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Republic of the Philippines  
**PROVINCE OF SURIGAO DEL SUR**  
TANDAG CITY



BAGONG PILIPINAS

**Provincial Governor's Office**

Refer To: *Committee on Laws and Justice and Human Rights*  
*Education*  
January 23, 2026

**THE HONORABLE MEMBERS**  
Office of the Provincial Council  
This Province

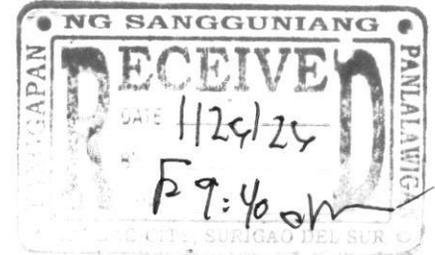
Thru: **HON. MANUEL O. ALAMEDA, SR.**  
Vice Governor & Presiding Officer

**RELEASED**  
PGO-SURIGAO DEL SUR

SIGNATURE OVER PRINTED NAME  
CONTROL NO: DATE: 1-23-26 TIME: 2:16 PM

Sir:

**Greetings!**



May we respectfully request the passage of a Sangguniang Panlalawigan Resolution authorizing the Provincial Governor to enter into and sign a Memorandum of Agreement with the Department of Education, for the establishment of a cooperative arrangement for the LGU-led procurement, construction, and completion of "(Classroom/School Building – as applicable) Construction Program" funded under the FY 2026.

Attached is a copy of the draft **MOA** for your perusal.

Truly yours,

**JOHNNY T. PIMENTEL**  
Provincial Governor



PROVINCE OF SURIGAO DEL SUR  
Office of the Secretary to the Sangguniang Panlalawigan

Tel. No.: 086-2115832  
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**OSSP-26-05485**

**MEMORANDUM OF AGREEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

This Memorandum of Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, in \_\_\_\_\_ City, by and between:

The **DEPARTMENT OF EDUCATION**, a government entity mandated by law to ensure the delivery of quality basic education, particularly Batas Pambansa Blg. 232, otherwise known as the “Education Act of 1982,” as amended by Republic Act (RA) No. 9155, otherwise known as the “Governance of Basic Education Act of 2001,” located at DepEd Complex, Meralco Avenue, Pasig City, represented herein by its \_\_\_\_\_, \_\_\_\_\_, as per \_\_\_\_\_, and hereinafter referred to as “**DepEd**”;

-and-

The **LOCAL GOVERNMENT UNIT OF** \_\_\_\_\_, a local government unit created under the laws of the Republic of the Philippines, with its seat of government located at [LGU Address], represented herein by its [Governor/Mayor], \_\_\_\_\_, by virtue of \_\_\_\_\_, and hereinafter referred to as the “**LGU**”;

DepEd and the LGU shall be collectively referred to as “Parties.”

**WITNESSETH, That:**

**WHEREAS**, DepEd is the primary government agency mandated to formulate, implement, and coordinate policies, plans, programs, and projects in the areas of formal and non-formal basic education;

**WHEREAS**, DepEd recognizes the vital role of LGUs in accelerating classroom construction, particularly in areas with urgent facility needs, and, pursuant to the Local Government Code of 1991 (LGC), in augmenting the delivery of basic services and facilities for the LGU;

**WHEREAS**, under Section VIII (Department of Education), Special Provision No. 6 of RA No. 12314, otherwise known as the General Appropriations Act of 2026 (“GAA 2026”), DepEd may enter into a Memorandum of Agreement (“MOA”) with other government agencies, including qualified local government units, for the implementation and construction of Basic Education Facilities;

**WHEREAS**, under the same provision of RA No. 12314, the Congress of the Philippines has allocated the amount of [Amount allocated] (PhP \_\_\_\_\_) for [Description of Item referred to in the GAA];

**WHEREAS**, the Parties desire and agree to collaborate in implementing school building projects to address classroom shortages in public schools within the territorial jurisdiction of the LGU;

**NOW, THEREFORE**, for and in consideration of the foregoing premises and the mutual covenants hereinafter set forth, the Parties hereby agree on the following

terms and conditions for the implementation of the “[Classroom/School Building – as applicable] Construction Program.”

## **ARTICLE I SCOPE AND PROJECT**

**Section 1. Purpose of the Agreement.** The purpose of this Agreement is to establish a cooperative arrangement between DepEd and the LGU for the LGU-led procurement, construction, and completion of “[Classroom/School Building – as applicable] Construction Program” funded under the FY 2026 [Item Title].

