



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

BIDS AND AWARDS COMMITTEE
BAC Resolution No. 055-2023, Series of 2023

**RECOMMENDING THE AWARD OF CONTRACT FOR THE PROCUREMENT OF
MANAGEMENT CONSULTANT (APP ITEM NO. 2023-0023) FOR THE OFFICE OF THE
PRIVACY COMMISSIONER**

WHEREAS, the National Privacy Commission (NPC or Commission) is an independent body mandated to administer and implement Republic Act No. 10173 or the Data Privacy Act of 2012 and to monitor and ensure compliance of the country with international standards set for data protection;

WHEREAS, to effectively implement this mandate, the Office of the Privacy Commissioner (OPC) needs to onboard a well-rounded highly technical individual consultant, with extensive knowledge and expertise on various aspects who will provide expert advise, opinion, and recommendations to the to the OPC, particularly to the Privacy Commissioner, on matters relating to Financial, Budgeting, Administrative, Policy Formulation, Internal and External Controls;

WHEREAS, the Highly Technical Consultant shall undertake the functions indicated in the Terms of Reference attached as Annex "A";

WHEREAS, this procurement has a Certification of Availability of Funds (CAF) and has been confirmed to be existing and programmed under the NPC CY 2023 Annual Procurement Plan (APP) under APP Item No. 2023-0023 with an Approved Budget for the Contract (ABC) amounting to Six Hundred Thousand Pesos (P600,000.00) for a contract period of five months or from 1 August to 31 December 2023;

WHEREAS, Section 53.7 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, providing for the engagement of individual consultants for no more than six (6) months, to do work that is highly technical or proprietary;

WHEREAS, in accordance with the provisions of Republic Act No. 9184 and its IRR, the NPC Bids and Awards Committee (BAC) through the BAC Secretariat, sent a Request for Quotation to [REDACTED] and noted his compliance therewith to the Terms of Reference provided;

WHEREAS, on 6 July 2023, the NPC-BAC evaluated the qualifications and documentary submissions of [REDACTED] and determined that he is fully qualified to perform the functions as required under the Terms of Reference;

The original of this document (containing only the BAC member's signature) is in digital format

Ref No.: BAC-23-00505

NPC_BAC_RESO-V1.0, R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307

URL: <https://www.privacy.gov.ph> Email Add: info@privacy.gov.ph Tel No. 8234-2228

NOW, THEREFORE, for and in consideration of the foregoing, WE, the members of the NPC BAC hereby RESOLVE, as it is hereby RESOLVED, to recommend the award of contract for Management Consultant (APP Item No. 2023-0023) for the Office of the Privacy Commissioner in the amount of **FIVE HUNDRED THOUSAND PESOS (Php 500, 000.00)** for a period of five months from 1 August to 31 December 2023 to [REDACTED]

RESOLVED this 6th day of July 2023 via combination of on-site and videoconference meeting.

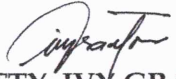
ATTEST:

On Official Business
MS. TERESA M. PARAGAS
End-user, OPC
Provisional Member


MR. MARLON RUBEN FABRICANTE
Chief, ASD
BAC Member


MR. ERWIN D. ESPENILLA
HEA, OPC
BAC Member


ATTY. MA. JOSEFINA E. MENDOZA
Attorney IV, LD
BAC Member


ATTY. IVY GRACE T. VILLASOTO
Chief, PDD
BAC Vice Chairperson


ATTY. RAINIER ANTHONY M. MILANES
Chief, CMD
BAC Member


ATTY. MARIA THERESITA E. PATULA
Director IV, LEO
BAC Chairperson

Approved:


ATTY. JOHN HENRY D. NAGA
Privacy Commissioner
Head of the Procuring Entity
Date: JUL 26 2023



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

NOTICE OF AWARD

JUL 26 2023

Dear [REDACTED]

Please be advised that upon the recommendation of the NPC Bids and Awards Committee, per BAC Resolution No. 055-2023, series of 2023, the contract for procurement for the engagement of **Management Consultant** amounting to **FIVE HUNDRED THOUSAND PESOS (Php 500, 000.00)**, VAT inclusive, for a contract period of five (5) months from 1 August to 31 December 2023, is hereby awarded to you, consistent with Republic Act 9184 and its 2016 Revised Implementing Rules and Regulations.

