

EDCF LOAN AGREEMENT

NO. PHL-19



**Economic Development
Cooperation Fund**

Loan Agreement

New Cebu International Container Port Project

between

**THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES**

and

**THE EXPORT-IMPORT BANK OF KOREA
(Government Agency for the EDCF)**

TABLE OF CONTENTS

<u>Article</u>		<u>Page</u>
Article I	Definitions	2
Section 1.01	Loan Agreement	2
Section 1.02	Definitions	2
Article II	The Loan	3
Section 2.01	Amount and Purpose of Loan	3
Section 2.02	Use of Proceeds of Loan	3
Article III	Repayment and Interest	3
Section 3.01	Repayment of Principal	3
Section 3.02	Payment of Interest	4
Section 3.03	Preferential Interest Rates	4
Section 3.04	Place of Payment	5
Article IV	Procurement and Disbursement	5
Section 4.01	Procurement Procedure	5
Section 4.02	Disbursement Procedure	5
Section 4.03	Service Charge	5
Article V	Particular Covenants	6
Section 5.01	Execution of the Project	6
Section 5.02	Reports and Information	6
Section 5.03	Social and Environmental Requirements	7
Article VI	Miscellaneous	8
Section 6.01	Delegation of Authority	8
Section 6.02	Addresses	8
Schedule 1	Description of the Project	11
Schedule 2	Allocation of Loan Proceeds	13
	1. Allocation	13
	2. Reallocation	14
Schedule 3	Amortization Schedule	15
Schedule 4	Procurement Procedure	17
Schedule 5	Employment of Consultants	18
Schedule 6	Disbursement Procedures	19

LOAN AGREEMENT

This Loan Agreement entered into this 4th day of June 2018 between THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES acting by and through the Department of Finance (hereinafter called the "**Borrower**") and THE EXPORT-IMPORT BANK OF KOREA (hereinafter called the "**Bank**") which has been entrusted by THE GOVERNMENT OF THE REPUBLIC OF KOREA with the operation and management of the Economic Development Cooperation Fund (hereinafter called the "**EDCF**").

WITNESSETH:

WHEREAS, THE GOVERNMENT OF THE REPUBLIC OF KOREA and THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES entered into the Agreement dated June 3, 2003 concerning EDCF Loans to be extended to THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES or its designated agency for the implementation of projects to be agreed upon between the two Governments;

WHEREAS, based upon the above Agreement, THE GOVERNMENT OF THE REPUBLIC OF KOREA and THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES entered into the Framework Arrangement dated, May 4, 2017 concerning the EDCF Loan up to an aggregate commitment amount in Korean Won not exceeding the equivalent of One Billion US Dollars (US\$1,000,000,000) for the years 2017 through 2022; and

WHEREAS, in the light of the said Agreement and Arrangement, the Bank has agreed to extend a loan to the Borrower for the NEW CEBU INTERNATIONAL CONTAINER PORT PROJECT described in the Description of the Project attached hereto as Schedule 1 (hereinafter called the "**Project**") upon the terms and conditions set forth in this Loan Agreement;

NOW, THEREFORE, the Borrower and the Bank agree as follows:

ARTICLE I Definitions

Section 1.01. Loan Agreement

The following documents shall constitute an integral part of this Loan Agreement:

- (i) General Terms and Conditions Applicable to EDCF Loan Agreements;
- (ii) Guidelines for Procurement under the EDCF Loan;
- (iii) Guidelines for Employment of Consultants under the EDCF Loan; and
- (iv) Disbursement Procedures under the EDCF Loan.

Section 1.02. Definitions

Unless the context otherwise requires, the several terms defined in the General Terms and Conditions Applicable to EDCF Loan Agreements (hereinafter called the "**General Terms and Conditions**") have the respective meanings therein set forth and the following additional terms have the following meanings:

"Eligible Source Country(ies)" means the Republic of Korea for foreign currency portion and the Republic of the Philippines for local currency portion, respectively.

"Interest Payment Date" means each of the dates of June 20 and December 20 of each year.

"Loan" means the loan facility to be made available in favor of the Borrower or the aggregate principal amount of the loan facility disbursed and from time to time outstanding, as the context may so require.

"Project Completion Date" means the earlier of (i) the date when the final disbursement under the Loan is made, and (ii) the date when the certification of completion, such as a final acceptance certificate (FAC) or a defect liability certificate, etc., is issued.

"Project Executing Agency" means The Department of Transportation which has been authorized to implement the Project.

