

MEMORANDUM OF AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS:


This Memorandum of Agreement (MOA) is entered into by and between:

The **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) MIMAROPA REGION**, with office address at the 6th Floor, Tower 2, Parañaque Integrated Terminal Exchange (PITx), 1 Kennedy Road, Brgy. Tambo, Parañaque City, represented herein by its Regional Executive Director, **FELIX S. MIRASOL, JR.**, hereinafter referred to as **DENR MIMAROPA**;

and

The **PROVINCIAL GOVERNMENT OF PALAWAN**, with office address at the Palawan Provincial Capitol, Puerto Princesa City, represented herein by its Governor, **HON. VICTORINO DENNIS M. SOCRATES**, hereinafter referred to as **PGP**;

WITNESSETH:



WHEREAS, Republic Act (R.A.) No. 10067, otherwise known as the *Tubbataha Reefs Natural Park (TRNP) Act of 2009*, created the Tubbataha Protected Area Management Board (TPAMB) as the sole policy-making and permit-granting body of the Tubbataha Reefs Natural Park (TRNP), and is co-chaired by the DENR MIMAROPA and the PGP;

WHEREAS, on January 17, 2013, the USS Guardian, an American warship, ran aground in the South Atoll of the TRNP;

WHEREAS, on January 22, 2013, the TPAMB communicated with US Ambassador Harry K. Thomas, Jr., and Commander, Western Pacific Command, Rear Admiral Thomas F. Carney, informing them of the violations committed by the US Navy and serving notice of the possible fines payable to the TPAMB;

WHEREAS, on April 8, 2013, after the removal of the USS Guardian from TRNP and the conduct of a joint Philippine-US assessment, the TPAMB informed the US Ambassador, copy furnished the Secretaries of the Department of Foreign Affairs (DFA) and the then Department of Transportation and Communication (DOTC), that the total area of coral damage caused by the ship was 2,345.67 square meters and that the total fines for the violations committed amount to Fifty-Eight Million Three Hundred Seventy-Five Thousand Eighty Pesos (PHP58,375,080.00) or US\$1.459 Million, broken down as follows:

WHEREAS, on October 1, 2022, the DENR Central Office downloaded the amount of PHP58,375,080.00 to the DENR MIMAROPA;

WHEREAS, on October 25, 2022, the DENR MIMAROPA transferred the amount of PHP58,375,080.00 to the PGP;

WHEREAS, on December 22, 2023, the PGP requested an extension of the May 2020 MOA for the utilization of the PHP58,375,080.00 to complete the project and utilize the fund until December 31, 2024 due to various circumstances surrounding the project, which include challenges such as the aftermath of tropical cyclones, bid and awards procedures, and price escalation of construction materials in Palawan.

WHEREAS, after a thorough review and evaluation of the request for an extension, the DENR MIMAROPA has determined that the reasons cited are plausible, and hence, is amenable to the request however, there is a need to enter into a new MOA considering that the previous MOA has already expired;

NOW, THEREFORE, in consideration of the above premises and in order to facilitate completion of the project, the Parties do hereby agree as follows:

I. COVERAGE AND OBJECTIVE

This MOA covers the utilization of the compensation amounting to PHP58,375, 080.00 paid by the US government for the completion of **Phase II of Tubbataha Reefs Rangers Station**.

II. RESPONSIBILITIES OF THE PARTIES

A. The DENR MIMAROPA shall

1. Monitor, through the PENRO Palawan, the construction of Phase II Tubbataha Reefs Rangers Station. The PENRO Palawan shall submit quarterly updates/reports to the Regional Office until such time that the project has been completed and the subject amount has been fully expended;
2. Designate personnel from the PENRO Palawan for the Inspection Team that will be created by the PGP; and,
3. Ensure compliance with COA Circular No. 2012-001 dated June 14, 2012 and other applicable accounting and auditing rules and regulations;

