



OFFICE OF THE BIDS AND AWARDS COMMITTEE

**CONTRACT ON THE SUPPLY AND DELIVERY OF VARIOUS  
ICT EQUIPMENT AND APPURTENANCES**

**KNOW ALL MEN BY THESE PRESENTS:**

This Contract, made and entered into this 16th day of October 2019 in Butuan City, Agusan del Norte, Philippines, by and between:

**ELLOIE ANN O. GAPOL**  
Sales Manager

**CARAGA STATE UNIVERSITY**, a state university created by virtue of Republic Act No. 9854, with principal office at Ampayon, Butuan City, Agusan del Norte, Philippines, represented herein by its University President, **ANTHONY M. PENASO, Ph D.**, and hereinafter referred to as "CSU";

**BENJAMIN G. CHAN JR.**  
Owner

- and -

**DATAWORLD COMPUTER CENTER**, a company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with business office address at #49 Don Tirso Neri St., Cagayan de Oro City represented in this contract by **BENJAMIN G. CHAN JR.**, and hereinafter referred to as the "SUPPLIER."

**W I T N E S S E T H :**

**WHEREAS**, the Caraga State University Cabadbaran Campus (CSUCC) advertised the Invitation to Apply for Eligibility and to Bid on the **Supply and Delivery of Various ICT Equipment and Appurtenances**, posted the same in the [www.csucc.carsu.edu.ph](http://www.csucc.carsu.edu.ph) website, the PhilGEPS and a conspicuous place at the premises of the Caraga State University continuously for 20 days;

**MARILYN B. CASTILLO, ED.D.**  
Chancellor

**WHEREAS**, after the opening of the bids on August 19, 2019, and conduct of bid evaluation on August 20, 2019, the bid submitted by the **SUPPLIER** in the amount of **One Million Twenty-Seven Thousand One Hundred Twenty Pesos Only (Php 1,027,120.00)** in Philippine Currency was found to be the single calculated and responsive bid;

**WHEREAS**, the Board approved the recommendation of the Bids and Awards Committee (BAC) to award the contract to winning Bidder for the **Supply and Delivery of Various ICT Equipment and Appurtenances**;

**WHEREAS**, the **SUPPLIER** duly accepted the award by signing its conforme on the said Notice of Award;

**ANTHONY M. PENASO, Ph.D.**  
University President

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants, stipulations and agreements herein contained, the **CSUCC** and the **SUPPLIER** have agreed, as they do hereby agree, on the contract as follows:

ARTICLE I

**CONTRACT DOCUMENTS**

1.01 The following documents shall constitute integral parts of this Contract, as fully as if the contents of the said documents are reproduced, incorporated and set forth herein, and shall govern and control in full force and effect the rights and obligations of the Parties, except as otherwise modified by the terms and conditions of this Contract, or by mutual agreement in writing of both parties, to wit:

- (a) General and Special Conditions of Contract;
- (b) Specifications;
- (c) Invitation to Bid;
- (d) Instructions to Bidders;
- (e) Bid Data Sheet;
- (f) Addenda and/or Supplemental/Bid Bulletins, if any;
- (g) Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes;
- (h) Eligibility requirements, documents and/or statements;
- (i) Performance Security;
- (j) Credit line issued by a licensed bank, if any;
- (k) Notice of Award of Contract and the Bidder's conforme thereto;
- (l) Other contract documents that may be required by existing laws and/or the Entity.

1.02 The following documents shall also be made integral parts of this Contract as if their contents are incorporated, reproduced and set forth herein, and shall have the same force, effect and applicability as the documents enumerated in the immediately preceding paragraph hereof, to wit:

- a. Duly approved Cost Estimates
- b. Certificate of Availability of Funds/Authority to Pay
- c. Abstract of Bids
- d. Resolution of the BAC Recommending Award
- e. Approval of Award by Approving Authority
- f. Other pertinent documents as may be reasonably required by existing laws and/or the **CSUCC**

1.03 All Contract documents are and shall remain as property of the **CSUCC**.

1.04 The words and expressions in this Contract shall have the same meanings respectively assigned to them in the Contract Documents referred to above.

