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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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10 June 2025

CUSTOMS MEMORANDUM CIRCULAR

No. 121-2025

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEFS
ALL DISTRICT AND SUB-PORT COLLECTORS
ALL OTHERS CONCERNED

SUBJECT : MEMORANDUM OF AGREEMENT (MOA) BETWEEN
THE BUREAU OF CUSTOMS (BOC) AND SUBIC BAY
METROPOLITAN AUTHORITY (SBMA)

Attached is the original copy of the Memorandum of Agreement entered into by and between the BOC and SBMA, outlining the respective rights and obligations for the use and development of SBMA properties. The agreement aims to enhance trade, promote investment, support the establishment of SBMA as a premier business and logistics port in the region, and enable the BOC to raise revenue for the government.

For records purposes, kindly disseminate this circular throughout your respective offices and submit the necessary confirmation within fifteen (15) days from receipt hereof.

For your information and guidance.

BIENVENIDO Y. RUBIO
Commissioner



16 JUN 2025



Gate 3, South Harbor, Port Area, Manila 1018

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MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement ("*Agreement*" for brevity) is entered into by and between:

SUBIC BAY METROPOLITAN AUTHORITY (SBMA), a government agency organized and established under Republic Act No. 7227, otherwise known as the "Bases Conversion and Development Act of 1992", with office address at Building 229 Waterfront Road, Subic Bay Freeport Zone, Philippines, represented herein by its Chairman and Administrator, **ENGR. EDUARDO JOSE L. ALIÑO**, duly authorized to sign this Agreement under Executive Order (EO) No. 42 s. 2017, hereinafter referred to as the "**SBMA**,"

-and-

DEPARTMENT OF FINANCE (DOF), an executive department of the Philippine government, through the **BUREAU OF CUSTOMS (BOC)**, with office address at Gate 3, South Harbor, Port Area, Manila, Philippines, represented herein by its Commissioner, **BIENVENIDO Y. RUBIO**, duly authorized to sign this Agreement under Republic Act (RA) 10863, hereinafter referred to as the "**BOC**."

(Collectively referred herewith as the "**Parties**")

WITNESSETH

WHEREAS, Republic Act No. 7227 (the "Act") created a Special Economic and Freeport Zone consisting, among others, of the land and other properties occupied by the former Subic Naval Base and its contiguous extensions as covered by the 1947 Military Bases Agreement between the Republic of the Philippines and the United States of America and known as the Subic Special Economic Zone (SSEZ);

WHEREAS, pursuant to the Act, all such land and properties, including the land and/or properties subject of this Agreement, were transferred and conveyed to the SBMA;

WHEREAS, the SSEZ by virtue of the Act, as amended, shall be a self-sustaining industrial, commercial, financial and investment center to generate employment opportunities and to attract and promote productive foreign investments under the administration of the SBMA;

WHEREAS, Section 12 (b) of the Act provides that the SSEZ shall be operated and managed as a separate customs territory, ensuring the free flow or movement of goods and capital within, into, and exported out of the SSEZ;

WHEREAS, RA 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) of 2016, gives the BOC the exclusive control, direction, and management of customs offices, facilities, warehouses, ports, airports, wharves, infrastructure, and other premises in the Customs Districts, without prejudice to the general police powers of the, the SBMA, the Philippine Coast Guard (PCG) and the law enforcement agencies in the exercise of their respective functions;

WHEREAS, under Customs Administrative Order (CAO) No. 4-93, the BOC, in coordination with the SBMA, shall be responsible for establishing and maintaining offices within the Secured Area of the Zone whenever necessary to conduct customs operations efficiently;

WHEREAS, the SBMA acknowledges the existence of the BOC's Collection District in the Freeport Zone and recognizes the advantage of BOC's presence in the SSEZ in fulfilling its mandate under the CMTA;

WHEREAS, in exercising its powers under the Act, its Implementing Rules and Regulations (IRR) and in conformity with the approval by the SBMA on 23 April 2024, through Board Resolution No. 24-04-0607, Series of 2024, the SBMA hereby allows the use of its Properties in favor of the BOC specifically described under this Agreement, and the BOC accepts the same subject to the terms and conditions herein set forth;

NOW, THEREFORE, for and in consideration of the preceding premises and the mutual covenants and obligations herein contained and to be performed, the Parties hereby agree as follows:

