

**IN THE MATTER OF THE PROPOSED
MERGER OF BANCNET,
INCORPORATED AND PHILIPPINE
CLEARING HOUSE CORPORATION**

PCC Case No. M-2023-002-SOC

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COMMITMENT DECISION NO. 02-M-2024

The Philippine Competition Commission (the "PCC" or the "Commission") reviews mergers and acquisitions, pursuant to Sections 16¹ and 17² of Republic Act No. 10667, otherwise known as the Philippine Competition Act ("PCA"), and Section 1, Rule 4³ of the Implementing Rules and Regulations of the PCA. Pursuant to Section 12.2 of the Rules of Merger Procedure, in relation to Section 18⁴ of the PCA, the Commission may accept remedies proposed by the parties concerned, issue conditions, require parties to modify the terms of their agreement, or to desist from a particular conduct or practice, as a requirement for the approval of their merger.

The subject of this Commitment Decision is the proposed merger between BancNet, Incorporated ("BancNet") and Philippine Clearing House Corporation ("PCHC") (herein collectively referred to as the "Parties"), with BancNet as the surviving entity (the "Transaction").

¹ Section 16. *Review of Mergers and Acquisitions.* – The Commission shall have the power to review mergers and acquisitions based on factors deemed relevant by the Commission.

² Section 17. *Compulsory Notification.* – Parties to the merger or acquisition agreement referred to in the preceding section wherein the value of the transaction exceeds one billion pesos (P1,000,000,000.00) are prohibited from consummating their agreement until thirty (30) days after providing notification to the Commission in the form and containing the information specified in the regulations issued by the Commission: *Provided, That* the Commission shall promulgate other criteria, such as increased market share in the relevant market in excess of minimum thresholds, that may be applied specifically to a sector, or across some or all sectors, in determining whether parties to a merger or acquisition shall notify the Commission under this Chapter. xxx

³ Section 1, Rule 4. *Review of mergers and acquisitions.* – The Commission, *motu proprio* or upon notification as provided under these Rules, shall have the power to review mergers and acquisitions having a direct, substantial and reasonably foreseeable effect on trade, industry, or commerce in the Philippines, based on factors deemed relevant by the Commission. xxx

⁴ Section 18. *Effect of Notification.* – If within the relevant periods stipulated in the preceding Section, the Commission determines that such agreement is prohibited under Section 20 and does not qualify for exemption under Section 21 of this Chapter, the Commission may:

- (a) Prohibit the implementation of the agreement;
- (b) Prohibit the implementation of the Agreement unless and until it is modified by changes specified by the Commission;
- (c) Prohibit the implementation of the agreement unless and until the pertinent party or parties enter into legally enforceable agreements specified by the Commission.



The Parties and the Transaction

BancNet is a Philippine-based electronic payments network⁵ and the clearing switch operator ("CSO")⁶ of the real-time low value interbank electronic fund transfer ("EFT") system, InstaPay,⁷ under the National Retail Payment System ("NRPS").⁸ PCHC, on the other hand, facilitates check clearing operations in the Philippines. It also offers several electronic-based payment system services⁹ and acts as the CSO of the non-real-time batch interbank EFT system, PESONet,¹⁰ under the NRPS. The Parties, as CSOs, provide shared infrastructure to Bangko Sentral ng Pilipinas ("BSP") - Supervised Financial Institutions ("BSFIs")¹¹ in a given payment system¹² and allow the inter-operability of fund transfers between Payment System Providers.¹³

⁵ BancNet enables the customers of its Bangko Sentral ng Pilipinas - Supervised Financial Institutions ("BSFI") members or participants to transact at automated teller machines, point-of-sale terminals, and through mobile phones via digital applications and websites connected to the internet.

⁶ Clearing switch operators or CSOs provide clearing switch services. They are utilized for interbank fund transfers either by using checks or electronic means. These fund transfer transactions include the following: (i) interbank check transfer; (ii) interbank fund transfers via ATM; (iii) InstaPay for real-time low-value transfers; (iv) PESONet for non-time sensitive fund transfers; and (v) Philippine Payment and Settlement System or PhilPaSS for real-time gross settlement systems owned and operated by the BSP. See also <https://morb.bsp.gov.ph/803-national-retail-payment-system-nrps/?hlite=%27BSFI%27>, last accessed on 24 January 2024.

⁷ InstaPay is an EFT facility that allows participating BSFIs to transfer Philippine Peso-denominated funds almost instantly between account holders of participating banks and non-bank electronic money issuers ("EMIs") in the Philippines.

⁸ BSP Circular No. 980 Series of 2017 created the NRPS with the goal to promote the establishment of a safe, efficient, reliable retail payment system, and to cope with the rapid evolution of the retail payment activities of the BSFIs.

⁹ The services of PCHC include, but are not limited to, Philippine Domestic Dollar Transfer System, Payment Application Secure System, and Payment Gateway facility.

¹⁰ PESONET, which stands for Philippine EFT System and Operations Network, is a batch EFT system for Philippine Peso.

¹¹ BSP Supervised Financial Institutions or BSFIs pertains to those financial institutions regulated by the BSP. This includes banks, quasi-banks, pawnshops, foreign exchange dealers, money changers, remittance agents, electronic money issuers, non-stock savings and loan associations and other BSFIs. See also <https://morb.bsp.gov.ph/appendix-115/#:-text=The%20Bangko%20Sentral%20acknowledges%20the,avenue%20to%20air%20out%20their>, last accessed on 26 January 2024. For BSFIs to be able to electronically transfer funds to other BSFIs, they need to be operators of payment systems. See also BSP Circular No. 1089 Series of 2020, available at <https://law.upd.edu.ph/wp-content/uploads/2020/07/BSP-Circular-No-1089-Series-of-2020.pdf>, last accessed on 26 January 2024.

¹² Payment systems provide the channels through which funds are transferred among banks and other institutions to discharge payment obligations arising from economic and financial transactions across the entire economy. See also <https://www.bsp.gov.ph/SitePages/PaymentsAndSettlements/PaymentsAndSettlements.aspx>, last accessed on 26 January 2024.

¹³ Payment Service Providers are entities that provide payment services to end-users, such as consumers, merchants, and billers, including government institutions. See also BSP Circular No. 1089 Series of 2020.

The shareholders of BancNet include 24 banks, while PCHC include 44 banks,¹⁴ both consisting of universal and commercial banks, branches of foreign banks, and individuals who are officers of shareholder-banks or previous officers of different banks. Based on the documents submitted by the Parties, they have 24 common shareholders,¹⁵ which have a combined 86.6% and 64.36% interest in BancNet and PCHC, respectively. The shareholders of the Parties are also their members and customers.

As of 30 December 2023, InstaPay has a total of 86¹⁶ participating BSFI, while PESONet has a total of 107¹⁷ participating BSFIs. InstaPay and PESONet participants include traditional banks, non-bank electronic money issuers or EMIs, and digital banks that are likewise licensed and supervised by the BSP.

On 26 October 2022, the Parties signed their Articles of Merger designating BancNet as the surviving entity. Following the effective date of the 18 January 2024 Undertaking,¹⁸ BancNet will thereafter be known as the Payments Network of the Philippines, Inc., doing business under the name and style of "BancNet", "Philippine Clearing House," and "PCHC"¹⁹ ("Merged Entity").

Regulatory Framework

Under Republic Act No. 11127, otherwise known as the National Payment Systems Act ("NPSA"), the BSP oversees the payment systems in the Philippines and exercises supervisory and regulatory powers over the same, for the purpose of ensuring the stability and effectiveness of the monetary and financial system.²⁰ Specifically, in relation to Section 3 of the BSP Charter,²¹ the BSP may issue, through the Monetary Board, rules and regulations on the following matters, among others:

1. Principles on setting prices or pricing mechanisms in payment systems;

¹⁴ Shareholders are entitled to vote and be voted as a member of the entity's board of directors. They may also share in the profits through dividends or billing credits. These rights are in addition to those already enjoyed by members of the Parties (i.e., being entitled to use the different services provided by BancNet or PCHC, as applicable).

¹⁵ This includes the Philippine Deposit Insurance Corporation.

¹⁶ InstaPay Automated Clearing House ("ACH") Participants (as of 31 December 2023). See <https://www.bsp.gov.ph/PaymentandSettlement/Instapay%20Participants.pdf>, last accessed on 29 January 2024.

¹⁷ PESONet ACH Participants (as of 31 December 2023). See <https://www.bsp.gov.ph/PaymentAndSettlement/PESONet%20Participants.pdf>, last accessed on 29 January 2024.

¹⁸ Section 5.1 of the 18 January 2024 Undertaking defines effective date as the date the Securities and Exchange Commission ("SEC") shall have approved the Transaction following the PCC's decision approving and accepting the Undertaking.

¹⁹ Recital (A), *id.*

²⁰ Section 5, NPSA.

²¹ Section 3 of Republic Act No. 7653 or the New Central Bank Act, as amended, provides for the mandate of BSP to oversee the payment and settlement systems in the Philippines, to promote sound and prudent practices consistent with the maintenance of financial stability.

2. Mechanisms for the protection of the rights of the end-users and participants of the payment systems;
3. Standards of operation of payment systems and the conduct of examination of the participants to determine compliance with laws and regulations; and
4. The adequacy of resources of CSOs to ensure that the payment systems has a high degree of security and operational reliability and has contingency requirements for timely completion of all processing commitments.²²

Relative to the Transaction, the BSP reviews and approves CSO fees,²³ and ensures the maintenance and improvement of the quality of services provided by CSOs. Currently, the CSO Fees charged to Originating Financial Institutions²⁴ by BancNet and PESONet are [CONFIDENTIAL] and [CONFIDENTIAL] respectively, for every EFT transaction processed through InstaPay and PESONet.²⁵

The BSP also issued BSP Circular No. 980 Series of 2017 which adopted the National Retail Payment System ("NRPS"). The NRPS covers all retail payment-related activities, mechanisms, institutions, and users.²⁶ The sound governance of the NRPS framework is performed by the Payment System Management Body ("PSMB"), which is an industry-led self-governing body that is duly recognized and supervised by the BSP. In January 2018, the BSP recognized the Philippine Payment Management, Inc. ("PPMI") as the PSMB.²⁷ The PPMI is tasked to support the BSP in overseeing the proper operations of the Automated Clearing House ("ACH")²⁸ and in monitoring the progress of the implementation of the NRPS by enforcing its governance framework.²⁹

On 13 July 2022, BSP designated PESONet and InstaPay as Prominently Important Payment Systems ("PIPS")³⁰ or those payment systems which may not trigger or

²² Section 6(b), NPSA.

²³ CSO fees are all fees imposed by BancNet and PCHC on their participants, as the CSOs of InstaPay and PESONet, respectively.

²⁴ Originating Financial Institution refers to the financial institution which initiates the transfer of funds upon receiving a request for transfer from an account holder or payer.

²⁵ In turn, Originating Financial Institutions charge their account holders or depositors a higher price to cover other costs of operations (i.e., costs of developing and maintaining the technology needed to carry out the fund transfer transaction, cybercrime maintenance, and other overhead costs).

