT AGREEMENT

*Feasibility Study (F/S) for the Conduct of the National Broadband Plan (NBP) – Accelerated Fiber Build (Access) Project*

---

**THIS AGREEMENT** made this **07th** day of **January 2019** in Pasig City, Philippines, by and between:

The **NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA)** with address at NEDA-sa-Pasig Bldg., No. 12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City, herein represented by its Undersecretary, **JOSE MIGUEL R. DE LA ROSA**, and hereinafter referred to as the **“Procuring Entity”**;

- and -

The **Joint Venture of ASPIRETECH CORP. and COLEAGO CONSULTING LIMITED** represented by **Aspiretech Corp.**, with address at 1104 Landsdale Tower, Mother Ignacia Street, Quezon City, herein represented by its Chief Executive Officer, **MARIE ABEGAIL N. ZULUETA**, and hereinafter referred to as the **“Consultant”**;

**WHEREAS**, upon the invitation of the **Procuring Entity**, the **Consultant** submitted proposal/bid for the Procurement of Consulting Services for the Feasibility Study for the Conduct of the National Broadband Plan (NBP) – Accelerated Fiber Build (Access) Project in the sum of **Fifty-Nine Million, Five Hundred Twenty Seven Thousand, Two Hundred Fifty Pesos & 18/100 (PhP59,527,250.18)**, inclusive of all applicable government taxes and charges, professional fees, and other incidental and administrative costs, hereinafter referred to as the **“Contract Price”**;

**WHEREAS**, the **Procuring Entity** subsequently accepted the proposal/bid of the **Consultant** pursuant to the NEDA Bids and Awards Committee for Consulting Services (NBAC-CS) Resolution No. 258-2018 approved on 18 December 2018.

**NOW THEREFORE**, the **Procuring Entity** and the **Consultant** have agreed on the following terms and conditions:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Contract, to wit:
  - (a) Bidding Documents, consisting of:
    - i. Invitation to Bid;
    - ii. General Conditions of Contract; and
    - iii. Terms of Reference;
  - (b) Proposal/Bid forms, including all the documents/statements contained in the Proponent's/Bidder's proposal/bidding envelopes, as annexes, and all other documents/ statements submitted (e.g., proponent's/bidder's response to request for clarifications on the proposal/bid), including corrections to

the proposal/bid, if any, resulting from the Procuring Entity's proposal/bid evaluation;

- (c) Bid Bulletin No. 1 issued on 04 December 2018;
- (d) Eligibility requirements, documents and/or statements;
- (e) Performance Security (*Manager's Check from BDO Check No. 0013924 with NEDA Official Receipt No. 8209909*);
- (f) NBAC-CS Resolution Nos. 259-2018; 258-2018; 254-2018; 218-2018; 201-2018, 169-2018, 160-2018, and 159-2018;
- (g) Highlights of the Negotiation Meeting held on 19 December 2018;
- (h) Abstract of Bids/Quotation;
- (i) Notice of Award with the Consultant's *conforme* thereto;
- (j) Notice to Proceed (NTP);
- (k) Addendum and/or Supplement to the Contract, if any; and
- (l) Other contract documents that may be required by existing laws and/or the Procuring Entity.

3. The **Consultant** shall deliver to the **Procuring Entity** the following outputs in the form and number as well as within the timeline indicated herein.

A *detailed Work and Financial Plan* (WFP) shall be submitted by the **Consultant** to the implementing agency, the Department of Information and Communications Technology (DICT), for review (copy furnished NEDA Infrastructure Staff for monitoring purposes and payment processing) within **15 days** from the date of commencement as indicated in the NTP.

The **Consultant** shall simultaneously submit two (2) hard copies of the quality deliverables listed in the table below to DICT for review of concerned entities and three (3) hard copies to NEDA for review and monitoring purposes as well as payment processing. Electronic/soft copies of the deliverable documents shall also be submitted to DICT and NEDA.

Output/Deliverable	Timeline
Draft Inception Report indicating the work plan and methodology/approach to be adopted in the conduct of the Study [ <i>Five (5) hard copies and in electronic form, including all electronic files used in the study</i> ]	Within two (2) months from date of commencement as indicated in the NTP.
Draft Interim Report including preliminary output/s [ <i>Five (5) hard copies and in electronic form, including all electronic files used in the study</i> ]	Within six (6) months from date of commencement as indicated in the NTP.
Progress Reports [ <i>Five (5) hard copies and in electronic form, including all electronic files used in the study</i> ]	Monthly starting from 1 <sup>st</sup> month up to 11 <sup>th</sup> month, from date of commencement as indicated in the NTP.
Draft Final Report [ <i>Five (5) hard copies and in electronic form, including all electronic files used in the study</i> ]	Within 11 months from date of commencement as indicated in the NTP.
Final Report [ <i>Five (5) hard copies and in electronic form, including all electronic files used in the study</i> ]	Within 12 months from date of commencement as indicated in the NTP.

