

Land acquisition and Resettlement Framework

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ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	affected persons
AH	–	Affected household
BPSPL	–	Technical Unit of Coastal and Marine Management
CDD	–	community driven development
CEP	–	Community engagement program
COREMAP-CTI	–	coral reef rehabilitation and management: coral triangle initiative project
COI	–	Corridor of Impact
CTI	–	coral triangle initiative
DGCF	–	Directorate General of Capture Fisheries
DMS	–	Detailed Measurement Survey
EA	–	Executing Agency
GOI	–	Government of Indonesia
IA	–	Implementing Agency
LARF	–	Land Acquisition and Resettlement Framework
LARP	–	Land Acquisition and Resettlement Plan
LIPI	–	Indonesian Institute of Sciences (<i>Lembaga Ilmu Pengetahuan Indonesia</i>)
LKKPN	–	National Marine Conservation Areas (<i>Loka Kawasan Konservasi Perairan Nasional</i>)
LPSTK	–	Coral Reef Management Board
MMAF	–	Ministry of Marine Affairs and Fisheries
MPAs	–	marine protected areas
PIB	–	Project Information Booklet
PIU	–	Project Implementation Unit
Pokmas	–	Community groups (kelompok kerja masyarakat)
RCS	–	Replacement Cost Study
SIA	–	Social impact assessment
SES	–	socioeconomic survey
IP	-	Indigenous People
SPS	-	Safeguards Policy Statement

Definition of Terms

- Affected person (AP) - Refers to any person or persons, household, firm, private or public institution that, on account of changes resulting from the project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement.
- In the case of affected household, it includes all members listing in the family card issued by village office, who are affected by a project or any of its components.
- Consultation - A process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provide timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enable the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.
- Corridor of Impact (COI) - It is the area which is impacted by civil works of the project, and is important in two particular respects: (a) Legally as the area within which APs/AHs will be entitled to compensation and other measures (in general coming under the heading of resettlement) for any loss of land, structures or land use and occupation and of livelihoods and (b) Operationally as the agreed and demarcated area within which construction activities will take place.
- Cut-off date - This refers to the date prior to which the occupation or use of the project area makes residents/users of the same eligible to be categorized as AP. Persons not covered in the census are not eligible for compensation and other entitlements, unless they can show proof that (i) they have been inadvertently missed out during the census and the DMS (detailed measurement survey); or (ii) they have lawfully acquired the affected assets following completion of the census and the inventory of losses (IOL)/DMS.
- Detailed Measurement Survey (DMS) - With the aid of the approved detailed engineering design, this activity involves the finalization and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of APs earlier done during RP preparation. The updated cost of resettlement can be determined following completion of the DMS.
- Entitlement - Refers to resettlement entitlements with respect to a particular eligibility category that covers sum total of compensation and other forms of assistance provided to affected persons in the respective eligibility category.
- Income restoration - This is the re-establishment of sources of income and livelihood of the affected households (AHs) to enable income generation equal to

or, if possible, better than that earned by the AHs before the resettlement.

Inventory of Losses (IOL)	- This is the process where all fixed assets (i.e., lands used for residence, commerce, agriculture, including but not limited to ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the Project corridor of impact (COI) are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact to the affected assets and the severity of impact to the livelihood and productive capacity of APs will be determined.
Land acquisition	- Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
Negotiated land acquisition	Refers to land acquisition with principle that the persons involved are knowledgeable about a project and its implications and freely agree to participate. The persons also have the option to agree or disagree with the land acquisition, without adverse consequences being imposed by the state.
Replacement cost	- Replacing an asset at a cost prevailing at the time of its acquisition. This includes fair market value, transaction cost, transitional and restoration cost, and any other applicable payments, if any. Depreciation of assets and structure should not be taken into account for replacement cost. Where there are no active market conditions, replacement cost is equivalent to delivered cost of all building materials, labor cost for construction, and any transaction or relocation cost.
Resettlement	- This includes all measures taken to mitigate any and all adverse impacts of a project on AP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
Land Acquisition and Resettlement Plan	- This is a time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Severely affected households	- Affected households who will (i) be physically relocated; (ii) displaced from housing and/or having 10% or more of their productive, income generating assets lost
Vulnerable groups	- ADB policy requires that particular attention must be paid to the needs of the poorest affected people, and these are a distinct group of people who may be at high risk of impoverishment. This may include: (i) households headed by females; (ii) disabled household heads; (iii) households falling below the poverty line; (iv) elderly household Heads; (v) landless households, and (vi) indigenous peoples or ethnic minorities. Appropriate assistance must be provided to help them improve their socio-economic status.

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
	A. Project Description.....	1
	B. Anticipated Involuntary Resettlement.....	2
II.	OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS.....	4
	A. Objectives and Scope of the Resettlement Framework.....	4
	B. Legal Framework.....	5
	C. Resettlement Policy Principles for the Project.....	7
	D. Subproject Screening and Minimizing Involuntary Resettlement.....	9
	E. Affected Persons and Eligibility.....	9
III.	SOCIOECONOMIC INFORMATION.....	10
	A. Census of Affected Persons.....	10
	B. Socioeconomic Survey.....	10
	C. Impacts Survey: Detailed Measurement Survey.....	11
	D. Replacement Cost Study.....	11
	E. Unanticipated Impacts.....	11
IV.	CONSULTATION, PARTICIPATION, AND DISCLOSURE.....	12
	A. Consultation and Participation.....	12
	B. Disclosure.....	13
V.	COMPENSATION AND INCOME RESTORATION.....	13
	A. Basis of Valuation and Compensation.....	15
	B. Land Valuation and Involuntary Acquisition Process.....	15
	C. Asset Valuation.....	15
	D. Economic Losses.....	16
	E. Income Restoration and Special Measures for the Vulnerable.....	16
	F. Negotiated Land Acquisition.....	16
	G. Voluntary Land Donation.....	18
VI.	GRIEVANCE REDRESS MECHANISMS.....	18
VII.	INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION.....	19
	A. Institutional Arrangements.....	19
	B. Capacity Building.....	21
VIII.	BUDGET AND FINANCING.....	21
IX.	MONITORING AND REPORTING.....	22
	A. Monitoring Arrangements.....	22
	B. Monitoring Indicators.....	22
	C. Reporting and Disclosure.....	22
	D. Assessment and Evaluation.....	23