²⁶ The NRPS applies to all domestic payments in Philippine Peso for goods and services, domestic remittances and fund transfers.

²⁷ An entity must be a member of the PPMI to be able to participate in multilateral clearing arrangements through ACH.

²⁸ Automated Clearing House or ACH is a multilateral legally binding agreement among clearing participants that governs clearing and settlement determination of payment orders for a specific payment stream. Under the NRPS framework, multilateral clearing arrangements for interbank EFTs are governed by the ACHs of InstaPay and PESONet.

²⁹ The PPMI also oversees the environment in which BSFIs cooperate to enable payments across accounts in different financial institutions in alignment with the policies and strategies of the NRPS Framework. See also <https://www.philpayments.org.ph/aboutus>, last accessed on 26 January 2024.

³⁰ BSP Circular Letter No. CL-2022-055, on Notification to Public of the Designation of the (1) Philippine Electronic Fund Transfer System & Operations Network or PESONet and (2) InstaPay or Real-Time

transmit systemic risk but could have a major economic impact or undermine the confidence of the public in the National Payment System or in the circulation of money.³¹ Participants of Designated Payment Systems (DPS),³² such as PIPS, are subject to periodic assessment by the BSP which looks into various concerns such as the access of participants to the system, fair market competition, reasonable pricing mechanism, and transparency.³³

As operators of PIPS, BancNet, and PCHC were granted by BSP the authority as operators of designated payment systems ("ODPS").³⁴ Bancnet and PCHC are subject to the applicable requirements and oversight functions of BSP pursuant to the NPSA, Payment System Oversight Framework ("PSOF"),³⁵ and subsequent regulatory issuances.

Procedural Antecedents

On 17 November 2022, BancNet voluntarily notified the PCC of the Transaction, pursuant to Section 3.2 of the Rules on Merger Procedure.

Based on the documents submitted by the Parties and information gathered, the Mergers and Acquisitions Office ("MAO") found that BancNet and PCHC are the only entities that provide non-card CSO services for interbank EFTs nationwide. As such, the merger of the Parties will lead to the establishment of a single player in the non-card CSO services for interbank EFTs nationwide.

On 12 September 2023, the MAO, pursuant to Section 7 of the Rules on Merger Procedure, filed before the Commission a *Statement of Concerns* ("SOC") on the Transaction. In its SOC, the MAO maintains that the Transaction will effectively remove all existing competitive constraints, and that there is a likelihood that the merger will have the following effects:

- 1) Enhanced ability and incentive of the Merged Entity to increase CSO fees charged to BSFIs;
- 2) Possible exclusionary behavior of Merged Entity towards BSFIs and Non-bank BSP-Supervised Financial Institutions ("NBSFIs") that are not shareholders of the Merged Entity by making it difficult or even impossible for non-shareholder BSFIs and NBSFIs to connect to InstaPay and PESONet;

Low Value Electronic Fund Transfer System as Prominently Important Payment Systems; Section 6(a), NPSA.

³¹ BSP Circular No. 1089 Series of 2020, on Payment System Oversight Framework (PSOF).

³² *Ibid.* A payment system shall be designated as Systemically Important Payment System (SIPS) or PIPS upon determination by the BSP that the payment system poses or has the potential to pose systemic risk, or the designation of the payment system is necessary to protect public interest.

³³ *Ibid.*

³⁴ BSP Circular Letter No. CL-2022-055; Section 6(b), NPSA.

³⁵ *Ibid.*

- 3) Reduction in the quality of Merged Entity's CSO services for Interbank EFTs; and
- 4) Reduction in the incentive of the Merged Entity to innovate due to lack of competitive pressure.

Pursuant to Section 8.4³⁶ of the PCC Rules on Merger Procedure, the Commission issued a *Notice* directing the Parties to file their respective verified comments.³⁷

On 02 October 2023,³⁸ BancNet filed its *Proposal for Voluntary Commitments* and letter *Request for Extension of Time with Waiver* to suspend the merger review period.³⁹ On 06 October 2023, PCHC also filed its letter *Request for Extension of Time and Waiver* in view of the discussions on the proposed commitments to address the competition concerns identified in the SOC. The Commission partially granted the request for extension and suspended the Phase II Review Period to give way to the review of the Parties' proposed voluntary commitments.⁴⁰

During the review of the proposed voluntary commitments, the PCC coordinated and consulted with the BSP as the sector regulator.⁴¹ In addition, the PCC consulted with the concerned stakeholders, including the PPML, and the participants of both InstaPay and PESONet.⁴² The PCC also considered public responses to call for comments on the proposed Transaction.⁴³

On 19 January 2024,⁴⁴ the Parties filed its signed and notarized *Undertaking* dated 18

³⁶ Section 8.4. Within ten (10) days from receipt of a SOC through any of the means provided in Section 2.14 of these Rules whichever is earlier, a party may file a verified written comment on the SOC containing all the facts, arguments, evidence, and analysis that are relevant to the parties' defense against the concerns identified by the MAO.

³⁷ *Notice* dated 12 September 2023.

³⁸ The following are the requests and/or submissions filed by the Parties leading to the filing of the first *Proposal for Voluntary Commitments* on 02 October 2023:

- 1) On 22 September 2023, the Parties requested for an extension of fourteen (14) days from 22 September 2023 to file their Verified Comments, with a waiver of the Phase II Review period until 06 October 2023. The Commission, in its 26 September 2023 *Notice*, partially granted the request and gave the Parties an extension of ten (10) days;
- 2) On 29 September 2023, the Parties requested for an extension of four (4) days from 02 October 2023 to file their Verified Comments, with a waiver of the Phase II Review period until 10 October 2023;
- 3) On 02 October 2023, BancNet filed, together with its *Proposal for Voluntary Commitments*, its request for an extension of sixty (60) days from 02 October 2023, or until 01 December 2023 with waiver of the Phase II review period until 01 December 2023.

³⁹ The Phase II Review period was suspended from 02 October 2023 to 01 December 2023.

⁴⁰ *Notice* dated 05 October 2023.

⁴¹ Pursuant to Section 32 of the PCA.

⁴² Pursuant to Section 12.5.3, in relation to Section 6.12, PCC Rules on Merger Procedure. *See also* Section 12(c), PCA.

⁴³ *Id.*

⁴⁴ On 15 November 2023, the Parties filed a letter *Request for Extension and Waiver*, requesting for an extension of the Commitment Review and the Phase 2 Review Period for thirty (30) days from 01 December 2023, or until 31 December 2023. On 21 December 2023, the Parties again filed a letter

January 2024, together with all its required attachments, for consideration of the Commission.

The Commitments of the Parties

The *Undertaking* dated 18 January 2024 contains the following commitments to address the identified potential competition concerns in the SOC:

"2.1. Commitment on CSO Fees.

2.1.1. In the event that the Merged Entity increases the CSO Fees charged to the Participants, the Merged Entity commits to abide by the pricing principle provided under Article IX of the By-Laws in setting the CSO Fees for InstaPay and PESONet for a period of five (5) years from the Effective Date.

2.1.2. For purposes of the Commitment in Section 2.1 of this Undertaking:

2.1.2.1. "Article IX of the By-Laws" provides that:

"ARTICLE IX OPERATIONS AND REVENUE SHARING

The Corporation will be operated as a utility owned equally by participant-shareholders in accordance with the following principles:

- 1) *The price of each of its products or lines of business will be on a cost recovery basis plus reasonable margin and/or return on equity.*
- 2) *Revenues, margins and costs shall be calculated per product or per line of business. To the extent possible, capital expenditure requirements shall likewise be presented and approved per product or line of business."*

2.1.2.2. For purposes of Section 2.1. of this Undertaking, "reasonable margin and/or return on equity" vis-à-vis InstaPay and PESONet means one which will allow the Merged Entity to make necessary and desirable investments required to (i) continue to operate InstaPay and PESONet, as the case may be, in accordance with applicable laws and regulations, and the service level agreement in force at the relevant time; and (ii) fulfill the InstaPay Use Cases and PESONet Use Cases (as defined

request for extension and waiver of the Phase 2 Review Period for thirty (30) days from 31 December 2023, or until 30 January 2024.

below in Section 2.4.2 of this Undertaking), provided that any increase of CSO Fees shall be approved by the BSP.

- 2.1.3. Following the receipt of the approval by the Securities and Exchange Commission ("SEC") of the By-Laws, the Merged Entity shall not amend Article IX of the By-Laws for a period of five (5) years from the Effective Date, unless the period is otherwise modified pursuant to Section 6 of this Undertaking.

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- 2.2. *Commitment to Refrain from Discriminatory Behavior.* The Merged Entity shall not arbitrarily discriminate against any Non-Shareholder Participant, in terms of CSO Fees, Quality of CSO Services, and the use of the clearing facilities of either InstaPay or PESONet, as may be applicable.

- 2.2.1. The Merged Entity will charge the same CSO Fees to all its Participants, whether they be Shareholder-Participants or Non-Shareholder Participants.

- 2.2.2. The Merged Entity shall not exclude any Participant from becoming a Shareholder, provided that the Participant satisfies all the requirements under applicable laws and regulations, the Merged Entity's constitutive documents and other reasonable requirements, including the subscription or purchase of, and payment of such number of shares in the Merged Entity as may be necessary in order to achieve parity in shareholdings among the Shareholders of the Merged Entity.

- 2.2.3. The Merged Entity will provide the same quality of CSO Services to all its Participants, whether they be Shareholder-Participants or Non-Shareholder Participants, such as but not limited to acts which shall ensure that the Merged Entity will not migrate Non-Shareholder Participants to an inferior platform vis-à-vis the platform used or provided to Shareholder-Participants.

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- 2.3. *Commitment on Quality of CSO Services.*

- 2.3.1. The Merged Entity shall abide by the Service Level Agreements ("SLAs") executed or which may in the future be executed by the Merged Entity and the PSMB, including the SLA dated 20 April 2018 (the "BancNet 2018 SLA"), in all material respects.

- 2.3.2. Subject to current and future applicable law, rules and regulations, and other issuances and approvals of any relevant regulatory body,

including the BSP, the Merged Entity shall not arbitrarily decrease the clearing cycles for the settlement of PESONet.

2.3.3. The Merged Entity shall not consolidate the operations of InstaPay and PESONet, such that either InstaPay or PESONet shall cease to exist, unless otherwise expressly mandated by PSMB and the BSP. In the event that consolidation is mandated by PSMB and the BSP, the Merged Entity shall inform and consult with the PCC prior to such consolidation.

2.3.4. The Merged Entity shall maintain a Monthly Service Availability Rate ("MSAR") of at least [CONFIDENTIAL]% for both InstaPay and PESONet, except when the SLA provides for a higher rate in which case the MSAR in SLA shall apply, or when the PSMB and BSP has otherwise consented in writing, provided that:

2.3.4.1. The MSAR in this Section shall be subject to review by the PCC, after the third (3rd) year from the Effective Date, to determine whether there is a necessity to increase the minimum MSAR provided in Section 2.3.4 of this Undertaking to [CONFIDENTIAL]%.

