

## CONTRACT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Contract Agreement was executed by and between:

**CEBU NORMAL UNIVERSITY**, a higher education institution duly organized and existing under the laws of the Philippines created by virtue of Republic Act 8688 otherwise known as "The CNU Charter", with principal office address at Osmeña Blvd., Cebu City, and represented herein by its President, **DR. DANIEL A. ARIASO, SR.**, hereinafter referred to as "**CNU**",

-and-

**TOYOTA CEBU CITY, INC. - TOYOTA MANDAUE NORTH, CEBU**, a corporation duly organized and existing under Philippine laws, with office address at Rizal St., Tabok, Mandaue City, Cebu, represented by its General Manager, **KIMBERLY F. CUENCCO**, hereinafter referred to as the "**SUPPLIER**",

Collectively referred as the "**PARTIES**".

### WITNESSETH

WHEREAS, CNU needs **Motor Vehicles**;

WHEREAS, On March 13, 2024, CNU posted an invitation to bid in PHILGEPS/CNU Website;

WHEREAS, On March 22, 2024, Negotiated Procurement for Two-Failed Biddings for the Procurement of Motor Vehicles was conducted, subsequently, Bid Bulletin No. 1 was issued;

WHEREAS, the CNU BAC conducted the post qualification and upon verification, recommended the awarding of the contract to the Supplier, being the Lowest Calculated Responsive Bid to CNU, through **BAC Resolution No. 33 Series of 2024**, dated April 8, 2024, to the Head of the Procuring Agency, which the latter approved;

WHEREAS, on June 5, 2024, the CNU President declared and issued the Notice of Award pursuant to **BOR Resolution No. 85 Series of 2024**, to the Supplier, for a contract price of **Two Million Eight Hundred Ninety-Three Thousand Four Hundred Ninety-Six Pesos (Php 2,893,496.00)** for the Supply and Delivery of Two (2) Units of Brand-New Motor Vehicle Pick-Up Type 4x2 Drive Train, and **Five Million Six Hundred One Thousand Two Hundred Forty-Three Pesos (Php 5,601, 243.00)** for the Supply and Delivery of Three (3) Units of Brand-New Motor Vehicle Van Passenger Type, and was thereby awarded the contract, subject to the terms and conditions stipulated herein.

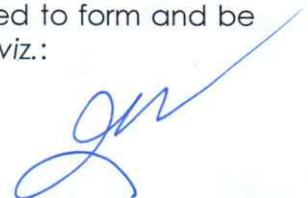
**NOW, THEREFORE**, for and in consideration of the foregoing premises, the Parties hereby agree as follows:

**1. ITEM DESCRIPTION**

**Motor Vehicles;**

**2. INTEGRAL DOCUMENTS**

The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as an integral part of this Agreement, viz.:



a. Philippine Bidding Documents (PBDs);

- i. Schedule of Requirements;
- ii. Technical Specifications;
- iii. General and Special Conditions of Contract; and
- iv. Supplemental or Bid Bulletins, if any

b. Winning bidder's bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;

Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes, and all other documents submitted (e.g., Bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the First Party's bid evaluation;

c. Performance Security;

d. Notice of Award of Contract; and the Bidder's conforme thereto;

e. Purchase Order;

f. Supplemental Bid Bulletin; and

g. Other contract documents that may be required by existing laws and/or the First Party concerned in the PBDs. Winning bidder agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Orders, and Warranty Security, shall likewise form part of the Contract.

### 3. FEES AND BILLING SCHEDULE

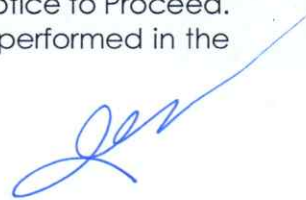
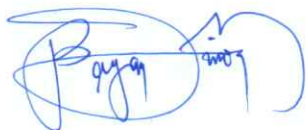
3.1 For and in consideration of all the foregoing services, as well as compliance by the Supplier of all the terms and condition of this Contract, CNU shall pay the amount of **Two Million Eight Hundred Ninety-Three Thousand Four Hundred Ninety-Six Pesos (Php 2,893,496.00)** for the Supply and Delivery of Two (2) Units of Brand-New Motor Vehicle Pick-Up Type 4x2 Drive Train, and **Five Million Six Hundred One Thousand Two Hundred Forty-Three Pesos (Php 5,601, 243.00)** for the Supply and Delivery of Three (3) Units of Brand-New Motor Vehicle Van Passenger Type inclusive of any and all taxes (including, but not limited to, the applicable Value Added Tax), fees, duties and such other imposts or levies which may be required by the government, both national and local.

