



RULES AND REGULATIONS IMPLEMENTING THE PROVISIONS OF REPUBLIC ACT NO. 9728, OTHERWISE KNOWN AS "THE FREEPORT AREA OF BATAAN ACT OF 2009", AS AMENDED BY REPUBLIC ACT NO. 11453

RULE I

PRELIMINARY PROVISIONS

Section 1. *Short Title.* – Republic Act No. 9728, as amended by Republic Act No. 11453, shall be known as the "*Freeport Area of Bataan (FAB) Act of 2009.*"

SECTION 2. *Scope.* – These Implementing Rules and Regulations are hereby promulgated to implement the provisions of the "Freeport Area of Bataan Act of 2009," in accordance with Section 29 of Republic Act No. 9728, as amended by Republic Act No. 9728.

SECTION 3. *Declaration of Policy.* – Within the framework and subject to the mandate of the Constitution and the pertinent provisions of the Local Government Code, it is hereby declared the policy of the State and the Authority of the Freeport Area of Bataan (AFAB) to actively encourage, promote, induce and accelerate a sound and balanced industrial, innovative, pioneering, economic, and social development of the country in order to provide jobs to the people, especially those in the rural areas, increase productivity and individual and family income, and thereby improve the level and quality of living conditions through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that will attract legitimate and productive foreign investments.

It is also declared the policy of the State and AFAB to operate and manage the Freeport Area of Bataan (FAB) as a separate customs territory ensuring free flow or movement of goods and capital within, into, and exported out of the FAB, as well as provide incentives such as tax and duty free importations of raw materials, capital, and equipment.

SECTION 4. *Definitions.* – For purposes of these Rules, these terms shall be

understood to have the following meanings:

- a. Act — refers to Republic Act No. 9728, otherwise known as the “Freeport Area of Bataan Act of 2009,” as amended by Republic Act No. 11453.
- b. AFAB — refers to the Authority of the Freeport Area of Bataan created under Section 11 of the Act.
- c. Articles — for purposes of these Rules, and when used with reference to importations or exportations, the term includes, or may refer collectively to, raw materials, supplies, equipment, computer and information technology (IT) hardware, machinery, packaging materials, goods, wares, merchandise and in general, anything of every description to be used in connection with the registered activity of a FAB Registered Enterprise that may, under the Rules of the AFAB, be made the subject of importation into or exportation from the FAB.
- d. Accredited Service Provider – a person or entity accredited by the AFAB that provides any lawful service to the FAB Registered Enterprise/s.
- e. Artificial Intelligence – sometimes called machine intelligence, refers to intelligence demonstrated by machines or the ability of a digital computer or computer-controlled robot to perform tasks commonly associated with intelligent beings; the term Artificial Intelligence is frequently applied to the project of developing systems endowed with the intellectual processes characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience.
- f. Artificial Technology - is an area of computer science also known as artificial intelligence that emphasizes the creation of intelligent machines and technologies that work and reacts like humans.
- g. Authorized Agent Banks — shall refer to all categories of domestic banks (except Offshore Banking Units) duly licensed by the *Bangko Sentral ng Pilipinas* (BSP). It is understood that each category of bank shall function within the operational parameters defined by existing laws/regulations for the specific bank category to which it respectively belongs. Authorized Agent Banks solely refer to Philippine Peso transactions targeting Philippine citizens and / or those residing within the territory of the Philippines.
- h. Authorized Agent Bank Subsidiary/Affiliate Foreign Exchange Corporations —shall refer to Authorized Agent Bank subsidiary/affiliate foreign exchange

corporations whose business include buying and selling of foreign exchange, whether or not named as such.

- i. Blockchain - means a digitized, decentralized, public ledger of all digital transactions. The Blockchain technology is primarily used for verification, however, it is possible to digitize programs and insert practically any document into the blockchain. Blockchain Technology is an emerging form of distributed ledger technology (DLT) or a digitalized database transaction. Blockchain is a form of distributed ledger technology that organizes transaction records into blocks or a series of decentralized information which are publicly verified and are perpetually fused in an alterable data string (chain).

Blockchain can be further defined as a growing list of records, called *blocks*, which are linked using cryptography. Each block contains a cryptographic hash of the previous block, a timestamp, and transaction data.

By design, a blockchain is resistant to modification of the data. It is an open, distributed ledger that can record transactions between two parties efficiently and in a verifiable, immutable, and permanent way. For use as a distributed ledger, a blockchain is typically managed by a peer-to-peer network collectively adhering to a protocol for inter-node communication and validating new blocks. Once recorded, the data in any given block cannot be altered retroactively without alteration of all subsequent blocks, which requires consensus of the network majority. Although blockchain records are not unalterable, blockchains may be considered secure by design and exemplify a distributed computing system with high Byzantine fault tolerance. Decentralized consensus has therefore been claimed with a blockchain.

- j. Board — refers to the Board of Directors of the AFAB.
- k. Business Developer for Offshore Blockchain and Financial Technology Services (OBFTS) Activities – A FAB Registered Enterprise duly accredited by the AFAB to conduct lawful activities within the FAB and may be authorized to conduct third party evaluation in behalf of the AFAB for activities that include the operations of Blockchain and Financial Technology System Solutions.
- l. Business License – A license that may be multi-year in nature and duly issued by the AFAB for an enterprise doing legitimate business or lawful activities in the FAB which are not qualified to avail of the incentives provided under

the Act.

- m. Business Process Outsourcing – refers to a subset of outsourcing that involves the contracting of the operations and responsibilities of a specific business process to a third-party service provider. Often the business processes are information and communications technology-based, and are referred to as ITES-BPO, where ITES stands for Information Technology Enabled Service. In addition, the Business Process Outsourcing industry is composed of sub-sectors, namely, knowledge process outsourcing and back offices, animation, call centers, software development, game development, engineering design and medical transcription. It has also expanded to original equipment manufacturing (OEM), security systems and solutions outsourcing, IT solutions and hardware outsourcing, financial technology (FINTECH), payment solutions outsourcing and managing of peer to peer exchange platforms and cloud computing.
- n. Certificate of Registration – refers to the certificate issued by the AFAB representing the registration of the business entity as a FAB Enterprise, FAB Registered Enterprise which could be a Developer/Operator, Utilities, Facilities, Manufacturing/Processing, Tourism or Information, businesses engaged in financial technology solutions, payment solutions outsourcing, managing of peer to peer exchange platforms, cloud computing, Offshore Exchange and Communication Technology Firm, upon its registration. The date appearing thereon, unless otherwise indicated, shall be conclusively deemed the date of registration.
- o. Certificate of Residency – refers to the certificate issued by the AFAB representing the registration of an individual as a FAB Resident.
- p. Cloud Computing – refers to technology that uses the internet and central remote servers to maintain data and applications. It allows consumers and businesses to use applications without installation and access their personal files at any computer with internet access.
- q. Collective Investment Scheme (CIS) – refers to an investment scheme wherein several individuals come together to pool their money for investing in a particular asset(s) and for sharing the returns arising from that investment as per the agreement reached between them prior to pooling in the money.
- r. Cryptocurrency- refers to a digital asset that is designed to work as a medium of exchange that uses strong cryptography to secure financial transactions, control the creation of additional units, and verify the transfer of assets.

- s. Cryptocurrency Mining – refers to a process in which transactions for various forms of cryptocurrency are verified and added to the Blockchain digital ledger.
- t. Customs Territory – refers to the portion of the Philippines outside the FAB where the Tariff and Customs Code of the Philippines and other national tariff and customs laws are in force and effect.
- u. Cybersecurity – refers to the collection of tools, policies, risk management approaches, actions, training, best practices, assurance, and technologies that can be used to protect the cyber environment and organization and user’s assets;
- v. "Developer/Operator" refers to a business entity or concern duly registered with and/or licensed by the Authority to develop, operate and maintain an area to be annexed and/or registered with the AFAB or any or all of the component Industrial Estate, Agro-Industrial, Commercial, Tourist/Recreational Center and the required infrastructure facilities and utilities such as light and power system, water supply and distribution system, sewage and drainage system, pollution control facilities as may be required by the Authority. The term shall include the Authority and/or the local government unit when by themselves or in joint venture with a qualified private entity shall act as developers/operators of the Estate.
- w. Digital Assets- means a uniquely identifiable electronic representation of value, property or chattel, the conferral, storage and transfer of which is recorded electronically including by transmission of electronic information or adjustment of an electronic record and which is any or a combination of the following:
 - a. a virtual currency, being medium of exchange or payment, a unit of account a store of value, or a means of money or value transfer:
 - i) that, at the relevant time, is not designated legal tender; and/or
 - ii) for which, at the relevant time, the creation is not administered,

by any Government Entity (acting intra vires) but the value of which may be ascertained by reference to a medium of exchange or payment or a unit of account falling within (i) and (ii) (a “Virtual Currency”);
 - b. an asset token, being an electronic representation of a tangible or

- intangible asset, or right in relation to with such an asset (including a debt or a security or equity or an option over these, including of the Issuer of the Digital Asset (an “Asset Token”); or
- c. a utility token being a representation of an entitlement to use, have access to or carry out a certain function within an electronic application, service or product (a “Utility Token”);
 - d. an electronic representation of value which is part of an affinity or rewards program and which can be used only to acquire goods or services from participants in that program but cannot be exchanged in the program for legal tender, bank credit or any Digital Asset; or
 - e. an electronic representation of value issued by or on behalf of the publisher and used within an online game, game platform or family of games sold by the same publisher or offered on the same game platform.
- x. Digital Asset or Token Offering or DATO- means an offer to more than twenty (20) persons during any twelve (12) month period to purchase or otherwise acquire Digital Assets to be issued by an issuer.
 - y. Distributed Ledger Technology - means an incorruptible digital ledger programmed to record any transaction of value. The digital ledger is a distributed database that allows participants to create, disseminate, and store transaction records that are consensually shared and synchronized across a network of nodes. The copies of records stored in all the database nodes are regarded as equally authentic. The ledger hence provides access to a full audit trail of transactional history, which can be traced back to the moment when a piece of information or record of transaction was made for the first time. An example of this is Blockchain.
 - z. Domestic Articles — refers to articles which are the growth, product or manufacture of the Philippines and upon which all national internal revenue taxes have been paid, if subject thereto, and upon which no drawback or bounty has been allowed; and articles of foreign origin on which all duties and taxes have been paid and upon which no drawback or bounty has been allowed, or which have previously been entered into customs territory free of duties or taxes.
 - aa. Expansion Area- refers to: (1) any private or alienable and disposable public lands and/ or their respective water territories, including all municipal waters, and natural resources which may be found under and

above, with the concurrence of the LGU, acquired or procured by AFAB, either by purchase, negotiation, condemnation proceedings or any other arrangement, for the following purposes: (i) consolidation of lands for FAB development and establishment of new industrial estates and economic zones under FAB; (ii) acquisition of right of way to the FAB; and (iii) the protection, and safeguard of watershed areas and the maintenance and improvement of its water yield and natural assets; and (2) any public or privately-owned land, improvement, infrastructure, building, or portions thereof duly registered with the AFAB, within the territorial jurisdiction of the Province of Bataan.

bb. FAB — is the Freeport Area of Bataan referred to in Section 3 of the Act, and is a separate customs and franchise territory consisting of the area demarcated by the former Bataan Economic Zone (“BEZ”) and all other expansion areas within the Province of Bataan.

cc. FAB Enterprise — refers to any business entity or concern within the FAB duly registered with and/or licensed by the AFAB to operate any lawful economic activity, including but not limited to the operation and utilization of electronic vehicles, aircraft and battery technology artificial technology, blockchain, business process outsourcing, cloud computing, cybersecurity, distributed ledger technology, financial technology solutions, internet of things, and virtual reality, retirement and healthcare services, agro-industrial, offshore exchange, defense technologies and investment center with provision for suitable residential areas, within the jurisdiction of the FAB, including existing enterprises that were previously registered with the Bataan Economic Zone, which, among others, may be categorized as follows:

1. FAB Registered Enterprise (FRE) -any business entity or concern within the FAB duly registered with AFAB, availing tax and/or fiscal incentives
2. Accredited Service Provider- enterprises that provide goods and services to FREs
3. Business License Holder- enterprises that conduct businesses inside the FAB that may serve the general public
4. Licensees- offshore companies regulated by the AFAB which have an FRE counterpart established in the form of a Service Agreement or any instrument approved and recognized by the AFAB

dd. FAB Facilities Operator — refers to a FAB Registered Enterprise which operates facilities or services within the FAB, including the subleasing of

land or other property to other FAB Registered Enterprises.

- ee. FAB Resident — refers to individuals who qualify and comply with the regulations set forth under Chapter III of these Rules. The AFAB Board of Directors shall automatically be considered as FAB Residents for the duration of their respective terms.
- ff. Financial Technology Solutions – refers to financial sector innovations involving technology enabled business models that can facilitate disintermediation; revolutionize the creation and delivery of financial products and services; address privacy, regulatory and law-enforcement challenges; provide new gateways for entrepreneurship; and seed opportunities for inclusive growth. These innovations involve financial solutions of all kinds- such as, but not limited to payment; money transfer; lending; crowd-funding; venture capital; banking; trading; investing; stock, future, and commodities exchanges; auditing; asset management; compliance; data storage and authentication: insurance; and risk management.
- gg. Foreign Articles — refers to articles of foreign origin on which duties and taxes have not been paid, or upon which drawback or bounty has been allowed, or which have not been previously entered into customs territory; or articles which are the growth, product or manufacture of the Philippines on which not all national internal revenue taxes have been paid, if subject thereto, or upon which drawback or bounty has been allowed.
- hh. Foreign Exchange — refers to any currency other than the Philippine Peso acceptable for payment by the BSP.
- ii. Foreign National — refers to a natural person who is not a citizen of the Philippines.
- jj. Fortuitous event or force majeure- refers to an event which is unforeseen or even if foreseen, is inevitable, and which is the immediate and proximate cause of withdrawal from business or suspension of operations.
- kk. Information And Communications Technology (ICT) – refers to the totality of the electronic means employed to systematically collect, process, store, present and share information to end-users in support of their activities. It consists of computer systems, office systems, consumer electronics and telecommunications technologies, as well as networked information infrastructure the components of which include the telephone system, the Internet, fax machines, computers and its accompanying methodologies,

processes, rules and conventions. It is a combination of computer technology, microelectronics applications, and communications and information techniques and methods. It encompasses the use of computers, data communications, office systems technologies, as well as any technology that deals with modern day application of computing and/or communication. It can also be seen as the marriage of information technology and data communication.

- ll. Information and Communication Technology (ICT) Enterprise- refers to an individual, association, partnership, corporation or other business organization duly registered with the Authority proposing to engage in the establishment and operation of Information Technology (IT) services, IT enabled services, ICT support activities and IT Parks and Buildings.

- mm. Internet of Things – refers to global infrastructure for the information society, enabling services by interconnection (physical and virtual) things based on existing and evolving interoperable information and communication technologies.

- nn.IT Services – include activities such as IT project management, application systems, development, application services providers, web development and management, database design and development, computer networking and data communications software development (system software, middleware, application software), and ICT facilities operation/management.

- oo.IT-Enable Services – refer to business lines that can be transformed through the means of information technology. These include activities such as business process outsourcing and shared services, engineering and design, animation and content, creation knowledge management, remote education, market research, travel services, finance and accounting services, human resource services, and other administrative services (e.g. purchasing).

- pp.ICT Support Activities- covers activities such as research and development of high value added ICT products and services, education and manpower development in ICT incubation of IT service provider, provision of internet services, community access, and electronic governance in support of GISP.

- qq.IT Park- refers to an area which has been developed into a complex capable of providing infrastructures and other support facilities required by IT Enterprises, as well as amenities required by professionals and workers involved in IT Enterprises, or easy access to other amenities.

