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LOAN NUMBER 2373-CAM(SF)

LOAN AGREEMENT  
(Special Operations)

(Greater Mekong Subregion Southern Coastal Corridor Project)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 18 FEBRUARY 2008

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LAS:CAM 36353

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 18 February 2008 between the KINGDOM OF CAMBODIA (the "Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

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

(B) the Borrower has also applied to the Government of Australia for a grant in the amount of seven million eight hundred thousand United States Dollars (\$7,800,000) to partially finance the Project as described in Schedule 1 to this Loan Agreement (hereinafter called the Government of Australia Grant);

(C) the Government of Australia Grant will be provided through, and administered by, ADB in accordance with the terms and conditions agreed upon between the Government of Australia and ADB in consultation with the Borrower; and

(D) 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 are applicable to this Loan Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "affected person" means any person whose living environment and/or livelihood activities have been or will be adversely affected by the resettlement activities undertaken or proposed to be undertaken by the Project and specifically including the holders of existing structures within the corridors of influence whose structures will need to be cleared;

(b) "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);

- (c) "EMP" means Environmental Management Plan;
- (d) "GDPW" means the General Department of Public Works within MPWT;
- (e) "GMS" means Greater Mekong Subregion;
- (f) "Goods" means equipment and materials to be financed out of the proceeds of the Loan; and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;
- (g) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;
- (h) "IEE" means Initial Environmental Examination;
- (i) "IRC" means the Interministerial Resettlement Committee, and any successor thereto, established by the Borrower and located within MEF;
- (j) "km" means kilometers;
- (k) "MEF" means the Borrower's Ministry of Economy and Finance and any successor thereto;
- (l) "MPWT" means the Borrower's Ministry of Public Works and Transport and any successor thereto;
- (m) "PDPWT" means the Provincial Department of Public Works and Transport within the MPWT and any successor thereto;
- (n) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);
- (o) "Procurement Plan" means the procurement plan for the Project dated September 10, 2007 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;
- (p) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the GDPW within the MPWT and any successor thereto, which is responsible for the carrying out of the Project;
- (q) "Project facilities" means the roads and cross drainage structures to be constructed or rehabilitated, the structures to be built and the equipment purchased pursuant to this Loan Agreement;
- (r) "PMU-3" means Project Management Unit No. 3 within GDPW;
- (s) "Resettlement Plan" means any of the Resettlement Plan prepared for the Project and endorsed by the Borrower on 5 April 2007; and

(t) "Works" means construction or civil works to be financed out of the proceeds of the Loan, 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. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to four million five hundred seventy-six thousand Special Drawing Rights (SDR 4,576,000).

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 payment of the first principal amount of the Loan on the payment date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 April and 1 October 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 2 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 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Goods, Works, and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement.

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 31 December 2012, 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 this 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 (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 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, the Goods and Works financed out of the proceeds of the Loan, 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: MEF shall have authorized its Treasury Division to disburse an interim second tranche payment under the 2007 budget for the Borrower's road maintenance program to the provincial Departments of Public Works and Transport in the proportion of 30% (thirty per cent) of the total 2007 budgetary allocation for the road maintenance program.

Section 5.02. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

## **ARTICLE VI**

### **Miscellaneous**

Section 6.01. The Ministry of Economy and 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 Economy and Finance  
Royal Government of Cambodia  
Phnom Penh, Cambodia

Facsimile Numbers:

(855-23) 427-798  
(855-23) 430-224

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 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.

KINGDOM OF CAMBODIA

By   
\_\_\_\_\_  
H.E. KEAT CHHON  
Authorized Representative

ASIAN DEVELOPMENT BANK

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

## SCHEDULE 1

### Description of the Project

1. The impact of the Project is to contribute towards economic diversification and development along the Southern Coastal Corridor (a 924 kilometer road along the Gulf of Thailand from Bangkok through Thailand, Cambodia and ending at Nam Can in southern Viet Nam) by reducing transport costs and improving access for the movement of goods and people between GMS countries, specifically Cambodia, Thailand and Viet Nam. The Project will (i) reduce transport times and costs and induce more efficient movement of passengers and goods between GMS countries and within the Project affected provinces, and (ii) provide improved road connectivity between rural areas and provincial centers.

2. The Project will have the following components:

Component A: Construction and Rehabilitation of Transport Infrastructure

Improvement and rehabilitation of approximately 15 km of National Road 33 from the intersection with National Road 31 in Kampong Trach to the border with Viet Nam at Preak Chak - Xa Xia (also known as Lork - Xa Xia), including replacement of an existing steel bridge.