3.2 All prices quoted and awarded herein are valid, binding, and effective at least 45 calendar days from the date of quotation/notice of award. Price escalation or any other changes of the price previously quoted herein shall not be grounds for waiver or termination of this Agreement.

3.3 Payment shall be processed through ADA from 5 - 7 days after complete delivery.

### 4. DELIVERY, INSPECTION, AND ACCEPTANCE

The vehicles shall be delivered to CNU, Osmeña Blvd., Cebu City on or before **Thirty (30) calendar days** upon the Supplier's receipt of the Notice to Proceed. Likewise, incidental services thereto, i.e. installation, shall be performed in the premises of CNU.



Delivery shall be deemed completed upon receipt and acceptance of CNU or any of its authorized representatives. Cost of delivery is deemed included in the Price.

CNU or its representative shall have the right to inspect and/or test the vehicles at no extra cost to CNU at the premises of the supplier, at the point of delivery, or at the final destination. The Supplier shall facilitate such inspections and provide the required assistance.

The Supplier agrees that any acceptance by CNU does not release them from any warranty or other obligations under this Contract. The failure of CNU to insist upon a strict performance of any of the terms, conditions, and covenants hereof, shall not be deemed a relinquishment or waiver of any right or remedy that CNU may have, nor shall it be construed to be a waiver of any subsequent breach or default of the terms and conditions herein contained, which shall be deemed in full force and effect.

## 5. WARRANTY

The supplier warrants that the vehicles are free from defect in design, materials, and workmanship. This warranty shall be effective for a period of **Three (3) years** from the date of delivery or **One Hundred Thousand (100,000) Km.** whichever comes first.

This warranty shall cover the repair or replacement of parts and mechanism that are attributable to manufacturing. If a defect occurs or discovered within the warranty period and is verified, the supplier will either repair or replace the product, or refund the purchase price, at the CNU's discretion.

## 6. PERFORMANCE SECURITY

To guarantee faithful performance of this agreement, the Supplier shall post a performance security prior to the commencement of the work in the form of cash, manager's check, bank draft/guarantee, and/or surety bond in accordance with the following schedule:

- a) If Cash, manager's check- five (5%) percent of the contract price;
- b) If Surety bond - thirty (30%) percent of the contract price.

The performance security shall be posted in favor of CNU and may be released by CNU only after the issuance of the Certificate of Completion of the contract provided that there are no defects in the goods delivered. It shall also guarantee the payment of the amount of the security as a penalty in the event it is established that the Supplier is in default in any of its obligations in this agreement.

## 7. EFFECTIVITY

This Contract shall run and be effective as indicated in the Notice to Proceed to be issued by CNU upon the execution of this Contract, up to and until the issuance by CNU of a Certificate of Final Acceptance, unless sooner terminated by CNU upon the occurrence of any of the grounds for termination specified under Clause IX hereof. The representations and warranties of the Supplier shall survive the termination or expiration of this Contract.

## 8. LIQUIDATED DAMAGES

When the supplier fails to satisfactorily deliver goods under the contract within the specified delivery schedule, inclusive of duly granted time extensions for due causes, if any, the supplier shall be liable for damages for the delay and shall pay the First Party liquidated damages, not by way of penalty, an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the delayed goods scheduled for delivery for every day of delay until such goods are finally

delivered and accepted by the First Party concerned. Such amount shall be deducted from any money due or which may become due to the supplier, or collected from any securities or warranties posted by the supplier, whichever is convenient to the First Party concerned. In case the total sum of liquidated damages reaches ten percent (10%) of the total contract price, the First Party concerned may rescind the contract and impose appropriate sanctions over and above the liquidated damages to be paid.

