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LOAN NUMBER 2311-PHI

LOAN AGREEMENT  
(Ordinary Operations)

(Integrated Coastal Resources Management Project)

between

REPUBLIC OF THE PHILIPPINES

and

ASIAN DEVELOPMENT BANK

DATED 28 MARCH 2007

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LAL:PHI 33276

**LOAN AGREEMENT**  
**(ORDINARY OPERATIONS)**

LOAN AGREEMENT dated 28 March 2007 between the REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

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

(B) the Borrower has also requested ADB to apply on behalf of the Borrower to the Global Environment Facility ("GEF") for a grant ("GEF Grant") in the amount of nine million dollars (\$9,000,000) to finance a portion of the Project on a joint basis, to be administered by ADB; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital 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 Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein. (said Ordinary Operations Loan Regulations being hereinafter called the "Loan Regulations")

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) "Component" means a component of the Project as more particularly described in Schedule 1 to this Loan Agreement;

(b) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers" dated April 2006, as amended from time to time;

(c) "DA" means the Department of Agriculture of the Borrower, and any successor thereto;

(d) "DENR" means the Department of Environment and Natural Resources of the Borrower, and any successor thereto;

- (e) "DOF" means the Department of Finance of the Borrower, and any successor thereto;
- (f) "EARF" means the Environmental Assessment Review Framework for the Project as agreed upon between DENR and ADB;
- (g) "EIA" means environmental impact assessment;
- (h) "FASPO" means Foreign-Assisted and Special Projects Office of DENR, and any successor thereto;
- (i) "Goods" means equipment and materials to be financed out of the proceeds of the Loan; and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;
- (j) "ICRM" means integrated coastal resources management;
- (k) "IEE" means initial environmental examination;
- (l) "LGU" means any local government unit of the Borrower at provincial, city or municipal level which participates in the Project;
- (m) "MDFO" means the Municipal Development Fund Office of DOF, and any successor thereto;
- (n) "Procurement Guidelines" means ADB's "Procurement Guidelines" dated April 2006, as amended from time to time;
- (o) "Procurement Plan" means the procurement plan for the Project dated 24 November 2006 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;
- (p) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DENR, which is responsible for the carrying out of the Project;
- (q) "Project facilities" means the equipment and facilities to be constructed, rehabilitated or otherwise provided under the Project;
- (r) "Project Implementing Agencies" means (i) DA and DENR for Components A, B and C, and (ii) DENR and LGUs for Component D;
- (s) "PSC" means the Project Steering Committee established for the Project as more particularly described in paragraph 2 of Schedule 5 to this Loan Agreement;
- (t) "Regional Steering Committee" means any of the regional steering committee established for the Project in each of regions II, III and VII, and the provincial steering committee for the Project in each of Masbate Province and Davao Oriental Province as more particularly described in paragraph 6 of Schedule 5 to this Loan Agreement;
- (u) "Subproject" means a project to be undertaken by an LGU or a group of LGUs under Component D(ii) and to be financed by a Subproject Financing Agreement in accordance with criteria and procedure set forth in paragraphs 16-24 of Schedule 5;
- (v) "Subproject facilities" means the equipment and facilities to be constructed, rehabilitated or otherwise provided under the Subproject;
- (w) "Subproject Financing" means a financing to the LGUs made, or proposed to be made by the Borrower, through the MDFO, out of the proceeds of the Loan for the purposes of carrying out Component D;
- (x) "Subproject Financing Agreement" means an agreement between the Borrower and an LGU referred to in Section 3.01 (a) of this Loan Agreement, and which is called a subproject loan agreement for a loan or a blend of a loan and a grant, or a subproject agreement for a grant in MDFO; and
- (y) "Works" means construction or civil works to be financed out of the proceeds of the Loan, and including services such as drilling or mapping, and project related

services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

## **ARTICLE II**

### **The Loan**

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of thirty-three million eight hundred thousand dollars (\$33,800,000), 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 term of 25 years, including a grace period of 6 years, as provided 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 LIBOR and three-fifths of one percent (0.60%) as provided by Section 3.02 of the Loan Regulations.