Component B: Cross-Border Facilities

Construction of cross-border facilities on the Cambodian side of the border at Preak Chak (also known as Lork) and at Koh Kong.

Component C: HIV/AIDS and Trafficking Awareness and Prevention Program

Implementation of an awareness campaign to supplement the Borrower's existing programs by expanding their existing actions to the geographic area covered by the Project, including:

- (i) advocacy actions and information and education campaigns on HIV/AIDS and trafficking awareness and prevention;
- (ii) provision of comprehensive HIV/AIDS medical packages (i.e., sexually transmitted disease treatment packages and HIV/AIDS testing kits) to clinics and medical centers in the transport corridor; and
- (iii) monitoring impact of the HIV/AIDS and Trafficking Awareness and Prevention Program.

Component D: Road Maintenance

Provision of technical support to MPWT through a demonstration project on the section of the GMS Southern Coastal Corridor along National Road 33 between Kampong Trach and the junction with National Road 3. This support will include:

- (i) maintenance planning;
  - (ii) implementation of routine and periodic maintenance through competitively bid contracts;
  - (iii) familiarization of Cambodian contractors with contracts for routine and periodic maintenance;
  - (iv) familiarization of MPWT and PDPWT staff with maintenance planning and implementation through competitively bid contracts; and
  - (v) establishment of market rates to evaluate and standardize maintenance costs.
3. The Project will utilize consulting services.
4. The Project is expected to be completed by 30 June 2012.

**SCHEDULE 2****Amortization Schedule  
(Greater Mekong Subregion Southern Coastal Corridor Project)**

Date Payment Due	Payment of Principal (expressed in SDR)*
1-Apr-2016	95,333.00
1-Oct-2016	95,333.00
1-Apr-2017	95,333.00
1-Oct-2017	95,333.00
1-Apr-2018	95,333.00
1-Oct-2018	95,333.00
1-Apr-2019	95,333.00
1-Oct-2019	95,333.00
1-Apr-2020	95,333.00
1-Oct-2020	95,333.00
1-Apr-2021	95,333.00
1-Oct-2021	95,333.00
1-Apr-2022	95,333.00
1-Oct-2022	95,333.00
1-Apr-2023	95,333.00
1-Oct-2023	95,333.00
1-Apr-2024	95,333.00
1-Oct-2024	95,333.00
1-Apr-2025	95,333.00
1-Oct-2025	95,333.00
1-Apr-2026	95,333.00
1-Oct-2026	95,333.00
1-Apr-2027	95,333.00
1-Oct-2027	95,333.00
1-Apr-2028	95,333.00
1-Oct-2028	95,333.00
1-Apr-2029	95,333.00
1-Oct-2029	95,333.00
1-Apr-2030	95,333.00
1-Oct-2030	95,333.00

Date Payment Due	Payment of Principal (expressed in SDR)*
1-Apr-2031	95,333.00
1-Oct-2031	95,333.00
1-Apr-2032	95,333.00
1-Oct-2032	95,333.00
1-Apr-2033	95,333.00
1-Oct-2033	95,333.00
1-Apr-2034	95,333.00
1-Oct-2034	95,333.00
1-Apr-2035	95,333.00
1-Oct-2035	95,333.00
1-Apr-2036	95,333.00
1-Oct-2036	95,333.00
1-Apr-2037	95,333.00
1-Oct-2037	95,333.00
1-Apr-2038	95,333.00
1-Oct-2038	95,333.00
1-Apr-2039	95,333.00
1-Oct-2039	95,349.00
<b>TOTAL</b>	<b>4,576,000.00</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 3

#### Allocation and Withdrawal of Loan Proceeds

##### General

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

##### Percentages of ADB Financing

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

##### Interest 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, all Goods, Works and consulting services to be financed out of the Loan proceeds shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" (2007, as amended from time to time) (ADB's Loan Disbursement Handbook).

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 acceptable 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 United States Dollars. 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 \$500,000.

(b) 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 Borrower and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$50,000.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Greater Mekong Subregion Southern Coastal Corridor Project)</b>			
<b>CATEGORY</b>			<b>ADB FINANCING</b>
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing SDR Category</b>	<b>Percentage of ADB Financing from the Loan Account</b>
1	Works	3,922,000	83 percent of total expenditure claimed*
2	Project Administration	196,000	87 percent of total expenditure claimed*
3	Interest Charge	92,000	100 percent of amount due
4	Unallocated	366,000	
	Total	4,576,000	

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

## SCHEDULE 4

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

#### A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

#### B. Procurement for Goods and Works

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

International Competitive Bidding
National Competitive Bidding

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

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

#### 5. **National Competitive Bidding**

The procedures to be followed for national competitive bidding shall be those set forth for the “National Competitive Bidding” method in the Borrower’s Procurement Manual of September 2005 issued under Prakas 587 MEF of 19 September 2005 (Prakas on Promulgating of the Procurement Manual for Implementing the World Bank and the Asian Development Bank Assisted Projects) with the clarifications and modifications described in the following paragraphs required for compliance with the provisions of the Procurement Guidelines.

