

MEMORANDUM OF AGREEMENT

KNOWN ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement (MOA), dated OCT 11 2022, is made and entered into by and between:

The PHILIPPINE COMPETITION COMMISSION (PCC), with office address at 25th Floor, Vertis North Corporate Center 1, North Avenue, Quezon City, represented herein by its Executive Director, **KENNETH V. TANATE, Ph.D.**, hereinafter referred to as **PCC**;

-and-

The PHILIPPINE STATISTICS AUTHORITY (PSA), created under the Philippine Statistical Act of 2013 (RA 10625) with office address at PSA-CVEA Building, East Avenue, Diliman, Quezon City, represented herein by its National Statistician and Civil Registrar General, **CLAIRE DENNIS S. MAPA, Ph.D.**, hereinafter referred to as **PSA**.

The **PSA** and the **PCC** are each, at times, individually referred to in this Agreement as a "**Party**," and collectively, as "**Parties**".

WITNESSETH:

WHEREAS, the PCC is an independent quasi-judicial body created by virtue of the Philippine Competition Act (PCA). It is primarily tasked with enforcing the State policy to enhance economic efficiency and promote free and fair competition in trade, industry, and all commercial economic activities.

WHEREAS, in furtherance of its mandate to promote free and fair competition, the PCC is vested by the PCA with the power to engage in the following competition advocacy undertakings, among others: (i) advocate pro-competitive policies of the government; (ii) conduct, publish, and disseminate studies and reports on anti-competitive conduct and agreements to inform and guide the industry and consumers; (iii) monitor and analyze the practice of competition in markets that affect the Philippine economy; and (iv) promote capacity-building and the sharing of best practices with other competition-related bodies.

WHEREAS, the PSA is a national government agency responsible for all national censuses and surveys, sectoral statistics, community-based statistics, consolidation of selected administrative recording systems, and compilation of national accounts.



WHEREAS, in furtherance of its mandate, the PSA conducts distribution of the 3rd Quarter Quarterly Survey of Philippine Business and Industry ("QSPBI" or the "Survey") from September to October of every year.

WHEREAS, the PCC has determined the inclusion of rider PCC questions ("Rider Survey") in the Survey that is aligned with the PCC's competition advocacy to foster market competition, and the PSA has agreed to include the same under the terms and conditions of this Agreement.

WHEREAS, each Party has obtained all requisite approvals, and has performed all actions necessary to authorize it to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises, the **Parties** hereby agree to collaborate under the following terms and conditions:

1. Responsibilities of the PCC. The PCC shall undertake the following activities under this Agreement:

- a. Draft the Survey instrument and the Manual of Operations;
- b. Serve as trainer in capacity building/trainings for PSA personnel who will take part in the conduct of the Survey;
- c. Conduct meetings with PSA personnel regarding the Survey and this Agreement, as needed;
- d. Monitor the Survey through its designated Project Management Team (PMT);
- e. Submit to the PSA all information and/or materials that are reasonably required for the proper conduct of the Survey; and
- f. Provide funding support to the PSA in accordance with Section 3 of this Agreement.

2. Responsibilities of the PSA - The PSA shall undertake the following activities under this Agreement:

- a. Finalize the Survey instrument and the Manual of Operations;
- b. Train the field supervisors, statistical researchers, encoders, and other necessary personnel who will take part in the conduct of the Rider Survey;
- c. Manage all logistical and administrative requirements for the conduct of the Rider Survey, including any arrangements with field supervisors and statistical researchers, whenever applicable and necessary;
- d. Prepare the proper sampling design for the Rider Survey;
- e. Develop a data processing system for the Rider Survey using Microsoft Excel;
- f. Attend/conduct meetings with the PMT as needed;
- g. Attend capacity building/trainings to be conducted by the PCC in accordance with Clause 1(b) of this Agreement;
- h. Conduct trainings for the field operations and processing of the Survey;
- i. Distribute and collect the questionnaires, and process collected data;

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- j. Set quality control measures to ensure accurate and high-quality data results;
- k. Submit to the PCC all clean datasets of the survey; and
- l. Submit all deliverables stated in Clause 3 of this Agreement.

3. Deliverables and Payment Schedule

- a. The approved budget for the conduct of the Survey amounts to **FOUR MILLION, ONE HUNDRED THOUSAND PESOS (Php 4,100,000.00)**, inclusive of all applicable government taxes and service charges, for a sample size of 6,000 establishments. It shall be a fixed price contract. Any extension of contract time shall not involve any additional cost to the PCC.
- b. Remuneration payments to the PSA shall be made by the PCC based on the schedule below:

Deliverable	Percent of remuneration cost
Upon signing of the Agreement	50%
Upon submission and acceptance by the PCC of training and survey plan	40%
Upon submission and acceptance by the PCC of final report and anonymized data set on or before 30 January 2023	10%

4. Confidentiality

Both Parties shall observe and respect the data privacy rights of the data subjects and shall be bound by the Data Privacy Act of 2012 and Section 26 of the Philippine Statistical Act of 2013. Thus, 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 and the data subject, divulge to any third party any documents, records, data, or other information of a confidential, private, 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 relevant laws, rules, and regulations.