"Repayment Date" means each of the Sixty (60) semi-annual consecutive dates of June 20 and December 20 from and including the date which shall be the 20th day of the month falling One Hundred and Twenty Six (126) months after the date of this Loan Agreement.

"Supplier(s)" means the supplier(s), contractor(s) or consultant(s) from whom goods or services to be financed out of the proceeds of the Loan are procured.

ARTICLE II The Loan

Section 2.01. Amount and Purpose of Loan

(a) The Bank agrees to lend to the Borrower, on the terms and conditions set forth in this Loan Agreement, an amount in Korean Won not exceeding the equivalent of One Hundred Seventy Two Million and Six Hundred and Forty One Thousand US Dollars (US\$172,641,000), to finance the implementation of the Project.

(b) The amount of the Loan shall be denominated in Korean Won and shall be fixed by the Bank in accordance with Section 3.01 of the General Terms and Conditions. The Bank shall then notify the Borrower and the Guarantor (*if any*) of the amount of the Loan.

Section 2.02. Use of Proceeds of Loan

(a) The Borrower shall cause the proceeds of the Loan to be used for the purchase of goods and services required for the implementation of the Project from the Eligible Source Countries. The proceeds of the Loan shall be allocated in accordance with the Allocation of the Loan Proceeds attached hereto as Schedule 2.

(b) The final disbursement under this Loan Agreement shall be made within Fifty Nine (59) months after the Effective Date of this Loan Agreement, and no further disbursement shall be made by the Bank thereafter unless otherwise agreed upon between the Bank and the Borrower.

ARTICLE III Repayment and Interest

Section 3.01. Repayment of Principal

(a) The Borrower shall repay the Bank the principal amount of the Loan disbursed in Korean Won in Sixty (60) semi-annual installments on each of the Repayment Dates.

(b) The Repayment Date and the Korean Won amount to be repaid on each of the Repayment Dates shall be specified in the Amortization Schedule in the form and substance of Schedule 3 attached hereto. The Amortization Schedule shall be made by the Bank when it fixes the amount of the Loan and the Bank shall notify the Borrower of the Amortization Schedule when it notifies the Borrower and the Guarantor (*if any*) of the amount of the Loan in accordance with paragraph (b) of Section 2.01 hereof.

Section 3.02. Payment of Interest

The Borrower shall pay the Bank interest on the principal amount of the Loan disbursed and outstanding at the rate of zero point fifteen percent (0.15%) per annum. Such interest shall be paid in arrears on each Interest Payment Date, provided that the first interest for any disbursement made within sixty (60) days prior to any Interest Payment Date may be paid on the next succeeding Interest Payment Date.

Section 3.03. Preferential Interest Rates

(a) No interest shall accrue on the Loan covering the consulting services provided by the eligible consultant(s) mentioned in paragraph 3 of Schedule 5.

(b) When the Borrower makes a procurement contract with Korean Small and Medium Enterprises (SMEs) or Medium-Large Companies, preferential interest rates shall apply to the Loan covering civil works and procurement of equipment and facilities as follows:

(i) In case one or more Korean SMEs (including a consortium or joint venture (JV) by Korean SMEs) enter into the contract, zero percent (0%) interest rate shall apply.

(ii) In case one or more Korean Medium-Large Companies (including a consortium or joint venture (JV) by Korean Medium-Large Companies) enter into the contract, fifty percent (50%) of the current interest rate shall apply.

(iii) In case the consortium or joint venture (JV) in which Korean SMEs occupy thirty percent (30%) or above of the share enter into a contract, fifty percent (50%) of the current interest rate shall apply.

Section 3.04. Place of Payment

All sums payable by the Borrower to the Bank under this Loan Agreement shall be paid to the account of the Bank (Account No. 068-13-10395-6) with Yeouido-Kwangjang Branch of the KEB Hana Bank at 101, Yeouigongwon-ro, Yeongdeungpo-gu, Seoul, Republic of Korea or to such other account as the Bank shall designate by written notice to the Borrower.

**ARTICLE IV
Procurement and Disbursement****Section 4.01. Procurement Procedure**

(a) All goods and services to be financed out of the proceeds of the Loan shall be procured through the Suppliers in accordance with the provisions of the Procurement Procedure attached hereto as Schedule 4 and the Employment of Consultants attached hereto as Schedule 5.

(b) All goods and services to be financed out of the proceeds of the Loan shall be procured from the Eligible Source Countries.

Section 4.02. Disbursement Procedure

The Loan shall be disbursed in Korean Won by the Bank in accordance with the provisions of the Disbursement Procedure attached hereto as Schedule 6.