**Section 2. Legal Basis and Modality of the Agreement.** The implementation shall be via LGU-led procurement pursuant to RA No. 12009, titled the “*New Government Procurement Act*” (NGPA) and its Implementing Rules and Regulations (IRR). The LGU shall serve as the Procuring Entity, while DepEd, under this MOA, shall act as the technical standards authority, responsible for reviewing and approving plans, specifications, and completed works.

**Section 3. Agreement to Construct.** Subject to the terms and conditions in this MOA, the [Province/City/Municipality of \_\_\_] (LGU) undertakes to construct [Number] classrooms/school buildings (the “Project”) in [Location] (specific location details are stated in **Annex “A”**).

**Section 4. Phasing of Project Implementation.** [In cases where the Project will be implemented through a phasing plan. The details of the phasing plan may vary depending on the Project] The Project shall be implemented in accordance with the following schedule:

- (a) Phase 1. Within [•] days from the execution of this Agreement, documents needed for the issuance of the required permits shall be submitted to the LGU. Once the required permits have been issued, the first [•] classrooms shall be constructed within [•] months from issuance.
- (b) Phase 2. Within [•] days from the completion of Phase 1, documents needed for the issuance of the required permits for Phase 2 shall be submitted to the LGU. Once the required permits have been issued, the first [•] classrooms shall be constructed within [•] months from issuance.

**Section 6. Costs.** Unless requested by the LGU and approved by DepEd Central Office, the cost per classroom/school building shall not exceed the recommended costing estimate provided by DepEd.

**Section 7. Balance Realignment.** Any balance remaining after the implementation of the Project shall be realigned and used exclusively for the construction of additional classrooms or the improvement of existing classrooms located within the LGU, in accordance with applicable procurement, government auditing, and budgeting rules and regulations. No balance realignment shall be permitted without the prior written approval of the DepEd Central Office.

In connection therewith, the LGU shall submit to DepEd, within fifteen (15) days from the completion of the Project, a proposed plan for the realignment and utilization of any remaining balance, consistent with the conditions set forth herein, for DepEd’s review and approval. Failure of the LGU to submit such plan within the prescribed period, or the disapproval thereof by DepEd, shall result in the reversion

or return of the unutilized amount to DepEd in accordance with the rules and regulations of the Commission on Audit (COA) and the Department of Budget and Management (DBM).

**Section 8. Observance of the Minimum Standard Specifications and DepEd Guidelines.** The Project shall be implemented in strict adherence to the minimum performance standards and specifications provided by DepEd, in accordance with its applicable policies, rules, and regulations, as well as the requirements established under other relevant laws and regulatory frameworks.

**Section 9. Key Performance Indicators.** The Project shall be implemented in accordance with the minimum Key Performance Indicators (KPIs) set forth as follows:

1. Classrooms completed per month;
2. Classrooms completed per phase;
3. Amount of time consumed to construct one (1) classroom;
4. Time to rectify defects in construction;
5. Time taken to reach completion of Project;
6. Number of workers belonging to the minority (*i.e.*, women, persons with disabilities, persons living below the poverty line); and
7. Submission of required reports, including financial and liquidation reports, in a timely manner.

**ARTICLE II  
FINANCING AND MANNER OF TRANSFER OF FUNDS**

**Section 10. Source of Funds.**

**[Scenario 1: Where funding will be sourced from both the LGU and DepEd]**  
DepEd and LGU shall contribute the amount of \_\_\_\_\_ each as their corresponding counterpart fund.

The counterpart fund shall be distributed as follows:

PARTY	AMOUNT	SOURCE OF FUND

**[Scenario 2: Where funding will be solely sourced from DepEd]**  
DepEd shall allocate and transfer to the LGU the amount of \_\_\_\_\_ for the implementation of the Project.

**Section 11. Transfer of Funds.** All fund releases, transfer of funds, and utilization under this MOA shall be subject to the provisions of GAA 2026, and to applicable rules and regulations of the DBM, COA, and DepEd.