I. PURPOSE AND RATIONALE

- 1. This Agreement contains the entire agreement and understanding between the Parties and covers their rights and obligations for using and developing the SBMA's Properties located at Subic Bay Freeport (SBF), Zambales.
- 2. The SBMA recognizes that the BOC is the second-highest revenue-collecting agency in the government and needs its support to perform its mandate.
- 3. The continued presence of the BOC District Office within the Zone for more than 18 years has been significant for the national government in collecting the revenues needed for its operation and various programs.
- 4. Relatedly, among the sources of revenue of SBMA are capital or other contributions and grants from the national government, which the BOC has contributed through its revenue collections.
- 5. The BOC has proven to be one of SBMA's strong partners in the implementation of its mandate to develop the SSEZ into a self-sustaining, industrial, commercial, financial, and investment center to generate employment opportunities in and around the Zone and attract and promote productive foreign investments.
- 6. The BOC also complements the operation and management of SBMA to ensure the free flow or movement of goods and capital within, into, and exported out of the Zone, thereby promoting trade facilitation and border protection.
- 7. The continued partnership of the SBMA and BOC has evolved into a vital pillar of the nation's economic development and security.
- 8. This Agreement is executed to enhance trade, promote investment, establish SBMA as a premier business and logistics port in the region, and for BOC to raise revenue for the government.

II. TERM

- 1. This Agreement shall be effective for **twenty-five (25) years upon execution of this Agreement on April 10, 2025 (Commencement Date)** until **April 9, 2050 (Termination Date)**, unless sooner terminated for justifiable cause/s. In pre-termination, the parties shall give prior written notice at least sixty (60) working days before the intended termination date. This Agreement may be renewed six (6) months before its expiration and upon mutual agreement by the parties.
- 2. After the termination or pre-termination of this Agreement, any permanent improvements made by the BOC on the Properties of the SBMA shall belong to the latter, and the former shall voluntarily vacate and peacefully surrender them in good and tenantable conditions without the need for judicial order or administrative warrant.
- 3. Should the parties decide to terminate or pre-terminate the Agreement, the parties shall agree upon the disposition and custody of all movable assets not covered in the preceding section.

III. THE PROPERTY AND ITS UTILIZATION

- 1. The SBMA grants the BOC, *free-of-charge*, the use and development of the following Properties located at Subic Bay Freeport Zone, Philippines, subject to the terms, covenants, and conditions hereinafter provided:

Property	Bldg. (sqm)	Lot (sqm)	Location
Building 303	198	1,365	CBD Area
Building 305	743	5,000	
Building 306	785		

Building 307	785		
Building 722	283		
Customs Clearance Area (CCA) Office at Tipo Gate		437	Tipo Plaza
Building 1432	973	1,700	Argonaut Highway
Pure Petroleum Corporation Terminal (PPC Docking Station; in cooperation with Harbour Centre)		24	Boton Area
XIP Office with X-Ray Machines (outside SBITC)		90	New Container Terminal
XIP Office with X-Ray Machines (Tipo Gate; outbound area)		245	Tipo Plaza
Lot beside Boton Tank Farm Gate		20	Boton Area

The Technical Plan to be issued by SBMA shall form part of this Agreement and shall be attached hereto as **Annex "A"**. The Technical Plan is a provisional description of the Areas and shall be subject to the conduct of a joint survey by and between SBMA and BOC.

The BOC commits to conduct a survey of the Properties and submit the result thereof to the SBMA within two (2) months after the signing of this Agreement.

It is understood that any movable found in the delineated area is excluded from the scope of this Agreement but shall be made the subject of separate negotiations between the Parties unless specifically provided for in this Agreement. Accordingly, a joint inventory shall be conducted to determine the possession over movable property/ies found inside the BOC Properties.

2. The Properties shall be subject to easement in favor of the SBMA for roadway, sidewalk, and utility purposes over that part of the Properties, as the need may arise. The BOC may have the right to utilize and improve said easement areas, subject to SBMA's easement rights. Fuel lines, water pipes, power lines, and other utility or service lines existing on the properties as of the date hereof shall be allowed to remain on the properties; Provided, that the BOC shall have the right, at its own expense, to relocate said lines and pipes to other locations on the property or to the above-described easement areas as long as such relocation does not interfere with the continued operation of existing services and temporary disruptions affecting other adjacent property/ies and do not extend beyond twenty four (24) hours. The BOC shall notify the SBMA in writing of any intended relocation at least thirty (30) days prior to implementing the same

3. The BOC agrees to use the subject Properties on an "as is, where is" basis.

4. The SBMA shall not be obligated to make any improvements or changes in or to the subject Properties and makes no representation or warranty as to the condition or suitability for the BOC's use, operational capability, or fitness for a particular purpose or as to any defect, whether apparent or hidden, of the Properties.