  
**ELLOIE/ANN O. GAPOL**  
Sales Manager

  
**BENJAMIN G. CHAN JR.**  
Owner


  
**MARILYN B. CASTILLO, ED.D.**  
Chancellor

  
**ANTHONY M. PENASO, Ph.D.**  
University President

ARTICLE II

**SUPPLIER'S UNDERTAKING  
SCOPE OF WORK**

2.01 The **SUPPLIER**, in consideration of the payment to be made by **CSUCC** to the **SUPPLIER**, as stated in the Contract Documents and this Contract, the latter hereby covenants to execute and complete the **SUPPLY AND DELIVERY OF VARIOUS ICT EQUIPMENT FOR CARAGA STATE UNIVERSITY CABADBARAN CAMPUS, CABADBARAN CITY**, as follows:

  
**ELLOIE ANN O. GAPOL**  
Sales Manager

**A. BILL OF QUANTITIES:**


SUPPLY AND DELIVERY OF VARIOUS ICT EQUIPMENT AND APPURTENANCES		
Lot 1 - Computers		
Item No.	Description	Quantity
1	<b>DESKTOP COMPUTER</b>  Type: Tower Processor: <b>Intel</b> Core i5 - 7400 Motherboard: <b>ECS H110-C2H</b> Memory: <b>Silicon Power</b> 4GB DDR4 Hard Disk: 500GB HDD 3.5" Optical Drive: <b>Lite-On DVD-RW</b> USB: 6 Ports Display/Monitor Technology: <b>Acer 19.5"</b> LED S200HQL HBD Size: 19.5" Interface Ports: VGA, <b>DVI</b> and HDMI Adapter Keyboard and Mouse: <b>Delux</b> Keyboard & Mouse USB AVR: <b>Secure</b> 500W AVR <b>Plantom Casing with 700W PSU</b> Operating System: Windows 10 Home 64bit <b>A4Tech MS-5P Headset with Mic</b> Inclusions: VGA cables, HDMI Cables, Power cords	3 UNITS
2	<b>DESKTOP COMPUTER</b>  Type: Tower Processor: <b>Intel</b> Core i3 - 8100 Motherboard: <b>ASUS H3 10M-V3</b> Memory: <b>Silicon Power</b> 4GB DDR4 Hard Disk: <b>Seagate</b> 500GB HDD 3.5" Optical Drive: <b>Lite-On DVD-RW</b> USB: 6 Ports Display/Monitor Technology: <b>Acer 19.5"</b> LED S200HQL HBD Size: 19.5" Interface Ports: VGA, <b>DVI</b> and HDMI Adapter Keyboard and Mouse: <b>Delux</b> Keyboard & Mouse USB AVR: <b>Secure</b> 500W AVR <b>Plantom Casing with 700W PSU</b> Operating System: <b>Windows 10 Home 64bit</b> Inclusions: <b>VGA cables, HDMI Cables, Power cords</b>	4 UNITS
3	<b>DESKTOP COMPUTER</b>  Type: Tower Processor: <b>Intel</b> Core i5 - 7400 Motherboard: <b>ECS H110M4-C2H</b> Memory: <b>Silicon Power</b> 8GB DDR4 Hard Disk: 500GB HDD 3.5" Optical Drive: <b>Lite-On DVD-RW</b> USB: 6 Ports	10 UNITS

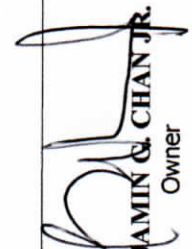
  
**BENJAMIN G. CHAN JR.**  
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Chancellor

  
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University President

	Display/Monitor Technology: <b>Acer 19.5"</b> LED S200HQL HBD Size: <b>19.5"</b> Interface Ports: VGA, <b>DVI</b> and HDMI Adapter Keyboard and Mouse: <b>Delux</b> Keyboard & Mouse USB AVR: Secure 500W AVR <b>Plantom Casing with 700W PSU</b> Operating System: Windows 10 Home 64bit Inclusions: VGA cables, HDMI Cables, Power cords	
<b>4</b>	<b>DESKTOP COMPUTER</b>  Type: Tower Processor: <b>Intel</b> Core i5 - <b>9400F</b> Motherboard: <b>ASUS H310M-V3</b> Memory: <b>Silicon Power</b> 4GB DDR4 Hard Disk: 500GB HDD 3.5" Optical Drive: <b>Lite-On DVD-RW</b> USB: 6 Ports Display/Monitor Technology: <b>Acer 19.5"</b> LED S200HQL HBD Size: <b>19.5"</b> Interface Ports: VGA, <b>DVI</b> and HDMI Adapter Keyboard and Mouse: <b>Delux</b> Keyboard & Mouse USB AVR: Secure 500W AVR <b>Plantom Casing with 700W PSU</b> <b>A4Tech MS-5P Headset with Mic</b> Inclusions: VGA cables, HDMI Cables, Power cords	<b>15 UNITS</b>
<b>5</b>	<b>LAPTOP COMPUTER</b>  Type: <b>LENOVO 330-I51KBR</b> Processor: <b>Intel</b> Core i5 - <b>8250U Processor (6M Cache, up to 3.40 GHz)</b> Graphics: <b>2GB AMD RADEON 530 GDDR5</b> Connectivity: <b>Lenovo 802.11 A/C WiFi</b> Operating System: Windows 10 Home Display: 15.6 FHD TN AG 200N Memory: 4GB DDR4 2133 OnBoard Storage: <b>1TB 7MM 5400RPM</b> Optical Drive: No ODD Camera: HD 720p Bluetooth: 4.0 I/O Ports: USB, Card Reader, HDMI, No VGA Battery: 2-Cell Battery (Built-in) Bundle: <b>Lenovo Laptop</b> Bag	<b>1 UNIT</b>