CNU need not prove that it has incurred damages to be entitled to liquidated damages. Furthermore, CNU reserves the right to deduct any and all of the liquidated damages from any money due or payments which may become due to the Supplier under the terms of this Contract and/or from the performance security filed by the Supplier, as CNU may deem convenient and expeditious under the prevailing circumstances.

## 9. GROUNDS FOR TERMINATION OF THE CONTRACT.

The First Party, upon the observance of Item IV, Annex "I" of the RA 9184 IRR shall terminate the contract on the following grounds:

- a) Pursuant to Sec. 68 of the 2016 revised IRR, the First Party may terminate the contract when outside of force majeure, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the First Party pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
- b) Pursuant to Sec. 68 of the 2016 revised IRR, the First Party may terminate the contract when, as a result of force majeure, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased;
- c) The First Party shall terminate the contract when the Supplier fails to perform any other obligation under the Contract.
- d) The First Party may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make the Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.
- e) The First Party shall terminate the contract if the Supplier/Contractor/Consultant is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier/Contractor/Consultant, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the First Party and/or the Supplier/Contractor/Consultant.
- f) The First Party may terminate the contract in case it is determined prima facie that the Supplier has engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:
  1. Corrupt, fraudulent, collusive and coercive practices;
  2. Drawing up or using forged documents;

3. Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
4. Any other act analogous to the foregoing.

## 10. REMEDIES AND PENALTIES.

- 3.1 In addition to the provisions of Rules XXI and XXII of RA 9184 IRR, CNU shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the competitive bidding process, as well as disqualification from further participating in the competitive bidding being undertaken by this institution where applicable, for the following violations:
  - a. Submission of eligibility requirements containing false information or falsified documents.
  - b. Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening, or any other stage of the competitive bidding.
  - c. Allowing the use of one's name, or using the name of another for purposes of competitive bidding.
  - d. Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
  - e. Refusal or failure to post the required performance security within the prescribed time.
  - f. Termination of the contract due to the default of the bidder.
  - g. Refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification.
  - h. Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor.
  - i. All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.
- 3.2 In addition to the penalty of suspension, the bid security or the performance security posted by the concerned bidder or prospective bidder shall also be forfeited.
- 3.3 The CNU may delegate to the BAC the authority to impose the aforementioned administrative penalties.
- 3.4 The procedures for the suspension or blacklisting of suppliers, contractors, or consultants for government projects shall be undertaken in accordance with the guidelines issued by the GPPB.

## 11. MISCELLANEOUS PROVISIONS

- 3.5 **Governing Law and Language** – The rights and obligation of the parties hereto shall be governed and interpreted in accordance with the laws of the Republic of the Philippines, specifically, the provisions of R.A. 9184 otherwise known as the "Government Procurement Reform Act" and other applicable laws, rules and regulations.
- 3.6 **Binding Effect/Assignment of Rights** – This Contract shall be binding upon the Supplier, its partners, successors-in-interest, its legal representatives and assigns. Foregoing notwithstanding, the Supplier shall not in any manner, directly or indirectly, assign, or transfer its rights



and obligations under this Contract without the written approval of CNU.

- 3.7 **Authority** – The parties hereto warrant their authority to sign, execute, and perform acts related to this agreement and procurement.
- 3.8 **Documents incorporated** - The provisions of this Contract shall be read in harmony with the Terms of Reference and other related bid documents. In case of conflict, the provisions of this Contract shall prevail.
- 3.9 **Amendment** - This Contract may be amended or modified only in writing upon mutual agreement of the parties hereto.
- 3.10 **Dispute Resolution** - If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation. During the pendency of any such dispute, the Supplier shall proceed diligently with the performance of its obligations and undertakings under this Contract as directed by CNU. Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004".
- 3.11 **Venue of Actions** - It is hereby agreed that any and all actions that shall arise from this Contract shall be instituted and tried before the proper court (s) of the City of Cebu only.
- 3.12 **Attorney's Fees** - In the event that CNU is compelled to seek judicial relief to enforce the provisions of this Contract, it shall be entitled to attorney's fees and liquidated damages equivalent to ten percent (10%) and fifteen percent (15%), respectively, of the contract price or the amount claimed in the judicial action, whichever is higher, aside from the costs of litigation and other expenses incidental thereto.
- 3.13 **Non-Waiver** - No failure or delay on the part of either party to exercise any right, power or privilege hereunder shall operate as a waiver thereof, neither shall any single or partial exercise of any right, power or privilege hereunder preclude any other, or further exercise thereof, or the exercise of any other right, power or privilege
- 3.14 **Indemnity** - The Supplier shall indemnify CNU against any loss, injury or damage either to person or property which CNU may suffer by reason of the willful, unlawful or negligent act or omission of the Supplier or any of its personnel or representative. The indemnity required herein shall be in addition to the forfeiture of the Performance Security.
- 3.15 **Confidentiality and Non-Disclosure** - Each party shall not, without the prior written consent of the other party, disclose to third parties any confidential information received from the other party by virtue of this Agreement. Any violation of this rule on confidentiality shall be subject to the penalties provided by existing laws, rules, and regulations.
- 3.16 Observance and usage of non-sexist/gender-sensitive language in all official documents and communications under this project shall be enforced all the time.