- rr. IT Building- refers to a building the whole or part of which has been developed to provide infrastructure and other support facilities required by IT Enterprises, and which may also provide as required by professionals and workers involved in IT Enterprises, or easy access to other amenities.
- ss. Material falsehood and misrepresentation- refers to any act or deed as has influenced the Authority into accepting the applicant and without which registration would not have resulted.
- tt. National Government — refers to the Government of the Philippines.
- uu. Offshore Banking Unit (OBU) — refers to a branch, subsidiary, or affiliate of a foreign banking corporation which is duly authorized by the *Bangko Sentral ng Pilipinas* to transact offshore banking business in the Philippines.
- vv. Offshore Exchange – refers to any business entity or concern within the FAB duly registered with and/or licensed by the AFAB to provide and operate a digital trade securities and other financial products and services in cash equities, digital assets, tokens, cryptocurrency, real estate investment trust (REIT), commodities, futures, options, exchange-traded products (ETPs), binaries, derivatives, bonds, market data, contracts for difference and commercial technology solutions as well as newly developed and emerging technologies for the financial sector via wired, wireless or any newer technology delivery channel which will cater only to activities outside the Philippines as well as to foreign registered stakeholders, including but not limited to foreign issuers, brokers, dealers, market makers, buyer and all other participants in the exchange and the financial sector through current and yet to be developed technologies; provided that, any transaction and operation of the exchange within the Philippines must comply with the registration requirements of Republic Act No. 8799, or the “Securities Regulation Code.”
- ww. Point of Entry or Exit — refers to any location designated by the AFAB where articles may be lawfully introduced into or removed from the territorial jurisdiction of the FAB.
- xx. IRR — refers to this Implementing Rules and Regulations.
- yy. Registration Agreement/Permit Agreement – refers to the final agreement executed by the Authority and the FAB Registered Enterprise setting forth the terms and conditions for the latter’s operation of business or engagement of

economic activity within the FAB.

- zz. Special Permit – a permit duly issued by the AFAB for a person or entity that seeks to deliver goods to FAB Enterprises.
- aaa. Start of Commercial Operations –refers to the date specified in the Registration/Permit Agreement, or the date when an Estate Enterprise actually begins production of the registered product or provides services to its clients, whichever comes first irrespective of phases, modules or schedule of development.
- bbb. Transit – refers to transshipment of articles discharged at ports or airports of entry located in Customs Territory destined for delivery to the FAB, and articles coming from the FAB intended for export through a Philippine Customs port/airport of entry which may be transported under guard, upon examination, and consigned to the officially designated collector at the port of destination/export who will allow the consignor or consignee, as the case may be, to make entry for exportation.
- ccc. Virtual Reality– refers to virtualization, which is the creation of a virtual, rather than actual, version of something, such as an operating system (OS), a server, a storage device or network resources. Virtual reality uses software that simulates hardware functionality in order to create a virtual system. This practice allows IT organizations to operate multiple operating systems, more than one virtual system and various applications on a single server, thus promoting greater efficiencies and economies of scale.

SECTION 5. *Rules of Interpretation.* – Pursuant to the declared policies of the State on the FAB, the following rules of interpretation shall be observed in the implementation of the provisions of the Act, as well as the provisions of this IRR:

- a. All trade and business, immigration, corporation, banking and quarantine laws shall be subordinated to and/or liberally construed in favor of the FAB to enhance and promote the policies of the special economic and freeport system within the boundaries established by law and this IRR.
- b. The powers, authorities and functions that are vested in the AFAB are intended to establish decentralization of governmental functions and authority and promote an efficient and effective working relationship between the AFAB, the National Government and the LGUs. For this purpose,

1. In case of conflict between national and local laws and tax exemption privileges in the FAB, the same shall be resolved in favor of the latter; and

In case of conflict between AFAB and the local government units concerned on matters affecting the FAB other than the defense and security of the said local government units, the decision of the AFAB shall prevail, with the understanding that the ultimate governing body on the defense and security of AFAB shall remain with AFAB.

- c. The provisions of existing laws, rules and regulations to the contrary notwithstanding, the AFAB shall exercise administrative powers, rulemaking and disbursements of funds over the FAB.

SECTION 6. *Boundaries of the Freeport Area of Bataan.* – The FAB is comprised of the former Bataan Economic Zone comprising an area of approximately 1,742 hectares and such other expansion areas within the Province of Bataan as may be applied for expansion under the provisions contained in the Act.

Section 7. *Capitalization.* - The capital stock to be contributed by the National Government shall be:

- (a) Two Billion Five Hundred Million Pesos (Php 2,500,000,000.00), with option to increase capitalization upon the discretion of the AFAB. The AFAB may transact, offset, negotiate and convert any unremitted portion of this financial obligation of the National Government;
- (b) All lands embraced and covered by the FAB, including those properties conveyed to The Government Service Insurance System (GSIS) and/or the Social Security System (SSS) under Proclamation No. 740, as amended by Proclamation No. 900, as well as permanent improvements and fixtures upon proper inventory not otherwise alienated, conveyed, or transferred to another government agency. All lands covered herein shall be titled in the name of AFAB; and
- (c) All other assets which the President may transfer to the AFAB as part of the equity contribution of the government.

Section 8. *Supervision and Control.* - For purposes of policy direction and coordination, the AFAB shall be under the direct control and supervision of the Office of the President of the Philippines.

Section 9. *Regional Development Council.* - The AFAB shall determine the development goals for the FAB within the framework of national development plans, policies and goals. The administrator shall, upon approval by the Board, submit the FAB plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

Section 10. *Legal Counsel.* - The AFAB shall have its own internal legal counsel under the supervision of the Government Corporate Counsel. When the exigencies of its businesses and operations demand, the AFAB may engage the services of an outside counsel either on a case-to-case or on a fixed retainer basis.

Section 11. *Audit.* - The Commission on Audit shall appoint a full-time auditor in the AFAB or may assign such number of personnel as may be necessary in the performance of their functions.

RULE II

AUTHORITY OF THE FREEPORT AREA OF BATAAN (AFAB)

SECTION 12. *Powers and Functions.* — The AFAB shall have the following powers and functions:

- a. To adopt, alter and use a corporate seal;
- b. To sue and be sued in order to carry out its duties, responsibilities, privileges, powers and functions as granted and provided for in this Act and to exercise the power of eminent domain for public use and public purpose;
- c. To contract, lease, buy, sell, acquire, own, donate, and dispose land, facilities and other properties in the FAB in accordance with law, giving due consideration to the declared policies of the Act;
- d. To authorize or undertake, on its own or through others, regulate operate, administer, manage, develop reclamation projects, in accordance with Executive Order No. 525, as amended, the FAB according to the principles and provisions set forth in the Act and to coordinate with the LGUs for the development plans, activities and operation of the FAB;
- e. To exercise general supervision over the development plans, activities and operations of the FAB. For this purpose, the AFAB may coordinate with the LGUs and the Metro Bataan Development Authority (MBDA). The exclusive delegation of certain powers to AFAB under the Act notwithstanding, the AFAB

may partner with the MBDA in the implementation of development plans, enforcement of environmental laws, maintenance of road network and transport facilities, and performance of such other services designed to enhance the attractiveness of the FAB as an investment destination. The AFAB may provide assistance to the MBDA to ensure that the equipment and other resources necessary to perform the services envisaged under the Act are adequately provided;

f. To license, register, regulate, supervise, approve, accept, accredit and allow any local or foreign business, enterprise or investment in the FAB such as the following:

- i. Electronic vehicle, electronic aircraft and battery technology
- ii. Artificial technology / intelligence
- iii. Blockchain
- iv. Business Process Outsourcing
- v. Cloud Computing
- vi. Cybersecurity
- vii. Distributed Ledger Technology
- viii. Financial Technology Solutions
- ix. Internet of Things
- x. Virtual Reality
- xi. Collective Investment Schemes
- xii. Cryptocurrency Mining
- xiii. Offshore Financial Center
- xiv. Offshore Exchange
- xv. Defense Technologies
- xvi. Medical Technologies and Facilities
- xvii. Travel and Tourism Technologies and Facilities
- xviii. Educational Technologies and Facilities
- xix. Ancillary Recreation and Hotel Services
- xx. Smart Cities Initiatives and Housing
- xxi. Robotics Production
- xxii. Original Equipment Manufacturing
- xxiii. Biometric and Smart Identification
- xxiv. Payment Solutions
- xxv. Incubation Facilities
- xxvi. Crowd Funding Platforms
- xxvii. Other similar or related activities which may be classified under financial and/or blockchain technology,

subject to existing laws, rules, and regulations including those promulgated by

the AFAB from time to time in conformity with the provisions and policies of the Act, in an efficient and decentralized manner. In case of introduction of information and communications technology (ICT) solutions, equipment and facilities, the same shall be aligned with the Information Systems Strategic Plan of the AFAB as approved by the Department of Information and Communications Technology (DICT);

- g. To authorize or undertake, on its own or through others, and regulate the establishment, operation and maintenance of public utilities, medical facilities, services and infrastructure in the FAB such as shipping, ship building, mass transit systems, barging, stevedoring, arrastre, chandling, cargo handling, hauling, warehousing, storage of cargo, port services or concessions, piers, roll on and roll off terminals, passenger terminals, wharves, bulkheads, bulk terminals, mooring areas, roads, bridges, reclamation projects, anchorage, storage areas, secure vault storage areas for high value products not intended to exit the territorial jurisdiction of FAB, terminals, conveyors, water supply and storage, water recreational activities, sewerage, drainage, airport and heliport operations in coordination with the Civil Aviation Authority of the Philippines (CAAP), and to license, permit, and fix just and reasonable rates, fares, charges and other prices therefor, and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act; *Provided, however,* That the private investors in the FAB shall be given priority in the awarding of contracts, franchises, licenses, or permits for the establishment, operation and maintenance of utilities, services and infrastructure in the FAB. For this purpose, the AFAB can take water, sand, and other materials from any public stream, river, creek, lake, spring, waterfall, or underground aquifers, as may be necessary for the attainment of the Act; to alter, straighten, obstruct or increase the flow of water in streams or in water channels intercepting or connecting therewith or contiguous to its works or any part thereof; and to undertake land reclamation as well as own, hold, purchase or lease foreshore areas within or adjacent or approximate to the FAB areas;
- h. To issue permits, license, and other circulars and memoranda, set fees, regulate and undertake the establishment, operation and maintenance of all port, airport, heliport, passenger terminals, facilities and other related activities, utilities, other services, educational and medical institutions and infrastructure in the FAB such as, but not limited to, heat, light and power, water supply, telecommunications, mobile, internet and other data facilities, transport, toll roads and bridges, communication and electrical poles, port services, etc., and to fix just, reasonable and competitive rates, fares, charges and prices thereof;
- i. To license, set fees, undertake, authorize, and regulate the operation of electronic

vehicles, electronic aircraft and battery technology, artificial technology, blockchain, business process outsourcing, cloud computing, cybersecurity, distributed ledger technology, financial technology solutions, internet of things, and virtual reality, retirement and healthcare services, collective investment schemes, cryptocurrency mining agro-industrial, offshore financial center, offshore exchange, defense technologies, medical technologies and facilities, travel and tourism technologies and facilities, educational technologies and facilities, ancillary recreation and hotel services, smart cities initiatives and housing, robotics production, original equipment manufacturing, biometric and smart identification systems, payment solutions, incubation facilities, crowd funding platforms and other related or similar activities, and investment center with provision for suitable residential areas;

- j. To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchises, licenses, bulk purchase from the private sector and build-operate-transfer scheme, or under a joint venture with the private sectors, any or all of the public utilities and infrastructure required or needed for the operation and development of the FAB, including transportation, access, and connection to, and out of the FAB, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon. For this purpose, the AFAB shall exercise the power of eminent domain over private lands granted in Paragraph (b) of this Section insofar as it may be reasonably necessary, without prejudice to the execution of agreements with public agencies, and subject to the limitations prescribed therein and the observance of the prerequisites of taking of possession and the determination and payment of just compensation in accordance with law;
- k. To operate on its own, either directly or through a license to other tourism-related activities, including games, sports betting, exchange betting, peer to peer gaming, e-sports, digit games, live streaming games, amusements, gambling casinos, horse racing and dog racing, recreational and sports facilities, subject to the approval and supervision of the Philippine Amusement and Gaming Corporation (PAGCOR). Games, recreational, amusements, and sports activities and facilities that are not covered under the PAGCOR Charter, Presidential Decree No. 1869, as amended, shall be under the jurisdiction of the Authority;
- l. To raise or borrow, within the limitation provided by law and subject to the approval or opinion of the Monetary Board of the *Bangko Sentral ng Pilipinas* (BSP), in accordance with law, adequate and necessary funds from local or foreign sources, to finance its projects and programs, and for that purpose, to issue bonds, promissory notes, and other forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust, or an assignment of all or

part of its property or assets;

- m. To exclusively enforce and administer the provisions of the National Building Code of the Philippines and the Fire Code of the Philippines, as amended, and may prescribe higher measures and codes to deal with natural calamities such as earthquakes, forest fires, typhoons and storm surges,, within the territorial jurisdiction of the FAB; *Provided*, that AFAB shall be fully responsible and accountable for the enforcement and administration of the National Building Code of the Philippines and the Fire Code of the Philippines, as amended, within the FAB

The AFAB Administrator, or his official designate, shall function as the AFAB Building Official, who shall issue all building permits and other related permits subject to the collection by the AFAB of the corresponding permit fees: *Provided*, that the AFAB Building Official shall also be authorized to require owners of houses, buildings, or other structures constructed without the necessary AFAB permit/s, or those that are condemned and/or abated by the AFAB in accordance with the conditions set forth in the National Building Code or Civil Code, as the case may be, whether constructed on public or private lands, to remove or demolish such houses, buildings, or structures within fifteen (15) days from receipt of notice, upon failure of such owner to remove or demolish such house, building, or structure within such period, the AFAB may summarily cause its removal or demolition at the expense of the owner and its occupants.

The AFAB may evict any person who refuses to vacate such premises in accordance with Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992", and other existing laws. A temporary or permanent relocation site shall be made available for qualified individuals or families;

- n. To be the primary provider of security for the FAB in coordination with the national and local governments. For this purpose, the AFAB may establish and maintain its security forces and firefighting capability or hire others to provide the same, such as the installation of security gates, to enclose, restrict and regulate ingress to and egress from local and national roads. In the event that an assistance of the military forces is necessary, it shall not interfere in the internal affairs of the FAB except to provide the necessary security and defense, and their expenses shall be borne by the National Government. To ensure the maintenance of law and order within the boundaries of the FAB, including conducting police investigations, arrests, search and seizure for violation of penal laws inside the FAB, the PNP shall establish a police substation, if necessary, under the supervision of the PNP Provincial Director, to be manned by such number of personnel as will allow them to effectively and

efficiently pursue its mandate.

The Philippine National Police (PNP) shall establish a Police Substation, with shooting and training facilities, inside the FAB to be manned by an officer led police team under the administrative and operational supervision of the Provincial Director for the purpose of conducting police investigations, arrests, searches and seizures for violation of penal laws committed inside the FAB; *Provided that*, the AFAB Administrator or his duly authorized representative shall have the power to recommend to the Provincial Director any tactical and strategic movements, deployment and relief of PNP members assigned in the FAB.

The AFAB shall be authorized to install control gates at strategic points of the national roads within the FAB, through which access into and departure from the FAB shall be fully controlled by the AFAB; *Provided that*, the AFAB shall coordinate with the DPWH for the installation of control gates along national roads at the ingress and egress points inside FAB Zones as deemed strategic for the AFAB operations. These control gates, which may be electronically monitored, shall be manned and fully controlled by the AFAB, including its hired security providers. All vehicles, persons and goods entering in and exiting from the FAB control gates are subject to search and inspection. The AFAB shall have the powers to deny entry or exit of those persons, vehicles, and goods found to be illegal, unauthorized and undocumented. Any persons, vehicles, or goods without proper permits or pass shall be subject for verification and shall be temporarily held at the AFAB Law Enforcement Division office until such clearance is released from concerned AFAB offices.

The AFAB Administrator or his duly authorized representatives shall have the authority to issue mission orders to its law enforcement or authorized personnel for purposes, among others, of monitoring and security of movements of goods, and to provide security escort to export shipments of FAB Registered Enterprises to their respective destination or to the port of exit and conduct surveillance of criminal elements that may have security implications to FAB in coordination with the PNP, as well as other law enforcement agencies; *Provided that*, AFAB shall promote its governing principles in the protection and control capacity, and ensure compliance of FAB Registered Enterprises with customs, fisheries and other laws and regulations; *Provided, further*, that any operations of the PNP, Bureau of Customs (BOC), Bureau of Immigration (BI), National Bureau of Investigation (NBI), Philippine Drug Enforcement Agency (PDEA) and other government agencies inside the FAB shall first be formally coordinated with the AFAB prior to actual operation.

