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LOAN NUMBER 3961-PHI

LOAN AGREEMENT  
(Ordinary Operations)

(Health System Enhancement to Address and Limit COVID-19)

between

REPUBLIC OF THE PHILIPPINES

and

ASIAN DEVELOPMENT BANK

DATED \_\_\_\_\_

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PHI 54171

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated \_\_\_\_\_ between REPUBLIC OF THE PHILIPPINES ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

(B) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of ADB's Ordinary Operations Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

- (a) "COCP" means the Code of Construction Practice developed for the Project;
- (b) "Consulting Services" means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (c) "DOH" means the Department of Health of the Borrower or any successor thereto;
- (d) "GAP" means the gender action plan for the Project, including any update thereto, containing gender measures to be undertaken during Project implementation, and agreed to between the Borrower, through the Project Executing Agency, and ADB;
- (e) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any



related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;

- (f) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (g) "Nonconsulting Services" means nonconsulting services as described in the Procurement Regulations;
- (h) "PAM" means the project administration manual for the Project dated 22 July 2020 and agreed between the Borrower, through the Project Executing Agency, and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (i) "Participating hospitals" means hospitals and laboratories within the territory of the Borrower where certain activities under the Project are carried out;
- (j) "Procurement Plan" means the procurement plan for the Project dated 22 July 2020 and agreed between the Borrower, through the Project Executing Agency, and ADB, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;
- (k) "Procurement Policy" means ADB's Procurement Policy – Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (l) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (m) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DOH or any successor thereto, which is responsible for the carrying out of the Project; and
- (n) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services, and project related services that are provided as part of a single responsibility or turnkey contract.

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred twenty-five million Dollars



(\$125,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20.5 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 February and 15 August in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) of the



Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

### **ARTICLE III**

#### **Use of Proceeds of the Loan**

Section 3.01. The Borrower, through the Project Executing Agency, shall cause the proceeds of the Loan to be applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower, through the Project Executing Agency, shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2023 or such other date as may from time to time be agreed between the Borrower and ADB.

### **ARTICLE IV**

#### **Particular Covenants**

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

Section 4.02. (a) The Borrower, through the Project Executing Agency, shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds, and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.



(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Borrower, through the Project Executing Agency, shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Borrower, unless the Borrower shall otherwise agree.

Section 4.03. The Borrower, through the Project Executing Agency, shall enable ADB's representatives to inspect the Project, the Goods, Works and Consulting Services, and any relevant records and documents.

## ARTICLE V

### Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

## ARTICLE VI

### Miscellaneous

Section 6.01. The Secretary of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

#### For the Borrower

Department of Finance  
DOF Building  
Roxas Boulevard  
Manila, Philippines

Facsimile Numbers:

(632) 8523-9216



(632) 8521-9495.

For ADB

Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines


Facsimile Numbers:

(632) 8636-2444  
(632) 8636-2015.

A handwritten signature in black ink, consisting of a stylized 'J' followed by a flourish.

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

REPUBLIC OF THE PHILIPPINES

By   
CARLOS G. DOMINGUEZ  
Secretary  
Department of Finance  
SEP 08 2020



ASIAN DEVELOPMENT BANK

By   
KELLY BIRD  
Country Director  
Philippines Country Office

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is to improve the Borrower's capacity to detect, contain and treat COVID-19 cases.

2. The Project shall comprise the following outputs:

**Output 1: Disease surveillance and diagnostic capacity upgraded.**

- (a) Maximizing the efficiency of the selected government molecular laboratories by ensuring an adequate supply of testing kits, chemicals and reagents, personal protective equipment, and consumables needed for COVID-19 testing and providing patient transport vehicles to efficiently deliver specimens to molecular and similar laboratories;
- (b) Supporting the construction or retrofitting of biosafety level 2 laboratories in 2 selected molecular laboratories, and upgrading the equipment of (i) biosafety level 3 laboratory of the Borrower's Research Institute for Tropical Medicine, (ii) the Borrower's National Reference Laboratory Complex Phase 1, and (iii) 6 other level 2 laboratories;
- (c) installing computed tomography scan machines in the selected hospitals to help improve the clinical diagnosis of COVID-19 cases; and
- (d) ensuring through the government that 8,000 or more COVID-19 tests are conducted per day, data disaggregated by sex, age, and pre-existing medical conditions.

**Output 2: infection prevention and control measures expanded.**

- (a) Providing personal protective equipment and hygiene products suitable to the needs of health care workers;
- (b) renovating and/or newly constructing negative pressure isolation wards with equipment to remotely monitor heart rate, blood pressure, respiratory rate, temperature, oxygen saturation level, and other vital signs; and
- (c) strengthening the infection prevention capacity and increasing the knowledge of healthcare workers in obstetrics, pediatric, and emergency departments of the Participating hospitals on controlling vector transmission for continuous maternal and child health service delivery during public health outbreaks.

