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LOAN NUMBER 2355-AZE(SF)

LOAN AGREEMENT  
(Special Operations)

(Road Network Development Program, Project 1 –  
Masally-Astara section of the North-South Highway)

between

REPUBLIC OF AZERBAIJAN

and

ASIAN DEVELOPMENT BANK

DATED 15 JANUARY 2008

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LAS:AZE 39176

## **LOAN AGREEMENT**

### **(Special Operations)**

LOAN AGREEMENT dated 15 JANUARY 2008 between the Republic of Azerbaijan (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

#### **WHEREAS**

(A) the Borrower has applied to ADB for a loan from its Special Funds resources for the purposes of Part 2(v) of the Project described in Schedule 1 to the Ordinary Operations Loan Agreement, defined hereunder, and a loan from its ordinary capital resources for the purposes of Parts 2(i)-2(iv) of the Project;

(B) by an agreement of even date herewith between the Borrower and ADB (hereinafter called the Ordinary Operations Loan Agreement), ADB has agreed to lend to the Borrower from its ordinary capital resources an amount of one hundred ninety million U.S. dollars (\$190,000,000) (hereinafter called the Ordinary Operations Loan) upon terms and conditions set forth therein; and

(C) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

## **ARTICLE I**

### **Loan Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (the "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. The definitions set forth in the Loan Regulations and in Section 1.02 of the Ordinary Operations Loan Agreement are applicable to this Loan Agreement as if they were fully set forth herein, unless the context requires otherwise.

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to six million five hundred thirty five thousand Special Drawing Rights (SDR 6,535,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half

percent (1.5%) per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 1 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 March and 15 September in each year.

Section 2.04. 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 1 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be Dollar.

### **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, 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 2 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 the Ordinary Operations Loan Agreement.

Section 3.04. Withdrawals from the Loan Account in respect of Goods, Works and consulting services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and consulting services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and
- (b) Goods, Works and consulting services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2010 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 5 to the Ordinary Operations Loan Agreement.

Section 4.02. (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 six 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 with the auditors appointed by the Borrower pursuant to Section 4.02(a) hereabove, and shall authorize and require 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 4.03. The Borrower shall enable ADB's representatives to inspect the Project, Project facilities, the Goods and Works financed out of the proceeds of the Loan, all other plants, sites, properties and equipment of the Borrower, and any relevant records and documents.

## ARTICLE V

### Effectiveness

Section 5.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Ordinary Operations Loan Agreement shall have been duly authorized or ratified by, and duly executed and delivered on behalf of, the Borrower, and all conditions for its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.

Section 5.02. The following is specified as an additional matter for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the Ordinary Operations Loan Agreement shall have been duly authorized or ratified by, and duly executed and delivered on behalf of, the Borrower, and it shall have become legally binding upon and enforceable against the Borrower in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 5.03. A date sixty (60) 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 Minister 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

Ministry of Finance  
S. Vurgun Street, 83  
370022 Baku  
Republic of Azerbaijan

Facsimile Number:

(994-12) 493 93 98  
(994-12) 493 05 62

#### For ADB

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

Cable Address:


ASIANBANK MANILA

Facsimile Numbers:

(632) 636-2444  
(632) 636-2428.

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 AZERBAIJAN

By  \_\_\_\_\_  
Authorized Representative

ASIAN DEVELOPMENT BANK

By  \_\_\_\_\_  
Authorized Representative

**SCHEDULE 1****Amortization Schedule  
(Road Network Development Program, Project 1)**

<u>Period</u>	<u>Date Payment Due</u>			<u>Payment of Principal (expressed in SDR)*</u>
1	15	March	2016	136,146.00
2	15	September	2016	136,146.00
3	15	March	2017	136,146.00
4	15	September	2017	136,146.00
5	15	March	2018	136,146.00
6	15	September	2018	136,146.00
7	15	March	2019	136,146.00
8	15	September	2019	136,146.00
9	15	March	2020	136,146.00
10	15	September	2020	136,146.00
11	15	March	2021	136,146.00
12	15	September	2021	136,146.00
13	15	March	2022	136,146.00
14	15	September	2022	136,146.00
15	15	March	2023	136,146.00
16	15	September	2023	136,146.00
17	15	March	2024	136,146.00
18	15	September	2024	136,146.00
19	15	March	2025	136,146.00
20	15	September	2025	136,146.00
21	15	March	2026	136,146.00
22	15	September	2026	136,146.00
23	15	March	2027	136,146.00
24	15	September	2027	136,146.00
25	15	March	2028	136,146.00
26	15	September	2028	136,146.00
27	15	March	2029	136,146.00
28	15	September	2029	136,146.00
29	15	March	2030	136,146.00
30	15	September	2030	136,146.00
31	15	March	2031	136,146.00
32	15	September	2031	136,146.00
33	15	March	2032	136,146.00
34	15	September	2032	136,146.00
35	15	March	2033	136,146.00
36	15	September	2033	136,146.00
37	15	March	2034	136,146.00
38	15	September	2034	136,146.00
39	15	March	2035	136,146.00
40	15	September	2035	136,146.00
41	15	March	2036	136,146.00
42	15	September	2036	136,146.00
43	15	March	2037	136,146.00

44	15	September	2037	136,146.00
45	15	March	2038	136,146.00
46	15	September	2038	136,146.00
47	15	March	2039	136,146.00
48	15	September	2039	<u>136,138.00</u>
TOTAL				<b><u>6,535,000.00</u></b>

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\* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

## SCHEDULE 2

### 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 and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

#### Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories 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 Charge

3. The amount allocated to Category 3 is for financing the interest charge on the Loan during the implementation period of the Project.

#### 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, the Loan proceeds for financing Goods, Works, and consulting services and other items shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2007 (ADB's Loan Disbursement Handbook), 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, an imprest account at a commercial bank satisfactory to

ADB. The imprest account 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 the imprest account shall be U.S. dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan amount.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for project management support and individual consultants and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

#### 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 Works until the conditions provided under section 6 of Schedule 3 to the Ordinary Operations Loan Agreement have been satisfied.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b> (Road Network Development Program, Project 1)				
<b>CATEGORY</b>				<b>ADB FINANCING BASIS</b>
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing SDR '000</b>		<b>Percentage of ADB Financing from the Loan Account*</b>
		<b>Category</b>	<b>Subcategory</b>	
1	Consulting Services	4,575		
1A	Construction Supervision, Project Monitoring and Evaluation, and Preparation of Project 2		3,072	100 percent of total expenditure claimed
1B	Development of Database for Secondary Roads		1,307	100 percent of total expenditure claimed
1C	Preparation of Legal and Regulatory Framework and Operational Procedures for Toll Roads		196	100 percent of total expenditure claimed
2	Project Management	457		
2A	Project Implementation Unit Support		392	100 percent of total expenditure claimed
2B	External Financial Audit		65	100 percent of total expenditure claimed
3	Interest	65		100 percent of amounts due
4	Unallocated	1,438		
	<b>TOTAL</b>	<b>6,535</b>		

\* Exclusive of all taxes and duties imposed within the territory of the Borrower.