

**AGREEMENT FOR THE PROCUREMENT OF ONE MOTOR VEHICLE
FOR THE OFFICIAL USE OF THE SECRETARY FOR FOREIGN AFFAIRS**

KNOW ALL MEN BY THESE PRESENTS:

This Agreement for the Department of Foreign Affairs' procurement of one (1) motor vehicle for the official use of the Secretary for Foreign Affairs (hereinafter, the AGREEMENT), entered into in Pasay City, Philippines, on 15 NOV 2024, between the:

DEPARTMENT OF FOREIGN AFFAIRS (hereinafter, the PROCURING ENTITY), with principal office address at 2330 Roxas Blvd., Pasay City, 1300 Metro Manila, represented by its Undersecretary for Administration and Head of the Procuring Entity (HOPE) **ANTONIO A. MORALES**,

and

TOYOTA MANILA BAY CORPORATION (hereinafter, the CONTRACTOR), a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, as evidenced by Security and Exchange Commission (SEC) Registration No. A1996-02434 (ANNEX "A"), with principal office address at Central Business Park, Roxas Blvd., Brgy. 76, Pasay City, NCR, represented by its **President, TATSURO OKAZAKI and ALBERT JAMES C. ALIGADA, FVP for General Admin and Treasury**, who is duly authorized to enter into this Agreement pursuant to his Omnibus Sworn Statement / Affidavit executed on 04 October 2024, a copy of which is attached as ANNEX "B" and made an integral part of this AGREEMENT.

WITNESSETH:

WHEREAS, the PROCURING ENTITY invited Bids for the Negotiated Procurement (Two Failed Biddings) of one (1) motor vehicle for the official use of the Secretary for Foreign Affairs, and has accepted a bid by the CONTRACTOR in the sum of **Four Million Seven Hundred Ninety-Two Thousand Four Hundred Twenty-Three Pesos and Forty-Three Centavos (PhP4,792,423.43)** only (hereinafter, the Contract Price), inclusive of all applicable taxes (VAT) and other lawful charges;

WHEREAS, this AGREEMENT, undertaken pursuant to BAC Resolution No. EBB-PB-20-2024 dated 10 October 2024, and Notice of Award (ANNEX "C"), complies with the applicable provision of Republic Act No. 9184 and its Implementing Rules and Regulations.

NOW, THEREFORE, for and in consideration of the foregoing premises, the PARTIES agree as follows:

1. The definitions and terms included in the General Conditions of a Contract (GCC) and Special Conditions of a Contract (SCC) provided with the Philippine Bidding Documents for Procurement of Goods issued by the Government Procurement Policy Board (GPPB) are deemed incorporated in this AGREEMENT.
2. The following documents are attached and made integral parts of this AGREEMENT:

ANNEX A – Security and Exchange Commission (SEC) Registration No. A1996-02434

ANNEX B – Omnibus Sworn Statement / Affidavit
ANNEX C – Notice of Award
ANNEX D – Bid Form
ANNEX E – Certificate of Availability of Funds
ANNEX F – Technical Specifications / Terms of Reference
ANNEX G – General Conditions of a Contract (GCC)

3. The CONTRACTOR shall deliver the services to the PROCURING ENTITY within the period stated in Technical Specifications/Terms of Reference.
4. For and in consideration of the delivery of the goods and services, the PROCURING ENTITY shall pay the CONTRACTOR the Contract Price. The terms of payment shall be made in accordance with the Technical Specifications/Terms of Reference (ANNEX "F").
5. This AGREEMENT shall be governed also by the following provisions:

On No Employer-Employee Relationship

This Contract does not establish any employer-employee relationship between the Procuring Entity, the Supplier, being an independent supplier, and the latter's employees, agents, representatives, or subcontractors.

On Liability of the Service Contractor

The Contractor's liability under this Contract shall be as provided by the laws of the Republic of the Philippines. If the Contractor is a joint venture, all partners to the joint venture shall be jointly and severally liable to the Procuring Entity.

On Indemnity

The Contractor shall hold the Procuring Entity free and harmless from, and hereby binds and obligates itself to indemnify the Procuring Entity for, any and all liabilities, losses, damages, injuries including death, claims, demands, suits, proceedings, judgments, awards, fines, penalties, and all expenses, legal or otherwise, of whatever kind and nature arising from and by reason of this Contract, due to the fault, negligence, act, omission, delays, conduct, breach of trust, or non-observance or violation of any provision of this Contract by the Supplier and/or of its employees, agents, representatives, or subcontractor.

On Confidentiality

Except as required by law or pursuant to prior written consent, the Contractor agrees to keep confidential and not disclose any information or document of the Procuring Entity or which the Procuring Entity designated the information as confidential. The Contractor shall take all reasonable steps to ensure its employees, contractors, agents and advisers comply with this clause. This clause shall survive the termination of this Contract.

On Force Majeure

The Procuring Entity and the Contractor shall not be liable in any way whatsoever for delays or failure in the performance resulting from acts beyond their reasonable control, which may not be overcome by due diligence. Such acts shall include but not be limited to acts of God, strikes, lock outs, labor disputes, material shortages, riots, war, government regulation imposed after the fact, flood, fire, earthquake, power outages or other such natural disasters. The obligations of the Procuring Entity and the Contractor insofar as they are affected by such occurrence, shall be suspended during the continuance of any inability so caused, and such inability shall not be a breach of this Contract.

On Data Privacy Act

The Contractor and its personnel are required to observe the provisions of Republic Act no. 10173 or the Data Privacy Act of 2012 in handling information obtained from the DFA. In addition, the Supplier and its personnel shall be responsible for the destruction of all the data secured from the Procuring Entity after the termination of this Contract.

On Assignees and Successors

This Contract shall be binding upon and inure to the benefit of the Parties hereto and their assignees and successors-in-interest, provided, however, that the Contractor shall not assign or transfer any or all of its rights and obligations herein to any third party without the prior written consent of the Procuring Entity.

On Third Party Contracts

Any other contract or agreement entered into by the Contractor and a third party for the implementation of this Contract, shall be exclusively between such parties, to the exclusion of the Procuring Entity. The Contractor warrants that it shall hold free and harmless the Procuring Entity from any and all such suits, and in no event shall it be held liable to such third parties for any special, incidental, indirect, consequential or punitive damages relating to the conduct or completion of the project.

On Waiver of Rights

No failure, omission or delay of any of the Parties in exercising any of its right, privileges and remedies hereunder shall operate as a waiver thereof. No waiver or departure from the terms of this Contract shall be valid unless made in writing and signed by the Party's authorized representative. Such waiver shall be effective only in the specific instance and for the purpose for which it is given.

On Dispute Resolution and Venue of Action

The Parties shall exert their best efforts to amicably resolve and settle in good faith any dispute arising out of or in relation to this Contract through negotiations.

In the event that an amicable settlement cannot be achieved within thirty (30) days from the date on which either Party has served written notice thereof on the other Party, the Parties agree to settle the matter by submitting the same for arbitration in accordance with the Philippine Dispute Resolution Center, Inc.'s (PDRCI) rules and regulations. The arbitration proceedings, including all records, documents, pleadings, orders and judgments filed or rendered in pursuant thereto, shall be kept confidential. The seat and venue of arbitration shall be Pasay City, Metro Manila, Philippines.

Nothing in this Agreement shall prevent the parties from filing the appropriate case before a Philippine court of competent jurisdiction, which shall be Pasay City, Metro Manila, to the exclusion of other courts.

On Amendment

Any amendment of the Contract shall be mutually agreed upon by the Parties in writing.

