

PTC Form 1: General Parameters Terms and Conditions

(template version as of xxx)

Objective: To establish the parameters, terms, and conditions (PTCs) of the proposed PPP project to be set forth by the Approving Body pursuant to Section 2.8 (for soilecited projects) and Section 10.9 (for unsolicited proposals) of the Revised 2022 Implementing Rules and Regulations (IRR) of the Amended BOT Law.

Official Project Name

1. Proposed General Parameters, Terms, and Conditions (PTCs) for the Project

This **General Parameters, Terms, and Conditions Form** lists down the minimum PTCs in Section 2.8 of the Revised 2022 BOT Law IRR and other items referred to in the same and in the ICC Guidelines. For **column H** of the matix below, indicate the details of the proposed PTC including any proposed flexibility in the PTC and other remarks such that the approving body will see the extent of the exposure of the government in the project and be guided in its evaluation. If there are any special PTCs not part of the template, these may be added under **Group 12 "Other PTCs"**.

Group No.	Item No.	Parameter, term, or condition			Reference section/s of the Revised 2022 BOT Law IRR	Details of the proposed parameter, term, or condition including any flexibility in the PTC and other remarks that will guide the approving body
1	1.1	Scope of the project	Construction	What assets shall be constructed?	Sec. 2.8.i and Sec. 4.3.a	
	1.2		Supply	What assets shall be supplied?		
	1.3		Operation	Shall operation be part of the scope? If yes, what operation activities are included?		
	1.4		Maintenance	Shall maintenance be part of the scope? If yes, what maintenance activities are included?		
	1.5		Capacity augmentation/expansion/extension	Shall capacity augmentation/expansion of the system be part of the scope? If yes, what augmentation/expansion activities are included?		
	1.6			Shall extension of the alignment be part of the scope?		
	1.7		Financing	Which elements shall be financed by the private sector?	Sec. 2.8.i, Sec. 2.8.ix, and Sec. 4.3.a	
	1.8			What is the maximum Debt-to-Equity ratio allowed for this project?		
	1.9			Shall the CapEx be partly financed by the agency/LGU?		
2	2.1	Contractual arrangement	Contractual arrangement	What shall be the contractual arrangement of the project?	Sec. 2.8.ii, Sec. 2.13, and Sec 4.3.a	
3	3.1	Term	Contract duration	How long shall the contract be in effect?	Sec. 2.8.iii, Sec. 4.3.a, and Sec. 12.4	
	3.2		Contract effectivity	When shall the contract be effective?		
	3.3		Start of concession	If a concession agreement, what event shall trigger the start of the concession?		
4	4.1	Bid Parameter	Bid parameter	What is the proposed bid parameter for the project?	Sec. 2.8.viii and Sec. 2.10	
5	5.1	General performance standards and targets	Capacity	What shall be the required capacity of the project? E.g., No. of passengers per year (for airport), or no. of patients per day (for hospital project)	Sec. 2.8.vi and Sec. 4.3.b	
	5.2		Specifications measured in units of time	What shall be the specifications measured in units of time of the project? E.g., Passenger queueing time (for airport), or Headway (for rail)		
	5.3		Quality performance specifications (focused on users of infrastructure)	What shall be the quality performance specifications (focused on users of infrastructure) of the project? E.g., Terminal climate temperature (for airport)		
	5.4		Enviromental performance specifications	What shall be the enviromental performance specifications of the project? E.g., Maximum level of noise emission (for airport)		

