

**CONTRACT AGREEMENT
(Upgrading of IT Network Phase II)**

THIS AGREEMENT is made and entered into by and between:

The **UNIVERSITY OF THE PHILIPPINES**, the national university of the Philippines, created by virtue of Act No. 1870, as amended and re-organized and operating by virtue of Republic Act No. 9500, otherwise known as "The University of the Philippines Charter of 2008" with principal office address at Quezon Hall, UP Diliman, Quezon City represented herein by its President, **DANILO L. CONCEPCION**, hereinafter referred to as the "**UNIVERSITY**";

and

The **TRENDS AND TECHNOLOGIES, INC.**, an entity duly organized and existing under the laws of the Republic of the Philippines, with address at Door #3, Second Floor, Building 1 ATU Plaza, Governor V. Duterte Street, Davao City, represented herein by its Project Manager, **MS. REGINA SILVERIO**, hereinafter referred to as the "**CONTRACTOR**".

COA UP - MIN
RECEIVED
DATE: MAR 28 2022
TIME: _____
BY: _____

WHEREAS, the UNIVERSITY is desirous that the CONTRACTOR executes **Upgrading of IT Network Phase II**, hereinafter called "the Work" and the UNIVERSITY has accepted the Bid for **Forty-Two Million Eight Hundred Thirty Thousand Pesós (P42,830,000.00)** by the CONTRACTOR for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as the respectively assigned to them in the Conditions of contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as integral part of this Agreement, to wit:
 - (a) The Contractor's Bid, including the Technical and Financial Proposals, and all other documents/statement submitted (e.g. bidder's response to clarifications on the bid), including corrections to the bid resulting from the University Bid Evaluation;
 - (b) The Schedule of Requirements;
 - (c) The General Conditions of Contract;
 - (d) The Special Conditions of Contract;
 - (e) The Performance Security; and
 - (f) The University Notice of Award
3. **PAYMENTS** - In consideration of the payments to be made by the UNIVERSITY to the CONTRACTOR as hereinafter mentioned, the CONTRACTOR hereby covenants with the UNIVERSITY to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

The UNIVERSITY hereby covenants to pay the CONTRACTOR without delay in consideration of the provision of the goods and services and the remedying of defects therein as provided in the Contract, the Contract Price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed by the contract.

The Contract Price is inclusive of all duties, taxes, license premiums, fees and charges which may accrue by virtue of the WORK, such as but not limited to permit and registration fees, municipal and personal property taxes, fees for storage or consumption, employment taxes, payments and contribution imposed by law and insurance. All such fees shall be for the account of the CONTRACTOR.

Any exemption in the payment of the foregoing shall be credited to the UNIVERSITY. The CONTRACTOR is obligated to inform the UNIVERSITY in writing of any exemption obtained or granted to it with respect to taxes, licenses, and other fees. The CONTRACTOR shall pay all cost incurred in the preparation of this Agreement, including notarial fees.

No changes shall be made on the contract price by reason of escalation in currency, the price of materials, tolls, equipment, or labor supervising during the course of the work, except under conditions specified by Law. Any adjustment in the Contract Price shall be done in accordance with guidance provided by law.

Upon receipt by the UNIVERSITY of CONTRACTOR's written advice on the completion of the Work and all require documents or any phase thereof, UNIVERSITY, acting reasonably, will conduct such relevant inspections and tests within Ten (10) working days for the purpose of demonstrating that the Work or any phase thereof conforms to the

specifications provided in this Agreement. Acceptance shall be issued within Ten (10) working days upon the reasonable satisfaction of the UNIVERSITY. If upon the lapse of such period, no acceptance has been issued, such Work or the phase shall be deemed completed and accepted by the UNIVERSITY.

In the event of any deficiency, the UNIVERSITY shall without delay notify the CONTRACTOR, and the CONTRACTOR shall take necessary corrective action.

The procedure under this section shall be repeated as necessary until UNIVERSITY's acceptance of the Work or each phase thereof.