Should the Procuring Entity require, amendments to the Contract shall be subject to a written agreement of the Parties and in accordance with existing procurement laws and government accounting and auditing rules and regulations.

On Separability Clause

The invalidity in whole or in part of any clause in these terms and conditions shall not affect the validity of the remainder of such clause of these terms and conditions.

If any term or condition of this Contract is declared invalid or contrary to law, the other terms or conditions that are not covered by such declaration shall remain valid and binding. The Parties shall amend the term or condition declared invalid or contrary to law, to conform to the subject and objective thereof.

On Governing Law

The validity and interpretation of the terms and conditions of this Contract shall be governed by and construed in accordance with the laws of the Philippines.

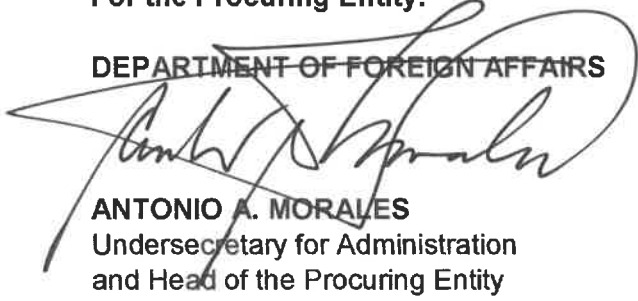
On Entire Agreement

Both Parties acknowledge that this Contract and its Annexes constitute the entire agreement between them and shall completely supersede all other prior understandings, previous communications or contracts, oral or written, between the Parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have signed this AGREEMENT on 15 NOV 2024, in Pasay City, Metro Manila.

For the Procuring Entity:

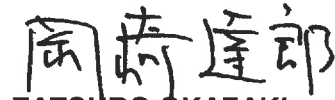
~~DEPARTMENT OF FOREIGN AFFAIRS~~



ANTONIO A. MORALES
Undersecretary for Administration
and Head of the Procuring Entity

For the Contractor:

TOYOTA MANILA BAY CORPORATION

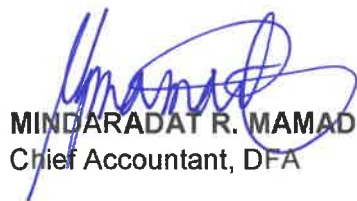


TATSURO OKAZAKI
President



ALBERT JAMES C. ALIGADA
FVP for General Admin and Treasury

WITNESSES



MINDARADAT R. MAMAD
Chief Accountant, DFA



LORETEIH JAYAB
Group Retail Manager

ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in the City of Pasay, Philippines, on this 15 NOV 2024, personally appeared **The Honorable ANTONIO A. MORALES**, Undersecretary for Administration and Head of the Procuring Entity (HOPE) and **TATSURO OKAZAKI**, President and **ALBERT JAMES C. ALIGADA**, FVP for General Admin and Treasury, Toyota Manila Bay Corporation, known to me to be the same persons who executed the foregoing **AGREEMENT FOR THE PROCUREMENT OF ONE MOTOR VEHICLE FOR THE OFFICIAL USE OF THE SECRETARY FOR FOREIGN AFFAIRS** which instrument consists of five (5) pages including the page on which this acknowledgement is written and the Annexes attached thereto, all pages of which have been signed by said PARTIES and their witnesses, and who acknowledge to me that the same is their free and voluntary act and deed and of the entities they represent.

The Philippine Passport/Philippine government-issued ID of the Parties exhibited to me, the same bearing:

NAME	Philippine Government-issued ID	Place of Issue	Date of Issue
ANTONIO A. MORALES	Philippine Passport D0009237A	DFA Manila	07 December 2021
TATSURO OKAZAKI	Passport No. TR8058080	Ministry of Foreign Affairs, Japan	11 April 2017
ALBERT JAMES C. ALIGADA	LTO Driver's License No. N01-96-200231	Philippines	11 July 2022

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day, year and in the place above written.

Doc. No. 387
Page No. 89
Book No. 9
Series of 2024.

NOTARY PUBLIC
ATTY. GARY DANIEL RUIRE
NOTARY PUBLIC CITY OF MANILA
ROLL NO. 60777 /SP LIFETIME NO. 4599 /2/02/2016, PASIG CITY
PTR NO. 1527767-01/02/2024
COMMISSION NO. 2023-018-01/01/2023 UNTIL DEC. 31, 2024
MCLE NO. VII-0001648-10/20/2019 VALID UNTIL APRIL 14, 2025, P.C.
OFFICE, BURGUNDY TRANSPACIFIC-PLACE TAFT AVE., MALATE MIA.



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION
LAND TRANSPORTATION OFFICE



DRIVER'S LICENSE



Last Name, First Name, Middle Name
MORALES, ANTONIO ALBERO

Nationality	Sex	Date of Birth	Weight (kg)	Height (m)
PHL	M	1963/09/30	60	1.60

Address
**26 ICELAND ST BETTER LIVING SUBD
PARANAQUE CITY**

License No.	Expiration Date	Agency Code
N16-G3-032560	2026/09/30	N32


Blood Type	Eye Color
	BROWN

DL Codes	Conditions
B, B1, B2	1


Signature of Licensee


EDGAR C. GALVANTE
Assistant Secretary

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION
LAND TRANSPORTATION OFFICE
DRIVER'S LICENSE



Last Name, First Name, Middle Name
ALIGADA, ALBERT JAMES CABANGIS

Nationality	Sex	Date of Birth	Weight (kg)	Height (cm)
PHL	M	1988/07/31	77	173

Address
**818 LSA | LAUREL ST SPRV CITY OF LAG
PIRAS**

License No.	Expiration Date	Agency Code
ND1-96-200281	3027/07/31	N61

Gender Type: **8+** Eyes Color: **BLACK**

DL Codes: **D.B1.B2** Conditions: **NONE**

Signature of Licensee: *[Signature]* Issued by: *[Signature]*
Inspector

[Handwritten signature]



INFORMATIONS

1. Name
2. Sex
3. Date of Birth
4. Weight
5. Height
6. Nationality
7. License No.
8. Expiration Date
9. Agency Code
10. Issued by

INSTRUCTIONS

1. This license is valid for the duration of the license period.
2. This license is not valid for the operation of motor vehicles.
3. This license is not valid for the operation of motor vehicles.
4. This license is not valid for the operation of motor vehicles.
5. This license is not valid for the operation of motor vehicles.

Identification Number: **307961011**



TOYOTA MANILA AUTO CORPORATION
AND DEPARTMENT OF FOREIGN AFFAIRS
AGREEMENT FOR THE PROCUREMENT OF FOREIGN AFFAIRS



REPUBLIC OF THE PHILIPPINES
Unified Multi-Purpose ID



CRN - 0033-7370600-9



SURNAME
TAYAB
GIVEN NAME
LORELEI

MIDDLE NAME
HERRERA

SEX F DATE OF BIRTH 1980/10/30

ADDRESS
LOT 40 BLK 9-B HITO ST
KAUNLARAN VILL. BRGY
LONGOS MALABON CITY NCR

PHID 1472



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Republic of the Philippines

Securities and Exchange Commission

EDS - Greenhills, Mandaluyong
Metro-Manila

S.E.C. Reg. No. A1996 - 02434

*Original of
copy - Encryptions*

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, Articles of Incorporation and By-Laws duly signed and acknowledged for the organization of the

TOYOTA MANILA BAY CORPORATION

under and in accordance with the provisions of the Corporation Code of the Philippines, Act No. 63, as amended, and the Corporation Code of the Philippines, Act No. 63, approved on May 1, 1960, were presented for filing in this Commission on June 28, 1996, and a copy of said Articles and By-Laws are hereto attached;

NOW, THEREFORE, by virtue of the powers and duties vested in me by law, I hereby certify that the said Articles of Incorporation and By-Laws were, after due examination to determine whether they are in accordance with law, duly registered in this Commission on the 15th day of July, Anno Domini, 1996 Nineteen Hundred and ninety-six.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed at Mandaluyong, Metro-Manila, Philippines, this 15th day of July, in the year of our Lord nineteen hundred and ninety-six.