APPENDIXES

Appendix 1.	Subproject LAR Screening Checklist.....	24
Appendix 2:	Outline of a Resettlement Plan.....	25
Appendix 3:	Sample Negotiated Settlement Agreement.....	27
Appendix 4:	Sample Voluntary Donation / Contribution Form.....	28

DRAFT RESETTLEMENT FRAMEWORK

I. INTRODUCTION

A. Project Description

1. The Coral Reef Rehabilitation and Management: Coral Triangle Initiative Project (COREMAP-CTI, the Project)¹ aims to manage coral reef resources, associated ecosystems and biodiversity in a sustainable manner for increasing the incomes of coastal communities. Indonesia is the world's largest archipelagic nation, with 18% of the world's coral reefs with the richest biodiversity in the world. Low coastal community awareness and inadequate institutional capacity to manage land and marine-based pollution, insufficient institutional framework to effectively manage marine protected areas (MPAs), and persistent poverty in coastal areas have resulted in 70% of Indonesian coral reefs becoming degraded. To address these root causes, the Government of Indonesia has taken a three-phased incremental approach with interventions focusing on: (i) institutional capacity building; (ii) development of models for MPAs; and (iii) reduction of coastal poverty through income generating infrastructure and sustainable alternative livelihoods. The Project is the third and final phase of the three phases and will follow a sector financing modality with a community driven development (CDD) approach.

2. Consistent with the successful implementation arrangements under COREMAP Phase II, the Directorate General of Marine, Coasts and Small Islands under the Ministry of Marine Affairs and Fisheries (MMAF) will serve as the executing agency. COREMAP-CTI upholds the objective of strengthening capacities of key stakeholders with respect to decentralized co-management of MPAs through a CDD approach. Communities will have a role in the selection of subprojects² and participate in the development of coral reef management plans and policies.³ Communities will be involved in the planning, designing, implementation/construction, and monitoring of (i) small-scale infrastructures specifically through a community selection and contracting process; (ii) alternative livelihood development by taking a lead role in its development, promotion and implementation; and (iii) biodiversity management in partnership with NGOs, private sector and any other local stakeholders. The communities will be part of MPA management boards and the community Coral Reef Management Board (LPSTK) formed under COREMAP Phase II. LPSTK's will be given a legal status within the village and district community-based coral reef management programs.

3. The objective of the proposed Project is to build on Phase II interventions to deliver ten effective MPA models that can be replicated to more than 100 MPAs in Indonesia for sustainable coral reef management. These Project interventions will move MPAs in Phase II that were in MPA initiation stage ("red") by increasing their management effectiveness to subsequent effectiveness stages of "yellow" (MPA established), "green" (MPA managed minimally), or "blue" (MPA managed optimally). The Project will align with Indonesia's National Plan of Action (NPOA) for the Coral Triangle Initiative (CTI).

4. Sustainable management of the coral reef ecosystem is a major objective of Indonesia's subsector goal of marine and coastal resource protection.

¹ The Government requested to change the Project title to Coral Reef Rehabilitation and Management: Coral Triangle Initiative (COREMAP-CTI) from COREMAP3-CTI Support Project, as reflected in ADB. 2012. *Country Operations Business Plan: Indonesia, 2013-2014*. Manila.

² Subprojects within, but not limited to the following sectors/concerns: infrastructure, livelihoods, and bio-diversity management.

³ Examples are integrated coastal management, MPA management and zoning plans, integrated coastal management plans, sustainable fisheries regulations, etc.

5. **Impact and Outcome.** The impact of the Project will be sustainable management of coral reef ecosystems in selected project areas. The outcome of the Project will be enhanced capacity to manage coral reef ecosystems inside target MPAs.

6. **Outputs.** The Project has four outputs:

(i) **Output 1: coral reef management and institutions strengthened**

7. This Project will focus on strengthening and institutionalizing capacities developed under COREMAP Phase II to institutionalize Phase I and II community-based coral reef management initiatives with existing Government's legal systems and institutions. Significant key targets under this output are (i) Number of community development extension workers deployed; (ii) Number of local laws, decrees and regulations related to coral reef ecosystem management; and (iii) Number of DGMCSI, DGCF, Secretariat General and LIPI staff obtaining postgraduate qualifications.

(ii) **Output 2: ecosystem based resources management developed**

8. The Project will strengthen MPA management effectiveness and biodiversity conservation. Under this output, identified targets are (i) Number of district spatial plans prepared; (ii) Number of regulations adopted for protecting threatened and endangered species; and (iii) Number of MPA and threatened species management action plans developed. These targets are organized through community participation and involvement.

(iii) **Output 3: sustainable marine-based livelihoods improved**

9. Sustainable marine-based livelihoods improved by promoting sustainable livelihood and income generating infrastructure. Targets under this output are (i) Number of eco-friendly infrastructures installed; (ii) Number of households provided with livelihood financial and/or input assistance; and (iii) Number of operational Sustainable Enterprise Alliances.

(iv) **Output 4: project management**

10. The Project will not only implement the Phase II interventions, but also institutionalize national coral reef management institutional arrangements through an operational project performance monitoring system and quarterly project monitoring and evaluation reports.

