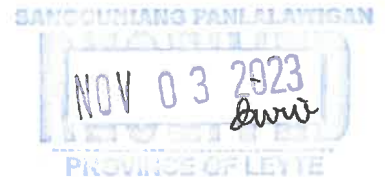


October 27, 2023

**HON. LEONARDO JAVIER, JR.**  
Provincial Vice Governor / Presiding Officer  
**SANGGUNIANG PANLALAWIGAN**  
4<sup>th</sup> Floor, Leyte Provincial Government Complex,  
West-By-Pass Road, Brgy. Guindapunan,  
Palo, Province of Leyte



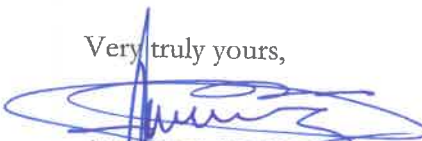
Re: IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND SAMAR II ELECTRIC COOPERATIVE, INC., WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

Ladies and Gentlemen:

In compliance with the Revised Rules of Practice and Procedure of the Energy Regulatory Commission (“ERC”), we are furnishing this Honorable Office with a complete copy of the above-captioned Application and its annexes<sup>12</sup>.

In line with this, we are requesting for a Certification from this Honorable Office stating that a complete copy of the Application of the above-captioned case, including its annexes, was served to and duly received by this Honorable Office today.

Very truly yours,

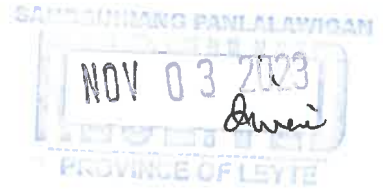


**ANDY T. DUROG**  
Energy Development Corporation  
Head, Unified Leyte Geothermal Power Plant

<sup>1</sup> Due to the voluminous nature of the annexes, these have been provided in soft copies embodied in a compact disc  
<sup>2</sup> Confidential annexes have not been included in line with the ERC's Revised Rules of Practice and Procedure

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Jade Drive, Pasig City

IN THE MATTER OF THE  
APPLICATION FOR APPROVAL  
OF THE EMERGENCY POWER  
SUPPLY AGREEMENT BETWEEN  
ENERGY DEVELOPMENT  
CORPORATION AND SAMAR II  
ELECTRIC COOPERATIVE, INC.,  
WITH MOTION FOR  
CONFIDENTIAL TREATMENT OF  
INFORMATION,



ERC CASE NO. 2022 - \_\_\_\_ RC

ENERGY DEVELOPMENT  
CORPORATION (EDC) AND  
SAMAR II ELECTRIC  
COOPERATIVE, INC.  
(NORSAMELCO),

Applicants.

x-----x

**JOINT APPLICATION**

(With Motion for Confidential Treatment of Information)

Applicants **ENERGY DEVELOPMENT CORPORATION**  
("EDC") AND **SAMAR II ELECTRIC COOPERATIVE, INC.**  
("SAMELCO II"), by and through their respective undersigned counsel, and  
unto this Honorable Commission, most respectfully state that:

**THE APPLICANTS**

1. Applicant SAMELCO II is an electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Arado, Paranas, Samar, Philippines, where it may be served with summons and other legal processes. SAMELCO II is represented here by its President, Marrychan U. Pimentel, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated February 14, 2023, attached hereto as **Annex "B-1"**.

2. Applicant EDC is a generation company duly organized, incorporated and registered, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate

dated October 13, 2022, attached hereto as **Annex “D-1”**.

- 2.1. EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”).
  - 2.2. Pursuant to the Honorable Commission’s Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.
  - 2.3. While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC’s rights nor expand its obligations and responsibilities as a generation company under the EPIRA.
3. Applicant SAMELCO II is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City of Catbalogan and Municipalities of Jiabong, Motiong, Paranas, San Sebastian, Hinabangan, Calbiga, Villareal, Pinabacdao, Sta. Rita, Talalora, Basey, Marabut, Daram, Zumarraga, San Jose de Buan, all in the Province of Samar.
4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte (“Plant”).

### **STATEMENT OF FACTS**

5. SAMELCO II is in immediate need of 1MW contracted capacity for around one (1) year<sup>1</sup>. To maintain an uninterruptible and reliable power supply due to a high level of supply deficit of at least 1MW, SAMELCO II decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customers to the volatile Wholesale Electricity Spot Market (“WESM”) prices.
6. Pursuant to Department of Energy (“DOE”) Department Circular 2018-02-003, as amended by DC 2021-09-0030, SAMELCO II is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.
7. The DOE has issued a Certificate of Exemption No. COE-CSP-2022-08-040 to SAMELCO II exempting it from the conduct of Competitive

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<sup>1</sup> Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for the period of 26 August 2022 to 25 August 2023.

