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GRANT NUMBER 0115-MON(SF)

GRANT AGREEMENT  
(Special Operations)  
(Agriculture and Rural Development Project)

between

MONGOLIA

and

ASIAN DEVELOPMENT BANK

DATED 24 October 2008

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GAS:MON 39229

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

GRANT AGREEMENT dated 24 October 2008 between MONGOLIA (the "Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

### **WHEREAS**

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

(B) the Government of the Recipient has also applied to ADB for technical assistance to support agricultural marketing and brand development, and ADB has agreed to provide the technical assistance grant in the amount not exceeding the equivalent of two million Dollars (\$2,000,000); and

(C) ADB has, on the basis *inter alia* of the foregoing, agreed to provide a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

## **ARTICLE I**

### **Grant Regulations; Definitions**

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

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

(a) "ADB's Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook dated January 2007, as amended from time to time;

(b) "Advisory Board" means the advisory board established under the Project, as described in paragraph 5 of Schedule 4 to this Grant Agreement;

(c) "BOM" means the Recipient's Bank of Mongolia and includes any successor thereto;

(d) “Business Development and Monitoring Plan” means the business development and monitoring plan prepared by a Participating Enterprise in consultation with the PMU under the Project, endorsed by the Advisory Board and as revised from time to time;

(e) “Component” refers to a component specified in Schedule 1 to this Grant Agreement;

(f) “Consulting Guidelines” means ADB’s Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers dated February 2007, as amended from time to time;

(g) “Deposit Account” means the deposit account referred to in paragraph 5 of Schedule 2 and paragraph 10 of Schedule 4 to this Grant Agreement;

(h) “EARP” means the environmental assessment and review procedures, as agreed under the Project;

(i) “Financing Agreement” means an agreement to be signed between MOF and a Participating Bank, as described in paragraph 10 of Schedule 4 to this Grant Agreement;

(j) “GAP” means the gender action plan prepared for the Project and endorsed by the Recipient;

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

(l) “IEE” means an initial environmental examination;

(m) “loan agreement” means an agreement to be signed between a Participating Bank and a Participating Enterprise for a VCD loan;

(n) “MNE” means the Recipient’s Ministry of Nature and Environment or any successor thereto;

(o) “MOF” means the Recipient’s Ministry of Finance or any successor thereto;

(p) “MOFA” means the Recipient’s Ministry of Food and Agriculture or any successor thereto;

(q) “Participating Bank” means a commercial bank to be selected in accordance with the criteria listed in paragraph 9 of Schedule 4 to this Grant Agreement;

(r) “Participating Enterprise” means any of the private agro-enterprises selected for participation in the Project;

(s) "PMU" means either of the Project Management Units referred to in paragraphs 2, 3 and 4 of Schedule 4 to this Grant Agreement;

(t) "Procurement Guidelines" means ADB's Procurement Guidelines dated February 2007, as amended from time to time;

(u) "Procurement Plan" means the procurement plan for the Project dated 1 August 2008 and agreed between the Recipient and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(v) "Project Executing Agency" or "EA" for the purposes of, and within the meaning of, the Grant Regulations means any of MOF and MOFA or any successor thereto, that is responsible for the carrying out of the Project;

(w) "subproject" means a specific subproject to be carried out by a Participating Enterprise utilizing the proceeds of a VCD loan;

(x) "togrog" means the currency of the Recipient;

(y) "VCD" means the value chain development;

(z) "VCD loan" means a loan made, or proposed to be made by a Participating Bank to a Participating Enterprise for a subproject which will be partially guaranteed under the Project; and

(aa) "Works" means construction or civil works to be financed out of the proceeds of the Grant, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

## **ARTICLE II**

### **The Grant**

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Agreement an amount of fourteen million seven hundred twenty thousand Dollars (\$14,720,000).

### **ARTICLE III**

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

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

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

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

Section 3.04. Withdrawals from the Grant Account in respect of Goods, 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 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2012 or such other date as may from time to time be agreed between the Recipient and ADB.

### **ARTICLE IV**

#### **Particular Covenants**

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

Section 4.02. (a) The Recipient shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are

acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest and special accounts/statement of expenditures), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Recipient shall enable ADB, upon ADB's request, to discuss the Recipient's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Recipient pursuant to Section 4.02(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Recipient unless the Recipient shall otherwise agree.