Section 2.03. (a) The Borrower shall pay a commitment charge at the rate of three-fourths of one percent (0.75%) per annum. Such charge shall accrue on amounts of the Loan (less amounts withdrawn from time to time), during successive periods commencing sixty (60) days after the date of this Loan Agreement, as follows:

during the first twelve-month period, on \$5,070,000;  
 during the second twelve-month period, on \$15,210,000;  
 during the third twelve-month period, on \$28,730,000; and  
 thereafter, on the full amount of the Loan.

(b) If any amount of the Loan is cancelled, the amount of each portion of the Loan stated in paragraph (a) of this Section shall be reduced in the same proportion as the cancellation bears to the full amount of the Loan before such cancellation.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 May and 15 November 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 paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) 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. (a) The Borrower, acting through DOF, shall make available a portion of the proceeds from the Loan to the LGUs up to an aggregate amount equivalent to \$9,380,000 for carrying out Component D(ii) of the Project. Such funds are to be made available to the LGUs through the MDFO as a loan, a grant, or a financing consisting of a loan and a grant, under a Subproject Financing Agreement on terms and conditions satisfactory to ADB, including those set forth in paragraph 23 of Schedule 5 to this Loan Agreement,

(b) A portion of the proceeds of the Loan equivalent to \$24,420,000 shall be allocated for Components A, B, C and D(i) and(iii) of the Project.

(c) The Borrower shall cause DA, DENR and the LGUs to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The Goods, Works and consulting 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, Works and consulting 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 ADB.

Section 3.03. Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all Goods, Works and consulting services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2013 or such other date as may from time to time be agreed between the Borrower and ADB.

## ARTICLE IV

### Particular Covenants

Section 4.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental and coastal management practices.

(b) 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 5 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 and the GEF Grant, 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 ADB, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

(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 ADB. The Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB 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. The Borrower shall take all action which shall be necessary on its part to enable each of the LGUs to perform their respective obligations under the Subproject Financing Agreements, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.06. The Borrower shall exercise its rights under the Subproject Financing Agreements in such a manner as to protect the interests of the Borrower and ADB and accomplish the purpose of the Loan.

Section 4.07. (a) 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 appropriate auditing standards consistently

applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 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 (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest account/statement of expenditures), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time the Borrower's auditor pursuant to Section 4.07(a) hereabove, and shall make necessary arrangements for any representative of such auditors to participate in any such discussions requested by ADB, 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 4.08. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, and any relevant records and documents.

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

## **ARTICLE V**

### **Effectiveness**

Section 5.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations:

(a) the PSC shall have been established; and

(b) a memorandum of agreement between DA and DENR stipulating the respective functions and responsibilities of DA and DENR in Project implementation and funds flow, in form and substance satisfactory to ADB shall have been signed.

Section 5.02. 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 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:

+63 2 523-9216  
+63 2 521-9495

For ADB


Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:

+63 2 636-2444  
+63 2 636-2231

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 ADB, as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By   
Authorized Representative  
003522

ASIAN DEVELOPMENT BANK

By   
HARUHIKO KURODA  
President

## SCHEDULE 1

### Description of the Project

#### Objectives

1. The Project's long-term objectives are: (a) enhanced coastal resources and reduced poverty among municipal fisher folk, and (b) the Project's immediate objectives are: (a) sustainable management of coastal resources, and (b) increased income for coastal communities.

#### Scope

2. The Project consists of the following:

##### Component A. Policy and Institutional Strengthening and Development

- (i) rationalize the policy of the Borrower for management of coastal zone and coastal habitat;
- (ii) develop an institutional framework for coordination of ICRM;
- (iii) strengthen institutional capacities on management of coastal zone and coastal habitat at national and local government level; and
- (iv) develop a performance-based incentive and disincentive system for local governments linked to DENR's coastal resources management certification system.

##### Component B. Integrated Coastal Resource Management and Biodiversity Conservation

- (i) undertake participatory and scientific coastal resources assessment in the LGUs;
- (ii) strengthen ICRM practices and prepare municipal ICRM plans;
- (iii) promote participatory enforcement of fisheries laws and regulations through provision of basic equipment and facilities, and through trainings for local fisheries and aquatic resources management council, marine watch teams and non-governmental organizations;
- (iv) develop coastal databases at municipal and national level;
- (v) rehabilitate 7,000 hectares of poorly managed mangroves and 3,500 hectares of poorly managed watersheds;
- (vi) reforest 2,000 hectares of mangrove and 4,000 hectares of watersheds;
- (vii) protect and manage marine protected areas of high biodiversity;
- (viii) establish five ICRM centers as hubs for biodiversity monitoring and research, and training and demonstration activities;
- (ix) undertake information, education and communication campaign on ICRM issues aimed at communities, health workers, LGU staff and civil society groups; and
- (x) support development and implementation of eco-certification mechanism.