5. The BOC acknowledges that it has inspected the subject Properties before the execution of this Agreement and that it is fully aware of their conditions.

6. The BOC shall, at its own expense and in a manner approved by the SBMA in writing, move any equipment or utility lines on the subject Properties, which the latter reasonably needs for its future operations, to a location designated by the former.

7. The BOC shall use the subject Properties strictly for the "Intended Use" herein agreed upon. The phrase "Intended Use" shall mean that the BOC shall use and occupy the subject Properties for its offices, warehouses, examination areas, personnel quarters, storage houses, medical clinic, sports

facilities, parking space, canteen, docking area, outposts, and X-ray facilities. The utilization of the subject Properties other than its "Intended Use" shall not be permitted without the prior written consent of the SBMA and only after proper review and complete submission of the required information. In case of unlawful use by the BOC of the subject Properties, the SBMA has the right, after due notice and without the need for judicial determination, to:

- (i) Terminate this Agreement;
- (ii) Impose penalties against BOC;
- (iii) Direct the BOC to stop the new activities; or
- (iv) Discontinue the provision of utilities, including but not limited to power, cable television, or solid waste management.

8. In the proper utilization of the BOC of the subject Properties, it shall be guided by the following rules and regulations:

- (i) Strictly adhere to the rules and regulations as may from time to time be reasonably imposed by the SBMA through its authorized representatives for the general safety, comfort, and convenience of the occupants and other lessees of the SBF;
- (ii) BOC's employees, contractors, agents, licensees, and invitees shall be directed to abide by such rules and regulations;
- (iii) Prevent the use or occupation of the subject Properties which in a manner violates any applicable laws or regulations affecting the same, make void or voidable any insurance covering them, cause or be apt to cause illegal structural improvements or any part thereof, constitute them as public or private nuisances, interfere with the effectiveness or accessibility of the water system, fuel distribution/transmission system, drainage, and sewerage system, fire protection system, traffic circulation, sprinkler system, alarm system, fire hydrants, and hoses, and electrical systems located in the SBF.

9. For third party concessioners (e.g. canteen operations, parking operations etc.), the BOC shall require its third party concessioners to obtain necessary approval and permits from SBMA including payment of fees required by SBMA.

10. The BOC shall comply with all environmental standards imposed or adopted by the SBMA and/or to be imposed and adopted by the latter. The BOC shall install and maintain in good working conditions all appropriate environmental controls as required by the SBMA.

IV. OBLIGATIONS OF THE SBMA

1. The SBMA shall allow the BOC's Port of Subic - Collection District the use and occupation of the Properties as identified under item 1, Section III of this Agreement.

2. The SBMA shall also provide the BOC through the Office of the District Collector (ODC) real-time access to footage from CCTV cameras installed at the Tipo, Kalaklan, Aura, 14th, Morong, Magsaysay, and Kalayaan Gates of the SBF for its documentation, inventory, record keeping, and audit.

3. In case of a complete or substantial loss or damage to the subject Properties and the improvements therein due to force majeure or fortuitous events, the SBMA, as co-beneficiary to their insurance, shall reconstruct or restore the same to their condition before the said loss of damage using the proceeds of the corresponding insurance. If the said proceeds are consumed, the obligation of the SBMA to reconstruct or restore shall be deemed extinguished.

V. OBLIGATIONS OF THE BOC

1. Aside from those specifically stated in Section III of this Agreement, the BOC shall:

- (i) Maintain the subject Properties in good, clean, presentable, and habitable condition at all times and ensure proper and lawful usage and occupation of the subject Properties only by its qualified officials and personnel.

