
LOAN NUMBER 2513-VIE(SF)

LOAN AGREEMENT
(Special Operations)

(Quality and Safety Enhancement of Agricultural Products
and Biogas Development Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 30 JUNE 2009

LAS:VIE 39421

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 30 June 2009 between the SOCIALIST REPUBLIC OF VIET NAM (hereinafter called the "Borrower") and ASIAN DEVELOPMENT BANK (hereinafter called "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) part of the Project will be carried out by the Financial Intermediaries acceptable to ADB (hereinafter collectively called the "FIs"), and for this purpose the Borrower will make available to the FIs part of the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB;

(C) the Borrower has also applied to ADB for technical assistance (hereinafter called the "Technical Assistance") for the purpose of scaling up biogas program, and ADB has agreed to provide, to the Government of the Borrower, a technical assistance grant for Strengthening Project Management and Developing Strategies and Options for Upscaling Biogas Program in an amount not exceeding the equivalent of one million five hundred thousand dollars (\$1,500,000); 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) "APMB" means the Agricultural Projects Management Board, or any successor thereto, of the MARD, as defined hereunder;

(b) “Biogas Program” means the Asian Biogas Program funded by the Government of Netherlands;

(c) “BPMU” means the Biogas Project Management Unit to be established in DLP, as defined hereunder, and shall have functions as referred to in paragraph 3 of Schedule 5 to this Loan Agreement;

(d) “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);

(e) “CPMU” means the Central Project Management Unit to be established in APMB, as referred to in paragraph 2 of Schedule 5 to this Loan Agreement;

(f) “DARD” means a Department of Agriculture and Rural Development in a province of the Borrower, or any successor thereto;

(g) “DCP” means the Department of Crop Production of MARD, or any successor thereto;

(h) “DLP” means the Department of Livestock Production of MARD, or any successor thereto;

(i) “Dong” or the sign “VND” means dong, the lawful currency of the Borrower;

(j) “FGIA” means a first generation imprest account;

(k) “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;

(l) “IA” means an implementing agency of the Project;

(m) “IPMU” means a Institutional Project Management Unit to be established in DCP, as referred to in paragraph 3 of Schedule 5 to this Loan Agreement;

(n) “Loan Disbursement Handbook” means ADB’s *Loan Disbursement Handbook* dated January 2007, as may be amended from time to time;

(o) “MARD” means the Ministry of Agriculture and Rural Development of the Borrower, or any successor thereto;

(p) “MOF” means the Ministry of Finance of the Borrower, or any successor thereto;

(q) “Onlending Agreement” means any of the loan agreements between an FI and an eligible beneficiary with respect to a Subloan, as defined hereunder;

(r) “PPC” means a Provincial People’s Committee of the Borrower, or any successor thereto;

(s) “PPMS” means a project performance management system, as referred to in paragraph 12 of Schedule 5 to this Loan Agreement;

(t) “PPMU” means a Provincial Project Management Unit, as referred to in paragraph 3 of Schedule 5 to this Loan Agreement;

(u) “Procurement Guidelines” means ADB’s *Procurement Guidelines* (2007, as amended from time to time);

(v) “Procurement Plan” means the procurement plan for the Project dated 18 December 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;

(w) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations means MARD or any legal successor thereto acceptable to ADB, which has overall responsibility for the implementation of the Project;

(x) “Project Provinces” means the following sixteen (16) provinces of the Borrower: Ha Noi, Da Nang, Ho Chi Minh City, Tien Giang, Lam Dong, Hai Phong, Vinh Phuc, Phu Tho, Thai Nguyen, Son La, Yen Bai, Bac Giang, Hai Duong, Binh Thuan, Ben Tre, and Ninh Thuan;

(y) “SAZ” means a safe agriculture zone of the Borrower in which the allocated agricultural land shall be safeguarded from excessive microbiological, chemical, and heavy metal pollution and contamination, thereby ensuring that the agricultural products produced therein and distributed therefrom are safe and of high quality;

