

CONTRACT
Placement of GSIS Ads in Radio Stations

This Contract is made and executed on this 19th day of Oct 2017 at Pasay City, Philippines, by and between:

The **GOVERNMENT SERVICE INSURANCE SYSTEM**, a social insurance institution created under Commonwealth Act No. 186, as amended, and operating under its present Charter, Republic Act No. 8291, otherwise known as GSIS Act of 1997, with principal office address at the GSIS Headquarters Building, Financial Center, Pasay City, herein represented by **MARGIE A. JORILLO**, Vice President, Corporate Communications Office, hereinafter referred to as the "GSIS";

and

INTERACTIVE BROADCAST MEDIA, INC., a corporation duly organized and existing under Philippine laws, with principal office address at 23 E. Rodriguez Sr. Blvd., Quezon City herein represented by **ENRICO GUIDO O. CANOY**, Vice President for Operations, hereinafter referred to as the "SERVICE PROVIDER".

RECITALS

WHEREAS:

1. The **GSIS** invited top-rating radio stations for the placement of GSIS radio commercials hereinafter referred to as the "Services".
2. The **SERVICE PROVIDER** participated by sending its proposal to the **GSIS**.

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties have agreed as follows:

ARTICLE I – CONTRACT DOCUMENTS

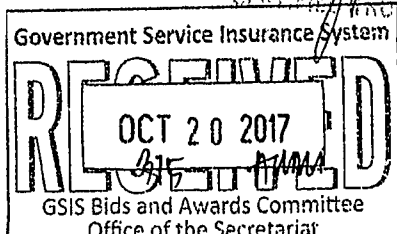
- 1.1 **CONTRACT DOCUMENTS.** The Terms of Reference and the Revised Proposal (after the parties' negotiation) are incorporated and made integral parts of this Contract.
- 1.2 **INCIDENTAL ITEMS.** This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned therein.

ARTICLE II – SCOPE OF WORK

- 2.1 **TECHNICAL SPECIFICATIONS.** The **SERVICE PROVIDER** shall air the advertisements in programs and time slots as specified in the Terms of Reference and Revised Proposal.

Spots not aired and other media values not rendered starting 25 September 2017 will be aired and rendered after receipt of the Notice to Proceed with the exact dates to be determined by the **GSIS** with the concurrence of the **SERVICE PROVIDER**.

- 2.2 **FAILURE TO COMPLY.** If the **SERVICE PROVIDER** fails to accomplish and complete its obligations under this Contract, the Terms of Reference and the Revised Proposal, the **GSIS** shall have the right to terminate this Contract; provided, however, that all expenses incurred by the **GSIS** shall be charged to the account of the **SERVICE**



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Enrico Guido O. Canoy

Margie A. Jorillo

PROVIDER and any additional cost incurred in excess of the Contract Price shall be at the expense of the **SERVICE PROVIDER**.

ARTICLE III – EFFECTIVITY AND TERMS OF PAYMENT

- 3.1 **EFFECTIVITY OF THE CONTRACT.** This Contract shall be effective from ~~Oct. 19, 2017~~ to December 31, 2017.
- 3.2 **CONTRACT PRICE.** For and in consideration of the full and satisfactory delivery of the **Services** by the **SERVICE PROVIDER** as required under this Contract and the Revised Proposal, and the acceptance thereof by the **GSIS**, the **GSIS** shall pay the agreed Contract Price of one million two hundred seventy-eight thousand pesos only (Php1,278,000.00) VAT inclusive. It is understood that all applicable taxes, including Documentary Stamp Tax (DST), if any, shall be borne by the **SERVICE PROVIDER**.

For this purpose, the **SERVICE PROVIDER** acknowledges that the **GSIS** is not a withholding agent for the DST and hereby undertakes and commits itself to make direct payments to the BIR of any DST that may be imposed on the execution and/or performance of this Contract. The **SERVICE PROVIDER** shall furnish the **GSIS** with proof of such payment.

- 3.3 **TERMS OF PAYMENT.** The **GSIS** shall pay the **SERVICE PROVIDER** on a monthly basis after receipt of Billing Statement and Certificate of Performance.
- 3.4 **AUDITING RULES.** All payments made to the **SERVICE PROVIDER** shall be subject to existing accounting and auditing rules and regulations applicable to the **GSIS**.

