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LOAN NUMBER 2889-CAM(SF)

LOAN AGREEMENT  
(Special Operations)

(Third Education Sector Development Project)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 17 JANUARY 2013

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CAM 43260

## **LOAN AGREEMENT (Special Operations)**

LOAN AGREEMENT dated 17 January 2013 between KINGDOM OF CAMBODIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

### **WHEREAS**

(A) by a loan agreement of even date herewith between the Borrower and ADB ("Program Loan Agreement"), ADB has agreed to provide to the Borrower a loan equivalent to seven million eight hundred seventy thousand Special Drawing Rights (SDR7,870,000) in support of the Third Education Sector Development Program ("Program") as described in Schedule 1 to the Program Loan Agreement;

(B) in support of the Program, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

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

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 ("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. Wherever used in this Loan Agreement, the several terms defined in the Program Loan Agreement and the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Affected Persons" means displaced persons, as defined in the SPS, who are physically and/or economically displaced as a result of involuntary acquisition of land under the Project;

(b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2010, as amended from time to time);

(c) "Consulting Services" means the services to be financed out of the proceeds of the Loan, but excluding any services provided in relation to Goods and Works and as referred to in paragraph 3 of Schedule 1 to this Loan Agreement;

(d) “GAP” means the gender action plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(e) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(f) “Indigenous Peoples Safeguards” means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(g) “Involuntary Resettlement Safeguards” means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(h) “IPM” means the indigenous peoples matrix for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(i) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2007, as amended from time to time);

(j) “MEF” means the Borrower’s Ministry of Economy and Finance or any successor thereto;

(k) “MoEYS” means the Borrower’s Ministry of Education, Youth and Sports or any successor thereto;

(l) “PAM” means the Project administration manual for the Project dated 22 May 2012 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(m) “PMU” means a Project management unit to be established within MoEYS as described in paragraph 2 of Schedule 5 to this Loan Agreement;

(n) “Procurement Guidelines” means ADB’s Procurement Guidelines (2010, as amended from time to time);

(o) “Procurement Manual” means the Procurement Manual under the Standard Operating Procedures prepared by the Borrower and endorsed by ADB, which sets forth procurement-related policies and procedures for externally-financed projects and programs;

(p) “Procurement Plan” means the procurement plan for the Project dated 22 May 2012 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB (which include the Standard Operating Procedures and Procurement Manual as updated from time to time);

(q) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations means MoEYS or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(r) “Project facilities” means facilities to be provided, constructed, operated, upgraded and maintained under the Project;

(s) “RF” or “Resettlement Framework” means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(t) “RP” or “Resettlement Plan” means a resettlement plan for the Project, including any update thereto, to be prepared if required and submitted by the Borrower pursuant to the requirements set forth in the RF and cleared by ADB;

(u) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the RP and the IPM (as applicable), including any corrective and preventative actions;

(v) “SBEP” means school based enrichment program to be introduced under the Project and further explained in paragraph 2(b)(i) of Schedule 1 to this Loan Agreement;

(w) “SPS” or “Safeguard Policy Statement” means ADB's Safeguard Policy Statement (2009);

(x) “Standard Operating Procedures” means the standard operating procedures of the Borrower dated 26 February 2007 (as amended from time to time) providing procedures applicable to all externally-financed projects and programs;

(y) “Target Provinces” means following 14 provinces in the Tonle Sap and border regions of the Borrower where Project activities will be implemented: (i) Banteay Meanchey; (ii) Battambang; (iii) Kampong Chhnang; (iv) Kampong Cham; (v) Kampong Speu; (vi) Kampong Thom; (vii) Mondulhiri; (viii) Otdar Meanchey; (ix) Pailin; (x) Preah Vihear; (xi) Pursat; (xii) Ratanakiri; (xiii) Siem Reap; and (xiv) Stung Treng; and

(z) “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 make available to the Borrower from ADB's Special Funds resources an amount of eleven million eight hundred five thousand Special Drawing Rights (SDR11,805,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 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 subsection (a) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 May and 1 November 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 amount 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 the 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 proceeds of the Loan shall be allocated and withdrawn 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, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. 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 Works 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 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2018 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 4 to this Loan Agreement.

Section 4.02. (a) The Borrower shall cause MoEYS to (i) maintain, or cause to be maintained, separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes 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 the imprest account(s) and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Borrower shall cause MEF and MoEYS to enable ADB, upon ADB's request, to discuss MEF's and/or MoEYS's financial statements for the Project and their financial affairs related to the Project with the auditors appointed by the Borrower pursuant to subsection (a) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of MEF and/or MoEYS unless MEF and/or MoEYS shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

## **ARTICLE V**

### **Suspension; Acceleration of Maturity**

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Program Loan Agreement.