2.3.4.2. In no instance shall the Merged Entity schedule maintenance or system updates for InstaPay and PESONet at the same time.

2.3.5. The MSAR shall be calculated as follows:

$$\frac{\text{Actual Uptime} + \text{MSAR Exclusions}}{\text{Total Expected Uptime}}$$

2.3.5.1. "Actual Uptime" shall mean the number of hours that either InstaPay or PESONet is actually available to their respective Participants in a given month.

2.3.5.2. "MSAR Exclusions" shall be expressed in hours and shall mean (i) any outages that are communicated to PSMB prior to such outage, such as scheduled maintenance or system updates; or (ii) those that are beyond its control, such as but not limited to those caused by Force Majeure or by Third Parties, except to the extent that the Merged Entity shall have acted with negligence or fault.

2.3.5.2.1. For this section, "Force Majeure" refers to forces beyond the control of the Merged Entity, including, without limitation, strikes, work

stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes, or acts of God, and interruptions, loss or malfunctions of utilities, communications, or computer (software and hardware) services, provided that the Merged Entity shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances.

2.3.5.2.2. For this section, "Third Parties" refers to any person other than the Merged Entity, its agents, representatives, or any person duly authorized or engaged to act on its behalf including but not limited to Mastercard Vocalink.

2.3.5.3. "Total Expected Uptime" shall be expressed in hours and shall be computed by multiplying the number of days of the relevant month by twenty-four (24) hours.

2.3.6. The Merged Entity shall meet the minimum standards set by the relevant ACH for its information security and business continuity requirements, as agreed upon by the relevant parties in writing.

2.3.7. In cases where the Merged Entity is required to submit to the BSP an Event-Driven Report under BSP Circular No. 1019, Series of 2018, the Merged Entity shall furnish a copy of the same Event-Driven Report to the PCC.

2.3.8. The Merged Entity commits that should it enter into any new or amended SLA involving either InstaPay or PESONet, such SLA shall include the following minimum terms:

2.3.8.1. The MSAR shall not be lower than the MSAR defined in Section 2.3.4 of this Undertaking or the Bancnet 2018 SLA.

2.3.8.2. The standards for information security and business continuity requirements shall not be lower than those defined in Section 2.3.6 of this Undertaking; and

2.3.8.3. The Merged Entity shall extend any necessary assistance to all Participants as they each may reasonably require to avail of the services of the Merged Entity.

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2.4. *Commitment on Continued Innovation.*

- 2.4.1. The Merged Entity, with the consent of PESONet and InstaPay Participants and subject to the approval of the BSP, commits to integrate InstaPay and PESONet into a common analytics platform for the purpose of aiding the Participants in combating fraud and the use of mule accounts within five (5) years following the Effective Date.
- 2.4.2. The Merged Entity shall implement the use cases under the InstaPay and PESONet roadmap prepared by their respective ACHs, subject to a viable business case for each use case, as approved by the ACH Participants and the PSMB (the "InstaPay Use Cases" and "PESONet Use Cases", respectively).
- 2.4.3. The Merged Entity shall extend assistance to all Participants as they each may reasonably require to implement the use cases and any upgrades necessary to avail of the use cases provided by the Merged Entity."⁴⁵ (*Footnotes and emphases omitted*)

The Commission is well aware that the Transaction is a merger-to-monopoly and has gone through a more rigorous process to ensure that sufficient safeguards are in place to curtail any anticompetitive propensities of the surviving entity. The BSP, on its part, affirms that its powers and functions are judiciously being exercised in the performance of its mandate as overseer of the national payment systems and primary regulator of the affected sector. Great weight is accorded to the assurance of the BSP that it has sufficient authority to regulate the operations of the Merged Entity, including the rates that will be imposed on the end-users, quality of the service, non-discriminatory behaviors, and innovation.

In its review, the Commission took into consideration the existing regulatory framework and market conditions, various submissions and representations of the Parties, consultations and interviews with stakeholders,⁴⁶ the comments from the public, and the assurances from the BSP of its active role as the primary regulator of the industry. After its careful assessment, the Commission finds the commitments in the *Undertaking*, sufficient to address the potential competition concerns raised during the review. The *Undertaking* is attached herein and made an integral part of this decision.

ACCORDINGLY, the Commission resolves to **ACCEPT** the voluntary commitments of the Parties contained in the *Undertaking* dated 18 January 2024. The Transaction is hereby **ALLOWED** to proceed subject to strict compliance to the commitments and other terms and conditions provided in the *Undertaking*.

⁴⁵ *Undertaking* dated 18 January 2024, pp. 6-13.

⁴⁶ Such as the BSP, PPMI, BSFIs, and NBSFIs.

The Parties are reminded that a breach of any commitment, term, or condition set forth in the *Undertaking* dated 18 January 2024 will be subject to fines, additional remedies, and such other measures as the Commission may deem necessary, including the nullification of this Decision.

SO ORDERED.

25 January 2024.

[SIGNATURE REDACTED]

MICHAEL G. AGUINALDO
Chairperson

[SIGNATURE REDACTED]

MARAH VICTORIA S. QUEROL
Commissioner

[SIGNATURE REDACTED]

MICHAEL B. PELOTON
Commissioner

[SIGNATURE REDACTED]

LOLIBETH RAMIT-MEDRANO
Commissioner

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UNDERTAKING

This Undertaking ("**Undertaking**") is executed by:

BANCNET, INCORPORATED ("BancNet"), a corporation organized and existing under the laws of the Philippines, with principal office address at 19th Floor BDO Equitable Tower, 8751 Paseo de Roxas, Makati City, Philippines, represented herein by its authorized representative, **ELMARIE S. REYES**;

with the conformity of:

PHILIPPINE CLEARING HOUSE CORPORATION ("PCHC") (together with BancNet, the "**Parties**"), a corporation organized and existing under the laws of the Philippines, with principal office address at the Ground Floor, Cafetorium Building, Bangko Sentral ng Pilipinas Complex, A. Mabini corner P. Ocampo, Sr. Streets, Malate, Manila, as represented herein by its authorized representative, **EMMANUEL E. BARCENA**;

acting pursuant to the authority granted under the Secretary's Certificate dated 18 January 2024 issued by BancNet and the Secretary's Certificate dated 17 January 2024 issued by PCHC, attached hereto as Annex "**A**" and "**B**," respectively;

in favor of:

the **PHILIPPINE COMPETITION COMMISSION** (the "**PCC**" or the "**Commission**"), an independent quasi-judicial body created under Republic Act No. 10667, otherwise known as the Philippine Competition Act (the "**PCA**"), with office address at the 25th Floor, Vertis North Corporate Center, North Avenue, Quezon City.

RECITALS:

- (A) On 26 October 2022, the BancNet and PCHC ("**Parties**") signed their Articles of Merger pursuant to which the Parties agreed to merge (the "**Transaction**") with BancNet, as the surviving entity, and who, following the Effective Date (as defined below), shall be thereafter known as the Payments Network of the Philippines, Inc., doing business under the name and style of "BancNet", "Philippine Clearing House" and "PCHC".
- (B) On 17 November 2022, the Parties filed their respective Notification Forms with the Mergers and Acquisitions Office of the PCC ("**MAO**"). On 11 September 2023, the MAO issued a Statement of Concerns ("**SOC**"), concluding that the Transaction is likely to result in substantial lessening of competition in the market for the provision of non-card clearing switch operator services for interbank electronic fund transfers in Philippine Peso nationwide (the "**Relevant Market**").
- (C) On 2 October 2023, BancNet submitted a Proposal for Voluntary Commitments (the "**Initial Proposal**").
- (D) On 8 November 2023, the Parties submitted a Draft Undertaking, together with its supporting Annexes and Attachments ("**Draft Undertaking**").

- (E) On 20 November 2023, following the comments of the PCC to the Draft Undertaking, the Parties submitted a Revised Draft Undertaking, together with its supporting Annexes and Attachments ("**First Revised Draft Undertaking**").
- (F) Following discussions between the PCC, BancNet, as the proposed surviving entity, and PCHC, Bancnet and PCHC submitted on 18 January 2024 the Final Revised Undertaking, together with its supporting Annexes and Attachments ("**Final Revised Draft Undertaking**").

Thus, Bancnet and PCHC hereby submits this Undertaking setting out its voluntary commitments to be carried out by of the Merged Entity, as accepted by the PCC in accordance with the Commitment Decision.

1. DEFINITIONS AND INTERPRETATION

- 1.1. *Definitions.* Without prejudice to the other terms defined herein, the following terms shall have the following meanings as used in this Undertaking, including its Annexes:

"**Annual**" means once every twelve (12) months, beginning from the Effective Date and every twelve (12) months thereafter.

"**Automated Clearing House**" or "**ACH**" means the computer-based electronic network for processing fund transfer or payment transactions in a payment stream in accordance with the multilateral agreement among its Participants governing the clearing and settlement of the transactions.

"**BancNet 2018 SLA**" has the meaning given to it in Section 2.3.1 of this Undertaking.

"**Billing Credit**" means a refund of the Disgorged Amount to each of the relevant Participants which will be credited to their respective monthly billings, such that the amount charged to the relevant Participants for the month succeeding the Notice of Breach will be reduced by the Disgorged Amount, pursuant to Section 2.1.5.1 of this Undertaking on Disgorgement.

"**BSP**" means the Bangko Sentral ng Pilipinas.

"**BSP Issuance**" means any circular, resolution, memorandum, notice, advisory, letter, instrument, document, or other official communication issued by the BSP regulating and/or affecting the Transaction and/or the Merged Entity.

"**Business Day**" means a day (other than a Saturday, Sunday, or any public holiday) on which businesses and government offices are authorized to open or are not required to be closed in the city or municipality where the head offices of the PCC and the Merged Entity are located.

"**By-Laws**" means the proposed By-Laws of the Merged Entity, as approved by the Board of Directors and Stockholders of BancNet on 16 August 2022 and 26 August 2022 respectively and by the Board of Directors and Stockholders of PCHC on 22 July 2022 and 4 August 2022 respectively, collectively attached hereto as Annex "C."

"Clearing Switch Operator" or "CSO" means an Operator of a payment system which is an entity that provides clearing and settlement services in the payment system, or defines, prescribes, designs, controls or maintains the operational framework for the system.

"Commitment" has the meaning given to it in Section 2 of this Undertaking.

"Confidential Business Information" means information which concerns or relates to the operations, production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, expenditures, which are not generally known to the public or to other persons who can obtain economic value from its disclosure or use, or is liable to cause serious harm to the person who provided it, or from whom it originates, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, submitted and duly claimed as confidential by an entity, and determined to be such by the PCC, and all other information that is considered confidential under Section 34 of the PCA.

"Control" means the ability to substantially influence or direct the actions or decisions of an entity, whether by contract, agency or otherwise and the term **"Controlled"** shall be construed accordingly.

"CSO Fees" means all fees imposed by the Merged Entity on Participants as the CSO of InstaPay and /or PESONet.

"CSO Services" means the operation, maintenance, and enhancement of InstaPay and PESONet.