1. **Release of Funds to DepEd**
  - a. DepEd shall prepare the documentary requirements for the submission of a Special Budget Request (SBR), to be signed by the designated DepEd representative, for the release of the Special Allotment Release Order (SARO) and Notice of Cash Allocation (NCA) from the DBM.
2. **Schedule of Transfer of Funds to the LGU**

- a. DepEd undertakes to transfer the funds to the LGU in tranches. The transfer of the remaining NCA corresponding to the balance of the contract cost shall be made in accordance with the matrix of releases of the tranches, together with the corresponding documentary requirements for each fund release, as provided in the matrix below:

Tranche	Percentage	Documentary Requirements for the Releases
First (1 <sup>st</sup> ) Tranche	15% + 0.xx% (for EAO) of the total contract cost	<ol style="list-style-type: none"> <li>1. Notice of Award</li> <li>2. Approved Copy of MOA</li> <li>3. Payment of Performance Security</li> <li>4. Approved Program of Work</li> <li>5. Letter Request from the LGU for the Payment of 1<sup>st</sup> Tranche</li> </ol>
Second (2 <sup>nd</sup> ) Tranche	Up to 50% of the total contract cost	<ol style="list-style-type: none"> <li>1. Approved Copy of MOA</li> <li>2. Letter Request from LGU to DepEd for the Payment of 2<sup>nd</sup> Tranche</li> <li>3. Accomplishment Report</li> <li>4. Certification of Completion which shall be issued based on the percentage of completion of the project/activity as verified by the LGU with the concurrence of DepEd</li> <li>5. Report of Check Issued and Report of Advice to Debit Account Issued</li> <li>6. Report of Disbursement</li> </ol>
Third (3 <sup>rd</sup> ) Tranche	Balance* of released amount from the total contract amount  <i>*The remaining balance shall pertain to the difference between the contracted amount and the total amount released (net of EAO).</i>	<ol style="list-style-type: none"> <li>1. Approved copy of MOA</li> <li>2. Letter Request for the Payment of Balance</li> <li>3. Approved Program of Work</li> <li>4. Certificate of 100% Completion</li> <li>5. Copy of Contract between the LGU and Contractor</li> <li>6. Report of Check Issued and Report of Advice to Debit Account Issued</li> <li>7. Report of Disbursement</li> </ol>

- b. Upon receipt by the LGU of the funds, the LGU shall deposit the funds in a separate Trust Account in accordance with government budgeting, accounting, auditing rules and

regulations. Such funds shall be recorded by DepEd as Inter-Agency Transferred Funds and by the LGU as Trust Liability.

- c. The LGU shall issue its official receipt in acknowledgment.
- d. Funds shall be used exclusively for the Project, subject to the provisions of Section 7 on Balance Realignment. Unused balances and interests shall revert or be returned to DepEd per COA and DBM issuances.

**Section 12. Liquidation.** Upon payment of the third and final tranche, the LGU shall facilitate the full liquidation of the funds transferred hereunder and submit the following documents to DepEd:

1. Letter Request for Liquidation;
2. Report of Check Issued and Report of Advice to Debit Account Issued;
3. Report of Disbursement;
4. Copy of Official Receipt Issued by the LGU to DepEd for the funds transferred;
5. Copy of Office Receipt Issued by the LGU to DepEd for the unexpended balances, if any;
6. Property Transfer Report (PTR) from the LGU to DepEd; and
7. Journal Entry Voucher Effecting Transfer of Assets from LGU to DepEd.

No other fund transfer shall be made to the concerned LGU, unless all previously transferred funds have been fully accounted for and duly liquidated.

**Section 13. Monitoring.** The LGU shall submit the monthly and quarterly Financial Accountability Reports (FAR) and Budget Accountability Reports (BAR) to the Schools Division Office (SDO) within ten (10) days following the end of each month. The SDO shall consolidate and verify the reports before forwarding them to the Regional Office (RO). Upon review and approval, the RO shall submit the consolidated reports to the Central Office through the EFD.

In the event that the LGU fails to submit the abovementioned reports within the stipulated period, the release of funds for the following tranche shall be automatically suspended until such reports are duly submitted and verified by the SDO and the RO.