Section 5.02 The following is specified as an additional event for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: the event specified in Section 5.01 of this Loan Agreement shall have occurred.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

## **ARTICLE VII**

### **Miscellaneous**

Section 7.01. The Minister 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 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

#### For the Borrower

Ministry of Economy and Finance  
St. 92 Sangkat Wat Phnom  
Khan Daun Penh  
Phnom Penh, Cambodia

Facsimile Numbers:

+855 23 427 798  
+855 23 428 424.

For ADB


Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines

## Facsimile Numbers:

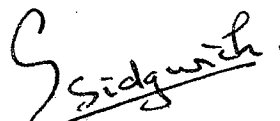
(632) 636-2444  
(632) 636-2228.

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 as of the day and year first above written and to be delivered at the principal office of ADB.

## KINGDOM OF CAMBODIA

By   
H.E. KEAT CHHON  
Deputy Prime Minister  
Minister of Economy and Finance

## ASIAN DEVELOPMENT BANK

By   
ERIC SIDGWICK  
Country Director  
Cambodia Resident Mission



## SCHEDULE 1

### Description of the Project

1. The principal objective of the Project is increased LS enrollment in Target Provinces through (a) improved access to LS schools; (b) improved quality of LS education; and (c) improved LS sub-sector management.

2. The Project shall comprise the following outputs:

**(a) Output 1: Improved Access to LS Schools.** This output will include:

- (i) constructing new LS schools in about 11 of those Target Provinces where no LS schools exist;
- (ii) providing school establishment packages for New Schools;
- (iii) expanding about 28 existing LS schools by additional classrooms in about 8 of the Target Provinces and expanding 5 LS schools in Phnom Penh to include 2-3 floors;
- (iv) constructing classrooms for LS in approximately 22 existing primary schools in about 8 of the Target Provinces;
- (v) constructing about 27 units of teacher housing as an incentive to attract and retain teachers in remote areas in each of the Target Provinces and 1 dormitory at the regional teacher training center in Phnom Penh;
- (vi) providing clean water and lavatory facilities for about 76 LS schools where there are no such facilities in each of the Target Provinces; and
- (vii) campaigning (brochures, posters, media) to promote increased participation and completion of basic education with an emphasis on the benefits of girls' attainment of basic education.

**(b) Output 2: Improved Quality of LS Education.** This output will include:

- (i) Introduce school-based enrichment program (SBEP) by providing support for SBEP including training for LS school directors and deputy directors to (a) develop targeted interventions in key subject areas of math and science; (b) make classroom learning more relevant to better engage students; and (c) develop intervention strategies for improving student retention;
- (ii) Pilot school improvement grants in Target Provinces by financing school improvement grants to about 100 LS schools, to be selected in accordance with the selection criteria provided in the PAM, within Target Provinces to support school directors in implementing SBEP;
- (iii) Scaling up improved math and science in-service teacher training by (a) scaling up the Borrower's existing national math in-service teacher training (Math-INSET) pilot through the training of national trainers, consisting of MoEYS staff, at

- Borrower's 6 regional teacher training centers to further train technical group leaders specialized in math at LS schools nationwide; and (b) piloting a science in-service teacher training (Science-INSET) program for about 100 LS schools linked to the Borrower's secondary resource school – secondary resource school networks in operation; and
- (iv) Introducing employability skills program by supporting the design and implementation of the employability skills program, guided by the Borrower's national policy on Cambodian youth development, and aimed to provide integrated learning experiences for youth aged 12-14 years, including development of basic skills within the context of entrepreneurship and other areas supporting enterprise, and measures to foster girls' empowerment.

**(c) Output 3: Improved LS sub-sector Management.** This output will include:

- (i) Strengthening school-based management and instructional leadership by providing nationwide training to directors and deputy directors of LS schools through workshops addressing the principles of school-based management, development of school improvement plans, data-based decision making, and strategies for instructional leadership that responds to local needs;
- (ii) Strengthening school support committees by conducting a nationwide orientation program to disseminate guidelines to school support committees of LS schools with a focus on the role of the school support committee in implementing SBEP and school improvement grants;
- (iii) Introducing basic education school clusters by piloting basic education school clusters streamlining administration of primary and LS schools to enable sharing of resources and greater community engagement in basic education management. Basic education school clusters refer to groupings of primary and LS schools for administrative and educational purposes; and
- (iv) Introducing action research for policy development by enhancing the capacity of the Borrower's National Institute of Education and the Royal University of Phnom Penh to conduct policy development action research through impact studies and comprehensive data analysis and evaluation.

