

NO. PBC20220200569

**PREFERENTIAL BUYER'S CREDIT
LOAN AGREEMENT**

On

**THREE PRIORITY BRIDGES CROSSING PASIG-
MARIKINA RIVER AND MANGGAHAN FLOODWAY
BRIDGES CONSTRUCTION PROJECT¹
(CONTRACT PACKAGE 1)**

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES, ACTING BY AND THROUGH,
THE DEPARTMENT OF FINANCE
as Borrower**

AND

**THE EXPORT-IMPORT BANK OF CHINA
as Lender**

DATED January 4, 2023

¹ Also known as "Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway under Chinese Government Financing" as approved by the National Economic and Development Authority (NEDA) Board



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THIS PREFERENTIAL BUYER'S CREDIT LOAN AGREEMENT on Three Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway Bridges Construction Project - Contract Package 1 (hereinafter referred to as this "Agreement") is made on the 4th day of January 2023 between:

- (1) **THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES**, acting by and through the Department of Finance (hereinafter referred to as the "Borrower" or "DOF"), having its registered office at the DOF Building, Roxas Boulevard, Malate, Manila 1004, Philippines; and
- (2) **THE EXPORT-IMPORT BANK OF CHINA** (hereinafter referred to as the "Lender"), having its registered office at No. 30, Fuxingmennei Street, Xicheng District, Beijing 100031, China.

The Borrower and the Lender hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**", to finance the Three Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway Bridges Construction Project² Contract Package 1 (hereinafter referred to as the "**Project**")

WHEREAS:

(A) On October 20, 2016, the Borrower and the Lender have signed a Memorandum of Understanding (hereinafter referred to as the "**MOU**") on Financing Cooperation to facilitate the promotion of financing cooperation between the Parties and utilization of the financing facilities being extended by the Lender to the Borrower for the purpose of financing projects mutually identified and agreed between the Government of the Republic of the Philippines (hereinafter referred to as the "**GPH**")

² * Also known as "Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway under Chinese Government Financing" as approved by the NEDA Board



and the Government of the People's Republic of China (hereinafter referred to as the "GPRC") (hereinafter collectively referred to as the "**Governments**");

(B) On March 3, 2017, the GPH, through the Department of Foreign Affairs (hereinafter referred to as the "**DFA**"), sent a Note Verbale No. 17-1049 to the GPRC, through the Ministry of Commerce, related to the procedures and arrangements of the utilization of concessionary loans committed by the GPRC to support priority projects of the Borrower, which was confirmed by GPRC on March 8, 2017 (hereinafter referred to as the "**Note Verbale**");

(C) On June 29, 2017, on behalf of both Governments, the DOF and the Embassy of the People's Republic of China in the Republic of the Philippines executed the Clarificatory Letter on the Procedures and Arrangements for the Implementation of the Note Verbale to further implement and clarify the said Note Verbale (hereinafter referred to as the "**Clarificatory Procedures and Arrangements**");

(D) On August 23, 2019, the DFA issued Note 19-3119 confirming the procedures and arrangements for the availment and utilization of concessionary loans under a Renminbi-denominated loan facility committed by the GPRC. In turn, on August 29, 2019 the Embassy of the People's Republic of China in the Republic of the Philippines issued Note Verbale No. (2019)PG-418 confirming No 19-3119 and thus constituting an agreement between the GPH and GPRC;

(E) On April 25, 2018, and August 19, 2021, the National Economic and Development Authority (NEDA) Board confirmed the Investment Coordination Committee's approval of the Project, with the approved project title, Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway under Chinese Government Financing and the changes to the Project, respectively;

(F) Pursuant to the MOUs and the abovementioned Notes Verbales and Clarificatory Procedures and Arrangements, the Department of Public Works and Highways of the Republic of the Philippines (hereinafter referred to as the “**End-User**”) commenced the procurement process and undertook Limited Competitive Bidding among Chinese Contractors provided by GPRC. China Road and Bridge Corporation has been selected as the Contractor (hereinafter referred to as the “**Chinese Contractor**”) for the Project following the Borrower’s relevant procurement laws, rules and regulations;