(z) “SGIA” means a second generation imprest account;

(aa) “Subloan” means a subloan financed by the Loan proceeds and extended by an FI to a beneficiary, under an Onlending Agreement, to finance construction of a biogas digester by such a beneficiary;

(bb) “Subsidiary Loan” means a loan financed by the Loan proceeds and extended by the Borrower to an FI, under a Subsidiary Loan Agreement defined hereunder, to be onlent to eligible beneficiaries for financing of the construction of biogas digesters;

(cc) “Subsidiary Loan Agreement” means a loan agreement between the Borrower and an FI, executed with respect to a Subsidiary Loan; and

(dd) “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 sixty-two million four hundred five thousand Special Drawing Rights (SDR 62,405,000).

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 15 August and 15 February 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. (a) The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures of the Project in accordance with the provisions of this Loan Agreement.

(b) The Borrower shall relend, under Subsidiary Loan Agreements with terms and conditions satisfactory to ADB, part of the proceeds of the Loan not exceeding seven million nine hundred eighty-two thousand Special Drawing Rights (SDR 7,982,000) to the FIs.

(c) The Borrower shall cause the FIs to onlend the proceeds of the Subsidiary Loans to eligible beneficiaries, under Onlending Agreements with terms and conditions acceptable to ADB, under Part 3(ii) of the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The Goods, Works, consulting services and other items of expenditures 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, consulting services and other items of expenditures 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 2015 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. 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.

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 are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations:

(a) The IPMU and BPMU shall have been established by MARD, as provided in paragraph 3 of Schedule 5 to this Loan Agreement; and

(b) A PPMU shall have been established in each Project Province, by the respective PPC, as provided in paragraph 3 of Schedule 5 to this Loan Agreement.

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 Governor of the State Bank of Viet Nam 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

State Bank of Viet Nam
47-49 Ly Thai To
Hanoi, Viet Nam

Facsimile Numbers:

(84-4) 38250-612 or 38258-385.

For ADB


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

Facsimile Numbers:

(632) 636-2444
(632) 636-2228.


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.

SOCIALIST REPUBLIC OF VIET NAM

By 

NGUYEN VAN GIAU
Authorized Representative

ASIAN DEVELOPMENT BANK

By 

AYUMI KONISHI
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The Project is expected to facilitate sustainable and equitable growth of the agricultural sector of the Borrower through increased livelihood opportunities and improved human health by improving quality and safety standards of the agricultural outputs of the Borrower in order to meet relevant domestic and international requirements, and reducing environmental pollution and greenhouse gases from livestock waste in agricultural areas.

Scope of the Project

2. The scope of the Project comprises:

Part 1: Development of Regulatory Framework and Improvement of Quality and Safety System for Agro-products

- (i) improving regulatory framework through review of food safety regulations and formulation of new policies and regulations on food safety and quality, and coordination of the management of quality and safety of agro-products;
- (ii) strengthening capacity of agencies and institutions of the Borrower responsible for policy formulation, monitoring, accreditation and certification, inspection, laboratory analysis, review and development of standards, and communication; and
- (iii) enhancing the existing crop food safety management system through operationalizing the improved system in the Project Provinces on a pilot basis.

Part 2: Development of Infrastructure and Facilities for Quality and Safe Agro-products

- (i) providing support for implementation of SAZ plans, including soil and water analysis, and assessment of conditions for production, preliminary processing, mapping and registration of safe production zones in provincial land planning zone schemes;
- (ii) developing support infrastructure in SAZs;
- (iii) providing support for certification process of agro-products and strengthening provincial capacity for agro-food safety monitoring and assessment;
- (iv) providing training on good agricultural practices, hazard analysis critical control points and other farm food safety standard-based practices to farmers, primary processors and traders;

Schedule 1

- (v) replacing poor quality and pest and disease-prone varieties of agro-products with better varieties to improve quality and safety of agro-products; and
- (vi) providing support services to Project Provinces for upgrading of laboratories, applied research and development institutions.