Component C. Enterprise Development and Income Diversification

- (i) organize community-based organizations and facilitate savings mobilization based upon assessment of needs and resources of fisher folks;
- (ii) establish an enterprise development unit in each province for the purposes of identification of appropriate livelihoods and business, and study on feasibility and market;
- (iii) establish about 370 community-managed enterprises in the 68 LGUs;
- (iv) train about 6,800 fisher folks on technical and managerial aspects of enterprises;
- (v) facilitate establishment of individual and group enterprises through assistance in preparation of viable business plans, linkages with formal credit sources, and partnership with private entrepreneurs; and
- (vi) promote and develop ICRM-related eco-tourism.

Component D. Social and Environmental Services and Facilities

- (i) provide technical support on site project design and environmental management;
- (ii) provide the LGUs with investment support for improving water supply and sanitation, managing solid wastes, mitigating coastal pollution and erosion, and providing add-on classrooms and day care centers; and
- (iii) provide the relevant communities with training on operation and maintenance of completed subprojects.

3. The Project is expected to be completed by 31 December 2012.

## SCHEDULE 2

### Amortization Schedule (Integrated Coastal Resources Management Project)

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-May-2013	0.93
15-Nov-2013	0.97
15-May-2014	1.02
15-Nov-2014	1.07
15-May-2015	1.13
15-Nov-2015	1.18
15-May-2016	1.24
15-Nov-2016	1.31
15-May-2017	1.37
15-Nov-2017	1.44
15-May-2018	1.51
15-Nov-2018	1.59
15-May-2019	1.67
15-Nov-2019	1.75
15-May-2020	1.84
15-Nov-2020	1.93
15-May-2021	2.03
15-Nov-2021	2.13
15-May-2022	2.23
15-Nov-2022	2.35
15-May-2023	2.46
15-Nov-2023	2.59
15-May-2024	2.72
15-Nov-2024	2.85
15-May-2025	2.99
15-Nov-2025	3.14

15-May-2026	3.30
15-Nov-2026	3.47
15-May-2027	3.64
15-Nov-2027	3.82
15-May-2028	4.01
15-Nov-2028	4.21
15-May-2029	4.42
15-Nov-2029	4.65
15-May-2030	4.88
15-Nov-2030	5.12
15-May-2031	5.38
15-Nov-2031	<u>5.66</u>
	100.00

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.

(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 two 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: (i) 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 (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

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 Goods, Works, services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table.)

#### Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

#### Interest and Commitment Charge

3. The amount allocated to Category 8 is for financing interest and commitment charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charge.

#### Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

#### Disbursement Procedures

5. Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the Loan proceeds shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2001 (ADB's Loan Disbursement Handbook) and ADB's "Interim Guidelines for Disbursement Operations, LIBOR-Based Loan Products" dated July 2002, both as amended from time to time.

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, two imprest accounts at Bangko Sentral ng Pilipinas, one for the general Project expenditures referred to under Section 3.01(b) of this Loan Agreement and the other for Subproject Financing purposes. The imprest accounts shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The currency of both imprest accounts shall be Dollar. The initial amount to be deposited into the imprest account for the general Project expenditure shall not exceed the lower of (i) the estimated general Project expenditure for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the total amount of the general Project expenditure. The initial amount to be deposited into the imprest account for Subproject Financing purposes shall not exceed the lower of (i) the estimated amount of Subproject Financing for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the total Subproject Financing amount.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for the Project and to liquidate advances provided into the imprest account for the general Project expenditure, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. The SOE procedure shall apply to contracts not exceeding \$100,000.