B. The PGP shall:

1. Provide the DENR MIMAROPA, through PENRO Palawan, an audited statements of expenditure and accomplishment reports on the disposition of the subject fund and the status of construction of Phase II Tubbataha Reefs Rangers Station at the end of every quarter, until such time that the subject amount has been fully utilized and correspondingly liquidated;

2. Complete the project and submit the completion/terminal report (physical and financial) to DENR MIMAROPA, through PENRO Palawan, on or before December 31, 2024. A request for extension, for valid reasons, may be made before the end of CY 2024;
3. Initiate and facilitate the creation of an Inspection Team composed of representatives from the following key offices:
 - a. PGP
 - b. PENRO Palawan
 - c. Commission on Audit (COA) – PENRO Palawan
 - d. TPAMB and TMO
4. Allow the Inspection Team to conduct regular ocular inspections and a final inspection upon completion of the project;
5. Comply with other documentary requirements that may, later on, be determined or required by the DENR Central Office, DBM, BTr, and/or the COA-PENRO Palawan, i.e. *disbursement/liquidation documents*; and,
6. Ensure compliance with COA Circular No. 2012-001 dated June 14, 2012 and other applicable accounting and auditing rules and regulations.

III. COMPLIANCE

Non-compliance with the provisions of this MOA shall be dealt with in accordance with the prevailing laws, rules, and regulations.

IV. AMENDMENTS

This MOA may be revoked, amended, or extended, subject to reasonable justification, upon mutual consent of both Parties.

V. TERMINATION

This MOA shall automatically be deemed terminated upon completion of the project and submission of inspection and terminal reports by the PGP.

VI. SEPARABILITY CLAUSE

If any provision contained herein is declared invalid, illegal, or unenforceable in any respect by a competent authority under any applicable law or decision, the Parties shall respect the validity, legality, and enforceability of the other remaining provisions.

VII. EFFECTIVITY

R.A. No. 10067	Violations/Description	Details	Penalties	
			Peso	Dollar (at PHP40/\$1)
Section 19	Unauthorized entry. On or about 170300H January 2013, the USS Guardian entered TRNP without prior permission from the TPAMB.	RA 10067	300,000.00	7,500.00
Section 20	Damages to the reef. Upon grounding and broaching toward its starboard side, damage was inflicted on the reefs, the total area of which was jointly assessed by US and Philippine representatives.	AO#1 (21): 2,345.67 sq.m. x P12,000	28,148,040.00	703,701.00
		2,345.67 sq.m. x P12,000 (minimum for restoration)	28,148,040.00	703,701.00
Section 21	Non-payment of conservation fees. None of the personnel on board the USS Guardian paid the conservation fees provided for in this section.	AO 01 (22): 79 USS Guardian crew x 3,000	237,000.00	5,925.00
		Administrative fine 79 x 6,000	474,000.00	11,850.00
		AO#1 (22) vessel entry fee: 1367 gt @ Php 6,000	6,000.00	150.00
		Administrative fine 6,000 x 2	12,000.00	300.00
Section 26g	Destroying, disturbing resources. The destruction and disturbance of coral communities constitute a violation of this section.	RA 10067	1,000,000.00	25,000.00

Section 30	Obstruction of Law Enforcement Officers. Refusal to respond to radio communications and hindering marine park rangers from conducting initial damage assessment as their mandate dictates is an obstruction to the performance of their functions	RA 10067 (30)	50,000.00	1,250.00
		TOTAL	PHP8,375,080.00	\$1,459,377.00

WHEREAS, the amount was reached based on the administrative penalties for prohibited acts provided under R.A. No. 10067;

WHEREAS, on January 20, 2015, the US Government paid the Philippine Government in the amount of Eighty-Seven Million Thirty-Three Thousand Four Hundred Seventy Pesos and 71/100 (PHP87, 033,470.71) for damages caused to TRNP, of which PHP58,375,080.00 is due to the TPAMB;

WHEREAS, on February 26, 2015, the DENR Secretary requested the DFA Secretary to transfer the compensation paid by the US Government to the TPAMB Trust Fund;

