
LOAN NUMBER 2503-KAZ

LOAN AGREEMENT
(Ordinary Operations)

(CAREC Transport Corridor 1 [Zhambyl Oblast Section] [Western Europe – Western PRC
International Transit Corridor] Investment Program - Project 1)

between

REPUBLIC OF KAZAKHSTAN

and

ASIAN DEVELOPMENT BANK

DATED 30 MARCH 2009

LAL:KAZ 41121

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 30 March 2009 between the REPUBLIC OF KAZAKHSTAN (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) by a framework financing agreement dated 13 January 2009 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility pursuant to the terms thereunder, to the Borrower for purposes of financing projects under the Investment Program;

(B) by a periodic financing request dated 13 January 2009 submitted by the Borrower, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; 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, subject, however, to the following modifications thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

(a) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit. (aa) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(bb) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the amount of the credit against the interest payable by the Borrower.

(b) Section 3.06 is deleted and the following is substituted therefor:

(aa) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(bb) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(c) Section 3.07 is deleted and the following is substituted therefor:

(aa) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(bb) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was

calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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) "CAREC Transport Corridor 1" means a segment of the Western Europe–Western PRC International Transit Corridor running from Khorgos at the border with the People's Republic of China (PRC), through Almaty and Shymkent, to the western border with the Russian Federation;

(b) "CEIA" means a cumulative environmental impact assessment prepared for the Investment Program by the Borrower and agreed by ADB;

(c) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2007, as amended from time to time);

(d) "COR" means the Borrower's Committee of Roads under MOTC and any successor thereto;

(e) "EARF" means the Environmental Assessment and Review Framework agreed between the Borrower and ADB and incorporated by reference in Schedule 5 to the FFA;

(f) "EMP" means the environment management plan incorporated in the IEE;

(g) "IEE" means the initial environmental examination prepared for the Project by the Borrower and agreed by ADB;

(h) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(i) "FFA" means the framework financing agreement dated 13 January 2009 between ADB and the Borrower with respect to the Facility;

(j) "HIV/AIDS" means human immunodeficiency virus/acquired immunodeficiency syndrome;

(k) "IFI" means international financial institutions;

(l) "Investment Program" means the Borrower's Investment Program for the Taraz-Korday Section of the CAREC Transport Corridor 1 as fully described in Schedule 1 to the FFA;

(m) "LARF" means the Land Acquisition and Resettlement Framework agreed between the Borrower and ADB and incorporated by reference in Schedule 5 to the FFA;

- (n) "LARP" means a land acquisition and resettlement plan for the Project;
- (o) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2007, as amended from time to time);
- (p) "MOF" means the Borrower's Ministry of Finance and any successor thereto;
- (q) "MOTC" means the Borrower's Ministry of Transport and Communications;
- (r) "NGO" means nongovernmental organization;
- (s) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 13 January 2009;
- (t) "PMC-ADB" means the Project Management Consultant team as referred to in paragraph 2 of Schedule 5 to this Loan Agreement;
- (u) "PMC-WB" means the project management team established under the WB Loan;
- (v) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);
- (w) "Procurement Plan" means the procurement plan for the Project dated 10 October 2008 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;
- (x) "Project" means as generally defined under the Loan Regulations and referred to as Project 1 under the Investment Program for this Loan Agreement;
- (y) "Project Area" means Zhambyl Oblast of the Borrower;
- (z) "Project Executing Agency" or "EA" for the purposes of, and within the meaning of, the Loan Regulations means MOTC and any successor thereto, which is responsible for the carrying out of the Project;
- (aa) "Project facilities" means the facilities to be constructed or provided under the Project;
- (bb) "Project Road" means sections of the CAREC Transport Corridor 1 between Taraz and Korday from km 404 to km 483 and from km 214 to km 260 in the Project Area to be reconstructed under the Project;
- (cc) "Oblast" means an administrative unit of the Borrower;
- (dd) "O&M" means operation and maintenance;
- (ee) "raion" means an administrative subdivision of the Oblast;

(ff) “RDP” means the Borrower’s Road Development Program for 2006-2012;

(gg) “SIEE” means a summary IEE;

(hh) “WB Loan” means the loan to be provided by the World Bank to the Borrower for the Western Europe–Western PRC International Transit Corridor development program; and

(ii) “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 Three Hundred Forty Million Dollars (\$340,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term “grace period” as used in paragraph (b) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.40% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the unwithdrawn amount of the Loan, commencing sixty (60) days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 April and 15 October 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. 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 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 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 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 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 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 31 December 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 social safeguards, and road maintenance and operational 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, 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. (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 (6) months after the end of each related fiscal year, unaudited copies of such accounts and financial statements, and not later than six (6) 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), 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 4.05(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 4.06. The Borrower shall enable ADB's representatives to inspect the Project and Project facilities financed out of the proceeds of the Loan, and any relevant records and documents.