- o. To protect, preserve, maintain and develop the virgin forests, beaches, coral and

coral reefs, and maintain ecological balance within the FAB. For this purpose, the rules and regulations of the DENR and other government agencies involved in the above functions shall be implemented by the AFAB. The AFAB may charge the investors and residents yearly a small percentage of revenue to provide for a forest ranger force and coastal patrol as well as a replanting force to be equipped by the percentage of revenue collected; *Provided that*, the implementation and enforcement of Presidential Decree No. 1586, otherwise known as the Environmental Impact Statement System and its Implementing Rules and Regulations, shall be vested on the AFAB which shall include, but not limited to, the issuance of Environmental Compliance Certificate, imposition of fines and penalties as well as monitoring of the conditions set therein; *Provided further*, that the issuance of Tree Cutting Permit and Foreshore Lease and other related permits and clearances issued by the DENR and other agencies shall be under the sole and exclusive control and jurisdiction of the AFAB; *Provided finally*, that the DENR shall capacitate the personnel of the AFAB and include the same in the conduct of workshops and trainings necessary for the effective and efficient implementation and enforcement of such rules and regulations;

- p. To recommend the issuance of working visas renewable every three (3) years to foreign executives and foreign technicians with highly specialized skill which no Filipino possesses, subject to the issuance of the certification and alien employment permit by the Department of Labor and Employment (DOLE);
- q. Subject to Republic Act No. 7653, otherwise known as the “New Central Bank Act”, other issuances of the *Bangko Sentral ng Pilipinas*, Republic Act No. 8799, otherwise known as “The Securities Regulations Code”, existing applicable law, and such other laws as may be required that are consistent with the objectives of the AFAB, to act as an offshore financial centre that engage in, or allow, any or all international financial and business services, including banking, offshore fund management, collective investment schemes, and cryptocurrency mining, and provide the necessary and pertinent fiscal incentives as provided for under Republic Act No. 7916, as amended by Republic Act No. 8748, also known as the “Special Economic Zone Act of 1995”, and/or those provided under Executive Order No. 226, as amended, otherwise known as “The Omnibus Investment Code of 1987”. Banks and financial institutions engaged in quasi-banking functions to be established in the FAB shall be under the supervision of the *Bangko Sentral Ng Pilipinas*, and shall be subject to existing banking laws, rules and regulations. Other financial institutions not engaged in quasi-banking functions, and those engaged in collective investment schemes and cryptocurrency mining within the FAB shall be under the supervision of the Securities and Exchange Commission;
- r. To issue special regulations for the benefit of particular industries designed to

improve ease of doing business, decrease cost of doing business, and lower bureaucratic burdens of investing and doing business, increased innovation and the use of the latest pioneering technologies within the FAB: *Provided*, that such special regulations shall not be contrary to existing laws.

- s. To endorse Special Resident Retirees' Visas (SRRVS) for retirees that intend to reside in the FAB, in collaboration with the Philippine Retirement Authority (PRA): *Provided*, that the PRA and the AFAB shall issue joint regulations on the processing of SRRVS in accordance with existing laws;
- t. To establish, operate and maintain utilities, facilities, infrastructure, services, businesses, activities, and concessions in the FAB, pertaining to shipping and maritime business and activities including stevedoring and port terminal services or concession: *Provided*, that the Maritime Industry Authority (MARINA) shall continue to exercise its power to regulate and supervise the shipbuilding and ship repair of any merchant marine vessel operated or to be operated in the domestic trade and the domestic shipping industry within the FAB;
- u. To establish one-stop shops for the issuance of all necessary permits, clearances, licenses, and other similar certifications to conduct activities, to improve the ease of doing business within the FAB, in coordination with government agencies having jurisdiction over activities in the FAB not otherwise solely reserved to the AFAB in the Act: *Provided*, that all government agencies are directed to provide and extend utmost and full cooperation to the AFAB in the establishment of such one-stop shops; *Provided further*, that all inspections or activities by other government agencies and entities within the FAB shall require prior formal coordination with the AFAB regardless of the nature of such inspection or activity.
- v. To appraise and update the value of its assets and other properties to upgrade its Government-Owned and Controlled Corporation (GOCC) classification under Executive Order No. 24, Series of 2011 and for such other relevant purposes;
- w. To create, operate and/or contract to operate such functional units or offices of the AFAB as it may deem necessary;
- x. To issue certificates of origin for products manufactured or processed in the FAB;
- y. To adopt, implement and enforce measures and standards for environmental pollution control of all areas within its territory, including, but not limited to all bodies of water. For this purpose, the AFAB shall create an Environmental Management Center;

- z. To raise revenues from among, but not limited to, the following:
- (1) periodic license fees and/or application, filing and registration and administrative/regulatory fees from FAB Enterprises;
 - (2) lease of land, facilities or other properties in the FAB;
 - (3) sale of land, facilities or other properties owned by AFAB to private entities, provided, that the territorial and regulatory jurisdiction and control over the same shall remain vested in the AFAB;
 - (4) management and administrative service fees for processing, handling and escorting of importations, exportations and local sales or purchases;
 - (5) capital or other contributions from the National Government;
 - (6) service and utility charges;
 - (7) voluntary contributions;
 - (8) resources from external, technical and financial assistance agencies;
 - (9) grants from the National Government, local government units, and local and foreign state-owned and privately owned entities and international organizations;
 - (10) donations and contributions of all kinds;
 - (11) funds from loans and/or other securities obtained as authorized by the Board of Directors;
 - (12) proceeds from administrative fines, and penalties;
 - (13) proceeds from deposit accounts, time deposits, money market, bonds and other investments; and
 - (14) the AFAB shall determine whether revenues raised from the imposition of such fees, charges, contributions and donations shall be retained by it either in whole or in part.
- aa. To form, establish, organize and maintain subsidiary corporations, as its business and operations may require, whether under the laws of the

Philippines or elsewhere;

- bb. To appoint and fix the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification, upon recommendation of the Administrator;
- cc. To create, add, merge, or abolish any functional group, department, division, position, and/or committee subject to applicable government rules and guidelines;
- dd. To regulate, impose and collect appropriate raw water fees for the use of surface and ground water for industrial, commercial and domestic purposes. This shall be applicable to utilities operated by public or private sector proponents, including those used for and by industrial and recreational facilities, medical and educational institutions, commercial and business establishments, residential estates, townships and the like;
- ee. To impose and collect appropriate fees and charges for the issuance of permits, licenses or concessions for the exploitation of mineral resources such as but not limited to mining or quarrying, mineral processing and mining operations, *Provided, however,* That the grant or issuance thereof shall be in accordance with the provisions of Republic Act No. 7942, otherwise known as the "Philippine Mining Act of 1995";
- ff. To issue rules, regulations, guidelines and policies consistent with the provisions of the Act as may be necessary to implement and accomplish the purposes, objectives and policies provided herein;
- gg. To exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder as well as to carry out the policies and objectives of the Act;
- kk. To be vested with other powers enjoyed or exercised by other special economic zones and freeport authorities; Provided that, the exercise of powers provided under Section 6(f) of R.A 7922 and Section 12, Paragraphs (f) and (g) of R.A 9490, as amended by R.A 10083, shall be subject to Section 6(k) of this IRR.

SECTION 13. *Responsibilities of the AFAB.* — Other than the powers and functions prescribed in Section 6 of these Rules, the AFAB shall have the following responsibilities:

- a. The AFAB shall exercise authority and jurisdiction over all economic activity within the FAB and its Expansion Areas;
- b. The AFAB shall provide and establish its own internal security force and firefighting forces. However, the defense of the FAB and the security of its perimeters shall be the responsibility of the National Government in coordination with the AFAB;
- c. The AFAB shall coordinate the provisions of security, police, and municipal services within the overall area of the FAB with the existing local government units;
- d. The AFAB shall have the authority to exclude from the FAB any article, substance, merchandise, operation, activity or process it considers to be inconsistent with the policies and purposes of the Act and these Rules, or detrimental to the public interest, and to establish procedures for such exclusions;
- e. The AFAB may require FAB Registered Enterprises or Residents to secure the necessary permits for any article, substance, merchandise, transaction, activity, or operation in the FAB, specify conditions under which such permits will be issued, and established procedures for issuing and revoking such permits; and
- f. Consistent with the Constitution, the AFAB shall have the following powers to enforce the law and these Rules in the FAB:
 - (1) to audit and inspect the records of any FAB Registered Enterprise;
 - (2) to inspect and search the premises of any FAB Registered Enterprise or Resident, or any vehicle, aircraft, vessel, or person in the FAB to detect any violation of the law or these Rules;
 - (3) to conduct investigations of any suspected violation of the law or these Rules, provided that the investigation of any violation of the criminal laws of the Philippines occurring in the FAB shall not be conducted by the AFAB, but rather by the police or the pertinent National Government agency having jurisdiction in the area where the violation occurred;
 - (4) to seize, substances, merchandise and records considered to be in violation of the Act and these Rules, or considered to be necessary

for conduct of an investigation of any violation of the law and these Rules, and to provide for their return to the enterprise or person from whom they were seized, or their forfeiture to the AFAB;

- (5) to issue *subpoenae duces tecum* and *ad testificandum* in the course of its investigations;
- (6) to arrest persons in the FAB for any violation of the laws of the Philippines;
- (7) to assess and collect administrative fees or impose administrative fines or other monetary penalties for violations of these Rules;
- (8) to issue, alter, modify, suspend or revoke for cause, any permit, certificate, license, visa or privilege allowed under the Act or these Rules;
- (9) to regulate ingress to and egress from the FAB;
- (10) to regulate traffic within the FAB and to impose administrative fines and penalties for traffic violations, including charges for towing and impounding; and
- (11) to promulgate such other rules, regulations and circulars as may be necessary, proper or incidental to carry out the policies and objectives of the Act, these Rules, as well as the powers and duties of the AFAB thereunder.

SECTION 14. *Best Use of AFAB Properties.* — The AFAB shall take all measures necessary to secure the best use of its properties within the FAB. The AFAB may lease the aforesaid properties to private facilities operators who may thereafter, under conditions approved by the AFAB, sub-lease the facilities or otherwise provide services based thereon to other FAB Registered Enterprises. The AFAB may likewise enter into joint venture agreements or other arrangements with private corporations, LGUs, GOCCs and other government agencies to develop, maintain, manage and operate its properties and facilities in accordance with existing laws, rules and regulations.

The AFAB shall require the submission of Project Development Plan, highest and best use plan, or other similar documents, whichever is/are applicable, on the subject property for purposes of evaluation before the approval of the Lease

Contract/Agreement.

SECTION 15. *Establishment of Secure Perimeters, Points of Entry and Duty and Tax Free Areas of the FAB.* — Pending the establishment of secure perimeters around the entire FAB, the AFAB shall have the authority to establish and demarcate areas of the FAB with secure perimeters within which articles and merchandise free of duties and internal revenue taxes may be limited, without prejudice to the availment of other benefits conferred by the Act and these Rules in the FAB outside such areas. The AFAB shall furthermore have the authority to establish, regulate and maintain points of entry to the FAB or to any limited duty and tax-free areas of the FAB.

The BOC shall set up and establish a customs-controlled area outside the gate of the FAB to facilitate payment of taxes, integrated with the smart payment solutions of AFAB on goods entering the Philippine customs territory.

SECTION 16. *General Land Use Plan.* — The AFAB shall draw up and publish a general land use plan and update its Comprehensive Master Development Plan, as needed, specifying the general uses and economic activities to be promoted for different areas of the FAB and shall enforce said plan subject to such revisions as the AFAB may deem necessary or appropriate to accomplish the policies and objectives of the Act.

Section 17. *Plans and Developments.* The FAB shall continue to be provided by the National Government and/or Local Government with transportation, telecommunications and other facilities through the General Appropriations Act (GAA).

The FAB shall also have priority and preferential access to such national government and local government transportation and telecommunications infrastructure and other facilities by entering into a Memorandum of Agreement with the relevant Agencies.

Transport Plan and all other relevant development plan concerning access to FAB shall be incorporated in the planning, construction and operation of such infrastructure or expansions.

SECTION 18. *Annual Reports.* — The AFAB shall render and publish annual reports on the economic activities undertaken in the FAB.

B. Composition and Operation of the Board of Directors

SECTION 19. Board of Directors. — The powers of the AFAB shall be vested in and exercised by a Board of Directors.

SECTION 20. Composition. — The Board shall be composed of nine (9) members to be appointed by the President of the Philippines, as follows:

- a. The chairman and the vice-chairman, both of whom shall be elected from among the members of the Board in Paragraph (c) of this Section;
- b. The administrator, who shall in no case be, at the same time, the chairman or vice-chairman, shall be a member of the Board;
- c. Other members of the Board:
 - (1) Two (2) representatives from the National Government;
 - (2) One (1) representative from the Province of Bataan;
 - (3) One (1) representative from the district covering the site of the FAB;
 - (4) One (1) representative from the Municipality of Mariveles, Province of Bataan;
 - (5) One (1) representative from the AFAB-registered domestic investors;
 - (6) One (1) representative from the AFAB-registered foreign investors; and
 - (7) One (1) representative from the workers working within the FAB.

Provided, that all members of the Board shall be Filipino citizens.

The Administrator and the members of the Board shall be appointed by the President of the Philippines to serve for a term of six (6) years, unless sooner separated from service due to death, voluntary resignation or removal for cause. In case of death, resignation or removal for cause, the replacement shall serve only the unused portion of the term.

No person shall be appointed by the President of the Philippines as a member of the Board unless he is a Filipino citizen, of good moral character, of proven probity

and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

The members of the Board shall each receive *per diem* at rates to be determined by the Department of Budget and Management (DBM) in accordance with existing rules and regulations: *Provided, however,* That the total *per diem* collected each month shall not exceed the equivalent *per diem* for four (4) meetings.

SECTION 21. *Administrator.* — The President shall appoint a professional manager as administrator of the AFAB who shall serve as the chief executive officer of the AFAB with the following duties and responsibilities:

- a. To execute and administer the policies and measures approved by the AFAB Board of Directors and take responsibility for the efficient and effective discharge of management functions;
- b. To direct and supervise the operation and internal administration of AFAB; and for this purpose, may delegate some or any of his administrative responsibilities and duties to other AFAB officers;
- c. Subject to the guidelines and policies set up by the AFAB Board of Directors, to appoint subordinate officials and employees of AFAB and for a cause, to remove, suspend or otherwise discipline any subordinate employees of AFAB;
- d. To oversee the preparation of the AFAB Budget;
- e. To submit an annual report to the AFAB Board of Directors on the activities and achievements of AFAB at the close of each fiscal year and upon approval thereof, submit a copy to the President of the Philippines and to such other agencies as may be required by law and under these Rules;
- f. To represent AFAB in all dealings and transactions with other offices, agencies and instrumentalities of the National Government and with all persons and other entities, private or public, domestic or foreign; and
- g. To exercise such other powers and duties as may be vested in him by the AFAB Board of Directors from time to time.

SECTION 22. *By-Laws.* — The Board of Directors may adopt a set of by-laws that shall govern the AFAB's internal business and operations.

RULE III

PROCEDURES FOR REGISTRATION OF FREEPORT AREA OF BATAAN ENTERPRISES AND RESIDENTS

A. General Provisions

SECTION 23. *Registration Office.* — The AFAB shall establish two offices to register and monitor all business enterprises or concerns applying to FAB Enterprises, as well as natural persons applying to be FAB Residents.

SECTION 24. *Who are Eligible.* — Application for FAB registration shall be open to nationals and business enterprises of any country in any area of economic activity, except only as is specifically limited by the Constitution of the Philippines.

SECTION 25. *Condition for Registration.* — A FAB Registered Enterprise shall be a constituted business enterprise organized or domiciled in the Philippines or any foreign country. The enterprise must name a representative or agent who is a resident of the FAB or anywhere in the Philippines. If affiliated with an existing enterprise in the Philippines outside of the FAB, the FAB Registered Enterprise must establish a separate business organization to conduct business exclusively within the FAB which shall be a separate taxable entity.

The FAB Registered Enterprise must comply with the investment and employment requirements prescribed by the AFAB Board of Directors. The investment and employment commitments must be realized and liquidated within the prescribed period. Failure of the FAB Registered Enterprise shall be subject to suspension/cancellation or imposition of fines and penalties prescribed by the AFAB Board of Directors.

SECTION 26. *Criteria for Issuance of Certificates.* — The AFAB shall issue the Certificates of Registration or Residency to a FAB Registered Enterprise or Resident, respectively, if qualified and if in the AFAB's discretion such issuance will promote the policies set forth in the Act and this IRR.

