



MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”), dated 16 December 2022, is entered into by and between:

The **GOVERNANCE COMMISSION FOR GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS (“GCG”)**, with office address at 3/F BDO Towers Paseo (former Citibank Center), Paseo de Roxas, Makati City, represented herein by its Chairperson, **Alex L. Quiroz**;

- and -

The **PHILIPPINE COMPETITION COMMISSION (“PCC”)**, with office address at 25/F Vertis North Corporate Center 1, North Avenue, Quezon City, represented herein by its Officer-in-Charge, **Johannes Benjamin R. Bernabe**.

(The GCG and the PCC are individually referred to in this Agreement as a “Party” and collectively, as the “Parties”).

RECITALS:

- (A) The GCG was created under Republic Act No. 10149 or the GOCC Governance Act of 2011 (the “GGA”) as the central advisory, monitoring, and oversight body with authority to formulate, implement, and coordinate policies of Government-Owned or -Controlled Corporations (“GOCC”) tasked by the State to ensure that its policy of actively exercising its ownership rights in GOCCs and promoting growth by ensuring that operations are consistent with national development policies and programs is observed. It is vested with powers and functions to evaluate the performance and determine the relevance of GOCCs, to ascertain whether such GOCCs should be reorganized, merged, streamlined, abolished or privatized, in consultation with the department or agency to which a GOCC is attached, and the authority to conduct periodic study and evaluation of performance of the GOCCS, among others.
- (B) The PCC was organized and created under Republic Act No. 10667 or the Philippine Competition Act (the “PCA”) as an independent quasi-judicial body vested with the original and primary jurisdiction over the enforcement of the PCA, which includes, among others, the power to conduct inquiries, investigate, and hear and decide cases involving anti-competitive agreements, including price fixing, bid rigging, and market sharing, anti-competitive conduct, abuse of dominant position, and other violations of the PCA.
- (C) In recognition of the significant synergies and complementarity of working together towards a harmonized approach in performing their respective duties and functions, the Parties have agreed to formalize their agreement on the appropriate modes of coordination and cooperation between them.
- (D) Each Party has obtained all approvals, and has performed all actions necessary to authorize it to enter into this Agreement.

NOW, THEREFORE, the Parties have agreed as follows:

Section 1. Coordination and Cooperation

- 1.1. *Notification of Matters.* – Where one Party receives or otherwise becomes aware of any matter¹ (“Notifying Party”) that falls within the jurisdiction of the other Party or the mandate of both Parties, as the case may be, the Notifying Party shall inform the other Party within reasonable time of such matter (the “Notified Matter”), with a view to coordinating, as appropriate, on the actions or measures to be taken by each Party in relation to the Notified Matter. A notification under this Section 1.1 shall be transmitted together with copies of all documents and records pertaining to the Notified Matter that are within the custody or control of the Notifying Party, subject to the provisions of Section 2 of this Agreement, the Data Privacy Act, and other related laws and issuances.
- 1.2. *Coordination and Cooperation Support.* – Subject to resource and other operational considerations, each Party shall coordinate and cooperate with each other on matters relating to the GGA, the PCA, and other related laws and issuances.
- 1.3. *Policy Review.* – In line with the National Competition Policy, the PCC and the GCG shall work together in reviewing existing regulations and guidelines issued by the GCG and GOCCs, to ensure that they are consistent with applicable competition laws and principles including competitive neutrality.

Where appropriate, the GCG shall deliver the necessary reforms as may be identified and recommended by the PCC after the conduct of a Competition Impact Assessment of the GCG and GOCC's existing regulations and guidelines.

- 1.4. *Joint Task Forces.* – When the matter falls within the jurisdiction or mandate of both Parties, and other appropriate circumstances, the Parties may organize joint task forces charged with implementing the coordination and cooperation efforts of the Parties under this Agreement. The Parties shall mutually agree in writing on the purpose, composition, and operational requirements of each joint task force.
- 1.5. *Capacity-Building.* – Subject to resource and operational considerations, the Parties may agree to organize joint capacity-building activities for the purpose of promoting coordination and cooperation under this Agreement.
- 1.6. *Consultative Meetings.* – The Parties may conduct consultative meetings regarding matters of common concern, including the effective implementation of this Agreement and the Parties’ respective mandates.
- 1.7. *Continuing Review.* – The Parties undertake to keep the operation of this Agreement under review and, in light of experience, execute amendments or supplements to this Agreement for purposes of improving its operation and resolving any issue that may arise during its implementation.

Section 2. Access to and Use of Information

- 2.1. *Access to Information and Documents.* – Each Party, upon the request of the other, shall promptly provide access to information and documents (e.g., reports, data sets, analyses, papers, assessments, notices, opinions, and guidelines) within the custody or control of the requested Party and which are relevant and necessary to the effective implementation of this Agreement, the GGA, the PCA, and other related laws.

¹ Reference to a “matter” or “matters” under this Section 1.1 includes complaints or queries received by a Party, matters which come to the attention of a Party as a result of inquiries, investigations, examinations, or audits made by a Party, and matters that are otherwise brought to the attention of a Party.

Whenever allowed, a Party shall be allowed access to information and documents in possession of the other Party that have a reasonable connection to undertakings being performed by the Party in compliance with their respective mandates. Access to information and documents under this Section shall be subject to applicable rules on confidentiality, data privacy, and privilege under relevant laws, rules, and regulations.

- 2.2. *Confidentiality.* – Except as may otherwise be required or allowed by law, the Parties shall keep confidential and shall not, without the prior written consent of the other, divulge to any third party any documents, records, data, or other information of a confidential or privileged nature arising from or in any way related to this Agreement, and furnished directly or indirectly by one Party to the other.