##### i. Application

Contract packages subject to National Competitive Bidding 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.

ii. 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.

iii. Advertising

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

iv. Anticorruption

Definitions of the terms "corrupt practice", "fraudulent practice", "collusive practice" and "coercive practice" shall reflect the harmonized definitions given in the ADB's *Anticorruption Policy* (1998, as amended to date).

v. Rejection of all Bids and Rebidding

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

vi. Bidding Documents

The bidding documents provided in the Borrower's Procurement Manual 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.

vii. Member Country Restrictions

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

**C. Selection of Consulting Services**

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

**D. Industrial or Intellectual Property Rights**

7. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

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

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

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

9. Unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan, all contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review and postqualification will be used to confirm that contractors have adequate technical and financial capabilities. Documentation for the first contract procured under national competitive bidding shall be subject to prior review by ADB; thereafter, post review will be required unless otherwise agreed with ADB.

## SCHEDULE 5

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

#### Project Implementation and Coordination

1. MPWT shall be the Executing Agency for the Project with responsibility for procurement, withdrawal of Loan proceeds, engagement and direction of consultants, and reporting to ADB. Responsibilities for planning and implementation shall be delegated by MPWT to PMU-3 as an implementing agency.

#### Operations and Maintenance

2. Within three (3) months of the completion of rehabilitating and upgrading National Road 33 from Kampong Trach to Preak Chek, MPWT shall assign responsibility for operations and maintenance of those Project facilities to PDPWT.
3. The Borrower shall ensure that the Project-financed roads and bridges are maintained to design standards and in accordance with sound maintenance practices. The Borrower shall ensure that annual road maintenance plans are prepared for the Project-financed roads and bridges, on the basis of maintenance standards, traffic volumes, and assessment of needs, as agreed between the Borrower and ADB.
4. The Borrower shall ensure that within twelve (12) months of the award of Works contracts for Component D as described in paragraph 2 of Schedule 1 to this Loan Agreement, MPWT revises maintenance costs to reflect the rates used in the executed Works contracts. These revised rates shall be applied as guidance for future budget requests for maintenance of the road system and revised annually to reflect current rates for competitively bid Works contracts for road maintenance.

#### Resettlement

5. The Borrower shall ensure that: (a) MPWT engages resettlement and gender specialist consultants to assist in updating, implementing and monitoring the agreed upon Resettlement Plan; (b) MPWT does not commence any land acquisition and relocation activities for a geographic area nor commence any Works on that geographic area until the updated Resettlement Plan for that section has been prepared following detailed design and the updated Resettlement Plan has been reviewed and approved by ADB; (c) MPWT carries out all resettlement activities in accordance with the updated Resettlement Plans agreed upon between the Borrower and ADB; (d) the IRC recruits and contracts with an independent external monitoring organization before commencement of any land acquisition activities; and (e) the K-PDWPT establishes a Provincial Resettlement Committee as well as district Resettlement Working Groups and commune Resettlement Task Forces to be responsible for implementation of the Resettlement Plan.

6. When preparing updated Resettlement Plans, the Borrower shall complete a detailed measurement survey and derive updated compensation unit rates for all categories of losses and allowances. The Borrower shall provide to ADB a final database of affected persons, a summary of the updated detailed measurement survey data, and replacement cost tables for each Project-financed road, and formulation of appropriate rehabilitation measures for severely affected, very poor and other vulnerable groups. The revisions to an entitlement matrix in an updated Resettlement Plan shall be limited to: (a) inclusion of new entitlements to address impacts not previously recognized, or (b) changes of mode of payment from cash to in-kind. The Resettlement Plans shall be prepared in compliance with ADB's *Involuntary Resettlement Policy* (1995) and the Borrower's laws, regulations, and procedures. In case of discrepancies between the Borrower's laws, regulations, and procedures and ADB's *Involuntary Resettlement Policy*, ADB's Policy shall prevail.
7. The Borrower shall ensure that the affected persons, including those from any host community, are compensated at replacement cost and assisted prior to displacement from their houses, land, and assets, such that they will be at least as well off as they would have been in the absence of the Project, and the poorest affected persons and vulnerable groups, including affected persons from an ethnic minority, are assisted to help improve their socioeconomic status.
8. The Borrower shall ensure timely provision of counterpart funds for resettlement to meet any unforeseen obligations in excess of the resettlement budget estimates in order to satisfy resettlement requirements and objectives.
9. MPWT shall ensure that Works contractors are not issued a notice of possession for a geographic area until (a) compensation payment and relocation to new sites has been satisfactorily completed for that geographic area, (b) agreed rehabilitation assistance is in place, and (c) the geographic area is free of all encumbrances.