SECTION 27. *Period for Issuance of Certificate.* — Should the application(s) merit approval of the AFAB Board of Directors and upon receipt of the completed application and all required supporting documents, the AFAB shall issue the

certificates applied within the period prescribed by applicable government laws and rules.

SECTION 28. *Effect of Issuance of Certificates.* — Issuance of the Certificate of Registration or Residency to a FAB Registered Enterprise or Resident, respectively, shall entitle and subject the business enterprise or resident to all the benefits and obligations under the Act and this IRR, and other regulations that may be promulgated by the AFAB.

SECTION 29. *Simultaneous Issuance of Certificates of Registration and Residency.* — Issuance of the Certificate of Registration shall be accompanied by the issuance of a Certificate(s) of Residency to qualified enterprises and residents, respectively, when all required supporting documents are included in the applications.

SECTION 30. *Validity.* — All certificates issued by the AFAB shall be valid for a period of one (1) calendar year or until 31 December of a given year and shall be renewed every year subject to the submission of the required documents and payment of the prescribed fees; Provided, that the FAB Registered Enterprise or Resident remains qualified to continue its business operations or reside within the FAB under similar terms and conditions for which the original certificate(s) was/were issued.

SECTION 31. *Identification Card System.* — All FAB Residents must secure FAB Identification Cards from the AFAB, under an identification card system that the AFAB will enforce and implement, which will contain such information as the AFAB may deem necessary, including, but not limited to, the name, age, gender, address, blood type, biometrics, and skills of the FAB Resident.

Gate Pass may also be required of domestic tourists and visitors to the FAB. These Gate Pass will constitute, among others, the domestic tourists' or visitors' permit to enter the FAB.

SECTION 32. *Fees.* — The AFAB may charge reasonable fees for the acceptance, processing, issuance and renewal of all applications, administration, certificates and other similar documents that may be required under these Rules. The AFAB may likewise charge reasonable charges or fees for all expansion areas, as well as private areas within the FAB Main Zone.

SECTION 33. *Withdrawal, Suspension or Cessation of Operations.* — Whenever a FAB Registered Enterprise decides to withdraw, suspend, or cease its registered activity or operations, written notice thereof shall be sent to the AFAB one (1)

month prior to implementation of the action. Subject to provisions of pertinent laws and the rights of mortgage creditors, the withdrawal or cessation from business operations for a continuous period of two (2) months, unless extended upon written request of the enterprise and approval of the AFAB, shall have the effect of automatically cancelling the Certificate of Registration without the need of Board action. Upon such withdrawal or cessation from operations, the FAB Registered Enterprise shall cease to be entitled to the incentives provided for in the Act and these regulations.

SECTION 34. *Revocation, Suspension or Cancellation of Certificates of Registration or Residency and/or imposition of necessary fines and penalties.* — Without prejudice to the imposition of penalties prescribed under the pertinent provisions of the Tariff and Customs Code of the Philippines and the National Internal Revenue Code of the Philippines, the AFAB may revoke, suspend, cancel the Certificate of Registration to any FAB Registered Enterprise or Resident and/or impose necessary fines and penalties for the commission of any of the following:

- a. Failure to maintain the qualifications for registration or license as required by the Act;
- b. Violation of any provision of Philippine law, the Act and/or these Rules;
- c. Violation of the corresponding implementing memoranda or circulars or any of the general and specific terms of the registration or license agreement between the AFAB and the FAB Registered Enterprise;
- d. Material falsehood and misrepresentation in the issuance of the Certificate;
- e. Violation of the Rules and Regulations of the AFAB.

Provided, that, the AFAB may prescribe and impose administrative penalties, fines and sanctions in lieu of the revocation, cancellation or suspension of the Certificates of Registration or Residency for minor violations. The AFAB may also graduate the penalties, fines or sanctions to be imposed based on the gravity and frequency of the violation concerned.

B. Registration of Existing Enterprises and Residents

SECTION 35. *Requirements for Registration of Existing Enterprises.* — In order to qualify for registration, the prospective FAB Registered Enterprise must submit an

application in the form prescribed by the AFAB, as well as the following:

- a. copies of relevant documentation of the legal status of the business enterprise (such as, but not limited to the articles of incorporation, partnership agreement, By-Laws, SEC Registration, and similar documents) showing, among others, beneficial ownership;
- b. if a corporation, partnership or other business enterprise organized or constituted outside the Philippines, the name and address of the legal agent for the enterprise in the FAB accompanied with sworn proof of consent of the agent to serve as such;
- c. evidence of the physical location of the business enterprises within the FAB, such as certificate of title, tax declaration, property deed, lease agreement, and similar documents;
- d. if previously part of a larger business enterprise doing business elsewhere in the Philippines, evidence of restructuring to exclude all business operations taking place outside the boundaries of the FAB;
- e. list of assets and other properties owned by the business enterprise; and
- f. such other documents that the AFAB may require.

SECTION 36. *Effect of Not Acquiring Registration.* — Any existing enterprise located within the FAB may elect not to register as a FAB Registered Enterprise. In doing so, the enterprise shall not benefit from tax and other advantages accorded FAB Registered Enterprises, with the exception of tax and duty free importation of goods which will remain pursuant to the economic and freeport character of the FAB. Notwithstanding any such election, any enterprise located within the FAB shall still be subject to other regulations and procedures applicable to the FAB.

SECTION 37. *Requirement for Registration of Existing Filipino Residents.* — Current Filipino residents of the FAB may apply for a Certificate of Residency upon submission of an application in the form prescribed by the AFAB and presentation of the following:

- a. documentation of residence within the FAB, *i.e.*, residence certificate;
- b. evidence of nationality;
- c. evidence of employment or other business operations within the FAB;

- d. if a spouse or child below 21 years of age of a FAB Resident, evidence of such relationship *i.e.*, marriage license, birth certificate, etc., accompanied by an affidavit of support by the FAB Resident; and
- e. such other documents that the AFAB may require.

For purposes of these Rules, current Filipino residents of the FAB refer to all persons Filipino citizens residing within the FAB continuously for at least a period of two (2) years as of the date of the promulgation of these Rules. This two (2) year requirement may be waived for AFAB personnel who may apply for a special written exception from the office of the Chairman and Administrator of AFAB.

SECTION 38. *Foreign Nationals.* — Foreign nationals currently residing in the FAB continuously for at least a period of two (2) years as of the date of the promulgation of these Rules, and who have been accorded permanent residency status in the Philippines may apply for a Certificate of Residency in the FAB upon presentation of sufficient proof of such residency status. Foreign nationals currently residing in the FAB who have not yet been accorded residency status shall be eligible therefor subject to Immigration laws and other provisions of these Rules.

SECTION 39. *Certificate of Residency.* — The AFAB shall issue a Certificate of Residency to all qualified current residents of the FAB within thirty (30) days from receipt of the required application, information and documentation. This certificate shall attest to the residency of the person within the FAB, and shall entitle and subject the resident to the benefits and obligations as defined in the Act, these Rules and other regulations that may be promulgated by the AFAB.

C. Registration of New Industrial, Commercial and Service Enterprises

SECTION 40. *Filing of Application.* — Industrial, commercial and service enterprises applying to be a FAB Registered Enterprise shall file an application, which may be in an electronic form, prescribed by the AFAB to be supported by the following:

- a. copies of relevant documentation of the legal status of the business enterprise (articles of incorporation, partnership agreement, SEC Registration, and similar documents) showing, among others, beneficial ownership;
- b. if there is foreign ownership, proof of inward remittance of foreign exchange and/or assets into the country;

- c. evidence of the intended physical location of the enterprise within the FAB (such as certificate of title, deed of sale, lease agreement, commitment letter, and other similar documents) and the manner by which such location was secured (*i.e.*, whether it was secured directly with AFAB, from licensed facilities operator, or other property owner);
- d. if part of a larger business enterprise doing business elsewhere in the Philippines, evidence of corporate restructuring which excludes from the FAB Registered Enterprise all business operations taking place outside the boundaries of the FAB;
- e. list of assets comprising the investment to be made; and
- f. such other documents that the AFAB may require.

D. Registration of Expansion Areas

Section 41. *Who Are Eligible*– Any person, partnership or corporation may apply for registration of their property as FAB Expansion Area with the AFAB, provided that the qualifications and requirements provided by the AFAB are complied with.

Section 42. *Filing of Application*. – The application for registration of land, improvement, infrastructure, building, or portions thereof within the Province of Bataan shall be filed with the AFAB. The AFAB will evaluate the application and validate the compatibility of the subject property for its intended use and aligned with the Comprehensive Land Use Plan of the affected LGU/s. The AFAB, upon authority of the Board, shall endorse the qualified application for registration of expansion area to the concerned LGU/s and/or appropriate national government agencies, government-owned and controlled corporations and instrumentalities, as may be applicable, for concurrence or agreement.

Section 43. *Approval of the Board*. – Upon receipt of concurrence of the concerned LGU/s or agreement of the appropriate national government agencies, government-owned and controlled corporations and instrumentalities, as may be applicable, the application for registration of the expansion area shall be submitted to the Board for its approval; *Provided*, that the expansion outside the Municipality of Mariveles may be revoked by the President of the Philippines on valid grounds; and *Provided further*, that the AFAB and the relevant LGU/s and national government agencies shall provide for immediate and responsive mechanisms, best management

practices and suitable environmental protection programs for land and coastal management to address any abuse and/or exploitation of the natural environment within the jurisdiction of the FAB as provided in Section 3 of the Act.

The AFAB thereafter shall have sole and exclusive jurisdiction of all the enterprises to be registered therein, including the municipal waters adjacent to the said land, improvement, infrastructure, building, or portions.

E. Registration of Banks and Affiliates

SECTION 44. *Filing of Application.* — Application for licensing of Commercial and Offshore Banks or their branches or affiliates to be located with the FAB shall be filed with the AFAB. AFAB shall forward the applications to the *Bangko Sentral ng Pilipinas* which if warranted shall directly issue a license and other required documentation, in accordance with the provisions of Chapter VIII of these Rules.

Should the applicant's license not be issued by the *Bangko Sentral ng Pilipinas* within thirty (30) days from the complete submission of all requirements, the AFAB shall forthwith inform the bank concerned and extend the period for the issuance of the bank's Certificate of Registration.

SECTION 45. *Issuance of Certificate.* — Upon approval of the application and its proper endorsement by the *Bangko Sentral ng Pilipinas* to the AFAB, the latter shall issue the necessary Certificate of Registration to the bank under Rules III and VIII of these Rules.

F. Registration of New Freeport Area of Bataan Residents

SECTION 46. *Certificates of Residency of New FAB Filipino Residents.* — A Certificate of Residency duly issued by the AFAB shall be required for all new Filipino residents of the FAB. Subject to the conditions of these Rules, such certificate shall be available to any Filipino actually residing within the FAB who is an employee or owner of a FAB Registered Enterprise, or is otherwise a resident within the FAB by virtue of leasing or otherwise acquiring/securing living quarters therein. Certificates of Residency may also be issued to the immediate members of the family of such employee or owner, or other resident or who has leased or otherwise acquired/secured living quarters in FAB.

SECTION 47. *Foreign Nationals Residing Outside the FAB.* — Foreign nationals accorded permanent residency status in the Philippines may apply for a Certificate of Residency in the FAB upon presentation of sufficient proof of such permanent residency status and employment or investment in the FAB. Foreign nationals

without prior permanent residency status in the Philippines shall be subject to Immigration laws and other pertinent provisions of these Rules.

G. Blockchain, Distributed Ledger Technology, and Financial Technology Solutions

SECTION 48. *Filing of Application* – Any duly constituted, existing and organized Offshore Corporation/Company may apply for authority to engage in the following:

- a. Electronic vehicle, electronic aircraft and battery technology
- b. Artificial technology / intelligence
- c. Blockchain
- d. Business Process Outsourcing
- e. Cloud Computing
- f. Cybersecurity
- g. Distributed Ledger Technology
- h. Financial Technology Solutions
- j. Internet of Things
- k. Virtual Reality
- l. Collective Investment Schemes
- m. Cryptocurrency Mining
- n. Offshore Financial Center
- o. Offshore Exchange
- p. Defense Technologies
- q. Medical Technologies and Facilities
- r. Travel and Tourism Technologies and Facilities
- s. Educational Technologies and Facilities
- t. Ancillary Recreation and Hotel Services
- u. Smart Cities Initiatives and Housing
- v. Robotics Production
- w. Original Equipment Manufacturing
- x. Biometric and Smart Identification
- y. Payment Solutions
- z. Incubation Facilities
- aa. Crowd Funding Platforms
- bb. Other similar or related activities which may be classified under financial and/or blockchain technology

Provided, that the said corporation/company shall qualify with the standards set by the AFAB and must establish a Local Counterpart in the FAB.

The applicant's local counterpart/service provider must qualify with the minimum

investment requirements set by the rules of the AFAB.

RULE IV

RIGHTS AND OBLIGATIONS OF FREEPORT AREA OF BATAAN ENTERPRISES AND RESIDENTS

A. Freeport Area of Bataan Enterprises

SECTION 49. *Rights and Obligations.* — FAB Enterprises shall have the following rights and obligations:

- a. To freely engage in any business, trade, manufacturing, financial or service activity, and to import and export freely all types of goods, into and out of the FAB, subject to the provisions of the Act, these Rules and other regulations that may be promulgated by the AFAB;
- b. To employ foreign nationals subject to submission of a sworn statement as to the unavailability of comparably-skilled Filipinos within the Philippines and compliance with other pertinent requirements of these Rules for the employment of foreign nationals;
- c. To faithfully comply with the Act, these Rules and other regulations that may be promulgated by the AFAB;
- d. To report periodically to the AFAB any information on business activity which the latter may reasonably require; and
- e. To file periodically any information normally required by the Bureau of Internal Revenue.

SECTION 50. *Rights and Obligations of FAB Facilities Operators.* — FAB facilities operators shall have the rights and responsibilities of other FAB Registered Enterprises, plus the following:

- a. to manage facilities on real property it owns, has acquired or has leased within the FAB;
- b. to lease out real property it owns or has leased within the FAB, and to acquire and lease land and sell or lease out facilities to FAB Registered Enterprises, subject to overall property management guidelines approved

by the AFAB and to the provisions of Section 12 hereof;

- c. to make improvements on, construct and maintain buildings, warehouses, factory shells, office and commercial buildings and other facilities, and develop all other infrastructure necessary or desirable to enhance FAB's efficient operations, or grant contracts or concessions to other private or public parties for the construction or provision of any of the said facilities, subject to the approval of the AFAB and other concerned agencies of the latter;
- d. to provide public or other services such as water, light and power, telecommunications, sewerage and any other public utilities or to contract or grant concessions to other individuals for the provision of such services to FAB Registered Enterprises, subject to the approval of the AFAB;
- e. to install adequate environmental protection facilities and pollution control systems as the AFAB may deem necessary to protect the environment or otherwise conform to or observe all environmental and pollution control standards of the AFAB;
- f. to maintain adequate physical and electronic security measures including adequate fencing, enclosures, lighting, alarm systems, smart cities systems, firefighting equipment and other similar devices to secure the facility, subject to AFAB approval and in cooperation with the AFAB Security Force;
- g. to charge and modify fees for any services or facilities it provides within the FAB, directly to those who use such services or facilities; and
- h. to adopt internal rules and regulations to promote the safe, efficient, and successful operation of the facility consistent with the provisions of these Rules and subject to the approval of the AFAB.

B. Freeport Area of Bataan Residents

SECTION 51. *Rights of FAB Residents.* — FAB Residents shall have the following rights within the FAB:

- a. to import directly, free of Customs duties and control, foreign articles, for personal use and/or in non-commercial quantities subject to these Rules and other regulations that may be

promulgated by the AFAB; and

- b. to purchase, lease, or otherwise acquire articles from other FAB Residents or Enterprises, and maintain, utilize or otherwise consume such goods within the FAB free of national internal revenue taxes and custom duties.

SECTION 52. *Obligations of FAB Residents.* — Except as expressly provided for by exceptions in these Rules and other regulations of the AFAB, FAB Residents shall have the following obligations:

- a. to obey and observe all laws of the Philippines; and
- b. to pay income and other taxes levied on individuals in the Philippines.