Part 3: Biogas Development for Clean Energy, Improvement of Agro-Product Safety and Reduction of Health Hazard from Livestock Waste

- (i) supporting biogas infrastructure investments;
- (ii) providing a credit facility for biogas investments; and
- (iii) strengthening applied biogas research services.

Part 4: Project Management Support

Providing support in the management and supervision of Project activities, and assisting provincial and district agencies concerned in the various aspects of Project implementation.

3. The Project also includes provision of consulting services. The Project is expected to be completed by 30 June 2015.

SCHEDULE 2

Amortization Schedule (Quality and Safety Enhancement of Agricultural Products and Biogas Development Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in SDR)*
15-Aug-2017	1,300,104
15-Feb-2018	1,300,104
15-Aug-2018	1,300,104
15-Feb-2019	1,300,104
15-Aug-2019	1,300,104
15-Feb-2020	1,300,104
15-Aug-2020	1,300,104
15-Feb-2021	1,300,104
15-Aug-2021	1,300,104
15-Feb-2022	1,300,104
15-Aug-2022	1,300,104
15-Feb-2023	1,300,104
15-Aug-2023	1,300,104
15-Feb-2024	1,300,104
15-Aug-2024	1,300,104
15-Feb-2025	1,300,104
15-Aug-2025	1,300,104
15-Feb-2026	1,300,104
15-Aug-2026	1,300,104
15-Feb-2027	1,300,104
15-Aug-2027	1,300,104
15-Feb-2028	1,300,104
15-Aug-2028	1,300,104
15-Feb-2029	1,300,104
15-Aug-2029	1,300,104
15-Feb-2030	1,300,104
15-Aug-2030	1,300,104
15-Feb-2031	1,300,104
15-Aug-2031	1,300,104
15-Feb-2032	1,300,104
15-Aug-2032	1,300,104
15-Feb-2033	1,300,104
15-Aug-2033	1,300,104
15-Feb-2034	1,300,104
15-Aug-2034	1,300,104
15-Feb-2035	1,300,104
15-Aug-2035	1,300,104
15-Feb-2036	1,300,104
15-Aug-2036	1,300,104

Schedule 2

15-Feb-2037	1,300,104
15-Aug-2037	1,300,104
15-Feb-2038	1,300,104
15-Aug-2038	1,300,104
15-Feb-2039	1,300,104
15-Aug-2039	1,300,104
15-Feb-2040	1,300,104
15-Aug-2040	1,300,104
15-Feb-2041	<u>1,300,112</u>
Total	<u>62,405,000</u>

* 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 (as shown in Attachment hereto) sets forth the Categories of Goods, Works, consulting services and other items of expenditures to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the "Table"). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

Percentages of ADB Financing

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

Interest Charge

3. The amount allocated to Category 10 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

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

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower immediately after the Effective Date shall: (i) establish two or more FGIA's, as may be needed, one to be managed by CPMU and others by the FIs (for the credit facility under Part 3(ii) of the Project), at commercial banks acceptable to ADB; and (ii) cause each IA to establish and manage an SGIA in each Project Province or Ha Noi, as may be applicable in the case of BPMU and IPMU, at commercial banks acceptable to ADB. The currencies of each FGIA and each SGIA shall be Dollar and Dong, respectively. The maximum amount to be deposited into the CPMU's FGIA account shall not exceed the lower of (i) the estimated six (6) months' expenditure, or (ii) the equivalent \$8,285,000, and the maximum amount to be deposited into the FIs' FGIA accounts shall not exceed the lower of (i) the estimated six (6) months' expenditure, or (ii) the equivalent \$1,215,000. The maximum amount to be deposited into each SGIA for Project implementation purposes shall not exceed the lower of (i) the estimated six (6) months' expenditure, or (ii) equivalent of three hundred thousand Dollars (\$300,000).