5. Notices

Any notice, request, or other communications 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 both of the following modes:

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Annex 4

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

For the **PCC:** oed@phcc.gov.ph
km@phcc.gov.ph

For the **PSA:** ssd.esss.PSA@gmail.com
oans.esss@gmail.com
sso.odns@gmail.com

or such other email address, as a Party may notify to the other Party by written notice sent in accordance with this Clause.

A notice is deemed to have been received at the time of actual receipt 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 transmission of said electronic mail on a business day.

6. 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 the **PCC:** **Kenneth V. Tanate, Ph.D.**
Executive Director

For the **PSA:** **Claire Dennis S. Mapa, Ph.D.**
Undersecretary
National Statistician and Civil Registrar General

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 (i) notified immediately to the other Party; and (ii) deemed effective upon the other Party's receipt of said notice.

7. Effectivity

This Agreement shall become effective as of date of signing by the Parties and shall continue to be in force until (i) the Undertakings provided in Clause 2 hereof have been delivered to, and accepted by the PCC and (ii) the payment of the Total Cost in accordance with Clause 3 hereof has been made by the PCC; unless sooner terminated by the Parties in accordance with Clause 9 hereof.



8. Limitation of Liability

The Parties shall neither be held responsible nor liable for any loss or damage arising out of or by reason of claims, demands, suits, costs, losses and damages arising out of the implementation of this Agreement, except when the loss or damage is caused by bad faith or gross negligence amounting to bad faith committed by the respective officers or agents of the Parties in the performance of their respective official duties and responsibilities. Should a suit be commenced against any of the Parties, their officers or agents with respect to any obligation arising out of this Agreement, they shall be indemnified for any and all liabilities, losses, claims, demands, damages, deficiencies, costs and expenses of whatsoever kind and nature that may arise in connection with the exercise of their powers and performance of their duties and functions, as may be provided by their respective charters, or internal rules and regulations.

9. Termination

Either Party, through their respective authorized representatives, may terminate this Agreement in whole or in part, at any time for causes that violate the provisions of this Agreement or non-delivery of the commitments thereof. Other causes of termination may include the existence of conditions determined to cause the Agreement implementation to be 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.

This Agreement may be terminated by any of the Parties by service of a written notice of termination at least thirty (30) calendar days before the date of the intended termination, in accordance with Clause 6 thereof. Said termination by either Party shall become effective after the lapse of thirty (30) days following the receipt of such written notice by the other Party.

10. Reservation of Privileges and Immunities

The activities carried out by the Parties on the basis of this Agreement shall be without prejudice to the respective privileges and immunities of each Party, which are specifically reserved, and which may be invoked at any time.

11. Liquidated damages

In case of delay in the delivery of the expected service, the amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion of every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of contract, the PCC shall rescind the contract, without prejudice to other courses of action and remedies available to the PCC under law.

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12. 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.

13. Dispute Settlement

The Parties shall exert their best efforts to amicably settle any disputes arising out of or in connection with this Agreement. Should the said amicable settlement fail, the same shall be resolved in accordance with Section 66, Chapter 14, Book IV of E.O. 292, otherwise known as the "Revised Administrative Code of 1987", in relation to P.D. 242 dated 07 July 1973, and DOJ Administrative Order No. 121 dated 25 July 1973.

14. Amendments

Any revisions, amendments, repeals, and supplements to this Agreement shall be made upon mutual written agreement by the Parties.

15. 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.

16. 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 hereto have caused this Agreement to be signed by their duly authorized representatives on the date and place first above written.


**For the Philippine Competition
Commission**

By:


KENNETH V. TANATE, Ph.D.
Executive Director

**For the Philippine Statistics
Authority**

By:


CLAIRE DENNIS S. MAPA, Ph.D.
National Statistician and Civil
Registrar General

Witnessed By:

BENJAMIN E. RADO, Ph.D.
Director IV
Economics Office

DIVINA GRACIA L. DEL PRADO, Ph.D.
Assistant National Statistician
Officer-in-Charge, Deputy National
Statistician
Sectoral Statistic Office

ACKNOWLEDGMENT

QUEZON CITY OCT 11 2022

Before me, a Notary Public for and in the City of _____, this _____, personally appeared the following:

Name	Competent Evidence of Identity/Community Tax Certificate	Date/Place Issued
CLAIRE DENNIS S. MAPA, PhD	PASSEPORT NO. J0015848A	28 JUNE 2019 / DPA-MANILA
KENNETH V. TANATE, PhD	GSIS UMID 006010068337	Quezon City

Known to me or identified by me through competent evidence of identity to be the same persons who executed the foregoing Memorandum of Agreement consisting of seven (7) pages, including the page on which this Acknowledgment is written, and they acknowledged to me that the same is their free and voluntary acts and deeds, as well as that of their respective principals.

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

Doc. No. 80
Page No. 15
Book No. LXVI
Series of 2022.

ATTY. RYAN C. CORTES
Notary Public
Until December 31, 2022
PTR No. 2564877, 01/27/2012, QC.
IBP No. 178355, 02/15/2012
Admin Matter No. NP-111
Roll No. 72112
MCLE Comp. No. VI-0030668