Section 4.03. Service Charge

(a) The Borrower shall pay to the Bank the service charge in the amount equal to one-tenth of one percent (0.1%) of the amount of each disbursement in case of the Direct Payment Procedure and/or of the amount of the letter of commitment in case of the Commitment Procedure.

(b) An amount equal to such service charge shall be financed out of the proceeds of the Loan. The Bank shall pay such amount to itself as the service charge on the date of each disbursement and/or of the issuance of the letter of commitment. Such disbursement out of the Loan shall constitute a valid disbursement of the Loan under this Loan Agreement.

ARTICLE V
Particular Covenants

Section 5.01. Execution of the Project

(a) The Borrower shall implement, or cause the Project Executing Agency to implement, the Project with due diligence and efficiency.

(b) The Borrower shall employ, or cause the Project Executing Agency to employ, consultants for the implementation of the Project.

(c) Should the funds available from the proceeds of the Loan be insufficient for the implementation of the Project, the Borrower shall make arrangements promptly to provide such funds as shall be needed.

Section 5.02. Reports and Information

(a) The Borrower shall furnish, or cause the Project Executing Agency to furnish, the Bank with progress reports for the Project on a quarterly basis from the execution of the first procurement contract to the Project Completion Date in such form and in such detail as the Bank may reasonably request.

(b) Within six (6) months after the Project Completion Date or such later date as shall be agreed upon between the Borrower and the Bank, the Borrower shall furnish, or cause the Project Executing Agency to furnish, the Bank with a project completion report in such form and in such detail as the Bank may reasonably request.

(c) Until all the obligations of the Borrower under this Loan Agreement are fully performed, the Borrower shall furnish the Bank with such other information as the Bank may reasonably request concerning the Project or the Loan.

(d) Regarding the Section 1.08 Fraud and Corruption of the Guidelines for Procurement under the EDCF Loan and the Section 1.09 Fraud and Corruption of the Guidelines for the Employment of Consultants under the EDCF Loan, if the Bank receives information related to suspected corrupt or fraudulent practices in the competition for, or in the execution of, contracts to be financed out of the proceeds of the Loan, the Borrower shall provide, or under the Borrower's responsibility the Borrower shall make the Project Executing Agency provide, the Bank with such information as the Bank may reasonably request, including information related to any concerned official of the government and/or public organizations of the Borrower's country.

For the avoidance of doubt, in the event that there, at the Bank's discretion, seems to have been corrupt or fraudulent practices in the competition for, or in the execution of, contracts to be financed out of the proceeds of the Loan, immediately, the Borrower shall ask for, or under the Borrower's responsibility the Borrower shall make the Project Executing Agency ask for an investigation by independent inspection agencies.

(e) Regarding the Section 5.02 (d) of this Loan Agreement, the Borrower shall not, and shall cause the Project Executing Agency not to, unfairly or unfavorably treat the person and/or company which provided the information related to suspected corrupt or fraudulent practices in the competition for, or in the execution of, contracts to be financed out of the proceeds of the Loan to the Bank and/or the Borrower/Project Executing Agency.

Section 5.03. Social and Environmental Requirements

(a) The Environmental Compliance Certificates (ECC) shall be secured before concurrence of the Civil Work Contract. Also, the Project Executing Agency is required to provide the Environmental and Social Impact Assessment (ESIA) incorporating Environmental and Social Management Plan (ESMP) and Resettlement Plan (RP) with the Bank.

(b) The draft of ESIA, ESMP and RP report shall be submitted to the Bank before advertising of bidding for Civil Work. Also, Project Executing Agency shall secure ECC issuance from Department of Environment and Natural Resources (DENR) before signing of the Civil Work contract. In case it is unattainable, prior consultation with the Bank is required to seek alternative time plan.

(c) The Project Executing Agency should provide detailed information about the status of land acquisition and resettlement to the Bank on a quarterly basis until the compensation is completed. Also, the Project Executing Agency would revise and submit to the Bank the Land Acquisition and Resettlement Plan (LARAP) or the Detailed Resettlement Plan provided that there are significant adverse impacts on the implementation of the Project. If any delay in conducting land compensation and resettlement happens during the preparation or implementation stages, the Project Executing Agency will promptly notify the Bank of the case and measure to solve the delay.

(d) If the Bank finds that the Project Executing Agency fails to carry out adequate environmental management, a request will be issued to the Borrower and/or to the Project Executing Agency to undertake measures to remedy the situation and in certain instances may suspend the loan disbursement.