	5.5		Health and safety performance specifications	What shall be the health and safety performance specifications of the project? E.g., Maximum no. of safety citations per month (for airport or rail)		
	5.6		Other performance specifications	What are the other performance specifications of the project?		
	5.7		New technology	In the case of unsolicited projects, is there a new technology to be introduced for the project?	Sec. 10.2	
6	6.1	Obligations related to construction & supply of assets	Delivery of project site/right-of-way (ROW)	Is government assistance needed for securing project site/ROW?	Sec. 2.8.iv	
	6.2			If an unsolicited project, how shall the agency/LGU be compensated?		
	6.3			What shall be the procedure for handover?		
	6.4		Reviewing the progress of construction or of the installation of supplied assets	Who shall represent the parties in the group that will monitor the progress of construction?	Sec. 2.8.iv and Sec. 12.10	
	6.5			What shall be the roles and responsibilities of the representatives from each party?		
	6.6			Shall an independent consultant (IC) be hired?		
	6.7			Who shall shoulder the cost of the IC?		
	6.8		Assets to be constructed/supplied by the proponent	Of the total assets to be constructed (see Item No. 1.1 above), what assets shall be constructed by the proponent?	Sec. 2.8.iv	
	6.9			Of the total assets to be supplied (see Item No. 1.2 above), what assets shall be supplied by the proponent?		
	6.10		Assets to be provided by the agency/LGU	What assets shall be supplied by the agency/LGU?		
	6.11			If an unsolicited project, how shall the agency/LGU be compensated?		
	6.12			What shall be the condition of the assets that will be handed over by the agency/LGU to the proponent?		
	6.13		Failure to meet obligations	Is there a consequence/penalty for failure to meet obligations related to construction?	Sec. 2.8.iv, Sec. 4.3.f, and Sec. 12.14	
7	7.1	Obligations related to operation	Assignment of responsibility for operations	Of the operations in Item No. 1.3, which shall be under the proponent's responsibility?	Sec. 2.8.iv and Sec. 4.3.a	
	7.2			Shall the above include commercial operations? If yes, what shall be allowed?	Sec. 2.8.i and Sec. 12.16.1.d	
	7.3			Of the operations in Item No. 1.3, which shall be under the agency/LGU's responsibility?	Sec. 2.8.iv and Sec. 4.3.a	
	7.4		Operating parameters and specifications	What are the operating parameters and specifications?	Sec. 2.8.vi	
	7.5		Reviewing the progress of operations	Who shall represent the parties in the group that will monitor the performance?	Sec. 2.8.iv and Sec. 12.10	
	7.6			What shall be the roles and responsibilities of the representatives from each party?		
	7.7			Shall an IC be hired?		
	7.8			Who shall shoulder the cost of the IC?		
	7.9		Failure to meet obligations	Is there a consequence/penalty for failure to meet obligations related to construction?	Sec. 2.8.iv, Sec. 4.3.f, and Sec. 12.14	
8		Revenues going to the proponent	Fees, tolls, charges paid by users	If approved by the approving body:	Sec. 2.8.xii, Sec. 4.3.d, Sec. 12.16.1.a-b, Sec. 12.16.2, and Sec. 12.18	
	8.1			How much shall be the fees/tolls/charges at the start of operation?		
	8.2			What shall trigger the adjustment of fees/tolls/charges?		
	8.3			What shall be the formula for the adjustment of fees/tolls/charges?		
	8.4			What is the rate of return (RROR)?	Sec. 1.3.ee, Sec. 2.8.xi, and Sec 9.3	
	8.5			How shall the formula take into account the prescribed RROR?		
	8.6		Payments coming from the agency/LGU	Are there payments coming from the government (e.g. availability payments, milestone payments, ammortization payment)? If yes, enure that details are provided in PTC Form 3.	Sec. 12.16	
	8.7		Other sources of revenues	What other sources of revenues, if any, shall be granted to the proponent?	Sec. 12.16.1.d-e	

9	9.1	Revenues going to the agency/LGU	Fees, tolls, charges paid by users	If collected by the Proponent on behalf of agency/LGU, how shall these be accounted?	Sec. 2.8.x, Sec. 4.3.d, Sec. 12.16.1.b, Sec.12.17, and Sec. 12.19	
	9.2			How shall these be remitted to the agency/LGU?		
	9.3		Share in Proponent's revenues	Which of the proponent's revenues shall be shared with the agency/LGU?		
	9.4			How shall revenues, that shall be shared, be accounted for?		
	9.5			How much shall be the agency/LGU's share?		
	9.6			How shall these be remitted to the agency/LGU?		
			Other Payment/s to the agency/LGU	Are there other payments to the agency/LGU?		
	9.7			What is the schedule of the payments to be made by the proponent (amount of each payment, due date)?		
	9.8			How shall these payment be remitted to the agency/LGU?		
10	10.1	Transfer at the end of the contract	Assets to be transferred	What assets shall be transferred to the agency/LGU?	Sec. 2.8.x and Sec. 12.23	
	10.2			What shall be the required condition of the assets when transferred to the agency/LGU?		
	10.3			Who shall shoulder costs related to transfer of assets to the agency/LGU?		
11	11.1	Other obligations of the parties	Sharing in refinancing gains	How much shall be the share of the agency/LGU in refinancing gains, if any?	Sec. 2.8.iv	
	11.2		Assistance to be provided by agency/LGU	What kinds of assistance are needed from agency/LGU?		
	11.3			Shall the agency/LGU be compensated for providing such assistance?		
12	12.1	Other PTCs	xxx	xxx		
	12.2		xxx	xxx		