"Disgorged Amount" has the meaning given to it in Section 2.5.1.1 of this Undertaking.

"Effective Date" has the meaning given to it in Section 5.1 of this Undertaking.

"Event-Driven Report" has the meaning given to it in Section 2(2) of BSP Circular No. 1019, Series of 2018.

"Instapay Retail Payment System" or "InstaPay" means the BSP-prioritized real-time low-value EFT payment system that provides for the sending, receiving, routing, clearing and settlement of EFT transactions which payment system allows consumers and businesses to electronically transfer low-value payments (P50,000 and below per transaction) faster between PAYOR and PAYEE accounts, with real-time confirmation to PAYOR of funds transferred, and immediate credit to a PAYEE account.

"InstaPay Use Cases" has the meaning given to it in Section 2.4.2 of this Undertaking.

"Merged Entity" means the entity created as a result of the Transaction, duly registered with the Securities and Exchange Commission ("**SEC**").

"Monitor" means the impartial third-party monitor that may be appointed pursuant to Section 3.2.1 of this Undertaking.

"MSAR" has the meaning given to it in Section 2.3.4 of this Undertaking.



"Non-Shareholder Participant" means a Participant that is not a shareholder of the Merged Entity.

"Originating Financial Institution" or **"OFI"** means a Participant in the InstaPay ACH and/or PESONet ACH which sends transactions through InstaPay and/or PESONet, respectively.

"Participant" means any OFI or RFI, which includes any entity that is a BSP-Supervised Financial Institution (**"BSFI"**) or non-bank financial institutions (**"NBFIs"**).

"Payments Network of the Philippines, Inc." means the Merged Entity which, following the Effective Date, will cease to be known as BancNet, Incorporated, and will thereafter be doing business under the name and style of "BancNet", "Philippine Clearing House" and "PCHC".

"Payment System" means either InstaPay or PESONet, as the case may be.

"Payment System Management Body" or **"PSMB"** means a private industry-led self-governing body that is duly recognized and overseen by the BSP to develop and enforce rules and agreements pertaining to members' clearing and settlement activities in accordance with the National Retail Payment System (**"NRPS"**) Framework and applicable BSP regulations. The BSP recognizes PPMI as the PSMB of InstaPay and PESONet as of date of execution of this Undertaking.

"PCA" has the meaning given to it in the Recitals.

"PCA-IRR" means the Rules and Regulations to implement the provisions of Republic Act No. 10667.

"PCC" or **"Commission"** has the meaning given to it in the Recitals.

"PCC Merger Rules" means the PCC Rules on Merger Procedure.

"PESONet" means an electronic fund transfer payment system or credit payment network which processes fund transfer and/or payment instructions in bulk and clears the transactions of its Participants at batch intervals.

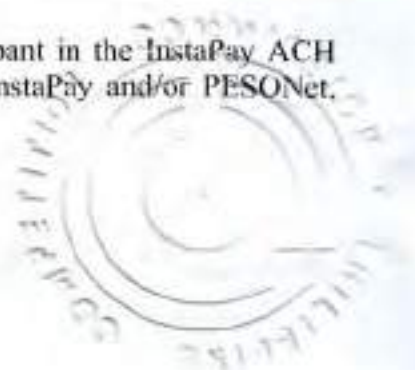
"PESONet Use Cases" has the meaning given to it in Section 2.4.2 of this Undertaking.

"Philippine Payment Management Inc." or **"PPMI"** means the duly recognized self-governing body tasked to support the BSP in overseeing proper operations and monitoring implementation progress of the National Retail Payment System (**"NRPS"**) by enforcing the governance framework.

"Receiving Financial Institution" or **"RFI"** means a Participant in the InstaPay ACH and/or PESONet ACH which receives transactions through InstaPay and/or PESONet, respectively.

"Relevant Market" has the meaning given to it in Recital (B).

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"Senior Officer" means the president, chief executive officer, chief finance officer, treasurer, or the chief operating officer of the Merged Entity.

"Shareholder" means any person or entity that beneficially owns at least one (1) share in the Merged Entity on Effective Date.

"Shareholder-Participant" means a Participant that is a shareholder of the Merged Entity.

"SLA" has the meaning given to it in Section 2.3.1 of this Undertaking.

"Transaction" has the meaning given to it in the Recitals.

"Undertaking" has the meaning given to it in the Recitals.

1.2. *Interpretation.* In this Undertaking, save where the context otherwise requires:

- (a) References to any gender include all genders; references to the singular include the plural, and vice versa; and words denoting persons include natural persons, partnerships, corporations, joint ventures, trusts, associations, organizations, or other entities (whether or not having a separate legal personality);
- (b) The headings in this Undertaking are for convenience only and shall not affect the interpretation of any provision of this Undertaking;
- (c) References to this Undertaking include this Undertaking as modified, amended, or supplemented in accordance with its terms;
- (d) "Include," "includes," and "including" are deemed to be followed by "without limitation" or "but not limited to," whether or not actually followed by such words or words of like import;
- (e) References to a person shall include his successors and permitted assigns;
- (f) References to a "day" mean a calendar day, unless expressly provided otherwise; references to a "week" mean the period from Monday to Sunday; references to a "month" mean a calendar month, and references to a "year" mean a period of time commencing on a particular date and ending on the day before the anniversary of such date;
- (g) References to "written" or "in writing" include in electronic form; and
- (h) This Undertaking has been discussed between BancNet, PCHC, and the PCC and shall be fairly interpreted in accordance with its terms taking such discussions into consideration.



2. COMMITMENTS

As a condition to the issuance of the Commitment Decision by PCC, the Merged Entity commits to perform the commitments set out in this Undertaking (each, a "**Commitment**");

2.1. *Commitment on CSO Fees.*¹

2.1.1. In the event that the Merged Entity increases the CSO Fees charged to the Participants, the Merged Entity commits to abide by the pricing principle provided under Article IX of the By-Laws in setting the CSO Fees for InstaPay and PESONet for a period of five (5) years from the Effective Date.

2.1.2. For purposes of the Commitment in Section 2.1 of this Undertaking:

2.1.2.1. "Article IX of the By-Laws" provides that:

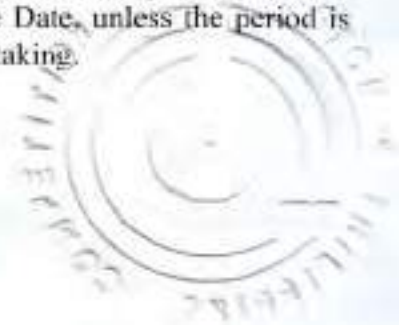
"ARTICLE IX OPERATIONS AND REVENUE SHARING

The Corporation will be operated as a utility owned equally by participant-shareholders in accordance with the following principles:

- 1) The price of each of its products or lines of business will be on a cost recovery basis plus reasonable margin and/or return on equity.*
- 2) Revenues, margins and costs shall be calculated per product or per line of business. To the extent possible, capital expenditure requirements shall likewise be presented and approved per product or line of business."*

2.1.2.2. For purposes of Section 2.1. of this Undertaking, "**reasonable margin and/or return on equity**" vis-à-vis InstaPay and PESONet means one which will allow the Merged Entity to make necessary and desirable investments required to (i) continue to operate InstaPay and PESONet, as the case may be, in accordance with applicable laws and regulations, and the service level agreement in force at the relevant time; and (ii) fulfill the InstaPay Use Cases and PESONet Use Cases (as defined below in Section 2.4.2 of this Undertaking), provided that any increase of CSO Fees shall be approved by the BSP.

2.1.3. Following the receipt of the approval by the Securities and Exchange Commission ("**SEC**") of the By-Laws, the Merged Entity shall not amend Article IX of the By-Laws for a period of five (5) years from the Effective Date, unless the period is otherwise modified pursuant to Section 6 of this Undertaking.



2.1.4. *Monitoring.*

- 2.1.4.1. For purposes of monitoring compliance with Section 2.1. of this Undertaking and its subsections, the Merged Entity shall submit to the PCC Annual reports on the CSO Fees disaggregated by month, including volume of transactions per Participant and per Payment System in the form attached hereto as Annex "D".

2.1.4.1.1. In case of an increase in the CSO fees, the Merged Entity shall:

2.1.4.1.1.1. Submit the BSP issuance approving the increase. The BSP issuance shall be submitted together with the Annual report.

2.1.4.1.1.2. Notify the PCC, no less than five (5) Business Days, prior to the implementation of an increase in any CSO Fee.

2.1.4.1.2. The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date.

2.1.5. *Penalties.*

- 2.1.5.1. If the PCC finds that the Merged Entity increased the CSO fees in violation of Sections 2.1.1. and 2.1.2. of this Undertaking, the amount received by the Merged Entity in excess of the allowed margin fees approved by the BSP (the "**Disgorged Amount**") will be returned to the relevant Participants.

2.1.5.1.1. The Disgorged Amount shall be returned within a period of thirty (30) Business Days from receipt by the Merged Entity of a Notice of Breach issued by the PCC. The Disgorged Amount will be distributed to the relevant Participants as Billing Credits, subject to both corporate and taxation regulations, in proportion to the revenues contributed or the fees paid by such Participant to InstaPay and/or PESONet, as the case may be. This does not preclude the PCC from imposing the penalties as may be provided under Section 29 of the PCA, after notice and due process.

2.1.5.1.2. Within five (5) Business Days from the refund of the Disgorged Amount, the Merged Entity will submit to the PCC a certification under oath on its compliance with the obligation to refund.

2.1.5.1.3. Following the submission of compliance by the Merged Entity on the refund of the Disgorged Amount, the PCC shall be entitled to verify the calculation of the Disgorged Amount and the process

of refund of the Disgorged Amount, including the accuracy of the computation of the amounts refunded to the Participants.

The PCC may conduct the inspection of the relevant data in the Merged Entity's principal place of business (or other office identified by it for this purpose), inquiries and external confirmation from the relevant Participants and/or relevant regulatory bodies. The conduct of the inspection shall be subject to the PCC providing a written notice of the proposed schedule of the inspection no less than five (5) Business Days prior to the intended date of inspection. On the day of the inspection, the Merged Entity shall furnish the PCC a report indicating the manner in which the Disgorged Amount shall have been refunded. Such report shall contain, among other details, the name of the Participants, the amount of the refund received by each Participant, and the basis of the computation of the refund. The Merged Entity shall provide in such report a warranty that the contents of such report and its annexes, as the case may be, are true and correct.

2.1.5.1.4. *Warranty on the Disgorged Amount.* The Merged Entity warrants that the Disgorged Amount shall be for its exclusive account, and that it shall not in any way recover the same, wholly or partially, from its Participants.

2.1.5.2. In the event that the Merged Entity fails to comply with Section 2.1.3. of this Undertaking, such failure shall be considered a violation and shall be subject to the appropriate fines under Section 4 on Violations of this Undertaking.

2.2. *Commitment to Refrain from Discriminatory Behavior.*¹¹ The Merged Entity shall not arbitrarily discriminate against any Non-Shareholder Participant, in terms of CSO Fees, Quality of CSO Services, and the use of the clearing facilities of either InstaPay or PESONet, as may be applicable.