11. The Project will be implemented in existing COREMAP Phase II areas of seven districts that include at least 57 existing project villages in three provinces in Sumatra (North Sumatra, West Sumatra and Riau). Additional project activities will focus on MPA management effectiveness at three national MPAs: Anambas in Anambas District in Riau Islands province, Pulau Pieh in Pariaman District in West Sumatra province, and Gili Matra in North Lombok District of West Nusa Tenggara province.

B. Anticipated Involuntary Resettlement

12. Based on initial fieldwork, it is anticipated that Outputs 2 and 3 will trigger the ADB SPS 2009 SR2 (Safeguards requirement 2 – Involuntary Resettlement), but this does not mean people will be relocated or huge land will be acquired for social and economic infrastructure facilities. Most likely the land will be needed for building small marine information centre, guard house, floating jetty, etc . However, with CDD as the overarching approach, subprojects will not be selected unless prioritized and initiated by the communities themselves. It is expected that negative social impacts will be minimized by exploring the least negative social economic impacts to participating communities, if cannot be totally avoided. Project will ensure that none of the participating communities will be resettled due to land acquisition. Table 1 presents the output and associated activities and subprojects by IR impact.

13. Ecosystem Based Resources Management (Output 2) might impacts restriction to access and economic loss temporarily. The regional governments will regulate and/or strengthen further/current MPAs or DPLs through the designation of “no take zones” within the “core zones” of DPLs. By the establishment of these DPLs there might be prohibition or restriction of local people to access to the natural resources (marine-fishery resources), even on a limited basis. Alternative livelihoods will be included for supporting these groups.

14. Sustainable Marine-Based Livelihoods (Output 3) may have limited land acquisition issues that will be addressed through compensation, willing buyer willing sellers and land donations using the transparent procedures. This component supports the strengthening of sustainable marine-based economy that includes the development of basic/social infrastructures (i.e., mooring buoys, jetties, home stays, village roads, fish markets, fish landing sites, and fishing ports, traditional markets, clean water supply) to support local people’s economic and daily activities.

Table 1. IR impacts and mitigation measures by Output and subproject type.

Project component/ activity/output	Types of subprojects	Anticipated IR impacts	Mitigating measure
<p>Output 2. Development of Ecosystem Based Resources Management: Strengthening MPA management effectiveness and biodiversity conservation. Identified targets are (i) Number of district spatial plans prepared, (ii) Number of person days of training conducted, (iii) Number of regulations adopted for protecting threatened and endangered species, and (iv) Number of MPA and threatened species management action plans developed.</p>	<p>(i) MPA Governance (management board, spatial plans, management plans, financing plans, threatened species management plans, coral monitoring and database systems, monitoring and surveillance operations).</p> <p>(ii) Alternative livelihood related infrastructure (fish ponds, fish cages, fish processing, etc.), (ii) enabling infrastructure for private sector participation in eco-tourism development (e.g., mooring buoys, jetties, homestays, village roads, solid waste management, water supply, sanitation, electricity supply, telecommunications etc.), and</p> <p>(iii) Fisheries productivity related infrastructure (e.g., hatcheries, fish markets, fish landing sites, fishing ports, etc.)</p>	<p>Some zoning and associated activities (patrolling and delineation) may limit access to areas previously utilized for income generating activities and cultural rites.</p> <p>Can disrupt patterns of communication, landholdings, social and economic systems and resource use.</p>	<p>Project management will ensure:</p> <p>Any sub-projects that will cause resettlement as a result of land acquisition will be screened and excluded</p> <p>Community can suggest alternative activities that equally beneficial with the least negative social impact</p> <ul style="list-style-type: none"> • Meaningful consultations will be conducted with affected communities. • Participation of affected persons or their duly appointed representatives in the preparation and implementation of the RPs (specifically to include: conduct of social assessment, monitoring, disclosure). • Promote transparency and information sharing with partners and affected communities. • Capacitate implementers on culturally acceptable and gender sensitive approaches to CDD
<p>Output 3. Strengthening Sustainable Marine-based Economy: Promoting sustainable livelihood and income generating infrastructure. Targets are (i) Number of eco-friendly infrastructures installed, (ii) Number of demonstration models for enterprises installed (30% women’s participation), (iii) Number of households provided with livelihood financial and/or input assistance, (iv) COREMAP-CTI project villages financed from PES contributions undertake Pokmas activities (WB), and (v) Number of operational Sustainable Enterprise Alliances.</p>	<p>(iii) Fisheries productivity related infrastructure (e.g., hatcheries, fish markets, fish landing sites, fishing ports, etc.)</p>	<p>Though small scale in nature (as these are mostly social infra and CDD subprojects) may result in some lost of economic and some assets. Land acquisition may be inevitable for such linear projects like village roads, even if just at the rehabilitation level.</p> <p>Can disrupt patterns of communication, landholdings, social and economic systems and resource use. Temporary land acquisition for construction may likewise occur.</p>	<ul style="list-style-type: none"> • Participation of affected persons or their duly appointed representatives in the preparation and implementation of the RPs (specifically to include: conduct of social assessment, monitoring, disclosure). • Promote transparency and information sharing with partners and affected communities. • Capacitate implementers on culturally acceptable and gender sensitive approaches to CDD

15. COREMAP CTI Program is set at Category B levels for IR safeguards and any potential category A will be excluded in the project. Subprojects will be selected based on a set of criteria established namely: (i) contributes directly to environmentally sound non-consumptive resource utilization across the MPAs (e.g. environmentally responsible eco-tourism); (ii) supports development of sustainable fisheries (enhancing fish market facilities, fish landing sites, fish catch monitoring and catch regulation); (iii) contributes to fostering alternative livelihoods that reduces fishing pressure or provides non-traditional gainful employment within the sub-sector; (iv) enhances effectiveness, governance, and financial sustainability of co-managed marine protected area(s); and (v) have no significant negative social economic impact to participating communities.