### **ARTICLE III OBLIGATIONS OF THE PARTIES**

**Section 14. Responsibilities of the LGU.** The LGU shall:

1. Undertake classroom construction activities or the procurement of qualified contractor/s for the construction of classrooms under the “[Classroom/School Building – *as applicable*] Construction Program,” in accordance with relevant procurement laws, rules, and regulations;
2. Monitor the contractor and the overall implementation of the Project, ensuring that the construction is completed within the agreed timeline and in accordance with the approved plans and specifications;
3. Ensure that the Project is implemented in accordance with the approved plans and specifications, as well as the applicable laws, rules, and regulations, including:

- (a) Presidential Decree 1096 or the National Building Code and its IRR;
  - (b) Republic Act No. 9514 – Fire Code and its IRR;
  - (c) Batas Pambansa 344 – Accessibility Law and its IRR; and
  - (d) DepEd’s Minimum Performance Standards and Specifications (MPSS);
4. Be solely responsible and liable for any defect, deficiency, or non-conformity in the construction of classrooms resulting from failure to comply with the approved technical specifications, designs, or standards set by DepEd. The LGU shall, at its own expense, undertake necessary rectification or reconstruction works to correct all defects due to faulty construction or use of substandard materials;
  5. Secure all necessary permits and licenses for construction;
  6. Ensure that the Project is periodically monitored by the Municipal/City Engineer's Office;
  7. Conduct procurement, award, and contract administration in accordance with RA No. 12009 and its IRR.
  8. Ensure that the bid documents, project agreements, and other relevant agreements for the construction of classrooms include the mandatory provisions in accordance with Article VI of this Agreement;
  9. Ensure that the technical specifications included in the bid documents to be issued comply with DepEd standards;
  10. Ensure that the release of funds is done in accordance with applicable procurement, government auditing, and budget rules and regulations. In particular, the LGU shall;
    - (a) Open a separate trust account per project;
    - (b) Maintain subsidiary ledgers and submit quarterly fund utilization reports;
    - (c) Allow DepEd and COA full access to records, books, and physical works; and
    - (d) Ensure that disbursements comply with COA, DBM, and Bureau of Treasury regulations;
  11. Submit monthly progress reports to DepEd on the status of the Project;
  12. Ensure that the Project is regularly monitored by the Municipal/City Engineer’s Office and that periodic progress reports on the Project’s status are submitted to the DepEd in a timely manner;
  13. The LGU, in accordance with the GAA 2026 General Provision No. 103, shall ensure the timely compliance with the following:
    - a. Submission of monthly and quarterly Financial Accountability Report (FAR) and Budget Accountability Report (BAR), detailing the fund utilization and physical accomplishments through electronic means;
    - b. Posting of said reports on the LGU’s official website for transparency and public disclosure; and
    - c. Submission of written notice to DepEd confirming that the required reports have been duly submitted and/or posted;
  14. [In case land is owned by LGU (Scenario 2)] Allow DepEd to use the land, subject to the execution of a Deed of Donation after the completion of the Project, in accordance with Article V of this Agreement;
  15. Assign technical staff in charge of construction works to coordinate with the Education Facilities Division (EFD) of DepEd;
  16. Ensure that the LGU opens and maintains a Trust Account and disburses the funds exclusively for the Project in accordance with government accounting and auditing rules and regulations;
  17. Receive and duly account for the funds transferred in accordance with the applicable government accounting and auditing rules and regulations;

18. Issue DepEd an official receipt or invoice for the amount of the check received or any amount received or transferred;
19. Ensure that all remittances and unexpected balances due to DepEd, as well as any modifications, alterations, or variations are carried out in accordance with existing government accounting and auditing rules and regulations;
20. Ensure the reimbursement/refund of payments not duly supported by documentary evidence;
21. Ensure the submission of monthly Report of Disbursement on or before ten (10) days after the end of each month with copies of report furnished the EFD office for record purposes;
22. Ensure that all project documents shall be retained for ten (10) years and remain open for DepEd and COA audit;
23. Upon acceptance of the complete school building, the LGU Engineering Office shall forward the following documents to DepEd for recording and booking purposes:
  - (a) Copy of the Certificate of Final Acceptance (COA) signed by the LGU Engineer and concurred by the Schools Division Superintendent (SDS);
  - (b) Copy of the Certificate of Completion indicating full (100%) completion of the project in accordance with the Project scope of works and deliverables;
  - (c) Property Transfer Report (PTR) signed by the LGU Supply Officer;
  - (d) Journal Entry Voucher (JEV) prepared by the LGU Accounting Office; and
  - (e) Summary of School Buildings transferred by the LGU to DepEd;
24. The LGU shall submit quarterly reports on fund utilization and accomplishments through electronic means and post the required reports on the LGU's website;
25. The LGU shall send written notice when said reports have been submitted or posted on its website to the DBM, House of Representatives, Senate of the Philippines, House Committee on Appropriations, Senate Committee on Finance, and other offices where the submission of reports is required under existing laws, rules, and regulations. The date of notice to said agencies shall be considered the date of compliance with this requirement;
26. Procure and maintain, at its own expense, a comprehensive all-risk insurance covering the classrooms throughout the entire construction period and for the full duration that they are used as DepEd learning spaces;
27. The LGU shall fund the cost of the maintenance and repairs of the Project in accordance with the General Provision No. 103 of GAA 2026; and
28. In the event that the LGU or the contractor engaged by the LGU (a) abandons the construction works; (b) refuses or fails to comply with the terms and conditions of the construction contract; or (c) fails to rectify, cure, or remedy any delay, deficiency, or defect within thirty (30) calendar days from notice of thereof, DepEd shall have the right to terminate the said contract, in accordance with Section 71 of the NGPA and its IRR. Upon termination thereof, DepEd may take-over the said Project, in accordance with Section 35(c) of the NGPA and its IRR. Such take-over shall be without prejudice to the right of the DepEd and/or the LGU to institute appropriate administrative, civil, and/or criminal actions against the erring parties.