(G) The End-User and the Chinese Contractor have entered into the Contract Agreement with Contract No. 19Z00041 for the Design and Build of the Project (hereinafter referred to as the “**Commercial Contract**”) on August 6, 2020 for the purpose of the implementation of the Project;

(H) The Borrower, on September 26, 2022, following the original application on September 1, 2020, has requested the Lender to make available a mixed loan facility of Preferential Buyer’s Credit and Government Concessional Loan in a maximum aggregate amount equivalent to PHP Five Billion Seven Hundred Forty Million One Hundred Ninety Five Thousand Five Hundred Ninety One and Ninety-Eight Cents (PHP 5,740,195,591.98) with applicable exchange rate of USD 1=PHP 49.0540 and CNY 1=PHP 7.0734 to the Borrower for the financing needs under the Commercial Contract.

NOW THEREFORE, the Borrower and the Lender hereby agree as follows:

ARTICLE 1 DEFINITIONS

Unless the context otherwise requires, under this Agreement and its Appendices, the following terms shall have the following meanings:



1.1 “**Account Bank**” means the Export-Import Bank of China.

1.2 “**Agreement**” means this Preferential Buyer’s Credit Loan Agreement and its appendices and any amendment to such agreement and its appendices from time to time mutually agreed upon in writing by the Parties.

1.3 “**Availability Period**” means the period commencing on the Effective Date and ending on the earlier of (a) the date falling five (5) years thereafter, or (b) the date on which the Facility is cancelled or terminated hereunder, unless mutually agreed upon in writing by the Parties, during which time all the disbursements shall be made in accordance with the stipulations of this Agreement.

1.4 “**Billing Amount**” means the payment amount specified under the bill issued by the Chinese Contractor to be payable by the End-User under the Commercial Contract (for the avoidance of doubt, including taxes and fees due and payable related to the full amount of the said payment).

1.5 “**Borrower’s Country**” means the Republic of the Philippines.

1.6 “**Business Day**” means a day on which banks are open for ordinary banking business in Beijing, China, Metro Manila, Philippines and New York, USA.

1.7 “**China**” means the People’s Republic of China.

1.8 “**Commitment Fee**” means the fees calculated and paid in accordance with Article 2.6.

1.9 “**Commercial Contract**” means the Contract Agreement for the Priority



Bridges Crossing Pasig-Marikina River and Manggahan Floodway Bridges Construction Project under China Government Financing Facility Contract Package 1 - North and South Harbor Bridge (Design and Build) with the contract number of 19Z00041 for the purpose of the implementation of the Project entered into by and between the End-User and the Chinese Contractor on August 6, 2020 with the total amount of Six Billion Seven Hundred Fifty-Three Million One Hundred Seventy-One Thousand Two Hundred Eighty-Four Pesos and Sixty-Eight Cents Only (PHP 6,753,171,284.68, the **“Commercial Contract Amount”**).

1.10 **“Commercial Contract (CP 2)”** means the Contract Agreement for the Priority Bridges Crossing Pasig-Marikina River and Manggahan Floodway Bridges Construction Project under China Government Financing Facility Contract Package 2 - Palanca-Villegas Bridge and Eastbank-Westbank Bridge 2 (Design and Build) with the contract number of 20Z00006 for the purpose of the implementation of the Project entered into by and between the End-User and China State Construction Engineering Corporation Limited on December 3, 2020 with the total amount of Four Billion Seven Hundred Eighty-Nine Million Seven Hundred Twenty-Six Thousand Five Hundred Twenty-Six Pesos and Thirty-Five Cents Only (PHP 4,789,726,526.35).

1.11 **“Disbursement”** means the advance of the Facility made in accordance with Article 3 of this Agreement.

1.12 **“Disbursement Amount”** means the amount specified under the irrevocable notice of drawdown substantially set out in the form of Appendix 4 (*Form of Irrevocable Notice of Drawdown*) hereto, which shall satisfy the requirements under Article 3.8 of this Agreement.