Very truly yours,

ATTY. JOHN HENRY D. NAGA

Privacy Commissioner
Head of the Procuring Entity

Date: JUL 26 2023

Conforme:

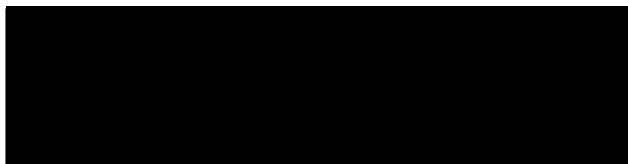
JUL 27 2023



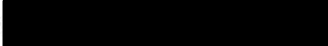
Republic of the Philippines
NATIONAL PRIVACY COMMISSION

NOTICE TO PROCEED

Date Issued: AUG 01 2023



Dear 

Notice is hereby given to  for the commencement of the procurement for the **MANAGEMENT CONSULTANT** for the National Privacy Commission at the Philippine International Convention Center (PICC) in accordance with the terms and conditions of the attached Contract.

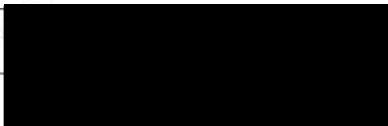
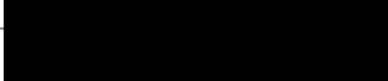
Kindly acknowledge receipt and acceptance of this notice by signing both the copies in the space provided below. Keep one (1) copy and return the other to the NPC within three (3) days upon receipt of this notice.

Very truly yours,



ATTY. JOHN HENRY DU NAGA
Head of the Procuring Entity/
Privacy Commissioner




I acknowledge receipt of this notice on AUG 01 2023
Name of the authorized representative of the 
Signature of the authorized representative 

CONSULTANCY CONTRACT

KNOWN ALL MEN BY THESE PRESENTS:

This AGREEMENT made and entered into this 101 3 1 2023 by and between:

The **NATIONAL PRIVACY COMMISSION**, a government agency mandated to administer and implement the Data Privacy Act of 2012, and to ensure compliance of the country with international standards set for data protection, with office address at the 5th Floor Delegation Building, PICC Complex, Vicente Sotto Avenue, Pasay City, Metro Manila, Philippines, represented herein by its Privacy Commissioner, **ATTY. JOHN HENRY D. NAGA** (hereinafter referred to as the "NPC"),

and

[REDACTED] Filipino, of legal age, residing at [REDACTED]

[REDACTED] and hereinafter referred to as the "Consultant".

The NPC and the Consultant shall hereafter be referred to collectively as the **Parties**.

WITNESSETH, that:

WHEREAS, NPC needs a **Management Consultant** to assist the Office of the Privacy Commissioner in the over-all operations of the Commission as detailed in this contract and the Terms of Reference which forms an integral part of this contract;

WHEREAS, the NPC has resorted to Negotiated Procurement pursuant to Section 53.7 of Republic Act No. 9184 or the Government Procurement Reform Act and its Implementing Rules and Regulations;

WHEREAS, Procurement of Consulting Services may be resorted to in cases where individual consultants hired to do work that is (i) highly technical or proprietary; or (ii) primarily confidential or policy determining, where trust and confidence are the primary consideration for the hiring of the consultant: Provided, however, that the term of the individual consultants shall at the most, be on a six month basis, renewable at the option of the appointing Head of Procuring Entity, but in no case shall exceed the term of the latter;

WHEREAS, the Office of the Privacy Commission (OPC) as end-unit has justified to the Bids and Awards Committee the engagement of such **Management Consultant** per existing laws and regulations;

WHEREAS, the **Consultant**, representing himself to have the requisite governmental permits, licenses, and the necessary expertise, experience, and resources, has proposed to undertake all that which is necessary for completing the services;

WHEREAS, NPC, subject to the terms, conditions, and specifications hereinafter contained, has accepted the **Consultant's** offer;

WHEREAS, on 14 June 2023 the NPC Accountant issued Certification of Availability of Funds (CAF) amounting Php 600,000.00. A copy of the CAF is hereto attached as ANNEX "A" and made an integral part of this Agreement.

CONTRACT NO. 2023- 07 - 0012

WHEREAS, on 26 July 2023, the Head of the Procuring Entity approved the NPC-BAC Resolution No. 055-2023, Series of 2023, recommending the Award of Contract for Management Consultant to [REDACTED]

WHEREAS, on 26 July 2023 the Head of the Procuring Entity issued the Notice of Award to [REDACTED]

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and conditions herein contained and other good and valuable considerations, the parties hereto mutually agree as follows:

1. Services

The **Consultant** shall perform and provide all that is necessary to carry out the services required to complete the same. The details of the services, scope of work, duties, and responsibilities, among others, appear in the attached Terms of Reference, herein attached as Annex "B", which forms an integral part hereof.