(b) Each disbursement under the Project shall be made, and each imprest account for the Project shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook and the relevant financial regulations of the Borrower. ADB's statement of expenditures procedure shall be used for reimbursement of eligible expenditures for, and liquidation of advances provided into, each of the imprest accounts (including SGIAs) established under the Project, 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 ADB's statement of expenditures procedure shall not exceed \$100,000 equivalent.

Condition of Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawal shall be made from the Loan Account for Part 3(ii) of the Project (credit facility for biogas investments) until:

(a) the Borrower shall have caused the FIs to enter into a Project Agreement with ADB in terms and conditions proposed by ADB; and

(b) the Borrower shall have entered into a Subsidiary Loan Agreement with the FIs concerned with terms and conditions satisfactory to ADB.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS				
Quality and Safety Enhancement of Agricultural Products and Biogas Development Project				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated SDR		Percentage and Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Works	29,363,000		
1A	Quality and Safety Enhancement		17,595,000	90 percent of total expenditure
1B	Biogas Development		2,932,000	90 percent of total expenditure
1C	Credit Line for Biogas Digester Construction		7,982,000	90 percent of total expenditure
1D	Financial Assistance to Households for Biogas Digester Construction		854,000	100 percent of amounts due*
2	Equipment, Vehicles, and Furniture	10,737,000		
2A	Equipment		10,627,000	90 percent of total expenditure
2B	Vehicles		36,000	90 percent of total expenditure
2C	Furniture		74,000	90 percent of total expenditure
3	Materials	7,220,000		90 percent of total expenditure
4	Training, Workshops, and Overseas Study Tours	4,939,000		
4A	Training and Workshops		4,567,000	90 percent of total expenditure
4B	Overseas Study Tours		372,000	90 percent of total expenditure
5	Consulting Services	1,242,000		
5A	International		749,000	90 percent of total expenditure
5B	National		493,000	90 percent of total expenditure
6	Research and Development	2,127,000		

Attachment to Schedule 3

6A	Quality and Safety Enhancement		1,330,000	90 percent of total expenditure
6B	Biogas Development		797,000	90 percent of total expenditure
7	Design and Supervision, Monitoring and Evaluation, and Certification	4,183,000		
7A	Baseline Survey		1,232,000	90 percent of total expenditure
7B	Design and Supervision		1,076,000	90 percent of total expenditure
7C	Certification		1,356,000	90 percent of total expenditure
7D	Monitoring and Evaluation		519,000	90 percent of total expenditure
8	Project Auditing	307,000		90 percent of total expenditure
9	Recurrent Costs	1,186,000		31 percent of total expenditure
10	Interest Charge	1,101,000		100 percent of amount due
	Total	62,405,000		

*Exclusive of local taxes and duties

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods, 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 the Loan Agreement shall 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:

National Competitive Bidding
Shopping
Direct Purchase

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. National Competitive Bidding. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after written approval of such change by the Borrower and ADB.

C. Selection of Consulting Services

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

Least-Cost Selection for Project auditing

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. 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 Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project; Safeguards; Reporting and Other Matters

A. PROJECT IMPLEMENTATION

Executing Agency

1. As the Project Executing Agency, MARD shall have the overall responsibility for the implementation of the Project.

Management and Implementation

2. The CPMU established in APMB shall be responsible for overall Project coordination and management activities under the Project.

3. The IPMU established in DCP shall be responsible for the implementation of activities related to institutional and regulatory development under Part 1 of the Project. The BPMU established in DLP shall be responsible for the management of all activities related to biogas development under Part 3 of the Project, except for Part 3 (ii) which will be carried out by the FIs concerned. The PPMUs established in DARD of each Project Province shall be responsible, at the provincial level, for (i) management of quality and safety enhancement activities under Part 2 of the Project, and (ii) implementation of all biogas development related activities under Part 3 of the Project. Each of BPMU, IPMU and PPMUs shall act in an IA capacity under the Project. The Borrower shall ensure that sufficient and adequate staff at the central, provincial, district, and commune level are provided in a timely manner in each Project Province to facilitate the implementation of food safety regulations and policies.

