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GRANT NUMBER 0082-LAO(SF)

GRANT AGREEMENT  
(Special Operations)

(Northern GMS Transport Network Improvement Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 26 NOVEMBER 2007

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GAS: LAO 35305

## **GRANT AGREEMENT (Special Operations)**

GRANT AGREEMENT dated 26 November 2007 between LAO PEOPLE'S DEMOCRATIC REPUBLIC (the "Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

### WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement;

(B) the Recipient has also applied to OFID (as defined in Section 1.02(r) of this Grant Agreement) for a loan in an amount equivalent to eleven million dollars (\$11,000,000) for the purposes of financing a portion of the Project;

(C) the Recipient has also applied to the Government of Australia through AusAid (as defined in Section 1.02(b) of this Grant Agreement) for a grant in an amount equivalent to fourteen million five hundred thousand dollars (\$14,500,000) for the purposes of financing a portion of the Project;

(D) the Recipient has also applied to the Government of Korea for a loan in an amount equivalent to twenty two million four hundred thirty nine thousand dollars (\$22,439,000) for the purposes of financing a portion of the Project; and

(E) ADB has agreed to provide a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

## **ARTICLE I**

### **Grant Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 (the "Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Grant Regulations are applicable to this Grant Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "ADB Administered Loan and Grant" means the OFID Loan and AusAid Grant for the Project that are to be administered by ADB.

- (b) "AusAid" means the Australian Agency for International Development;
- (c) "AusAid Grant" means the grant in the amount of \$14,500,000 equivalent to be provided by AusAid and administered by ADB;
- (d) "Cofinanciers" means AusAid, OFID and the Government of Korea;
- (e) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2006, as amended from time to time);
- (f) "DCPTC" means the Departments of Communications, Transport, Post and Construction in the provinces of the Recipient and any successor thereto;
- (g) "DOR" means the Recipient's Department of Roads under the MCTPC and any successor thereto;
- (h) "DOT" means the Recipient's Department of Transportation under the MCTPC and any successor thereto;
- (i) "EMP" means the Environmental Management Plan;
- (j) "ESD" means the Environment and Social Division under the MCTPC and any successor thereto;
- (k) "Goods" means equipment and materials to be financed out of the proceeds of the Grant; and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;
- (l) "HIV/AIDS" means human immunodeficiency virus/acquired immunodeficiency syndrome;
- (m) "IEE" means initial environmental examination approved by the Recipient on 10 August 2007;
- (n) "MCTPC" means the Recipient's Ministry of Communications, Transport, Post and Construction and any successor thereto;
- (o) "MOF" means the Recipient's Ministry of Finance and any successor thereto;
- (p) "NGO" means nongovernmental organization;
- (q) "OFID" means the Organization of the Petroleum Exporting Countries (OPEC) Fund for International Development;
- (r) "OFID Loan" means the loan in the amount of \$11,000,000 to be provided by OFID and administered by ADB;

(s) “Procurement Guidelines” means ADB’s Procurement Guidelines (2006, as amended from time to time);

(t) “Project Area” means Xiang Ngeun and Nan districts in Louangphrabang Province; and Xaignabouri , Phiang, Paklai, Kenthao, and Botene districts in Xaignabouri Province;

(u) “Procurement Plan” means the procurement plan for the Project dated 15 August 2007 and agreed between the Recipient and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(v) “RMF” means the Road Maintenance Fund;

(w) “Road Safety Action Plan” means the Recipient’s Road Safety Action Plan dated April 2005, as amended from time to time;

(x) “RP” or “Resettlement Plan” means the Resettlement Plan approved by the Recipient on 10 August 2007; and

(y) “Works” means construction or civil works to be financed out of the proceeds of the Grant, 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 Grant**

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Agreement an amount of twenty seven million dollars (\$27,000,000).

## **ARTICLE III**

### **Use of Proceeds of the Grant**

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

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant among different categories of such goods and services and other items of expenditure shall be in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, all goods and services to be financed out of the proceeds of the Grant shall be procured in accordance with the provisions of Schedule 3 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of goods and services shall be made only on account of expenditures relating to

- (a) goods which are produced in and supplied from and 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 and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2014 or such other date as may from time to time be agreed between the Recipient and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Grant Agreement.

Section 4.02. (a) The Recipient 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 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 Grant proceeds and compliance with the financial covenants of this Grant 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 Recipient shall enable ADB, upon ADB's request, to discuss the Recipient's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Recipient 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 Recipient unless the Recipient shall otherwise agree.