MRS. FRAULINE CAMILLE R. HERNANDEZ
TMBC - LEGAL & POLICY HEAD
CERTIFIED TRUE COPY

67086309

Elmora E. Adviento
ELNORA E. ADVIENTO

Director, Corporate and Legal Department

Authorized Signature
LAW DIVISION

Reviewed by: *[Signature]* Date: 15 July 1996

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DEPARTMENT OF FOREIGN AFFAIRS
OAMSS - General Records and Archive Division

15 NOV 2024

BENJAMIN B. BALAGSO
Signing Officer



REPUBLIC OF THE PHILIPPINES
SECURITIES AND EXCHANGE COMMISSION
 SEC Building, EDSA, Greenhills
 City Of Mandaluyong, Metro Manila

COMPANY REG. NO. A1996-02434

**CERTIFICATE OF FILING
 OF
 AMENDED ARTICLES OF INCORPORATION**

KNOW ALL PERSONS BY THESE PRESENTS:

This is to certify that the amended articles of incorporation of the

TOYOTA MANILA BAY CORPORATION

doing business under the name and style of:

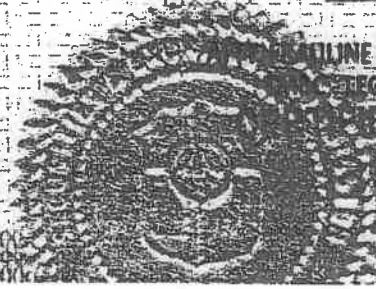
- A. TOYOTA MANILA BAY
- B. TOYOTA DASMARINAS - CAVITE
- C. TOYOTA ABAD SANTOS, MANILA
- D. TOYOTA CUBAO
- E. TOYOTA MARIKINA

(Formerly, TOYOTA MANILA BAY CORPORATION doing business under the name and style of:
 A. TOYOTA MANILA BAY B. TOYOTA DASMARINAS - CAVITE C. TOYOTA ABAD SANTOS, MANILA)
 (Amending Article I & III thereof.)

copy annexed, adopted on June 29, 2016 by majority vote of the Board of Directors and by the vote of the stockholders owning or representing at least two-thirds of the outstanding capital stock, and certified under oath by the Corporate Secretary and a majority of the Board of Directors of the corporation was approved by the Commission on this date pursuant to the provision of Section 16 of the Corporation Code of the Philippines, Batas Pambansa Blg. 68, approved on May 1, 1980, and copies thereof are filed with the Commission.

Unless this corporation obtains or already has obtained the appropriate Secondary License from this Commission, this Certificate does not authorize it to undertake business activities requiring a Secondary License from this Commission such as, but not limited to acting as broker or dealer in securities, government securities eligible dealer (GSED), investment adviser of an investment company, close-end or open-end investment company, investment house, transfer agent, commodity/financial futures exchange/broker/merchant, financing company and time shares/club shares/membership certificates issuers or selling agents thereof. Neither does this Certificate constitute as permit to undertake activities for which other government agencies require a license or permit.

IN WITNESS WHEREOF, I have set my hand and caused the seal of this Commission to be affixed to this Certificate at Mandaluyong City, Metro Manila, Philippines, this 26th day of September, Twenty Sixteen.



REGINE CAMILLE R. HERNANDEZ
 LEGAL & POLICY HEAD

[Signature]
FERDINAND B. SALES
 Director

Company Registration and Monitoring Department

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 DEPARTMENT OF FOREIGN AFFAIRS
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15 NOV 2024

BENJAMIN C. BALAGSO
 Signing Officer

AMENDED ARTICLES OF INCORPORATION
OF
TOYOTA MANILA BAY CORPORATION doing business
under the name and style of:

- A. TOYOTA MANILA BAY
- B. TOYOTA DASMARIÑAS-CAVITE
- C. TOYOTA ABAD SANTOS, MANILA
- D. TOYOTA CUBAO
- E. TOYOTA MARIKINA

(Formerly TOYOTA MANILA BAY CORPORATION doing business under the name and style of A.TOYOTA MANILA BAY, B.TOYOTA DASMARIÑAS-CAVITE and C.TOYOTA ABAD SANTOS, MANILA)

KNOW ALL MEN BY THESE PRESENTS:

That we, all of legal age, all of whom are citizens and residents of the Philippines, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the Republic of the Philippines.

AND WE HEREBY CERTIFY:

FIRST: That the name of the said corporation shall be TOYOTA MANILA BAY CORPORATION doing business under the name and style of:

- a. TOYOTA MANILA BAY
 - b. TOYOTA DASMARIÑAS-CAVITE
 - c. TOYOTA ABAD SANTOS, MANILA
 - d. TOYOTA CUBAO
 - e. TOYOTA MARIKINA
- (As amended on November 7, 2014.)

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SECOND: That the purpose or purposes for which the said corporation is formed are:

PRIMARY PURPOSE

To purchase and sell, trade, exchange, or otherwise dispose of, import, export, indent, distribute, market, service, repair and generally to deal in and engage in any commerce relating to automobiles, trucks, tractors and any and all kinds of motor vehicles, and automobile products of every kind and description, motor vehicle parts, accessories, instruments, tools, supplies and

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TMBC - LEGAL & POLICY HEAD
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OAMSS - General Records and Archive Division

15 NOV 2024


BENJAMIN B. BALAGSO
Signing Officer

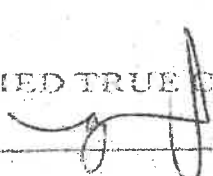
equipment, as well as industrial and engineering products; to build, construct, erect, install, buy, lease or otherwise hold or own shops and other buildings, constructions and structures of whatever kind and character necessary, convenient, suitable or necessary thereto; in general to do and perform any and all acts or work which may be necessary or advisable, related incidentally or directly, with the above business and object of this Corporation.

SECONDARY PURPOSE

1. To manufacture, purchase, or otherwise acquire, hold, own, store, mortgage, sell, import and export, assign and transfer, invest, trade, deal in and deal with goods, wares, merchandise and property of every class and description, such as, but not limited to, spare parts, tools, and accessories of, motor vehicles, except the manufacture of foods, drugs and cosmetics.
2. Without engaging in real estate business, to take, purchase, hire, lease, or otherwise acquire, hold, own, occupy, use, enjoy, manage, maintain, work, develop, sell, convey, mortgage or otherwise dispose of, without limit as to amount and without other restriction, within or without the Republic of the Philippines, and in any part of the world, real estate and real property, and any interests and rights therein.
3. To apply for, obtain, purchase, lease or otherwise acquire, and to hold, use own, operate, improve and introduce, and to sell, assign, hypothecate, mortgage or otherwise dispose of any letter patent, application for letters patent, license or grants in respect of letters patent, inventories, privileges, licenses, improvements, processes, trademarks and trade names, copyrights, devices and formulae, trademarks, copyrights and trade names, or the like, or any such property or rights, and to supervise or otherwise exercise such control over its said licenses and the business conducted by them, as may be agreed upon in its contracts with such licenses for the protection of its rights in said patents, applications for letter patent, inventions, privileges, processes, formulae, improvements, devices, trademarks, copyrights and trade names and to secure to it the payment agreed royalties, and to manufacture or deal in any article, product, or the like, or under any such patents, or any articles of any description used or suitable to be used in connection therewith.
4. To engage the services of technicians, counselors, professionals, employees, workers or agents as may be desired or needed in the conduct of the work of this Corporation.
5. To acquire by purchase, exchange or otherwise, all or any part of, or any interest in the properties, assets, business and goodwill of any one or more persons, firms, associations, corporation or syndicates, to pay for the same in cash, property of its own or other securities; to hold, operate, reorganize, liquidate, sell or in any manner dispose of the whole or any part thereof, and in connection therewith, to assume or guarantee performance of any liabilities, obligations or contracts of such person, firms, associations, corporation or syndicate, and to conduct in any lawful manner the whole or any part of any business thus acquired.
6. To borrow money and to make, issue, and sell or pledge notes, bonds, debentures, or other obligations and evidences of indebtedness, and to secure the same by mortgage, deed of trust, pledge or otherwise.