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

## **ARTICLE V**

### **Suspension and Cancellation**

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations or cancellation of the Grant pursuant to Section 8.02 of the Grant Regulations: any party to a Financing Agreement shall have failed to perform any of its obligations under a Financing Agreement.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. A date ninety (90) days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

## **ARTICLE VII**

### **Miscellaneous**

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

#### For the Recipient

Ministry of Finance  
Government Building – 2  
Negdsen Undestnii gudamj – 5/1  
Ulaanbaatar – 210646  
Mongolia

Facsimile Number:

(976) 11-262272.

#### For ADB

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

Facsimile Numbers:

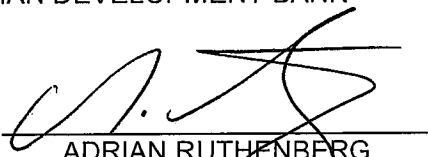
(632) 636-2444  
(632) 636-2534.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

MONGOLIA

By   
S. BAYARTSOGT  
Minister of Finance

ASIAN DEVELOPMENT BANK

By   
ADRIAN RUTHENBERG  
Country Director  
Mongolia Resident Mission

## SCHEDULE 1

### Description of the Project

1. The impact of the Project is expected to be sustainable agriculture and rural growth that maintains premium value for local products. The outcome is expected to be the reliable supply of premium value agriculture products to niche markets by selected local enterprises.

2. The Project scope is as follows:

(a) Value Chain Development Component

This Component will partially guarantee VCD loans made by Participating Banks to Participating Enterprises that have the potential to deliver premium value products to niche markets to undertake value chain development investments with high positive spillovers for the rural economy.

(b) Rural Infrastructure and Services Development Component

This Component will provide assistance in the following areas:

- (i) development of livestock testing and veterinary extension centers;
- (ii) business advisory and technical support to agricultural producer (herder) marketing cooperatives;
- (iii) development of fodder supply and storage facilities to foster fodder market development; and
- (iv) other rural infrastructure and services development activities as agreed between the Recipient and ADB.

(c) Project Management Component

This Component will provide:

- (i) implementation support throughout the Project period in accordance with the Business Development and Monitoring Plan; and
- (ii) training to relevant staff from the Advisory Board, PMUs, the EAs, Participating Banks and Participating Enterprises on issues relevant to Project implementation, including but not limited to, gender awareness and capacity development for greater social and gender responsiveness of their organizational and market development policies, strategies and programs.

3. The Project includes the provision of consulting services. The Project is expected to be completed by 30 June 2012.

## **SCHEDULE 2**

### **Allocation and Withdrawal of Grant Proceeds**

#### General

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

#### Percentages of ADB Financing

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

#### Reallocation

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

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

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

#### Disbursement Procedures

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

#### Imprest Accounts; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Recipient 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

Schedule 2

upon between the Recipient and ADB. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure to be financed from the imprest account for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Grant amount.

(b) Except as ADB may otherwise agree, each Participating Bank shall establish a special account. The special account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient, ADB, and the Participating Bank. The initial amount to be deposited into each special account shall not exceed 50 percent of projected disbursements by the relevant Participating Bank to Participating Enterprises for the next six months of subproject implementation. Except as ADB may otherwise agree, for every disbursement made by a Participating Bank to a Participating Enterprise for a subproject, a Participating Bank shall make a transfer from its special account to a Deposit Account in an amount equivalent to 50 percent of the disbursement.

(c) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient and ADB.

Condition of Withdrawals from Grant Account

6. Notwithstanding any other provision of this Grant Agreement, no withdrawals shall be made from the Grant Account to the special account of any Participating Bank until the following condition shall have been met: the MOF and Participating Bank shall have duly executed and delivered a Financing Agreement, which shall include the terms and conditions as referred to in paragraph 10 of Schedule 4 to this Grant Agreement, and such Financing Agreement shall have become fully effective and binding upon the parties thereto in accordance with its terms.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS</b> <b>(Agriculture and Rural Development Project)</b>				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated \$		Percentage and Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	239,600		100 percent of total expenditure*
2	Equipment	1,269,100		100 percent of total expenditure*
3	Materials	136,300		100 percent of total expenditure*
4	Training	517,400		100% of total expenditure*
5	Consulting Services	1,219,500		
5A	Technical Experts		234,500	40 percent of total expenditure*
5B	Project Consultants		985,000	100 percent of total expenditure*
6	Value Chain Investments	11,000,000		100 percent of total expenditure
7	Unallocated	338,100		
	Total	14,720,000		

\* Exclusive of taxes and duties imposed within the territory of the Recipient.