16. As CDD is the overall approach, the exact number of people that will be affected and the magnitude of adverse impact cannot be ascertained prior to the conduct and preparation of detailed proposals after the consultation process with beneficiary communities, therefore only Resettlement Framework (RF) is being prepared to guide the resettlement plan (RP) when it is needed and that any negative. impacts are avoided, properly managed and minimized (Outline of RP is in **Appendix 1**). As the specific subprojects are selected and designed are being prepared through community participation and demand driven approach and subproject will only be known during project implementation. Therefore RP cannot be prepared before fact finding mission and MRM/SRM. Although resettlement issues are not foreseen to be significant, minor land acquisition and or loss of assets cannot be fully ruled out and RF will ensure that communities will be compensated accordingly or alternative land donations is also being recognized, as well as willing buyer willing seller principle.

II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Objectives and Scope of the Resettlement Framework

17. The principal objective of involuntary resettlement is to ensure that during the subproject concept development, all potential affected persons (AP) are consulted, informed of the decisions regarding the proposed sub-projects and their entitlements, and when necessary compensated for their losses and provided with assistance to improve, or at least maintain, their pre-project living standards and income earning capacity. The magnitude of adverse project impacts is expected to be minimal and will only be known once the specific sub-projects are selected. However based on the discussion with MMAF at all levels and participating districts, most likely the type of infrastructure that will be built in the MPA are marine information centre, guard house, floating jetty and these will not required huge lands, and many of these lands needed have been organized through agreement with communities and local government.

18. The project resettlement policy harmonizes relevant Indonesian local laws and procedures with those of the World Bank and the Asian Development Bank (ADB)-Safeguards Policy Statement (SPS). ADB will be geographically focused on the western part of Indonesia for COREMAP III and the WB along the eastern parts (see Figure 1). It has been agreed with MMAF that initiatives to harmonize will avoid confusion and misunderstanding caused by different approaches in past projects. Areas for harmonization has been discussed and agreed in terms of entitlements, procedures, and institutional arrangements.

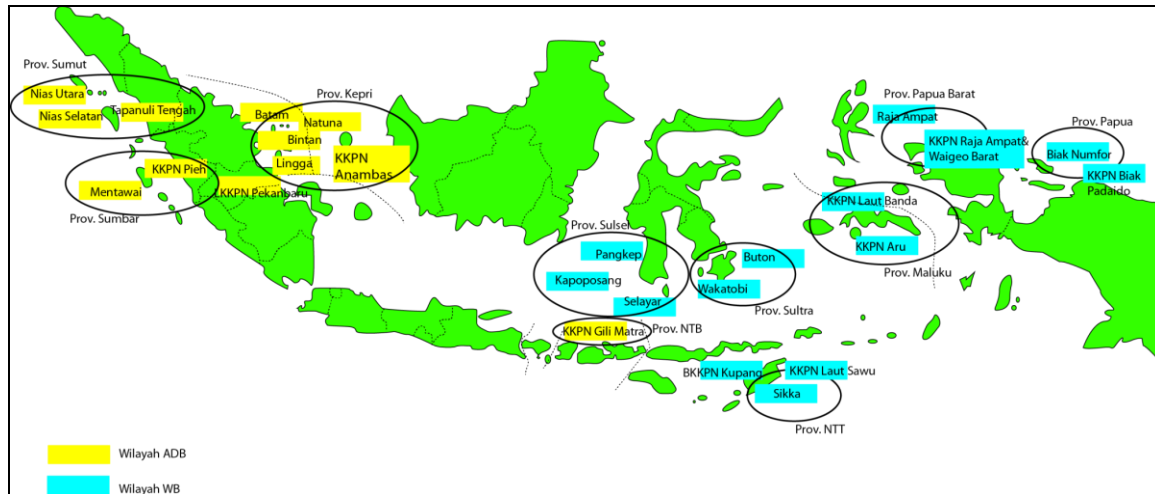


Figure 1. ADB COREMAP CTI proposed locations viz WB

B. Legal Framework

1. National Laws of the Government of Indonesia (GOI)

On Land Acquisition and Resettlement

19. In 2012 Indonesia decreed a Law that regulated “Land Acquisition for the Development of Public Interest”. In August 2012, the new Perpres No. 71/2012 “Implementation of Land Acquisition for the Development of Public Interest” replaced the previous Perpres No. 65/2006 and No. 36/2005. By the end of 2012, the National Land Agency through Regulation No. 5/2012 issued the Implementation Guideline for Perpres No. 71/2012, which replaces Regulation No. 3/2007. In addition, Ministry of Finance Regulation No. 13/PMK 02/2013 and Ministry of Home Affairs Np. 72/2012 have been issued for the law implementation.

20. Other laws that impinge on land acquisition and resettlement issues include: (i) Act no. 41/1999 Law on Forestry;⁴ (ii) Act No. 32/2004 concerning Local Government;⁵ (iii) Act no.11/2005 on Economic, Social, and Cultural Rights;⁶ (iv) Act No.41/2009 on Agricultural Land for Food Security.⁷

21. Based on the new Law, land acquisition should be undertaken by the government by involving all entitled holders (*pihak yang berhak*) and concerned stakeholders taking into account the interests of development and community. Those entitled shall be, inter alia: a. landholders; b. land concessionaires; c. *waqf* organizers, in the case of *waqf* land; d. *ex-customary land owners*; e. *indigenous people*; f. parties in possession of the state land in good faith; g. land tenure holders; and/or h. owners of buildings, plants or other objects related to land. The object land acquisition include; (i) land; (ii) over ground and underground space; (iii) plants; (iii) buildings; (iv) objects related to land; and (v) other appraisable loss. Land acquisition implementation handled by National Land Agency should be conducted by providing fair and adequate compensation. The act also recognizes that a location determination will be required prior to land acquisition. For the efficiency consideration, acquisition of land for public interest

⁴ Regulates land acquisition in forests, requiring compensation land to be acquired for a forestation in a ratio of 2:1.