2. Term

The term of the contract is Four (4) months, which shall commence from 1 August 2023 until 31 December 2023 unless the same is terminated by either party after written notice thirty (30) days prior to the intended date of termination or immediately upon proof of violations prescribed under Annex "I" of Implementing Rules and Regulations of Republic Act No. 9184 otherwise known as "The Government Procurement Reform Act" (IRR of R.A. No. 9184.)

In no instance shall the term of the contract be extended without undergoing the necessary procurement process as prescribed by R.A. No. 9184.

3. Payment

A. Consultant's Fee

As consideration for the full and faithful performance by the **Consultant** of his obligations under this Agreement and the completion of the services in accordance with the terms and conditions herein set forth, NPC shall pay the **Consultant** a total amount of **Five Hundred Thousand Pesos (Php500,000.00)** inclusive of all applicable taxes, duties, fees, levies and other charges imposed under applicable laws. Payment shall be made every month for One Hundred Thousand Pesos (Php100,000.00) for four months contract.

The contract price shall constitute the entire remuneration payable to the **Consultant**. It shall be deemed inclusive of all applicable national and local taxes, fees and charges, and any other taxes that may arise on account hereof.

B. Payment of Services

Full payment shall be made in Philippine Pesos upon completion of all the required deliverables and submission of the following:

- i. Accomplishment Report and
- ii. Certificate of Acceptance of Output.



[REDACTED]

TIMELINE	OUTPUT
August 1-31, 2023	Actual Output *as stated in the terms of reference.
September 1-30, 2023	Actual Output *as stated in the terms of reference.
October 1-31, 2022	Actual Output *as stated in the terms of reference.
November 1-30, 2022	Actual Output *as stated in the terms of reference.
December 1- 31, 2023	Actual Output *as stated in the terms of reference.

All payments will be subject to the usual government accounting and auditing rules and regulations.

4. **Project Administration**
NPC designates **Mr. ERWIN D. ESPENILLA** as the Representative responsible for the coordination of tasks and deliverables under the contract. The Office of the Privacy Commissioner (OPC) shall be responsible for the acceptance of the deliverables/Accomplishment Report submitted by the **Consultant** prior to payment.
5. **Performance Standard**
The **Consultant** undertakes to perform the services detailed in Annex "B" herein, with the highest standards of professional and ethical competence and integrity.
6. **Confidentiality**
The **Consultant** shall not, during the term of this Contract, and after its expiration, disclose any proprietary or confidential information relating to the services, this Contract or **NPC's** business or operations without the prior written consent of the latter.
7. **Non-Disclosure**
All non-public confidential or proprietary information relating to **NPC**, whether written or oral, whether or not communicated as confidential information by **NPC** to the **Consultant**, which the **Consultant** may have access to in the course of the consultancy contract, shall not be disclosed to any person even after the termination of the Contract.

The **Consultant** shall sign a Non-Disclosure Agreement and shall form part of this contract.¹
8. **Amendments**
No modification, amendment, or supplement to this Contract shall be effective for any purpose unless the same is in writing and signed by both parties.
9. **Suspension of Contract**
The **NPC** may, by written notice of suspension to the **Consultant**, suspend all payments to the **Consultant** if he fails to perform any of his obligations due to his own fault or due to *force majeure* or other circumstances beyond the control of either party. Such notice of suspension shall: a) Specify the nature of the failure; and b) Request the **Consultant** to remedy such failure within a period not exceeding thirty (30) days from receipt by the **Consultant** of the notice of suspension.

¹ Non-disclosure Agreement dated _____

JUL 31 2023

The Procuring Entity can order the resumption of work if the grounds for work suspension no longer exist, and the continuation of the work is practicable.

10. Termination of Contract

The NPC, by written notice sent to the **Consultant**, may terminate the contract, in whole or in part in accordance with Annex "I" of IRR of RA No. 9184 Updated as of 03 July 2023.

The notice of termination shall specify the cause of termination in accordance with Annex "I" of IRR of RA No. 9184 Updated as of 03 July 2023, the extent to which performance of the contractor under the contract is terminated, and the date upon which such termination becomes effective.