2. Default Parameters, Terms, and Conditions

a. Pursuant to the Revised 2022 BOT Law IRR, the following PTCs shall be part of the terms of the contract and the agency/LGU is given authority to finalize the terms during contract drafting, subject to the review of relevant authorities in Section 4.3.

Group No.	Item No.	Parameter, term, or condition				
1	1.1	Performance Security	The project shall require the following performance securities for each stage of project implementation, as applicable: <div>a. Construction Performance Security b. Operation Performance Security c. Warranty Security d. Handback Security</div>			
	1.2		For each security, the contract shall identify the form, which may be any or a combination of the following: <div>a. Cash b. Bank draft or guarantee confirmed by a local bank (in the case of foreign bidders bonded by a foreign bank) c. Letter of credit issued by a reputable bank d. Surety bond callable on demand issued by the GSIS or by surety or insurance companies duly accredited by the office of the Insurance Commissioner</div>			
	1.3		The amount of each security to be set by the agency/LGU shall be in accordance with the schedules in Section 12.8 of the Revised 2022 BOT Law IRR.			
2	2.1	Contingent Liabilities	Pursuant to Sections 15.3.e and 15.3.g of the Revised 2022 BOT Law IRR, contingent liabilities to be assumed by the government for the project as listed in PTC Form 4, including all other contingent liabilities to be assumed by the government that are present in the project but not covered in PTC Form 4, shall be transparent in the contract and shall contain the following information, as applicable: <div>a. Specific risk events that would trigger such liabilities b. The probability or likelihood that such risks will occur c. A condition to negotiate a remedy or cure for a risk event d. A term for curing period</div>			

		<p>e. The manner of compensation for the economic impact on the Project Proponent, if compensation is financial</p> <p>f. The method or principle of calculation of financial compensation</p> <p>g. The materiality threshold</p> <p>h. The cap on compensation</p> <p>i. A condition to include step-in rights</p> <p>j. Parameters for payments if terminated</p>
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b. In accordance with relevant laws/issuances, the submission of the following documents shall be required, as applicable, on the deadline prescribed by the approving body.

Group No.	Item No.	Parameter, term, or condition	
1	1.1	Regional Development Council (RDC) Endorsement	<p>Pursuant to the ICC issuance titled “Revisions to the ICC Guidelines and Procedures on Regional Development Council (RDC) Endorsement and Public Consultation Requirements for Proposed Programs and Projects” dated June 8, 2016, an RDC endorsement shall be submitted for ALL PROJECTS except for the following types:</p> <p>a. Programs and projects that will not result in physical or socioeconomic displacement of affected persons/businesses/communities; or</p> <p>b. Demand-based programs and projects providing support for target beneficiaries that are to be determined/ finalized after ICC approval (e.g. relending programs, etc.)</p> <p>Such RDC endorsement shall be submitted <u>prior to the implementation of the PPP project.</u></p>
2	2.1	Environmental Impact Statement (EIS)/ Environmental Compliance Certificate/ Certificate of Non-Coverage	<p>Pursuant to Section 12.2 of the Revised 2022 BOT Law IRR, the proponent shall secure other necessary approvals such as environmental clearances from the DENR. The ICC Project Evaluation Procedures and Guidelines requires to ensure that the project does not adversely affect the environment and/or that appropriate measures are taken to protect the environment.</p> <p>For environmentally critical projects or projects located in environmentally critical area, the Environmental Compliance Certificate (ECC) shall be <u>a condition precedent to construction start.</u></p>
	2.2	Non-Coverage	<p>For non-environmentally critical projects or projects that are not located in environmentally critical areas, the Certificate of Non- Coverage (CNC) shall be obtained and submitted <u>prior to the implementation of the project.</u></p>