In such cases, the unutilized funding transferred by DepEd to the LGU for the Project shall be returned to DepEd in accordance with government accounting, auditing, and budgetary rules and regulations.

Where the construction of classrooms is undertaken by a contractor engaged by the LGU, the LGU shall ensure that the bid documents, project contract, and all other related agreements contain provisions that expressly recognize the DepEd's right to terminate the contract and take-over the Project, upon the occurrence of any of the circumstances enumerated under items (a), (b), or (c) of this Section.

**Section 15. Responsibilities of the DepEd Central Office.** DepEd Central Office shall:

1. Facilitate the selection of priority schools, in coordination with the LGU. The selection of school sites shall be based on the updated Instructional Room Analysis of the Basic Education Information System (BEIS);
2. Transfer funding through the issuance of a check to the LGU, in accordance with this MOA;
3. Provide the LGU with the standard classroom designs, plans, and specifications approved by DepEd;
4. In the event that the land is owned by DepEd, to allow the development and use of the land identified in Article V of this MOA;
5. Exercise oversight by reviewing designs, participating in validation inspections, and endorsing acceptance;
6. Review and evaluate disbursements, accomplishments, and completion records submitted by the LGU;
7. Prior to the issuance of the Certificate of Completion, request technical assistance from the Department of Public Works and Highways (DPWH) to ensure the facilities' compliance with applicable structural standards, as may be deemed necessary; and
8. In the event that any of the circumstances enumerated under Sections 71 and 36 of the NGPA and its IRR arise, cause the termination of the construction contract and take-over the Project.

**Section 16. Responsibilities of the Schools Division Office.** DepEd, through the EFD and/or the equivalent unit of the concerned SDO shall:

1. Monitor the implementation of the Project pursuant to this MOA;
2. Coordinate with the Engineering Office of the LGU on the inspection and assessment of ongoing and completed works;
3. Inspect completed construction to ensure compliance with architectural and engineering standards;
4. Provide the necessary building design to the LGU using DepEd standards for the school buildings;
5. Attest to the completion of the Project by signing the Certificate of Completion; and
6. The DepEd SDO shall receive the above-enumerated documents and observe the following procedures to duly book the completed school building:
  - (a) Supply and Property Section
    - i. Check the completeness of the documents forwarded by the LGU;
    - ii. The Supply Officer shall sign in the receiving portion of the PTR;
    - iii. Record the completed school building in the Property Card and in the Inventory Report of the School; and
    - iv. Forward the signed PTR and other documents to the Accounting Unit;
  - (b) Accounting Unit

- i. Record in DepEd's Book of Accounts the completed school building upon receipt of the signed PTR and JEV;
- ii. Prepare a JEC for the transferred school building as a basis of the LGU for dropping in the Books of Account; and
- iii. Return to the LGU the signed PTR and the JEV prepared by DepEd.