Section 4.07. The Borrower shall ensure that the Project facilities are operated, maintained and repaired in accordance with sound administrative, financial, engineering, environmental and social safeguards, and road maintenance and operational practices.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations: the WB loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following are is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: the events specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. 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 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
11 Pobedy Avenue
Astana 010000
Republic of Kazakhstan

Facsimile Number:

+7 (7172) 717785.

For ADB


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

Facsimile Numbers:

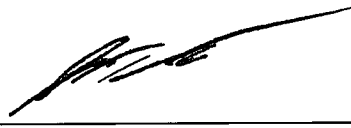
(632) 636-2444
(632) 636-2428.

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 KAZAKHSTAN

By 
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
STEPHEN WERMERT
Country Director
Kazakhstan Resident Mission

SCHEDULE 1

Description of the Project

1. The expected impact of the Investment Program is sustainable economic development of the Borrower.
2. As a part of the Investment Program, the Project aims to develop efficient transport system in the Project Area.
3. The Project shall consist of two components: (i) the road development component including construction and reconstruction of about 125 km of the Project Road; and (ii) the road operation and maintenance component, as more fully described in the PFR.
4. The Project is expected to be completed by 31 December 2012.

SCHEDULE 2

Amortization Schedule (CAREC Transport Corridor 1 [Zhambyl Oblast Sections] [Western Europe – Western PRC International Transit Corridor] Investment Program – Project 1)

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.

Sequence	Date Payment Due	Installment Share (expressed as a %)
1	15 Apr 2014	2.500000
2	15 Oct 2014	2.500000
3	15 Apr 2015	2.500000
4	15 Oct 2015	2.500000
5	15 Apr 2016	2.500000
6	15 Oct 2016	2.500000
7	15 Apr 2017	2.500000
8	15 Oct 2017	2.500000
9	15 Apr 2018	2.500000
10	15 Oct 2018	2.500000
11	15 Apr 2019	2.500000
12	15 Oct 2019	2.500000
13	15 Apr 2020	2.500000
14	15 Oct 2020	2.500000
15	15 Apr 2021	2.500000
16	15 Oct 2021	2.500000
17	15 Apr 2022	2.500000
18	15 Oct 2022	2.500000
19	15 Apr 2023	2.500000
20	15 Oct 2023	2.500000
21	15 Apr 2024	2.500000
22	15 Oct 2024	2.500000
23	15 Apr 2025	2.500000
24	15 Oct 2025	2.500000
25	15 Apr 2026	2.500000
26	15 Oct 2026	2.500000
27	15 Apr 2027	2.500000
28	15 Oct 2027	2.500000
29	15 Apr 2028	2.500000
30	15 Oct 2028	2.500000
31	15 Apr 2029	2.500000
32	15 Oct 2029	2.500000

33	15 Apr 2030	2.500000
34	15 Oct 2030	2.500000
35	15 Apr 2031	2.500000
36	15 Oct 2031	2.500000
37	15 Apr 2032	2.500000
38	15 Oct 2032	2.500000
39	15 Apr 2033	2.500000
40	15 Oct 2033	2.500000
	Total	100.000000

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

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(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, consulting 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.

Reallocation

3. 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

4. Except as ADB may otherwise agree, the Loan proceeds for financing Works, consulting services and other items of expenditures shall be disbursed in accordance with the Loan Disbursement Handbook.

Condition of Withdrawals from Loan Account

5. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account until the MOTC has submitted to ADB a certification that the PMC-ADB has been adequately staffed, including appointment of Project Director, and has become operational, in a manner satisfactory to ADB, to implement the Investment Program.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (CAREC Transport Corridor 1 [Zhambyl Oblast Sections] [Western Europe – Western PRC International Transit Corridor] Investment Program - Project 1)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing \$ Category	Percentage of ADB Financing from the Loan Account
1	Works	297,000,000	85 percent of total expenditure claimed
2	Consulting Services	14,000,000	100 percent of total expenditure claimed*
3	Unallocated	29,000,000	
	Total	340,000,000	

*Exclusive of taxes and duties imposed within the territory of the Borrower

SCHEDULE 4**Procurement of Works and Consulting Services****A. General**

1. All 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 of Works

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

International Competitive Bidding

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 method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in the updates to the Procurement Plan.