#### Social Issues

10. The Borrower shall ensure that the appropriate Government agencies implement the HIV/AIDS and Trafficking Awareness and Prevention Program.
11. The Borrower shall cause MPWT to ensure that all Works contracts under the Project incorporate provisions (and sufficient budget) to require that contractors: (a) comply with all applicable labor laws and related international treaty obligations and do not employ child labor; (b) do not provide differential wages or benefits to men and women for work of equal value; (c) provide basic water and sanitation facilities for men and women in the construction camps as well as separate bathing and toilet facilities for men and women; (d) provide day care service for the children of female construction workers; (e) provide safe working conditions for male and female workers; and (f) carry out HIV/AIDS Awareness and Prevention Program and Human Trafficking Prevention Program in the campsites.

Gender

12. The Borrower shall ensure that (i) district and commune level resettlement committees established pursuant to the Resettlement Plans include representatives from the district or commune-level Department of Women's Affairs, as applicable, as well as female representatives from affected households, including women-headed households, and women from ethnic minority households; and (ii) MPWT carries out capacity building training programs to provide training to district-level and commune-level resettlement committee members, as well as female representatives from affected households, including women-headed households, in order to provide, among other things, detailed information on resettlement activities, such as proposed relocation sites, entitlements, compensation and livelihood strategies for income improvement for affected persons, and grievance procedures.
13. The Borrower shall ensure that (a) MPWT develops disaggregated monitoring indicators by gender and ethnic group for purposes of monitoring and reports, and (b) conducts gender sensitization training on gender and resettlement for its relevant staff, the district-level and commune-level resettlement committees, and the Department of Women's Affairs. In any instance where land is acquired for affected persons, the Borrower and MPWT shall ensure joint registration of land or land use rights in the names of both the husband and wife.

Environment

14. The Borrower shall ensure that all actions affecting the environment shall be carried out in accordance with ADB's *Environment Policy* (2002) and shall cause MPWT to ensure (a) that specific provisions are included in Works and consulting services contracts for the implementation and monitoring of the EMP prepared as part of the IEE, together with budget allowances for these provisions; and (b) the environmental mitigation measures in the IEE and the summary IEE are adequately implemented by the contractors.
15. The Borrower shall ensure that the implementation of the EMP and the contractors' mitigation measures are adequately monitored and updated, when necessary, with quarterly reporting to ADB.
16. The Borrower shall ensure that MPWT ensures that road construction is carried out following good environmental practices, including (a) appropriate selection of quarry and borrow sites and their subsequent rehabilitation after use; (b) proper disposal of construction wastes and materials; (c) use of good environmental design and construction techniques that ensure slope stability and drainage; (d) minimization of construction impacts, such as dust, diversion of stream flow and increased turbulence, equipment noise, etc.; and (e) necessary mitigation measures for other environmental impacts associated with road construction and maintenance.

Governance

17. To ensure transparency and good governance, and within six (6) months of the Effective Date, MPWT shall establish a Project specific web page on its website and shall publicly disclose on this web page information on how Loan proceeds are being used,

presenting procurement contract awards, including for each such contract (a) the list of participating bidders, (b) name of the winning bidder, (c) basic details on bidding procedures adopted, (d) amount of the contract awarded, (d) list of Goods and/or services purchased, and (e) intended and actual utilization of Loan proceeds under each contract. The website shall be updated within four (4) weeks after each award of contract. If a Project web page cannot be established within MPWT's existing website to which the Project consultant would have read/write access and to which there is unrestricted public access, then a separate Project website shall be established by MPWT.