**Section 17. Joint Responsibilities.** The Parties shall:

1. Create a Joint Technical Working Group ("TWG"), which shall be further discussed under Article IV of this Agreement. The Parties shall ensure that the processing of building permits and other local clearances required for school building projects funded under the Basic Education Facilities is conducted in accordance with the maximum processing times and standards prescribed under RA No. 11032, otherwise known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018," and its IRR;
2. Maintain open communication and conduct regular coordination meetings to discuss the status of the Project, address concerns, and ensure a smooth and efficient implementation process;
3. Upon completion of the Project, the LGU shall formally turn over the completed classrooms to DepEd. DepEd shall formally accept the same through a Deed of Acceptance, provided that the construction is found to be in accordance with the agreed plans, specifications, and quality standards. No final payment or project turnover shall occur without DepEd's written validation confirming that the Project meets approved plans and specifications; and
4. Comply with DepEd Order No. 53, series of 2021 titled, "Revised Guidelines on the Proper Recording and Booking-up of School Building Projects," and all relevant laws, rules, and regulations in relation to the performance of their obligations under this Agreement, including gender, social, disability, labor, and environment-related standards.

**ARTICLE IV  
JOINT TECHNICAL WORKING GROUP**

**Section 18. Creation of a TWG.** DepEd and the LGU shall create a TWG composed of at least one (1) representative from DepEd (EFD); one (1) representative from the DepEd Regional Office; one (1) representative from the DepEd Division Offices; and one (1) representative from the LGU.

**Section 19. Duties and Responsibilities of the TWG.** The TWG shall have the following duties and responsibilities:

- (a) Oversee and monitor the overall implementation of the Project;
- (b) Review, evaluate, and approve Project plans and material specifications to ensure that they conform to DepEd standards, building codes, and project requirements prior to implementation;
- (c) Verify, assess and validate progress accomplishments;
- (d) Review and evaluate all proposed variation orders and recommend approval of variation orders; and
- (e) Inspect, verify, and endorse the completion and final acceptance of the Project.

**Section 20. Authority of the DepEd Central Office.** In the event of any conflict, inconsistency, or disagreement between the recommendations and findings of the

TWG and those of the DepEd Central Office, the final directive of the latter shall prevail.

## **ARTICLE V LAND OWNERSHIP**

**[Scenario 1: The land is owned by DepEd]**

**Section 21. Ownership of the Land.** The classrooms shall be constructed on a parcel of land located at [•], and covered by Transfer Certificate of Title No. [•], hereto attached as **Annex “B”**.

**[Scenario 2: The land is owned by the LGU and will be donated to DepEd upon the transfer of the entire amount equal to the total project cost to implement the Project.]**

**Section 21. Ownership and Transfer of Land.** The classrooms shall be constructed on a parcel of land owned by the LGU, located at [•], and covered by Transfer Certificate of Title No. [•] (“Property”), hereto attached as **Annex “B”**.

Upon the execution of this MOA, the LGU shall not sell, assign, convey, encumber, lease, or otherwise dispose of or transfer any right, title, or interest in the Property. The LGU likewise undertakes not to construct any improvements on the Property unless such improvements are for educational or education-related purposes and have been previously approved by DepEd in writing.

Upon the completion of the Project, LGU hereby undertakes to transfer, assign, and convey all of its respective rights, title to, and interests in the Property and the improvements therein. It shall undertake to execute a Deed of Donation in favor of DepEd for the Property and the improvements therein, free from all liens and encumbrances. The donation shall be perfected in accordance with all applicable laws and regulations.

**Section 22. Period to Transfer Title.** Within three (3) months from the issuance of the Certificate of Completion, the LGU shall execute a Deed of Donation covering the Subject Property in favor of DepEd.

In the event that the LGU fails, refuses, or neglects to execute the Deed of Donation within the said period, DepEd is authorized to undertake and cause the preparation of the deed of donation, and all costs, fees, charges, and related expenses incurred by DepEd in connection thereto shall be chargeable to the LGU.

## **ARTICLE VI MANDATORY PROVISIONS IN THE CONSTRUCTION CONTRACT**

**Section 23. Mandatory Provisions.** The LGU shall ensure that a construction contract between the Contractor and the LGU is executed, which shall be, at minimum, in accordance with the provisions of the standard construction contract as prescribed by the Construction Industry Authority of the Philippines (CIAC), herein attached as **Annex “C”** and the NGPA and its IRR, as may be applicable.

In cases wherein the provisions of the CIAC Construction Contract and the NGPA are inconsistent with one another, the provision that is more favorable to the LGU shall prevail.