Section 4.03. The Recipient shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Grant, and any relevant records and documents.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. A date ninety (90) days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

## **ARTICLE VII**

### **Miscellaneous**

Section 6.01. The Minister of Finance (MOF) of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

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

#### For the Recipient

Ministry of Finance  
PO Box 46  
23 Singha Road  
Vientiane, Lao PDR

Facsimile Number:

(856 21) 41 2142

For ADB

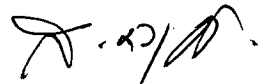
Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:

(632) 636 2444  
(632) 636 2336

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant 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.

LAO PEOPLE'S DEMOCRATIC  
REPUBLIC

By   
\_\_\_\_\_  
H. E. SOMDY DOUANGDY  
Authorized Representative

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
HARUHIKO KURODA  
President

## **SCHEDULE 1**

### **Description of the Project**

1. The objective of the Project is to increase trade and economic growth in the Project area and the region through more efficient transport on the regional and national road networks.
2. The Project consists of the following:
  - (a) Improvement of approximately 367 km of the national road network from Xiang Ngeun to Nakha, including the construction of a bridge across the Mekong River from Xaignabouri Province to Louangphrabang Province;
  - (b) Improvement of approximately 100 km of rural access roads in the Project Area;
  - (c) Provision of equipment for use in operating and facilitating the border crossing at Kenthao and for enforcement of axle-load controls;
  - (d) Provision of funds for national road periodic maintenance subprojects;
  - (e) Provision of training to assist the Department of Transport (DOT) in implementing the Road Safety Action Plan;
  - (f) Provision of an HIV/AIDS Awareness and Prevention of Human Trafficking Program in the construction camps, towns, and rural areas of the Project Area.
3. The Project also includes the provision of consulting services. The Project is expected to be completed by 31 December 2013.

## SCHEDULE 2

### Allocation and Withdrawal of Grant 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 Grant and the allocation of amounts of the Grant 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 Grant on the basis of the percentages set forth in the Table.

#### Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

#### Disbursement Procedures

4. Except as ADB may otherwise agree, the Grant 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

5. (a) Except as ADB may otherwise agree, the Recipient shall establish immediately after the Effective Date, an imprest account at the Bank of the Lao PDR. 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 Recipient and ADB. The initial and the ceiling amount to be deposited into the imprest

account shall be 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 Grant amount.

6. The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed \$50,000.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Northern GMS Transport Network Improvement Project)				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated \$		Percentage and Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works Sections 2-4 of Route 4	16,150,000		65 percent of total expenditure*
2	Periodic Maintenance	720,000		100 percent of total expenditure*
3	Equipment	600,000		100 percent of total expenditure*
4	Resettlement Assistance <sup>1</sup>	260,000		70 percent of total expenditure*
5	IDC on OFID and Government of Korea Loans	1,160,000		98 percent of amount due
6	Unallocated	8,110,000		
	Total	27,000,000		

\* exclusive of local tax and duties

<sup>1</sup> Exclusive of land acquisition

### SCHEDULE 3

#### 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 Grant shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All goods and works, and consulting services to be financed out of the proceeds of the ADB administered Loan and Grant shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
3. All terms used and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

##### B. Procurement for Goods and Works

4. 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
Direct Contracting

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient 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.

5. Domestic Preference. The Recipient 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 and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.
6. National Competitive Bidding. The Recipient's standard procurement procedures are subject to the following modifications:

##### i. General

The procedures to be followed for National Competitive Bidding (NCB) shall be those set forth for "Public Bidding" in Prime Minister's Decree No. 03/PM of the Lao People's Democratic Republic, effective 09 January 2004, and Implementing Rules and Regulations effective 12 March 2004, with the clarifications and modifications described in

the following paragraphs required for compliance with the provisions of the Procurement Guidelines.

ii. Application

Contract packages subject to NCB procedures will be those identified as such in the project Procurement Plan. Any changes to the mode of procurement from those provided in the Procurement Plan shall be made through updating of the Procurement Plan, and only with prior approval of ADB.

iii. Eligibility

Bidders shall not be declared ineligible or prohibited from bidding on the basis of barring procedures or sanction lists, except individuals and firms sanctioned by ADB, without prior approval of ADB.

iv. Advertising

Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.