The NPC may also terminate the contract in case it is determined prima facie that the **Consultant** has engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation.

The NPC may also terminate a contract for default when any of the following conditions attend its implementation: a) Outside of force majeure, the **Consultant** fails to deliver or perform the Outputs and Deliverables within the period(s) specified in the contract, or within any extension thereof granted by the NPC pursuant to a request made by the **Consultant** prior to the delay; b) As a result of force majeure, the **Consultant** is unable to deliver or perform a material portion of the Outputs and Deliverables for a period of not less than sixty (60) calendar days after the **Consultant's** receipt of the notice from NPC stating that the circumstance of force majeure is deemed to have ceased; or c) The **Consultant** fails to perform any other obligation under the contract.

The **Consultant** may terminate its agreement with NPC if the latter is in material breach of its obligations pursuant to the contract and has not remedied the same within sixty (60) calendar days following its receipt of the **Consultant's** notice specifying such breach.

Termination of contract encompasses all causes and grounds provided under RA No. 9184.

12. Relationship

This Contract neither constitutes a partnership agreement nor creates an employer-employee relationship, joint venture, or agency relationship between parties. It is specifically understood that the **Consultant** is an independent contractor and shall not be considered as an employee of NPC.

13. Dispute Resolution

In the event of any dispute or difference of any kind whatsoever arising out of or relating to this Contract, both **Parties** shall exercise their best efforts to resolve the dispute or difference by mutual consultation as soon as possible. In case best efforts fail, the dispute or difference shall be submitted to alternative dispute resolution, including arbitration in accordance with the rules provided in Republic Act No. 9285 or the Alternative Dispute Resolution Law.



If any party contends that a claim cannot be submitted to alternative dispute resolution, that party shall be limited to filing a lawsuit in the appropriate courts in Pasay City, Philippines, to the exclusion of all courts.

- 14. Ownership of Material** All articles, plans, studies, reports or other materials prepared by the **Consultant** for **NPC** under the Contract shall exclusively belong to and remain the property of **NPC**.
- 15. Consultant Not to be Engaged in Certain Activities** The **Consultant** agrees that, during the term of this Contract he/she shall be disqualified from providing goods, works, or services (other than the services or any continuation thereof) for any project resulting from or closely related to the herein services provided to NPC. The **Consultant** shall not engage in activities that are prejudicial to the interests of the **NPC**.
- 16. Insurance** The **Consultant** will be responsible for taking out any appropriate insurance coverage.
- 17. Assignment** The **Consultant** shall not assign this Contract or subcontract any portion of it.
- 18. Law Governing Contract and Language** The Contract shall be governed by the laws of the Government of the Philippines, and the language of the Contract shall be English.
- 19. Other Provisions** The terms and conditions contained in the Annexes and all relevant procurement documents shall form an integral part of this Contract. In the event of conflict between the terms of this Contract and all relevant Annexes, the terms of this Contract shall prevail.

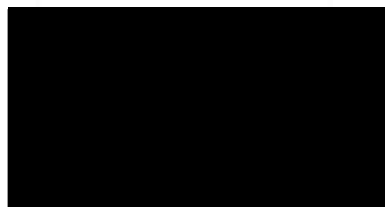
NATIONAL PRIVACY COMMISSION

By:



ATTY. JOHN HENRY D. NAGA
Privacy Commissioner

By:

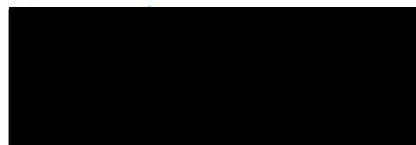



JOHANA CARLA T. GOMEZ
Accountant II

Signed in the
Presence of:


ERWIN D. ESPENILLA

Signature over Printed Name



Signature over Printed Name

[Acknowledgment page follows.]

ACKNOWLEDGMENT

Republic of the Philippines)
City of Pasay) S.S.

BEFORE ME, a Notary Public for and in the above jurisdiction, personally appeared the following:

NAME	GOVERNMENT-ISSUED ID	DATE/PLACE ISSUED
ATTY. JOHN HENRY D. NAGA		

Known to me to be the same persons who executed the foregoing instrument and acknowledged to me that the same are their own free will and voluntary act and deed.

This instrument consists of six (6) pages including this page wherein this Acknowledgment is written, and is signed by the parties' instrumental witnesses on each and every page hereof.