RULE V

FREEPORT AREA OF BATAAN TAXATION AND TRADE REGIME

A. Incentives and Exemptions

SECTION 53. *Fiscal Incentives.* — The registered enterprises operating within the FAB, may at their option, avail of existing pertinent fiscal incentives as provided for under Republic Act No. 7916, as amended by Republic Act No. 8748, also known as the Special Economic Zone Act of 1995, or those provided under Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987. Upon the expiration of the Income Tax Holiday, registered enterprises may be entitled to the 5% on Gross Income Earned as provided under Section 6 of the Act, subject to the guidelines as may be defined and determined by the AFAB Board of Directors, taking into consideration the standards under the Investment Priorities Plan (IPP) and/or Philippine Investment Development Plan (PIDP).

The provisions of Republic Act No. 7916, as amended, or Executive Order No. 226, as amended, and their respective implementing rules and regulations shall be complied with to avail of the fiscal incentives granted therein.

All applications for availment of incentives under these Rules shall be filed with the AFAB.

SECTION 54. *Percentage of Income Allowable from Sources Within the Customs Territory.* — FAB Registered Enterprises may generate income from sources within

the Customs Territory of up to Thirty Percent (30%) of its total income from all sources; *Provided*, that should a FAB Registered Enterprise's income from sources within the Customs Territory exceed Thirty Percent (30%) of its total income from all sources, except when the said Enterprise is engaged in an industry imbued with public interest and/or necessary to National Development or may be found in the Investment Priorities Plan (IPP) and/or Philippine Investment Development Plan (PIDP) as may be determined and under standards set by the AFAB Board of Directors, then all of its income whether from the Zone or the Customs Territory shall be subject to the income tax laws of the Customs Territory; *Provided, further*, that in any case, customs duties and taxes must be paid with respect to income from sales of articles to the Customs Territory.

SECTION 55. *Tax and Duty Exemption.* — In general, all articles may be imported by FAB Registered Enterprises into the FAB free of customs and import duties and national internal revenue taxes, subject to pertinent laws, rules and regulations.

Dutiable goods or articles may be purchased by FAB Residents free of customs and import duties and national internal revenue taxes; *Provided*, that such articles are limited only for personal or household use or consumption within the FAB; provided further, that the exercise of this privilege shall comply with the prescribed guidelines to be adopted by AFAB.

B. *Transactions with the Customs Territory*

SECTION 56. *Articles Removed or Withdrawn from FAB.* — Notwithstanding the above-mentioned tax and duty exemptions, foreign articles removed, withdrawn or otherwise disposed of from the FAB into the Customs Territory, shall be subject to the payment of customs duties and internal revenue taxes as ordinary importations in accordance with the provisions of the Tariff and Customs Code of the Philippines, as amended, and the National Internal Revenue Code, as amended, and other applicable laws.

Articles entered or introduced from the FAB into the Customs Territory will be presumed to be foreign unless there is sufficient evidence presented to satisfy customs officials that they are domestic articles as defined in these Rules.

SECTION 57. *Articles Admitted into the FAB from the Customs Territory.* — Articles which are admitted to the FAB from the Customs Territory under proper permit and/or sold to FAB Registered Enterprises or FAB Residents, as well as services provided to the AFAB, FAB Registered Enterprises or AFAB Residents by entities operating from and within the Customs Territory, shall be considered exported for purposes of the laws and regulations of the Philippines, and shall be

considered to be zero-rated for VAT purposes and thereby become eligible for drawback, relief from duties and taxes, and any other tax or duty benefit conferred by reason of exportation. However, the VAT registered enterprise within the Customs Territory shall apply for effective zero-rating of their sales and services to FAB Registered Enterprises pursuant to existing rules and regulations. Articles which are returned to the Custom Territory from the FAB shall be considered imported for purposes of the laws and regulations of the Philippines.

SECTION 58. *Foreign Articles Used as Raw Materials.* — Foreign articles to be used in the production, manufacture, processing of finished products may be brought from the FAB to designated freeport areas, special economic zones, export processing zones, and bonded warehouses in the Customs Territory by accredited sub-contractors, under bond acceptable to the AFAB and the Bureau of Customs to guarantee the return of the finished goods to the FAB, for export or for sale within the FAB.

SECTION 59. *Foreign Articles Sold to FAB Residents.* — Foreign articles sold by FAB Registered Enterprises to FAB Residents, or to travelers, tourists, and/or investors shall be exempt from duties and taxes; *Provided*, that such articles are actually exported to a foreign country upon their departure, or are actually consumed within the FAB.

SECTION 60. *Seizure of Foreign Articles.* — Foreign articles withdrawn, transported, or taken in commercial quantities from the FAB to the Customs Territory without payment of duties and taxes, shall be subject to seizure and forfeiture proceedings pursuant to the pertinent provisions of the Tariff and Customs Code, as amended, and the National Internal Revenue Code of the Philippines, as amended, without prejudice to any criminal and/or administrative actions that may be instituted against the person/persons liable/responsible therefor.

SECTION 61. *Transit of Articles by Carriers.* — Carriers that undertake to transship articles from the FAB to designated freeport areas, special economic zones, export processing zones and bonded warehouses within the Customs Territory shall be bonded in an amount to be determined by the AFAB which in no case shall be less than FIFTY THOUSAND PESOS (P50,000.00), Philippine currency, conditioned that the carrier shall transport and deliver the articles, without delay, and in accordance with applicable rules and regulations, to the Collector of Customs at the port of destination or export. The provisions of the Tariff and Customs Code, as amended, and its implementing regulations, in respect of transshipment of articles from the ports in the Customs Territory to the FAB shall govern cases of transshipment.

SECTION 62. *Articles Exported to Foreign Countries and Re-Exported into the*

Customs Territory. — Articles which are manufactured in the FAB and exported therefrom to a foreign country shall, upon subsequent importation into the Customs Territory, be subject to the import laws applicable to like articles manufactured in a foreign country.

SECTION 63. *Responsibility for Foreign Articles; Presumption on Missing Articles.*

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- a. FAB Registered Enterprises shall be responsible for the safekeeping and accounting of all articles received by them in the FAB, and shall be relieved from responsibility for the articles upon removal under proper permit from the FAB, transfer to another FAB Registered Enterprise or Resident, destruction in the FAB, or abandonment to the AFAB in the FAB.
- b. Articles which are missing or cannot be accounted for in the FAB shall be presumed to have been transferred to the Customs Territory without permit. Articles which are found in the FAB but cannot be accounted for in the records of a FAB Registered Enterprise shall be treated as having been received in the FAB without permit.

SECTION 64 *Customs Manual of Operations.* — The AFAB may issue or promulgate Customs or any other operations manual(s), compliance of the provisions of which shall be the responsibility of FAB Registered Enterprises and Residents.

C. *Taxes and Fiscal Obligations*

SECTION 65. *Obligations and Liabilities.*-

- a. Pursuant to Section 6 of the Act, FAB Registered Enterprises not enjoying Income Tax Holiday or Net Operating Loss Carryover, shall, in lieu of paying local and national taxes, pay a five (5%) percent final tax on their gross income earned in the following percentages:
 - (1) To the National Government — 1%
 - (2) To the Province of Bataan — 1%
 - (3) To the Treasurer's Office of the Concerned Municipality — 1%
 - (4) To the Authority of the Freeport Area of Bataan — 2%

- b. "Gross Income Earned" for purposes of these Rules refers to gross sales or gross revenues derived from any registered business activity within the FAB and its Expansion Areas, net of sales returns, sales discounts and allowances, less costs of sales, cost of production or direct costs of services (depending on the nature of business) but before any deduction for administrative, marketing, selling and/or operating expenses and incidental losses during a given taxable period. For financial enterprises, gross income shall include interest income, gains from sales, and other income, net of costs of funds.

In arriving at the base for which the five (5%) percent final tax stated in the preceding section shall be applied, the following deductions shall be allowable/unallowable:

1. For Trading Enterprises Allowable Deductions
 - Cost of Sales
(Cost of Sales which is equal to inventory, beginning plus purchases minus ending inventory of goods)
2. For Manufacturing, Enterprises Allowable Deductions
 - Direct salaries, wages or labor expense
 - Production supervision salaries
 - Raw materials used in the manufacture of products
 - Decrease in Goods in Process Account (Intermediate goods)
 - Decrease in Finished Goods Account
 - Supplies and fuels used in production
 - Depreciation of machinery and equipment used in production, and of that portion of the building owned or constructed by the registered enterprise that is used exclusively in the production of goods
 - Financing charges associated with fixed assets used in production, the amount of which were not previously capitalized
 - Rent and utility charges associated with buildings, equipment and warehouses used in production

3. For Services Enterprises Allowable Deductions

- Services supervision salaries
 - Direct materials, supplies used
- Depreciation of machineries and equipment used in the rendition of registered services, and of that portion of the building owned or constructed that is used exclusively in the rendition of the registered
- Financing charges associated with fixed assets used in the rendition of registered service business the amount of which not previously capitalized
- Rent and utility charges for buildings and capital equipment used in the rendition of registered services

4. Financial Institutions – None

SECTION 66. *Returns and Payment of Tax.* –

- a. Requirements. – All FAB Registered Enterprises subject to the 5% final tax on gross income earned prescribed in Section 6 of the Act shall render in duplicate a true and accurate quarterly return and final or adjustment return in accordance with the provisions of Sections 68 and 69, Chapter IX of the National Internal Revenue Code, as amended. The return shall be filed by the President, Vice-President or other principal officer of the FAB Registered Enterprise and shall be sworn to by the Treasurer or Assistant Treasurer.
- b. Place of Filing. – The quarterly return and the final or adjustment return required in the preceding paragraph shall be filed with the Revenue District Officer or the collection agent/accredited bank in the AFAB jurisdiction, with a copy thereof to be furnished to the AFAB.
- c. Payment of the Tax.
 - (1) The amount representing the five percent (5%) final tax of the gross income earned by the FAB Registered Enterprise shall be paid at the same time the return is filed with the Revenue District Officer or the collecting agent/accredited bank in the AFAB jurisdiction.

- (2) Time for Filing the Returns/Payment of the Tax. The provisions of Sections 63 and 69 of the National Internal Revenue Code, as amended, and existing regulations regarding the time for filing quarterly and final or adjustment returns and payments of the tax imposed herein, as well as the requirement of withholding and remittances of the tax under these Rules shall apply to all FAB Registered Enterprises.

SECTION 67. *Bookkeeping and Reportorial Requirements.* — All FAB Registered Enterprises shall keep regular and accurate records of their transactions, and maintain books of accounts and allied documents in accordance with the bookkeeping rules and regulations prescribed by the Bureau of Internal Revenue and/or the AFAB, which shall be open to inspection and verification by authorized officers of the AFAB or of the Bureau of Internal Revenue and the Bureau of Customs, upon prior notification and coordination with the AFAB, subject to the pertinent provisions of the National Internal Revenue Code, as amended. For this purpose, the AFAB at its instance, or jointly with the Bureau of Internal Revenue and/or the Bureau of Customs, is authorized to conduct at any time during office hours any audit, check, or inventory count for the verification and reconciliation of the records with the inventory of articles in the FAB.

The AFAB shall submit the FAB Registered Enterprises' reports in accordance with the pertinent rules and regulations of the concerned National Government Agencies or Instrumentalities

SECTION 68. *Search, Arrest, and Seizure by Customs Officials.* —

- a. Persons, baggage, vehicles, and cargo entering or leaving the FAB are subject to search by Customs officials as a condition to enter or leave the FAB. Customs officials are authorized to examine any merchandise held by FAB Registered Enterprises during the regular business hours.
- b. Customs officers may seize any article found during a Customs search upon entering or leaving the FAB to be in violation of any provision of any customs laws for which a seizure is authorized, and such seizure shall be disposed of according to the customs laws. Articles which are prohibited or excluded from the FAB under the rules and regulations of the AFAB which are found by Customs officials during an audit, examination or check within the FAB may be seized by them and turned over to the AFAB for disposition.
- c. The AFAB may secure the assistance of and/or coordinate with Customs

officers to arrest persons in the FAB for violations of the customs laws for which arrest is authorized concerning articles in the Customs Territory destined to the FAB or articles which have been removed from the FAB to the Customs Territory.

- d. For the orderly administration and implementation of customs laws, regulations and procedures, the office of the Customs officials and personnel shall be situated outside the gate and other access points of the FAB providing ingress and egress thereto;

SECTION 69. *Tax Credits for Foreign Corporations.* — The taxes paid herein by foreign corporations that are registered as FAB Registered Enterprises shall be considered as income taxes for purposes of application for tax credits by said foreign corporations in their respective countries.

RULE VI

FREEPORT AREA OF BATAAN IMMIGRATION REGULATIONS

SECTION 70. *General Provisions.* — Except as provided in the Act, these Rules and other rules of the AFAB, all laws of the Philippines concerning the entry and immigration of persons into the Philippines and their departure and emigration therefrom shall be applicable in the FAB to persons arriving directly in the FAB from a foreign country or departing directly from the FAB to a foreign country.

SECTION 71. *Responsibility and Authority.* — All laws of the Philippines, including the Act, these Rules, and other rules of the AFAB concerning the entry, immigration, departure, or immigration of persons, including their arrival directly in or departure directly from the FAB, shall be carried out within the FAB by personnel of the Bureau of Immigration in coordination with the AFAB.

SECTION 72. *Right to Allow No-Visa Entry to Certain Foreign Nationals.* — Notwithstanding the immediately preceding provisions, the AFAB may allow the entry of foreign nationals, particularly to citizens or nationals of member states of the Association of South East Asian Nations (ASEAN), Hong Kong British (SAR) Passport holders or Certificates of Identity and Taiwanese nationals with Republic of China Passports, with the exception of foreign nationals barred from entering the Philippines, into the FAB without visas for a maximum period of fourteen (14) days, unless extended by the National Government; *Provided*, that such entry will be limited to tourism and business purposes only; *Provided, further*, that should the foreign national desire to extend his/her visit or to enter the Customs Territory,

he/she must secure the necessary authorization or visa from the Bureau of Immigration or the Department of Foreign Affairs, as the case may be.

SECTION 73. *Application Outside Freeport Area of Bataan.* — The issuance of visas to, and control of the arrival or departure of, persons who seek to work and reside in the FAB under the Act and these Rules shall be administered by the Bureau of Immigration or the Department of Foreign Affairs to:

- a. Persons arriving in the Philippines from a foreign country destined for the FAB;
- b. Persons arriving in the Customs Territory from the FAB destined to foreign countries;
- c. Persons in the Customs Territory and whose work or residency visas were conferred by the AFAB under the authority of the Act, these Rules and other rules of the AFAB;
- d. Persons outside the Philippines who are seeking work or residency visas in the FAB; and
- e. Spouses and minor children of the foregoing.

SECTION 74. *Temporary Work and Residency Visas.* — The AFAB is authorized to endorse temporary work and residency visas to foreign nationals under the conditions and provisions of these Rules. Upon application by a FAB Registered Enterprise/s, the AFAB may endorse work visas which are valid for and renewable every three (3) years to foreign nationals who possess executive or highly-technical skills which no Filipino citizen within the FAB possesses, as certified by the Department of Labor and Employment. The FAB Registered Enterprise shall apply to the AFAB for renewal not less than thirty (30) days before the scheduled expiration date of the work visas, and shall inform the AFAB whenever any foreign national's employment is terminated by reason of contract expiration or termination, firing, redundancy, or other removal.

The temporary work visas will be automatically terminated upon:

- a. Non-renewal of the visa, whether by reason of failure of the FAB Registered Enterprise to apply for renewal or determination made by the AFAB;
- b. Expiration of the contract under which the foreign national is working;

- c. Discharge or other manner of termination of the foreign national by the FAB Registered Enterprise;
- d. Dissolution of the employing firm or revocation of its FAB registration;
- e. Acceptance of work for compensation outside the FAB without the approval of the AFAB;
- f. Death of the foreign national;
- g. Conviction, by a competent court, of any offense defined by the Revised Penal Code or special or other laws;
- h. Commission of acts inimical to national security, public interest, health, welfare and morals; or
- i. Determination by the AFAB of any other reason or circumstance by which the work of the foreign national is no longer needed in the FAB.

SECTION 75. *Revocation of Temporary Work Visa.* — The AFAB may, after appropriate hearing, endorse the revocation of temporary work visa for any violation by the foreign national or his or her dependent(s) of (i) any Philippine law or regulation, including the Act, these Rules and other regulations of the AFAB, or (iii) the terms and conditions for the issuance of the visa.