v. Procurement Documents

The standard procurement documents provided by the Ministry of Finance, Procurement Monitoring Office shall be used to the extent possible. The first draft English language version of the procurement documents shall be submitted for ADB review and approval, regardless of the estimated contract amount, in accordance with agreed review procedures (post and prior review). The ADB-approved procurement documents will then be used as a model for all procurement financed by ADB for the project, and need not be subjected to further review unless specified in the procurement plan.

vi. Preferences

(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 local goods or supplies or materials.

vii. Rejection of all Bids and Rebidding

Bids shall not be rejected and new bids solicited without ADB's prior concurrence.

viii. National Sanctions List

National sanctions lists may be applied only with prior approval of ADB.

ix. Corruption Policy

A bidder declared ineligible by ADB, based on a determination by ADB that the bidder has engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing an ADB-financed contract shall be ineligible to be awarded ADB-financed contract during the period of time determined by ADB.

x. Disclosure of Decisions on Contract Awards

At the same time that notification on award of contract is given to the successful bidder, the results of the bid evaluation shall be published in a local newspaper or well-known freely accessible website identifying the bid and lot numbers and providing information on (i) name of each Bidder who submitted a Bid, (ii) bid prices as read out at bid opening, (iii) name of bidders whose bids were rejected and the reasons for their rejection, (iv) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. The executing agency/implementing agency shall respond in writing to unsuccessful bidders who seek explanations on the grounds on which their bids are not selected.

xi. Member Country Restrictions

Bidders must be nationals of member countries of ADB, and offered goods, works and services must be produced in and supplied from member countries of ADB.

**C. Selection of Consulting Services**

7. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Recipient shall apply quality- and cost-based selection for selecting and engaging consulting services.

8. The Recipient 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 road safety package
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**D. Industrial or Intellectual Property Rights**

9. (a) The Recipient 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 Recipient 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.

10. The Recipient 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**

11. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Recipient and ADB and set forth in the Procurement Plan.

## SCHEDULE 4

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

#### Project Executing Agency (EA)

1. The Ministry of Communications, Transport, Post and Constructions (MCTPC) shall be the EA and shall be responsible for the overall technical supervision and execution of the Project.

#### Project Management

2. The existing Project Management Division (PMD) of the Department of Roads (DOR) shall carry out the functions of a project management unit. DOR shall appoint a full-time Project Manager, who shall be responsible for the day-to-day management of the Project. The Project Manager shall be supported by a full-time Deputy Project Manager, who shall be appointed from the Xaignabouri Province DCTPC or from DOR.

3. The Project Manager and Deputy Project Manager shall (i) prepare the overall project implementation plan, (ii) provide overall construction supervision, (iii) carry out public awareness campaign on HIV/AIDS, (iv) monitor and supervise all project management activities, (v) carry out procurement, (vi) organize monitoring and evaluation activities, (vii) prepare necessary project progress and project completion reports to be submitted to MCTPC and ADB; and (viii) ensure full compliance with ADB's resettlement, environment and other safeguards policies. The Project Manager and Deputy Project Manager shall receive support from other MCTPC staff and the project implementation and monitoring consultants.

4. The HIV/AIDS Awareness and Prevention of Human Trafficking Program shall be implemented by DOR's Environmental and Social Division with the assistance of the Provincial Committee for Control of AIDS, District Committees for Control of AIDS, and the Lao Women's Union. A national consultant shall be recruited to strengthen the institutional capacity of these agencies and assist them with effective planning, implementation, and monitoring.

#### Counterpart Funding

5. The Recipient shall provide counterpart funds for Project implementation on time. The EA shall make timely submission to the Committee for Planning and Investment and the MOF of annual budgetary appropriation request in respect of the Project and ensure prompt disbursement of appropriated funds during each year of Project implementation.

#### Operation and Maintenance

6. MCTPC and the relevant DCTPCs shall be responsible for the operation and maintenance of the project roads and the rural access roads through proper technical supervision and adequate allocation of funds. The completed project roads shall be maintained to a standard consistent with the standard adopted for the Lao PDR national road network under the road maintenance fund (RMF).

Road Safety Measures

7. The Recipient shall ensure that the project design includes road safety measures during the construction period and operation period following Project completion. MCTPC shall implement the Road Safety Action Plan through (i) the provision of training on safety audit policy and guidelines to all provincial Departments of Communications, Transport, Post, and Construction (DCTPCs); (ii) the provision of assistance to DOT in coordinating with the relevant provincial DCTPCs in implementing road safety audits on national roads and provincial roads; (iii) the provision of training in inspections for Vehicle Roadworthiness and Safety Standards; (iv) the provision of international training in road safety for the National Road Safety Committee (NRSC) Secretariat staff; (v) coordination with international agencies involved in road safety in current and proposed road safety projects; and (vi) the provision of training in all the road safety initiatives.