⁵ It establishes state respect of customary and traditional rights and laws, devolves authority to village or customary governance systems and empowers them to promulgate customary village rules that may affect projects e.g. levying land transaction tax.

⁶ It protects people's rights including right to live decently and protect culture.

⁷ It stipulates special compensation if a TL impacts swath (wet rice) land, which is important to food security.

less than 1 hectare can be conducted by the institution needing the land through the transaction, exchange, or other means acceptable to both parties.⁸

22. Compensation for losses in terms of land acquisition and resettlement activities now covers “*Other appraisable loss*” means nonphysical loss equivalent to money value, for example, loss due to loss of business or job, cost of change of location, cost of change of profession, and loss of value of the remaining property. Losses in terms of restriction/limitation or restriction to access to natural resources such as marine-fishery resources that can impact on the economic activities of people are now categorized as losses by the new Law and may be valued for compensation purposes and may be in any of the following forms (Article 36): (i) money; (ii) substitute land; (iii) resettlements;⁹ (iv) shareholding;¹⁰ or (v) other forms as agreed upon by both parties.¹¹

On Indigenous Peoples

23. Forestry Acts (Act No. 5 of 1967 and Act No. 41 of 1999) underwent scrutiny whereby the constitutional court of Indonesia in 2013 resolved a major ambiguity in Article 1 of the Forestry Law and ruled that the word “state” should be scrapped in the provision: customary forests are state forests located in the areas of customary communities. Article 5 of the same law was revised to also show that state forest does not include customary forest. The ruling was made in favor of a petition filed by Indonesia’s national indigenous peoples’ alliance, AMAN (Aliansi Masyarakat Adat Nusantara)¹² in March 2012.

24. Act No. 39 of 1999 on Human Rights. Article 6 Para. 1: “In the framework of maintenance of human rights, the differences in and the needs of, adat law communities are observed and protected by the law of society and Government.” Article 6 Para. 2: “Cultural identity of adat law communities, including rights to ulayat land, is protected in line with the evolvement of time.”

25. Law Number 27 of 2007 on the Management of Coastal Areas was recently subject to a Judicial Review of articles related to HP-3.¹³ The decision ensured the utilization of the earth, water, and natural resources contained therein for the greatest welfare of the people, not the private sector, let alone foreign ones. It confirmed the recognition and respect for the unit of indigenous peoples and their traditional rights, and to uphold social justice for all Indonesian people, including the fisher folk family.¹⁴

2. ADB Safeguards Policy Statement of 2009

26. The following ADB-SPS principles on involuntary resettlement are stipulated and will also apply to the Project.

⁸ Article 121, Presidential Regulation No. 71/2012

⁹ Under Article 36 means a process of replacing the Entitled Party’s land with the land of different location as agreed upon during the process of Acquisition of Land.

¹⁰ Under Article 36 means placement of shares in the relevant development activities in the public interest and/or the management thereof is made by agreement of the parties.

¹¹ Under Article 36 means Other forms as agreed upon by both parties are, for example, a combination of two (2) or more.

¹² In 1999, a national congress of Indonesian indigenous peoples took place, attended by over 200 adat community representatives from 121 ethnic groups. The Congress agreed to establish a national alliance of indigenous peoples, AMAN. By 2001, AMAN had 24 affiliated organizations in islands and provinces. It has several objectives, including the restoration to adat communities of sovereignty over their socioeconomic laws and cultural life, and control over their lands and natural resources and other livelihoods.

¹³ Business undertaking in Coastal Waters is given in the form of HP-3. HP-3 as is stipulated in Law 27 includes business undertaking on the sea surface, water column down to the seabed.

¹⁴ Excerpt From The Decision Of The Constitutional Court Of The Republic Of Indonesia. Decision Number 3/PUU-VIII/2010 Concerning Judicial Review of Law Number 27 Year 2007 regarding the Management of Coastal Areas and Small Islands under the 1945 Constitution of the State of the Republic of Indonesia.

- (i) Develop procedures in a transparent, consistent, and equitable manner, if land acquisition is through negotiated settlement in order to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (ii) Prepare a RP elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (iii) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- (iv) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

27. The ADB Policy on IPs has been integrated with IR under the new ADB-SPS and will likewise govern this RF. IP safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of IPs or affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as their AD.

28. The ADB Policy on Gender and Development adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring participation of women and that their needs are explicitly addressed in the decision-making process for development activities.

29. The ADB Public Communications Policy seeks to encourage the participation and understanding of people and other stakeholders affected by ADB-assisted activities. Information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, in order to facilitate dialogue with affected people and other stakeholders.

3. Equivalence-Gap Analysis

30. The GOI has come up with a series of acts that generally attempt at equivalence with ADB-SPS 2009. WB and ADB resettlement policies by and large find equivalence. Some gaps between the GOI and ADB/WB remain that include:

- (i) Existence of the indigenous people for eligibility need to be proven by the local government regulation.
- (ii) No explicit statement on "no depreciation" for compensation of lost structures.
- (iii) Livelihood restoration programs for severely APs and vulnerable groups to ensure that their living standard will not be worse off, and provision for assistance for relocation (transition allowance).
- (iv) Assistance for relocation (transition allowance).
- (v) Consideration of unanticipated impacts at implementation.

31. With the aforementioned gaps, ADB's SPS will prevail in harmony with those of the WB. The gaps are therefore addressed in the resettlement policy principles for this project.