SECTION 76. *Temporary Residency Visas.* — Temporary residency visas may be endorsed by the AFAB to any foreign national to whom a work visa has been issued and to his or her spouse and dependent children under 21 years of age. The temporary residency visas of the foreign national, spouse, and children are valid for residence either inside the FAB or the Customs Territory during the period of validity of the work visa. The temporary residency visas shall be deemed terminated upon the termination or revocation of the work visa of the foreign national in accordance with Sections 66 and 67 of these Rules.

SECTION 77. *Reportorial Requirements.* — The names of foreign nationals who are granted temporary work or residency visas, or whose work or residency visas are terminated or revoked, shall be reported by the AFAB to the Bureau of Immigration in the following month after issuance, termination or revocation.

SECTION 78. *Permanent Residency Visas.* — The AFAB also endorses the issuance of permanent residency visas to foreign nationals under the conditions

and provisions of these Rules.

SECTION 79. *Permanent Residency Visas for Investors.* — The AFAB may endorse the issuance of a permanent residency visa within the FAB to any foreign investor who has made and continues to maintain an investment of not less than SEVENTY FIVE THOUSAND DOLLARS (US\$75,000.00) or its equivalent in any freely convertible currencies, either in cash or equipment, within the FAB. This privilege may extend to the investor's spouse and dependent children under 21 years of age. The visa will be provided upon application by the investor with evidence of the investment, made in conformity with the FAB's land use plan, which may be in the form of:

- a. Establishment of a FAB Registered Enterprise or other direct investment within the FAB;
- b. A cash grant or interest-free loan to the AFAB or to a FAB Registered Enterprise for the purpose of making capital improvements by the recipient in the FAB;
- c. A purchase of real estate in the FAB or of a FAB Registered Enterprise for the purpose of renovation, construction, or expansion of buildings, equipment, structures, or appurtenances for capital improvement purposes; or
- d. A donation in kind to the AFAB or a FAB Registered Enterprise of equipment or materials for capital improvement purposes.

SECTION 80. *Revocation or Termination of Permanent Residency Visa of Investor.* — The permanent residency visas of the investor, spouse, and children automatically terminates when the investor, his spouse, children or any other individual or entity acting in his behalf, takes the investment out of the FAB through sale or receiving payment, in cash or in kind, for grants, donations, or interest-free loans other than the return of principal. The AFAB may also endorse the summary revocation or revocation after hearing of the permanent residency visa of any investor, spouse, or child for the same grounds enumerated in Sections 74 and 75 of these Rules, as may be applicable.

SECTION 81. *Permanent Residency Visa for Retirees.* — The AFAB may issue permanent residency visas to any foreign national who is a retired person and his or her spouse and dependent children under 21 years of age for residence in the FAB. A "retired person" is a person (i) over 60 years of age who can demonstrate to the satisfaction of the AFAB that he or she is of good moral character; (ii) has not been

convicted of any crime involving moral turpitude; (iii) no longer employed or self-employed; and (iv) who receives a pension or passive income that is payable in the FAB that exceeds FIFTY THOUSAND DOLLARS (US\$50,000.00) per annum. "No longer employed or self-employed" means the applicant for the visa has worked for compensation fewer than seven hundred and fifty (750) hours during the year preceding the application for the visa.

SECTION 82. *Revocation or Termination of Permanent Residency Visa of Retiree.*

— The permanent residency visa of the retiree automatically terminates upon the taking of residence by the retired person outside the FAB, or the acceptance by the retired person or his or her spouse of work for compensation within the FAB or the Customs Territory without the approval of the AFAB.

The residency visa of the spouse of the retiree automatically terminates upon the death of the person to whom the residency visa was granted, or upon their divorce, unless he or she makes application for and receives a residency visa from the Bureau of Immigration.

The AFAB may endorse the summary revocation or revocation after hearing of the residency visa of any retiree, his/her spouse or child for the same grounds enumerated in Sections 74 and 75 of these Rules, as may be applicable.

SECTION 83. *Reportorial Requirements.* — The names of foreign nationals who are granted permanent residency visas, or whose permanent residency visas are terminated or revoked by the AFAB shall be reported by the AFAB to the Bureau of Immigration in the following month after issuance, termination or revocation. The residency visa is valid only for the FAB and not for the Customs Territory. However, persons with residency visas may enter and leave the FAB without any special authorization of the Bureau of Immigration.

RULE VII

FREEPORT AREA OF BATAAN QUARANTINE REGULATIONS

SECTION 84. *Applicability of Philippine Laws Regarding Animal and Plant Health.* — The laws of the Philippines concerning animal and plant health and quarantine and the protection of animals and plants from disease and pestilence, shall be applied in the FAB, as well as to persons, baggage, carriers, and merchandise containing possible animal or plant disease-carrying vectors arriving in the FAB directly from foreign countries.

SECTION 85. *Applicability of Philippine Laws Regarding Human Quarantine and Diseases of Public Health Concerns.* — The laws of the Philippines concerning human quarantine; protection against the spread of diseases, public health emergencies of international concern, infectious diseases, diseases subject to International Health Regulations of the World Health Organization shall be applied in the FAB.

Quarantine inspection of vessels and aircraft, the necessary health surveillance over their cargoes, passengers, crew and all personnel effects including those of the army and navy shall be vested upon the Philippine Government Agency responsible for administering those laws and regulations. Quarantine inspection shall be done before immigration and customs clearance.

SECTION 86. *Persons Responsible for Implementation.* — The laws of the Philippines concerning human, animal, and plant health and quarantine shall be carried out in the FAB by qualified personnel of Philippine Government agencies responsible for administering those laws and regulations working in coordination with the AFAB. The AFAB in coordination with concerned Philippine Government Agencies shall establish the rules and procedures necessary to carry out human, animal, plant health and quarantine laws and regulations within the FAB.

RULE VIII

FREEPORT AREA OF BATAAN FOREIGN EXCHANGE AND BANKING REGIME

A. Freeport Area of Bataan Rules on Foreign Exchange

SECTION 87. *Foreign Exchange Accounts.* — All FAB Registered Enterprises and Residents shall be free to maintain foreign exchange accounts with any Authorized Agent Bank duly licensed by the *Bangko Sentral ng Pilipinas*.

SECTION 88. *Philippine Currency Accounts.* — All FAB Registered Enterprises and Residents shall be free to maintain accounts in the currency of the Philippines with any Authorized Agent Banks duly licensed by the *Bangko Sentral ng Pilipinas* to hold deposits in the currency of the Philippines.

SECTION 89. *Purchase of Foreign Exchange.* — All FAB Registered Enterprises and Residents shall be free to buy and sell foreign exchange from/to entities other than Authorized Agent Banks and Authorized Agent Bank-subsidiary/affiliate foreign exchange corporations.

SECTION 90. *Foreign Exchange in Business Transactions.* — All FAB Registered Enterprises and Residents shall be free to engage in business transactions the valuation and/or payments for which may be effected in foreign exchange, provided that transactions between residents may not be funded with foreign exchange purchased from Authorized Agent Banks and Authorized Agent Bank-subsidiary/affiliate foreign exchange. Foreign exchange receipts, acquisitions for earnings may be deposited in foreign exchange accounts in the Philippines or abroad, or brought out of the Philippines. Such receipts shall include, but not be limited to:

- a. sales of goods;
- b. receipts for services rendered;
- c. contracting of loans;
- d. income or proceeds from investments;
- e. transfer of capital to the FAB Registered Enterprise; and
- f. any other transaction representing income or an increase in capital or assets to the FAB Registered Enterprise.

SECTION 91. *Use of Foreign Exchange.* — Foreign Exchange may be freely used for any purpose not expressly forbidden by law, including but not limited to the following:

- a. purchase of goods;
- b. payment for services rendered;
- c. repayment of loans;
- d. transfer of profits earned by the FAB Registered Enterprise;
- e. repatriation of capital resulting from liquidation or sale of assets;
- f. any other transaction representing expenses or a decrease in capital or assets to the enterprise.

Provided that, for repayments of foreign currency loans to be funded with foreign exchange sourced from Authorized Agent Banks and Authorized Agent Bank-

subsidiary/affiliate foreign exchange corporations, the transaction should comply with existing *Bangko Sentral ng Pilipinas* regulations on foreign loans.

SECTION 92. *Rules on Foreign/Foreign Currency Loans and Investments.* — The approval registration process of the *Bangko Sentral ng Pilipinas* for loans and investments provided under the Manual of Regulations on Foreign Exchange Transactions, *Bangko Sentral ng Pilipinas* Circular No. 645 dated February 13, 2009, shall be complied with.

SECTION 93. *Philippine Currency Transactions.* — All FAB Registered Enterprises and Residents shall be free to engage in business transactions the valuation and/or payments for which may be affected in the currency of the Philippines according to regulations in force issued by the *Bangko Sentral ng Pilipinas* or other authorities of the National Government.

SECTION 94. *Applicability of Central Bank Circular 1353.* — Unless specifically provided for in subsequent laws, these Rules and other AFAB regulations, the provisions of the Manual of Regulations on Foreign Exchange Transactions issued under *Bangko Sentral ng Pilipinas* Circular No. 645 dated February 13, 2009, shall apply to FAB Registered Enterprises and Residents; *Provided*, however, that for the foreign exchange proceeds of foreign loans, including loans contracted in the Philippines in foreign exchange, conversion into the currency of the Philippines shall not be required, if (1) it will not be: guaranteed by government corporations and/or government financial institutions, covered by foreign exchange guarantees issued by Authorized Agent Banks, and to be granted by foreign currency deposit units (FCDUs) and expanded FCDUs and specifically or directly funded from, or collateralized by offshore loans or deposits, and (2) there is no intention in the future to service such loans by foreign exchange procured from Authorized Agent Banks and Authorized Agent Bank-subsidiary/affiliate foreign exchange corporations; *Provided, further*, that in the case of foreign investments, the foreign exchange required for capital repatriation and remittance of dividends/profits shall not be sourced from Authorized Agent Banks and Authorized Agent Bank-subsidiary affiliate foreign exchange corporations.

B. *Freeport Area of Bataan Rules on Banking and Other Financial Institutions*

SECTION 95. *In General.* — Any bank or financial institution intending to operate within the FAB must first be cleared by the *Bangko Sentral ng Pilipinas*.

SECTION 96. *Offshore Banking Units.* — Any foreign bank registered as an Offshore Banking Unit (OBU) may accept deposits, make loans, and otherwise provide financial services in foreign exchange to FAB Registered Enterprises and

Residents, in accordance with *Bangko Sentral ng Pilipinas* regulations governing OBUs.

SECTION 97. *Foreign Currency Depository Units.* — Any bank registered as a Foreign Currency Depository Unit (FCDU) may accept deposits, make loans, and otherwise provide financial services in foreign exchange to FAB Registered Enterprises and Residents, in accordance with *Bangko Sentral ng Pilipinas* regulations governing FCDUs.

SECTION 98. *Banks Licensed in the Philippines.* — Banks licensed in the Philippines may freely open branches within the FAB. Minimum bids shall not be required, and the number of banks opening branches within the FAB shall not be restricted. Banks applying to open branches shall be registered with the *Bangko Sentral ng Pilipinas* provided that the bank has not violated *Bangko Sentral ng Pilipinas* conditions governing safe and sound banking practices. Such branches may elect to be registered as FAB Registered Enterprises with the AFAB, and shall be restricted to providing services or effecting transactions with FAB Registered Enterprises and Residents. If such branches do not elect to be registered as FAB Registered Enterprises, they shall not enjoy the rights and privileges under these Rules including the preferential tax treatment accorded FAB Registered Enterprises as set forth in Rule V of these Rules, and shall not be restricted to transactions with FAB Registered Enterprises or Residents.

SECTION 99. *OBU Affiliates.* — Any foreign bank may apply with the *Bangko Sentral ng Pilipinas* to establish (a) an extension office/branch of its existing OBU, if it has an existing OBU licensed to do business in the Philippines, or (b) an OBU within the FAB, if it has no existing OBU license, which shall exclusively engage in services to FAB Registered Enterprises and non-residents of the Philippines.

The *Bangko Sentral ng Pilipinas* shall register such branch or FAB OBUs as licensed to operate exclusively in the FAB. Such branch or OBUs shall also be registered as a FAB Registered Enterprise. If the foreign bank applies to operate within the FAB through a local affiliate bank, then such application shall be subject to prevailing laws on nationality of ownership of banking institutions.

SECTION 100. *Tax Exemption Privileges of FAB Registered Banks and Affiliates.* — FAB OBU's, bank branches and affiliates which are registered as FAB Registered Enterprises shall enjoy privileges and exemptions under existing laws, rules and regulations.

SECTION 101. *Tax Liability of FAB Registered Banks and Affiliates.* — In lieu of all local and national taxes, FAB OBUs and FAB bank affiliates and branches shall

pay five (5%) percent final tax of gross income earned annually to the Bureau of Internal Revenue, as provided for in Section 57, and subject to the provisions of these Rules.

SECTION 102. *Effect of Existing Bangko Sentral ng Pilipinas Regulations of FAB Registered OBU's.* — Existing regulations governing OBU's shall apply to FAB OBU's, except as specifically provided in these Rules and other regulations of the AFAB. FAB OBU's shall pay annual registration of license fees normally required directly to the *Bangko Sentral ng Pilipinas*.

Section 103. *Applicability Clause.* The following provisions of Republic Act No, 7916, otherwise known as “The Special Economic Zone Act of 1995,” as amended, are made applicable to the FAB:

“SEC. 30. Leases of Lands and Buildings. — Lands and buildings in each ECOZONE may be leased to foreign investors for a period not exceeding fifty (50) years renewable once for a period of not more than twenty-five (25) years, as provided for under Republic Act No. 7652, otherwise known as the Investors’ Lease Act. The leasehold right acquired under long-term contracts may be sold, transferred or assigned, subject to the conditions set forth under
Republic Act No. 7652.

SEC. 31. Land Conversion. — Agricultural lands may be converted for residential, commercial, industrial and other non-agricultural purposes, subjects to the conditions set forth under Republic Act No. 6657 and other existing laws.

SEC. 32. Shipping and Shipping Register. — Private shipping and related business including private container terminals may operate freely in the ECOZONE, subject only to such minimum reasonable regulations of local application which the PEZA may prescribe.

The PEZA shall, in coordination with the Department of Transportation and Communications, maintain a shipping register for each ECOZONE as a business register of convenience for ocean-going vessels and issue related certification.

Ships of all sizes, descriptions and nationalities shall enjoy access to the ports of the ECOZONE, subject only to such reasonable requirement as may be prescribed by the PEZA In coordination with the appropriate agencies of the national government.

SEC. 33. Protection of Environment. - The PEZA, in coordination with the appropriate agencies, shall take concrete and appropriate steps and enact the proper measure for the protection of the local environment.

SEC. 34. Termination of Business. - Investors In the ECOZONE who desire to terminate business or operations shall comply with such requirements and procedures which the PEZA shall set, particularly those relating to the clearing of debts. The assets of the closed enterprise can be transferred and the funds can be remitted out of the ECOZONE subject to the rules, guidelines and procedures prescribed jointly by the Bangko Sentral ng Pilipinas, the Department of Finance and the PEZA.

SEC. 35. Registration of Business Enterprises. - Business enterprises within a designated ECOZONE shall register with the PEZA to avail of all incentives and benefits provided for in this Act.

SEC. 36. One Stop Shop Center. - The PEZA shall establish a one stop shop center for the purpose of facilitating the registration of new enterprises in the ECOZONE. Thus, all appropriate government agencies that are Involved In registering, licensing or issuing permits to investors shall assign their representatives to the ECOZONE to attend to Investor's requirements.

CHAPTER IV

INDUSTRIAL HARMONY IN THE ECOZONES

SEC. 37. Labor and Management Relations. - Except as otherwise provided in this Act, labor and management relations in the ECOZONE shall be governed by the existing Labor Code of the Philippines. Employees and personnel in the ECOZONE enterprises shall receive salaries and benefits and shall enjoy working conditions not less than those provided under the Philippine Labor Code and other relevant laws, issuances, rules and regulations of the Philippine government and the Department of Labor and Employment.

SEC. 38. Promotion of Industrial Peace. - In the pursuit of Industrial harmony in the ECOZONE, a tripartite body composed of one (1) representative each from the Department of Labor and Employment, labor sector and business and industry sectors shall be created In order to formulate a mechanism under a social pact for the enhancement and preservation of industrial peace in the ECOZONE within thirty (30) days after the effectivity of this Act.