Selection Process (“CSP”) for the procurement of emergency electric power supply.

8. SAMELCO II wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of 1MW emergency power supply from EDC. The Letter expressed SAMELCO II’s urgent need for supply of electricity due to circumstances beyond the control of SAMELCO II, and the limited time to conduct the said competitive selection process. On 31 August 2022, DOE issued a Certificate of Exemption in response to SAMELCO II’s letter-request.

9. In view of SAMELCO II’s supply deficit of at least 1MW for the period of 26 August 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, SAMELCO II solicited for emergency power supply for one (1) year.

10. In response to SAMELCO II’s demand, EDC has offered to supply the emergency electric power supply requirements of SAMELCO II at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and SAMELCO II accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement (“EPSA”) for the supply of 1 MW emergency power supply to SAMELCO II.

#### **ABSTRACT OF THE POWER SUPPLY AGREEMENT AND RELATED INFORMATION**

11. Under the EPSA, EDC shall supply power to SAMELCO II for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 1MW.<sup>2</sup>

11.1 **Supply of Electricity** – EDC shall make available to SAMELCO II the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to SAMELCO II. SAMELCO II shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. SAMELCO II shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.

11.2 **Purchase of Electricity** – SAMELCO II is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.

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<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

- 11.3 **Start of Supply of Electricity** – The supply of electricity by EDC and acceptance by SAMELCO II shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 11.4 **Electricity Fees** – Electricity fees shall refer to 5.8798 PhP/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by SAMELCO II.

#### **RATE IMPACT ANALYSIS**

12. SAMELCO II simulated a rate impact analysis which resulted in a Php 0.0162/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

	<b>Weighted Average Rate (kWh)</b>
<b>SAMELCO II: WITHOUT EDC EPSA</b>	12.2351
<b>SAMELCO II: WITH EDC EPSA</b>	12.2189
<b>Generation Impact: Increase / (Decrease)</b>	(0.0162)

#### **OTHER RELATED DOCUMENTS**

13. To substantiate the instant application, Applicants most respectfully submit to the Honorable Commission the following documents:

<b>ANNEX</b>	<b>DOCUMENTS</b>
<b>A</b>	Articles of Incorporation and By-laws of SAMELCO II
<b>B</b>	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of SAMELCO II
<b>C</b>	Certificate of Incorporation of EDC and relevant past Articles of Incorporation and By-laws
<b>C-1</b>	Latest Amended Articles of Incorporation of EDC
<b>C-2</b>	Latest Amended By-laws of EDC
<b>D</b>	General Information Sheet of EDC
<b>E</b>	Board of Investments Certificate of Registration
<b>F</b>	Environmental Compliance Certificate
<b>G-series</b>	Certificate of Compliance or Provisional Authority to Operate
<b>H-series</b>	DOE Certificate of Endorsement
<b>I*</b>	Renewable Energy Service Contract
<b>J</b>	Certificate of Registration or Certificate of Commerciality
<b>K</b>	Rate Impact
<b>L</b>	Single Line diagram Connection
<b>M</b>	Emergency Power Supply Agreement between SAMELCO II and EDC
<b>N</b>	DOE Certificate of Exemption
<b>O</b>	Verified Certification in relation to delivery of power in emergency circumstances
<b>P</b>	NGCP Letter on Service Agreements Certification
<b>P-1</b>	Transmission Service Agreement between NGCP and SAMELCO II
<b>Q</b>	NGCP Certificate of Adequate Capacity
<b>Q-1</b>	Write up on TSC
<b>R</b>	Executive Summary of EPSA
<b>S*</b>	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses

<b>T*</b>	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
<b>U*</b>	Bank Certifications
<b>V*</b>	Sworn statement on fuel procurement
<b>W*</b>	Relevant technical and economic characteristics of generation capacity
<b>X</b>	Supply Demand Scenario
<b>Y</b>	Estimated Load of Qualified Contestable Customers under RCOA
<b>Z</b>	Latest Audited Financial Statements
<b>AA</b>	Certification of net heat rate
<b>BB</b>	WESM Registration
<b>CC</b>	Write-up on non-applicable items
<b>CC-1</b>	SAMELCO II Write-up on Demand Side Management
<b>CC-2</b>	EDC Sample OR
<b>DD</b>	Water Permit from NWRB
<b>EE</b>	SAMELCO II's Reliability Indices
<b>FF</b>	PSPP and DDP

*\* Subject to Motion for Confidential Treatment of Information*

### **COMPLIANCE WITH PRE-FILING REQUIREMENTS**

14. In compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of SAMELCO II is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Paranas, Samar and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Samar, or from their duly authorized representatives, attesting to the fact of service are attached hereto as **Annexes "GG"** to **"GG-3"**, respectively.

15. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of

receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as **Annexes "HH" to "HH-7"**.

16. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of SAMELCO II. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as **Annexes "II" and "JJ"**, respectively.

### **REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION**

17. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

<b>ANNEX</b>	<b>DOCUMENTS</b>
<b>I</b>	Renewable Energy Service Contract
<b>S</b>	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
<b>T</b>	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
<b>U</b>	Bank Certifications
<b>V</b>	Sworn statement on fuel procurement
<b>W</b>	Relevant technical and economic characteristics of generation capacity

18. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

19. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence



of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

### **PRAYER**

**WHEREFORE**, premises considered, Applicants **EDC AND SAMELCO II** respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint Application, including the approval of the rates in the EPSA as implemented by the Applicants; and
- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes **"I"**, **"S"**, **"T"**, **"U"**, **"V"** and **"W"** as confidential information, within the purview of Rule 4 of the ERC Rules, thereby directing the same to be treated with confidentiality and be protected from public disclosure.

Other reliefs, just and equitable under the premises, are likewise prayed for.

Pasig City, August 4, 2023.

**QUIASON MAKALINTAL BAROT  
TORRES IBARRA SISON & DAMASO**

*Counsel for the Applicant EDC*  
21<sup>st</sup> Floor, Robinsons-Equitable Tower  
4 ADB Avenue corner Poveda Street  
1605 Ortigas Center, Pasig City  
Tel. No. 8631-0981  
[qmbti@qmbti.com](mailto:qmbti@qmbti.com)

By:

  
**MIGUEL K. MATHAY**

ROLL OF ATTORNEYS NO. 43982  
MCLE COMPLIANCE NO. VI-0010308; 4/14/2022  
PTR NO. 0173065; 01/05/2023  
PASIG CITY  
IBP NO. 260955; 01/05/2023  
RIZAL (RSM)

  
**GIANNA MARIA C. COMSTI**

ROLL OF ATTORNEYS NO. 63071  
MCLE COMPLIANCE NO. VII-0015472; 4/14/2025  
PTR NO. 0173084; 01/06/2023  
PASIG CITY  
IBP NO. 260958; 01/05/2023  
RIZAL (RSM)

  
**JOSE ANTONIO S. REYES**

ROLL OF ATTORNEYS NO. 62581  
MCLE COMPLIANCE NO. VII-0011907; 4/14/2025  
PTR NO. 0173085; 01/06/2023  
PASIG CITY  
IBP Lifetime No. 011794; RSM

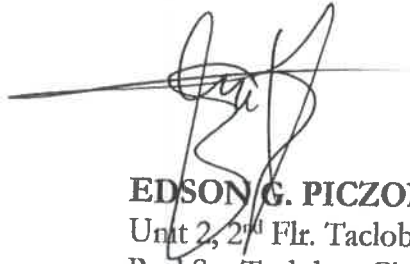
*R. Serrano*

**REM JOSHUA T. SERRANO**  
ROLL OF ATTORNEYS NO. 77963  
ADMITTED TO THE BAR ON MAY 11, 2022  
PTR NO. 0173111; 01/06/2023  
PASIG CITY  
IBP NO. 260964; 01/05/2023  
RIZAL (RSM)

*htyl*

**BEATRIZ RAINE L. BAYUDAN**  
ROLL OF ATTORNEYS NO. 77792  
ADMITTED TO THE BAR ON MAY 10, 2022  
PTR NO. 0173112; 01/06/2023  
PASIG CITY  
IBP NO. 260965; 01/05/2023  
RIZAL (RSM)

*Counsels for SAMELCO II:*



**EDSON G. PICZON**

Unit 2, 2<sup>nd</sup> Flr. Tacloban Convention Center,  
Real St., Tacloban City 6500

Contact No. 09778375329

Email Address: [attypiczon@gmail.com](mailto:attypiczon@gmail.com)

Roll of Attorneys No. 62018

PTR No. 8342658 / 01-17-23; Tac. City

Lifetime IBP No. 18202 / Leyte Chapter

MCLE Compliance No. VII-0005018

Valid until 14 April 2025



**TYRONE JAN G. ALBAO**

Unit 2, 2<sup>nd</sup> Flr. Tacloban Convention Center,  
Real St., Tacloban City 6500

Contact No. 09176321822

Email Address: [attyteejalbao@gmail.com](mailto:attyteejalbao@gmail.com)