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15 NOV 2024


BENJAMIN B. BALAGSO
Signing Officer

7. To act as commercial or general agent, representative, broker or factor of, or to undertake the promotion and general management for, any person, corporation or other judicial entity, in carrying on any transaction or negotiations for any business of any nature whatever except the management of funds, securities portfolio and other similar assets of the managed corporation, firm or entity.
8. To carry on any other business transaction or operation which may seem to this Corporation, capable of being conveniently carried on in connection with the above, or calculated directly or indirectly to enhance the value of this Corporation's business, property or rights.
9. To have one or more branch offices to carry on all or any part of its operations and business, and unlimitedly and without restriction, to conduct its operations and business in the Republic of the Philippines and in any foreign country or place, subject to the laws therein.
10. To enter into, make, perform and carry out contract of every sort and kind with any person, firm, association, corporation, private, public or municipal, or body governmental or politic.
11. To use and apply its surplus earnings or accumulated profits to the purchase or acquisition of property of whatever kind, and to the purchase or acquisition of its own capital stock, from time to time, to such extent and in such manner and upon such terms as its Board of directors shall determine.
12. To do, in the Republic of the Philippines and in any other country, state or locality, all and everything necessary, suitable, convenient or proper for the accomplishment of any of the purposes or attainment of any one or more of the objects herein enumerated or incidental to the powers herein specified; or which shall at any time appear conducive to or expedient for the accomplishment of any of the purposes or attainment of any of the objects herein enumerated, or which may be exercised or done by this Corporation, whether conferred by any present or future statute, or by the By-Laws of this Corporation or any amendment thereof, and to the same extent as a natural person might or could do in any part of the world, insofar as the same are not inconsistent with the laws of the Republic of the Philippines or with the laws of the country, state or locality where the same shall be done by this Corporation and to execute from time to time such general or special power of attorney, and to such persons as the Board of Directors may deem proper, and to revoke such powers of attorney as and when the Board of Directors may desire.
13. The objects and purposes set forth in the foregoing clauses of this Article shall not, unless otherwise specified herein, be in any wise limited or restricted by reference to, or inference from, the terms of any other clause of this or any other Article in this Articles of Incorporation, but the objects and purposes specified in each of said clauses shall be regarded as independent object and purposes.

The foregoing clauses shall be construed as powers as well as objects and purposes, and the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner

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 OAMSS - General Records and Archive Division

15 NOV 2024

BENJAMIN B. BALAGSO
 Signing Officer

the general powers of this Corporation; and generally this Corporation shall be authorized to exercise and enjoy all other powers, rights and privileges granted by the Corporation Code of the Philippines, and all the powers conferred by all acts heretofore, or-hereafter amendatory of said Corporation Code or supplemental thereto, or the laws of the Republic of the Philippines now or hereafter in force.

THIRD: That the principal office of the said corporation shall be located at Roxas Boulevard corner EDSA Extension, Boulevard 2000, Pasay City.

That the branch offices are located at:

1. Aguinaldo Highway, Salitran, Dasmariñas, Cavite
2. 2210, Jose Abad Santos, Manila
3. 926 Aurora Blvd., Cubao, Quezon City
4. Sumulong Highway corner Toyota Avenue, Sto. Niño, Marikina City

FOURTH: That the term for which said corporation is to exist is fifty (50) years from and after the date of incorporation thereof.

FIFTH: That the names, citizenship and residences of the incorporators of the said corporation are as follows:

<u>Name</u>	<u>Citizenship</u>	<u>Residences</u>
Cesar I. Villanueva	Filipino	674 Notre Dame, Wack-Wack Village, Mandaluyong City
James Go	Filipino	14 Begonia St., Magallanes Village, Makati City
Alfredo P. Javellana II	Filipino	230 Anahaw St. Ayala Alabang Village, Muntinlupa City
Francisco G. Co	Filipino	20 Circumferential Rd., Araneta University Village, Potrero, Malabon
Vy Tonne So	Filipino	88 Magallanes Ave., Magallanes Village, Makati City

SIXTH: That the number of directors of the said corporation shall be ten (10) and that the names and residences of the directors of the corporation who are to serve until their successors are duly elected and qualified as provided for in the By-Laws are as follows (as amended unanimously by the Board of Directors on July 23, 2012 and approved by the stockholders representing 2/3 or 67 percent of the issued and outstanding stock on July 23, 2012.

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ATTY. FRAULINE CAMILLE R. HERNANDEZ
TMBC - LEGAL & POLICY HEAD
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15 NOV 2024

BENJAMIN BALAGSO
Signing Officer

<u>Name</u>	<u>Citizenship</u>	<u>Residences</u>
Cesar I. Villanueva	Filipino	674 Notre Dame, Wack-Wack Village, Mandaluyong City
James Go	Filipino	14 Begonia St., Magallanes Village, Makati City
Alfredo P. Javellana II	Filipino	230 Anahaw St. Ayala Alabang Village, Muntinlupa City
Francisco G. Co	Filipino	20 Circumferential Rd., Araneta University Village, Potrero, Malabon
Vy Tonne So	Filipino	88 Magallanes Ave., Magallanes Village, Makati City

SEVENTH: That the amount of authorized capital stock of the said corporation is ONE BILLION PESOS (P1,000,000,000.00), Philippine Currency, and said capital stock is divided into one billion (1,000,000,000.00) shares with a par value of ONE PESO Philippine Currency each.

Ownership of stocks in the corporation shall be subject to the following conditions, limitations and restrictions:*

A. Filipino Ownership: That no transfer of stock or interest which will reduce the ownership of Filipino citizens to less than the required percentage of the capital stock shall be allowed or permitted to be recorded in the proper book and this restriction shall be indicated in all the stock certificates of the corporation.*

B. Pre-Emptive Rights: That the stockholders shall have the pre-emptive right, but not the obligation, to subscribe to the newly issued shares or reissuance of shares by the corporation in proportion to its shareholding as of the date of the issuance.

In the event that any stockholder fails to subscribe to its proportionate share within the period prescribed by the Board, all the fully subscribing stockholders shall have the right to subscribe to the non-subscribing stockholder's shares in the proportion that their respective shareholding bears to the total shares of all the fully subscribing stockholders. This process shall be repeated until all the shares are subscribed by the fully subscribing stockholders in the proportion that their respective shareholding bears to the total shares of all the fully subscribing stockholders or when there are still shares that remain unsubscribed and there are no more subscribing stockholders. A fully subscribing stockholder shall exercise its right by giving written notice to the non-subscribing stockholders within one (1) month from such failure.