2.2.1. The Merged Entity will charge the same CSO Fees to all its Participants, whether they be Shareholder-Participants or Non-Shareholder Participants.

2.2.2. The Merged Entity shall not exclude any Participant from becoming a Shareholder, provided that the Participant satisfies all the requirements under applicable laws and regulations, the Merged Entity's constitutive documents and other reasonable requirements, including the subscription or purchase of, and payment of such number of shares in the Merged Entity as may be necessary in order to achieve parity in shareholdings among the Shareholders of the Merged Entity.

2.2.3. The Merged Entity will provide the same quality of CSO Services to all its Participants, whether they be Shareholder-Participants or Non-Shareholder Participants, such as but not limited to acts which shall ensure that the Merged

Entity will not migrate Non-Shareholder Participants to an inferior platform vis-à-vis the platform used or provided to Shareholder-Participants.

2.2.4. *Monitoring.* The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date.

2.2.4.1. The Merged Entity shall submit to the PCC an Annual report containing the following information in the form attached hereto as Annex "E":

- a) a list of Participants that opted to become Shareholders;
- b) the CSO Fees charged to each of the Shareholder-Participants and Non-Shareholder Participants during the period covered by the report;
- c) a list of Participants that subsequently withdrew their application to become a shareholder of the Merged Entity, together with the draft agreement provided to such Participant by the Merged Entity;
- d) a statement that the Merged Entity has not discriminated against Non-Shareholder Participants; and
- e) a confirmation issued by the PSMB confirming that it has no knowledge of any discrimination against Non-Shareholder Participants.

2.2.5. *Penalty.* In the event that Merged Entity fails to comply with Sections 2.2. of this Undertaking and its subsections, such failure shall be considered a violation and shall be subject to the appropriate fines under Section 4 on Violations of this Undertaking.

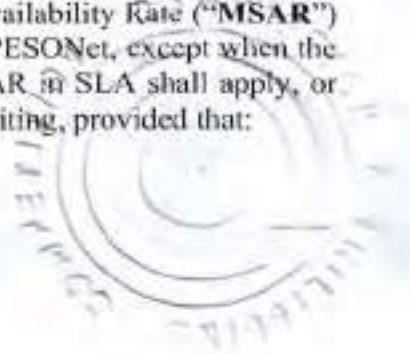
2.3. *Commitment on Quality of CSO Services.*ⁱⁱⁱ

2.3.1. The Merged Entity shall abide by the Service Level Agreements ("SLAs") executed or which may in the future be executed by the Merged Entity and the PSMB, including the SLA dated 20 April 2018 (the "**BancNet 2018 SLA**"), in all material respects.

2.3.2. Subject to current and future applicable law, rules and regulations, and other issuances and approvals of any relevant regulatory body, including the BSP, the Merged Entity shall not arbitrarily decrease the clearing cycles for the settlement of PESONet.

2.3.3. The Merged Entity shall not consolidate the operations of InstaPay and PESONet, such that either InstaPay or PESONet shall cease to exist, unless otherwise expressly mandated by PSMB and the BSP. In the event that consolidation is mandated by PSMB and the BSP, the Merged Entity shall inform and consult with the PCC prior to such consolidation.

2.3.4. The Merged Entity shall maintain a Monthly Service Availability Rate ("**MSAR**") of at least [CONFIDENTIAL]% for both InstaPay and PESONet, except when the SLA provides for a higher rate in which case the MSAR in SLA shall apply, or when the PSMB and BSP has otherwise consented in writing, provided that:



2.3.4.1. The MSAR in this Section shall be subject to review by the PCC, after the third (3rd) year from the Effective Date, to determine whether there is a necessity to increase the minimum MSAR provided in Section 2.3.4 of this Undertaking to [CONFIDENTIAL]%.

2.3.4.2. In no instance shall the Merged Entity schedule maintenance or system updates for InstaPay and PESONet at the same time.

2.3.5. The MSAR shall be calculated as follows:

$$\frac{\text{Actual Uptime} + \text{MSAR Exclusions}}{\text{Total Expected Uptime}}$$

2.3.5.1. "**Actual Uptime**" shall mean the number of hours that either InstaPay or PESONet is actually available to their respective Participants in a given month.

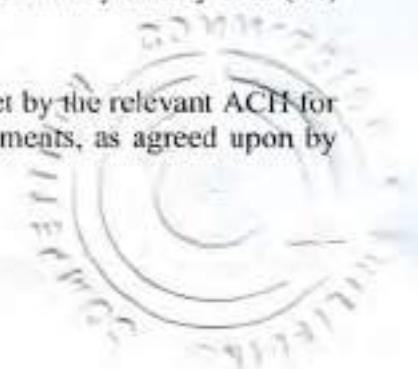
2.3.5.2. "**MSAR Exclusions**" shall be expressed in hours and shall mean (i) any outages that are communicated to PSMB prior to such outage, such as scheduled maintenance or system updates; or (ii) those that are beyond its control, such as but not limited to those caused by Force Majeure or by Third Parties, except to the extent that the Merged Entity shall have acted with negligence or fault.

2.3.5.2.1. For this section, "**Force Majeure**" refers to forces beyond the control of the Merged Entity, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes, or acts of God, and interruptions, loss or malfunctions of utilities, communications, or computer (software and hardware) services, provided that the Merged Entity shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances.

2.3.5.2.2. For this section, "**Third Parties**" refers to any person other than the Merged Entity, its agents, representatives, or any person duly authorized or engaged to act on its behalf including but not limited to Mastercard Vocalink.

2.3.5.3. "**Total Expected Uptime**" shall be expressed in hours and shall be computed by multiplying the number of days of the relevant month by twenty-four (24) hours.

2.3.6. The Merged Entity shall meet the minimum standards set by the relevant ACH for its information security and business continuity requirements, as agreed upon by the relevant parties in writing.



2.3.7. In cases where the Merged Entity is required to submit to the BSP an Event-Driven Report under BSP Circular No. 1019, Series of 2018, the Merged Entity shall furnish a copy of the same Event-Driven Report to the PCC.

2.3.8. The Merged Entity commits that should it enter into any new or amended SLA involving either InstaPay or PESONet, such SLA shall include the following minimum terms:

2.3.8.1. The MSAR shall not be lower than the MSAR defined in Section 2.3.4 of this Undertaking or the Bancnet 2018 SLA.

2.3.8.2. The standards for information security and business continuity requirements shall not be lower than those defined in Section 2.3.6 of this Undertaking; and

2.3.8.3. The Merged Entity shall extend any necessary assistance to all Participants as they each may reasonably require to avail of the services of the Merged Entity.

2.3.9. *Monitoring.*

2.3.9.1. For purposes of monitoring compliance with Section 2.3.1 of this Undertaking, the Merged Entity shall acquire from the PSMB a Certification that there has been no breach of the relevant SLAs and that the Merged Entity has performed its obligations under the SLAs in all material respects. The same Certification shall follow the format provided under Annex "F" and shall be submitted by the Merged Entity to the PCC as part of the Annual report of the Merged Entity.

The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date. The Monitor, should one be appointed pursuant to Section 3.2 of this Undertaking, shall report any breach to the Commission within ten (10) Business Days from its discovery of such breach from the Effective Date.

2.3.9.2. For purposes of monitoring compliance with Sections 2.3.2 and 2.3.3 of this Undertaking, the Merged Entity shall likewise submit to the PCC a report covering the number of clearing cycles of PESONet and confirming that there has been no breach of the Commitment against consolidating InstaPay and PESONet, following the form attached hereto as Annex "G". The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date.

2.3.9.3. For purposes of monitoring compliance with Section 2.3.4 and 2.3.5 of this Undertaking, the Merged Entity shall submit to the PCC:

- a) a report executed by the Merged Entity confirming that there has been no breach of the Commitment on Monthly Service Availability in the form attached hereto as Annex "G"; and

- b) a report on the MSAR, which shall be disaggregated by month and per Payment System in the form attached hereto as Schedule "I" of Annex "G".

The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date.

- 2.3.9.4. For purposes of monitoring compliance with Section 2.3.6 of this Undertaking, the Merged Entity will submit a report to be issued by the PSMB in the form attached hereto as Annex "F" confirming that the Merged Entity has satisfied the minimum standards of the relevant ACH for information security and business continuity standards. The Merged Entity shall submit the Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date.

- 2.3.9.5. For purposes of monitoring compliance with Section 2.3.7 of this Undertaking, the Merged Entity will furnish a copy of the Event-Driven Report to the PCC within three (3) Business Days from submission to the BSP.

- 2.3.9.6. For purposes of monitoring compliance with Section 2.3.8 of this Undertaking, the Merged Entity shall submit to the PCC any new or amended SLA to be executed with the PSMB within five (5) Business Days of its execution.

- 2.3.10. *Penalties.* In the event that the Merged Entity fails to comply with Sections 2.3. of this Undertaking and its subsections, such failure shall be considered a violation and shall be subject to the appropriate fines under Section 4 on Violations of this Undertaking.

2.4. *Commitment on Continued Innovation.*^{iv}

- 2.4.1. The Merged Entity, with the consent of PESONet and InstaPay Participants and subject to the approval of the BSP, commits to integrate InstaPay and PESONet into a common analytics platform for the purpose of aiding the Participants in combating fraud and the use of mule accounts within five (5) years following the Effective Date.

- 2.4.2. The Merged Entity shall implement the use cases under the InstaPay and PESONet roadmap prepared by their respective ACHs, subject to a viable business case for each use case, as approved by the ACH Participants and the PSMB (the "**InstaPay Use Cases**" and "**PESONet Use Cases**", respectively).

- 2.4.3. The Merged Entity shall extend assistance to all Participants as they each may reasonably require to implement the use cases and any upgrades necessary to avail of the use cases provided by the Merged Entity.

- 2.4.4. *Monitoring.*



- 2.4.4.1. The Merged Entity shall submit an Annual report not later than fifteen (15) days after the end of each Annual period beginning from the Effective Date. The Merged Entity shall submit to the PCC:
- 2.4.4.1.1. The annual roadmap prepared by the InstaPay and PESONet ACHs. Any and all amendments or revisions thereto shall be submitted within ten (10) Business Days from the approval of the said amendment or revision;
 - 2.4.4.1.2. A report jointly executed by the PSMB and the Merged Entity detailing the steps undertaken in the implementation of the roadmap, an updated timeline, challenges encountered, and other relevant information; and
 - 2.4.4.1.3. A copy of the documents providing the Merged Entity's obligation to implement the use cases, including but not limited to service contracts and/or official letters that indicate the conformity of the PSMB, InstaPay ACH, and PESONet ACH.
- 2.4.4.2 For purposes of monitoring compliance with its commitment under Section 2.4.1 of this Undertaking, the Merged Entity will submit a report certified by the PSMB informing the Commission that InstaPay and PESONet were integrated into a common analytics platform as required by Section 2.4.1 of this Undertaking within ten (10) Business Days from the date of such integration; provided that, if such integration has not occurred on or before the fifth (5th) anniversary of the Effective Date, the Merged Entity shall inform the Commission of such failure to comply with Section 2.4.1 of this Undertaking and the reason for such failure, within two (2) Business Days from the fifth (5th) anniversary of the Effective Date.
- 2.4.4.3 The current roadmap is attached hereto as Annex "H". The Merged Entity shall submit a report to the PCC, as certified by PSMB, detailing any amendment or modification of any of the use cases in the roadmap within ten (10) Business Days from the approval of the ACH of such amendment or modification.
- 2.4.5 *Penalties.* In the event that Merged Entity fails to comply with Section 2.4. of this Undertaking and its subsections, such failure shall be considered a violation and shall be subject to the appropriate fines under Section 4 on Violations of this Undertaking.

