MEMORANDUM OF AGREEMENT
Between

The BUREAU OF INTERNAL REVENUE
and
The MARITIME INDUSTRY AUTHORITY

KNOW ALL MEN BY THESE PRESENTS:

This **MEMORANDUM OF AGREEMENT** is made and executed this 24 NOV 2020 day of _____, in 2020 in Quezon City by and between:

The **BUREAU OF INTERNAL REVENUE (BIR)** an agency of the national government duly created, organized, and existing in accordance with Philippine Law with office address at BIR National Office, BIR Road, Diliman, Quezon City, herein represented by Commissioner **CAESAR R. DULAY**;

The **MARITIME INDUSTRY AUTHORITY** an attached agency of the Department of Transportation, duly created, organized, and existing in accordance with Presidential Decree No. 474, with office address at 20th Street corner Bonifacio Drive, Port Area, Manila, herein represented by its Administrator, **VADM ROBERT A EMPEDRAD**;

WHEREAS, Section 2 of Republic Act No. 10173, also known as the Data Privacy Act of 2012, provides that it is the policy of the State to protect the fundamental right of privacy of communication while ensuring free flow of information to promote innovation and growth. The State also recognizes its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected;

WHEREAS, Section 22 of the Data Privacy Act provides that all sensitive personal information maintained by the government, its agencies and instrumentalities shall be secured, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the National Privacy Commission (NPC) and that the head of each government agency or instrumentality shall be responsible for complying with the security requirements mentioned therein;

WHEREAS, Section 13 of the Data Privacy Act states that the processing of personal information is allowed if provided for by existing laws and regulations;

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WHEREAS, Section 5(B) of Republic Act (R.A.) No. 8424 or the National Internal Revenue Code (NIRC) of 1997, as amended by R. A. No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) law, grants the Commissioner of Internal Revenue the power to obtain on a regular basis from any person other than the person whose internal revenue tax liability is subject to investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Banko Sentral ng Pilipinas and government-owned or –controlled corporations, any information;

WHEREAS, Executive Order (E.O.) No. 53 (dated 22 January 1993) directs all government agencies to provide BIR with the necessary information to help increase tax collection;

WHEREAS, Section 270 of the NIRC of 1997 prohibits any officer or employee of the Bureau of Internal Revenue from divulging to any person or making known in any manner other than may be provided by law taxpayer information regarding business, income, estate, secrets operation, style of work, apparatus of any manufacturer or producer, or any confidential information regarding the business of the taxpayer, knowledge of which was acquired during the performance of duties;

WHEREAS, Section 21 of the Data Privacy Act and Section 20 of its Implementing Rules and Regulations (IRR) allow on-site and online access as well as off-site access of data in the government as provided in the guidelines of the NPC;

WHEREAS, NPC Circular 16-02 provides the rules governing data sharing agreements involving government agencies;

WHEREAS, certain records, documents, data and information vital to BIR's program of augmenting the tax revenue base, enforcing tax laws, and increasing tax collections are filed and maintained by MARINA; and

WHEREAS, in order to maintain the validity of its records, MARINA requires cross-referencing of its files with BIR database and vice-versa;

NOW THEREFORE, for and in consideration of the foregoing premises, BIR and MARINA hereto mutually agree as follows that:

1. MARINA through the undersigned representative hereby consent to share with BIR confidential/personal data or information of their MARINA registered persons which it collected in the performance of mandated duties and functions pursuant to Section 5 of the NIRC of 1997, as amended by the TRAIN law, to be utilized by BIR for assessment, its collection, and enforcement of national internal revenue taxes only;

2. BIR through the undersigned representative hereby consent to share with MARINA personal data or information of the taxpayers not otherwise covered

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by Section 270 of the NIRC of 1997, as amended, which it collected in the performance of its mandated duties and functions, subject to compliance with Section 4 of NPC Circular N0. 16-02, to be utilized by MARINA for tax validation purposes only;

3. The type of personal data or information to be shared between MARINA and BIR, mode of data sharing, frequency, and other operational details shall be specified in the Technical Annex of this Memorandum of Agreement (MOA); *Provided* that, BIR shall not share information regarding business, income, estate, secrets operation, style of work, apparatus of any manufacturer or producer, or any confidential information regarding the business of the taxpayer, knowledge of which was acquired during the performance of duties pursuant to Section 270 of the NIRC of 1997;

4. The operational details of this data sharing agreement shall be updated in a phased-in approach, once infrastructure is available. Provided, that such updates shall be considered amendments to this MOA. Provided further, that BIR and MARINA shall designate and authorize technical representatives to update the operational details;

5. Access to the personal data or information shall be limited to the list of BIR and MARINA officers/employees specified in the Technical Annex of this MOA. The types of processing to the data shall likewise be limited to those specified in the Technical Annex. Any modification to the access list and the types of processing allowed shall require the approval of the Commissioner of Internal Revenue for BIR and the Administrator for MARINA;

6. BIR and MARINA shall designate a Data Protection Officer prior to the signing of this MOA, who shall also stand as witnesses in the signing of this agreement;

7. BIR and MARINA shall implement appropriate security measures, as specified in the Technical Annex, to ensure protection of the personal information of data subjects, including the policy for retention, destruction and disposal of records;

8. BIR warrants to treat any and/or all information by MARINA pursuant to this MOA with utmost confidentiality, in accordance with the Data Privacy Act, and for tax assessment, collection, and enforcement purposes only. BIR further agrees to hold MARINA and its officials and employees, free and harmless from any liability of whatsoever nature and kind from the misuse of any and/or all personal data or information from MARINA or on account of any breach of confidence committed by any employee and/or authorized representative of BIR;

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9. MARINA warrants to treat any and/or all information by BIR pursuant to this MOA with utmost confidentiality, in accordance with the Data Privacy Act, and for tax validation purposes only. MARINA further agrees to hold BIR and its officials and employees, free and harmless from any liability of whatsoever nature and kind from the misuse of any and/or all personal data or information from BIR or on account of any breach of confidence committed by any employee and/or authorized representative of MARINA;

10. In case of violation of the rights of the data subject as specified in the Data Privacy Law and its IRR, he/she may file a complaint before the Commissioner of Internal Revenue for BIR or the Administrator for MARINA;

11. This MOA shall take effect upon the signing thereof by the parties' authorized representatives and shall remain in full force for five years thereafter or until mutually abrogated by the parties concerned. Provided, that the effectivity of this MOA may not be extended, without prejudice to entering into a new data sharing agreement; and

12. This MOA may be accessed by concerned data subjects in accordance with the process specified in the BIR's People's Freedom of Information Manual and MARINA's People's Freedom of Information Manual. The request for information shall be addressed to the Commissioner of Internal Revenue for BIR or the Administrator for MARINA.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures this ____ day of 24 NOV 2020, 2019 in Quezon City, Philippines.

BUREAU OF INTERNAL REVENUE **MARITIME INDUSTRY AUTHORITY**

By: By:

CAESAR R. DULAY
Commissioner

VADM ROBERT A EMPEDRAD
Administrator

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Signed in the presence of:

LANEE CUI-DAVID
Data Protection Officer
Deputy Commissioner
Information Systems Group

NÉNITA S. ATIENZA
Data Protection Officer
Director
Management Information Systems Service

ATTY. EUSEBIA A. CADLUM-BOCO
Data Protection Officer
OIC-Director
Legal Service

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