SEC. 39. Master Employment Contracts. - The PEZA, in coordination with the Department of Labor and Employment, shall prescribe a master employment contract for all ECOZONE enterprise staff members and workers, the terms of which provide salaries and benefits not less than those provided under this Act, the Philippine Labor Code, as amended, and other relevant issuances of the national government.

SEC. 40. Percentage of Foreign Nationals. - Employment of foreign nationals hired by ECOZONE enterprises in a supervisory, technical or advisory capacity shall not exceed five percent (5%) of Its workforce without the express authorization of the Secretary of Labor and Employment.

SEC. 41. Migrant Worker. - The PEZA, in coordination with the Department of Labor and Employment, shall promulgate appropriate measures and programs leading to the expansion of the services of the ECOZONE to help the local governments of nearby areas meet the needs of the migrant workers."

RULE IX

ENVIRONMENTAL REGULATIONS

SECTION 104. Principles. — AFAB recognizes the importance of maintaining a high degree of environmental quality as a precursor to the sustainable economic development of the areas both under and adjacent to its jurisdiction. Specific regulations to protect and conserve environmental quality as may be promulgated by AFAB shall conform to and not contradict those environmental policies and regulations established by the National Government.

Recognizing that the Department of Environment and Natural Resources (DENR) and its predecessor agencies have established environmental quality and emission and effluent, standards for air and water quality, the AFAB adopts those standards and incorporates them into the environmental quality standards the regulations to be adopted by the AFAB.

SECTION 105. Ecological Management Center. — There is hereby created an Ecological Management Center that shall have responsibility for the protection of the environment and natural resources within the FAB and/or jurisdiction of the AFAB. The Ecological Management Center shall have responsibility for the implementation and protection programs adopted or assumed by the AFAB as a natural corporation and as a governmental entity.

The Ecological Management Center shall undertake the normal functions associated with environmental management, including, but not limited to, enforcement, monitoring, permitting, training and education, and contingency and emergency planning.

The Ecological Management Center shall seek to privatize services and infrastructure related to environment management to the extent that it shall deem appropriate. This shall include such environmental services as water supply, wastewater treatment facilities, integrated water resource management, waste management facilities, waste transportation services, and environmental monitoring services as can be contracted to the private sector.

SECTION 106. *Application of Philippine Environmental Laws.* — All Philippine environmental laws, particularly Presidential Decrees Nos. 984, 1151, 1152 and 1586, as well as Republic Act Nos. 6969, 7586, and 9003, including the rules and regulations of the DENR and other government agencies concerning environmental pollution and pollution control insofar as these rules and regulations are not inconsistent with these Rules, are hereby adopted.

SECTION 107. *Coverage.* — The regulations for environmental and natural resources conservation and protection shall be applicable to all areas within the FAB and/or under the jurisdiction of the AFAB. All facilities existing outside the boundaries of the FAB and/or the jurisdiction of the AFAB shall be considered for the purposes of these Rules to be existing facilities. All facilities to be introduced within the confines of the FAB or the jurisdiction of the AFAB shall be considered new facilities for the purposes of these Rules.

The AFAB shall introduce a system of regulations that shall be applicable to all existing and new facilities within its jurisdiction and/or the FAB. This system of regulations shall incorporate existing DENR policies and regulations and shall provide for the permitting of all such facilities by the AFAB.

All facilities within the FAB and/or the jurisdiction of the AFAB shall possess a Permit to Operate issued by the AFAB. Any facility deemed to be covered under these Rules found to be without an appropriate permit shall be subject for recommendation of closure and other penalties that may be imposed by the AFAB.

SECTION 108. *Permits and Clearances.* — The AFAB shall be the entity responsible for the issuance of Foreshore Lease and all permits and clearances related to environmental protection and conservation within the FAB, such permits and clearances to include, but not limited to Environmental Compliance Certificates,

Tree Cutting Permits, Authorities to Construct, Permits to Operate, and Water Use Permits. The AFAB may, at its discretion, amend the requirements associated with such permits at any time and may introduce such other permits or clearances that it deems necessary to protect and conserve the environment.

Environmental Compliance Certificates. — Unless otherwise exempted from doing so by the AFAB, no business enterprise shall be registered as a FAB Registered Enterprise and allowed to do business or undertake any activity within the FAB unless it secures an Environmental Compliance Certificate from the AFAB. No FAB Registered Enterprise shall be allowed to engage in any building and/or construction activity unless it similarly secures an Environmental Compliance Certificate prior to application of building and/or construction permit. All business enterprises seeking registration as FAB Registered Enterprises under these Rules shall submit an Environmental Report to the AFAB. Such Environmental Reports shall detail and describe the proposed undertaking, the short and long term environmental consequences of their business, establishment, construction project, or other activity; measures proposed to mitigate adverse environmental impacts; and, unavoidable adverse impacts. Decisions by the AFAB on the issuance of the Environmental Compliance Certificate for the proposed undertaking shall be based on the Environmental Report submitted for its consideration.

All public agencies or corporations seeking to build or construct any structure or infrastructure for business or public purposes shall secure an Environmental Compliance Certificate prior to undertaking such activity.

Authority to Construct. — Following the issuance of the Environmental Compliance Certificate, any proponent intending to engage in the construction of any structure or infrastructure shall secure an Authority to Construct. Such Authority shall be based on the building and/or construction plans mentioned in Section 132 of these Implementing Rules.

Permit to Operate. — FAB Registered Enterprises shall obtain Permits to Operate prior to the initiation of any operation of any activity subject to the requirement to obtain an Environmental Compliance Certificate and the determination that such activity may result in discharge to the environment. The Permit to Operate shall establish the monitoring and reporting requirements applicable to the FAB Registered Enterprises and shall be renewed on an annual, bi-annual or quarterly basis depending on the industry concerned as may be determined by the AFAB. Such FAB Registered Enterprises shall designate a Pollution Control Officer who shall serve as the person responsible for ensuring compliance with monitoring and reporting requirements and for the environmental integrity of the enterprise and compliance with these Rules and such other regulations promulgated or to be

promulgated by the AFAB, including but not limited to, effluent discharge and emission standards, waste management, and emergency and contingency plans.

SECTION 109. *Natural Resources Protection Areas.* — The AFAB shall, in cooperation with the DENR, cause to protect the forested area defined by DENR and shall co-manage that area in accordance with practices acceptable to DENR. This shall include the provision of forest guards, as defined by DENR, to ensure that the natural resources of the area are provided sufficient protection to insure their longevity.

The Natural Resource Protection Area agreed upon between AFAB and DENR shall include such area as necessary to provide for the protection of the watershed upon which AFAB is dependent for its water supply. This area shall include both virgin and residual forests as agreed upon with DENR.

SECTION 110. *Air Quality.* — The AFAB shall not permit air quality to deteriorate within its jurisdiction and/or the FAB as a result of industrial development. To determine the existing air quality of the region, the AFAB shall implement a regional and periodic air quality monitoring program within its jurisdiction. All stationary sources of air pollution within the FAB and/or the jurisdiction of AFAB shall be subject to regulation and shall be required to obtain a Permit to Operate as a condition of their occupancy in the FAB and/or the regulatory area of AFAB. All sources of air pollution must comply with the relevant regulations and standards applicable to air emission sources. As a condition of the Permit to Operate, owners/operator of stationary air pollution sources shall be required to conduct monitoring of the emissions from those sources and report the results of that monitoring to the AFAB. The frequency of monitoring and reporting shall be established by the AFAB in the Permit to Operate but shall be not less than annually.

Air quality in the FAB or the jurisdiction of the AFAB shall be maintained so as to achieve the national ambient air quality standards. These standards are those deemed necessary to protect public health and welfare and to reduce potential damage to property. To achieve these standards, the AFAB shall formulate an air quality management strategy for limiting emissions from both mobile and stationary sources. The maximum limit of emissions established by these standards may not be exceeded more than once per year.

SECTION 111. *Water Quality.* — The AFAB shall not permit water quality to deteriorate within its jurisdiction and/or the FAB as a result of industrial development. To determine the existing water quality of the region, the AFAB shall implement a regional and periodic water quality monitoring program within its jurisdiction. All sources of water pollution within the FAB and/or the jurisdiction of

the AFAB shall be subject to regulation and shall be required to obtain a Permit to Operate as a condition of their occupancy in the regulatory area of the AFAB. All sources of water pollution must comply with the relevant regulations and standards applicable to water effluent sources.

Water quality in the FAB and/or the jurisdiction of the AFAB shall be maintained so as to meet national standards applicable for the highest and best use of the waterbody as established and determined by the AFAB in coordination with the DENR. In general, this is intended to promote and maintain water quality that is suitable for contact water recreation. All surface and groundwater bodies, including marine and fresh waters, shall be included in this provision.

To protect the waters within the FAB and/or the jurisdiction of the AFAB, the AFAB shall not allow the direct discharge of any wastewater, either industrial or domestic, that does not meet the effluence discharge standards as established by the DENR and adopted by the AFAB. In the case of discharge to wastewater treatment facilities by either industrial or domestic discharges, the acceptable standard for acceptance of those wastewaters shall be determined by the owner/operator of those facilities. Discharges of effluence from wastewater treatment facilities shall meet the applicable discharge standards. Compliance with such standards shall be the responsibility, of the owner/operator of the facility.

As a condition for the continued validity of the Permit to Operate, the owner/operator of the facilities shall conduct monitoring of the effluence of all wastewater discharges, in relation to the water quality of the receiving water and shall report the results of that monitoring to the AFAB. The monitoring and reporting to the AFAB shall be conducted on an annual, bi-annual or quarterly basis depending on the industry concerned as may be determined by the AFAB.

SECTION 112. *Waste Management.* — All solid and toxic and hazardous wastes shall be managed in the manner deemed appropriate by the AFAB. The AFAB shall define solid and hazardous and toxic wastes in a manner consistent with the definitions developed by the DENR under Republic Act No. 6969 and shall define the requirements for waste generators, transporters, and owners/operators of waste management facilities.

Solid Waste. — All FAB Registered Enterprises shall dispose of solid wastes in a manner approved by the AFAB. Such approval shall include the use of approved waste transporters and approved disposal facilities.

Waste Generators. — Any FAB Registered Enterprise deemed by the AFAB to be a waste generator shall be required to report the type, quantity and disposition of

such wastes every quarter. Every firm deemed to be a generator of hazardous and toxic wastes shall develop a plan for the proper management of those wastes and also develop an emergency and contingency plan for accidental releases of those wastes to the environment. Waste generators shall maintain a manifest inventory of the wastes generated and the disposition of such wastes.

Waste Management. — Any firm(s) intending to engage in waste transport within the FAB shall obtain approval by the AFAB to engage in such activity. Such approval shall be predicated upon the demonstration of the firm(s) capability and competence to engage in such activity in a safe manner. Waste transporters shall maintain a manifest of the waste materials handled and/or transported by them and present such manifest upon the demand of the AFAB. No waste transporter shall dispose of, or deliver, wastes in any manner not approved or authorized by the AFAB to accept such materials.

Waste Management Facilities. — All waste management facilities shall be subject to the approval and authorization of the AFAB prior to commencing operations. Such facilities shall be open to inspection by the AFAB at any time and shall maintain sufficient record as to allow the AFAB to determine the competence of their operation. No waste management facility may accept any waste delivered by the AFAB to engage in such activity. Waste management facilities shall include, but not be limited to, landfills, incinerators, physico-chemical treatment facilities, and other facilities processing, recovering, or disposing of wastes. Enterprises engaged in the operation of waste management facilities on their premises shall be included in these Rules and other regulations promulgated and adopted, or to be promulgated and adopted, by the AFAB to regulate such facilities.

Toxic and Hazardous Waste Management. — All toxic and hazardous wastes used by any and all persons, businesses or other entities within the FAB and/or the jurisdiction of the AFAB shall comply with the provisions of Republic Act 6969 and these Rules, as well as other regulations promulgated, or to be promulgated, by the AFAB with respect to the management of those materials. This shall include the registration of chemicals employed, imported or otherwise utilized at any time in any manner.

SECTION 113. *Water Resources Planning.* — The AFAB shall issue policies and objectives relative on water resources that will seek to ensure the sources of water supply within the FAB and/or the jurisdiction of the AFAB shall be protected and conserved, including marine waters, surface waters, and groundwater. While such policies and objectives shall be consistent with those established by the National Government, the policies and objectives shall recognize the developmental goals and objectives established for the FAB and/or jurisdiction of the AFAB, and be

consonant with the availability of water resources. As such, the AFAB shall formulate a groundwater protection program to ensure the continued viability of groundwater resources. The AFAB shall also require new water resource developments to obtain a Water Use Permit prior to the development of any groundwater well or surface water abstraction. Such permit shall be reviewed and approved by the AFAB. Applicants for a Water Use Permit shall provide such information as the AFAB deems necessary to evaluate the development proposal. Water Use Permits issued by the AFAB shall specify the allowable rate and quantity of water withdrawal. Permittees shall report to the AFAB the water consumption and quality on a quarterly basis.

SECTION 114. *Submission of Integrated Water Resource Management Plan.* — To insure the preservation, maintenance and sustainable development of all water resources within the FAB, all its enterprises and locators must submit an Integrated Water Resource Management Plan (IWRM-Plan) that specifies the manner by which the surface and groundwater quality and supply will be maintained. The IWRM-Plan shall be approved by the Ecological Management Center in coordination with the National Water Resources Board and the concerned offices or bureaus of the Department of Environment and Natural Resources. Furthermore, for future compliance purposes, the IWRM-Plan shall be subject to periodic review and assessment by the Ecological Management Center.

SECTION 115. *Conservation Areas.* — Recognizing that a healthy environment is essential to the attainment of the development goals of the AFAB jurisdiction and that there are competing uses of the environment, the AFAB shall designate such areas that it deems appropriate as Conservation Areas. These Areas may include those areas necessary for the protection of water supplies (such as groundwater aquifer recharge zones), or areas important to the protection and preservation of biodiversity (such as marine conservation and sanctuary areas and natural forest areas), or development that will be allowed in those areas, including the designation of areas as excluded from development. Those areas designated as Conservation Areas shall be included in any land use plan or zoning ordinance adopted by the AFAB.

SECTION 116. *Emergency and Contingency Planning.* — All entities operating within the FAB and/or the jurisdiction of the AFAB having potential to discharge oil, petroleum products, or other deleterious substances (including chemicals or their by-products) shall prepare a plan for preventing such discharge on the environment (including the aquatic, marine or land environments) and detailing the measures to be employed in the event that such discharges occur. This plan shall be submitted to the AFAB and shall include the procedures to be followed in the handling of such materials, and the procedures to be followed in the event of their discharge. Such

plans are to be prepared in conformity with the requirements of the Philippine Coast Guard and with the standards of practice of the industry.

RULE X

OTHER PROVISIONS

A. Expropriation

SECTION 117. *Power of Eminent Domain.* — The AFAB may exercise its power of eminent domain over any privately-owned property located within the FAB, subject to the requirements of the Constitution and existing law.

SECTION 118. *Effect of Expropriation on Lease Agreements.* — All cancellation or early termination of a lease agreement between the AFAB and a lessee as a result of expropriation shall be governed by the terms of that lease agreement.

B. Security

SECTION 119. *Function of AFAB Police Force.* — AFAB Police Force agents shall have police authority and maintain law and order within the boundaries of the FAB, including but not limited to conducting police investigations of violations of penal laws inside the FAB. Access into and departure from the FAB shall be fully controlled by AFAB Police agents.

SECTION 120. *Responsibility for Security of FAB.* — The security of the FAB and the maintenance of peace and order therein shall be the responsibility of the AFAB.

License to Carry Firearms: The AFAB envisions the FAB to be a firearms free zone.

FAB Facilities Operators and/or Enterprises shall provide and be responsible for the security of their respective facilities and extend support and cooperation to the AFAB Police Force/agents in the performance of the latter's duties.

These security forces may be licensed to carry firearms within the premises of the particular enterprises, subject to approval from AFAB and compliance with these Rules.

SECTION 121. *Request for Assistance.* — The FAB Facilities Operator of Enterprise may, as necessary, request assistance from AFAB Police Forces/agents to enforce security for their facilities. Such security agents shall act in cooperation with the

AFAB Police Forces and shall adhere to such rules and regulations as AFAB may promulgate.