Axle Load Checkpoints

8. The Recipient and ADB shall agree on details of checkpoints along the Project's national roads to control the overloading of vehicles prior to completion of the Works. The checkpoints shall be fully operational by the time that Works have been completed. The Recipient shall maintain a database of information on the status of load enforcement measures and incidence of vehicle overloading for 3 years following project completion.

Project Website

9. Within 6 months of the Effective Date, MCTPC shall create a Project website to disclose information about various matters on the Project, including procurement. With regard to procurement, the website shall include information on the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of goods/services procured.

Grievance Redress Mechanisms

10. Within 6 months of the Effective Date, MCTPC shall prepare a grievance redress mechanism, acceptable to ADB, and establish a task force at the DOR to receive and resolve complaints/grievances or act upon reports from stakeholders on misuse of funds and other irregularities, including grievances relating to resettlement and environmental issues. The task force shall (i) make public the existence of this Grievance Redress Mechanism, through public awareness campaign, (ii) review and address grievances of stakeholders of the Project, in relation to either the Project, any of the service providers, or any person responsible for carrying out any aspect of the Project; and (iii) proactively and constructively respond to them.

Involuntary Resettlement

11. The Recipient and MCTPC shall ensure that any involuntary resettlement shall be carried out in accordance with the agreed resettlement plan (RP) and the resettlement framework (RF) for the rural roads, ADB's *Policy on Involuntary Resettlement* (1995) and the Recipient's laws and regulations on involuntary resettlement. In case of any difference between the Recipient's laws and regulations and ADB's *Policy on Involuntary Resettlement* (1995), ADB's policy shall prevail. Based on the RF, an RP shall be prepared for each of the proposed rural roads involving land acquisition or resettlement and shall be submitted to ADB for review

and approval prior to commencement of any civil works for the specific section of the rural roads that involves land acquisition and involuntary resettlement. Land acquisition and reallocation of affected peoples (AP) shall not commence until an updated RP has been reviewed and approved by ADB. The Recipient shall further ensure that the people affected by the project are compensated at replacement cost and assisted before they are displaced from their houses, land, and assets. No affected people shall be displaced until suitable alternative land within the same or a neighboring village has been allocated to them or compensation has been paid that is sufficient to purchase suitable alternative land within the same or a neighboring village.

12. The Recipient shall further ensure that voluntary donation of land for Project use follows the following criteria (i) the AP's total residential land area shall not be less than 300 m<sup>2</sup>; (ii) if the AP's total residential land area is more than 300 m<sup>2</sup>, the strip of land that can be donated cannot be more than 5% of the total land area owned or occupied by AP concerned; and (iii) there are no houses, structures or fixed assets on the affected portion of land. Voluntary donation according to these criteria will follow the process in accordance with ADB's Operations Manual (OM) F2, which is the same as the Recipient's Decree 192/PM/2005.

13. The Recipient and MTCPC shall ensure that works contractors shall not be issued notices to commence for any part of a section of a road involving land acquisition and resettlement, to begin construction work unless the Recipient has (a) satisfactorily completed, in accordance with the approved RP, compensation payment and relocation to new sites; (b) ensured that rehabilitation assistance is in place; and (c) the area required for civil works is free of all encumbrances.

#### Indigenous Peoples

14. The Recipient shall carry out the specific measures on Indigenous Peoples stipulated in the agreed RP and the Project shall be implemented in accordance with the applicable laws and regulations of the Recipient and ADB's *Policy on Indigenous Peoples* (1998). Furthermore, the Recipient shall ensure that specific measures on Indigenous Peoples as set out in the agreed Poverty Reduction and Social Strategy and HIV/AIDS Awareness and Human Trafficking Prevention Program shall be complied with.

#### Social Issues

15. The Recipient and MCTPC shall ensure that all civil works contractors engaged under the Project (i) provide for equal pay to men and women for equal work in accordance with the Recipient's laws and international treaty obligations, and make prompt payment of wages; (ii) provide safe working conditions and water and sanitation facilities for male and female workers in accordance with the Recipient's laws and international treaty obligations; (iii) do not violate any prohibitions against child labor under the Recipient's laws and international treaty obligations; and (iv) require the contractor to include information on the risk of transmission of sexually-transmitted diseases, including HIV/AIDS, in health and safety programs for all construction workers employed under the Project. Specific provisions to this effect shall be included in bidding documents and civil works contracts, and compliance shall be monitored by MCTPC through the construction supervision consultant.