### SCHEDULE 3

#### 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 Grant 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 Grant 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
Shopping

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

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

5. National Competitive Bidding. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient 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 Recipient and ADB.

##### C. Selection of Consulting Services

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

7. The Recipient shall recruit individual consultants for the Value Chain Development Component and PMUs in accordance with procedures acceptable to ADB for recruiting individual consultants.

**D. Procurement by Participating Enterprises**

8. Procurement under the Value Chain Development Component. The Recipient shall ensure that Participating Enterprises undertake procurement in accordance with established commercial practices acceptable to ADB. To be acceptable, Participating Enterprises shall (a) demonstrate that procedures adopted are appropriate in the circumstances; (b) ensure that goods, works and consulting services financed by the proceeds of VCD loans are purchased with consideration to economy and efficiency at a reasonable price, given time of delivery, quality and efficiency; and (c) ensure that goods, works and services financed by the proceeds of the project funds are procured from ADB member countries.

**E. Industrial or Intellectual Property Rights**

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

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

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

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

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

## **SCHEDULE 4**

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

#### Project Implementation Arrangements

1. MOF shall be the EA for the Value Chain Development Component, and MOFA shall be the EA for the Rural Infrastructure and Services Development Component. Each of MOF and MOFA shall also be the EA for the activities under the Project Management Component associated with the Value Chain Development Component and the Rural Infrastructure and Services Development Component, respectively.
  
2. Within three (3) months of the Effective Date, the Recipient shall ensure that two (2) PMUs are established in a manner acceptable to ADB, headed by a full-time Project Director, and staffed with competent personnel. Within three (3) of the Effective Date, the Recipient shall ensure that the Project Manager is appointed. The Project Manager shall (a) oversee overall Project implementation; (b) manage Project imprest account; (c) report to the Advisory Board; (d) facilitate community based monitoring of Project implementation; and (e) coordinate activities that impact across different Components and with other assistance projects undertaken by other assistance agencies in Mongolia.
  
3. The PMU for the Value Chain Development Component shall be established within MOF and shall (a) collaborate with the Participating Banks; (b) ensure that the proceeds of the Grant made available to Participating Banks are deposited into the Deposit Accounts in accordance with the respective Financing Agreements; (c) ensure that the use of VCD loans by Participating Enterprises is in accordance with the respective investment plans; (d) forecast forward funding requirements of Participating Enterprises and arrange funds flow; (e) provide business advisory services; (f) in liaison with ADB and the Recipient, develop and assist in implementing corrective actions under the Project, as necessary; (g) monitor financial performance of Participating Enterprises and compliance with the relevant covenants provided for in this Grant Agreement as well as environmental and social performance measures on the investments; (h) organize stakeholder mobilization and gender awareness workshops; and (i) prepare and submit required reports for this Component. The Project Director, supported by consultants, shall be responsible for implementation of the Value Chain Development Component and shall report to the Project Manager.
  
4. The PMU for Rural Infrastructure and Services Development Component shall be established within MOFA and shall (a) assist in evaluating investment proposals; (b) forecast forward funding requirements for this Component and arrange funds flow; (c) monitor compliance with the relevant covenants provided for in this Grant Agreement; (d) organize stakeholder mobilization and gender awareness workshops; and (e) prepare and submit required reports for this Component. A full-time Project Director, supported by consultants, shall be responsible for implementation of the Rural Infrastructure and Services Development Component and shall report to the Project Manager. In addition, MOFA shall establish a working group to oversee the implementation of this Component and shall provide technical experts from MOFA in relevant fields (including, but not limited to, civil engineering and participatory planning, etc.) to assist the implementation of the Project.