4. **PERIOD OF WORK** - The CONTRACTOR shall complete the aforementioned WORK within Two Hundred Seventy (270) calendar days from approval of the Project Management Plan ready for use of UNIVERSITY unless prevented by causes like strikes, accidents, typhoons, floods and other natural calamities, events beyond the reasonable control of the Parties, or other unforeseen events, which render the work incapable of completion, in which case UNIVERSITY shall have the power to extend the time and shall certify accordingly. UNIVERSITY acknowledges that CONTRACTOR shall not be responsible or be held liable for any delay or failure to deliver any of WORK or any part thereof if such delay or failure is attributable to the fault of the UNIVERSITY including, a breach by UNIVERSITY of its obligations in this Agreement and failure to provide required inputs in a timely or comprehensive manner.

Except as otherwise stated above, no extension of contract time whatsoever shall be granted to the CONTRACTOR due to ordinary/unfavorable conditions, non-availability of equipment or materials to be furnished by it, labor problems and such causes for which the UNIVERSITY is not directly responsible, or when time-affected activities do not fall within the critical part of the network. The Provisions of RA 9184 and its IRR shall apply in case of suspension of work.

5. **SUBCONTRACT** - The CONTRACTOR shall not assign, transfer, pledge, convey, subcontract or make any other disposition of the Contract or any part or interest therein under this Contract without the consent of the UNIVERSITY.
6. **LIQUIDATED DAMAGES** - In the event the CONTRACTOR refuses or fails to deliver within the time herein specified, or within the period or extension that may be granted by UNIVERSITY, if any, UNIVERSITY is hereby authorized to deduct liquidated damages from any amount due under this contract subject to prior written notice.


To be entitled to such liquidated damages, UNIVERSITY does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due to the CONTRACTOR under the Contract and/or collect such liquidated damages from the securities posted by the CONTRACTOR whichever is convenient to UNIVERSITY.

The amount of liquidated damages to be paid by the CONTRACTOR shall be ONE TENTH OF ONE PERCENT (1/10 of 1 %) maximum of ten percent (10%) of the cost of the unperformed portion of the works for every day of delay until such Work is finally delivered to the UNIVERSITY acting reasonably.

The provisions of RA 9184 and its IRR on liquidated damages shall apply in case of liquidated damages.

7. **VIOLATION OF TERMS AND CONDITIONS** - If the CONTRACTOR in any manner neglects or fails to perform any agreement herein stipulated, UNIVERSITY shall give written notice to the CONTRACTOR to proceed with such work and to perform such agreement, and if it shall fail to do so accordingly within five (5) days from receipt thereof, and the Project Engineer shall certify that such failure is sufficient ground for action, it shall be lawful for UNIVERSITY to enter upon the premises and to complete the work contemplated under this Contract, and to use or authorize such other contractor or person to use thereof any tools, materials and property of the CONTRACTOR in such event shall be liable to UNIVERSITY for the amount incurred in excess of the contract price plus other damages UNIVERSITY may suffer by reason thereof.
8. **LIABILITY CLAUSE** - The UNIVERSITY shall not be liable for any damage or prejudice caused to third persons arising out of or related to the contract, provided that there was no negligence or willful misconduct on the part of the UNIVERSITY.

Notwithstanding anything to the contrary in this Agreement, in no event will a Party be liable for any personal injury, loss of anticipated revenues or profits or for any indirect, incidental, or consequential damages. Subject to the foregoing and notwithstanding anything to the contrary elsewhere contained herein, the maximum liability of the Parties shall be, regardless of the form of claim, the contract value of the particular service and/or product/good that caused the liability.



9. **RISK AND TITLE**

Risk of loss of and damage to the products/goods shall pass to the UNIVERSITY upon delivery. However, until and unless full payment is made by UNIVERSITY for the products/goods, title thereto remains vested upon CONTRACTOR

10. **WARRANTY**

If the services are not provided as specified in the Agreement, CONTRACTOR will re-perform the services or credit the UNIVERSITY with the amount paid for the non-conforming services.

Warranty for the products/goods shall be as specified by the manufacturer of the products/goods. CONTRACTOR will repair or replace ("Replacement Product") any product/good that: (a) UNIVERSITY has notified CONTRACTOR does not comply with the manufacturer's warranty during the applicable warranty period; and (b) CONTRACTOR has confirmed to be defective. The Replacement Product shall carry the remaining warranty of the original product/good.

11. **INTELLECTUAL PROPERTY**

UNIVERSITY acknowledges that programs and software in any product/good shall remain subject to a license granted by either CONTRACTOR or the owner of the software and no transfer of ownership of such program or software shall occur. All programs and software shall be used in accordance with the terms of the license agreement accompanying them. Each party retains the ownership of its pre-existing intellectual property rights.