  
**ELLOIE ANN Q. GAPOL**  
 Sales Manager

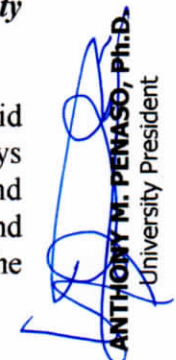
  
**BENJAMIN Q. CHAN JR.**  
 Owner

  
**MARILYN B. CASTILLO, ED.D.**  
 Chancellor

TOTAL AMOUNT OF BID (including VAT) - **(Php 1,027,120.00)**

In words: **One Million Twenty-Seven Thousand One Hundred Twenty Pesos Only**

- 2.02 The **SUPPLIER** agrees to supply and deliver the ICT equipment for the said university, for and defined in this Contract within thirty (30) calendar days from receipt of Notice to Proceed at its sole cost and expense, and to fully and faithfully furnish all materials, tools, labor supplies, equipment, services and superintendence for the implementation of this Contract in accordance with the schedule in the Contract Documents forming integral parts of this Contract.
- 2.03 Subject to the provision of the preceding paragraph, where the contractor has acknowledged the receipt of the Notice to Proceed but fails to deliver the required good(s), he shall be extended a maximum of fifteen (15) calendar days under liquidated damages to make good his delivery. Thereafter, if the

  
**ANTHONY M. PENASO, Ph.D.**  
 University President

Contractor has not completed the delivery required within the extended period, the subject contract will be cancelled or rescinded.

- 2.04 The **SUPPLIER** recognizes the position of trust and confidence reposed in it under this Contract, and agrees to perform its obligations hereunder in the most efficient and competent manner, use its skill and good judgment, always set in good faith, and carry out on the execution of this Contract in the most sound, expeditious and economical manner consistent with the interest of the **CSU**.
- 2.05 The **SUPPLIER** shall, prior to the signing/approval of this Contract, submit to **CSUCC** a bank guarantee, credit line, or cash deposit certificate as retention money issued by a bank duly authorized/licensed by the Bangko Sentral ng Pilipinas in an amount equal to ten percent (10%) of the approved budget for the contract.

### ARTICLE III

### CONSIDERATION

- 3.01 For and in consideration of the full, satisfactory and faithful performance by the **SUPPLIER** of all its undertakings defined in and provided for under this Contract and Contract Documents, **CSUCC** agrees to pay the **SUPPLIER** the total amount of *One Million Twenty-Seven Thousand One Hundred Twenty Pesos Only in Philippine Currency (Php 1,027,120.00)*; inclusive of all taxes as full compensation for everything furnished and done by the **SUPPLIER** under this Contract, including all works required but not specifically mentioned, and also for all losses and damages to the **SUPPLIER** arising out of the work aforesaid, from the action of the elements, or from any obstruction or difficulty encountered in the prosecution of this Contract, for all expenses incurred by or in consequence of the suspension or discontinuance of the contract herein specified and for faithfully completing the contract and the whole thereof, at the time and in the manner provided in the Contract Documents.


It is agreed and understood that all unit prices specified in this contract shall be considered as fixed prices, and therefore not subject to price escalation during the contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (GPPB). Any request for price escalation under extraordinary circumstances shall be submitted by **CSU** to the National Economic and Development Authority (NEDA). Extraordinary circumstances shall refer to events that may be determined by the NEDA in accordance with the Civil Code of the Philippines and upon recommendation of the **CSU**.

- 3.02 Payment of the consideration herein above-mentioned shall be upon for the Supply and delivery of ICT Equipment as defined, and fulfillment by the **SUPPLIER** of all the terms and conditions set forth in this contract, and its final acceptance thereof as certified by **Caraga State University Cabadbaran Campus (CSUCC)**. No payment shall be construed to be an acceptance of a defective unit.

  
ELLOIE ANN O. GAPOL  
Sales Manager

  
BENJAMIN G. CHAN JR.  
Owner

  
MARILYN B. CASTILLO, ED.D.  
Chancellor

  
ANTHONY M. PENASO, PH.D.  
University President

- 3.03 Any payment due and payable to the **SUPPLIER** shall be set off against liquidated damages and payable to **CSUCC** by the **SUPPLIER** under this Contract.
- 3.04 All payments shall be subject to existing government accounting and auditing rules and regulations.