*Note: It is noted that while the commencement of activities is anchored on the receipt of NTP, a turnaround period on submission of deliverables is considered in the timeline.*



4. In consideration of the payments to be made by the **Procuring Entity** to the **Consultant**, the **Consultant** hereby covenants to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Contract in all respects.
5. The **Procuring Entity** hereby covenants to pay the **Consultant** in consideration of the execution and completion of the Consulting Services, the Contract Price or such other sum as may become payable under the provisions of this Contract at the time and in the manner prescribed by this Contract.
6. Billing for reimbursable items shall be on a monthly basis, based on the actual expenses incurred and supported by official receipts/documents or certification of actual expenditures made under oath, including the monthly progress reports.
7. Billing for *non-reimbursable items/remuneration, including professional fees*, shall be in accordance with the following delivery schedule, *upon recommendation and endorsement of DICT and NEDA*, subject to usual government accounting and auditing requirements:

Output/Deliverable	Payment Schedule
Upon acceptance of the Inception Report and WFP	15% of Remuneration Costs
Upon submission of the Interim Report	15% of Remuneration Costs
Upon acceptance of the Draft Final Report	40% of Remuneration Costs
Upon acceptance of Final Report	30% of Remuneration Costs
<b>TOTAL Remuneration</b>	<b>100%</b>

8. An advance payment shall be made to cover mobilization costs, but shall not exceed TEN PERCENT (10%) of the contract amount, subject to the posting of an irrevocable standby letter of credit issued by an entity acceptable to NEDA and of an equal amount to the advance payment. The advance payment shall be repaid by the **Consultant** by deducting from his subsequent billings/payments such sum as agreed upon during contract negotiations until fully liquidated within the duration of the contract.
9. All submitted outputs/reports/documents under this contract, including but not limited to tracings, as-built drawings, estimates, digital information, computer model and data, specifications, investigations, and studies completed or partially completed, inspection logs, and photographs, shall be the property of NEDA upon completion of the work / full payment of the contract or termination of the Agreement. Copyrights will be governed by existing laws, rules and regulations.
10. Pursuant to Section 5.1.2 of the TOR and the Negotiation Meeting held on 19 December 2018, the **Consultant** shall provide a *Professional Electronic Engineer* to work for the project at no additional cost to the NEDA.
11. In the event that the **Consultant** will be using its in-house software, the **Consultant** must provide NEDA and DICT, *free access to the in-house software and after-sales service pertaining to the software*, when necessary, for a minimum of six (6)

months to a maximum of one (1) year, after the completion of the project, at no additional cost.

12. A retention payment of ten percent (10%) shall be withheld. It shall be based on the total amount due to the **Consultant** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of the Study, as determined by NEDA, is completed. If, after fifty percent (50%) completion, the study is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall be imposed.


The total "retention money" shall be due for release upon approval of the Final Report. The **Consultant** may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to NEDA, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten percent (10%) retention shall be made. Said irrevocable standby letters of credit, bank guarantees and/or surety bonds, to be posted in favor of NEDA shall be valid for the duration of the contract.

13. The Study shall be completed within a period of 12 months commencing from the date of receipt by the **Consultant** of the NTP.
14. A monthly progress meeting shall be conducted between the NEDA and the **Consultant** to discuss any potential problems or issues that may cause delays in the completion of the project/study.
15. This Contract shall not create an employer-employee relationship between the **Procuring Entity** and the **Consultant** nor shall the services rendered herein be considered as government service. The **Consultant** shall not be entitled to benefits enjoyed by the regular personnel of the government.
16. Any amendment to this Contract shall be made in writing signed by the **Procuring Entity** and the **Consultant**.
17. Should any dispute related to this Contract and/or rights of the Parties arise, the same shall be submitted to mutual consultation, mediation and arbitration, in the order of application. The venue of the proceedings shall be in Pasig City.
18. In case of a court suit, the venue shall be the courts of competent jurisdiction in Pasig City, to the exclusion of all other courts.


**IN WITNESS WHEREOF**, the parties have caused this contract to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.



Signed, sealed, and delivered by:


  
**JOSE MIGUEL R. DE LA ROSA**  
Undersecretary  
NEDA Central Support Office  
NEDA-sa-Pasig Building  
No. 12 Saint Josemaria Escriva Drive  
Ortigas Center, Pasig City

Signed, sealed, and delivered by:

  
**MARIE ABEGAIL N. ZULUETA**  
Chief Executive Officer  
Aspiretech Corp.  
1104 Landsdale Tower  
Mother Ignacia Street  
Quezon City

Signed in the presence of:

  
**KATHLEEN P. MANGUNE**

  
**JESSICA M. AYON**  
(Signature Above Printed Name)

#### ACKNOWLEDGMENT

Republic of the Philippines)  
**QUEZON CITY** ) S.S.


Before me this \_\_\_\_\_ day of **FEB 04 2019** in **QUEZON CITY**,  
personally appeared:

Name	Government Issued Identification Document	Date and Place Issued
<b>JOSE MIGUEL R. DE LA ROSA</b> In his capacity as Undersecretary NEDA Central Support Office NEDA-sa-Pasig Bldg. No. 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City	Passport No. S0012632A	Valid until November 01, 2022
<b>MARIE ABEGAIL N. ZULUETA</b> In her capacity as Chief Executive Officer Aspiretech Corp. 1104 Landsdale Tower Mother Ignacia Street Quezon City	Passport No. P0689766A	Valid until October 19, 2021

all known to me and to me known to be the same persons who executed the foregoing instrument consisting of six (6) pages including this page, together with the documents deemed and construed part of this Contract, on which this acknowledgment is written, duly signed by their instrumental witnesses, and they acknowledged to me that the same is their own free and voluntary act and deed as well as that of the entities which they represent.

**WITNESS MY HAND** on the date and place first hereinabove stated.

Doc. No. 49  
Page No. 11  
Book No. 21  
Series of 2019.

  
**ATTY. RAUL V. MACATANGAY**  
NOTARY PUBLIC UNTIL DEC. 31, 2020  
86 Mother Ignacia St., Quezon City  
ADM. MATTER NO. NP-026 (2019-2020)  
Roll No. 47308 TIN No. 176-800-377  
IBP No. AR 30949398 / 1-3-19/Q.C.  
PTR No. 7323390 / 1-3-19/Q.C.  
MCLE Compliance No. VI-0000204