C. Resettlement Policy Principles for the Project

32. COREMAP-CTI Under the aegis of the MMAF, shall uphold legal provisions under the 2012 act and all other GOI laws in harmony with ADB-SPS 2009 and WB's safeguard requirements applicable to land acquisition and resettlement. The subprojects will avoid

resettlement, land acquisition, and physical displacement or denial of access to resources currently under use by the beneficiaries without prior and informed consent. With CDD as the overall approach, small-scale infrastructure investments will only be undertaken on the basis of demand and agreement of the beneficiaries (negotiated land acquisition).

33. Resettlement impacts will be minimized by observing the following: (i) improvement of small-scale infrastructure designs will be along existing rights of way or following existing alignments; (ii) ensure no subproject with the ADB's Category A¹⁵ resettlement criteria is financed under the Project; (iii) local stakeholders will be actively engaged during consultation to ensure the subproject designs are with minimized or no land acquisition.

34. Intensive capacity building across the project cycle, and ensuring community participation in subproject prioritization, planning, selection, and implementation will be observed. Zoning will primarily protect the existing marine resources and IPs' rights to access resources that are well within their indigenous knowledge systems and practices. The establishment of management regimes in seas and coastal landscape shall create jobs for local people.

35. Based on the above legal framework and equivalence-gap analysis, the resettlement objectives and policy principles for the Project are as follows:

- (i) Screen subproject components during early stages to identify involuntary resettlement impacts and risks. These impacts and risks must be minimal, so that appropriate resettlement planning should be developed precisely and accurately as a result of a social assessment.
- (ii) Carry out meaningful consultations with APs particularly with IP or customary communities living in the project areas, and concerned NGO organizations. Inform all APs including IPs on restriction to access to natural (marine-fishery) resources of their entitlements, and ensure their participation in the project cycle, and effective mechanisms will be established for hearing and resolving grievances.
- (iii) APs shall be involved in resettlement planning and RPs should cover all appropriate mitigation measures to improve, or at least restore, the livelihoods of all APs, so that the living standard of APs do not become worse off compared to pre-project levels. RPs should elaborate on AP entitlements, strategy for income and livelihood restoration, including institutional arrangements, monitoring and evaluation, budgeting, and time-bound implementation schedule. Provide APs with appropriate assistance considering options provided by the GOI Law (Para 22).
- (iv) Absence of formal title will not hinder compensation and assistance for loss of land and non-land assets. Particular attention will be paid to women, women-headed households, the elderly and other vulnerable persons including indigenous communities.
- (v) Disclose a draft RP and its updates to the APs and other stakeholders.
- (vi) A well defined, culturally acceptable and gender sensitive grievance redress mechanism will be established In order to ensure that all APs' grievances and complaints on any aspect of land acquisition and compensation are addressed in a timely and satisfactory manner, and that all possible avenues are available to

¹⁵ Category A. A proposed project is classified as category A if it is likely to have significant involuntary resettlement impacts. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan are commensurate with the significance of the potential impacts and risks.

APs to air their grievances. Civil works and/or restrictions to use of land/coastal resources will not commence unless APs are fully compensated and all other entitlements provided.

- (vii) Any voluntary “donation” and negotiated settlement will follow international best practices and be confirmed through written record and verified by an independent third party;
- (viii) Monitor and assess loss of assets outcomes, their impacts on the standards of living of APs, and also disclose the monitoring reports.
- (ix) Should unanticipated involuntary resettlement impacts be determined during project implementation, the PIU (Project Implementation Unit) will ensure the conduct of a social impact assessment and update the resettlement plan or formulate a new resettlement plan covering all applicable requirements specified in this RF.

D. Subproject Screening and Minimizing Involuntary Resettlement

36. Aside from the CDD as the primary vehicle for minimizing involuntary resettlement impacts, MMAF will screen additional subprojects for their potential land acquisition and resettlement impacts and will adopt measures to avoid or minimize the impacts. This means that at least preliminary designs are required to indicate the type and extent of work. The screening form (Annex-1) will be completed after site visits, and as relevant, in consultations with potential APs to understand local land/reef/foreshore use and ownership arrangements. The screening process will: (i) provide a brief description of the site and proposed works; (ii) whether the subproject will require land acquisition; (iii) land status and ownership arrangements; (iv) land/reef/foreshore usage; and (v) characteristics of affected persons. If any resettlement impacts are identified, MMAF will undertake an assessment of social impacts (census of APs, inventory of losses, and socioeconomic survey) and prepare the RP document.

E. Affected Persons and Eligibility

37. Affected persons (APs) are those who stand to lose, as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, range lands, fishing areas, or important cultural sites, commercial properties, tenancy, income-earning opportunities, social and cultural networks and activities. Such impacts may be permanent or temporary.¹⁶ Types of APs identified within the project areas that are eligible for compensation, replacement land, a replacement house, or other resettlement assistance under this project are as follows:

- (i) Persons with formal legal rights to land, including coastal zone and small island resources (as defined in footnote 2), they may lose in its entirety or in part; Landowners:
- (ii) Persons who may lose the land, including coastal zone and small island resources, they occupy or utilize in its entirety or in part who have no formal legal rights to such land, coastal zone, or resources but have claims to such lands, coastal zone, or resources such as customary claims, that are recognized or recognizable under national laws; and
- (iii) Persons who may lose the land, including coastal zone and small island resources, they occupy or utilize in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land, coastal zone, or resources.

¹⁶ ADB. Handbook on Resettlement: A Guide to Good Practice.

38. A cut-off date for eligibility to entitlements is established by the project. The cut-off date sets the time limits to determine eligibility of persons living and/or with assets or interests inside the project areas during the period to be counted as AP. Should they be adversely affected, they will be entitled to compensation for their affected assets, including rehabilitation measures as needed, sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels. Those who encroach into the project area, or any of its subprojects, after the cut-off date will not be entitled to compensation or any other assistance. The cut-off date will be made known to APs and other stakeholders. By the CDD nature of the project, significant social economic and physical impacts will be excluded.