ARTICLE IV

**PERFORMANCE SECURITY**

4.01 To guarantee the faithful performance of the **SUPPLIER** under this Contract, it shall post upon the signing of the Contract a performance security in the form of cash, manager's check, cashier's check, bank draft/guarantee, irrevocable letter of credit issued by a reputable commercial bank, surety bond, callable on demand, issued by any reputable surety or insurance company duly certified by the Office of the Insurance Commission that the issuer is authorized to issue such security, and acceptable to **CSU**, or a combination thereof as may be required by **CSU**, in accordance with the following schedule:

- a. cash, manager's check, cashier's check, irrevocable letter of credit or bank draft- five percent (5%) of the total contract price
- b. bank guarantee - five percent (5%) of the total contract price
- c. surety bond - thirty percent (30%) of the total contract price
- d. any combination of the foregoing -proportionate to share of form with respect to total amount of security

4.02 This performance security shall be posted in favor of **CSUCC**, and shall be forfeited in favor of **CSUCC** in the event it is established that the **SUPPLIER** is in default in any of its obligations under this Contract.

4.03 In the execution of the performance security, the following conditions shall be complied with:

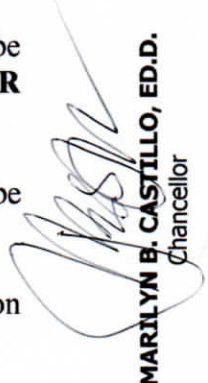
- a. It shall be executed in accordance with the form prescribed in the Section 4.01 hereof
- b. It shall be at least co-terminus with the final completion of the project.
- c. The following provisions shall form part of the performance security: "The right to institute action on the penal bond pursuant to Act No. 3688 of any individual firm, partnership, corporation and association supplying the **SUPPLIER** with labor and material for the prosecution of the work is hereby acknowledged and confirmed."

4.04 Subject to the conditions of the Contract, the performance security may be released by **CSUCC** after the issuance of the Certificate of Acceptance of the project, provided that there are no claims for defective units filed against the contractor or the surety company.

4.05 Should any surety upon the bond for the performance of this Contract become unacceptable to **CSUCC**, the **SUPPLIER** shall promptly furnish such replacement security as may be required from time to time up to the sum equal to the amount of the original surety

ELLOIE ANN O. GAPOL  
Sales Manager

  
BENJAMIN G. CHAN JR.  
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Chancellor

  
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University President

ARTICLE V

**COMPLETION TIME; LIQUIDATED DAMAGES**

- 5.01 The **SUPPLIER** agrees and obligates itself to supply and deliver for ICT equipment as defined for in this Contract within thirty (30) CALENDAR DAYS (including Sundays and Holidays), from the date of receipt of the Notice to Proceed issued by **CSUCC**. Notice to Proceed shall be issued after this Contract has been signed by the parties hereof.
- 5.02 Time is of the essence of this Contract. Should the **SUPPLIER** refuse or fail to satisfactorily supply and deliver the ICT Equipment for the **Caraga State University Cabadbaran Campus (CSUCC)** for and defined in this Contract within the specified contract time, plus any time extension duly granted and is hereby in default under the contract, the **SUPPLIER** shall pay **CSUCC** for liquidated damages, and not by way of penalty, an amount equivalent to one-tenth of one percent (0.1%) of the cost for every day of delay (Sundays and Holidays included), until the ICT equipment are supplied, delivered and accepted by **CSUCC**:
- 5.03 The ICT equipment as defined in this Contract may be deemed usable when it starts to provide the desired benefits as certified by the Representative of Caraga State University Cabadbaran Campus.
- 5.04 It is understood that the damages herein provided are fixed and liquidated damages are agreed. To be entitled to such damages, **CSUCC** 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 **SUPPLIER** under the contract and/or collect such liquidated damages from the retention money or other securities posted by the **SUPPLIER** , whichever is convenient to **CSUCC**.
- 5.05 In case that the delay in the supply and delivery of ICT equipment for and defined in this Contract exceed a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the **SUPPLIER**, **CSUCC** may rescind the contract, forfeit the **SUPPLIER**'s performance security and take over the prosecution of the project or award the same to a qualified contractor through negotiated contract.
- 5.06 In no case, however, shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event the contract shall automatically be rescinded by **CSUCC** or award the same to a qualified contractor through negotiation and the erring **SUPPLIER**'s performance security shall be forfeited. The amount of the forfeited performance security shall be aside from the amount of the liquidated damages that the **SUPPLIER** shall pay **CSUCC** under Section 5.02 hereof and impose other appropriate sanctions.

