

MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT is made and entered into this 20th day of September 2012 by and between:

The **TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA)** a national government agency created and existing under and by virtue of Republic Act No. 7796 with principal address at TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila, Philippines, represented herein by its **Director General, Secretary EMMANUEL JOEL J. VILLANUEVA**, and hereinafter referred to as the "**FIRST PARTY**";

- and -

TOYOTA COMMONWEALTH INCORPORATED, a private business entity, registered under the laws of the Republic of the Philippines with business address at Commonwealth Avenue., Matandang Balara, D3, Quezon City, herein represented by its President, **LINCOLN T. LIM**, and hereinafter referred to as the "**SECOND PARTY**".

- WITNESSETH -

WHEREAS, the **FIRST PARTY** through its Bids and Awards Committee (BAC) issued and posted an Invitation to apply for Eligibility and to Bid (IAEB) in the Philippine Star and in the Philippine Government Electronic Procurement System (PHILGEPS) on 14 August 2012 in compliance with Section 21 of the Revised Implementing Rules and Regulations of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, for the procurement of TESDA service vehicles;

WHEREAS, during the bid opening, only the **SECOND PARTY** submitted its bid and was declared eligible pursuant to Sections 23 and 25 of Rule VIII on Eligibility Requirements and Submission of Bids, respectively;

WHEREAS, the bid of the **SECOND PARTY** amounting to **Nineteen Million Eight Hundred Four Thousand Pesos (Php19,804,000.00)** has satisfactorily passed the legal, financial and technical requirements set forth by Section 34 of the Revised Implementing Rules and Regulations of Republic Act No. 9184 and the bidding documents;

WHEREAS, pursuant to Section 36 (a) of the Revised Implementing Rules and Regulations of Republic Act No. 9184, the bid offered by the **SECOND PARTY** has been found to be the single calculated and responsive bid;

WHEREAS, the recommendation to award the contract in favor of the **SECOND PARTY** through BAC Resolution No. 16-2012 had been elevated by the Director General to the TESDA Board for approval;

WHEREAS, the TESDA BOARD approved the award of contract to the **SECOND PARTY** in the amount of **Nineteen Million Eight Hundred Four Thousand Pesos (Php19,804,000.00)** through Board Resolution No. 2012-08 issued on 17 September 2012;

NOW, THEREFORE, for and in consideration of the foregoing, this Agreement is entered by and between the **FIRST PARTY** and the **SECOND PARTY** with the following covenants, to wit:

GENERAL PROVISIONS:

1. The **SECOND PARTY** shall supply and deliver the twenty (20) units of Innova-J diesel with 2.5 liters displacement prescribed in the bidding documents within thirty (30) calendar days from receipt of the notice to proceed;
2. The **FIRST PARTY** shall pay the amount of Nineteen Million Eight Hundred Four Thousand Pesos (Php19,804,000.00) after delivery of all the vehicles prescribed in the bidding documents and acceptance by the **FIRST PARTY**. A certificate of acceptance as to the completeness of the delivery and compliance with the requirements prescribed by the **FIRST PARTY** shall be issued by the Inspection and Acceptance Team that will be created by the **FIRST PARTY**. At any rate, payment shall be made in accordance with government accounting and auditing rules and regulations;
3. The following documents shall be deemed to form and be read and construed as part of this Agreement:
 - (a) Bidding Documents;
 - (b) BAC Resolution No. 16-2012 dated 10 September 2012;
 - (c) TESDA Board Resolution No. 2012-08 dated 17 September 2012;
 - (d) Notice of Award dated 18 September 2012;
 - (e) Performance Security; and
 - (f) Notice to Proceed dated 21 September 2012.
4. The vehicles subject of the delivery shall be covered by the provisions of Republic Act No. 9184 and its Revised Implementing Rules and Regulations on warranty.
5. Any delay in the delivery of goods shall be governed by Section 68 (Liquidated Damages) of the Revised Implementing Rules and Regulations of Republic Act No. 9184.
6. Cost of applicable taxes, deployment and insurance of the vehicles shall be shouldered by the **SECOND PARTY**.
7. The obligations and rights arising from this contract shall not be assigned and transferred by the **SECOND PARTY** to any third party without written consent of the **FIRST PARTY**.
8. The vehicles subject of this procurement shall be replaced by the **SECOND PARTY** if the same are found to be defective within thirty (30) calendar days from delivery. However, the defect must be not attributable to the fault or negligence of the **FIRST PARTY** or any of its agents.

9. Upon delivery, the **SECOND PARTY** shall immediately attend to the maintenance and repair needs of the vehicles once reported to the **SECOND PARTY** and its authorized service centers.

IN WITNESS whereof, the parties hereto have caused this Agreement to be executed in accordance with the laws of the Republic of the Philippines on the day and year indicated above.

TECHNICAL EDUCATION AND SKILLS
DEVELOPMENT AUTHORITY

TOYOTA COMMONWEALTH
INCORPORATED





SEC. EMMANUEL JOEL J. VILLANUEVA
Director General


LINCOLN T. LIM
President

SIGNED IN THE PRESENCE OF:


TITO L. BARTOLOME
TESDA


Jennifer M. Gonzalez
TOYOTA