39. The RF recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels and therefore, at greater risk of impoverishment when their land and other assets are affected. The extent of impact on IPs and other disadvantaged groups, such as landless, poor, households headed by women, elderly, and disabled, who will receive special rehabilitation assistance will be determined during preparation of subproject FS and RP preparation. The Project's strategies on vulnerable groups are:

- (i) Surveys of socioeconomic conditions of APs will identify the conditions, needs and preferences of poor households, women who head households (and other female APs) and IP-APs; monitoring of loss of assets will be assessed separately the impacts on vulnerable APs.
- (ii) Ensure that the process of land acquisition does not disadvantage IPs, women, households headed by women or elderly or disabled, and poor households, particularly the landless.
- (iii) Preparation of information, IEC materials will take into consideration the language and literacy skills of participants, as well as other gender and cultural sensitivities that would affect their participation.
- (iv) The Project will give priority to vulnerable APs for employment for construction, operation and maintenance of physical infrastructure, coastal resource management and protection and other Project activities, where appropriate.

III. SOCIOECONOMIC INFORMATION

40. When the resettlement plan needs to be prepared, following activities needs to be conducted accordingly.

A. Census of Affected Persons

41. A complete enumeration of all affected households and their assets through household interview schedule will be conducted to establish the following:

- (i) Complete inventory of APs and their assets as a basis for compensation;
- (ii) Determine entitled persons; and
- (iii) Minimize impact of later influx of "outsiders" to project area.

B. Socioeconomic Survey

42. A socioeconomic survey (SES) will be conducted to establish a baseline of demographic and socioeconomic conditions of people affected by the subproject. The sample for the SES will be 20 to 25 percent of all APs in the subproject area selected randomly.

43. The SES data shall include information on the demographic characteristics of AP household members, ownership of land and other assets, household living conditions and sources and levels of household income. Data will be disaggregated and analyzed by gender,

ethnic and income group. It also includes the socioeconomic conditions of specific AP groups. Results of the SES will be entered into the COREMAP database and Project management will ensure that aggregate information is accessible for interest groups including for monitoring purposes.

C. Impacts Survey: Detailed Measurement Survey

44. An inventory of loss (IOL) survey or detailed measurement survey (DMS) will be conducted following the detailed design of a subproject and if needed, a demarcation of land acquisition. APs will be notified at least a month before the conduct of the IOL/DMS and requested to participate in the survey. The IOL/DMS will survey 100% of APs and collect data on (i) total landholdings and tenure; (ii) land, structures and other assets entirely or partially affected by land acquisition for the subproject; and (iii) basic household information. Other relevant information will include (i) technical drawing of structures; (ii) exact measurements of land and other fixed assets; (iii) detailed descriptions and specifications of building materials; and (iv) photographs of each structure. The DMS will be carried out in the presence of heads/guardians or members of households and household head/guardians or members will duly endorse completed DMS forms. Endorsement of DMS forms at the time of DMS survey will preclude any complaints by APs on the inaccuracy of inventory details at a later stage. The survey method will be updated and fine-tuned at implementation.

45. An inventory for each structure will be prepared and the initial output will be reviewed and discussed during the community assembly prior to the preparation of RP.

46. The information to be obtained in the IOL will include the following for each affected household:

- (i) Number of persons and names;
- (ii) Amount and area of all the residential plots owned and lost;
- (iii) Amount, category/type and area of agricultural land owned and lost;
- (iv) Quantity and types of crops and trees lost;
- (v) Quantity and category of any fixed assets lost;
- (vi) Temporary damage to productive assets; and
- (vii) Loss of income by income source.

47. The data derived from this survey will constitute the basis for valuation of losses at replacement cost, calculating compensation amounts and determining compensation packages. The data will then be encoded and stored into the COREMAP database maintained by Project management and accessible for external monitoring.

D. Replacement Cost Study

48. Depending on the magnitude of loss, an independent property appraiser might be commissioned to conduct a replacement cost study (RCS) in each subproject to establish the unit costs to be used in compensating for affected assets. The unit costs should be at replacement level and based on empirical data. The study will be part of project cost.

49. The determination of the compensation for each of the affected households can be obtained using Land Management valuation, assessors' fair market values and interviews with local realtors. The project may engage a regional appraisal team to initially determine the value for compensation. Market value on land may be based on record of sales.

E. Unanticipated Impacts

50. Should involuntary resettlement impacts that were unanticipated while preparing the RP emerge during project implementation, MMAF shall ensure the conduct of a SIA and update or formulate a new resettlement plan, depending on the extent of the impact changes.

Unanticipated impacts will be documented and mitigated based on the principles provided in this RF. MMAF shall submit these documents to ADB for disclosure on ADB's website and convey relevant information in them to the affected persons/community.

IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE

A. Consultation and Participation

51. A variety of mechanisms such as Community Engagement Program (CEP) will be utilized to consult with APs during preparation and implementation of RPs or DDRs, including: (i) community consultations and dissemination of information about the COREMAP-CTI and its subproject components; (ii) meetings with landowners and APs; (iii) separate meetings with women APs; (iv) a socioeconomic survey of male and female APs to produce a village profile; and (v) awareness raising training about possible risks associated with the project.

52. The MMAF unit responsible for community empowerment, together with the PIU will be responsible for this CEP, and will guide the consultation and participation processes which accompany the development of social infrastructures. Village based consultative meetings involving both women and men from all community groups of APs living in the village (whether customary landowners or migrants from other regions outside district), will be facilitated. The subproject within the overall project context will be fully described/explained to participants, as well as the probable positive and negative impacts to include involuntary resettlement issues (where applicable). Participants at the meeting will be provided the opportunity to discuss among themselves and with facilitators the issues that concern them and raise these to the IA/EA. For preparation of this RF, representatives of communities and government agencies have been consulted both at the national, provincial and district level to ensure that the eligibility and entitlement are agreed and this RF will be applied accordingly.