4. (a) In each Project Province where investments in safe agriculture infrastructure are to be undertaken under the Project, the Borrower shall ensure that the PPC concerned has completed the identification, designation, and registration of SAZs prior to commencement of any physical construction activities.

(b) The Borrower shall also ensure that (i) units for food safety monitoring, information, and communication are piloted at the National Agro-Forestry and Fisheries Quality Assurance Department; (ii) food safety units are piloted at DCP; and (iii) subunits for food safety are piloted at DARDs of the Project Provinces in accordance with the Borrower's National Action Plan for Food Safety and related implementation regulations.

5. The Borrower shall also ensure that counterpart staff are provided at the central, provincial and district level in the Project Provinces in a timely manner to facilitate the implementation of food safety regulations and policies by either reassigning existing staff, adding responsibilities to existing staff, or identifying new staff to carry out the tasks of food safety specialists and food safety facilitators.

Biogas Development, Eligibility, and Financing

6. The Borrower shall ensure that each Subsidiary Loan, unless otherwise agreed by ADB, (i) is denominated in Dong; (ii) has a maturity, grace period and interest rate to be determined by the Borrower in accordance with the Borrower's lending practices

applicable to the onlending of funds externally borrowed by the Borrower; and (iii) is made under such other terms and conditions acceptable to ADB. The Borrower shall also ensure that each FI utilizes the proceeds of the relevant Subsidiary Loan for the sole purpose of onlending Subloans to eligible household beneficiaries for construction of biogas digesters under the Project.

7. For each biogas digester construction project to be financed by a Subloan under the Project, the Borrower shall cause the relevant FI to ensure that: (i) such Subloan is made in strict accordance with the eligibility criteria, including technical and environmental criteria, established by and agreed between the Borrower and ADB; (ii) financing is provided at these ratios: 81.8% of the total project cost to be financed by the proceeds of the relevant Subsidiary Loan, 9.1% by FI's own funds, and 9.1% by the relevant household through the provision of local materials and/or labor of equivalent value; (iii) the related biogas digester is constructed as proposed, and is certified in accordance with the relevant standards, including technical and environmental standards, established by and agreed between the Borrower and ADB under the Project; and (iv) technical and environmental criteria related to biogas are added to respective FI's standard loan eligibility criteria to ensure the targeted clientele under the Project is reached. The Borrower shall ensure that: (i) each Subloan has an interest rate as agreed by MOF and the FI concerned in the relevant Subsidiary Loan; (ii) such interest rate is determined based on the rate for the relevant Subsidiary Loan plus a margin agreed between MOF and the FI concerned; and (iii) each Subloan has such other terms and conditions as the relevant FI may have in extending loans to customers from time to time in the ordinary course of its business. In determining the applicable interest rate for a Subloan, the Borrower shall take into consideration, and hence ensure, that eligible households have access to affordable financial sources for construction of biogas digesters.

8. The Borrower shall ensure that household beneficiaries in the Project Provinces, except for those who have received financial assistance under the Biogas Program are eligible for Subloans under the Project.

9. The Borrower shall ensure that the implementation of the Biogas Program is further expanded to include the Project Provinces of Ben Tre, Ho Chi Minh, Binh Thuan, Ninh Thuan, Da Nang, and Lam Dong.

B. AUDITING, REPORTING, MONITORING AND REVIEW

Auditing and Reporting

10. Without any prejudice to the provisions of Section 4.02 of this Loan Agreement, the Borrower shall ensure that: (i) all parties involved in Project implementation, including MOF and the FIs, maintain records and accounts for the Project, which shall clearly identify the Goods, Works and consulting services financed by the Loan proceeds, financing resources received, expenditures incurred, and the use of local funds; and (ii) these records and accounts are established and maintained in accordance with sound accounting principles and internationally accepted accounting standards. The Borrower shall cause CPMU to review and consolidate these accounts and have them audited annually in accordance with sound accounting practices by auditors acceptable to ADB. The Borrower shall also ensure that the audit report produced for each financial year under the Project includes: (i) a statement verifying whether or not the funds disbursed by ADB have been used for the purpose for which such funds were disbursed; and (ii) the auditor's opinion on