The provisions of the construction contract shall include the following, but not limited to:

1. Scope of Work;
2. Fencing and Signages;
3. Contract Documents;
4. Contract Price and Payment Schedule, if any
5. Manner of Payment;
6. Indemnification, Bonds, and Insurances;
7. Contract Completion Time;
8. Liquidated Damages;
9. Variation Orders or Changes in the Scope of Work;
  - a. Variation Orders shall not exceed 10% of the original contract amount and must have prior DepEd Central Office concurrence; and
  - b. Price escalation shall only be allowed when expressly permitted under RA 12009 and its IRR;
10. Subcontracting;
11. Corrections or Rectifications to the Work;
12. Suspension or Termination of Contract;
13. Completion of Work and Final Acceptance;
14. Integrity, Safety, and Conflicts of Interest;
15. Anti-Corruption, Conflict-of-Interest, Blacklisting;
16. Provisions prohibiting child labor, and ensuring that class disruptions are minimized during Project implementation;
17. Warranty Clause;
18. Retention Money;
19. Notices and Representatives;
20. Dispute Resolutions;
21. Declaration of Ineligibility and Related-Party Relationships;
22. Health, Safety, and Environmental (HSE) compliance; and
23. Take-over Provision in accordance with Section 14 (23) of this Agreement.

## **ARTICLE VII REPRESENTATIONS AND WARRANTIES**

**Section 24. Representations and Warranties.** Each Party represents and warrants in favor of the other Party that as of the execution of this Agreement:

- (a) It has duly and validly executed and delivered this MOA, which shall constitute a legal, valid, and binding obligation enforceable against it in accordance with its terms.
- (b) The consents and authorities necessary for the validity of this MOA, and in order to give full effect to all of the provisions thereof, have been secured by each Party. In the event of any dispute, claim, or demand raised or commenced by any person concerning the validity, coverage or effectivity of this MOA, each Party undertakes, at its own expense, to be liable and to: (i) fully indemnify the other Party for any and all damages and expenses (including reasonable attorney's fees) incurred by the other Party as a result of a breach of this warranty, and (ii) perform all acts and issue all documents (as may be required by the other Party) to address and resolve any claim, dispute, or action initiated or maintained by any such person.

- (c) It shall hold the other Party free and harmless from and agrees to indemnify the other Party for any claim arising from the execution of this MOA of whatever form or nature, which any third party may have for any cause or reason not attributable to it. In case such claim threatens the construction of the classrooms or school buildings and the completion of the Project, DepEd shall have the right to suspend or terminate all release of payments until such time the said claim has been settled;
- (d) The intended construction of classrooms or school building and the transfer of funds by DepEd to the LGU are in accordance with, and do not violate, any law or government rule, regulation and order, applicable to the of classrooms or school building and the transfer of funds.
- (e) There is no action, suit or proceeding, at law or in equity, or official investigation before or by any government authority, arbitral tribunal or other body pending or, to the best of its knowledge, threatened against or affecting its ability to perform substantially its obligations under this MOA or on the validity or enforceability of this MOA; provided that, in the event that an action, suit or proceeding is commenced against a party which results in a breach of its representation under this Article, such Party shall have a period of thirty (30) days after the occurrence of such breach to cure or remedy the same.
- (f) Any information provided by a Party pursuant to this Agreement is, to the best of its knowledge and in all material respects, true and accurate;
- (g) No commission or consideration has been given to any government official or employee to secure the execution of this Agreement; and
- (h) There is no pending suit or proceeding against it that will hinder its proper implementation of the terms of this Agreement.

**Section 25. Survival of Representations and Warranties.** The representations and warranties stated in the above section shall survive this Agreement.

**ARTICLE VIII  
NOTICES**

**Section 26. Notices** All notices, demands, or other communications shall be in writing and in the English language, sent to and received from the following:

Details	DepEd	LGU
Address		
Tel. No.		
E-mail		
Attention		

**ARTICLE IX  
INTELLECTUAL PROPERTY**

**Section 27. Right to Use.** All documents or materials (such as, but not limited to: all plans, drawings, specifications, designs, reports, and other documents) prepared by DepEd or its External Advisors by virtue of this Agreement shall become and

remain to be the property of DepEd. DepEd shall grant to the LGU the right to use all such documents, materials, and other work products for the purposes of performing the Services and/or carrying out their obligations under or in connection with this Agreement. For other purposes, the consent of DepEd must be secured (with such consent not to be unreasonably withheld or denied).

**Section 28. Ownership of Intellectual Property Rights.** DepEd shall retain all pre-existing intellectual property rights owned or controlled by DepEd prior to entering into this Agreement, including intellectual property rights in the advice, methodologies and programs, documents, materials, and other work products in any form used in connection with the Services.