In the event that all the fully subscribing stockholders do not exercise the option to subscribe to the non-subscribing stockholder's allotment or when there are still shares that have not been

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OAMSS - General Records and Archive Division

15 NOV 2024

BENJAMIN B. BALAGSO
Signing Officer

subscribed by such fully subscribing stockholders, such remaining shares may be offered to any interested third party acceptable to the stockholders representing at least sixty one percent (61%) of the issued and outstanding shares of the corporation; *provided*, however, that such interested party shall agree to be bound by the provisions of these amended articles of incorporation and the transactions or agreements entered into by the stockholders with respect to such shares; *provided*, further, that the price of the unsubscribed shares shall be agreed upon by the stockholders representing at least sixty one percent (61%) of the issued and outstanding shares of

as amended unanimously by the Board of Directors on July 23, 2012 and approved by the stockholders representing 2/3 or 67 percent of the issued and outstanding stock on July 23, 2012.

the corporation; and *provided*, finally, that such interested third party must not violate Paragraph C, subparagraphs (7) and (8).*

C. **Restrictions:** That any sale, assignment, transfer, lease, exchange, donation, mortgage, pledge, encumbrance or other disposition of any shares of the corporation or any interest therein, except the transfer to a nominee of a stockholder to qualify such nominee to be a member of the board of directors of the corporation, shall be subject to the following conditions:

- (a) that no shares of stock against which the corporation holds an unpaid claim which is already due and demandable shall be transferable;
- (b) that such transfer shall comply with subparagraph 4 below regarding the first refusal right and that such right shall inure to the benefit to the nondivesting stockholders, except permitted transfers under paragraph G.
- (c) that such transfer shall comply with all consents, requirements and conditions precedent created in or imposed by, and shall not result in a breach or violation of, or an event of default or right of termination under, any material right, obligation, permit or agreement to which the corporation is a party, or give right to accelerate any indebtedness of the corporation;
- (d) that such transfer shall not result in a breach or violation of any applicable laws, these Articles of Incorporation and the By-Laws, both as amended;
- (e) that the transferee shall agree to be a party to any agreement between the stockholders of the corporation with regards to the corporation and execute a deed of which shall be duly notarized;
- (f) that all costs to the corporation or any other stockholder with respect to such transfer shall be paid by the transferee and/or the transferor, as appropriate;
- (g) that except for transfers to stockholders of the corporation, any transfer to any entity that is a direct competitor of the corporation shall be void;
- (h) that at all times, no entity can be the transferee of any shares of the corporation or have the right to subscribe to shares in the corporation if such entity is in direct competition in the Philippines with any member of the Metrobank Group or the Mitsui Group (both as defined in

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Signing Officer

Paragraph G); and

- (i) any transfer in violation of these conditions shall be null and void.*

D. First Refusal Right: That any stockholder may sell all or any part of the shares held by it to a third party only after first offering such shares to all the stockholders in the manner set forth below:

as amended unanimously by the Board of Directors on July 23, 2012 and approved by the stockholders representing 2/3 or 67 percent of the issued and outstanding stock on July 23, 2012.

(a) Any stockholder who wishes to sell, all or part of its shares to any person in response to any bona fide offer for the purchase of such shares from the proposed purchaser shall first offer such shares in writing to each of the non-selling stockholders in proportion to the non-selling stockholders' equity in the corporation specifying the number of shares, the sale price and the terms and conditions offered by the proposed buyer of the shares. Each non-selling stockholder shall have the right within sixty (60) days thereafter to purchase the entire portion of the shares being offered that it is entitled to purchase or any part of such portion at the same price and on the exact terms and conditions proposed by the proposed buyer to the selling stockholder; provided that in order to ensure compliance with the minimum shareholding ratio required to be held by Filipino entities, the non-selling stockholders may nominate qualified third party or parties to purchase the shares.

(b) If a non-selling stockholder fails to exercise its right to purchase, or to nominate a qualified third party in accordance with subparagraph (1) above, the entire portion of the shares being sold that it is entitled to purchase pursuant to subparagraph (1) above, the selling stockholder shall notify the proposed buyer that it may purchase the portion of the shares that has not been purchased by the non-selling stockholders at the same price and on the exact terms and conditions originally proposed. If the shares are not sold to the proposed buyer within thirty (30) days of the issuance of the notice of sale, then the rights of the non-selling stockholder under subparagraph (1) above shall fully restored and reinstated as is such offer had never been made and any further proposed sale or transfer must again follow the procedures set forth in this Article 7 prior to the sale of any of the shares to any third party, except for sales or transfers otherwise permitted under Paragraph G below.

(c) All disposals or transfers of shares must comply with Paragraph C above.

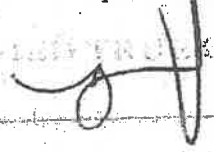
(d) The first refusal right shall not apply when the shares are to be sold, assigned, transferred or conveyed to those specified under Paragraph G below or an existing stockholder.*

E. Tag Along Right: In the event that a stockholder offers to sell its shares then such stockholder shall, within ten (10) days following the expiry of the sixty (60) day period referred to in Paragraph D above, give written notice of the same (the "Tag-Along Notice") to the non-selling stockholders if such non-selling stockholders have not elected to exercise their first refusal right under Paragraph D, subparagraph (1).

A declining stockholder may, upon its option, not later than ten (10) days after receipt of the Tag-


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Signing Officer

Along Notice (the "Tag-along Period"), deliver to the selling stockholder(s) a notice in writing invoking the provisions of this Article ("Tag-Along Demand"). The Tag-Along Demand shall be irrevocable and shall bind the declining stockholder to sell to the purchasing stockholder such number of shares (the "Tagging Shares") which the declining stockholder specified in the Tag-Along Demand.

For the avoidance of doubt, regardless of the number of shares sold, the Tagging Shares may be all or any portion of the shares held by the declining stockholder.

as amended unanimously by the Board of Directors on July 23, 2012 and approved by the stockholders representing 2/3 or 67 percent of the issued and outstanding stock on July 23, 2012.

If a declining stockholder delivers a Tag-Along Demand, then the selling stockholder shall not complete the sale to the proposed buyer unless the proposed buyer has delivered to the declining stockholder an acceptance in writing (the "Tag-Along Acceptance") to purchase the Tagging Shares from the declining stockholder. The proposed buyer must attach to the Tag-Along Acceptance, a certified true copy of its acceptance in writing, duly signed by its authorized officer to purchase the shares from the selling stockholder.

The Tag-along Acceptance shall contain only such terms and conditions as are the same to those upon which the selling stockholder proposes to sell the shares to the proposed buyer pursuant to Paragraph D, subparagraph (1) above; provided that the offer price per Tagging Share, which shall be specified in the Tag-Along Acceptance, shall be the same consideration as, or the cash equivalent of, the consideration per share at which the selling stockholder proposes to sell to the proposed buyer pursuant to Paragraph D above. The closing date and other closing arrangements for the purchase and sale transaction between the declining stockholder and the proposed buyer shall be specified in the Tag-along Acceptance and shall be the same, *mutatis mutandis*, as those specified between the proposed buyer and the selling stockholder.