the use of the imprest accounts and statement of expenditures procedure under the Project. The Borrower shall cause copies of the relevant audited accounts and auditor's report to be submitted to ADB within six (6) months after the end of each financial year under the Project. The Borrower shall also cause CPMU to prepare consolidated quarterly reports, elaborating progress made, problems encountered during the relevant period, steps taken or proposed to remedy the problems, proposed program of activities, and progress expected for the next quarter. Within three (3) months of physical completion of the Project, the Borrower shall cause CPMU to submit to ADB a completion report, which shall describe, among other things as may be required by ADB, the achievements in relation to the Project's expected impact, outcome and outputs, and shall be in the form acceptable to ADB.

11. The Borrower shall ensure that the portfolio of the Subloans shall be accounted for and reported separately by the FIs concerned in such form and at such frequency as may be required by ADB.

Monitoring

12. To monitor the progress of the Project implementation, the Borrower shall cause CPMU to establish and maintain a PPMS, which shall be designed to permit adequate flexibility to adopt remedial action regarding Project design, schedules, activities, and development impacts. The Borrower shall cause CPMU to ensure that the PPMS for the Project adopts gender disaggregated indicators and includes the following: (i) physical progress of the implementation of Project activities; (ii) number and area of SAZs with soil and water monitoring data; (iii) number of models for safe agricultural production, the areas established, and number of farmers involved; (iv) production amount and value of certified safe agro-products; (v) volume of certified safe agro-products traded in wholesale markets and supermarkets; (vi) number and type of laboratory tests completed on agro-product quality and safety; (vii) number of constructed biogas plants and planned livestock production areas; (viii) increases in farm incomes; (ix) reduction in poverty incidence; and (x) social development.

13. Within six (6) months from the Effective Date, the Borrower shall cause CPMU to refine the PPMS framework, confirm achievable targets as well as monitoring and recording arrangements, and establish relevant systems and procedures. The Borrower shall also cause each IA to report to the CPMU, at a required frequency, the baseline and progress data, including annual reporting on the environmental management plan of the Project. The Borrower shall further cause the CPMU to analyze and consolidate the reported data through its management information system and then report the outcome to ADB through quarterly progress reports.

Project Review

14. The performance of the Project shall be reviewed at least twice a year jointly by the Borrower and ADB. Each such review shall: (i) assess implementation performance, achievement of progress towards project outcomes and outputs, and financial progress; (ii) identify issues and constraints affecting implementation; and (iii) work out a time-bound action plan for the resolution of issues and constraints so identified. The Borrower, jointly with ADB, shall undertake a mid-term review to assess implementation status and take appropriate measures, including modification of scope and implementation arrangements,

and reallocation of the Loan proceeds, as appropriate, in order to achieve the Project's objectives.

C. OTHER MATTERS

Public Awareness Raising

15. The Borrower shall ensure that in all Project Provinces information dissemination, education and mass communication activities are carried out in a timely manner to promote the replication of safe agriculture production models and biogas technology application and utilization.

Environment

16. The Borrower shall ensure that (i) the Environmental Assessment and Review Framework, prepared for the Project and agreed by the Borrower and ADB, guides the environmental assessment and institutional responsibilities for the biogas subprojects to be identified and financed through the Subloans; (ii) Project activities do not cause significant environmental impact or concerns; (iii) any potential adverse impact on the environment is managed through screening of final investment plans, adopting appropriate mitigation measures and environmental monitoring during Project implementation; and (iv) in implementing the Project, the Borrower's relevant environment-related laws and regulations as well as ADB's *Environment Policy* (2002) are followed. If there is any discrepancy between the Borrower's laws and regulations, and the requirements of ADB's *Environment Policy*, ADB's policy shall apply. The Borrower shall also ensure that MARD, following relevant internal processes of the Borrower, carries out relevant environmental assessment prior to commencement of any civil works under the Project. The Borrower shall further cause MARD to ensure that MARD's assessment (i) meets the requirements of the Environmental Assessment and Review Framework, (ii) includes details of relevant local consultation carried out, and (iii) is available, in the local language, to the public and other interested parties upon request at the PPMU office of each Project Province before the relevant Project activities start.

