BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA

PROFESSIONALISM INTEGRITY ACCOUNTABILITY

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REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION NO. 062 - 2022 (NAIA)

-versus-

Four (4) boxes containing Covid Test Kits AG Home Test (10 kits per box), and One (1) box containing Flowflex Acon Covid Test Kits (25 kits per box), which were brought in by passenger **LEE YONG TAT,** and held in custody at the In Bond Room, Baggage Assistance Division, under Held Baggage Receipt No. 00100001103.

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WARRANT OF SEIZURE AND DETENTION

TO: The District Commander
ESS-CPD, NAIA District Office

G R E E T I N G S !

WHEREAS, passenger Lee Yong Tat, a Singaporean national and holder of Passport No. K2172902H, arrived on April 27, 2022 at NAIA Terminal 3 on board Singapore Airlines Flight SQ 916 from Singapore;

WHEREAS, his check-in baggage passed through X-ray screening and was marked with "X" by XIP Operator Marcelino Balmaceda, who, thereafter, referred Mr. Lee to Krystell Ann B. Guico, Acting Customs Examiner, for an actual examination of his check-in baggage;

WHEREAS, before conducting the actual examination, Acting Examiner Guico asked the passenger if he has anything to declare to which he answered in the affirmative. He submitted his Passport and accomplished Customs Baggage Declaration Form to Acting Examiner Guico, where it was shown that Passenger Lee declared the subject Covid-19 test kits;

WHEREAS, passenger Lee did not have the required Special Certification from the Food and Drug Administration for the imported Covid-19 test kits, so that the goods were turned over to the In Bond Room, Baggage Assistance Division, for custody and safekeeping under Held Baggage Receipt No. 0100001103;

WHEREAS, in a Memorandum for the District Collector dated April 28, 2022, Acting Examiner Krystell Ann B. Guico, thru Marlyn O. Edillor, Acting Flight Supervisor, Roberto A. Quintana, Chief, Arrival Operations Division, and Atty. MA. Lourdes V. Mangaoang, CSEE, Deputy Collector for Passenger Service, reported her findings and recommended the issuance of Warrant of Seizure and Detention against the subject articles brought in by Mr. Lee for violation of Section 117 in relation to Section 1113 (f) and (I – 3, 4 and 5) of the Customs Modernization and Tariff Act (CMTA);

WHEREAS, Republic Act No. 9711, otherwise known as the Food and Drug Administration Act of 2009, among others, provides:

"**Section 10.** For purposes of this Act, the term:

"(ff) **'Health products'** means food, drugs, cosmetics, **devices** biological vaccines, in-vitro diagnostic reagents and household/urban hazardous substances and/or combination of and/or derivatives thereof. It shall also refer to products that may have effect on health which require regulations as determined by the FDA.

"(ii) **'Licensing'** means the **process of approval of an application to operate or establish an establishment prior to engaging** in the manufacture, **importation,** exportation, sale, offer for sale, distribution, transfer, and where applicable, the use, testing, promotion, advertisement, and/or sponsorship of health products.

"(kk) **'Registration'** means the **process of approval of an application to register health products prior to engaging in the** manufacture, **importation**, exportation, sale, offer for sale, distribution, transfer and, where applicable, the use, testing, promotion, advertisement, and/or sponsorship of health products.

"**Section 11.** The following acts and the causing thereof are hereby prohibited:

'(a) The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertising, or sponsorship **of any health product that is** adulterated**, unregistered** or misbranded;

'(j) The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertisement, or sponsorship **of any health product which, although requiring registration, is not registered with the FDA pursuant to this Act;**

'(k) The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, or retail of any drug, device or in-vitro diagnostic reagent, the manufacture, importation, exportation, transfer or distribution of any food, cosmetic, or household/urban hazardous substance, or the operation of a radiation pest control establishment by **any natural or juridical person without the license to operate from the FDA required under this Act.** (Emphasis and underscoring supplied)

WHEREAS, Moreover, Article I (Licensing of Establishments and Registration of Health Products), Book II of the Rules and Regulations Implementing Republic Act No. 9711 – The Food and Drug Administration Act of 2009 states:

"**Section 1.** General Provisions.

1. The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertising, or

sponsorship of any health product without the proper authorization from the FDA is prohibited.

2. The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, or retail of any drug or device; the manufacture, importation, exportation, transfer or distribution of any food, cosmetic, household hazardous substances or urban pesticides; or the operation of a radiation facility or pest control establishment without the appropriate authorization from the FDA is prohibited." (Emphasis and underscoring supplied)

WHEREAS, after a careful evaluation of the documents submitted and applicable customs laws, rules and regulations, the NAIA District Collector finds probable cause for the issuance of Warrant of Seizure and Detention against the Four (4) boxes containing Covid Test Kits AG Home Test (10 kits per box), and One (1) box containing Flowflex Acon Covid Test Kits (25 kits per box), for violation of Sections 10 and 11 of RA No. 9711 otherwise known as the Food and Drug Administration Act of 2009, and Section 117 in relation to paragraph (f) of Section 1113 of the Customs Modernization and Tariff Act (CMTA);

WHEREFORE, by virtue of the authority vested by law in this Office, and in compliance with applicable customs laws, rules and regulations, it is hereby ordered and decreed that the Four (4) boxes containing Covid Test Kits AG Home Test (10 kits per box), and One (1) box containing Flowflex Acon Covid Test Kits (25 kits per box), be, as they are hereby ordered seized for violation of Sections 10 and 11 of RA No. 9711 otherwise known as the Food and Drug Administration Act of 2009, and Section 117 in relation to paragraph (f) of Section 1113 of the Customs Modernization and Tariff Act (CMTA), to be turned over to the Auction and Cargo Disposal Division, this Port, for inventory, classification and valuation of goods pursuant to Section 1120 of the CMTA, and custody and safekeeping pursuant to CAO 10-2020, pending the resolution of the seizure case by the Law Division, and/or until ordered by the District Collector, this Port.

Compliance with Customs Memorandum Order No. 10-2020, particularly on the matter of making a return of service and the submission of the Inventory Report or list of the articles seized is to be strictly observed.

SO ORDERED.

NAIA Customhouse, Pasay City, Metro Manila, 14 JUN 2022 2022.

CARMELITA M. TALUSAN, CESO V
District Collector

Law/MMA/eyIIV