The Tag-along Right in this Paragraph E shall not apply in case of any of the instances under Paragraph G below or to a nominee of a stockholder to entitle such nominee to be elected to the Board.*

F. **Mutatis Mutandis:** The provisions of these Amended Articles of Incorporation relating to shares shall apply *mutatis mutandis* to any shares or securities into which the shares may be converted, changed, reclassified, re-divided, re-designated, redeemed, subdivided or consolidated; to any shares or other securities that are received by a stockholder as a stock dividend or distribution payable in shares or other securities of the corporation; and to any shares or other securities of the corporation or of any successor in a reorganization, amalgamation, consolidation, or merger, statutory or otherwise.*

G. **Permitted Transfer:** Any transfer of:

(1) any stockholder to any member of the Metrobank Group shall be allowed, provided that written notice is given to Mitsui & Co. Ltd. ("Mitsui") at least thirty (30) days before any Transfer. As used in this Paragraph G, "Metrobank Group" shall refer to:

i. Metropolitan Bank & Trust Company ("Metrobank") and its Subsidiaries;

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Signing Officer

NINTH: That the following persons have paid on the shares of capital stock for which they have subscribed the amounts set out after their respective names, to wit:

<u>Names</u>	<u>Amount Paid on Subscription</u>
Cesar I. Valenzuela	P 50,000,000.00

as amended unanimously by the Board of Directors on July 23, 2012 and approved by the stockholders representing 2/3 or 67 percent of the issued and outstanding stock on July 23, 2012.

James Go	P 50,000,000.00
Alfredo P. Javellana II	P 50,000,000.00
Francisco G. Co	P 50,000,000.00
Vy Tonne So	P 50,000,000.00
Total	<u><u>P 250,000,000.00</u></u>

TENTH: That VY TONNE SO has been elected by the subscribers as Treasurer of the corporation to act as such until his successor is duly elected and qualified in accordance with the By-Laws of the corporation and that as such Treasurer, he has been authorized by the subscribers to receive for and in the name and for the benefit of the corporation, all subscriptions paid by the subscribers.

IN WITNESS WHEREOF, we have hereunto set our hands this June 14, 1996 at Makati City, Philippines.

(Sgd.) CESAR I. VALENZUELA

(Sgd.) JAMES GO

(Sgd.) FRANCISCO G. CO

(Sgd.) ALFREDO P. JAVELLANA II

(Sgd.) VY TONNE SO

Signed in the Presence of:

(Sgd.) SUSAN M. PARAGUYA

(Sgd.) CONSTANCIO S. MANGOBA

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
 MAKATI CITY) S.S.

BEFORE ME, personally appeared:

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ATTY. FRAULINE CAMILLE R. HERNANDEZ
 TMBC - LEGAL & POLICY HEAD
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15 NOV 2024

BENJAMIN B. BALAGSO
 Signing Officer

<u>Names</u>	<u>CTC Nos.</u>	<u>Date/Place Issued</u>
Cesar I. Valenzuela	11894736-C	01.09.96/Bacolod City
James Go	8166D	02.05.96/Manila
Alfredo P. Javellana II	14268339D	03.22.96/Makati
Francisco G. Co	8167D	02.05.96/Manila
Vy Tonne So	14282142D	04.10.96/Makati

know to me and to me known to be the same persons who executed the foregoing Articles of Incorporation and acknowledged to me that the same is their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal in Makati City this June 14, 1996.

Doc. No. 311;
Page No. 64;
Book No. XLV;
Series of 1996.

(Sgd.)
ROY Y. MARTELINO
Notary Public
Until December 31, 1996
PTR No. 0261637
Makati City
January 31, 1996

MITY. FRAULINE CAMILLE R. HERNANDEZ
TMBC - LEGAL & POLICY HEAD
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BENJAMIN B. SALAGSO
Signing Officer

<u>Names</u>	<u>CTC Nos.</u>	<u>Date/Place Issued</u>
Cesar I. Valenzuela	11894736-C	01.09.96/Bacolod City
James Go	8166D	02.05.96/Manila
Alfredo P. Jayellana II	14268339D	03.22.96/Makati
Francisco G. Co	8167D	02.05.96/Manila
Vy Tonne So	14282142D	04.10.96/Makati

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BENJAMIN B. BALAGSO
Signing Officer

INTEGRATED BAR OF THE PHILIPPINES



Surname
HERNANDEZ
Given Name
FRAULINE CAMILLE
Middle Name
REGLOS
Date of Birth
08.02.1987
Roll of Attorneys No.
69650
IBP Chapter
PPLM

Cardholder's Signature

This is to certify that the cardholder is a bonafide member of the INTEGRATED BAR OF THE PHILIPPINES (IBP), having full rights and privileges the organization may offer. By using this card, Cardholder signifies that he has read the Terms and Condition of membership and agrees to be bound by them. If found, please return to the nearest IBP office.


ATTY. BURT M. ESTRADA
National President


ATTY. DOROTEO LORENZO B. AGUILA
National Secretary

f
f
f

TOYOTA MANILA BAY



FRAULINE CAMILLE R. HERNANDEZ
LEGAL AND POLICY HEAD
LEGAL AND POLICY
EMPLOYEE NO: 100065



NOTE: FOR DFA PROMANMENT

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BENJAMIN B. BALAGSO
Signing Officer

Omnibus Sworn Statement (Revised)
[shall be submitted with the Bid]

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY **PASAY CITY**, S.

AFFIDAVIT

We, **TATSURO OKAZAKI**, President and **ALBERT JAMES ALIGADA**, FVP – General Admin and Treasury, Japanese and Filipino Citizens, respectively, both of legal age, married and with business address at Central Business Park, Roxas Boulevard, Brgy. 076, Pasay City, after having been duly sworn in accordance with law, do hereby depose and state that:

1. We are duly authorized and designated representative(s) of **TOYOTA MANILA BAY CORPORATION ("TMBC")** with office address at doing business under the name and style of **TOYOTA MANILA BAY, TOYOTA DASMARINAS-CAVITE, TOYOTA ABAD SANTOS, MANILA, TOYOTA CUBAO and TOYOTA MARIKINA**, a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Central Business Park, Roxas Boulevard, Brgy. 076, Pasay City, Philippines;
2. As the authorized and designated representative(s) of **TOYOTA MANILA BAY CORPORATION ("TMBC")**, we have full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for **NEGOTIATED PROCUREMENT FOR ONE (1) MOTOR VEHICLE FOR THE OFFICIAL USE OF THE SECRETARY FOR FOREIGN AFFAIRS** of the Department of Foreign Affairs, as shown in the attached notarized Secretary's Certificate.
3. **TMBC** is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board; by itself or by relation, membership, association, affiliation, or controlling interest with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;
4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
5. **TMBC** is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;
6. None of the officers, directors, controlling stockholders of **TMBC** is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;
7. **TMBC** complies with existing labor laws and standards; and
8. **TMBC** is aware of and has undertaken the following responsibilities as a Bidder:
 - a) Carefully examine all of the Bidding Documents;
 - b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
 - c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and
 - d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the **NEGOTIATED PROCUREMENT FOR ONE (1) MOTOR VEHICLE FOR THE OFFICIAL USE OF THE SECRETARY FOR FOREIGN AFFAIRS.**


DEPARTMENT OF FOREIGN AFFAIRS
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Signing Officer

9. TMBC did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.
10. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code.


IN WITNESS WHEREOF, I have hereunto set my hand this 04 OCT 2024 of 04 OCT 2024, 2024 at Pasay City, Philippines.


ALBERT JAMES C. ALIGADA
 FVP for General Admin and Treasury


TATSURO OKAZAKI
 President

SUBSCRIBED AND SWORN to before me in the City/Municipality of PASAY CITY this 04 OCT 2024 day of 04 OCT 2024 by **TATSURO OKAZAKI** with Passport No. TR8058080 valid until April 11, 2027, and **ALBERT JAMES C. ALIGADA** Driver's License No. N01-96-200231 valid until July 31, 2027, respectively, duly representing Toyota Manila Bay Corporation with Tax Identification No. 004-676-716-00000, that they are the same persons who personally signed before me the foregoing Affiant and acknowledged that they executed the same.