  
**ELLOJE ANN O. GAPO**  
Sales Manager

  
**BENJAMIN G. CHAN JR.**  
Owner

  
**MARILYN B. CASTILLO, ED.D.**  
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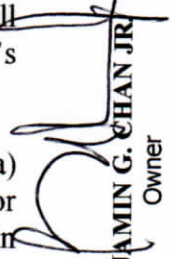
  
**ANTHONY M. PENASO, Ph.D.**  
University President

ARTICLE VI

**EXTENSION OF CONTRACT TIME**

- 6.01 Should there be a possible delay or other special circumstances of any kind whatsoever occur such as to fairly entitle the **SUPPLIER** to an extension of contract time, **CSUCC** shall determine the length of such extension; provided that **CSUCC** is not bound to take into account any claim for an extension of time unless the contractor has prior to the expiration of the contract time and within thirty (30) calendar days after the supply and delivery of ICT Equipment has commenced or after the circumstances leading to such claim have arisen, delivered to **CSUCC** notices in order that it could have investigated them at that time. Failure to provide such notice shall constitute a waiver by the **SUPPLIER** of any claim. Upon receipt of full and detailed particulars, **CSUCC** shall examine the facts and extent of the delay and shall extend the contract time for completing the contract work when, in **CSUCC**'s opinion, the findings of facts justify an extension.
- 6.02 No extension of contract time shall be granted to the **SUPPLIER** due to (a) ordinary unfavorable weather conditions; and (b) inexcusable failure or negligence of **SUPPLIER** to supply and deliver the equipment as defined in this Contract.
- 6.03 No extension of contract time shall be granted when the reason given to support the request for extension was already considered in the determination of the original contract time during the preparation of the contract documents as agreed upon by the parties before contract perfection.

  
ELLOIE ANN O. GAPOL  
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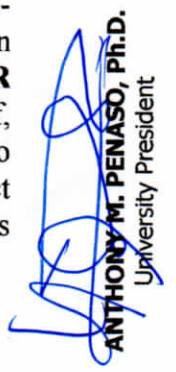
  
BENJAMIN G. CHAN JR.  
Owner

ARTICLE VII

**SUPPLIER'S LIABILITY**

- 7.01 The Parties, likewise, hereby agree that the employees of the **SUPPLIER** are not employees of **CSUCC**; hence, **CSUCC** shall not in any way be liable or responsible for any personal injury or damages, including death sustained or caused by any of the employees of the **SUPPLIER** and/or his sub-contractor or agent or supplier whether or not occurring during the performance of their duties. The **SUPPLIER** agrees and binds itself to indemnify **CSU** for whatever injuries or damages caused or occasioned or contributed to by the failure, negligence or conduct of the **SUPPLIER** and/or its employees, sub-contractors, agent and supplier or consultants arising out of or in connection with or on the occasion of the performance of this Contract. The **SUPPLIER** shall, at all times, stand solely liable and/or responsible for the enforcement of, and compliance with all existing laws, rules and regulations and binds itself to save and hold **CSU** free and harmless from any and all liability in respect thereof and/or arising therefrom and/or by reason of this Contract and its implementation.

  
MARILYN B. CASTILLO, ED.D.  
Chancellor

  
ANTHONY M. PENASO, Ph.D.  
University President



ARTICLE VIII

RESPONSIBILITY OF THE SUPPLIER

- 8.01 The **SUPPLIER** shall assume full responsibility for all equipment until its final acceptance by **CSUCC** and shall be held responsible for any damage or destruction of equipment until such final acceptance.
- 8.02 The **SUPPLIER** shall be fully responsible for the safety, protection, security and convenience of its personnel, third parties and the public at large, as well as the works, equipment, installation and the like to be affected by the supply and delivery of ICT Equipment.
- 8.03 Any actionable act or acts of the **SUPPLIER'S** employees arising out of or in the course of this Contract shall be understood and binding as an act of **SUPPLIER** and vice-versa.


  
**ELLOIE ANN O. GAPOL**  
 Sales Manager

  
**BENJAMIN G. CHAN JR.**  
 Owner

ARTICLE IX

INSPECTION

- 9.01 Inspection of the ICT Equipment shall be made by **CSUCC** upon delivery to the Caraga State University Cabadbaran Campus to ascertain that the supplied, and delivered equipment comply in all respects, with the standards and requirements set forth in the Contract Documents. Notwithstanding such inspection, the **SUPPLIER** shall be held responsible for the acceptability of the equipment. The **SUPPLIER** shall promptly cause to replace all or any equipment determined by **CSUCC** as failing to meet the requirements, at the **SUPPLIER'S** own expense or cost.