ARTICLE VI Miscellaneous

Section 6.01. Delegation of Authority

(a) The Borrower hereby designates the Project Executing Agency as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 4.01, 4.02 and 5.02 of this Loan Agreement.

(b) Any action taken or any agreement entered into by the Project Executing Agency pursuant to the authority conferred under paragraph (a) of this Section shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 6.02. Addresses

The following addresses are specified for the purposes of Section 12.05 of the General Terms and Conditions:

For the Bank

Postal address: THE EXPORT-IMPORT BANK OF KOREA
38 Eunhaeng-ro, Yeongdeungpo-gu,
Seoul 150-996, Republic of Korea
Attention: Director of Asia Team 2, EDCF Operations Department 1
Telephone No.: (82-2)3779-6598
Fax No.: (82-2)3779-6756
Telex No.: K26595 EXIMBK
SWIFT BIC: EXIKKRSEXXX

For the Borrower

Postal Address: THE DEPARTMENT OF FINANCE
DOF Building, BangkoSentral ng Pilipinas Complex

Roxas Boulevard corner Pablo Ocampo Street
Manila 1004, Republic of the Philippines

Attention: Secretary of Finance

(with copy to the Undersecretary for International Finance Group)

Telephone No.: (632) 523-9215, (632) 525-4194

Fax No.: (632) 521-9495, (632) 523-9216

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Loan Agreement to be signed in their respective names, as of the day and year first above written.

For and on behalf of
**The Government of the Republic
of the Philippines**

By 
Name: **CARLOS G. DOMINGUEZ**
Title: Secretary of Finance



For and on behalf of
**The Export-Import Bank of Korea
(Government Agency for the EDCF)**

By 
Name: **Eun Sung-Soo**
Title: Chairman and President

Schedule 1

Description of the Project

1. Outline of the Project

(a) Objectives:

(i) to increase the operational capacity of the main cargo gateway in the Central Visayas region by sharing the international container volume of the existing Cebu Baseport with the new port with increased cargo handling and container stacking capacities;

(ii) to alleviate the road congestion in the Cebu Baseport area, which was incurred by traffic of cargo transportation; and

(iii) to provide a more efficient and reliable transport infrastructure for the unimpeded flow of goods and services in preparation of the increasing cargo demand supporting the growth of commerce and industry in the Visayas region.

(b) Location: Consolacion, Cebu (Visayas)

(c) Project Executing Agency: the Department of Transportation (the "DOTr")

Attention: Secretary of the Department of Transportation

Address: DOTr Clark Office, Apo Court, Sergio Osmeña Street,
Clark Freeport Zone, Pampanga

Tel. No.: 632)790-8400 or (632)790-8300 loc. 209

Fax No.: (632)726-4925

2. Scope of the Project

(a) Civil works (Design-build): Detailed Design, Berthing Facility(2,000TEU X 2 berths), Revetment for Reclamation(quay walls length: 500m), Dredging and Reclamation(Water depth at quay front: (-) 12m, 25 hectares (500mx500m) reclaimed island), Paving the Access Road linking the neighboring road to the shoreline), Architectural facilities, A bridge between the shore and the offshore port), Electronic communication facilities.

(b) Procurement of equipment and facilities: Cargo Handling Equipment (4 quay cranes)

(c) Consulting services: Bidding assistance (topographic and bathymetric surveys, soil investigation, ocean numerical modeling test), Design review, Construction Supervision, Preparation of Project Monitoring Report, and Project Completion Report, etc.

3. Estimated annual fund requirements

(in Thousands of US Dollars)

Year	EDCF	GPH
Year 1	779	2,745
Year 2	19,912	2,796
Year 3	61,797	8,575
Year 4	75,918	10,626
Year 5	14,235	1,867
Total	172,641	26,609

* Includes Taxes and Duties, Land Acquisition and Compensation, Contingency, Project Management Cost, Service Charges.

4. The Project is expected to be completed by Forty Seven (47) months from the effective date of the Loan Agreement.

Schedule 2

Allocation of Loan Proceeds

1. Allocation

The table below sets forth the categories of goods, services and other items to be financed out of the proceeds of the Loan and the allocation of Loan amounts to each category:

(in Thousands of US Dollars)

Category	Estimated Amount		
	Foreign Currency	Local Currency	Total
(A) Base Cost			
Civil Works	38,680	79,339	118,019
Consulting Services	3,659	1,781	5,440
Procurement	31,632	-	31,632
(B) Service Charge	172	-	172
(C) Contingencies	5,741	11,637	17,378
Total	79,884	92,757	172,641

※ Note : Items not eligible for financing under the local currency portion are as shown below:

- (1) General administration expense
- (2) Taxes and duties
- (3) Purchase of land and other real property
- (4) Compensation
- (5) Other indirect items

2. Reallocation

(a) If the estimated costs of items included in any of the categories shall decrease, the amount then allocated to and no longer required for such Category, will be reallocated by the Bank to Category (C).