1.13 **“End-User”** means the Department of Public Works and Highways of the Republic of the Philippines, which is the implementing agency of the Project and



ultimately utilizes the Facility.

1.14 “**Effective Date**” means the date upon which this Agreement becomes effective pursuant to Article 9 of this Agreement.

1.15 “**Event of Default**” means any event or circumstance specified as such in Article 7.

1.16 “**External Indebtedness**” means any indebtedness for money borrowed (including guarantees for money borrowed) which is (i) denominated or payable in a currency other than the lawful currency of the Republic of the Philippines and (ii) owed by the Borrower to a person other than a person that is organized under the laws of, or is a resident of the Republic of the Philippines.

1.17 “**Facility**” has the meaning set forth in Article 2.1.

1.18 “**Final Repayment Date**” means the date on which the Maturity Period expires.

1.19 “**First Repayment Date**” means the first Repayment Date of Principal and Interest after the end of the Grace Period.

1.20 “**Grace Period**” means the period from the Effective Date to the date following Seven (7) years thereafter, during which period only the interest and no principal is payable by the Borrower to the Lender. For the avoidance of doubt, the Grace Period includes the Availability Period.

1.21 “**Interest Payment Date**” means the 21st day of January and the 21st day of July in each calendar year commencing from the Effective Date up to the Final Repayment Date.



1.22 “**Interest Period**” means, in relation to any Disbursement under the Facility, (i) the first Interest Period shall be the period commencing on the date of Disbursement (inclusive) and ending on its first Interest Payment Date (exclusive); (ii) the Interest Period other than the first one and the last one shall be the period of six (6) months commencing on the Interest Payment Date (inclusive) and ending on the preceding date to the immediate following Interest Payment Date; and (iii) the final Interest Period shall be the period commencing on the penultimate Interest Payment Date (inclusive) and ending on the Final Repayment Date (exclusive).

1.23 “**Irrevocable Notice of Drawdown**” means the notice issued in the form set out in Appendix 4 attached hereto.

1.24 “**Loan**” means the aggregate principal amount disbursed and from time to time outstanding under the Facility.

1.25 “**Loan Agreement (CP 1-GCL Loan)**” means the Government Concessional Loan Agreement for RMB facility and its appendices and any amendment to such agreement and its appendices from time to time mutually agreed upon in writing by the Parties signed on or about this Agreement in relation to the project under the Commercial Contract.

1.26 “**Loan Agreements (CP 2)**” means the Government Concessional Loan Agreement and Preferential Buyer’s Credit Loan Agreement and their appendices and any amendment to such agreements and their appendices from time to time mutually agreed upon in writing by the Parties signed on or about this Agreement in relation to the project under the Commercial Contract (CP 2).

1.27 “**Management Fee**” means the fee calculated and paid in accordance with



Article 2.5.

1.28 “**Maturity Period**” means the period from the Effective Date to the date falling Twenty (20) years thereafter, including the Grace Period and the Repayment Period.

1.29 “**Notice of Effectiveness of Loan Agreement**” means a written notice in the form set forth in Appendix 8 attached hereto, in which the Effective Date of this Agreement shall be specified in accordance with Article 9 of this Agreement.

1.30 “**Pesos**” or “**PHP**” means the lawful currency for the time being of the Republic of the Philippines.

1.31 “**Relevant Loan Agreements**” means the Loan Agreement (CP 1-GCL Loan) and the Loan Agreements (CP 2).

1.32 “**Renminbi**” or “**RMB**” or “**CNY**” means the lawful currency for the time being of the People’s Republic of China.

1.33 “**Repayment Date of Principal and Interest**” means each Interest Payment Date during the Repayment Period up to the Final Repayment Date.

1.34 “**Repayment Period**” means the period commencing on the immediate following day to the last day of the Grace Period and ending on the Final Repayment Date.

1.35 “**Repayment Schedule**” means the schedule showing the dates and amounts of repayments of the Loan set forth in Appendix 9 attached hereto.

1.36 “**US Dollar**” or “**USD**” or “**US\$**” means the lawful currency of the United States