- 3.17 **Entirety** - All appendages hereto attached are hereby expressly made an integral part of this Agreement by reference. The Parties, by the signature of their representatives, acknowledge that he/she has read this agreement, understand it, and agree to be bound by its terms and conditions.
- 3.18 **Severability** - If any provision of this Contract should, for any reason, be held void or unenforceable, the legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired, and shall remain in full force and effect.

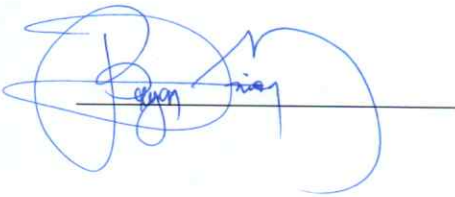
IN WITNESS WHEREOF, the parties hereto have signed this Contract Agreement this JUN 17 2024 of \_\_\_\_\_ at Cebu City.

**CEBU NORMAL UNIVERSITY**



**DR. DANIEL A. ARIASO, SR**  
University President

**Signed by virtue of Board  
Resolution No. 85 s. 2024**




**TOYOTA CEBU CITY, INC. - TOYOTA  
MANDAUE NORTH, CEBU**



**KIMBERLY F. QUENCCO**  
General Manager

Signed in the presence of:

  
Gretchen Lynne Empinado

**ACKNOWLEDGMENT**

REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_\_ ) S. S.

**CEBU CITY**  
BEFORE ME, a Notary Public, for and in the **CEBU CITY**, this 17 day of **JUN 17 2024**  
personally appeared,

**DR. DANIEL A. ARIASO, SR., I.D. No.** \_\_\_\_\_,  
**KIMBERLY F. CUENCCO, I.D. No.** \_\_\_\_\_,

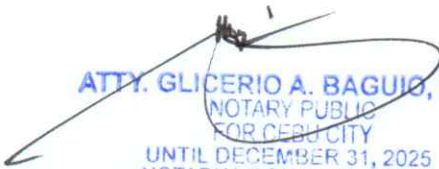
known to me and to me known to be the same person who executed the foregoing instrument and who acknowledged to me that the same is their free and voluntary act and deed, and that of the institutions respectively represented.

The foregoing instrument refers to a Contract Agreement consisting of eight (8) pages, including the page in which this Acknowledgement is written, signed by the Parties, including their instrumental witnesses on each and every page thereof and sealed with my notarial seal.

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

NOTARY PUBLIC

Doc. No. 476  
Page No. 97  
Book No. 1  
Series of 2024

  
**ATTY. GLICERIO A. BAGUID, CPA**  
NOTARY PUBLIC  
FOR CEBU CITY  
UNTIL DECEMBER 31, 2025  
NOTARIAL COMM. NO. 015-24  
ROLL NO. 46596  
IBP NO. 323197-CY2024-CEBU PROVINCE  
PTR NO. 2483530-CY2024-CEBU CITY  
#9 D. JAKOSALEM ST., STO. NIÑO, CEBU CITY  
MCLE 7<sup>th</sup> COMP NO. 0003819-VALID UNTIL 4/14/2025