WHEREAS, on March 26, 2015, the Bureau of the Treasury (BTr) informed the Tubbataha Management Office (TMO) that the compensation in the amount of PHP87,033,470.71 paid by the US Government for damages caused in TRNP was credited to Trust Fund 184 of the DENR-OSEC (B1132) per BTr-NG Journal Entry Voucher No. 15-01-00334 dated January 20, 2015;

WHEREAS, according to BTr representatives, the amount could not be deposited to the TPAMB Trust Fund because the same is not registered with the BTr;

WHEREAS, on April 14, 2015, the TPAMB issued Resolution No. 15-06 requesting the DENR to transfer the compensation paid by the US Government to the TPAMB Trust Fund created under Section 17 of RA 10067;

WHEREAS, on September 15, 2015, in a meeting held among representatives of the DENR, Department of Budget and Management (DBM), BTr, and the TPAMB, it was clarified that the payment is intended as compensation for violation of R.A. No. 10067 and that the DENR merely serves as a conduit for the fund;

WHEREAS, in May 2020, the DENR MIMAROPA and the PGP executed a MOA for the release, downloading, and utilization of the amount of PHP58,375,080.00;


WHEREAS, on July 29, 2020, the TPAMB issued Resolution No. 20-08 endorsing the program of works for the construction of the Phase II Tubbataha Reefs Rangers Station and requesting the release of the PHP58,375,080.00 to the PGP;

This Agreement shall take retroactive effect from the date of execution of the May 2020 MOA and shall remain in full force and effect until the purposes of this MOA are entirely served or until December 31, 2024, unless amended, revoked, or sooner terminated by mutual consent of the Parties.


IN WITNESS WHEREOF, the parties herein have hereunto set their hands this 30 day of JUL, 2024 at Puerto Princesa City.

FOR THE DENR MIMAROPA:

FOR THE PGP:




FELIX S. MIRASOL, JR., CESO IV
OIC, Regional Executive Director
DENR MIMAROPA Region
and Co-Chair, TPAMB

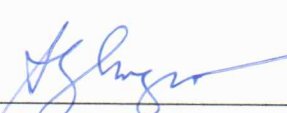


VICTORINO DENNIS M. SOCRATES
Governor, Provincial Government of Palawan
and Co-Chair, TPAMB

WITNESSES:



FELIZARDO B. CAYATOC
PENR Officer, PENRO Palawan



ANGELIQUE M. SONGCO
PASu, Tubbataha Reefs Natural Park

ACKNOWLEDGMENT

Republic of the Philippines)
City of Puerto Princesa) SS.

BEFORE ME, a notary public for and in the City of Puerto Princesa, this 30 day of JUL, 2024, personally appeared the following persons who have satisfactorily proven to me their identities with the following issued Identification Cards containing their photographs and signatures:

NAMES	ID No.	Issuing Agency	Validity
FELIX S. MIRASOL, JR.			
VICTORINO DENNIS M. SOCRATES			

The parties are known to me to be the same persons who executed and voluntarily signed the foregoing Memorandum of Agreement which they acknowledged before me as their free and voluntary act and deed, that they are acting as the representatives of the DENR MIMAROPA and PGP, respectively, and that they have the authority to sign in behalf of their respective organizations.

This Memorandum of Agreement, consisting of seven (7) pages, including the page on which this Acknowledgment is written, has been signed by the parties and their witnesses.

WITNESS MY HAND AND SEAL this _____ day of 30 JUL 2024,
2024 in Puerto Princesa City.

Doc. No. 5;
Page No. 2;
Book No. VI;
Series of 2024.



ATTY. CHEANN MAE G. FLORES
Notary Public
NOTARY PUBLIC FOR PALAWAN AND PPC
ROLL NO. 76714
NPL NO. 2024-030 UNTIL DECEMBER 31, 2025
IBP NO. 413090 / JANUARY 09, 2024
PTR NO. 7884341 / JANUARY 05, 2024
MCLE COMPLIANCE UNTIL APRIL 2025
(ADMITTED TO THE BAR MAY 5, 2022)
SAN MIGUEL, PUERTO PRINCESA CITY