Condition of Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for Component D(ii) until at least one Subproject Financing Agreement, in a form and substance satisfactory to ADB, shall have been executed and delivered on behalf of the Borrower and any of the LGUs.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Integrated Coastal Resource Management Project)</b>			
<b>CATEGORY</b>			<b>ADB FINANCING</b>
<b>No</b>	<b>Item</b>	<b>Amount Allocated \$</b>	<b>Percentage and Basis for Withdrawal of Loan Amounts*</b>
1	Civil Works (Social and Environmental Infrastructure)	9,380,000	100 percent of total expenditure
2	Equipment, Materials and Vehicles	2,630,000	76 percent of total expenditure
3	Consulting Services	1,710,000	61 percent of total expenditure
4	Resource Management	6,090,000	68 percent of total expenditure
5	Disseminations, Demonstrations and Trials	4,570,000	94 percent of total expenditure
6	Survey, Investigation, Design and Mapping	490,000	24 percent of total expenditure
7	Monitoring and Evaluation	1,820,000	100 percent of total expenditure
8	Interest and Commitment Charge	6,270,000	100 percent of amount due
9	Unallocated	840,000	
	<b>TOTAL</b>	33,800,000	

\* Percentages are calculated from total Category costs excluding taxes and duties

## SCHEDULE 4

### Procurement of Goods and Works, and Consulting Services

#### A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.

2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

#### B. Procurement for Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:

International Competitive Bidding
National Competitive Bidding
Shopping

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

4. Domestic Preference. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

5. National Competitive Bidding. The procedures to be followed for national competitive bidding shall be those set forth in Republic Act 9184 of the Republic of the Philippines, effective 26 January 2003, and Implementing Rules and Regulations, effective 8 October 2003, incorporating amendments as of August 2006, with the clarifications and modifications described in the following paragraphs required for compliance with the provisions of the Procurement Guidelines:

##### i. Eligibility

(a) Eligibility screening as described in the Implementing Rules and Regulations shall not be applied. However, bids that do not containing the following documents will not pass the documentary compliance check if they are a specific requirement of the bidding documents: (i) evidence of the required financial, technical or production capacity; (ii) audited financial statements; (iii) credit line or cash deposit certificate; (iv) bid security; and (v) authority of the bid signatory.

(b) National sanction list may be applied only with prior approval of ADB.

ii. Advertising

Bidding of National Competitive Bidding contracts estimated at \$500,000 or more for Goods or \$1,000,000 or more for Works shall be advertised concurrently with the general procurement notices on ADB's website.

iii. Price Ceiling

The approved budget for the contract (ABC) may be published, but it shall not be stated or implied that bid prices shall not exceed the ABC, or that bid evaluation will in any way take into account the ABC. The ABC, budgetary allocation, ceiling price, or similar estimates of contract value shall not be used to reject bids without prior concurrence of ADB.

iv. Domestic Preference

(a) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.

(b) Suppliers and contractors shall not be required to purchase domestically manufactured goods, supplies or materials.

(c) Foreign suppliers and contractors from ADB member countries shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture with, local firms.

(d) Foreign suppliers and contractors from ADB member countries shall be allowed to bid, without registration, licensing, or other government authorizations, leaving compliance with these requirements until after award and before signing of a contract.

v. Experience Qualification

For a Works contract, the experience qualification requirement shall be : (i) at least one previous contract at 80% of the estimated cost of the contract being procured; and (ii) an annual turnover from all Works average over the last three years equal to 100% of the estimated cost of the contract being procured.

vi. Bid Security

Bid Security shall be in the form of a bank guarantee from a reputable bank.

vii. Contract Amendment

ADB's concurrence shall be obtained before approving modifications to contracts under implementation where (i) the value of the modification exceeds 15% of contract amount, or (ii) it results in material changes to the conditions of contract.

viii. ADB Member Country Restrictions

Bidders must be nationals of member countries of ADB, and offered Goods and Works must be produced in and supplied from member countries of ADB.

6. Community Participation in Procurement. The Borrower may use community participation in procurement for Works contracts related to reforestation and rehabilitation of watershed and mangrove under Component B and in procurement for Works contracts under Component D in accordance with the agreed procedures set out in the Procurement Plan.

**C. Selection of Consulting Services**

7. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging consulting services.

8. The Borrower shall apply the following methods for selecting and engaging the specified consulting services, in accordance with, among other things, the procedures set forth in the Procurement Plan:

Single Source Selection for undertaking of special studies under Components A and B, and preparation of detailed Subproject proposals under Component D

9. The Borrower shall recruit the individual consultant for enterprise development in accordance with ADB's procedures for recruiting individual consultants.