  
**MARILYN B. CASTILLO, ED.D.**  
 Chancellor

ARTICLE X

NON-ASSIGNMENT AND NO SUB-CONTRACT

- 10.01 The **SUPPLIER** shall not, without the written approval of the Caraga State University, assign, transfer, pledge, sub-contract, or make any other disposition of interest in this Contract. Any unapproved assignment, transfer, pledge, sub-contract or any other disposition, shall be sufficient ground for **CSU** to terminate or cancel this Contract **motu proprio** without need of judicial action pursuant to paragraph 19.01 hereof. Should **CSU** give its written approval, such consent shall not relieve the **SUPPLIER** of its responsibilities under the Contract. The **SUPPLIER** shall ensure that the terms and conditions of any such sub-contract shall comply and conform to the terms and conditions of the Contract. The **SUPPLIER** shall be responsible for the observance by any such sub-contractor of the terms and conditions of the Contract.
- 10.02 If any portion of the project sub-contracted is not prosecuted faithfully in accordance with the Contract, the sub-contractor shall be removed or replaced immediately upon the written request of **CSU**, provided, however, that any failure of **CSU** to make such a request shall not relieve the **SUPPLIER** of its obligations under the contract. **CSU** shall not be responsible for the delays or

  
**ANTHONY M. PENASO, Ph.D.**  
 University President

costs incurred by the **SUPPLIER** because of the disapproval or removal of the sub-contractor or because of the late submission of its or his approval.

## ARTICLE XI

### WARRANTY

- 11.01 All deliveries of good(s) by the **SUPPLIER** shall be subject to inspection and acceptance by the Caraga State University Cabadbaran Campus. The **SUPPLIER** shall assume full responsibility for the equipment as defined in this Contract from the time of supply and delivery up to final acceptance by **CSUCC** and shall be held responsible for any damage or destruction of the equipment, except those occasioned by force majeure. The **SUPPLIER** shall be responsible for the safety, protection, security, and convenience of the personnel, third parties, and the public at large.
- 11.02 Rejected deliveries of good(s) from the **SUPPLIER** shall be construed as non-delivery of good(s) and shall be subject to the terms and conditions of Article II, Par 2.03 hereof, without prejudice to the imposition of other sanctions as prescribed under RA 9184 and its' IRR.
- 11.03 The **SUPPLIER** shall guarantee his good(s) delivered free from defects. The defect liability period for the project covered by this Contract shall be in accordance with the warranty provided in the herein Terms of Reference reckoned from the final acceptance of the delivered good(s) as certified by the Caraga State University.
- 11.03 After final acceptance of the project by **CSUCC**, the **SUPPLIER** shall be held responsible for manufacturing or existing defects within the warranty period as provided in the Terms of Reference for this Procurement from the date of final acceptance thereof by **CSUCC**. For this purpose, the **SUPPLIER** shall put warranty security in the form of retention money or special bank guarantee confirmed by a universal or commercial bank acceptable to **CSUCC** in accordance with the following schedule:
- |                           |   |
|---------------------------|---|
| a. Retention Money        | - Ten percent (10%) of the total contract price |
| b. Special Bank guarantee | - Ten percent (10%) of the total contract price |
| c. Cash                   | - Five percent (5%) of the total contract price |

The warranty security shall be stated in Philippine Pesos, shall remain effective during the One (1) year warranty period from the final acceptance and shall be returned only after the lapse of the said warranty period.

## ARTICLE XII

### TAXES, LICENSES, PERMITS AND FEES

- 12.01 The **SUPPLIER's** tax, licenses, permits, fees and all other taxes, fees or charges of whatever form, kind or nature or which may be due to national and/or local government units and/or its instrumentalities/agencies on account with regard to equipment stipulated herein, fees for the testing and samples and fees for the testing and inspection by all agencies having jurisdiction and all necessary and incidental expenses relative thereto including preparation of

  
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University President

documents and notarial fees shall be paid for and obtained by the **SUPPLIER** on its own account. Should **CSU** be compelled to advance the same, **CSU** is hereby authorized to deduct the amount advanced from whatever amount due to **SUPPLIER** from **CSU**.

12.02 The **SUPPLIER** shall pay taxes in full and on time and that failure to do so shall entitle **CSUCC** to suspend payment to the **SUPPLIER**. Further, the **SUPPLIER** shall during the term of this Contract regularly present to **CSUCC** a tax clearance from the Bureau of Internal Revenue (BIR) as well as a copy of its income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.

12.03 All transactions are subject to withholding of creditable Value Added Tax (VAT) per Revenue Regulation No. 10-93.

### ARTICLE XIII

#### AGREEMENT MODIFICATION

13.01 No modification, alteration or waiver of any provision herein contained shall be binding on the Parties hereto unless evidenced by a written amendment signed by the parties hereof.

13.02 A variation order (change order/extra work order) may be issued by **CSUCC** under the conditions set forth in the applicable provisions of Republic Act No.9184 and its Implementing Rules and Regulations.