Schedule 4

5. An Advisory Board shall be established comprising two representatives of MOF (including the chairperson), a representative from each of MOFA, MNE and the Recipient's Ministry of Industry and Trade. The Advisory Board shall (a) monitor the overall implementation of the Project; and (b) ensure coordination across different Components. The Advisory Board shall meet as required but at least once every six months to review the progress of this Project and shall receive and review reports produced by each PMU. The Project Manager shall serve as the secretary to the Advisory Board and shall be responsible for implementing the decisions of the Advisory Board. Representatives of ADB may attend all meetings as an observer and representatives of Participating Enterprises, civil society and private sector may be invited to join meetings as observers as necessary.

6. The Recipient shall ensure that Participating Enterprises use the proceeds of VCD loans exclusively for the purpose outlined in the investment plan endorsed by the Advisory Board and that the recommendations of the PMU for the Value Chain Development Component are followed, in case of deviations from the relevant investment plan.

Counterpart Funds

7. The Recipient shall ensure that adequate budgetary allocations for counterpart funds are made, approved, and released, in a timely manner, for proper Project implementation.

8. The Recipient shall provide adequate office and other facilities necessary for timely and effective Project implementation.

Criteria for Selection of Participating Banks

9. Except as ADB may otherwise agree, the Recipient shall ensure that each Participating Bank is selected by the MOF in accordance with the following criteria, as agreed with ADB from time to time:

- (a) the Participating Bank is financially sound and meets the BOM's prudential requirements;
- (b) the Participating Bank has adequate staff for the management of funds made available under the Project;
- (c) the Participating Bank has an acceptable record of medium-sized corporate lending; and
- (d) the Participating Bank has at least 20 percent of its existing loan portfolio in rural areas.

Financing Agreements

10. Except as ADB may otherwise agree, the Recipient shall ensure that each Financing Agreement includes the following terms and conditions:

- (a) The Participating Bank shall ensure that each VCD loan shall carry interest at an appropriate rate, but not less than interest rate under ADB loans from its ordinary capital resources, and shall be made on terms whereby the Participating Bank shall obtain, by a written agreement with the Participating Enterprise in form acceptable to ADB, rights adequate to protect the interests of the Recipient, the Participating Bank and ADB.

Schedule 4

(b) The amortization schedule applicable to each VCD loan shall not extend beyond seven (7) years, including a grace period not exceeding three (3) years, from the date when such loan is approved.

(c) The Participating Bank shall repay to the Recipient the funds from the Deposit Account equal to 50 percent of every principal repayment that the Participating Bank receives for a VCD loan after deducting interest payment on such loan.

(d) In the event that a VCD loan is declared as a loss by a Participating Bank in its reporting to the BOM, the Participating Bank shall draw down from the Deposit Account an amount equal to 50 percent of the principal repayment outstanding on the loan declared as a loss.

(e) The Deposit Account shall be operated by each Participating Bank in accordance with terms approved by ADB. The deposits into the Deposit Account shall be in Dollars and togrog, guaranteeing 50 percent each of the Dollar and togrog disbursement to a Participating Enterprise.

(f) The Participating Bank shall ensure that in addition to any other provisions that a prudent lender would request, each loan agreement shall include provisions to the effect that:

- (i) the Participating Enterprise shall carry out and operate the subproject with due diligence and efficiency and in accordance with sound administrative, financial, business and environmental practices, including maintenance of adequate accounts and records;
- (ii) the proceeds of the project funds shall be used only for procurement in eligible source countries as specified by ADB, in accordance with procedures acceptable to ADB;
- (iii) the Goods, Works and consulting services to be financed out of the proceeds of the VCD loan shall be used exclusively in the carrying out of the subproject in accordance with the investment plan;
- (iv) ADB, the Recipient and the Participating Bank shall each have the right to inspect such Goods and Works, the Participating Enterprise, the subproject and any relevant records and documents;
- (v) the Participating Enterprise shall take out and maintain with accredited insurers insurance against such risks and in such amounts as shall be consistent with sound business practice, and without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of Goods financed out of the proceeds of the loan to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods;
- (vi) ADB, the Recipient and the Participating Bank shall each be entitled to obtain all such information as each shall reasonably request relating to

the VCD loan, the Goods, Works and consulting services financed out of the proceeds of the VCD loan, the subproject, the Participating Enterprise and other related matters; and

- (vii) the Participating Bank shall be entitled to suspend or terminate further access by the Participating Enterprise to the use of the proceeds of the loan upon failure by the Participating Enterprise to perform its obligations under its agreement with the Participating Bank.