C. Condition for Award of Contract

4. The Borrower shall ensure that no contract is awarded for Works under the Project until a LARP has been prepared by the Borrower, if so required based on detailed design, and cleared by ADB in accordance with paragraph 11 to Schedule 5 to this Loan Agreement.

D. Selection of Consulting Services

5. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall cause the EA to apply quality- and cost-based selection for selecting and engaging consulting services. Consulting services will be provided as follows (i) project management, (ii) construction supervision, (iii) improvement of road maintenance system, and (iv) development of Intelligent Transport System. The Borrower may modify the method of consultant selection or scope of their services with the prior agreement of ADB, and modifications must be set out in the updates to the Procurement Plan.

E. Industrial or Intellectual Property Rights

6. (a) The Borrower shall cause the EA to ensure that all 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 cause the EA to ensure that all contracts for the procurement of 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.

7. The Borrower shall cause the EA to 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.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Implementation Arrangements

1. The Borrower shall designate MOTC as the EA, which is responsible for the overall Project implementation and liaising with ADB and other IFI involved in the CAREC Transport Corridor 1 improvement. The Borrower shall cause MOTC to designate COR as the Project implementation agency. MOTC shall appoint a Project Director from its qualified staff with experience in project management acceptable to ADB. The Project Director shall be responsible for the day-to-day implementation of the Project and the Investment Program, including the project preparation, implementation, monitoring and reporting.
2. The Borrower shall cause MOTC to ensure that (a) the PMC-ADB is recruited in a timely manner, and (b) the Project Director is adequately assisted throughout the Project implementation period by MOTC staff responsible for road engineering, financial, legal and procurement matters.
3. The Borrower shall cause MOTC to ensure that the Project Director is supported by the PMC-ADB in implementing the Project.
4. The Borrower shall cause MOTC to ensure that the PMC-WB is established in a timely manner to coordinate all activities under the CAREC Transport Corridor 1 improvement and provide necessary support for safeguard compliance, legal and financial management under the Project.

Counterpart Funds

5. Without limiting the generality of Section 4.02 of this Loan Agreement, the Borrower shall make available all counterpart funds required for timely and effective implementation of the Project and the RDP through annual budget allocations to MOTC, and shall ensure that necessary resources thus required are released in a timely manner. The Borrower shall cause MOTC to include the updated funding requirements for implementation of the Project and the Investment Program in its annual development programs.

Funding for Road Development and Maintenance

6. The Borrower shall cause MOTC to (a) allocate routine maintenance budget in accordance with the RDP; and (b) ensure that for each fiscal year after 2012, the budget is increased by no less than annual inflation rates, provided that sound fiscal balance is maintained at all times. The Borrower shall have such expenditures audited annually and make the auditor's reports available to ADB upon request.

Construction Quality

7. The Borrower shall cause MOTC to ensure that (a) the Project is carried out in accordance with the applicable technical specifications and design, and that the construction supervision, quality control and Project management are performed in accordance with applicable standards and best international practices; and (b) other road

sections covered by the RDP are maintained in accordance with applicable standards and best international practices.

Road Safety

8. The Borrower shall cause MOTC to (a) ensure that all civil works contracts include contractor's obligation to comply with road safety measures; and (b) monitor the accident rate and traffic volume after the commencement of the operation of the Project Road.

Environment

9. The Borrower shall ensure (a) that the design, construction, and operation and maintenance of the Project facilities are carried out in accordance with ADB's *Environment Policy* (2002), the Borrower's environmental laws and regulations, the EARF, the CEIA, and the IEE; and (b) potential adverse environmental impacts arising from the Project are minimized by implementing all mitigation and monitoring measures as presented in the EMP.

10. The Borrower shall further ensure that (a) the EMP is updated prior to issuance of any notice to proceed to constructors; (b) sufficient resources are made available to implement, monitor, and record the implementation of the EMP; (c) semi-annual environmental reports are prepared and submitted to ADB by the Project Director, within three (3) months of the end of each period covered; (d) the reports include, *inter alia*, a review of progress made on the implementation of the EMP, problems encountered and remedial measures taken; (e) the detailed engineering design and civil work contracts under the Project incorporate applicable environmental measures identified in the EMP; and (f) civil works contractors are supervised to ensure compliance with the requirements of the IEE and EMP.