### ARTICLE IX

#### INDIVISIBILITY OF OBLIGATION

14.01 It is the intent of the Contract that all the documents, annexes and addenda forming part hereof, shall be read together and that each and every provision or stipulation hereof be given full force, effect and applicability. However, in the event that one or more provisions or stipulations herein be declared null and void by the courts, or otherwise rendered ineffective, the remaining provisions and stipulations shall not be affected thereby.

### ARTICLE XV

#### REMEDY AND RELIEF

15.01 Should there be any dispute or controversy in connection with this Contract or difference between the Parties arising from the interpretation of this Contract, the Parties hereto shall, as far as practicable, settle the same amicably. In the event that such dispute or disagreement be not resolved to their mutual satisfaction, the matter shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004". Provided, however, that disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be submitted thereto. Provided, further, that, by mutual agreement, the parties hereto may agree in writing to

  
ELLOIE ANN O. GAPOL  
Sales-Manager

  
BENJAMIN G. CHAN JR.  
Owner

  
MARILYN B. CASTILLO, ED.D.  
Chancellor

  
ANTHONY M. PENASO, Ph.D.  
University President

resort to other alternative modes of dispute resolution. Provided, finally, that the arbitration proceeding shall be without prejudice to the right of CSU to rescind or terminate this contract in accordance with Article XIX, Section 19.01 hereof.

- 15.02 Should CSUCC be constrained to resort to court action to enforce or safeguard its rights and interests under this Contract, the **SUPPLIER** shall be liable to CSUCC for attorney's fees in an amount equivalent to Twenty Percent (20%) of the total sum claimed in the complaint, exclusive of other damages and the expenses of litigation. Venue of such court action shall be laid exclusively in the proper court of the City of Butuan, Agusan del Norte, Philippines.
- 15.03 It is clearly understood that in case a dispute or disagreement arises between CSUCC and the **SUPPLIER** regarding the manner by which the latter supplied and delivered the ICT Equipment for and defined in this contract, the **SUPPLIER** shall follow the instruction of CSUCC relative thereto, otherwise, it shall have no right to ask for arbitration or go to court for relief.

#### ARTICLE XVI

#### OTHER COVENANTS

- 16.01 It is expressly agreed and understood that in case of irreconcilable conflict between the provisions of this Contract and the provisions of any of the contract documents, the former shall be controlling.
- 16.02 It should also be clearly understood that any payment or failure of CSUCC to demand compliance with any of the terms and conditions of this Contract or any act of liberality on the part of CSUCC shall not be construed or considered as a waiver on the part of CSUCC for the enforcement of this Contract, nor shall it relieve the **SUPPLIER** of any of its obligations provided thereunder.
- 16.03 Under no circumstances shall CSUCC be held liable for the payment of any extra work, or extra cost of work, change of work, or change order undertaken without the prior written approval of CSUCC to perform said work.
- 16.04 Notwithstanding any provision to the contrary, CSUCC has the right to terminate, cancel and/or rescind this Contract **motu proprio**, in case of breach thereof by the **SUPPLIER**, without need of judicial action by giving at least TEN (10) Days written Notice to that effect to the **SUPPLIER**, which Notice shall be final and binding on all the parties. In such event, CSU may take over and continue the project and the contracts and agreements entered into by the **SUPPLIER** with third parties, which CSUCC in its discretion, may want to assume are hereby conclusively deemed assigned to CSUCC. For this purpose, the **SUPPLIER** hereby agrees and obligates itself to incorporate or cause to be incorporated in any contract or agreement with third parties, as same is connected with or related to the performance of any or all of the **SUPPLIER**'s obligations and undertakings hereunder, a stipulation providing for its assignability to and assumption by CSUCC, at the option of CSUCC. It is further agreed and understood that upon receipt of the Notice mentioned above, the **SUPPLIER** cannot remove, withdraw or pull-out any of the equipment,

  
ELLOIE ANN O. GAPOL  
Sales Manager

  
BENJAMIN G. CHAN JR.  
Owner

  
MARILYN B. CASTILLO, ED.D.  
Chancellor

  
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University President

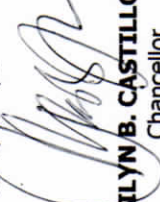
machineries, tools, materials, and/or supplies brought to the project site without the written approval of CSUCC.

Within sixty (60) days after termination, cancellation or rescission of this Contract, the Parties shall settle their respective accountabilities as of the date of termination, cancellation or rescission, including the refund of any and all advances made plus legal interest from date of receipt of the amount or amounts advanced.