**D. Industrial or Intellectual Property Rights**

10. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation 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.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

11. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

**E. ADB's Review of Procurement Decisions**

12. All contracts for procurement and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project and Operation of Project Facilities; Financial Matters

#### I. Project Implementation Structure

##### Project Executing Agency

1. DENR shall be the Project Executing Agency and shall be responsible for overall management of the Project. DENR shall designate FASPO as the project management office, which shall be responsible for overall planning, programming, budgeting, operations, monitoring and management of the Project, including preparation and submission of quarterly and annual reports to ADB within one month of the end of each period with assistance from consultants.

##### Project Steering Committee (PSC)

2. The PSC shall oversee and coordinate Project implementation and be chaired by the Secretary of DENR or his/her authorized representative. The PSC shall comprise senior officials of DA, DOF, Departments of Budget and Management, and of the Interior and Local Government, and National Economic and Development Agency. Representatives of the LGUs concerned shall be invited to attend PSC meetings on issues that require their participation.

##### Project Implementing Agencies

3. DENR and DA shall be jointly Project Implementation Agencies for Components A, B and C. DENR shall be responsible for (a) initiating activities related to rationalization of ICRM policies, regulation and coordination framework, (b) development of human resources, (c) establishment of marine protected areas and undertaking of targeted research on biodiversity conservation and management, (d) rehabilitation and management of mangroves and watersheds and (e) development and implementation of eco-certification mechanism. DA shall be responsible for (a) undertaking participatory and technical resource assessment, (b) developing database on living aquatic resources in coastal waters, (c) undertaking studies on conservation of traded and threatened marine species, (d) habitat and stock enhancement, (e) identification and promotion of viable alternative livelihoods for fisher folks, and (f) provision of technical support to DENR in relevant policy studies.

4. DENR shall also implement Component D by providing technical support for Subproject preparation to the LGUs, and the LGUs shall be Project Implementing Agencies for their respective Subprojects.

5. The Borrower shall ensure the full and timely cooperation among Project Implementing Agencies.

##### Regional Steering Committee

6. DENR shall establish a regional steering committee in each of Regions II, III and VII, and a provincial steering committee in each of Masbate Province and Davao Oriental Province for the purposes of overseeing and coordinating Project implementations within the

region or the province. A regional steering committee shall comprise representatives of agencies and institutions concerned at regional level, and the LGUs within the region, and a provincial steering committee shall comprise representatives of agencies and institutions concerned at provincial level.

#### Implementation by LGUs

7. The Borrower, acting through DENR, shall enter into an implementation agreement with each LGU on terms and conditions satisfactory to ADB. Such agreement shall include commitments of the LGUs on:

- (a) participation and collaboration in Project activities;
- (b) designation of municipal or city Project units;
- (c) preparation of the municipal or city ICRM plan, conforming to all the requirements under this Loan Agreement including environmental and social safeguard requirements, and to be approved by DENR;
- (d) provision of required counterpart funding for recurring expenditures for coastal resources management during and after Project implementation;
- (e) acceptance of ADB's and the Borrower's right to inspect Project and Subproject facilities and related records; and
- (f) compliance with this Loan Agreement.

8. Copies of DENR-approved ICRM plans shall be submitted to ADB for review and record.

## **II. Environment and Social Aspects**

### Environment

9. The Borrower, through DENR, shall ensure that (a) the Project facilities are designed, constructed, operated and maintained in compliance with applicable environmental laws and regulations of the Borrower, ADB's Environment Policy (2002) and the EARF prepared for the Project; (b) all mitigation measures detailed in the EARF are implemented and monitored to a satisfactory standard, and (c) the environmental management and monitoring plan developed for prototype future interventions specified in the EARF are followed during the implementation period, and the result is reported to ADB as part of the quarterly Project reports.

10. The Borrower, through DENR, shall cause LGUs to conduct an IEE or, for proposed Subprojects with potentially significant adverse environmental impacts, an EIA for each of proposed Subprojects.

### Indigenous People

11. The Borrower through DENR shall ensure that an indigenous peoples development plan is prepared in accordance with ADB's Policy on Indigenous Peoples (1998) in case the presence of indigenous people is identified who may be significantly affected. Implementation of the Project activities at such sites shall be conditional on ADB's approval of the relevant indigenous peoples development plan.