For purposes of this Agreement, information of a confidential, private, or privileged nature shall refer to information disclosed by one Party to the other which is labeled or designated as confidential, private, or privileged by the disclosing Party, or is determined confidential, private, or privileged pursuant to applicable rules on confidentiality, privacy, and privilege under relevant laws, rules, and regulations.

- 2.3. *Information Security Breach.* – In the event either Party encounters a breach of personal or sensitive personal information or any confidential information which it acquired from the other Party due to this Agreement, it shall immediately notify the other Party of the same. Each Party reserves its right to apply security measures to minimize the impact of the breach and shall report the same to the National Privacy Commission (“NPC”) for appropriate action.
- 2.4. *Communications to the Public.* – The Parties, where appropriate, shall liaise with each other in preparing statements and responses relating to matters of media interest and as regards arrangements for the publication of information for and consultations with relevant stakeholders.
- 2.5. *Use of Information and Documents.* – The Parties agree to limit the use of any and all information and documents obtained pursuant to this Agreement to purposes deemed consistent with the objectives of this Agreement as well as the respective mandates of the Parties.

Section 3. Notices and Authorized Representatives

- 3.1. *Notices.* – Any notice, request, or other communication given under, or in connection with the implementation or enforcement of this Agreement shall be in writing and sent by the concerned Party’s Authorized Representative(s) through any of the following modes:

- a) By courier or personal delivery to the addresses stated in this Agreement;
- b) By electronic mail to the following email addresses:

For GCG: [REDACTED] and [REDACTED] with a copy to the email address of the relevant Authorized Representative(s) specified in Section 3.2, if applicable.

For PCC: [REDACTED] and [REDACTED] with a copy to the email address of the relevant Authorized Representative(s) specified in Section 3.2, if applicable.

A notice is deemed to have been received at the time of delivery if such notice is given by courier or personal delivery. If written notice is given by electronic mail, the notice is deemed to have been received at the time of its transmission on a business day.

- 3.2. *Authorized Representatives.* – The Parties hereby designate the following persons as their respective Authorized Representatives, who shall be responsible for the implementation or enforcement of this Agreement:

For GCG:

Subject	Authorized Representative	Email Address
<i>For enforcement of the Governance Act of 2011 concerns</i>	Chief of Staff, Office of the Commission Proper	
<i>For MOA administration and general legal concerns</i>	General Counsel, Office of the General Counsel	

For PCC:

Subject	Authorized Representative	Email Address
<i>For merger review, policy, enforcement-related concerns, MOA administration and general legal concerns</i>	Executive Director	

Each Party may appoint additional Authorized Representative(s), as may be necessary for the efficient implementation of this Agreement. Any change in the designated Authorized Representative(s) of each Party shall be notified immediately to the other Party and deemed effective upon the other Party’s receipt of said notice.

Section 4. General Provisions

- 4.1. *Effectivity.* – This Agreement shall become effective upon execution by the Parties and shall remain and continue to be in force and effect until otherwise amended, revised, or terminated in writing by the herein Parties.
- 4.2. *Expenses.* – Any expenses to be incurred by a Party by virtue of this Agreement shall be charged against its own available funds, subject to the usual budgeting, accounting, and auditing rules and regulations.
- 4.3. *Good Faith.* – The Parties shall act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

- 4.4. *Non-Waiver of Right to Enforce.* – The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party’s right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- 4.5. *Paragraph Headings.* – The titles to the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions of this Agreement.
- 4.6. *Legal Effect.* – For the avoidance of doubt, nothing in this Agreement limits the powers or constitutes a waiver of the statutory functions or powers of either Party.
- 4.7. *Amendments.* – Subsequent revisions, amendments, repeals, and supplements to this Agreement shall be made upon mutual written agreement by the Parties.
- 4.8. *Separability.* – If any one of the provisions contained in this Agreement shall be declared invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 4.9. *Counterparts.* – This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which, taken together, shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement shall be effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives on the date and place first above written.

**For the Governance Commission for
Government-Owned or -Controlled
Corporations:**

[Redacted Signature]

Signature
Name: **Alex L. Quiroz**
Title: Chairperson

For the Philippine Competition Commission:

[Redacted Signature]

Signature
Name: **Johannes Benjamin R. Bernabe**
Title: Officer-in-Charge, Office of the Chairperson

Witnessed By:

[Redacted Signature]

Signature
Name: **Gideon D.V. Mortel**
Title: Commissioner

[Redacted Signature]

[Redacted Signature]

Signature
Name: **Marah Victoria S. Querol**
Title: Commissioner

Signature
Name: **Geraldine Marie B. Berberabe-Martinez**
Title: Commissioner

ACKNOWLEDGMENT

Before me, a notary public for and in Makati City this DEC 16 2022 day of 2022,
personally appeared the following:

Name	Competent Evidence of Identity/Community Tax Certificate	Date/Place Issued

Personally known to me or identified by me through competent evidence of identity to be the same to be the same persons who presented the foregoing integrally complete instrument entitled “MEMORANDUM OF AGREEMENT” consisting of six (6) pages, including the page where this Acknowledgment is written, and each acknowledged to me that (i) his signature appearing on every page of the agreement was voluntarily affixed by him for the purposes stated in the agreement, and (ii) he executed the agreement of his free and voluntary act and deed, as well as the institution that he represents.

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

Doc. No. 320
Page No. 65
Book No. I
Series of 2022.

ATTY. ENRIQUE A. PARUNGO
Notary Public for Makati City
Appointment No. M-170 Valid Until December 31, 2023
7th Floor BDO Towers Paseo, 8471 Paseo de Roxas, Makati City
IBP No. 178283/02-15-2022
PTR No. 8855809/01-05-2022 Makati City
Attorneys Roll No. 34678
MCLE Compliance No. V1-0022087
Valid from 04-15-2022 until 04-14-2023