HIV/AIDS Awareness and Prevention Program

16. The Recipient shall fully implement the agreed HIV/AIDS Awareness and Prevention of Human Trafficking Program in the construction camps, towns, and rural areas of the Project area. As part of this program, institutional capacity of the agencies involved (Provincial Committee for Control of AIDS, District Committee for Control of AIDS, and the District Lao Women's Union) in effective planning and implementation of the program shall be strengthened. The Environment and Social Division (ESD) of DOR shall be strengthened and the HIV/AIDS Awareness and Prevention of Human Trafficking Program in the corridors of influence and surrounding villages shall be monitored.

Gender

17. The Recipient and MCTPC shall ensure that the gender development measures provided in the agreed Summary Poverty Reduction and Social Strategy are undertaken to promote the participation of women in Project activities. The Recipient and MCTPC shall further ensure that District resettlement committees established according to the agreed RP shall include representatives from the district Women's Union, the village Women's Union, female representatives from affected households, including women from severely affected households, households headed by women, and from Indigenous Peoples households. MCTPC shall ensure that there are capacity building training programs on resettlement activities for district and village resettlement committee members, female representatives from affected households, including households headed by women and women from Indigenous Peoples households.

18. MCTPC shall (i) conduct gender sensitization training on gender and resettlement for its relevant staff, the district-level resettlement committees, and the Women's Union, and (ii) ensure that women leaders and youth from affected households of all major ethnic groups in the project area and the Women's Union and Youth Union are included in the HIV/AIDS and Human Trafficking Awareness Program.

Environment

19. The construction, operation and implementation of the Project facilities shall be carried out in accordance with the initial environmental examination (IEE) and the environmental assessment and review procedures in the IEE agreed between the Recipient and ADB, and shall comply with the Recipient's environmental laws and regulations and ADB's *Environment Policy* (2002). If there is any discrepancy between the Recipient's laws and regulations, and ADB's environment policy, the ADB's policy shall prevail. The Recipient shall implement the environmental mitigation and management measures, and other recommendations specified in IEE's environmental management plan (EMP) to minimize any adverse environmental impacts arising from the construction, operation and implementation of Project facilities. MCTPC shall be responsible for the implementation of the EMP and shall be responsible for the monitoring during pre-construction, construction and operation phases. The Recipient and MCTPC shall ensure that the construction contractors develop site-specific environmental management action plan based on the EMP. MCTPC shall monitor the contractor's compliance with the provisions of the EMP. The Recipient shall ensure that the portion of the Project that are to be funded by other financiers shall adopt the provisions of the IEE and EMP.

20. MCTPC shall conduct an environmental assessment of the rural access roads proposed to be financed under the Project. The environmental assessment shall be based on the environmental assessment and review framework (EARF) prepared for the Project and included in the IEE. MCTPC shall ensure that rural access roads used for logging and/or mining or rural access roads that pass through protected forests, protected wetlands or rare habitats shall not be selected and financed under the project.

#### Project Performance Monitoring and Evaluation

21. Before the inception of the Works, MCTPC and ADB shall agree on a set of indicators for evaluating project performance in relation to its impacts, outcomes, outputs, and conditions. Within 9 months of the Effective Date, MCTPC shall collect the baseline data, which shall include, among other (i) economic development and socioeconomic indicators, (ii) transport costs and times, (iii) transport charges, (iv) accident rates, (v) international and total traffic levels, (vi) affected persons' incomes, (vii) access to social services, (viii) jobs created in construction and maintenance, (ix) incidence of sexually transmitted diseases, and (x) incidence of human trafficking. MCTPC shall establish baseline and target values for the indicators. The indicators shall be measured and compared with the baseline at project inception, completion, and 3 years after completion. Indicators shall be disaggregated by gender and ethnicity. MCTPC shall submit to ADB a report summarizing the key findings of monitoring at inception, completion, and 3 years after physical completion of the Project.

#### Cofinancing

22. In the event the funding from any or all of the Cofinanciers cannot be obtained, the portions of thereof will not be financed under the Project. The Recipient may make alternative arrangements, satisfactory to ADB, necessary to cover the funding shortfall.