12. The Borrower shall ensure and, through DENR, cause all the Implementing Agencies to ensure that no Project activity is undertaken in, or have adverse impacts on, land, inland waters, coastal areas and natural resources within them, that are designated ancestral domains with corresponding certificate of title or are under claim as ancestral domain.

#### Resettlement

13. The Borrower, through DENR, shall cause the Project Implementing Agencies to comply with ADB's Policy on Involuntary Resettlement (1995) and ensure that land utilized under the Project is either unoccupied public land, or has been purchased from a willing seller and paid for in cash. The evidence of such transactions shall be kept on record during the Project implementation.

#### Resource Access

14. The Borrower shall ensure and, through DENR, cause all the Implementing Agencies to ensure that any people adversely affected by restricted access restriction and discipline to aquatic, mangrove and watershed resources shall be identified, and potential impacts on their incomes are mitigated through their inclusion in community-based resource management, enterprise development, and income diversification activities under the Project. Identities of the affected persons and the proposed mitigation measures shall be included in the municipal or city ICRM plan of the relevant LGU and approved by DENR. Implementation of mitigating measures shall commence prior to imposition of such restrictions, and shall be monitored under the project performance management system (PPMS).

#### Gender

15. The Borrower through DENR shall ensure that gender-related indicators are incorporated into PPMSs and that the gender action plan prepared for the Project is fully implemented in a timely manner, and that adequate resources are allocated for the purpose. In particular, the Borrower shall cause all the Project Implementing Agencies to ensure that (a) at least 33 percent of members of ICRM organizations mobilized under the Project are women, (b) at least 33 percent of board members of marine protected areas are women, (c) at least 33 percent of participants in any of ICRM, biodiversity, enforcement, technical and entrepreneurial trainings for the beneficiaries are women, and (d) at least 33 percent of new staff recruited under the Project are women.

### **III. Subprojects and Subproject Financing Agreements under Component D**

#### Preparation and Selection of Subprojects

16. An LGU or a group of LGUs shall submit a Subproject proposal to the respective Regional Steering Committee for endorsement. The Subproject proposal shall be transferred to the Policy Governing Board of MDFO for approval after endorsement by the Regional Steering Committee.

17. The Regional Steering Committees shall approve only Subproject proposals which fulfill all the following requirements:

- (a) the Subproject proposal is based upon social assessment for the beneficiary community, and is included in the DENR-approved municipal or city ICRM plan;
- (b) in case that the social assessment has identified presence of indigenous people, ethnic minorities or other disadvantaged groups in the community, the Subproject provides equitable benefits to these groups;
- (c) the land for the Subproject is either unoccupied public land or is scheduled to be purchased from a willing buyer and paid for in cash before commencement of the Subproject activity in the land, and the evidence of the transaction is kept on record during the Project implementation;
- (d) an IEE or an EIA for the Subproject has been completed;
- (e) the IEE has not identified significant adverse impact, or an EIA for the Subproject has been undertaken and mitigating measures are provided for in the Subproject proposal;
- (f) the IEE and the EIA have been approved by the relevant DENR office in accordance with environmental regulations of the Borrower;
- (g) alternate designs for the same outcome have been considered and the Subproject is the least cost option; and
- (h) the relevant community is willing to share cost of operation and maintenance for the Subproject.

18. In addition to the requirements set forth in paragraph 17, the following requirements must be met in case of a Subproject related to drinking water:

- (a) the Subproject benefits at least 25 households;
- (b) majority of the relevant community are below the official poverty threshold, or have no ready access to safe drinking water; and
- (c) the Subproject will reduce the average economic cost for water relative to the existing source.

19. In addition to the requirements set forth in paragraph 17, the following requirements must be met in case of a Subproject related to sanitation:

- (a) the Subproject benefits at least 25 households; and
- (b) majority of the relevant community are below the official poverty threshold, or prevalence of poor sanitation related disease among the beneficiaries is high.

20. In addition to the requirements set forth in paragraph 17, the following requirements must be met in case of a Subproject related to social facilities:

- (a) the facility benefits a community of at least 100 households; and
- (b) the facility is an add-on to existing school facilities in case of a classroom.

#### Subproject Financing Agreements

21. The Borrower, acting through MDFO, shall enter into a Subproject Financing Agreement with each of the relevant LGUs upon approval of the Subproject by the Policy Governing Board of MDFO as endorsed by the Regional Steering Committee.