3. The Project includes Consulting Services to support Project implementation and administration.

4. The Project is expected to be completed by 31 December 2017.

## SCHEDULE 2

### Amortization Schedule

#### (Third Education Sector Development Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 May 2020	245,938
1 November 2020	245,938
1 May 2021	245,938
1 November 2021	245,938
1 May 2022	245,938
1 November 2022	245,938
1 May 2023	245,938
1 November 2023	245,938
1 May 2024	245,938
1 November 2024	245,938
1 May 2025	245,938
1 November 2025	245,938
1 May 2026	245,938
1 November 2026	245,938
1 May 2027	245,938
1 November 2027	245,938
1 May 2028	245,938
1 November 2028	245,938
1 May 2029	245,938
1 November 2029	245,938
1 May 2030	245,938
1 November 2030	245,938
1 May 2031	245,938
1 November 2031	245,938
1 May 2032	245,938
1 November 2032	245,938
1 May 2033	245,938
1 November 2033	245,938
1 May 2034	245,938
1 November 2034	245,938
1 May 2035	245,938
1 November 2035	245,938
1 May 2036	245,938
1 November 2036	245,938
1 May 2037	245,938
1 November 2037	245,938
1 May 2038	245,938
1 November 2038	245,938

1 May 2039	245,938
1 November 2039	245,938
1 May 2040	245,938
1 November 2040	245,938
1 May 2041	245,938
1 November 2041	245,938
1 May 2042	245,938
1 November 2042	245,938
1 May 2043	245,938
1 November 2043	245,914
<b>TOTAL</b>	<b>11,805,000</b>

\* 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 items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, each item of expenditure 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 11 is for financing interest charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest charge.

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, in consultation with 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 allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Imprest Account and Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall cause MEF to establish immediately after the Effective Date an imprest account at the National Bank of Cambodia and delegate its management to MoEYS. The Imprest Account shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The Imprest Account shall only be used for the purposes of the Project. The currency of the Imprest Account shall be the Dollar. The amount to be deposited into the Imprest Account shall not exceed the lower of (i) the estimated expenditure to be financed from the Loan Imprest Account for the first 6 months of Project implementation; or (ii) the equivalent of 10% of the Loan amount.

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

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Third Education Sector Development Project)			
CATEGORY			ADB FINANCING
Number	Item	Total Amount Allocated for ADB Financing (SDR)	Percentage and Basis for Withdrawal from the Loan Account
		Category	
1	Works (Schools and Classrooms)	5,235,000	100% of total expenditure claimed
2	Works (Wells and Toilets Facilities)	302,000	100% of total expenditure claimed
3	Classroom Materials	160,000	100% of total expenditure claimed
4	Furniture	475,000	100% of total expenditure claimed
5	Vehicles	130,000	100% of total expenditure claimed
6	Office Equipment	36,000	100% of total expenditure claimed
7	Capacity Development	132,000	100% of total expenditure claimed
8	School Improvement Grant	174,000	100% of total expenditure claimed
9	Consultants Services	1,408,000	100% of total expenditure claimed
10	Recurrent Costs	1,684,000	100% of total expenditure claimed
11	Interest Charge	423,000	100% of total amount due
12	Unallocated	1,646,000	
	Total	11,805,000	

## **SCHEDULE 4**

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

#### General

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

#### 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:
  - (a) National Competitive Bidding; and
  - (b) Shopping.
4. 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.

#### Domestic Preference

5. 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.

#### National Competitive Bidding

6. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding (NCB), 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 approval of such change by the Borrower and ADB.

#### Consulting Services

7. 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.



Schedule 4

8. The Borrower shall recruit the individual consultants for Project implementation and administration support in accordance with procedures acceptable to ADB for recruiting individual consultants.

Conditions for Award of the Contract

9. The Borrower shall ensure that MoEYS does not award any Works contract involving involuntary resettlement impacts for Output 1 until the Borrower has prepared and submitted to ADB the final RP for such Output based on the RF and detailed design, and obtained ADB's clearance of such RP.

10. The Borrower shall ensure that MoEYS does not award any Works contract which involves impacts on indigenous peoples until the Borrower has prepared and submitted to ADB the final IPM and obtained ADB's clearance of such IPM.

Industrial or Intellectual Property Rights

11. (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.

12. 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.