(b) If the estimated costs of items included in Category (A) shall increase, the amount equal to the portion, if any, of such increase to be financed out of the proceeds of the Loan will be reallocated by the Bank, at the request of the Borrower, from Category (C) to Category (A) without currency restrictions. Provided, however, that the amount in the same currency shall be reallocated first.

35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

※ Note : Each installment will be filled in when the amount of the Loan is fixed in accordance with Section 3.01 of the General Terms and Conditions, and will be finalized after the final disbursement in accordance with paragraph (b) of Section 3.02 and 7.05 of the General Terms and Conditions.

Schedule 4

Procurement Procedure

1. Except as the Bank may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply to the procurement of goods and services to be financed out of the proceeds of the Loan. The term "services" in this Schedule does not include consulting services.
2. Procurement of goods and services shall be subject to the provisions of the Bank's "Guidelines for Procurement under the EDCF Loan" (hereinafter called the "**Procurement Guidelines**"), as amended from time to time, which have been furnished to the Borrower.
3. The Supplier(s) shall be nationals of the Republic of Korea or juridical person incorporated and registered therein.
4. The Borrower shall procure goods and services to be financed out of the proceeds of the Loan specified in Schedule 2 above through Competitive Bidding among Korean Supplier(s).
5. Procurement method shall be subject to the Bank's prior review.
6. The Borrower shall, through the Project Executing Agencies, adopt a single-stage, two-envelope system as a method of bidding for the implementation of the above bidding.
7. For contracts to be awarded on the basis of Competitive Bidding, procurement actions shall be subject to review of the Bank in accordance with the procedures set forth in Annex 1 of the Procurement Guidelines.
8. All taxes, duties, and levies imposed on goods and services in the Philippines provided by the Suppliers under the Loan Agreement for the implementation of the Project shall be assumed by the Borrower, through the Project Executing Agency.

Schedule 5

Employment of Consultants

1. The services of consultants shall be utilized in the carrying out of the Project, particularly with regard to preparation of detailed planning for the project and bidding documents, assistance in bid evaluation and negotiation contract, supervision, etc. described in 2. Scope of the project in Schedule 1.
2. The selection and employment of the consultants shall be subject to the provisions of this Schedule and the Bank's "Guidelines for the Employment of Consultants under the EDCF Loan" (hereinafter called the "**Consultant Guidelines**"), as amended from time to time, which have been furnished to the Borrower.
3. The Consultant(s) shall be nationals of the Republic of Korea or juridical person incorporated and registered therein.
4. The Borrower shall, through the Project Executing Agency, employ the Consultant through Limited Competitive Bidding among Korean firms in accordance with the Consultant Guidelines.
5. The terms of reference, evaluation of proposals, and execution of contract shall be subject to review of the Bank in accordance with the procedures set forth in Annex 1 of the Consultant Guidelines.
6. The method of selection procedure shall be submitted to the Bank for its review.
7. All taxes, duties, and levies imposed on consulting services in the Philippines provided by the Consultants for the implementation of the Project shall be assumed by the Borrower, through the Project Executing Agency.

Schedule 6

Disbursement Procedures

1. Disbursement Procedures

(a) Disbursements of the Loan shall be made through Commitment Procedure and/or Direct Payment Procedure.

(b) The Bank's "Disbursement Procedures under the EDCF Loan" (hereinafter called the "**Disbursement Procedures**"), which have been furnished to the Borrower, as amended from time to time, shall be applied to disbursement of the Loan.

2. Designation of Banks

With regard to relevant Sections of the Disbursement Procedures, the designated banks are as follows:

(a) The Paying Bank referred to in Section 2.01 shall be the KEB Hana Bank, a statutory juridical entity organized and existing under the laws of the Republic of Korea with its registered head office at 181, 2-ga, Ulchiro, Chung-gu, Seoul 100-793, Republic of Korea.

(b) The Issuing Bank referred to in Section 2.02 shall be the Land Bank of the Philippines with its registered head office at 1598 M.H. Del Pilar cor. Dr J. QuintosSts, Malate, Manila, Philippines.