3. MONITORING, REPORTORIAL REQUIREMENTS, AND COMPLIANCE

3.1. General Oversight and Regulatory Functions of the BSP.

- 3.1.1. The Merged Entity recognizes the regulatory oversight of the BSP over the banking and financial industry. As such, the Merged Entity shall continue to be bound by

the policies, rules and regulations of the BSP, as well as any BSP Issuance as defined under Section 1.1 of this Undertaking.

3.2. *Appointment of the Monitor; Qualifications; Costs.*

- 3.2.1. Should necessity demand it, as in the absence of a BSP Issuance, or upon request by the BSP, or upon review by the Commission, which review shall be done after the third (3rd) year from the Effective Date of this Undertaking, pursuant to Section 5.1 of this Undertaking, the PCC may appoint an impartial third-party monitor to act as Monitor (the "**Monitor**").

The Monitor shall determine and assess the Merged Entity's compliance with the Commitments under this Undertaking. The Monitor should have the proven capability to undertake its responsibilities under this Undertaking. If a third-party monitor shall be appointed, the nomination of the Monitor shall also be confirmed by the BSP. The appointed Monitor shall work under the supervision of, and be accountable to, the PCC, and shall carry out its responsibilities under this Undertaking in a fair, independent, and impartial manner.

- 3.2.2. When warranted, the following process for appointment of a Monitor shall follow:

Within fifteen (15) days from the receipt of the order of the PCC to commence the process of appointment of a Monitor, the Merged Entity shall submit to the PCC a list of three (3) nominees for Monitor, including the nominees' letter of intent to participate in the selection of the monitor and other supporting document as determined by PCC to prove their qualifications set forth in Section 3.2.1. of this Undertaking. Failure to provide the foregoing shall be deemed a waiver of opportunity to participate in the selection of the Monitor and the acceptance of the PCC's appointment of the Monitor.

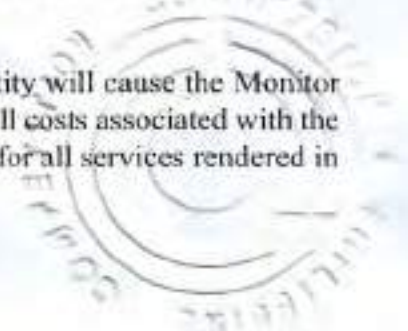
Should the PCC find the nominees of the Merged Entity unacceptable, PCC may provide nominees with notice to the Merged Entity. The Merged Entity shall provide comments on the PCC's nominees within five (5) days from receipt of such notice. Thereafter, the PCC shall, by resolution, appoint the Monitor.

The filing of a motion for reconsideration on the resolution appointing the Monitor shall toll the running of the Monitoring Period. The Monitoring Period will resume upon resolution of the motion for reconsideration.

In case the Merged Entity fails to submit nominees for Monitor within the period specified herein, the PCC shall proceed to appoint the Monitor taking into consideration the qualifications set forth in Section 3.2.1 of this Undertaking.

Any future Guidelines issued by PCC in relation to the appointment of Monitor shall supersede this provision to the extent it expressly conflicts with the Guidelines.

- 3.2.3. If a third-party is appointed as Monitor, the Merged Entity will cause the Monitor to comply with its obligations under this Undertaking. All costs associated with the appointment, engagement, and retention of the Monitor for all services rendered in



connection with this Undertaking shall be borne by the Merged Entity, payable upon demand and upon issuance of the relevant order by the PCC.

- 3.2.4. *Penalty.* In the event that the Merged Entity fails to comply with Section 3.2.3 of this Undertaking, including but not limited to any delay or failure by the Merged Entity to pay all costs associated with the appointment, engagement, and retention of the Monitor such failure shall be considered a violation and shall be subject to the appropriate fines under Section 4 on Violations of this Undertaking.

3.3. *Functions, Duties, and Obligations of the Parties & Monitor.*

- 3.3.1. All reports, together with supporting data, required to be submitted by the Merged Entity to the PCC and the Monitor under this Undertaking shall be verified by a Senior Officer of the Merged Entity. In the event that the PCC or the Monitor identifies any deficiency or inaccuracy in the data submitted by the Merged Entity as required under this Undertaking, the Merged Entity shall rectify any such deficiency or inaccuracy within at least five (5) days from its receipt of the notice of deficiency from the PCC or the Monitor. It is understood that no breach shall be deemed to have occurred on account of such deficiency, provided that the Merged Entity is able to rectify such deficiency or inaccuracy within five (5) days from receipt of the notice. Should there be a finding by the PCC or the Monitor that data, documents, and reports submitted by the Merged Entity are negligently prepared, fraudulent, or constitute false, incorrect or misleading, material information, the Merged Entity shall be subject to appropriate penalties under Sections 23 and 29 (c) of the PCA after notice and due process.
- 3.3.2. When warranted, the Merged Entity shall simultaneously furnish the Monitor with a copy of all reports and data required to be submitted to the PCC for the purpose of assessing compliance with the Commitments. The Merged Entity shall also exert commercially reasonable efforts to assist the PCC and/or the Monitor, as may be necessary, to enable the PCC and/or the Monitor to execute the latter's functions.
- 3.3.3. In connection with the execution by the PCC and/or Monitor of its functions, the Merged Entity shall comply with the PCC and/or the Monitor's request for relevant data and documents as required under this Undertaking and allow the PCC and/or the Monitor to conduct interviews in relation to those data and documents. In case such request is made, the Merged Entity shall provide the same within at least ten (10) days from receipt of the request.
- 3.3.4. The Monitor shall make reports to the PCC subject to its required terms and conditions. The Merged Entity likewise acknowledges that if the Monitor's reports show non-compliance, the PCC shall furnish the Merged Entity a copy of such reports. The Merged Entity shall submit its comment on the report stating its explanation or justification on why it should not be held liable for non-compliance within fifteen (15) days upon receipt of the report indicating its non-compliance.
- 3.3.5. It is likewise the understanding of the Merged Entity that the Monitor shall serve as such while this Undertaking is in effect, unless sooner terminated at the discretion of the PCC and that the Merged Entity may, subject to PCC's approval, request removal of the Monitor in case of breach of its obligations and undertaking under this Undertaking.

- 3.3.6. The Merged Entity recognizes the right and duty of the Monitor to promptly report in writing to the PCC if it concludes on reasonable grounds that the Merged Entity is failing to comply with this Undertaking.
- 3.4. *Confidentiality and No Conflict of Interest.* The Merged Entity is aware that the PCC shall:
- 3.4.1. Require the Monitor to observe the same confidentiality obligations imposed under Section 34 of the PCA;
- 3.4.2. Ensure that the Monitor shall not act as consultant and that the Monitor ensures that none of its employees performing work under this Undertaking shall act as a director, officer, employee, or agent for any entity engaged in the CSO business in the Philippines within two (2) years from termination of its appointment as Monitor, provided that Section 3.4.2 of this Undertaking will not apply if the Monitor appointed by the PCC is the PSMB; and
- 3.4.3. Upon termination of the Monitor's appointment, require the Monitor to turn over to the Merged Entity all originals and copies of all reports and other documents provided by the Merged Entity relating to this Undertaking.
- 3.5. *Access to Information.* For purposes of monitoring compliance with the obligations of the Merged Entity as set forth in Section 2 of this Undertaking and its subsections, the Merged Entity shall cooperate with the PCC to provide access to such further information and/or documents as may be reasonably required by the PCC to monitor compliance with this Undertaking, including the submission of such reports or documents as may be reasonably required by the PCC.

4. VIOLATIONS OF THIS UNDERTAKING

- 4.1. The Merged Entity shall cooperate with the PCC in good faith and do all things necessary to comply with the terms of this Undertaking.
- 4.2. Except in respect of violations where a penalty has been agreed and indicated in this Undertaking, any other violation of this Undertaking, including delay in the performance of any obligations herein, shall be punishable as a violation of an order or decision of the PCC as set out in Section 29 of the PCA, without prejudice to the application of Section 11.4.1 of the PCC Merger Rules.
- 4.3. Any arrangement, contractual or otherwise, intended to circumvent the application of this Undertaking shall likewise be considered a violation of this Undertaking and shall be subject to the appropriate penalty under the PCA, and Section 11.4.1 of the PCC Merger Rules.

5. EFFECTIVITY AND TERM



- 5.1. This Undertaking shall be effective from the date the SEC shall have approved the Transaction following the PCC's decision approving and accepting this Undertaking (the "**Effective Date**"). This Undertaking shall continue to be in effect for a period of five (5) years from the Effective Date. Upon application by the Merged Entity, this 5-year term shall be subject to review by the Commission after the third (3rd) year from the Effective Date, to determine whether to release the Merged Entity from its obligations, pursuant to Section 6 of this Undertaking.

6. EXTENSIONS, AMENDMENTS, SUBSTITUTION, AND RELEASE

- 6.1. *Extension of Period to Comply.* The Merged Entity understands that:

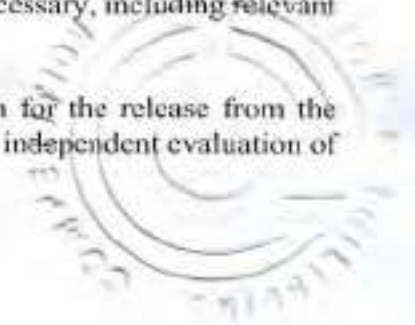
- 6.1.1. The Merged Entity may, at any time prior to the date when compliance is required with any Commitment, make a written request to the Commission for an extension of time within which to comply with such Commitment. Such a request shall specify the justifications or reasons, which may include the occurrence of events that prevent timely compliance, such as, but not limited to *force majeure* events and circumstances which make it impossible for the Merged Entity to perform in whole or in part its obligations under this Undertaking. Any and all approved extension shall likewise extend the term of this Undertaking accordingly.
- 6.1.2. After the third (3rd) year from Effective Date, the Commission may, upon review of the market and finding relevant changes to the competition concerns existing or that competition conditions have worsened or improved, extend or reduce the term of this Undertaking, provided that if, after notice and due process, the Commission finds that there has been any breach of the commitments in this Undertaking, then the term of this Undertaking may be extended by the Commission.

In determining the competition condition in the market, the PCC may consider appropriate metrics for the computation of market share such as, among others, capacity, revenue, or volume. The PCC may also take into consideration other relevant factors at the time of the review, including relevant changes in competition conditions.