ADB's Review of Procurement Decisions

13. First 3 contracts procured under national competitive bidding procedures, contracts for Consulting Services, and the first contracts for each Shopping for Goods and Works 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; Environmental, Social and Financial Matters**

#### Implementation Arrangements

1. The Borrower shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by MoEYS and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

#### PMU

2. The Borrower shall cause MoEYS to ensure that within 30 days of the Effective Date (a) a PMU is established within MoEYS; (b) head of the PMU is appointed; and (c) the PMU is equipped with adequate resources and staff.

#### Unencumbered Land

3. The Borrower shall cause MoEYS to ensure that construction of New Schools is carried out on vacant land with legal entitlement in the name of the government and free from all encumbrances, habitation, dispute and/or controversy.

#### Deployment of Teachers

4. The Borrower shall cause MoEYS to ensure that teachers are deployed to LS New Schools in time for the start of the regular school year.

#### Counterpart Support

5. The Borrower shall ensure that all in kind counterpart support required during the Project implementation period is provided on time during each year of Project implementation.

#### Land Acquisition and Involuntary Resettlement

6. The Borrower shall cause MoEYS to ensure that all land and all rights-of-way required for the Project and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

7. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RP, the Borrower shall cause MoEYS to ensure that no physical or economic displacement takes place in connection with the Output 1 until:

- (a) if required, the RP has been approved by MoEYS and cleared by ADB;
- (b) compensation and other entitlements have been provided to Affected Persons in accordance with the RP; and
- (c) a comprehensive income and livelihood restoration program, if required by the RP has been established and commenced.

#### Indigenous Peoples

8. The Borrower shall cause MoEYS to ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples; (b) provisions related to Indigenous Peoples' Safeguards under relevant ADB policies; and (c) all measures and requirements set forth in the IPM, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Human and Financial Resources to Implement Safeguards Requirements

9. The Borrower shall make available necessary budgetary and human resources to fully implement the IPM and the RP, if any.

#### Safeguards-Related Provisions in Bidding Documents and Works Contracts

10. The Borrower shall cause MoEYS to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the RP and the IPM (to the extent they concern impacts on Affected Persons during construction) and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such social measures;
- (c) provide MoEYS with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the Project design, the RP or the IPM;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-Project condition upon the completion of construction.

Safeguards Monitoring and Reporting

11. The Borrower shall cause MoEYS to do the following:
- (a) submit annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to Affected Persons promptly upon submission;
  - (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the Project design, the RP or the IPM, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
  - (c) report any actual or potential breach of compliance with the measures and requirements set forth in the RP or the IPM promptly after becoming aware of the breach.

Prohibited List of Investments

12. The Borrower shall cause MoEYS to ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Gender and Development

13. The Borrower shall cause MoEYS to ensure that the GAP is fully implemented and that all Project activities are designed and implemented in accordance with the principles of ADB's Policy on Gender and Development (1998) including, but not limited to (a) the development of guidelines for school operating budgets with funds earmarked for improving female access, retention, achievement and completion of LS education; (b) the development of dropout prevention programs, addressing gender and equity issues; (c) 100% female school directors and deputy directors are trained on school-based management and in implementing the SBEP; (d) 25% of national and provincial trainers selected for in-service training on math and science are female; (e) 50% female participants in the employability skills program; (f) the development of a basic education campaign for parents and community leaders to increase understanding of the positive benefits of basic education attainment for female students and promote female participation in the study of math and science; (g) 40% female membership in school support committee; and (h) gender inclusive design of physical Project facilities such as separate toilets for females and males.

Grievance Redress Mechanism

14. The Borrower shall cause MoEYS to ensure that within 3 months of the Effective Date, complaint and problem management mechanisms acceptable to ADB are established and a task force is functioning effectively to (a) review and document eligible complaints of Project stakeholders; (b) proactively address grievances; (c) provide the complainants with notice of the chosen mechanism/action; and (d) prepare periodic reports

to summarize the number of complaints received and resolved, and final outcomes of the grievances and chosen actions and make these reports available to ADB as part of the quarterly progress reports. Eligible complaints include those related to the Project, any of the service providers, any person responsible for carrying out the Project, complaints on misuse of funds and other irregularities, and grievances due to any safeguard or social issues, including involuntary resettlement and gender.

#### Governance and Anticorruption

15. The Borrower shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

16. The Borrower and MoEYS shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

17. The Borrower shall cause MoEYS to maintain a website to disclose information about procurements 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 procured. In addition to the web-based disclosure, stakeholders, which include civil society and non-governmental organizations, shall be provided detailed information on procurement on public notice boards in their respective provinces.