Resettlement

17. The Borrower shall ensure, and cause MARD and each IA to ensure, that: (i) all activities to be financed out of the Loan proceeds have no resettlement impact; (ii) construction of new facilities under the Project is carried out on existing sites on public land, free from all encumbrances, habitation, dispute or controversy; and (iii) proposals for the Works include confirmation that no land acquisition or resettlement shall be required under the Project. In the event of any unforeseen land acquisition or involuntary resettlement, the Borrower shall immediately inform ADB and prepare the necessary planning documents in compliance with ADB's *Involuntary Resettlement Policy* (1995). If there is any discrepancy between the Borrower's laws and regulations, and the requirements of ADB's *Involuntary Resettlement Policy*, ADB's Policy shall apply.

Indigenous People

18. The Borrower shall ensure, and cause MARD, each IA and each FI to ensure, that all activities to be financed out of the Loan proceeds: (i) shall not adversely affect

indigenous peoples, female-headed households, disabled, elderly or other similarly vulnerable groups; and (ii) shall give special consideration to the participation and practices of ethnic minority population in compliance with ADB's *Policy on Indigenous Peoples* (1998). In the event that indigenous people are beneficiaries of, or otherwise affected by, any biogas subproject financed out of the Loan proceeds, the Borrower shall also ensure, and cause MARD, each IA and each FI to ensure, that: (i) all ethnic minority groups in and around proposed subproject locations are consulted on their willingness to participate, suitability of the sites and relevant subproject activities; (ii) such ethnic minority groups are given equal opportunities to participate in relevant subproject activities including training; and (iii) the outcome of relevant consultation carried out is summarized in the relevant subproject investment plans or subproject feasibility study.

Labor

19. The Borrower shall cause MARD to ensure that: (i) the contracts for relevant Works contain provisions prohibiting use of child labor and differentiation in wages between male and female workers for work of equal value, in accordance with the relevant laws and regulations of the Borrower; (ii) such contracts also include mandatory provisions on health, sanitation and appropriate working conditions; and (iii) contractors and their workers observe local protocols concerning acceptable behavior toward the local population.

Gender

20. The Borrower shall ensure that: (i) the gender action plan, prepared for the Project in agreement with the Borrower, is fully implemented in a timely manner; and (ii) that adequate resources are allocated for this purpose. In particular, the Borrower shall ensure that the timeframe for each of the measures specified in the gender action plan is determined at the inception phase of Project implementation and submitted for ADB's approval.

Anti Corruption

21. The Borrower shall comply with, and shall cause the Project Executing Agency, each IA and each FI to comply with ADB's *Anticorruption Policy* (1998, as amended to date) and ADB's policy relating to *Enhancing the Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism* (2003). The Borrower (i) acknowledges ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; (ii) agrees to cooperate fully with, and to cause the Project Executing Agency, each IA and each FI 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; and (iii) agrees to refrain, and cause the Project Executing Agency, each IA and each FI to refrain, from engaging in money laundering activities or financing of terrorism and shall allow, and cause the Project Executing Agency, each IA and each FI to allow, ADB to investigate any violation or potential violation of these undertakings.

22. Without limiting the generality of the preceding paragraph, the Borrower shall (i) ensure that the Project Executing Agency and each IA conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements, and (ii) ensure and cause the Project Executing Agency and each IA to 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.

23. In addition to these requirements, to deter corruption and increase transparency, the Borrower shall maintain the website to disclose information about public procurements, including those related to the Project. For each contract, the website shall include information on, among others, 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, including consulting services, procured. In addition to the web-based disclosure, stakeholders, which include civil society and non-governmental organizations, shall be provided by the Borrower with detailed information on procurement on public notice boards in their respective areas.