- 6.2. *Release from the Undertaking.* The Merged Entity is aware that at any time during the effectivity of this Undertaking, the Merged Entity may apply to be released from any or all the Commitments in this Undertaking on the ground that sufficient competition exists in the relevant markets.

- 6.2.1. The determination of sufficient competition shall be based on existing competitive conditions at the time of the application for release. In determining whether sufficient competition exists, the Merged Entity may use, and the PCC may consider, appropriate metrics for the computation of market share such as, among others, capacity, revenue, or volume. The PCC may also take into consideration other relevant factors at the time of the application, as necessary, including relevant changes in competitive conditions.

- 6.2.2. In the consideration of the Merged Entity's application for the release from the Commitments under this section, the PCC shall make an independent evaluation of



the application and the supporting documents, including the verification of data submitted and consultation with third parties.

6.3. *Amendment or Substitution of the Commitments from the Undertaking.*

6.3.1. The Merged Entity may apply for an amendment or substitution of the Commitments as contained in this Undertaking.

6.3.2. In evaluating such application, the PCC shall take into consideration relevant changes in competitive conditions and changes in regulations affecting the industry. The PCC may, upon evaluation of prevailing conditions in the relevant market, amend or substitute the provisions of this Undertaking as necessary, subject to Sections 12.5.7 and 12.5.8 of the PCC Merger Rules.

No amendment may be made by the Merged Entity of this Undertaking, unless the same is in writing and is approved by the PCC.

6.3.3. The Commitments may be reviewed and amended, upon the release by the BSP of any relevant BSP Issuance, provided that such BSP Issuance would affect the performance of the Parties of its Commitments in this Undertaking. The PCC, in consultation with the Merged Entity, and after notice and due process, may determine the appropriate amendment of the Commitments, as the case may be.

7. GOVERNING LAW

7.1. This Undertaking shall be governed by, and construed in accordance with, the laws of the Republic of the Philippines.

8. GENERAL PROVISIONS

8.1. *Notices.* All notices and other communications hereunder shall be in writing except as expressly provided herein. Any notice or other communication hereunder shall be deemed duly given (i) when delivered personally to the recipient; (ii) five (5) days (based on addressee's local time) after being sent to the recipient by reputable courier service (charges prepaid); or (iii) upon electronic transmittal when sent through electronic mail, in accordance with the PCC Rules of Procedure, or any future issuances related thereto:

if to the Merged Entity:

Payments Network of the Philippines, Inc. (formerly BancNet, Incorporated)

Address: 19th Floor BDO Equitable Tower, 8751 Paseo de Roxas, Makati City, Philippines

Attention: Elmarie S. Reyes

Email: emmie.reyes@bancnetonline.com

if to the PCC:

Philippine Competition Commission



Address: 25th Floor, Vertis North Corporate Center, North Avenue, Quezon City
Attention: Docket Management and Administrative Services Division
Email: docket@phcc.gov.ph

Either party may change the address to which notices and other communications hereunder are to be delivered by giving the other party written notice in the manner set forth in this Section 8.1.

- 8.2. *Confidentiality.* The Merged Entity and the PCC shall ensure that their respective employees, officers, directors, agents, advisors, and consultants will hold in confidence Confidential Business Information relating to the terms and conditions of this Undertaking, except a summary thereof as may be agreed between them for purposes of the issuance of the PCC decision.
- 8.3. *Public Announcements.* Subject to the provisions on confidentiality under the PCA, the PCA-IRR, and the PCC Merger Rules, the PCC shall be allowed to publish, make press releases, public announcements, or otherwise communicate with any news media in respect to this Undertaking.
- 8.4. *Severability.* If any part or other provision of this Undertaking is declared invalid, illegal, or incapable of being enforced, all other terms and provisions of this Undertaking shall nevertheless remain in full force and effect.
- 8.5. *Entire Agreement.* This Undertaking constitutes the entire agreement with respect to the voluntary commitments of the Merged Entity and supersedes all similar prior agreements and undertakings on such voluntary commitments, both written and oral, between the Merged Entity and the PCC.
- 8.6. *Change in Law.* At any time while this Undertaking remains in effect, the PCC, *motu proprio*, or upon request by the Merged Entity, shall discuss with the Merged Entity to determine whether in light of any change in law or regulations taking effect, the Commitments under this Undertaking need revision to ensure that this Undertaking operates in the manner contemplated and agreed to by the PCC and the Merged Entity. Any consultation pursuant to this Section shall be carried out in a spirit of cooperation with due regard to the intent and objectives of this Undertaking.
- 8.7. *Successors and Assigns.* This Undertaking shall be binding upon the Merged Entity and its successors and assigns. The Merged Entity shall require any successor, whether direct or indirect, by purchase, merger, consolidation, or otherwise to all or substantially all of their business and/or assets, which must be made with prior notice to PCC, to assume expressly and agree to perform this Undertaking in the same manner and to the same extent that they would be required to perform if no such succession had taken place. Any assignment in violation of this provision shall be null and void.

[Signature Page follows.]



SIGNED:

BancNet, Incorporated

By:

SGD.

ELMARIE S. REYES

Authorized Representative

ACKNOWLEDGMENT

Republic of the Philippines)
) S.S.

BEFORE ME, a Notary Public in and for _____ City, Philippines, this __ day of January 2024 personally appeared:

Name	Proof of Identification	Date and Place Issue
BancNet, Incorporated Through: Elmarie S. Reyes <i>Authorized Representative</i>	[CONFIDENTIAL]	[CONFIDENTIAL]

known to me and to me known to be the same person who executed the foregoing Undertaking and acknowledged to me that the same is her free and voluntary act and deed, and that she has the authority to represent her principals.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and at the place first above written.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2024.



Conforme:

Philippine Clearing House Corporation

By:

SGD.

EMMANUEL E. BARCENA

Authorized Representative

ACKNOWLEDGMENT

Republic of the Philippines)
) S.S.

BEFORE ME, a Notary Public in and for _____, Philippines, this ____ day of January 2024 personally appeared:

Name	Proof of Identification	Date and Place Issue
Philippine Clearing House Corporation Through: Emmanuel E. Barcena <i>Authorized Representative</i>	[CONFIDENTIAL]	[CONFIDENTIAL]

known to me and to me known to be the same person who conformed to the foregoing Undertaking and acknowledged to me that the same is his free and voluntary act and deed, and that he has the authority to represent his principals.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and at the place first above written.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2024,



Handwritten signature/initials

Notes:

ⁱ This Commitment provides a clear standard that would govern any increase or decrease in the price of CSO Fees imposed by the Merged Entity on its Participants. This Commitment ensures that any change in pricing will not be indiscriminate, and that any decrease in costs will redound to the benefit of the Participants, all things being equal.

ⁱⁱ This Commitment seeks to mitigate the potential to discriminate against Non-Shareholder Participants by:

- (1) ensuring that all Participants are accorded an equal opportunity to become a Shareholder. Significantly, post-Transaction, many Non-Shareholder Participants (e.g., NBFIs) will have an opportunity to participate in the Merged Entity as Shareholders; and
- (2) ensuring that the terms of fees, quantity and quality of service, and use of facilities (including the amount of participation fees to be charged by the CSO) extended to Shareholders are at par with those provided to Non-Shareholder Participants of the Merged Entity.

ⁱⁱⁱ Apart from BSP issuances, the SLA between the CSO and the PSMB governs the price, quality, range, and service of a particular CSO service. Typically, an SLA defines the minimum guidelines and standards pertaining the following:

- Functionalities and technical specifications of the CSO Service
- Specific services to be offered by the CSO to the Participants
- Manner of clearing and settlement
- CSO Fees to the Participants (including the manner and frequency of billing)

Executing an SLA is among the many ways by which Participants exercise supervision over their respective CSOs.

Another potential harm is the decrease in the number of clearing cycles in PESONet, or the consolidation of InstaPay and PESONet into one payment stream which would be to the detriment of the end-users. Consequently, the Merged Entity affirmed that it will not decrease PESONet's clearing cycles or consolidate InstaPay and PESONet into one payment system, unless mandated by the BSP or other relevant authorities.

Lastly, the Commitment on MSAR provides a minimum standard of service availability to ensure that its service quality does not decline following the Transaction.

^{iv} A potential harm is the Merged Entity's supposed reduced incentive to pursue innovation. Pursuant to BSP Circular No. 980, series of 2017, the task of product development and innovation belongs to the PPMI, as the PSMB of InstaPay and PESONet. This commitment addresses this potential harm because the Merged Entity commits to exert commercially reasonable effort to implement the innovations of the PPMI, which is comprised of all Participants. Consequently, the incentive to innovate comes from the Merged Entity's direct customers themselves.



The Undertaking dated 18 January 2024 executed by Bancnet, Incorporated ("**BancNet**") and Philippine Clearing House Corporation ("**PCHC**") on the proposed merger of BancNet and PCHC, with BancNet as the surviving entity, is signed in the presence of:

SGD.

**CLAUDIA GABRIELLA R.
SQUILLANTINI**
Counsel of Bancnet, Incorporated
Witness

SGD.

AMER M. MADCASIM, JR.
Counsel of Philippine Clearing House
Corporation
Witness



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List of Annexes

Annex	Title of Document/ Template
A	Secretary's Certificate of BancNet on the authority granted to its Authorized Representative, dated 18 January 2024
B	Secretary's Certificate of PCHC on the authority granted to its Authorized Representative, dated 17 January 2024
C	Amended By-Laws of Payments Network of the Philippines, Inc. Doing business under the name and style of "BanNet", "Philippine Clearing House" and "PCHC"
D	Report on the Commitment on CSO Fees
	<i>Schedule 1:</i> CSO Fees charged disaggregated by month and payment system (in Philippine Pesos)
	<i>Schedule 2:</i> Transaction fees and Onboarding fees
E	Report on the Commitment to Refrain from Discriminatory Behavior
	<i>Schedule 1:</i> List of Participants that opted to become Shareholders and CSO fees charged to Participants
	<i>Schedule 2:</i> PSMB Confirmation of no discrimination against Non-Shareholder Participants
F	PSMB Certification of no material breach of the SLA and satisfaction of minimum standards for information security and business continuity standards
G	Merged Entity Certification of no changes to the clearing cycle of PESONet, no breach of commitment to non-consolidation of InstaPay and PESONet, and maintenance of the MSAR
	<i>Schedule 1:</i> Report on the MSAR of InstaPay, disaggregated by month
	<i>Schedule 2:</i> Report on the MSAR of PESONet, disaggregated by month
H	Current Roadmap as of Effective Date, with listing of PESONet Use Cases and InstaPay Use Cases



ANNEX A

Secretary's Certificate of BancNet on the authority granted to its Authorized Representative, dated 18 January 2024

[CONFIDENTIAL]



ANNEX B

**Secretary's Certificate of PCHC on the authority granted to its Authorized Representative,
dated 17 January 2024**

[CONFIDENTIAL]



ANNEX C

Amended By-Laws of Payments Network of the Philippines, Inc. Doing business under the name and style of "BancNet", "Philippine Clearing House" and "PCHC"

[CONFIDENTIAL]



ANNEX D

**MERGER OF BANCNET, INCORPORATED AND PHILIPPINE CLEARING HOUSE
CORPORATION**

[Date]

PHILIPPINE COMPETITION COMMISSION

25th Floor, Vertis North Corporate Center,
North Avenue, Quezon City

**ATTENTION: DOCKET MANAGEMENT AND ADMINISTRATIVE SERVICES
DIVISION**

Report on the Commitment on CSO Fees dated [•]
Period Covered: [•] to [•]

Mesdames/ Gentlemen:

We deliver this report pursuant to Section 2.1 of the Undertaking dated (the “**Undertaking**”) executed by **PAYMENTS NETWORK OF THE PHILIPPINES, INC.**, formerly BancNet, Incorporated, (the “**Company**”) in favor of the Philippine Competition Commission (the “**Commission**”). Unless otherwise defined herein capitalized terms will have the same meaning ascribed to them in the Undertaking.