WITNESS MY HAND AND SEAL, this JUL 31 2023 day of _____, 2023 at Pasay City, Philippines

Doc. No.: 120
Page No.: 24
Book No.: 14
Series of 2023.

ATTY. HENRY D. ADASA
NOTARY PUBLIC CITY OF MANILA
APPOINTMENT 097/12/31/2023 MANILA
IBP NO. 121139 / 01/03/2023
PTR N. 0861145 / 01/03/2023
ROLL NO. 29679, TIN NO. 172-528-630
MELP COMP. NO. VH-0000165 VALID UNTIL APRIL 14, 2025
1411 TAYUMAN ST., STA. CRUZ, MANILA



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (hereinafter "Agreement") is entered into on JUL 31 2023 in Pasay City, Philippines, by and between:

The **National Privacy Commission**, represented by *Privacy Commissioner* **ATTY. JOHN HENRY D. NAGA** hereinafter referred to as the "**NPC**"

and

[REDACTED] Filipino, of legal age, residing at No. [REDACTED]
[REDACTED] and hereinafter referred to as the "**Consultant**".

The undersigned **Consultant** hereby covenants and agrees as follows:

1. CONFIDENTIAL INFORMATION

The term "confidential information" means those personal information, sensitive personal and privileged information, and other information, knowledge or data which is gained or acquired by the **Consultant** on the occasion of his contract/assignment with the **NPC**, under any circumstances whether deliberate or accidental, and from any sources, whether verbal, written or recorded (such as sound recordings, photographs, films, etc.), regardless of whether it was provided before or after the date of execution of this Agreement, except for the following:

- a) Information that is generally known to the public;
- b) Information that is currently or subsequently becomes generally available to the public through no wrongful act of the **NPC** or any of its **Consultant**;
- c) Information that is known and possessed by the **Consultant** prior to the disclosure to the **Consultant** by the **NPC**, unless such information, if misused or prematurely disclosed, could adversely affect the functions and operations of the **NPC** and other government agencies and endanger the national security or prejudice public interest; and
- d) Information that the **NPC** expressly approved to be disclosed by the **Consultant**, when used in accordance to the approved purpose of disclosure.

Notwithstanding the foregoing exceptions, any other information expressly designated by the **NPC en banc** as sensitive and privileged shall be considered confidential information, provided it is duly communicated to the **Consultant**.

2. OBLIGATION TO MAINTAIN CONFIDENTIALITY

The **Consultant** shall, at all times, ensure the confidentiality of any personal data that comes to the knowledge and possession of the **Consultant**, pursuant to Section 8 of Republic Act No. 10173 or the "Data Privacy Act of 2012" and shall disclose confidential information only to the **NPC's** commissioners, directors and division chiefs, and, to the extent necessary for the effective performance of his duty, to the rank-and-file staff and other persons contracted by the **NPC** for examination and improvement of the systems and other processes.

The **Consultant** shall maintain the duty of professional secrecy with regard to confidential information to which the **Consultant** was given access even after the term of contract has ended, as provided for in the Data Privacy Act of 2012, its IRR and other issuances.

[Handwritten signature]

In the event of disclosure and dissemination of confidential information to **NPC** commissioners, directors, officers, staff, or other persons contracted to do specific duties, the **Consultant** shall inform the recipient/s of the confidential nature of such information and shall take necessary steps to ensure the secrecy of the confidential information disclosed to them.

3. TURNOVER OF CONFIDENTIAL INFORMATION AND PROPERTY

The **Consultant** shall return to the **NPC** all data, information, documents, materials and other property, in relation to the contract with the **NPC**, which are in the possession, control and custody of the **Consultant** and which are obtained during the **Consultant**'s term, employment or contract within **15 calendar days** upon termination of the contract. The **Consultant** shall not retain copies or duplicates of the abovementioned property.

4. NOTICE OF DISCLOSURE

In the event that the **Consultant** is required in any civil, criminal or administrative proceeding to disclose any confidential information, the **Consultant** shall promptly give a written request to the **NPC** in order for the **NPC** to seek immediate and appropriate action. The **NPC** and the **Consultant** shall take all possible measures to limit such disclosure and make best efforts to afford the confidential information the highest level of protection.

In the event that the **Consultant** accidentally makes an unauthorized disclosure of any confidential information, the **Consultant** must promptly notify the **NPC** and take all reasonable steps necessary to retrieve the improperly divulged confidential information and to mitigate the potential damage.