- 16.05 The **SUPPLIER** shall provide and do everything necessary to perform its obligations under this Contract according to the true intent and meaning of all the Contract Documents taken together, whether the same may or may not be shown or described particularly in the herein Terms of Reference. Should the **SUPPLIER** find discrepancy in the herein Terms of Reference, it shall immediately refer the same to **CSUCC**, whose decision shall be followed.
- 16.06 The **SUPPLIER** agrees and binds itself to hold and save **CSUCC** free and harmless from any damage, claims and rights of action by third parties arising out of or by reason of this Contract and all injuries that may be suffered by **CSUCC** due to the failure, negligence, delay or conduct on the part of the **SUPPLIER** and/or its employees in the performance of their obligations under this Contract.
- 16.07 No payment of the contract shall be made to the **SUPPLIER** without the Certificate of Acceptance from the Caraga State University Cabadbaran Campus.
- 16.08 Notwithstanding any extra work, change of work or orders made, if any, by **CSUCC**, it is agreed that the same shall be completed within the period herein fixed and provided.
- 16.09 The **SUPPLIER** shall hold **CSUCC** free and harmless from whatever suit and hereby binds and obligates itself to indemnify **CSUC** for any and all liabilities, losses, damages, judgment, 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, delay, conduct, breach of trust, or non-observance or violation of this Contract or any stipulation and warranty by the **SUPPLIER** and/or any of its employees, agents, representatives or sub-contractors.

  
ELLOIE ANN O. GAPOL  
Sales Manager

  
BENJAMIN G. CHAN JR.  
Owner

  
MARILYN B. CASTILLO, ED.D.  
Chancellor

  
ANTHONY M. PENASO, Ph.D.  
University President

## ARTICLE XVII

### SPECIAL REPRESENTATION

- 17.01 The **SUPPLIER** hereby represents that all documents it submitted which form integral parts hereof are authentic and duly executed with all the required formalities for the same, and that the facts and/or data contained therein are true and correct. A breach of this representation including all misrepresentation in the documents or suppression of materials facts therein, which if known, could have disqualified the **SUPPLIER** such that this Contract would not have been made and entered into, gives **CSUCC** the immediate right or recourse to

**motu proprio** rescind, abrogate or otherwise terminate the Contract without need of judicial action, in accordance with Section 19.01 hereof.

ARTICLE XVIII

**BUDGETARY REQUIREMENT**

18.01 The parties hereto hereby adopt and incorporate herein by reference, Letter of Instruction No. 767 dated 16 November 1978, issued by the Office of the President, as implemented by the Letter Circular, dated 7 December 1978, of the Department of Budget and Management.


ARTICLE XIX  
**EFFECTIVITY**

19.01 This Contract shall become effective after the same shall have been signed by the Parties hereof.

**IN WITNESS WHEREOF**, the Parties have hereunto signed this Contract on 16<sup>th</sup> day of October 2019 in Butuan City, Agusan del Norte, Philippines.

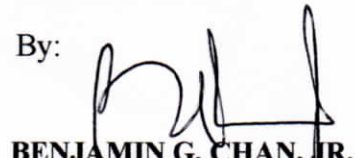
**CARAGA STATE UNIVERSITY**

By:


  
ANTHONY M. PENASO, Ph. D.  
University President

**SUPPLIER**

By:

  
BENJAMIN G. CHAN, JR.  
Owner

WITNESSES:

  
MARILYN B. CASTILLO, Ed.D.  
Chancellor

  
ELLOIE ANN O. GAPOL  
Sales Manager

**ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES)  
CITY OF BUTUAN .....)SS.  
x-----.)

Before Me, a Notary Public for and in Butuan City, this 16<sup>th</sup> day of October 2019 personally appeared:

Competent Evidence of Identity (CEI)

ANTHONY M. PENASO, Ph.D

Passport EC2046341, 9/5/16, Manila

BENJAMIN G. CHAN, JR.

, who

\_\_\_\_\_ is/are personally known to me  
\_\_\_\_\_ exhibited (a) competent evidence/s of identity/ies as stated above

and known to me to be the same person/s who executed the foregoing instruments which consist of two(2) pages including the pages on which the acknowledgments are written, and signed at the left/right margin of each and every page by the parties executing this instrument and their witnesses, and sealed with my notarial seal and she/he/they acknowledged to me that his/her/their signature on the instrument was/were freely and voluntarily affixed by him/her/them for purposes stated therein.

He/She/They further declared that he/she/they has/have the authority to sign in behalf of the principal that he/she/they represent(s).

WITNESS MY HAND AND SEAL on the date and on the place first above mentioned.

DOC. NO. 173  
PAGE NO. 34  
BOOK NO. 74  
SERIES OF 24

~~ATTY. LEMUEL S. LEGADO~~  
NOTARY PUBLIC  
ATTY'S ROLL NO. 29323  
IBP NO. 1061930 1-18-2018  
PTR NO. 1466501 1-20-2018  
EXPIRES DEC. 31, 2019