ARTICLE IV – REPRESENTATIONS AND WARRANTIES

- 4.1 **PERFORMANCE WARRANTY.** The **SERVICE PROVIDER** represents and warrants that the **Services** shall be performed with the highest level of standards in accordance with the terms and conditions of this Contract and the Revised Proposal. Any unsatisfactory performance shall be remedied by the **SERVICE PROVIDER** at no extra cost to the **GSIS** within five (5) calendar days after notice.
- 4.2 **COMPLIANCE WITH LAWS.** The **SERVICE PROVIDER** shall at all times be directly responsible and liable for the enforcement of and compliance with all existing laws, rules and regulations particularly in respect of any and all claims brought by its personnel for the enforcement of the provisions of the Labor Code of the Philippines and other pertinent labor and social legislations. Pursuant hereof, the **SERVICE PROVIDER** holds the **GSIS** harmless from all such claims and liabilities.
- 4.3 **ANTI-GRAFT PRACTICES.** The **SERVICE PROVIDER** warrants that it has not given or promised to give money or gift, directly or indirectly, to any official or employee of the **GSIS** to secure this Contract. A violation hereof shall be sufficient ground for the **GSIS** to revoke or cancel this Contract without the necessity of intervention by giving written notice to this effect to the **SERVICE PROVIDER**.

ARTICLE V – TERMINATION

- 5.1. **TERMINATION FOR DEFAULT.** The **GSIS** shall have the right to pre-terminate this Contract in whole or in part for default of the **SERVICE PROVIDER** or breach or violation of the terms and conditions of this Contract without need of judicial action or for just cause to be determined by the **GSIS**, which determination shall be final and binding to the **SERVICE PROVIDER**.

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- 5.2. **TERMINATION FOR INSOLVENCY.** The **GSIS** shall have the right to terminate this Contract if the **SERVICE PROVIDER** is declared bankrupt or insolvent as determined by a court of competent jurisdiction.
- 5.3. **TERMINATION FOR UNLAWFUL ACTS.** The **GSIS** shall have the right to terminate this Contract, which termination shall take effect immediately upon receipt of the Notice of Termination, in case it is determined prima facie that the **SERVICE PROVIDER** has engaged, before or during the implementation of this Contract, in unlawful deeds and behavior relative to the acquisition and implementation thereof.
- 5.4. **TERMINATION FOR CONVENIENCE.** In any event, the **GSIS** shall have the right to terminate this Contract, in whole or in part by serving a thirty (30)-day written notice to the **SERVICE PROVIDER**. The termination under this Section shall be resorted to by the **GSIS** if it has determined the existence of conditions that make the performance of the **SERVICE PROVIDER** economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous events or changes in law and national government policies.
- 5.5. **COMPLETED PERFORMANCE OF SERVICES.** In the event of the pre-termination or termination of this Contract, the **GSIS** shall pay the **SERVICE PROVIDER** for the Services rendered up to the date of pre-termination or termination, unless such pre-termination or termination was due to the acts or omissions of the **SERVICE PROVIDER** or a breach of this Contract by the **SERVICE PROVIDER**.
- 5.6. **REMEDIAL RIGHTS.** The pre-termination or termination of this Contract shall be without prejudice to any other rights or remedies a party may be entitled to under this Contract, or under any law, and shall neither affect any accrual of rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such pre-termination or termination.

ARTICLE VI – INDEMNIFICATION

- 6.1 **INDEMNIFICATION.** The **SERVICE PROVIDER** shall indemnify and hold harmless the **GSIS**, the members of its Board of Trustees, its officers, employees, and agents, free from any and all claims, losses, liabilities, and damages, and to pay all claims, judgments, awards, costs and expenses arising out of or in connection with the **SERVICE PROVIDER**'s acts or omissions, unless such claims are due solely to the negligence of the **GSIS**. Costs, inclusive of expert witness fees and other legal expenses shall be charged against the account of the **SERVICE PROVIDER**.
- 6.2 **FURTHER LIABILITY.** The **SERVICE PROVIDER** shall bear all losses or damages arising out of or in connection with any incident which may be caused by any person or persons in the performance of its obligations under this Contract.

ARTICLE VII – CONFLICT RESOLUTION

- 7.1 **AMICABLE SETTLEMENT.** If any dispute of any kind whatsoever should arise between the **GSIS** and the **SERVICE PROVIDER** in connection with or arising out of this Contract and the Revised Proposal, the parties shall make every effort to resolve amicably such dispute.
- 7.2 **ARBITRATION.** If after ten (10) days, the parties have failed to resolve the dispute, the matter shall be submitted for arbitration pursuant to Republic Act 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004"; provided, however, that the parties may agree in writing to resort to other alternative modes of dispute resolution.