## **ARTICLE X MISCELLANEOUS PROVISIONS**

**Section 29. Effectivity.** This Agreement shall take effect upon the signing hereof by the Parties and shall remain in full force and effect until the completion and turnover of the Project, unless sooner terminated for a just cause.

**Section 30. Dispute Resolution.** The Parties shall exert their best efforts to properly resolve any differences or disagreements with respect to any issue that may arise in connection with the interpretation or implementation of this Agreement. It shall be settled through amicable means, such as but not limited to, mutual consultation and negotiation.

In case of failure to settle differences, the dispute shall be referred to adjudication and/or arbitration pursuant to Presidential Decree No. 242, otherwise known as "Prescribing Procedure for Administrative Settlement or Adjudication of Disputes, Claims and Controversies Between or Among Government Offices, Agencies, and Instrumentalities, Including Government-Owned or Controlled Corporations, and for other Purpose."

The LGU shall ensure that in the event that disputes with contractors arise out of the implementation of this Project, the LGU shall ensure that (a) any dispute or differences arising out of or in connection with the interpretation or implementation of the contract to be executed with the contractor shall be settled by negotiation within a non-extendible period of 30 days from written demand by either party any dispute; and (b) if such negotiation should fail, the same shall be referred to the CIAC for settlement, if applicable.

**Section 31. Transparency.** The Parties hereby commit to full transparency and mutual disclosure of material information relative to the implementation of the Project and in the utilization of the funds transferred pursuant thereto. Each Party undertakes to provide the other with timely, complete, and accurate information relevant to the Project and to ensure that no material fact is withheld, misrepresented, or concealed.

Subject to applicable laws, rules, and regulations, duly authorized external parties, including but not limited to oversight, audit, or regulatory bodies, may request and be provided with copies of data, documents, or records pertaining to the Project, subject to the prior written consent of both Parties. Any disclosure made pursuant thereto shall not be deemed a waiver of the intellectual property rights, proprietary interests, confidentiality, or ownership rights of either Party over such disclosed

information, which shall remain vested in the respective Party in accordance with this Agreement and under applicable law.

**Section 32. Amendments.** Any amendment to this Agreement shall be in writing and signed by the duly authorized representatives of the Parties.

**Section 33. Anti-Corruption.** Any violation of Republic Act No. 3019, known as the “*Anti-Graft and Corrupt Practices Act*,” as well as other applicable laws on corruption, shall be resolved in accordance with the aforementioned laws.

**Section 34. Governing Law.** This Agreement shall be governed by the laws of the Republic of the Philippines.

**Section 35. Severability.** If any provision contained herein is invalid, illegal, or unenforceable in any respect under any applicable law or decision, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired in any way. The Parties shall, so far as practicable, execute such additional documents in order to give effect to any provision hereof which is determined to be invalid, illegal, or unenforceable.

**Section 36. Dissolution or Modification of Previous Agreements.** All agreements previously entered into between the Parties, with respect to the subject matter hereof, and which are inconsistent herewith are deemed dissolved, superseded, or modified accordingly.

**Section 37. Data Privacy.** The Parties shall comply with Republic Act No. 10173, titled the “*Data Privacy Act of 2012*”, its IRR, and all issuances of the National Privacy Commission, in the course of the implementation of this Agreement.

**Section 38. Waiver.** No failure or delay by any Party to exercise any right, power, or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude or restrict the further exercise of the same or any other right, power, or remedy.

The failure of one Party to insist on the strict performance by the other Party of any stipulation or condition of this Agreement and/or exercise any right or remedy or option herein shall not be construed as abandonment, withdrawal, waiver, or cancellation of such stipulation, condition, right, remedy, or option. Such stipulation, condition, right, remedy, or option shall continue to be in full force and effect. Silence on the part of one Party shall not be considered as condonation or waiver of any breach or default by the other Party of any covenant or condition herein provided. No waiver shall be deemed to have been made by any of the Parties, unless reduced in writing.

**IN WITNESS WHEREOF**, the Parties have hereunto affixed their signatures on the date and at the place first above written.

**DEPARTMENT OF EDUCATION**

**LOCAL GOVERNMENT UNIT OF**

By:

By:

[NAME OF DEPED OFFICIAL]

[NAME OF LGU OFFICIAL]

[Position]

[Position]

**SIGNED IN THE PRESENCE OF:**

WITNESS

WITNESS