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PMDC
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GOVERNANCE COMMISSION FOR GOCCs

Third Floor, Citibank Center
8741 Paseo de Roxas
Makati City

Subject: Revised PMDC "No Gift Policy"

Gentlemen:

In compliance with your letter dated 12 April 2016, we submit herewith the revised "No Gift Policy" of the Philippine Mining Development Corporation (PMDC). The said "No Gift Policy" was approved by the PMDC Board of Directors during its regular board meeting held last 27 April 2016.

We trust that you will find the attached document in order.

Very truly yours,

Atty. Lito A. Mondragon
President and CEO



PMDC'S "NO GIFT POLICY"

BACKGROUND

1. Constitutional Policy Governing Public Officers

Section 1, Article XI of the 1987 Constitution delineates the accountability of public officers, thus:

ARTICLE XI ACCOUNTABILITY OF PUBLIC OFFICERS

Section 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.

The principle is reiterated in Section 1 of the Code of Conduct and Ethical Standards for Public Officials and Employees¹, thus:

Section 2. Declaration of Policies. - It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.

2. Statutory Policies and Rules Against Acceptance of Gifts by Public Officers and Employees

- 2.1 It is the policy of the Philippine Government, in line with the principle that public office is a public trust, to repress certain acts of public officers and private persons alike **which constitute graft or corrupt practices or which may lead thereto**².
- 2.2 Section 3 of the Anti-Graft and Corrupt Practices Act provides that, among other acts or omissions, the following shall constitute corrupt practices of any public officer and thereby declared to be unlawful:

¹ Rep. Act No. 6713

² Sec. 1, Rep. Act No. 3109, Anti-Graft and Corrupt Practices Act

“(b) "Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the government and any other party, wherein the public officer in his official capacity has to intervene under the law."

“(c) “Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, inconsideration for the help given or to be given . . .”

2.3 Section 7(d) of the Code of Conduct and Ethical Standards for Public Officials and Employees, provides that “[p]ublic officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.”

3. Mandate of PMDC to Formally Adopt a “No- Gift Policy”

3.1 Whereas, under Section 29 of the Code of Corporate Governance for GOCCs³, it is mandated that "Every Governing Board shall formally adopt a ‘No Gift Policy’ within the GOCC and ensure its full advertisement to the community and its strict implementation by particular set of rules."

3.2 Further, under GCG MC No. 2013-02 [Performance Evaluation System (PES) for the GOCC Sector], the formal adoption of a GCG-approved "No Gift Policy" is one of the Good Governance Conditions of the PES.

4. Coverage

This policy shall apply to all directors, officers and rank-and-file employees, including contractual employees and consultants of PMDC, hereinafter referred to as “employees”. As used herein, the term “director” includes the President and the Chairman of the Board.

5. General Guidelines

All directors, officers and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or use, anything of monetary value (hereinafter referred to as “Gift”) from a person, groups, associations, or juridical entities, whether from the public or the private sectors, at any time, on or off the work premises, in the course of their official duties or any transaction which may be affected by the functions of their office, where such Gift:

- (a) would be illegal or in violation of law;
- (b) is part of an attempt or agreement to do anything in return that is illegal or in violation of law;

³ GCG Memorandum Circular No. 2012-07

- (c) has a value beyond what is normal and customary in the PMDC's business,
- (d) is being made to improperly or unlawfully influence the member of Board's/Officer's actions as such; or
- (e) could create the appearance of a conflict of interest.

The term “*Gift*” shall also refer to a thing or a right disposed of gratuitously in favor, directly or indirectly, of any director, officer or employee of PMDC, or a simulated sale or a disposition onerous to the giver and/or unduly beneficial to the recipient, in the course of their official duties or any transaction which may be affected by the functions of their office, where such Gift would fall under any of those enumerated circumstances in the immediately preceding paragraph.

6. Exceptions

Exempted from this “No Gift Policy” are the following:

- a. Joint, complementary or supplementary community projects/programs, such as, but not limited to distribution of medical supplies and educational supplies, between PMDC and its partners-operators, by themselves alone, or in coordination/partnership/collaboration with other third parties, such as local government units (LGUs), non-governmental organizations (NGOs), community/tribal organizations, etc., provided that the same shall not fall under any of those circumstances enumerated in Section 5 (General Guidelines), above.
- b. Meals during business, coordination or collaboration meetings with prospective or current operators/partners of PMDC which are normal and customary in the sector or business where PMDC operates, including during information and education campaigns (IEC), meetings, conferences with local government units (LGUs), public or private entities, non-governmental organizations (NGOs), and host communities, provided that the same shall not fall under any of those circumstances enumerated in Section 5 (General Guidelines), above.
- c. Scholarships or fellowship grants, travel grants or expenses for travel, if such are appropriate and consistent with the interests of PMDC and the government, and permitted by the Chairman of PMDC.
- d. Certificates, plaques, cards, thank you notes or other written forms of award, souvenir, appreciation, or mark of courtesy.
- e. Seminar/Souvenir bags and their contents and moderately priced meals and beverages that directors, officers and employees obtain at events, seminars, trainings, etc. and which are offered or made available equally to all members/participants of the event, seminar, trainings, etc.
- f. Acceptance of books, pamphlets, publications, periodicals, data and other reading materials that are useful to PMDC in the performance of its mandates and objectives, or are useful to any of its Department's staff in the performance of their duties and functions and which books and other materials are given by individuals or organizations that have no pending business with PMDC as to create an actual or potential conflict of interest.

- g. Availment by PMDC of grants from local or foreign institutions in the pursuit of its mandates provided that the availment thereof shall be strictly in compliance with applicable laws.
- h. Performance-based cash rewards and similar benefits granted to PMDC personnel by the government.
- i. Unsolicited gifts or tokens of nominal or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage in accordance with Section 14 of R.A. 3019 (Anti-Graft and Corrupt Practices Act) and Section 3 of R.A- 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

7. Return/Disposal of Gift

If PMDC or any of its directors, officers or employees receive a Gift which is not exempted under this policy, such Gift shall immediately and politely be declined. If it is impractical or not feasible to return a delivered or received Gift, the same shall be turned-over by the recipient to his/her immediate supervisor/Department Manager, for safekeeping pending decision by the President of PMDC on the most appropriate manner of disposing the same. If the Gift is a perishable item, it shall be immediately donated to an appropriate charitable or social welfare institution. A *pro-forma* acknowledgment letter shall be sent to the donor informing him/her of PMDC's "No Gift" Policy and that the Gift has been returned, donated or accordingly disposed of, as the case may be.

8. Determination of Nature of Gift

In case of doubt as to the nature of the Gift, the President, in case where the recipient is an officer or employee, or the Chairman of the Board, in case where the recipient is a director, or the Board, in case where the recipient is the Chairman of the Board, shall determine whether or not the Gift is covered by PMDC's "No Gift" Policy.

9. Duty to Inform

PMDC officers and employees are required to professionally inform any individual or organization with any actual or potential business with PMDC of this "No Gift Policy", the reasons PMDC has adopted this policy, and request that such individual or organization respect such policy. Notices informing walk-in clients and visitors of the Policy shall likewise be posted in conspicuous areas within PMDC premises. This "No Gift Policy" shall likewise be posted in the PMDC website.

10. Effectivity

This "No Gift Policy" shall be effective immediately upon approval by the Board.