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LOAN AGREEMENT  
(Special Operations)

LOAN AGREEMENT dated 18 December 1989 between the REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called the Bank).

WHEREAS

(A) The Borrower has applied to the Bank for a loan for the purposes of the Project described in Schedule I to this Loan Agreement;

(B) The Borrower has also applied to the Bank for technical assistance in connection with agro-forestry research and development and by a Technical Assistance Agreement the Bank has agreed to provide a grant up to the equivalent of six hundred thousand dollars (\$600,000); and

(C) The Bank, on the basis, inter alia, of the foregoing, has agreed to make a loan to the Borrower from the Bank's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Special Operations Loan Regulations of the Bank, dated 7 December 1982, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modification (the said Special Operations Loan Regulations as so modified being hereinafter called the Loan Regulations): Section 4.05 is deleted.

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

- (a) "barangay" means the smallest territorial political subdivision of the Borrower;

- (b) "CEIRO" means the Community Environment and Natural Resources Office under DENR in each Province;
- (c) "CO" means a community organizer;
- (d) "Contract(s)" means the contract(s) of service between the concerned PPMO on behalf of DENR on the one hand and each NGO on the other, being more particularly referred to in Section 3.01 of this Loan Agreement and paragraphs 2 and 9 of Schedule 6 to this Loan Agreement;
- (e) "CISA" means a Community Forest Stewardship Agreement;
- (f) "CSC" means a Certificate of Stewardship Contract;
- (g) "CWLA" means a Community Woodlot Lease Agreement;
- (h) "DA" means the Department of Agriculture of the Borrower, or any successor thereto;
- (i) "DBM" means the Department of Budget and Management of the Borrower, or any successor thereto;
- (j) "DENR" means the Department of Environment and Natural Resources of the Borrower, or any successor thereto;
- (k) "Imprest Account" means the imprest account opened by the Borrower in accordance with Section 3.03 of this Loan Agreement and paragraphs 17 and 18 of Schedule 6 to this Loan Agreement;
- (l) "NGO" or "NGOs" means non-governmental organization(s) (including foundations and other business-, religious- and academe-supported social-welfare organizations) selected and accredited in accordance with the provisions of paragraphs 9, 10 and 11 of Schedule 6 to this Loan Agreement;
- (m) "PEIRO" means the Provincial Environment and Natural Resources Office under DENR in each Province;
- (n) "PEO" means the Provincial Engineer's Office under the Provincial Government in each Province;

- (o) "pesos" or the sign "P" means pesos in the currency of the Borrower;
- (p) "Project areas" means the Malaylay, Bucayao, Pola, Bongabong and Bulalacao watersheds in Oriental Mindoro, and the Caguray, Mamburao and Abra de Ilog watersheds in Occidental Mindoro, these eight watersheds together comprising a total area of approximately 225,000 hectares;
- (q) "Project Executing Agencies" for the purposes of, and within the meaning of, the Loan Regulations means the agencies referred to in paragraph 1 of Schedule 6 to this Loan Agreement;
- (r) "Project facilities" means the facilities to be constructed and the equipment to be provided under the Project;
- (s) "Province" or "Provinces" means the Province(s) of Occidental Mindoro and/or Oriental Mindoro, territorial and political subdivisions referred to in Article X of Section 1 of the Borrower's 1987 Constitution; and
- (t) "Provincial Government(s)" means the government(s) of the concerned Province(s);

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower from the Bank's Special Funds resources an amount in various currencies equivalent to twenty five million forty three thousand Special Drawing Rights (SDR 25,043,000)

Section 2.02. The Borrower shall pay to the Bank a service charge at the rate of one per cent (1%) per annum on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

Section 2.03. The service charge and any other charge on the Loan shall be payable semiannually on 1 April and 1 October in each year.

Section 2.04. (a) Subject to the provisions of paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

(b) If the Bank shall determine, after due consideration by its Board of Directors, that (i) the Borrower's gross national product per capita (per capita GNP) has exceeded \$690 in constant 1985 dollars for five consecutive years and (ii) the Borrower has achieved the capacity to borrow from the Bank's ordinary capital resources, the Bank may, by notice to the Borrower, modify the terms of repayment of the Loan by increasing by 100 per cent the amount of each maturity due thereafter until the principal amount of the Loan shall have been fully repaid. However, at the request of the Borrower, the Bank may, in lieu of so increasing any such maturity amounts, charge interest, at an annual rate to be agreed between the Borrower and the Bank, on the principal amount of the Loan withdrawn and outstanding from time to time in such a manner and to such extent as to yield the same grant element as would be obtained under the above-stated increase of maturity amounts.