The CSO Fees charged by the Company to its Participants disaggregated by type, month, including volume of transactions per Participant and per Payment System (in Philippine Pesos) are attached hereto as Schedule 1. [On behalf of the Company, I hereby certify that there has been no change in the CSO Fees charged to InstaPay or PESONet Participants since the date of the Undertaking.]¹ / [Since the date of the [Undertaking/last report] the Company has increased the CSO Fees charged to [InstaPay/PESONet] Participants. On behalf of the Company, we hereby certify that we have complied with the Company’s commitment under Section 2.1 of the Undertaking. A breakdown of the costs and reasonable margin and/or return on equity demonstrating such compliance is attached hereto as Schedule 2.]²

Sincerely,

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

By:

[•]

[•]

¹ To be used if there is no change in the CSO Fee since the date of the Undertaking.

² To be used if there is a change in the CSO Fee since the date of the Undertaking.



SCHEDULE 1
(to the Report on the Commitment on CSO Fees
Period Covered: [•] to [•])

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

CSO Fees charged disaggregated by month and payment system (in Philippine Pesos):

A. InstaPay:

Period	Participant	Volume of Transactions (in ₱)	CSO Fee
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			

B. PESONet:

Period	Participant	Volume of Transactions (in ₱)	CSO Fee
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			
[Month] [Year]			



SCHEDULE 2
(to the Report on the Commitment on CSO Fees
Period Covered: [•] to [•])

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

A. Transaction Fees:

(in ₱, per transaction)	InstaPay	PESONet
Increase in CSO Fees		
<i>Transaction Fee</i>		
<i>Amount of costs</i>		
Difference from cost		

B. Onboarding Fees:

(in ₱, per transaction)	InstaPay	PESONet
Increase in CSO Fees		
<i>Transaction Fee</i>		
<i>Amount of costs</i>		
Difference from cost		



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ANNEX E

**MERGER OF BANCNET, INCORPORATED AND PHILIPPINE CLEARING HOUSE
CORPORATION**

[Date]

PHILIPPINE COMPETITION COMMISSION

25th Floor, Vertis North Corporate Center,
North Avenue, Quezon City

**ATTENTION: DOCKET MANAGEMENT AND ADMINISTRATIVE SERVICES
DIVISION**

**Report on the Commitment to Refrain from Discriminatory Behavior dated [•]
Period Covered: [•] to [•]**

Mesdames/ Gentlemen:

We deliver this report pursuant to Section 2.2 of the Undertaking dated (the "**Undertaking**") executed by **PAYMENTS NETWORK OF THE PHILIPPINES, INC.**, formerly BancNet, Incorporated, (the "**Company**") in favor of the Philippine Competition Commission (the "**Commission**"). Unless otherwise defined herein capitalized terms will have the same meaning ascribed to them in the Undertaking.

We confirm that as of the date hereof the Company has not discriminated against Non-Shareholder Participants in terms of quality of CSO services in that it has not migrated such Non-Shareholder Participants to an inferior platform.

Further, we attach hereto the following documents:

1. a list of Participants that opted to become Shareholders, attached hereto as Schedule I-I;
2. the CSO Fees charged to each of the Shareholder-Participants and Non-Shareholder Participants during the period covered by the report, attached hereto as Schedule I-II;
3. a list of Participants that subsequently withdrew their application to become a shareholder of the Merged Entity, together with the draft agreement provided to such Participant by the Merged Entity;
4. a certification issued by Payment System Management Body ("**PSMB**") attached hereto as Schedule 2.

Sincerely,

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

By:

[•]

[•]



Handwritten signature or mark.

SCHEDULE 1
(to the Report on the Commitment to Refrain from Discriminatory Behavior)

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

I. List of Participants that opted to become Shareholders

Name of Participant	Participant of InstaPay? (Y/N)	Participant of PESONet? (Y/N)	Date of Becoming a Shareholder
[Name of Participant]			

II. CSO Fees charged to Participants during the Period Covered (in Philippine Pesos)

Name of Participant	CSO Fees for InstaPay	CSO Fees for PESONet	Shareholder? (Y/N)
[Name of Participant]			



SCHEDULE 2
(to the Report on the Commitment to Refrain from Discriminatory Behavior)

[Date]

PHILIPPINE COMPETITION COMMISSION

25th Floor, Vertis North Corporate Center,
North Avenue, Quezon City

**ATTENTION: DOCKET MANAGEMENT AND ADMINISTRATIVE SERVICES
DIVISION**

Report on the Commitment to Refrain from Discriminatory Behavior dated [•]
Period Covered: [•] to [•]

Mesdames/ Gentlemen:

We deliver this report pursuant to Section 2.2 of the Undertaking dated (the "**Undertaking**") executed by **PAYMENTS NETWORK OF THE PHILIPPINES, INC.**, formerly BancNet, Incorporated, (the "**Company**") in favor of the Philippine Competition Commission (the "**Commission**"). Unless otherwise defined herein capitalized terms will have the same meaning ascribed to them in the Undertaking.

We hereby confirm that as of the date hereof, nothing has come to our knowledge that the Company has discriminated against Non-Shareholder Participants in terms of quality of CSO services in that it has not migrated such Non-Shareholder Participants to an inferior platform as of the date hereof.

Sincerely,

PSMB

By:

[•]

[•]



all

ANNEX F

**MERGER OF BANCNET, INCORPORATED AND PHILIPPINE CLEARING HOUSE
CORPORATION**

[Date]

PHILIPPINE COMPETITION COMMISSION

25th Floor, Vertis North Corporate Center,
North Avenue, Quezon City

**ATTENTION: DOCKET MANAGEMENT AND ADMINISTRATIVE SERVICES
DIVISION**

Report on the Commitment on Quality of CSO Services dated [•]

Period Covered: [•] to [•]

Mesdames/ Gentlemen:

We deliver this report pursuant to Section 2.3 of the Undertaking dated (the "**Undertaking**") executed by **PAYMENTS NETWORK OF THE PHILIPPINES, INC.**, formerly BancNet, Incorporated, (the "**Company**") in favor of the Philippine Competition Commission (the "**Commission**"). Unless otherwise defined herein capitalized terms will have the same meaning ascribed to them in the Undertaking and the Monitoring Undertaking.

We hereby confirm that to the best of our knowledge after due and careful inquiry that:

1. there has been no material breach of the [Service Level Agreement dated 20 April 2018] / [Service Level Agreement executed on [xx] (the "**SLA**")];
2. the Merged Entity has performed its obligations under the SLA as of the date hereof; and
3. the Company satisfied the minimum standards of the relevant ACH for information security and business continuity standards.

Sincerely,

PSMB

By:

[•]

[•]



ANNEX G

**MERGER OF BANCNET, INCORPORATED AND PHILIPPINE CLEARING HOUSE
CORPORATION**

[Date]

PHILIPPINE COMPETITION COMMISSION

25th Floor, Vertis North Corporate Center,
North Avenue, Quezon City

**ATTENTION: DOCKET MANAGEMENT AND ADMINISTRATIVE SERVICES
DIVISION**

Report on the Commitment on Quality of CSO Services dated [•]

Period Covered: [•] to [•]

Mesdames/ Gentlemen:

We deliver this report pursuant to Section 2.3 of the Undertaking dated (the “**Undertaking**”) executed by **PAYMENTS NETWORK OF THE PHILIPPINES, INC.**, formerly BancNet, Incorporated, (the “**Company**”) in favor of the Philippine Competition Commission (the “**Commission**”). Unless otherwise defined herein capitalized terms will have the same meaning ascribed to them in the Undertaking.

On behalf of the Company, we hereby certify that, as of the date hereof:

1. There have been no changes to the clearing cycles of PESONet;
2. The Company has not consolidated InstaPay and PESONet into a single payment network, such that either InstaPay or PESONet has ceased to exist; and
3. The Company has maintained a Monthly Service Availability Rate of at least [CONFIDENTIAL]%.

Based on the report furnished to us by the Company, we confirm that the Company has maintained a Monthly Service Availability Rate of at least [CONFIDENTIAL]%.

We attach hereto as Schedule 1 and Schedule 2 data on the respective Monthly Service Availability Rate of InstaPay and PESONet.

Sincerely,

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

By:

[•]



SCHEDULE 1
(To the Report on the Commitment on Monthly Service Availability dated [•])

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

The Monthly Service Availability Rate, pursuant to Section 2.3.5, shall be calculated as follows:

$$\text{MSAR} = \frac{\text{Actual Uptime} + \text{MSRA Exclusions}}{\text{Total Expected Uptime}}$$

MSAR of InstaPay						
Month	Total Expected Uptime	Actual Uptime	MSAR Exclusions	Explanation of MSAR Exclusions	Explanation of unscheduled downtime (e.g. not caused by MSAR Exclusions)	Monthly Service Availability Rate



SCHEDULE 2
(To the Report on the Commitment on Monthly Service Availability dated [•])

PAYMENTS NETWORK OF THE PHILIPPINES, INC.

The Monthly Service Availability Rate, pursuant to Section 2.3.5, shall be calculated as follows:

$$\text{MSAR} = \frac{\text{Actual Uptime} + \text{MSRA Exclusions}}{\text{Total Expected Uptime}}$$

MSAR of PESONet						
Month	Total Expected Uptime	Actual Uptime	MSAR Exclusions	Explanation of MSAR Exclusions	Explanation of unscheduled downtime (e.g. not caused by MSAR Exclusions)	Monthly Service Availability Rate



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ANNEX H

MERGER OF BANCNET, INCORPORATED AND PHILIPPINE CLEARING HOUSE CORPORATION

Report on the Commitment on Continued Innovation dated [•]

Period Covered: [•] to [•]

A. The PESONet Use Cases refer to:

No.	Use Case	Target Soft Launch ⁱ	Description
<u>CONFIDENTIAL</u>			

B. The InstaPay Use Cases refer to:

No.	Use Case	Target Soft Launch ⁱ	Description
<u>CONFIDENTIAL</u>			

ⁱ "Target Soft Launch" pertains to the tentative date of launch of the proposed feature, which is subject to the relevant regulatory approvals and agreement with the relevant ACH Participants.