18. The Borrower shall ensure that MPWT ensures Project staff are fully knowledgeable of and comply with the Borrower's and ADB's procedures, including, but not limited to, procedures for (i) implementation, (ii) procurement, (iii) use of consultants, (iv) disbursement, (v) reporting, (vi) monitoring, and (vii) prevention of fraud and corruption.
19. The Borrower shall cause MPWT to establish a Complaints and Action Task Force within PMU-3 to receive and resolve complains or grievances and act upon reports on the misuse of funds or other irregularities. The Borrower shall cause MPWT to, when publishing bid evaluation results, also specify that any bidder that wishes to ascertain the grounds on which its bid was not selected may request an explanation from MPWT. MPWT shall promptly (within 20 working days) provide an explanation of why such bid was not selected, either in writing and/or in a debriefing meeting, at the option of MPWT. The requesting bidder shall bear all the costs of attending such a debriefing.
20. The Borrower shall cause MPWT to widely publicize the existence of the Integrity Division within ADB's Office of the Auditor General as a point of contact for allegations of fraud, corruption and abuse among ADB-financed projects or any MPWT staff.
21. The Borrower shall ensure that all advances of operating expenses paid to MPWT staff are reconciled within one (1) week of the end of each month. No further advances shall be paid until previous advances have been reconciled and cleared against documentary evidence.
22. The Borrower shall notify civil society organizations active in the Project area of selected events and that they are invited to observe those selected events, such as: public bid openings, contract signings, meetings to review Project progress, hand-over ceremonies for Project facilities, and others as identified by MPWT. All activities undertaken by the identified civil society organizations with regard to the Project shall be included in the quarterly progress reports described in paragraph 27 of this Schedule.
23. In addition to remedies available to ADB under its *Anticorruption Policy* (1998 as amended to date) and Loan Regulations, the Borrower agrees that the following actions may also be applied in the event corrupt activities have been investigated and confirmed to the satisfaction of ADB: notification to MPWT of wrongdoing by any person associated with the Project for further appropriate action by the Borrower, requiring MPWT to remove an individual from further involvement in the Project, and declaring a misprocurement has occurred.

Auditing and Accounting

24. Without prejudice to the generality of Section 4.02 of this Loan Agreement, the Borrower shall ensure that a separate accounting system for Project expenditures is maintained in accordance with sound accounting principles. All Project accounts, including financial statements, statements of expenditures and account records, shall be audited annually as part of the regular audit of accounts and financial statements by an independent auditing firm. The consolidated audit reports (in English) shall be submitted to ADB in accordance with the requirements and within the deadlines stated in Section 4.02(a) of this Loan Agreement. The audit opinion shall include (i) a detailed description of the source of funds and expenditures made; (ii) an assessment of the adequacy of accounting and internal controls systems with respect to Project expenditures and other financial transactions, and to ensure safe custody of Project-financed assets; and (iii) a determination as to whether the Borrower and MPWT have maintained adequate documentation for all financial transactions, specifically including the statement of expenditures and imprest account procedures.

Project Performance Monitoring and Evaluation

25. MPWT shall ensure the implementation of a systematic Project performance monitoring and evaluation system for use throughout the Project period, and after as needed, that indicates: (i) the effectiveness of Project implementation activities, including (a) the precise nature, timeliness, cost and quality of physical infrastructure implemented in the Project, (b) the integrity of resettlement and related programs, and (c) the extent to which the HIV/AIDS Awareness and Prevention Program and Human Trafficking Prevention Program is implemented as planned and its impacts; and (ii) the effectiveness of the Project with regard to its anticipated effect on economic and social development relative to the baseline prior to its implementation, as indicated by changes in (a) per capita income in the Project area, (b) the volume and type of freight and number of passengers crossing the border between Cambodia and Viet Nam at Preak Chak – Xa Xia and between Cambodia and Thailand at Koh Kong; (c) passenger and freight vehicle operating costs on roads improved under the Project and between key locations, (d) tariffs for freight and passenger movement between selected locations that indicate the impact of the Project on the community, (e) the quantity and type of traffic on roads improved under the Project, and the quantity and type of freight transported at selected locations, and (f) the processing time for passengers and for freight departing from Cambodia at the two border crossings improved under the Project. The impacts of development on low income households resulting from improved road access shall receive particular attention.
26. Baseline data shall be collected within 18 months of the Effective Date, with a second survey to be conducted immediately prior to Project completion and a third survey to be conducted five (5) years after Project completion. The baseline and subsequent surveys shall draw on data collected during Project preparatory activities and data collected from traffic and travel surveys, household socioeconomic sample surveys, participatory rapid appraisals and secondary data from government sources. Where relevant, indicators shall be disaggregated by gender and socioeconomic status.

27. The Borrower shall cause the PMU-3 to: (i) collect and consolidate all Project progress reports, site reports, technical and financial reports and submit them to ADB; (ii) review and submit quarterly progress reports, a midterm Project evaluation report and an overall Project completion report as prepared by its consultants; and (iii) other reports as may be reasonably requested by ADB. Quarterly reports shall include updated implementation, financial and procurement-related information, as well as reports submitted by the independent monitor for resettlement activities. Quarterly reports shall be submitted to ADB within 30 days of the end of each quarter.