Doc No. 187 ;
 Page No. 39 ;
 Book No. 3 ;
 Series of 2024.


ATTY. LOVELY MAY B. JANGUIN
 Commission No. 23-52
 Notary Public for Pasay City
 Until December 31, 2024
 U1014 Balagtas Royale Mansions
 Balagtas St. Brgy. 15 Pasay City 1303
 Roll # 86073/5-2-2023
 PTR # 8225568/5-10-2023; Pasay City
 IBP No. 344283/05-10-2023; Pasig City
 MCLE (for compliance - admitted to the bar 2023)

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BENJAMIN B. BALAGSO
 Signing Officer



DEPARTMENT OF FOREIGN AFFAIRS
KAGAWARAN NG UGNAYANG PANLABAS



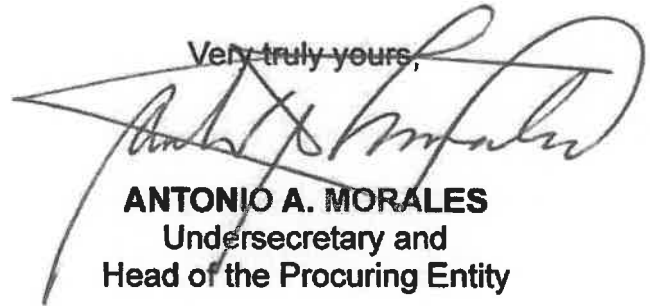
10 October 2024

NOTICE OF AWARD

Ma'am:

Please be informed that upon the recommendation of the Department of Foreign Affairs Bids and Awards Committee (DFA BAC) as contained in its Resolution No. EBB-PB-20-2024 dated 10 October 2024, the Department is awarding the *Contract on the Negotiated Procurement of One (1) Motor Vehicle for the Official Use of the Secretary for Foreign Affairs* to **Toyota Manila Bay Corporation** in the total amount of **Four Million Seven Hundred Ninety-Two Thousand Four Hundred Twenty-Three Pesos and 43/100 (PhP 4,792,423.43) only**, including taxes and other lawful charges.

Very truly yours,



ANTONIO A. MORALES
Undersecretary and
Head of the Procuring Entity

Ms. LORELEI H. TAYAB
Group Retail Manager/Authorized Representative
Toyota Manila Bay Corporation
Central Business Park, Roxas Boulevard
Brgy. 076, Pasay City
Email: l.tayab@toyotamanilabay.com.ph

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BENJAMIN C. SALAGSO
Signing Officer

Bid Form for the Procurement of Goods
[shall be submitted with the Bid]

BID FORM

Date : October 3, 2024

Project Identification No.: NP-GS-02-2024

To: DFA-BAC Secretariat
Department of Foreign Affairs
12th Floor, DFA Main Building
2330 Roxas Boulevard, Pasay City 1300

Having examined the Philippine Bidding Documents (PBDs) including the Supplemental or Bid Bulletin Numbers [1], the receipt of which is hereby duly acknowledged, we, the undersigned, offer to *[supply/deliver/perform]* *[description of the Goods]* in conformity with the said PBDs for the sum of **FIVE MILLIION FIVE HUNDRED FIFTY THOUSAND PESOS (Php 5,550,000.00)** or the total calculated bid price, as evaluated and corrected for computational errors, and other bid modifications in accordance with the Price Schedules attached herewith and made part of this Bid. The total bid price includes the cost of all taxes, such as, but not limited to: *[specify the applicable taxes, e.g. (i) value added tax (VAT), (ii) income tax, and (iii) local taxes, which are itemized herein or in the Price Schedules,*

If our Bid is accepted, we undertake:

- a. to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements of the Philippine Bidding Documents (PBDs);
- b. to provide a performance security in the form, amounts, and within the times prescribed in the PBDs;
- c. to abide by the Bid Validity Period specified in the PBDs and it shall remain binding upon us at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and Address of Agent	Amount and Currency	Purpose of Commission or Gratuity
<u>NONE</u>		

Until a formal contract is prepared and executed, this BID, together with your written acceptance thereof and the Notice of Award, shall be binding upon us.

We understand that you are not bound to accept the Lowest Calculated Bid or any Bid you may receive.

We certiiy/ confirm that we comply with the eligibility requirements as stated in the Bidding Documents.

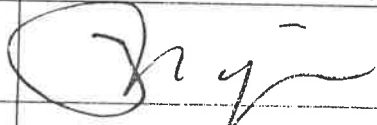
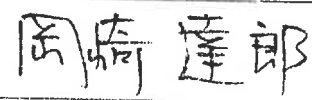
We likewise certify/confirm that the undersigned, is granted full power and authority by Toyota Manila Bay, to participate, submit the bid, and sign and execute the ensuing contract on the latter's behalf for the abovementioned Project of the Government Service Insurance System

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

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BENJAMIN B. BALAGSO
Signing Officer

Name	Albert James C. Aligada	Tatsuro Okazaki
Legal Capacity	FVP for General Admin & Treasury	President
Signature		
Duly Authorized to sign the Bid for and on behalf of	TOYOTA MANILA BAY CORPORATION	
Date	October 3, 2024	

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DEPARTMENT OF FOREIGN AFFAIRS
OAMSS - General Records and Archive Division

15 NOV 2024

BENJAMIN B. PALAGSO
Signing Officer



DEPARTMENT OF FOREIGN AFFAIRS
KAGAWARAN NG UGNAYANG PANLABAS

OFFICE OF FINANCIAL MANAGEMENT SERVICES

CERTIFICATE OF AVAILABILITY OF FUNDS

This is to certify that the amount of **FIVE MILLION FIVE HUNDRED FIFTY THOUSAND PESOS ONLY (PhP5,550,000.00)** is available to cover the cost of one (1) Motor Vehicle for the official use of the Secretary of Foreign Affairs, chargeable against **OAMSS' FY 2024 CAPITAL OUTLAY** for **Motor Vehicle**, pursuant to FY 2024 General Appropriations Act (GAA) (R.A. No. 11975) and subject to existing budgeting, accounting, auditing and government procurement laws, rules and regulations.

Funds provided for the purpose will be valid up to **31 December 2024**.

This Certification is issued for whatever lawful purpose it may serve.


MINDARADAT R. MAMAD
Department Chief Accountant

05 24 - 0010
BUDGET DIVISION-CAF
13 June 2024

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ANNEX A

TECHNICAL SPECIFICATIONS

**PROCUREMENT OF ONE (1) MOTOR VEHICLE
FOR THE OFFICIAL USE OF THE SECRETARY FOR FOREIGN AFFAIRS**

I.	Background The Department intends to procure one (1) motor vehicle for the official use of the Secretary for Foreign Affairs.	
II.	Scope The Contractor shall deliver one (1) brand new motor vehicle to be used for the official functions of the Secretary for Foreign Affairs.	
III.	Vehicle Specifications	Statement of Compliance
	Type of motor vehicle	Passenger Van Comply
	Color	Black Comply
	Overall Dimensions	Not to exceed 5,100 mm (length) x 1,850 mm (width) x 1,950 mm (height) Comply
	Engine Displacement	Not to exceed 2500 cc Comply
	Engine Type	Hybrid, 4-cylinder, In-Line, 16-valve DOHC Comply
	Fuel Type	Gasoline Comply
	Fuel Tank Capacity	60 to 65 Liters Comply
	Maximum Output	188/6000 ps/rpm Comply
	Transmission	Continuously Variable Transmission (CVT) Comply
	Drive Mode Select	Normal, Economical (Eco) Mode, Electric Vehicle (EV) Mode Comply
	Seating Capacity	Seven (7), including the Driver Comply
	Safety Features	Top of the line safety features. Pre-Collision System, Automatic High Beam (AHB), Adaptive High Beam System (AHS), Lane Tracing Assist (LTA), Lane Departure Alert (LDA), Cruise Control Comply
	Airbags (Supplemental Restraint System)	Driver, Front Passenger, Driver Side, Passenger Side, Curtain Shield Comply
	Anti-Lock Brake System (ABS)	built-in Comply

