

CONTRACT No

[CITY, COUNTRY]

[DATE]

Asian Development Bank (ADB) hereinafter referred to as "**Customer**", represented by [Country Director/Resident Representative, _____ Resident Mission], acting under the Agreement between the Government of _____ and the Asian Development Bank, on the one hand, and [CONTRACTOR NAME], hereinafter referred to as "**Contractor**", represented by [General Director/Manager], acting pursuant to the Decision of Sole Member, on the other hand, hereinafter referred to collectively as the **Parties** concluded the present Contract on the following:

1. SPECIAL CHARACTER, PRIVILEGES AND IMMUNITIES OF ADB

- 1.1. The Contractor acknowledges the special character of ADB as an international financial institution with status, privileges and immunities provided under the Charter and the host country Agreement between the Government of [insert country RM] and ADB. None of the provisions of this Contract shall derogate from the provisions of the Charter and the host country Agreement between the Government of [insert country RM] and ADB. To better assess its rights and obligations under the Contract, the Contractor can view copies of the Charter and the host country Agreement between the Government of [insert country RM] and ADB.
- 1.2. The Contractor recognizes that under Article 56(1) of the Charter and Section 34 of the Headquarters Agreement, ADB, its property, operations and transactions are exempt from taxation and any obligation for the payment, withholding or collection of any tax or duty. The Contractor shall be solely responsible for payment of taxes on its income.
- 1.3. The Contractor and ADB shall explore alternative arrangements to implement the Contract, if any tax or duty other than taxes on net income is levied or if there is an attempt to levy any such duty or tax in connection with the performance of the Contract.

2. SUBJECT AND TERMS OF THE CONTRACT

- 2.1. The Contractor shall supply the Customer with the services (the **Services**) of the organization [details of event / services required / duration / venue, etc.].
- 2.2. The Services includes:
- 2.3. This Contract shall become effective on the date of signing of the Contract by the Parties and shall be effective until fulfillment of the commitments undertaken by the Parties.

3. THE TOTAL AMOUNT OF THE CONTRACT AND PAYMENT PROVISIONS

- 3.1. The total cost of the Services under this Contract is _____ (_____).
- 3.2. The Customer shall make 50% deposit of the total amount of this Contract in the amount of _____ (_____) not later than 20 (twenty) working days prior to the Event date (as specified in item 2.1.) according to the invoices given by the Contractor. The Customer shall pay the remaining 50% of the Contract amount within 10 (ten)

working days of submission of the final invoice by the Contractor which shall be made after the completion of the Event.

- 3.3. All payments under this Contract shall be made by non-cash bank transfer to the Contractor's account.

4. GUARANTEED NUMBERS

- 4.1. All requirements, together with guaranteed minimum number of guests attending the Event, meal arrangements, timetable, setups must be received by the Contractor no later than 15 (fifteen) days prior to the first day of the Event. The Contractor reserves the right to charge in accordance with the numbers guaranteed, if less served. If more guests than the guaranteed number attend the Event, food and beverage costs will be charged according to the total number of guests. Detailed information about the exact number of participants, event schedules, meals, equipment and all event related information will be stated in the Annex_____.

5. RIGHTS AND OBLIGATIONS OF THE PARTIES

5.1. Customer's Rights and Obligations:

- The Customer shall pay in accordance with item 3.2. of this Contract.
- In case of the Event cancellation the Customer shall inform the Contractor in writing 15 (fifteen) calendar days prior to the first day of the Event, stated in Section 1 of this Contract.
- The Customer may make changes in the Annex_____ not later than 10 (ten) working days before the Events' date. If such a deadline is not met, the Contractor may ignore any changes proposed by the Customer and provide Services as specified in paragraph 2.2.
- The Customer can check the process and quality of services rendered by the Contractor at any time.
- The Customer shall sign the Service Acceptance Certificate (sample in Annex No) not later than 3 (three) working days after the completion of the Event or inform the Contractor in writing on any reasons of refusal for acceptance of its Services. The Services shall be regarded as accepted by the Customer in the absence of written objections upon the expiry of the above due date.

5.2. Contractor's Rights and Obligations:

- The Contractor shall provide qualitative services, the appropriate number of service personnel, and the required equipment in conformity with the norms of fire safety and sanitation.
- The Contractor shall accept no liability for the loss, theft, left unattended or damage to the property owned or in custody of the Customer and/or its guests while that property is in the premises.

6. RESPONSIBILITIES OF THE PARTIES

- 6.1. Each Party shall be responsible for any violations or failure to perform its obligations under paragraphs 5.1 and 5.2 of this Contract.
- 6.2. In case of delay in payment, upon written request of the Contractor, the Customer shall pay a penalty of 0.1% of the invoiced amount, for each calendar day of delay, but not more than 10% of the total Contract amount. The payment for the penalty must be made within 10 (ten) working days after receipt of the invoice.
- 6.3. If the Contractor fails to fulfil his obligations efficiently, the Contractor shall pay the Customer the penalty in the amount of 10% of the total contract price.
- 6.4. Each Party may terminate the Contract by giving a written notice to the other Party 10 (ten) working days before the planned date of termination. In case of Contract termination, the deposit specified in paragraph 3.2 of the Contract shall be returned to the Customer within 3 (three) working days from the date of termination. The Contractor shall be entitled to withhold 10% of the deposit as the penalty to be specified in the written notice.