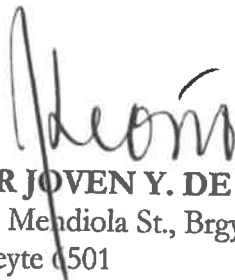
Roll of Attorneys No. 66859

PTR No. 7689990 / 02-01-2023; Tac. City

IBP No. 303613 / 01-24-2023; Leyte Chapter

MCLE Compliance No. VII-0002803

Valid until 14 April 2025



**PETER JOVEN Y. DE OÑO**

0977 R. Mendiola St., Brgy. Sta Cruz,  
Palo, Leyte 6501

Contact No. 09171358090

Email address: [power8lawyers@gmail.com](mailto:power8lawyers@gmail.com)

Roll of Attorneys No. 72478

PTR No. 8334457 / 01-06-23; Tacloban City

IBP No. 169902 / 12-7-21; Leyte Chapter

MCLE Compliance No. VII-0001147

Valid until 14 April 2025

REPUBLIC OF THE PHILIPPINES)  
CITY OF MAKATI ) S.S.

**VERIFICATION AND CERTIFICATION  
OF NON-FORUM SHOPPING**


I, **MARVIN KENNETH S. BAILON**, of legal age, Filipino, and with office address at the Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City after having been duly sworn in accordance with law, depose and state that:

1. I am the Vice President and authorized representative of Energy Development Corporation (“Corporation”), one of the Applicants in this case;
2. I have read the foregoing Application, the factual allegations of which are true and correct based on my personal knowledge and on authentic records and/or documents;
3. The foregoing Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
4. The factual allegations therein have evidentiary support or, if specifically identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
5. The Corporation has not commenced any action or proceeding involving the same issues before the Supreme Court, the Court of Appeals, or different divisions thereof, or the Regional Trial Court, Metropolitan Trial Court, or any tribunal or agency, and to the best of my knowledge, no such action or proceeding is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or the Regional Trial Court, Metropolitan Trial Court, or any tribunal or agency; and
6. Should I thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or the Regional Trial Court, Metropolitan Trial Court, or any tribunal or agency, I hereby undertake to promptly inform the aforementioned courts and this Honorable Commission within five (5) calendar days from knowledge therefrom.

  
**MARVIN KENNETH S. BAILON**  
Affiant

SUBSCRIBED AND SWORN to before me this SEP 25 2023 day of \_\_\_\_\_  
2023 at CITY OF MAKATI, affiant who is personally known to me, exhibiting to me  
his Passport No. P 7523214B issued on Sept. 4, 2021 at  
DFA Manila and expiring on Sept. 3, 2031 as competent  
evidence of identity.

Doc. No. 382;  
Page No. 78;  
Book No. 190  
Series of 2023.

  
**ATTY. JOSHUA P. LAPUZ**  
Notary Public for Makati City  
Appointment #M-019/Until 12-31-23  
Roll No. 45790/IBP Lifetime #04897/07-03-03  
PTR No. 9563523/01-03-2023/Makati City  
MCLE No. VII-0016370/04-26-2022  
G/F Fedman Suites 199, Salcedo Street  
Legaspi Village, Makati City

Republic of the Philippines)  
\_\_\_\_\_ ) S.S.

## VERIFICATION AND CERTIFICATE OF NON-FORUM SHOPPING

I, **MARRYCHAN U. PIMENTEL** of legal age, Filipino, and with office address at Brgy. Arado Paranas Samar, subscribing under oath, hereby deposes and states, THAT:

1. I am the Board President and the authorized representative of Samar II Electric Cooperative, Inc. (SAMELCO II) in the *Application for the Approval of Emergency Power Supply Agreement* with the Energy Regulatory Commission (ERC);
2. I have caused the preparation of the foregoing *Application*; That I have read the same, and that the contents of which are true and correct based on my personal knowledge and authentic records in my possession.
3. The *Application* is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
4. The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
5. (a) I have not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his or her knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five (5) calendar days therefrom to the court wherein his or her aforesaid complaint or initiatory pleading has been filed.


IN WITNESS WHEREOF, I have hereunto affixed my signature this August 9, 2023 at Tacloban, Philippines.

  
**MARRYCHAN U. PIMENTEL**  
Affiant

**SUBSCRIBED AND SWORN** to before me, this 09 August 2023 in Tacloban City, Philippines. Affiant exhibited to me his competent proof of identity PHIL. PASSPORT # PR825335B.

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

Doc. No. 361 ;  
Page No. 79 ;  
Book No. 1 ;  
Series of 2023.

  
**ATTY. ALEXIS CLAIRE Q. CAÑETE**  
Notary Public for Tacloban City  
Notarial Commission No. 2022-10-101 | Until 12-31-2023  
Roll of Attorneys No. 80053  
IBP No. 254606 | 12-28-2022 | Leyte  
PTR No. 8324322 | 01-05-2023 | Tacloban City  
REYES AND ASSOCIATES LAW AND NOTARIAL OFFICE  
Justice Romualdez St. corner Sto. Niño St., Tacloban City