**Output 3: Treatment capacity of COVID-19 scaled up.**

- (a) Providing ventilators and training respiratory technicians and staff to operate the ventilators;

Schedule 1

- (b) providing associated critical care equipment, including electrocardiography machines, defibrillators, critical care monitoring system, and hazardous waste management autoclaves; and
- (c) providing support to develop and implement an anti-discrimination policy on verbal, emotional, physical, and sexual abuse of frontline healthcare workers and laboratory technicians.

3. The Project is expected to be completed by 30 June 2023.

## SCHEDULE 2

### Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 August 2029	2.439024
15 February 2030	2.439024
15 August 2030	2.439024
15 February 2031	2.439024
15 August 2031	2.439024
15 February 2032	2.439024
15 August 2032	2.439024
15 February 2033	2.439024
15 August 2033	2.439024
15 February 2034	2.439024
15 August 2034	2.439024
15 February 2035	2.439024
15 August 2035	2.439024
15 February 2036	2.439024
15 August 2036	2.439024
15 February 2037	2.439024
15 August 2037	2.439024
15 February 2038	2.439024
15 August 2038	2.439024
15 February 2039	2.439024
15 August 2039	2.439024
15 February 2040	2.439024
15 August 2040	2.439024
15 February 2041	2.439024
15 August 2041	2.439024
15 February 2042	2.439024
15 August 2042	2.439024
15 February 2043	2.439024
15 August 2043	2.439024
15 February 2044	2.439024
15 August 2044	2.439024

Schedule 2

15 February 2045	2.439024
15 August 2045	2.439024
15 February 2046	2.439024
15 August 2046	2.439024
15 February 2047	2.439024
15 August 2047	2.439024
15 February 2048	2.439024
15 August 2048	2.439024
15 February 2049	2.439024
15 August 2049	2.439040
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

- (a) to the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule; and
- (b) any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either (a) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (b) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

Schedule 2

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

### **SCHEDULE 3**

#### **Allocation and Withdrawal of Loan Proceeds**

##### General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

##### Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

##### Disbursement Procedures

3. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Loan Account
		Category	
1	Project Cost	125,000,000	100% of total expenditures claimed
	<b>TOTAL</b>	<b>125,000,000</b>	

## **SCHEDULE 4**

### **Execution of Project**

#### Implementation Arrangements

1. The Borrower, through the Project Executing Agency, shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower, through the Project Executing Agency, and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

#### Procurement

2. The Borrower, through the Project Executing Agency, shall ensure that:
- (a) the procurement of Goods, Works and Consulting Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;
  - (b) Goods, Works and Consulting Services shall be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Borrower, through the Project Executing Agency, may modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan;
  - (c) Goods, Works, and Consulting Services may also be procured under the Project from non-member countries of ADB; and
  - (d) (i) all Goods and Works procured and Consulting Services obtained (including all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party; and (ii) all contracts for the procurement of Goods, Works and Consulting Services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.
3. The Borrower, through the Project Executing Agency, may appoint a procurement agent to carry out procurement of Goods and Works in accordance with the terms and conditions set forth in the Procurement Plan. The Borrower, through the Project Executing Agency, shall ensure that such procurement agent follows all of the requirements of this Loan Agreement and the Procurement Plan.

Safeguards

4. The Borrower, through the Project Executing Agency, shall ensure that the Project does not have any environmental, involuntary resettlement or indigenous peoples impacts, all within the meaning of ADB's Safeguard Policy Statement (2009). In the event that the Project does have any such impact, the Borrower, through the Project Executing Agency, shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with ADB's Safeguard Policy Statement.

Labor Standards, Health and Safety

5. The Borrower, through the Project Executing Agency, shall ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower, through the Project Executing Agency, shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

6. The Borrower, through the Project Executing Agency, shall strictly monitor compliance with the requirements set forth in paragraph 5 above and provide ADB with regular reports.

Works Contract

7. For the Works to be carried out under the Project, the Borrower, through the Project Executing Agency, shall ensure that (a) the Works are carried out in accordance with the Borrower's applicable laws and regulations and COCP developed for the Project; and (b) requirements under COCP are appropriately incorporated into the relevant bidding documents.

Gender and Development

8. The Borrower, through the Project Executing Agency, shall ensure that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Counterpart Support

9. The Borrower, through the Project Executing Agency, shall ensure that the counterpart funding required for successful Project implementation is allocated and provided on a timely basis. In addition to the foregoing, the Borrower shall ensure that the Project Executing Agency

has sufficient funds to satisfy its liabilities arising from any Works, Goods and/or Consulting Services contract.

Governance and Anticorruption

10. The Borrower and the Project Executing Agency shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

11. The Borrower, through the Project Executing Agency, shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Memorandum of Agreement with the Participating Hospitals under the Local Government Units

12. The Borrower, through the Project Executing Agency, shall have a memorandum of agreement with each of the Participating hospitals under a local government unit. Such agreement shall include, among others, (a) necessary arrangements for the operation and maintenance of the concerned Project facilities and equipment provided under the Project, and (b) compliance with ADB's Safeguard Policy Statement and Anticorruption Policy.