7. GOOD SOCIAL MANAGEMENT

- 7.1. The Contractor shall perform its obligations under this Contract diligently, observe good social management practices, and comply with relevant laws, regulations, decrees and orders of competent government agencies or authorities concerning the employees of the Contractor engaged in performing the Services.
- 7.2. The Contractor shall submit to the Customer the Sustainability Management Certificate (Annex ---) within 10 (ten) working days after the Services are completed.
- 7.3. The Contractor shall indemnify and hold ADB free of any and all claims made by the Contractor's personnel under the labor laws and other related legislation, including but not limited to, the minimum wage law.

8. SUSTAINABILITY

- 8.1. Contractor should ensure that whenever possible, goods and/or services procured conform to applicable legal and other requirements, including international environmental agreement entered into by the country where the goods and/or services were procured and used. These include goods and/or services that maximize use of durable, reusable and energy efficient products and/or services, and low pollution goods and/or services that produce the minimum level of post-consumer waste and/or use recyclable content and have minimal impact on the environment including energy consumption.
- 8.2. Contractor shall ensure that goods and/or services offered achieves value for money on a whole life basis in terms of generating benefits not only to both parties but also to society, the economy and the natural environment. Contractor shall also ensure that they are socially responsible and ethical, that is, that they do no harm in relation to social indicators such as labour conditions and human rights of workers and to generate positive social outcomes with the purchase of goods, services and works.

9. CONFIDENTIALITY

- 9.1. Except with prior consent of ADB, the Contractor and its personnel shall not at any time communicate to any person or entity any information disclosed to the Contractor or its personnel related to the Contract, nor shall the Contractor or its personnel make public any information known as a result of the Contract.

10. FORCE-MAJEURE

- 10.1. Neither Party shall be liable to the other for any delay in performing, or failure to perform, its obligations under the Contract when the delay or failure is caused by Force Majeure¹. In case of Force Majeure, the Contractor shall promptly notify ADB in writing of the relevant circumstances. Unless otherwise directed by ADB in writing, the Contractor shall continue performing as much of its obligations as reasonably practical, and undertake reasonable alternative means of performance not prevented by the Force Majeure.

11. SETTLEMENT OF DISPUTES

- 11.1. The Customer and the Contractor shall exert effort to amicably resolve by mutual consultation any dispute arising between them in connection with or as a result of this Contract within 30 (thirty) days of either Party's notice of the dispute to the other. During this period, the Customer and the Contractor should first attempt in good faith to settle the dispute among themselves before escalation to their respective Management.
- 11.2. After the initial 30 (thirty) day-period, the Parties shall consider referring unresolved disputes to mediation, unless the Customer considers the dispute not suitable for mediation or the Contractor does not consent. The Parties shall appoint a neutral mediator from a reputable association of accredited mediators or their own short-list of dispute resolution professionals. The mediator shall formulate a simplified procedure for mediation and complete the mediation within 15 (fifteen) days from his appointment.
- 11.3. Should efforts to resolve disputes under paragraphs 9.1 and 9.2 fail, either Party shall commence arbitration by sending notice to the other Party stating in detail the issue to be resolved and that the dispute shall be referred to arbitration. The International

¹ Refers to events, which a Party could not have foreseen, or which though foreseen, were inevitable, provided that the Party takes all reasonable precautions, due care and reasonable alternative measures, for the purpose of carrying out the terms and conditions of the Contract. Specifically, Force Majeure shall refer to events beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, extraordinary storm, extraordinary flood or other extraordinary adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial actions are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies. Force Majeure shall not be deemed to include: (a) any event which is caused by the negligence or intentional action of a Party or such Party's consultants, agents or employees; (b) any event which a diligent Party could reasonably have been expected to both: (i) take into account at the time this Contract was entered into; and (ii) avoid or overcome in the carrying out of its obligations hereunder; or (c) the insufficiency of funds, inability to make any payment required under this Contract, or any economic conditions, including but not limited to inflation, price escalations, or labor availability.

Chamber of Commerce's Rules of Arbitration in force upon commencement of arbitration shall apply. It shall take place in [CITY, COUNTRY] and be governed by the law of the [COUNTRY]. Each Party shall pay its own costs.

- 11.4. Notwithstanding unresolved disputes, the Parties shall continue to perform their respective obligations under the Contract or otherwise adopt provisional measures to ensure uninterrupted delivery of the Services.

12. MISCELLANEOUS

- 12.1. Parties shall notify each other about any changes and/or new circumstances affecting the fulfillment of the conditions by the Parties herein in writing.
- 12.2. All written notifications to this Contract shall be signed and stamped by the authorized representatives of the Parties.
- 12.3. Neither Party shall transfer its authority to a third Party, unless there is a written mutual agreement of the Parties.
- 12.4. All Annexes to this Contract are its integral part. All amendments and additions to this Contract shall be valid only if they are made in writing and duly signed by the authorized representatives of the Parties.
- 12.5. The Contract shall be governed and interpreted according to the law of *[insert country]*, subject to the privileges and immunities accorded to ADB under the Charter and the Headquarters Agreement.
- 12.6. This Contract is executed in two identical counterparts, each of which has equal juridical power, and made in two copies in English and [other language]. However, English shall be the binding and controlling language on matters relating to the meaning and/or interpretation of the Contract. Notices and other correspondences pertaining to the Contract that the Parties would exchange shall likewise be in English. Each Party receives one copy of the Contract signed by both Parties.
- 12.7. The Contractor shall not use ADB's name in publicity releases or advertising during and after the term of this Contract.

13. LEGAL ADDRESSES, BANKING DETAILS AND SIGNATURES OF THE PARTIES:

CONTRACTOR

[Company]

Address:

Bank Details:

General Director / Manager

Stamp

CUSTOMER:

Asian Development Bank Resident Mission in the [Country]

Address:

Bank Details

Country Director / Resident Representative
Stamp