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- 7.3 **NON-SUSPENSION OF OBLIGATIONS.** Notwithstanding any reference to the settlement of disputes or arbitration herein, the parties shall continue to perform their respective obligations under this Contract and the Revised Proposal unless they otherwise agree in writing.

ARTICLE VIII – MISCELLANEOUS PROVISIONS

- 8.1 **NON-DISCLOSURE.** The **SERVICE PROVIDER** shall not use or disclose to any person, firm or corporation any information concerning the affairs of the **GSIS** which it may have acquired in the course of or as an incident to this Contract.
- 8.2 **PUBLICITY.** The **SERVICE PROVIDER** shall consult and obtain the prior written consent of the **GSIS** before issuing or disclosing any news release, public announcement, advertisement or other form of publicity in respect to any of the terms of this Contract or using it as a reference or part of any presentation. This provision, however, is without prejudice to the right of the **SERVICE PROVIDER** to include the name of the **GSIS** and its logo to the **SERVICE PROVIDER**'s list of clients.
- 8.3 **NON-ADVERSE WITNESS.** In no case shall the **SERVICE PROVIDER** and its personnel assist any party in any action, suit, or proceeding against the **GSIS**, the members of its Board of Trustees, or any of its officials and employees in connection with the performance of its undertaking under this Contract.
- 8.4 **NON-TRANSFERABILITY.** The **SERVICE PROVIDER** shall not assign or transfer the contracted work covered by this Contract without the prior written consent of the **GSIS**. Any act in violation of this provision shall be sufficient ground for the termination of this Contract.
- 8.5 **FORCE MAJEURE.** No party shall be liable to the other party for any delay or non-performance of its obligations under this Contract arising from any cause or causes beyond its reasonable control including, but not limited to, any act of God, government acts under its police power, war, terrorist attack, fire, flood, explosion or civil commotion.
- 8.6 **NO EMPLOYER-EMPLOYEE RELATIONSHIP.** The **SERVICE PROVIDER** is not an employee of the **GSIS** but an independent contractor. Neither shall the personnel or workers of the **SERVICE PROVIDER** be deemed employees of the **GSIS**. The **SERVICE PROVIDER** shall be solely liable for the payment of the salaries, wages and other benefits of such personnel or workers contracted by the **SERVICE PROVIDER**. Hence, the **GSIS** shall not in any way be liable or responsible for any personal injuries or damages, including death, sustained or caused by any of the personnel or workers of the **SERVICE PROVIDER** and/or its sub-contractors during the performance of their duties.
- 8.7 **NON-WAIVER.** The failure of the **GSIS** to demand strict compliance with any and all the terms and conditions of this Contract shall not be construed as a waiver and/or estoppel on the part of the **GSIS** for the enforcement of any of its rights or to subsequently demand compliance therewith during the subsistence of this Contract.
- 8.8 **FURTHER ASSURANCES.** The **SERVICE PROVIDER** shall execute and render services and other further assurances as the **GSIS** may require as necessary or appropriate to effect the purpose of this Contract or confirm the rights created arising hereunder.
- 8.9 **NO PRESUMPTION.** In interpreting and applying the term and provisions of this Contract, no presumption shall be made against the party that drafted such terms and provisions.
- 8.10 **WRITTEN NOTICE.** All notice, statements and requests hereunder shall be in writing and shall be personally delivered, or transmitted by registered mail, electronic mail or fax,

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to the other party at the address stated above, unless the party has informed the other in writing of its change of address, in which case said notice shall be sent to the new address.