Land Acquisition and Resettlement

11. The Borrower shall ensure that that to the extent possible the Project does not involve any land acquisition or involuntary resettlement, and all works are carried out within existing rights of way. However, if based on the detail design of the Project, additional land would be required triggering any land acquisition, resettlement or loss of assets, the Borrower shall cause MOTC to ensure that the Project is carried out in accordance with the Borrower's applicable laws and regulations, ADB's Policy on Involuntary Resettlement (1995) and the LARF including, *inter alia*, the following provisions:

- (a) LARP shall be prepared in consultation with, and disclosed to, the affected persons in accordance with the provisions of the LARF;
- (b) the LARP shall be submitted to ADB for review and clearance prior to award of any civil works contract;
- (c) all land and rights of way required by the Project shall be acquired and made available in a timely manner;
- (d) all compensation and resettlement assistance shall be provided to affected persons prior to their displacement and dispossession;

- (e) efficient grievance redressal mechanisms shall be in place in accordance with the LARP to assist affected persons resolve queries and complaints if any, in a timely manner;
- (f) adequate staff and resources shall be made available under PMC-WB to carry out independent monitoring and evaluation of implementation of the LARP and to report the outcomes to ADB on a semi-annual basis. Semi-annual reports shall be submitted to ADB within three (3) months of the end of each period covered. The internal monitoring shall be carried out by the raion administration;
- (g) if during implementation of the LARP, any changes to the location, land alignment of roads, or additional environmental and/or resettlement impacts are identified, the LARP shall be updated and prior approval by ADB and the relevant government agencies shall be obtained before further implementation of the LARP.

Execution of Contracts for Works

12. The Borrower shall ensure that, subsequent to award of contracts, no notice to proceed is issued to contractors for respective sections or parts of the Project Road until the applicable provisions of the LARP (including in particular the timely payment of compensations to affected persons), the IEE, and the EMP have been complied with.

Labor, Gender, Health, and Social Protection

13. The Borrower shall cause MOTC to ensure that (a) specific provisions are included in the bidding documents and contracts requiring that civil works contractors (i) comply with applicable core labor standards, labor laws and incorporate applicable workplace occupational safety norms; (ii) do not differentiate payment between men and women for work of equal value; (iii) do not employ child labor in the construction and maintenance activities; and (iv) to the extent possible, maximize employment of local poor and disadvantaged persons for project construction purposes, provided that the requirements for job and efficiency are adequately met; and (b) appropriate entities, including NGOs, are involved in the dissemination of information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of civil works contractors under the Project and to members of the local communities surrounding the Project Road.

Road Sector Reform

14. The Borrower shall ensure that (a) the road sector policy framework which identifies the development actions as set out in Table 1 of Schedule 1 of the FFA (including good governance and accountability, sustainable financing, policy and regulatory framework, institutional reform and capacity development, road safety, road sector sustainability, and road transport operations and management) is implemented; (b) ADB is kept informed in a timely manner of any changes in the sector that may affect the Project and its financing plan and the progress in implementing the Project; and (c) ADB is consulted in a policy dialogue affecting any of the these elements.

Anticorruption

15. The Borrower shall comply with ADB's *Anticorruption Policy* (1998, as amended to date). The Borrower, consistent with its commitment to good governance,

accountability and transparency, agrees (a) that ADB has the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project and (b) 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. In addition, the Borrower shall (a) conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements; (b) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of all contractors, suppliers, consultants, and other service providers as they relate to the Project; (c) ensure that the construction supervision consultant verifies the contractors' payment certificates in accordance with working drawings and contract specifications; and (d) ensure that the anticorruption action plan agreed with ADB is implemented.

Financial Management Action Plan

16. The Borrower shall cause MOTC to implement the financial management action plan, so that (a) within six (6) months of the Effective Date, project financial management functions are assigned to a nominated unit within the MOTC's finance department, with suitably qualified staff; (b) within nine (9) months of the Effective Date, a manual of financial procedures is developed and approved; training of project financial management staff is carried out; and the automated accounting system is established with capacity to record and report on an annual basis project transactions and generate interim financial reports.

Project Performance Monitoring System

17. The Borrower shall cause MOTC to establish a PPMS within six (6) months of the Effective Date and collect baseline data for performance monitoring. The key indicators and assumptions outlined at the impact and outcome levels in the Project design and monitoring framework will be the primary data required for analysis.

Project Review

18. The Borrower shall cause MOTC through the Project Director submit to ADB: (i) quarterly progress reports within two (2) weeks of the end of each quarter covered; (ii) other performance and monitoring reports to be submitted to ADB on a semi-annual basis. A joint mid-term review shall be carried out two (2) years after the Effective Date. The mid-term review shall focus on the engineering, environmental and social safeguards of the Project, compliance with loan covenants and the undertakings set out in the FFA. The review will allow for any necessary mid-course corrections to ensure successful implementation and the achievement of objectives of the Project and the Investment Program.