(c) If, at any time after a modification of the lending terms pursuant to the provisions of paragraph (b) above, the Bank shall, after due consideration by its Board of Directors, determine that the Borrower's economic condition has deteriorated significantly, the Bank may, at the request of the Borrower, restore the original lending terms with respect to the remaining amount of the Loan withdrawn and outstanding.

### ARTICLE III

#### Use of Proceeds of the Loan

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

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such goods and services and other items of expenditure shall be 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 the Bank.



(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all the obligations set forth in Schedule 6 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project and for the operation and maintenance of the Project facilities.

Section 4.03. (a) In the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors, acceptable to the Borrower and the Bank, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and the Bank.

(b) The Borrower shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to the Borrower and the Bank. The Borrower shall furnish, or cause to be furnished, to the Bank, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as the Bank shall reasonably request.

Section 4.04. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.05. (a) The Borrower shall make arrangements satisfactory to the Bank for insurance of the Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure, or cause to be insured, the goods to be imported for the Project and to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such goods.

Section 4.06. (a) The Borrower shall maintain, or cause to be maintained, records and accounts adequate to identify the goods and services and other items of expenditure financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project

(including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, the operations and financial condition of the agencies of the Borrower responsible for the carrying out of the Project and operation of the Project facilities, or any part thereof.

(b) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with sound auditing standards, by auditors acceptable to the Bank; (iii) furnish to the Bank, as soon as available but in any event not later than six (6) months after the end of each related fiscal year, unaudited copies of such accounts and financial statements, and not later than nine (9) months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto, all in the English language; and (iv) furnish to the Bank such other information concerning such accounts and financial statements and the audit thereof as the Bank shall from time to time reasonably request.

(c) The Borrower shall enable the Bank, upon the Bank's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the Borrower's auditors, and shall authorize and request any representative of such auditors to participate in any such discussions requested by the Bank, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Borrower unless the Borrower shall otherwise agree.

Section 4.07. (a) The Borrower shall furnish, or cause to be furnished, to the Bank all such reports and information as the Bank shall reasonably request concerning (i) the Loan, and the expenditure of the proceeds and maintenance of the service thereof; (ii) the goods and services and other items of expenditure financed out of the proceeds of the Loan; (iii) the Project; (iv) the administration, operations and financial condition of the agencies of the Borrower responsible for the carrying out of the Project and operation of the Project facilities, or any part thereof; (v) financial and economic conditions in the territory of the Borrower and the international balance-of-payments position of the Borrower; and (vi) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, the Borrower shall furnish, or cause to be furnished, to the Bank quarterly reports on the carrying out of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as the Bank shall

reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than six (6) months thereafter or such later date as may be agreed for this purpose between the Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a report, in such form and in such detail as the Bank shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by the Borrower of its obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.

Section 4.08. The Borrower shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan, and any relevant records and documents.

Section 4.09. The Borrower shall ensure that the Project facilities are operated, maintained and repaired in accordance with sound administrative, financial, engineering, environmental, and maintenance and operational practices.

Section 4.10. (a) It is the mutual intention of the Borrower and the Bank that no other external debt owed a creditor other than the Bank shall have any priority over the Loan by way of a lien on the assets of the Borrower. To that end, the Borrower undertakes (i) that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any external debt, such lien will ipso facto equally and ratably secure the payment of the principal of, and service charge and any other charge on, the Loan; and (ii) that the Borrower, in creating or permitting the creation of any such lien, will make express provision to that effect.

(b) The provisions of paragraph (a) of this Section shall not apply to (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(c) The term "assets of the Borrower" as used in paragraph (a) of this Section includes assets of any agency of the Borrower, including the Central Bank of the Philippines and any other institution performing the functions of a central bank for the Borrower.



(d) The Borrower further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Borrower is unable within the limits of the laws in force in its territories to make this undertaking effective, the Borrower will give to the Bank an equivalent lien satisfactory to the Bank.

## ARTICLE V

### Effectiveness

Section 6.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 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 11.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

#### For the Borrower

Secretary  
Department of Finance  
Manila, Philippines

Cable Address:

DEPFINANCE  
MANILA

Telex Number:

40268 CB CONF PM

Teletype Number:

521-9495

For the Bank

Asian Development Bank  
P.O. Box 789  
Manila  
1099 Philippines

Cable Address:

ASIANBANK  
MANILA

Telex Numbers:

23103 ADB PH (RCA)  
40571 ADB PM (ITT)  
63587 ADB PN (ETPI)

Teletype Number:

741-7961.

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 and to be delivered at the principal office of the Bank, as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By

  
\_\_\_\_\_  
VICENTE R. JAYME  
Secretary  
Department of Finance

ASIAN DEVELOPMENT BANK

By

  
\_\_\_\_\_  
KIMIMASA TARUMIZU  
President