- (ii) Undertake necessary repairs and rehabilitation of the subject Properties at its expense after securing the required permits and clearances from the concerned government agencies, such as but not limited to:
- Philippine Reclamation Authority (PRA);
 - Department of Transportation (DOTr) for the Subic Clark Railway Project;
 - Civil Aviation Authority of the Philippines;
 - Environmental Clearance from the SBMA;
 - Manila North Tollways Corporation (MNTC) for Properties located at the Tipo Plaza (Tipo Expressway); and
 - Harbour Centre Port Subic Terminal Inc. for the docking station located at the Pure Petroleum Corporation Terminal.
- (iii) Submit within six (6) months from the commencement/execution of this Agreement an **integrated and comprehensive development plan** for the subject Properties that would maximize their value and potential to benefit the SBMA. The Plan shall indicate the nature and extent of the development, including the timeline and the value/amount of the improvement to be introduced and implemented during the effectivity of this Agreement.
- (iv) Assume Common Use Service Area (CUSA) fee, public utilities' costs or expenses, such as electric power, water, telephone, cable television, sanitation, solid waste management, sewerage, and other utility services. The installations of the necessary utilities shall also be for the account of the BOC. The phrase "solid waste management," as used herein, shall include the garbage collection fees, which the BOC shall pay based on the schedules provided under the SBMA's Solid Waste Management Guidelines.
- (v) Undertake to submit to SBMA a written inventory of seized cargo stored at the controlled areas of the SBMA within six (6) months from their seizure and before their removal or disposal, which shall be done within one (1) year from said seizure unless extended for justifiable cause/s beyond its control. Any extension shall be made known to SBMA in writing.
- (vi) Settle all the outstanding payment obligations with the SBMA subject to proper accounting and auditing procedures. The BOC shall include the amount payable to the SBMA in its CY 2027 budget proposal.
- (vii) Ensure efficient customs operations on matters involving the admission of goods to the secured area of the Zone, the removal of goods from the secured area of the Zone, and other customs operations as determined by the Commissioner of Customs in coordination with the Chairman and Administrator of the SBMA, under the CMTA and its rules and regulations;
- (viii) Comply with all environmental standards imposed or adopted by the SBMA and to be imposed and adopted by the latter. The BOC shall install and maintain in good working conditions all appropriate environmental controls as required by the SBMA;
- (ix) Secure insurance coverage for the subject Properties, inclusive of all the improvements therein, against all insurable risks from the *Government Service Insurance System (GSIS)* or, in some instances allowable by law, from private insurance providers in an amount equal to the maximum insurable value thereof as determined by the SBMA, inclusive of the improvements. The SBMA shall be a Co-Beneficiary of the required Insurance;
- (x) Provide the needed safeguard to wholly protect the subject Properties consistent with all applicable laws, rules, and regulations set by the SBMA and by other enforcement agencies of the government; and
- (xi) Reconstruct or restore the subject Properties covered by insurance in case of partial loss or damage.
- (xii) Pay all regulatory and permit fees, if necessary, with SBMA.

Cmc NO. 121 - 2025

VI. OBLIGATIONS OF THE PARTIES

1. The Parties agree that any exchange of information or documents in connection with this Agreement shall be treated with strict confidentiality consistent with RA 10173 or the Data Privacy Act of 2012. No such information or documents shall be released to any third party without the prior written consent of the concerned party unless such information is covered by Executive Order No. 02 or the Right/Freedom of Information or required to be disclosed by virtue of a court order, or administrative warrant issued of competent authority.

2. The Parties must perform their obligations under this Agreement in good faith and shall refrain from filing any case against each other or cause other persons to file cases against any of the parties herein, except a breach of this Agreement;

3. The Parties acknowledge that they executed this Agreement freely and voluntarily with full appreciation of its consequences and that the issues and incidents leading to the execution have been referred to, discussed, and agreed upon in conformity with all the laws, ordinances, and applicable regulations.

VII. DEFAULT

1. Each of the following events shall constitute a default under this Agreement:

- 1.1 The Parties commit a material breach or violation of any provision of this Agreement, and/or repeatedly fail to perform any of its obligations herein; and/or
- 1.2 The BOC violates any of the other terms and conditions of this Agreement, RA 7227, its Implementing Rules and Regulations, or refuses to comply with orders issued by SBMA pursuant to its powers.

2. In case the BOC committed any of the events stated in item 1 hereof, the SBMA, upon due notice in writing, may declare the BOC in default. Accordingly, the BOC will be given thirty (30) days from receipt of the notice of default to correct or cure the default. If the BOC continues to be in default, despite the aforementioned curing period or fails to correct or cure the same during the said periods, the SBMA may pre-terminate this Agreement without need of judicial determination by giving a written notice of pre-termination to BOC.

In the event that SBMA chooses the pre-termination of this Agreement and the BOC after being informed in writing of SBMA's decision to pre-terminate, the SBMA, with due notice to BOC but without judicial determination, after thirty (30) days from receipt of the notice of termination may reenter, renovate or relet all or part of the properties under this Agreement.