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	Brake Type	fr/r ventilated disc (both)	Comply
	Electronic brake force distribution	built-in	Comply
	Brake assist	built-in	Comply
	Tires	19-inch Alloy	Comply
	Suspension	fr/r macpherson strut / double wishbone	Comply
	Drivetrain	Front-wheel drive (FWD)	Comply
	Front and rear parking sensors	built-in	Comply
	Camera	Panoramic View Monitor	Comply
	Anti-theft alarm system	Engine immobilizer	Comply
	Air-conditioning system	Dual zone climate control, Auto climate control	Comply
	Seat Type	Captain Seats; Leather Seats; Black	Comply
	Entertainment system	14-inch touch screen infotainment system Premium 15 speakers sound system	Comply
	Tint	Windshield: tinted Windows: tinted	Comply
	Matting	Carpet matting	Comply
	Performance	Rated as reliable car according to consumer reports.	
IV.	Contractor's Qualification The Contractor must be at least five (5) years in business as authorized dealer of brand new car/s, within Metro Manila area only.		Comply
V.	Other Obligations of the Contractor		
	The Contractor must provide one (1) brand new unit of passenger van, free of decals, stickers or design.		Comply
	The contractor must facilitate the registration of the motor vehicle with the Land Transportation Office (LTO) for the first three (3) years.		Comply
	The Contractor shall assist the Department in the application for insurance of the motor vehicle with the Government Service Insurance System (GSIS).		Comply

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VI.	<p>Delivery Period</p> <p>Delivery of the motor vehicle shall be completed within thirty (30) calendar days, or as legally and mutually agreed by the Department and the Contractor.</p> <p>The Contractor shall assist in the delivery of the registered plate number to the Department once it becomes available.</p> <p>Delivery shall be subject to the usual inspection procedures of the Department.</p> <p>The Department reserves the right to not accept the vehicle if found to be with defects or non-compliant with the Terms of Reference upon inspection. The Contractor shall correct or replace the vehicle within fifteen (15) days from notice of the End-User.</p>	Comply
VII.	<p>Warranty</p> <p>The motor vehicle shall be covered by three (3) years warranty or 100,000 kilometers, whichever comes first.</p>	Comply
VIII.	<p>Bid Price</p> <p>The Bidder shall submit, as part of its bid:</p> <ol style="list-style-type: none"> 1. Price of the motor vehicle 2. Insurance Coverage application with the Government Service Insurance System (GSIS) 3. Land Transportation Office (LTO) registration 4. Maintenance cost for the first year 	Comply
IX.	<p>Terms of Payment</p> <ol style="list-style-type: none"> 1. Payment will be made within thirty (30) working days upon receipt of required documents and will be audited by the Office of Financial Management System-Financial Resource Management Division (OFMS-FRMD). Payments shall be made through List of Due and Demandable Accounts Payable (LDDAP). 2. The list of documentary requirements needed for payment will be provided by OFMS-FRMD upon signing of the contract. <p>All payment shall be inclusive of Value-Added Tax (VAT) and other applicable taxes and lawful charges.</p>	Comply


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Note:

Bidders must state here either "Comply" or "Not Comply" against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of "Comply" or "Not Comply" must be supported by evidence in a Bidders Bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer's un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc., as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the Bid under evaluation liable for rejection. A statement either in the Bidder's statement of compliance or the supporting evidence that is found to be false either during Bid evaluation, post-qualification or the execution of the Contract may be regarded as fraudulent and render the Bidder or supplier liable for prosecution subject to the provisions of ITB Clause 3.1(a)(ii) and/or GCC Clause 2.1(a)(ii)

Conformé:


MS. LORELEI H. TAYAB
Group Sales Manager
Date: October 3, 2024

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Section IV. General Conditions of Contract

Notes on the General Conditions of Contract

The GCC in Section IV, read in conjunction with the SCC in Section V and other documents listed therein, should be a complete document expressing all the rights and obligations of the parties.

The GCC herein shall not be altered. Any changes and complementary information, which may be needed, shall be introduced only through the SCC in Section V.

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29. CONTRACT AMENDMENT63
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1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the SCC.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the SCC.
- (j) The "Funding Source" means the organization named in the SCC.
- (k) "The Project Site," where applicable, means the place or places named in the SCC.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of signing the contract, however the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.

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- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the HoPE setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. Unless otherwise provided in the SCC, the Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.

(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

(iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.

(iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(v) "obstructive practice" is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an

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administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

(bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

4. Governing Law and Language

4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the

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SCC, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.

- 5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC for GCC Clause 5.1.

6. Scope of Contract

- 6.1. The Goods and Related Services to be provided shall be as specified in Section VI. Schedule of Requirements.
- 6.2. 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 herein. Any additional requirements for the completion of this Contract shall be provided in the SCC.

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under **ITB Clause 12** and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.

8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with **GCC Clause 6**.

9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon

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prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.

- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with GCC Clause 29.

10. Payment

- 10.1. Payments shall be made only upon a certification by the HoPE to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the SCC provision for GCC Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to GCC Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. Payments shall be in accordance with the schedule stated in the SCC.
- 10.4. Unless otherwise provided in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.
- 10.5. Unless otherwise provided in the SCC, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the SCC. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.

11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the SCC, the terms of payment shall be as follows:

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- (a) **On Contract Signature:** Fifteen Percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.
- (b) **On Delivery:** Sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the SCC provision on Delivery and Documents.
- (c) **On Acceptance:** The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the Procuring Entity's authorized representative within forty five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the SCC provision on Delivery and Documents.

12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

13. Performance Security

- 13.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the ITB Clause 33.2.
- 13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:
 - (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;

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- (b) The Supplier has no pending claims for labor and materials filed against it; and
- (c) Other terms specified in the SCC.

13.5. In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

14. Use of Contract Documents and Information

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the Section VII. Technical Specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

- 16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The SCC and Section VII. Technical Specifications shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.

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- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the SCC. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price or other such amount if so specified in the SCC. The said amounts shall only be released after the lapse of the warranty period specified in the SCC; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in GCC Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity

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may have against the Supplier under the Contract and under the applicable law.

18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in Section VI. Schedule of Requirements.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under GCC Clause 22, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.
- 18.3. Except as provided under GCC Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 19, unless an extension of time is agreed upon pursuant to GCC Clause 29 without the application of liquidated damages.

19. Liquidated Damages

Subject to GCC Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the Procuring Entity may rescind or terminate the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

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- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

- 21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the SCC.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Supplier could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

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23.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:

- (a) 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 Procuring Entity 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) 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; or
- (c) The Supplier fails to perform any other obligation under the Contract.

23.2. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 23 to 26, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.

23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier 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, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

25. Termination for Convenience

25.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The HoPE may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make 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.

25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of

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Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:

- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.

25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.

26. Termination for Unlawful Acts

26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in ITB Clause 3.1(a);
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

27.1. The following provisions shall govern the procedures for termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the HoPE shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:

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- (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
 - (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
 - (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
 - (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
 - (g) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE; and
 - (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

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29. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

30. Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

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