- 8.11 **LIQUIDATED DAMAGES.** In the event that the **SERVICE PROVIDER** fails to perform its obligations within the agreed period as specified in this Contract, the **GSIS** shall deduct from the Contract Price, as liquidated damages, a sum equivalent to at least one-tenth of percent (0.1%) of the cost of the unperformed portion of the contract per day of delay but not to exceed ten percent (10%) of the Contract Price. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the Contract Price, the **GSIS** may rescind the contract, without prejudice to other courses of action and remedies available to it under the law and equity. The damages herein provided are fixed and the **GSIS** shall not be required to adduce proof thereof.
- 8.12 **OTHER COSTS.** Should the **GSIS** be constrained to file a case to obtain relief against the **SERVICE PROVIDER**, the latter shall be liable to pay an amount equivalent to twenty percent (20%) of that amount claimed in the complaint as attorney's fees, aside from the costs of litigation and other expenses which the **GSIS** is entitled to recover from the **SERVICE PROVIDER**; provided, however, that in an action brought by the **SERVICE PROVIDER** from whatever cause arising under this Contract, should it be adjudged not to be entitled to the relief sought, the **GSIS** as the prevailing party shall be entitled to such reasonable attorney's fees, costs of litigation and other costs it may have incurred by reason of such action.
- 8.13 **FULL AGREEMENT.** This Contract, the Terms of Reference, and the Revised Proposal contain all the agreement of the parties and replace and supersede any understanding, communications and representations whether verbal or written between the parties.
- 8.14 **INTERPRETATION.** The **SERVICE PROVIDER** agrees and obligates itself to unconditionally abide by the decision of the **GSIS** on the interpretation or construction of any term, condition or stipulation contained in this Contract.
- 8.15 **AMENDMENTS.** No modification of or amendment to the term and conditions of this Contract shall be valid unless set out in writing and signed by the authorized representatives of each party.
- 8.16 **SEPARABILITY.** If any term, condition, clause or provision of this Contract is at any time determined to be invalid, unlawful or unenforceable to any extent, such term, condition, clause or provision shall be severed from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by laws.
- 8.17 **SURVIVAL OF WARRANTIES AND COVENANTS.** The Representations and Warranties under Article IV, Indemnification under Article VI, and all the covenants, agreement and obligations of the **SERVICE PROVIDER** which by their nature should continue beyond the expiration and termination of this Contract shall survive the expiration or termination hereof.
- 8.18 **VENUE OF ACTION.** Any action arising from arbitration or other modes of dispute settlement as agreed upon by the parties pursuant to Section 7.2 of this Contract shall be brought by the aggrieved party exclusively before the proper Court in the City of Pasay.
- 8.19 **GOVERNING LAWS.** This Contract shall be subject to the pertinent provisions of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act and its Revised Implementing Rules and Regulations, and other related laws, rules and regulations.

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IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and place stated above.

**GOVERNMENT SERVICE
INSURANCE SYSTEM**

SERVICE PROVIDER

By:

By:

MARGIE A. JORILLO
Vice President

ENRICO GUIDO O. CANOY
Vice President for Operations

Signed in the presence of:

MERCEDITA IRENE D. TAYAG

NINAY M. AGU

Certified Funds Available: **Php1,278,000.00**
GL Account 5102182300
Materials Description (Advertisement Expense-
Tri-Media - Radio)

Certified Included
GSIS 2017 Annual Procurement Plan

MANUEL P. ANG
Vice President
FI Systems Maintenance and
Other Accounting Services Office

ROMEO G. DE LUNA JR.
OIC-Head
GBAC Secretariat
2017-GSIS-AMP-187

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[Handwritten signature]

ACKNOWLEDGMENT

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

OCT 19 2017

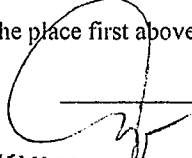
BEFORE ME, a Notary Public for and in the City of Pasay, this ____ day of
____ 2017, personally appeared:

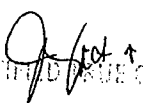
Name	Identification Card	Date/Place of Issue	PASAY CITY
<u>Margare A. Jorillo</u> (in representation of the GSIS)	<u>GSIS Employee ID# 008901</u>	<u>Sept. 2010 / GSIS Head</u>	<u>LAS PIÑAS office</u>
<u>ETRILO GUIDO D. CANDY</u>	<u>PRM N35170513089 P</u>	<u>AUG. 3, 2020</u>	

known to me and to me known to be the same _____, in representation of the GSIS as a juridical person, and _____ in representation of _____, as a juridical person who executed the foregoing Contract, consisting of seven (7) pages including the page on which this Acknowledgment is written, signed by the parties and their witnesses on each and every page thereof, and acknowledged to me that the same is their free and voluntary act and deed, and of the entities they represent.

WITNESS MY HAND AND SEAL, on the date and at the place first above written.

Doc. No. : 258
Page No. : 53
Book No. : 24
Series of 2017.


ATTY. GIOVANNA E LYN M. QUICOY-MARIN
GSIS, Financial Center, Pasay City
NOTARY PUBLIC (until December 31, 2017)
Commission No. 10-044 1/10/17; Pasay City
I.B.P. Lifetime No. 08482; 08/11/2021; 2-28-07
A.C.R. No. 1015340432; 1/31/17; Pasay City
Roll of Attorneys No. 50500


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Ninafia Atson 