11. Except as agreed with ADB, the Recipient shall not grant any debt amnesty or forgive VCD loan repayment obligations with respect to the loans.

12. The Recipient shall ensure that within two (2) years of the first disbursement to each Participating Enterprise, such Participating Enterprise shall produce annual financial statements certified by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB in accordance with international accounting standards.

#### Environment, Resettlement and Indigenous Peoples

13. The Recipient shall ensure (i) that Project activities are carried out in accordance with the Recipient's applicable environmental laws and regulations, ADB's *Environment Policy* (2002), the IEEs and summary IEE; and (ii) compliance with the EARP.

14. The Recipient shall ensure that each of the IEEs prepared for the four (4) representative enterprises studied under the project preparatory technical assistance No. 4846 is reviewed and updated in accordance with the EARP at the stage of approval of the financing proposal of each such enterprise and submitted to, and approved by, MNE prior to commencement of civil works or procurement.

15. The Recipient shall ensure that public consultation and information disclosure procedures are conducted in accordance with requirements of ADB and the Recipient for each investment plan classified as a category B project under ADB's *Environment Policy* (2002).

16. The Recipient shall ensure that the Project shall not cause any land acquisition, resettlement or limits on access to land. In the event of (a) any involuntary resettlement, (b) land acquisition or (c) resettlement activities during Project implementation, the Recipient shall inform ADB, prepare necessary resettlement plans in accordance with ADB's *Involuntary Resettlement Policy* (1995) and the Recipient's applicable laws and regulations, disclose these resettlement plans to affected people and submit them to ADB for approval prior to award of civil works contracts. In the event of discrepancies between the Recipient's laws and regulations and ADB's *Involuntary Resettlement Policy*, ADB's *Involuntary Resettlement Policy* shall prevail.

17. The Recipient shall ensure that the Project does not cause any negative impact on indigenous people. In the event of any unanticipated or unforeseen negative impact on the indigenous people, the Recipient shall ensure that the Project is implemented in accordance with ADB's *Policy on Indigenous People* (1998).

Gender Action Plan

18. The Recipient shall ensure that the EAs implement GAP in a timely manner during the entire Project period. The Recipient shall ensure that (a) adequate resources are allocated for this purpose; (b) gender-related indicators are included in the monitoring and evaluation system for the Project; and (c) sex-disaggregated data are collected and monitored.

Good Governance and Anticorruption

19. Consistent with ADB's and with the Recipient's commitment to good governance, accountability and transparency, the Recipient shall ensure that the proceeds of the Grant are utilized effectively and efficiently to implement the Project and to achieve the Project objectives. The Recipient shall ensure that MOF and MOFA (a) undertake necessary measures to create and sustain a corruption-free environment; (b) ensure that the Recipient's Anticorruption Law and ADB's *Anticorruption Policy* (1998, as amended to date) are enforced and are complied with during Project implementation, and that relevant provisions of ADB's *Anticorruption Policy* are included in bidding documents for the Project; (c) facilitate ADB's exercise of its right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; (d) conduct periodic inspections of the activities of project contractors related to fund withdrawals and settlements; (e) ensure that the PMU for the Value Chain Development Component conducts spot audits; and (f) 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 the EA and all contractors, suppliers, consultants and other service providers as they relate to the Project. The Recipient shall cooperate with any audit and investigation and extend necessary assistance, including access to all relevant books and records, as well as engagement of independent auditors and experts that may be needed for satisfactory completion of such audits and investigations. All external costs related to the audits and investigations, including the spot audit performed by the PMU for the Value Chain Development Component, shall be funded from the proceeds of the Grant.

Project Performance Monitoring System

20. Within twelve (12) months of the Effective Date, the Recipient shall cause MOF and MOFA to ensure the establishment of a Project performance monitoring system acceptable to ADB and the Recipient.

Project Review

21. The Recipient and ADB shall jointly undertake a mid-term review of the Project in the second year of the implementation of the Project to assess implementation progress and identify necessary changes in Project design, implementation schedule and/or implementation arrangements.