VIII. THIRD PARTY LIABILITY

During the effectivity of this Agreement, the BOC shall hold the SBMA free and harmless from any damages, liabilities, or responsibilities to any persons or properties arising out of or because of the use thereof by the former, its officials, employees, and guests.

IX. INSPECTION OF THE PROPERTIES

The SBMA or its duly authorized representative may inspect the subject Properties to check for any violation of this Agreement's terms and conditions. The SBMA may notify the BOC of the date and time of the inspection so that the latter can provide the needed assistance and full access to the subject properties during the inspection.

X. ARBITRATION CLAUSE

Any dispute between the Parties arising out of or in connection with the Agreement shall be administratively settled or adjudicated in the manner provided under Chapter 14, Book IV of EO 292 dated 25 July 1987. Each party shall have the right to commence or maintain any suit or legal proceedings before

any court of law concerning any dispute between the Parties unless earnest efforts were exerted to settle amicably the said dispute. In the event of failure to arrive at an amicable settlement which necessitates court action, the case shall be filed exclusively before the proper court of Olongapo City, Philippines.


XI. MISCELLANEOUS

1. No assignment, transfer, mortgage, sublease, encumbrance, or alienation of the subject Properties or any portion thereof shall be valid.
2. If a court of competent jurisdiction determines any portion of this Agreement to be invalid, such portion only shall be severed, and the remaining portions of the agreement shall remain in effect.
3. The failure of the Parties to insist upon strict performance of any of the terms, conditions, and covenants hereof shall not be deemed a relinquishment or waiver of any of their rights or remedies, nor shall it be construed as a waiver of any subsequent breach or default of its terms, condition, and covenants which shall continue to be in full force and effect. No waiver by the Parties of its rights under this Agreement shall be deemed to have been made unless expressed in writing and signed by either of the Parties.
4. Any amendments or additional terms and conditions to this Agreement must be mutually agreed upon by the Parties in writing.
5. The Implementing Rules and Regulations of Subic Special Economic and Freeport Zone as promulgated by SBMA and all policies issued or adopted or to be issued or adopted by it insofar as they are not made inapplicable in the Agreement are incorporated herein by reference and made an integral part hereof.

IN WITNESS WHEREOF, the parties have set their hands and affixed their signatures this 10th day of April 2025 at Subic Bay Freeport Zone, Philippines.

SUBIC BAY METROPOLITAN AUTHORITY

By:

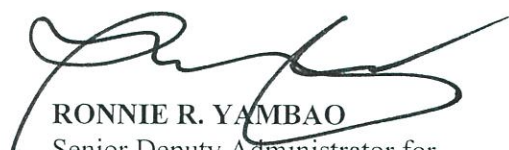

ENGR. EDUARDO JOSE L. ALIÑO
Chairperson and Administrator

BUREAU OF CUSTOMS

By:


BIENVENIDO Y. RUBIO
Customs Commissioner

SIGNED IN THE PRESENCE OF:


RONNIE R. YAMBAO
Senior Deputy Administrator for
Port Operations


Atty. MARLEN FRITZ B. BROTO
District Collector, Port of Subic

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
OLONGAPO CITY, ZAMBALES) S.S.

BEFORE ME, a Notary Public for and in the City of Olongapo, Province of Zambales, personally appeared the following:

Competent Evidence of Identity

ENGR. EDUARDO JOSE L. ALIÑO
In his capacity as Chairperson and Administrator
of the SBMA

PALCPORT: P71059648
ISSUED ON JULY 3 2021
DFA NCR EAST

BIENVENIDO Y. RUBIO
In his capacity as BOC
Commissioner

AGENCY ID NO: 56930

23 APR 2025

known to me to be the same persons who executed the preceding Instrument and acknowledged that the same is their free and voluntary Act and deed and the entities represented herein.

This Instrument, which is the Memorandum of Agreement, consists of Eight (8) pages, including this page where the Acknowledgment is written and is signed by the parties and their instrumental witnesses on each and every page thereof.

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

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Series of 2025

Notary Public

ATTY. VON A. RODRIGUEZ
Notary Public for
Zambales and Olongapo City
Notarial Commission No. 2023-0-11
Valid until 31 December 2025
PTR No. 9421795/01-02-2025/Olongapo City
IBP No. 486821 (CY 2025)/12-23-2024/Zambales Chapter
MCLE Compliance No. VIII-0023923/03-12-2025
Attorney's Roll No. 45066
Subic Bay Freeport Zone