SECTION 122. *Search and Inspection of Persons and Vehicles.* — All persons and vehicles entering in and exiting from the FAB shall be subject to search and inspection. They shall be required to register and/or secure appropriate FAB passes/clearances or permits from the AFAB. Their movements inside the FAB shall be governed by the security rules of the AFAB. No inspection or control initiated by other governmental agencies shall take place within the FAB Registered Enterprise without prior coordination with the AFAB. Lawful warrants and/or other planned operations by the PNP and other law enforcement agencies should first be coordinated to the AFAB prior to actual service of warrants or operation and must be conducted in the presence of the AFAB duly authorized representatives

C. Labor Relations

SECTION 123. *Objectives and Policy.* — One of the principal objectives of the AFAB is to create jobs through vibrant economic activity in order to address the needs of the people of the FAB and the Province of Bataan.

The AFAB adopts a policy of industrial peace, harmony and productivity within the FAB giving due consideration to the new concept of the freeport in order to establish a business and commercial atmosphere which encourages investments and simultaneously promotes and enhances the lives and dignity of all workers.

SECTION 124. *Applicability of Labor Laws.* — Unless otherwise provided by law, all Philippine labor and social security laws shall apply within the FAB. Pursuant to the above-stated policy, all laws on strikes and lock-outs will be strictly enforced.

SECTION 125. *Labor Center.* — A Labor Center shall be established within the AFAB, but it may establish liaison offices in the expansion areas if necessary. This Center shall be responsible for studying and amicably settling professional and labor relations and disputes, interpreting of employment contracts, and monitoring work, hygiene and safety standards within the FAB. The Labor Center shall comprise a Labor Office; an Industrial Health and Safety Office; and an Inspection and Disputes Office.

SECTION 126. *Requirements for All Persons Seeking Employment Within the FAB.* — All persons seeking employment within the FAB must first register and secure clearance from the AFAB, through the Labor Office of the Labor Center. For this purpose, the applicant must provide the AFAB information on his/her educational/vocational background and/or work experience and skills, as well as

other information as may be required by the AFAB. The applicant must likewise be generally aware of the policy objectives of the FAB as provided under the Act and these Rules, and proclamations of the National Government and the AFAB.

SECTION 127. *Labor Disputes.* — Subject to existing labor laws or as may be specified in employment contracts or collective bargaining agreements, all labor disputes must be brought before the Inspection and Disputes Office of the Labor Center which will attempt to amicably settle the case. In case the AFAB cannot settle the dispute amicably, it will certify the dispute for mediation or arbitration before the proper office of the Department of Labor and Employment or the Secretary of Labor and Employment for compulsory arbitration or assumption of jurisdiction.

SECTION 128. *Labor Skills Inventory; Identification Card.* — The Labor Office shall maintain a Labor Skills Inventory of the FAB which shall contain a list of employees already working in the FAB, as well as a manpower pool of job applicants including those trained by the Technical and Skills Development Authority (TESDA) and DOLE. All things being considered equal, the Labor Office shall give priority to those residing in the Municipality of Mariveles and other municipalities in the province of Bataan and Central Luzon.

All employees working in the FAB must secure identification cards from the AFAB pursuant to Section 31 hereof which will contain, among others, the specific skill(s), trade or occupation of the employee concerned.

SECTION 129. *Employment of Foreign Nationals.* — FAB Registered Enterprises desiring to employ foreign nationals must secure the prior approval of the AFAB which shall see to it that relevant Philippine laws and regulations are complied with.

SECTION 130. *Training Program for Understudies.* — A FAB Registered Enterprise employing foreign supervisory, technical and/or advisory personnel shall provide a training program for Filipinos to be conducted by said foreign nationals each in his own specialized field; provided, that every foreign national shall have at least one (1) Filipino understudy, and such training shall be done regularly during office hours; provided, further, that the FAB Registered Enterprise shall submit its training program within thirty (30) calendar days from arrival of the foreign national or from the day he reports for duty or from the date of registration in case the foreign national was employed before registration; and, provided, finally, that it shall submit an annual progress report to the AFAB on such training program within the month of June of every year containing the following data:

- a. Name of the foreign national and his field of specialization as prescribed in the program;

- b. Names and addresses of the Filipino understudies under him/her;
- c. Number of hours of actual training for each understudy and specific subject(s) covered; and
- d. Reasons why the Filipino understudies cannot yet take over the work of the foreign national, if such be the case.

SECTION 131. *Duration of Period of Employment.* — Every foreign national employed by authority of the AFAB shall be granted a period of not exceeding three (3) years and extendible from year to year depending upon the needs of the FAB Registered Enterprise; provided, that no extension to stay herein shall be recommended by the AFAB to the Bureau of Immigration (*and Deportation*) unless the training program required has been complied with satisfactorily; provided, further, that the request for extension shall be filed with the AFAB at least thirty (30) days before the expiry date of the authorized stay.

SECTION 132. *Spouses and Dependents of Foreign Nationals.* — The spouses and unmarried children under twenty-one (21) years of age of the foreign national employed under the preceding sections shall be permitted to enter as dependents of the foreign national employee and reside in the FAB during the period of employment of such foreign national in the FAB Registered Enterprise.

SECTION 133. *Registration with the AFAB.* — Every foreign national employed under the preceding sections shall register with the AFAB which shall issue to them Certificates of Residency in accordance with the pertinent provisions of these Rules.

SECTION 134. *Apprenticeship Program.* — The AFAB shall establish an apprenticeship program similar to the apprenticeship program instituted and implemented by other Freeport authorities.

SECTION 135. *Quarterly Reports.* — The Labor Office of the AFAB shall publish quarterly reports on the labor situation in the FAB.

D. Sanitation, Garbage and Sewage

SECTION 136. *In General.* — The AFAB shall, in coordination with the local government units that have concurred to be part of the FAB, provide for a system of sanitation, garbage collection and disposal and sewage.

SECTION 137. *Fees.* — The AFAB may impose and collect reasonable fees from

FAB Registered Enterprise and Residents for the implementation of a sanitation system, the collection and disposal of garbage and/or the installation and maintenance of a sewage system.

SECTION 138. *Fines and Penalties.* — The AFAB may impose administrative fines and penalties against any FAB Registered Enterprise or Resident for any violation of sanitation, garbage or sewage rules and regulations that the AFAB may enact or promulgate.

E. Educational and Medical Institutions

SECTION 139. *Establishment of Private Institutions.* — The AFAB may authorize the establishment of private educational and medical institutions. These private educational and medical institutions may, if they so desire, apply to become FAB Registered Enterprises, in which case, the pertinent provisions of these Rules shall apply.

SECTION 140. *Applicability of National Laws.* — The AFAB shall adopt and implement rules and regulations to govern educational and medical institutions to be established within the FAB. Pending the issuance of such rules and regulations, all laws on educational and medical institutions, as well as the rules and regulations of the Department of Education, Sports and Culture and the Department of Health and other government agencies concerning educational and medical institutions are hereby adopted.

F. Building and Construction

SECTION 141. *Building and Construction Plans.* — All private and public business enterprises or agencies desiring to build and/or construct any building, house, warehouse, silo, private road or bridge and other similar structures and infrastructures within the FAB must submit their building, internal and external designs showing the outside features of the structure, including proposed signages of whatever style or material, and/or construction plans for aesthetic consideration and approval by the AFAB. These plans may be included and made a part of the Environmental Report mentioned in Section 108 of these Rules.

SECTION 142. *Need to Secure Environmental Compliance Certificate.* — No building and/or construction project can be commenced unless the FAB Registered Enterprise concerned secures an Environmental Compliance Certificate from the AFAB as provided for in Section 108 of these Rules.

SECTION 143. *Applicability of National Laws.* — The AFAB shall adopt and

implement rules and regulations to govern building and/or construction of all structures and infrastructures within the FAB. Pending the issuance of such rules and regulations, all laws on building and construction, as well as the rules and regulations of the Department of Public Works and Highways and other government agencies concerning building and construction are hereby adopted.

G. Freeport Area of Bataan Headquarters Companies

SECTION 144. *Registration of Non-Resident Headquarters.* — Companies qualifying as non-resident headquarters companies may be domiciled in the FAB and registered with the AFAB. Such headquarters companies must meet the requirements of the Bureau of Internal Revenue.

SECTION 145. *Tax Privileges of Non-Resident Headquarters.* — Non-resident headquarters companies domiciled in the FAB shall continue to be governed by provisions of the headquarters companies' laws which extend a complete exemption on income tax for qualifying companies.

SECTION 146. *Obligations of Non-Resident Headquarters.* — Non-resident headquarters companies domiciled within the FAB must meet all requirements and obligations for such companies as established in law, decrees, and other applicable rules and regulations.

H. Freeport Area of Bataan Financial and Commodities Markets

SECTION 147. *Who are Eligible to Organize.* — Organized markets, exchanges, clearing houses and other arrangements for effecting transactions in standardized financial instruments may be organized by FAB Registered Enterprises, FAB OBU's, bank branches or their affiliates. Such markets may include transactions in securities, bonds, debt instruments, foreign currencies, commodities, precious metals, futures contract, or any other financial instruments as may be freely traded among parties.

SECTION 148. *Mode of Organization.* — Such financial markets shall be organized accordance with principles and procedures established and agreed upon by the member firms of each market or exchange, and registered with the AFAB.

I. Disputes and Litigation

SECTION 149. *Amicable Settlement.* — In case of disputes between or among FAB Registered Enterprises, the parties shall promptly meet and exert best efforts towards amicable settlement of the dispute in good faith. The AFAB may conciliate

or mediate the disputes upon request of the parties.

SECTION 150. *Arbitration or Litigation.* — Any dispute which is not amicably settled may be resolved by arbitration or judicial action before the competent courts in the Philippines having jurisdiction over such dispute.

J. *Miscellaneous and Transitory Provisions*

SECTION 151. *Bankruptcy or Liquidation.* — The bankruptcy or liquidation of FAB Registered Enterprises shall be carried out in accordance with the laws and regulations relating to liquidation in force in the Philippines.

SECTION 152. *Lien on Property of FAB Registered Enterprise.* — Any unpaid sums of money owed by FAB Registered Enterprises to the AFAB, or any unpaid duties, taxes, penalties or charges owed to the Bureau of Internal Revenue, or the Bureau of Customs shall constitute a lien against the property of the FAB Registered Enterprises concerned.

SECTION 153. *Liability for Damages.* — FAB Registered Enterprises or Residents shall be liable for damages arising from violations of the Act, these Rules and other regulations of the AFAB.

SECTION 154. *General Authority to Dispose of Abandoned, Foreclosed, Forfeited or Unclaimed Articles.* — The AFAB has the authority, consistent with the Constitution and existing laws, to sell, destroy, or convert to its own use articles and merchandise that have been abandoned, left unclaimed, foreclosed, or forfeited to the AFAB in the FAB, and to establish procedures for the sale, destruction, or conversion thereof.

SECTION 155. *Effect of Board Action on Vested Rights.* — In no case shall any Board action impair the obligation of contracts or vested rights that may have arisen by virtue of the contractual obligations of FAB Registered Enterprises.

SECTION 156. *Rules of Procedure for Investigations.* — The AFAB shall promulgate rules of procedure governing the conduct of investigations and hearings involving violations of the provisions of the Act and these Rules, the corresponding implementing memoranda or circulars and the terms and conditions of the registration agreement between the AFAB and the FAB Registered Enterprises. Pending the promulgation of said rules of procedure, the AFAB may continue to conduct said investigations and hearings provided that the basic requirements of due process of law are met.

SECTION 157. *Inventory.* — The AFAB shall conduct an inventory of all real and

personal properties owned and administered by the Bataan Economic Zone (BEZ) and Philippine Economic Zone Authority (PEZA) prior to the turn-over of the same to AFAB. All assets inventoried shall thereupon belong to AFAB. For this purpose, PEZA shall submit to AFAB a list of all real and personal properties and any other assets to be transferred from BEZ to AFAB.

SECTION 158. *Transfer of Property.* — All titles to the assets referred to in the immediate preceding section shall be transferred immediately to the AFAB by the BEZ and PEZA.

SECTION 159. *Management and Financial Audit.* — The AFAB shall, by itself or through a third party service provider, conduct a management and financial audit of the BEZ to determine the precise financial and operational situation of BEZ.

SECTION 160. *Existing Employees at BEZ.* — The AFAB shall, to the extent possible, retain the existing employee complement of the BEZ; *Provided*, that, the tenure, rank, salaries and privileges of such personnel are not reduced or adversely affected. The personnel whose services are not retained by the AFAB shall be granted separation pay and retirement and other benefits they are entitled to under existing laws but in no case shall the separation pay be less than one (1) month for every year of service; *Provided*, that the separated employee has rendered at least one (1) year of service at the time of the effectivity of the Act.

Funds necessary to cover the separation pay and retirement and other benefits under this section shall be provided by the PEZA. The AFAB shall not be liable for payment of the separation pay and retirement and other benefits.

SECTION 161. *Benefits.* — For existing companies operating within the BEZ that are currently enjoying income tax holiday, they shall have the option to continue availing of such incentive up to its expiration or be subject to the 5% preferential tax rate.

The implementation of this Act shall in no case result in a diminution of fiscal incentives to existing business enterprises currently operating within the BEZ.

SECTION 162. *Automatic Recognition of PEZA Registrations.* — All current BEZ locators shall have their PEZA registrations automatically accepted as AFAB registrations until the end of the calendar year of the AFAB takeover. They will be required to comply with re-registration to AFAB by the first working day of the following year.

SECTION 163. *Recognition and Adoption of PEZA Forms.* — All current PEZA

forms, including registration forms, shall be recognized as AFAB forms upon the imprinting or stamping of the AFAB name and/or seal, until such time that the National Printing Office is able to deliver the official printed forms of the AFAB.

All conflicts in the provisions between the aforementioned PEZA forms and these implementing rules and regulations shall be resolved in favor of the latter.

SECTION 164. *Transitory Provisions.*— The AFAB shall recognize the permits, licenses and contracts executed and issued by government entities whose functions have been transferred and are being performed by the AFAB, such as those of the BFP, DENR and PPA, among others, including foreshore lease agreements, ECCs, tree-cutting permits, permits in implementation of the National Building Code of the Philippines, as amended, and the Fire Code of the Philippines, as amended; *Provided*, that within six (6) months from effectivity of the Act, the said permits, licenses and agreements, and any renewals or new applications of enterprises in the FAB shall be with the AFAB.

The incumbent chairman and administrator of the AFAB shall continue to serve as administrator of the AFAB for the remaining term of his appointment without prejudice to his reappointment to the same position upon the expiration of his term at the discretion of the appointing authority.

K. Amendments, Separability and Effectivity

SECTION 165. *Power to Amend Rules.* — The AFAB may amend, alter, supplement, suspend, modify or revoke this IRR or any portion thereof as may be necessary, provided, however, that FAB Enterprises directly affected thereby shall have been properly notified and given the opportunity to present their views in a public hearing called for the purpose.

Section 166. *Non-Impairment of Contract/Permits/Licenses.* – All existing contracts, permits and licenses duly granted by the AFAB before the date of effectivity of the Act shall remain valid, and unimpaired, and shall be recognized by the government.

SECTION 167. *Separability Clause.* - If any clause, sentence, provision or section of these Rules, including any appendices thereto, shall be held invalid or unconstitutional, the remaining parts thereof shall not be affected thereby.

Section 168. *Repealing Clause.* -Proclamation No. 740, as amended by Proclamation No. 900 and Presidential Decree No. 545, insofar as these laws convey the balance of the public land mentioned therein in favor of the GSIS and the SSS, and mandate said agencies to develop the land for construction of housing units and/or

condominium houses, are hereby repealed. All other laws, executive orders or issuances or any part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

SECTION 169. *Effectivity Clause.* - The Rules shall take effect fifteen (15) days after its publication in the Official Gazette and a newspaper of general circulation.

Approved:



ARIANNE A. BAUTISTA
Director



ARMANDO P. RUBIA
Director



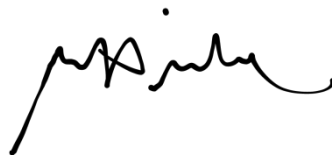
MICHAEL M. BALLESTEROS
Director



PABLO M. GANCAYCO
Director

(absent)

AURELIO C. ANGELES JR.
Director



EMMANUEL D. PINEDA
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