22. The terms and conditions of Subproject Financing Agreements shall be decided in accordance with the National Government and Local Government Unit Cost-Sharing Policy approved by the Investment Coordination Committee on 12 December 2002, as amended from time to time.

23. A Subproject Financing Agreement shall include provisions to the effect that:
- (a) the LGUs shall make equity contribution as required by the National Government and Local Government Unit Cost Sharing Policy;
  - (b) the LGUs shall carry out and operate their respective Subprojects with due diligence and in accordance with sound administrative, financial, engineering, environmental, business and coastal management practices;
  - (c) the LGUs shall comply with the procedure and conditions prescribed in paragraphs 9-15 and 17-20 of this Schedule;
  - (d) the LGUs shall take out and maintain with responsible insurers, or make other arrangements satisfactory to the Borrower and ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice;
  - (e) the LGUs shall establish separate project accounts to be maintained exclusively for the Subproject activities;
  - (f) the Borrower and ADB shall each be provided with all such information as each shall reasonably request relating to the Subprojects, the Goods, Works and consulting services financed out of the proceeds of the Subproject Financing Agreement and other related matters;
  - (g) the Borrower and ADB shall each have the right to inspect Subproject facilities and any relevant records and documents; and
  - (h) the Borrower shall be entitled to suspend or terminate further access by an LGU to the use of the proceeds of the Loan upon its failure to perform its obligations under the Subproject Financing Agreements.

24. MDFO shall prepare a model Subproject Financing Agreement and obtain ADB's approval before entering into any Subproject Financing Agreements. The first Subproject Financing Agreement shall be reviewed and approved by ADB before its execution, and all the Subproject Financing Agreements shall materially follow the model Subproject Financing Agreement and the first Subproject Financing Agreement.

#### Disbursement

25. The Borrower shall ensure through MDFO that necessary funds are made available to the LGU to implement the Subproject upon the execution and delivery of a Subproject Financing Agreement with the LGU.

#### **IV. Other Matters**

##### GEF Co-financing

26. In the event that the GEF Grant is suspended or cancelled, and without limiting the generality of Section 4.02 of this Loan Agreement, the Borrower shall make timely arrangements satisfactory to ADB to have the GEF Grant become available or to commit the additional funds for the Project expenditures that would have originally been financed out of the GEF Grant, or agree to scale down the Project scope appropriately.

##### Anticorruption

27. (a) The Borrower shall comply with and shall cause the DENR and the Project Implementing Agencies to comply with ADB's anticorruption policy. The Borrower (i) acknowledges ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; and (ii) agrees to cooperate

fully with and to cause the DENR and the Project Implementing Agencies to cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation.

(b) Without limiting the generality of subparagraph (a) of this paragraph, the Borrower shall (i) ensure that the DENR and the Project Implementing Agencies conduct monitoring inspections on all contractors' activities related to fund withdrawals and settlements; and (ii) ensure that and shall cause the DENR and the Project Implementing Agencies to ensure that all contracts financed by ADB and the GEF in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of the DENR and the Project Implementing Agencies and all contractors, suppliers, consultants and other service providers as they relate to the Project.

#### Performance Monitoring and Evaluation

28. The Borrower shall ensure that a PPMS is established in DENR to be operated by FASPO, and project performance monitoring and evaluation is conducted for each Project Component and Subproject. The PPMS shall cover (a) physical and financial progress as well as the economy and efficiency in achieving major activities; (b) level and adequacy of participation of various stakeholders in planning and implementing Project activities and performance of the Project Executing Agency and the Project Implementing Agencies, (c) collection of gender disaggregated data in benchmark surveys and policy and legal studies, (d) the Project's social, environmental, biodiversity conservation and economic impacts including the establishment of benchmark information and data, and (e) developing a mechanism for making necessary adjustments in Project design and implementation arrangements.

#### Review

29. The Borrower and ADB shall jointly conduct reviews of the Project at least twice a year. The semiannual reviews shall assess the implementation performance and achievement of Project outcomes and objectives, review the financial progress, identify issues and constraints affecting the Project, and work out a time bound action plan for their resolution.

30. The Borrower and ADB shall also undertake a mid-term review in 2009. The mid-term review shall cover Project parameters, compliance with covenants in this Loan Agreement and necessity of modification of scope or implementation arrangements, in addition to actual physical and financial progress of the Project.