The **Consultant** shall also report and notify the **NPC**, immediately upon discovery, of any unauthorized disclosure of confidential information or any other breach of this Agreement committed by other **Consultant** /s of the **NPC** and cooperate in protecting the confidential information and imposing sanctions on the **Consultant** /s responsible for the breach.

5. REMEDIES FOR VIOLATION OF AGREEMENT

The **Consultant** agrees that in the event of his violation of this confidentiality agreement, he shall be subject to prosecution for violation of any and all applicable penal laws, in addition to and without prejudice to any civil and/or administrative liability that may likewise arise, and for any and all damages that may be caused to the **NPC** and other aggrieved parties, directly or indirectly. Violation of this agreement shall likewise be understood to constitute grave misconduct on the part of the **Consultant**.

The **NPC** shall be entitled to, in addition to all other remedies and courses of action available to it, restrain and prohibit the **Consultant** from directly or indirectly continuing the commission of the act restrained by the **NPC** in relation to the breach of the **Consultant**'s obligation to maintain confidentiality or any violation of this Agreement.

6. FAILURE TO EXERCISE RIGHTS SHALL NOT CONSTITUTE AS WAIVER

No failure or delay by the Parties in exercising any right, power or privilege hereunder shall constitute waiver or estoppel nor will any single or partial exercise preclude further exercise thereof.

7. GOVERNING LAW

This Agreement will be construed in accordance with and governed by the law of the Republic of the Philippines. All applicable laws and regulations shall be deemed read into this Confidentiality Agreement.



7. GOVERNING LAW

This Agreement will be construed in accordance with and governed by the law of the Republic of the Philippines. All applicable laws and regulations shall be deemed read into this Confidentiality Agreement.

8. MISCELLANEOUS

This Agreement will inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the Parties. Neither party may assign its rights and delegate its obligations under this Agreement without the other party's written consent.

If any provision of this Agreement shall hereafter be held to be invalid or unenforceable for any reason, that provision shall be reformed to the maximum extent permitted to preserve the Parties' original intent, failing which, it shall be severed from this Agreement with the balance of this Agreement continuing in full force and effect. Such occurrence shall not have the effect of rendering the provision in question invalid in any other case or circumstances, or of rendering invalid any other provisions contained herein to the extent that such other provisions are not themselves actually in conflict with any applicable law.

IN WITNESS WHEREOF, the parties hereunto affixed their signatures on the date and in the place first above-written.

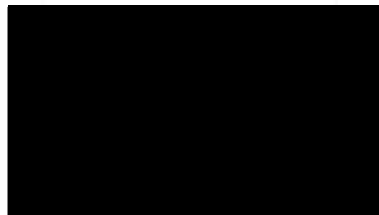
NATIONAL PRIVACY COMMISSION

By:



ATTY. JOHN HENRY D. NAGA
Privacy Commissioner

By:

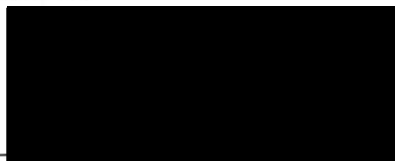


Signed in the Presence of:



ERWIN D. ESPENILLA

Signature over Printed Name



Signature over Printed Name

[Acknowledgment page follows.]

ACKNOWLEDGMENT

Republic of the Philippines)
Pasay City)

MANILA CITY

MANILA CITY

JUL 31 2023

BEFORE ME, a Notary Public for and in Pasay City on _____
personally appeared the following persons with their government-issued identification cards,
to wit:

Name	ID No.	Date/Place Issued
ATTY. JOHN HENRY D. NAGA		

known to me and to me known to be the same persons who executed the foregoing instrument
and the parties have acknowledged to me that the same is their free and voluntary deed.

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

Doc. No. 120
Page No. 24
Book No. K
Series of 7023

4/8/23

ATTY. HENRY D. ADASA
NOTARY PUBLIC CITY OF MANILA
APPOINTMENT 097/12/31/2023 MANILA
IBP NO. 181139 / 01/03/2023
PTD NO. 0661145 / 01/03/2023
ROLL NO. 29579, TIN NO. 172-523-620
MCLE COMP. NO. VII-0000165 VALID UNTIL APRIL 14, 2025
(29) 1411 TAYUMAN ST., STA. CRUZ, MANILA