12. **CONFIDENTIALITY**

During the term of this Agreement, a party may from time to time disclose ("Disclosing Party") to the other party ("Receiving Party") certain Confidential Information (as hereinafter defined) of the Disclosing Party. Except as expressly permitted by this Agreement, the Receiving Party shall protect the Confidential Information of the Disclosing Party from unauthorized use; dissemination or publication, using the same degree of care which the Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care. For purposes of this Agreement, the term "Confidential Information" shall mean (a) a party's product plans and strategies, designs, costs, prices and names, non-published financial information, marketing plans, business opportunities, personnel, research, development, know-how and related non-technical business information; (b) any information designated by the Disclosing Party as confidential in writing or, if disclosed orally, designated as confidential at the time of disclosure and reduced to writing and designated as confidential in writing within thirty (30) days; and (c) the terms and conditions of this Agreement; provided, however, that "Confidential Information" will not include information that: (i) is or becomes generally known or available by publication, commercial use or otherwise through no fault of the Receiving Party; (ii) is known and has been reduced to tangible form by the Receiving Party at the time of disclosure and is not subject to restriction; (iii) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; (iv) is lawfully obtained from a third party who has the right to make such disclosure; or (v) is released for publication by the Disclosing Party in writing.

13. **TERMINATION**

This contract shall be terminated based on the grounds and procedure as specified under the Republic Act No. 9184 and its Implementing Rules and Procedure.

14. **FORCE MAJEURE**

Each Party acknowledges that the other Party shall not be liable in any way whatsoever for delays or failure in performance resulting from acts beyond its reasonable control which may not be overcome by its due diligence. Such acts shall include but not be limited to acts of God, strikes, lock outs, labor disputes, material shortages, riots, acts of war, governmental regulation imposed after the fact, flood, fire, earthquake, power supply disturbances, blackouts, or other such natural disasters. The obligations of a Party in so far 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 Agreement.

15. **AMENDMENTS AND REVISIONS** – All amendments or revision of any provision of this contract shall be upon the prior written consent of both parties subject to the execution of an appropriate instrument for the purpose.


IN WITNESS whereof the parties thereto have caused this Agreement to be executed this 24 MAR 2022 (date).

UNIVERSITY OF THE PHILIPPINES

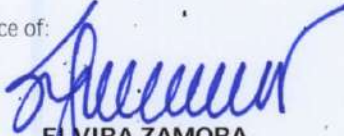
TRENDS AND TECHNOLOGIES, INC.

By: 
DANILO L. CONCEPCION
President

By: 
REGINA SILVERIO
Sr. Account Manager


LARRY N. DIGAL, Ph.D.
Chancellor
UP Mindanao

Signed in the presence of:


ELVIRA ZAMORA
Vice President for Development
OVPD

Republic of the Philippines)
City of DAVAO CITY ss.
X-----X

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in the City of DAVAO CITY, personally appeared the following persons, to wit:

Name	Gov't Issued ID	Date Issued
1. Danilo L. Concepcion	<u>PASAPORT</u>	<u>PG199766A</u>
2. Regina Silverio		

known to me and to me known to be the same persons who executed the foregoing instrument and acknowledged to me that the same is their free and voluntary act and deed and that it is within the authority of the entities they respectively represent in this instance.

This instrument consisting of three (3) pages including this page where the Acknowledgment is written, refers to a Contract Agreement between the UNIVERSITY OF THE PHILIPPINES and TRENDS AND TECHNOLOGIES, INC. It has been signed by the parties and their instrumental witnesses at every page.

WITNESS MY HAND AND NOTARIAL SEAL this 06 APR 2022 day of APRIL 2022 at DAVAO CITY City, Philippines.

Doc. No.: 372
Page No.: 104
Book No.: 5
Series of 2022.

ATTY. MARK PETER M. QUILANETA
NOTARY PUBLIC
Comm. Serial No. 2021-044-2022,
Until December 31, 2022
Roll of Attorneys No. 64059
IBP No. 167827 - 11/25/2021 (for 2022) - DC
PTR No. 6416237 - 12/29/2021 (for 2022) - DC
TIN No. 282-399-545
2/F Merco Bldg. corner Bolton-Rizal Sts., Davao City
Office Mobile No. 0938 352 2599