53. Consultation meetings will include:

- (i) An orientation on the project: Subproject designs, schedules of implementation, and identification/introduction of PIU focal/contact persons;
- (ii) Probable benefits, adverse impacts, and mitigating measures to be taken;
- (iii) Valuation methods and entitlements/compensation packages;
- (iv) Grievance process; and
- (v) Subsequent schedule of meetings.

54. **Women and vulnerable sector.** The project Gender Action Plan ensures the engagement with local women's groups in key project activities. In case of under-representation or where needed, separate meetings with marginalized households, including women, shall be organized to discuss subproject proposals prior to any community assembly. Beyond the GAP, participation of women and the vulnerable/marginalized sectors will be ensured across the RP stages.

55. The relevant department of MMAF will ensure that women shall attend such meetings, and separate meetings will be organized with women so that their specific concerns can be discussed. Consultations will be undertaken at venues and times that are suitable for women and will not disadvantage them. Where it is inconvenient for women to attend the meetings because of childcare responsibilities or caring for the sick and elderly, these women will be consulted by visiting their homes or by arranging with the women's groups in villages to hold meetings specifically for the women.

56. Vulnerable sector will include for households headed by women, elderly household heads, land less, poor households, and indigenous peoples.

B. Disclosure

57. If resettlement plan is required, a summary brochure or project information booklet (PIB) containing relevant information such as the entitlement matrix, grievance procedures, and timing of payments will be produced and distributed to APs at each subproject site involving physical and non-physical losses. The full RP will be made available in English, Bahasa Indonesia, and where necessary, the prevailing local language. Notices to meetings and other subproject activities/updates will be made accessible in public locations, such as the village or sub-districts office. Village leaders and APs households will be provided with a summary RP or brochure prepared in Bahasa Indonesia.

58. Disclosure of the following documents is required:

- (i) A draft resettlement plan and/or resettlement framework endorsed by MMAF before project appraisal;
- (ii) The final resettlement plan endorsed by MMAF after the census of affected persons has been completed;
- (iii) A new resettlement plan or an updated resettlement plan, and a corrective action plan prepared during project implementation, if any; and
- (iv) The resettlement monitoring reports.

59. Materials will be produced in popularized form for all APs across implementation levels. The ADB Public Communication Policy will serve as guide. The documents listed above will be uploaded in the COREMAP management information system for interconnectivity as well as the ADB website.

V. COMPENSATION AND INCOME RESTORATION

60. MMAF will coordinate with the provincial administration to disburse or pay land compensation or lease payments to APs in accordance with the Entitlement Matrix as described in preceding chapters. Local level government staff will assist in identifying entitled persons and delivering the compensation amounts.

61. There should be no relocation of APs necessary under this Project, but there likely will be need for rehabilitation (livelihoods/income) assistances, since many potential APs are coastal community and traditional villagers who rely on marine-fishery resources for their livelihood and income sources as well as cultural rites of passage. Traditional communities will retain their rights to fish and utilize other marine resources around the “core zone” or “no take zone” within the MPA (or DPL).

62. It is anticipated that communities will receive both direct benefits (lease and service payments), as well as indirect benefits (of increased healthy coral reefs as a “home” of many fish). The PIU in collaboration with the Department of Community Empowerment Development will be available to advise the APs and other potential coastal community beneficiaries on possible opportunities for small-scale community development opportunities, including trainings on small scale marine-fishery based business development such as aquaculture, fish product processing and/or support on tourism development is provided under the project. Table 2 is the Entitlement Matrix.

Table 2. Entitlements Matrix

Nature of AP's loss	Eligibility Criteria	Entitlement
1. Land loss: Permanent:		
Land/space in any category	Land owners with legal title or recognized as a legal title/persons occupying or using state land in a good faith	<ul style="list-style-type: none"> • Cash compensation at full replacement cost which is based on valuation by independent appraiser; or • Land replacement with the similar attributes or even better; or • Other forms equivalent to replacement land as agreed upon by both parties;
Customary land	Customary communities	<ul style="list-style-type: none"> • Land replacement, or other forms as agreed upon by the relevant indigenous people.
Temporary e.g. during construction	Owner, titled, or with legally recognized customary right	<ul style="list-style-type: none"> • Restoration of the land to pre-project condition or better; or • Rental payment by contractor for residential land based on prevailing rental cost and based on agreement with land owners; or • Rental fee for production land will not be less than net income obtained from productive land; or • Compensation for acquired non-land asset (trees/crops, building) will be provided at replacement cost
	Tenant/informal user	<ul style="list-style-type: none"> • No rental fee for land for the period of impact; and • Restoration of the land to pre-project condition or better; and • Compensation for acquired non-land asset (trees/crops, building) will be provided at replacement cost.
Any land/space whose use is restricted by the project Restricted access to livelihood	Owner, titled, with legally recognized title including customary title recognized by local authority or appraisal agency	<ul style="list-style-type: none"> • Compensation for the restriction at replacement cost based on valuation by independent appraiser. • Participate in the livelihood program
2. Structures		
Primary/secondary structures partial loss	Owner, titled, or with legal registration or recognition	Proportional compensation for affected portion and restoration to pre-project standards based on valuation of the independent appraiser.
3. Crops		
Whether land/space is temporarily permanently acquired	Owner of crop regardless of land tenure status (certificate or recognizable rights owners, informal dwellers, sharecroppers, occupants)	Perennial crops: cash compensation at replacement cost taking into account the productivity (one season's crop at market value) based on valuation of independent appraiser
4. Trees		
Whether land/space is temporarily permanently acquired	Owner of tree regardless of land tenure status (certificate or recognizable rights owners, informal dwellers, sharecroppers, occupants)	<ul style="list-style-type: none"> • Salvaging free of cost; and • Cash compensation to the replacement value of the tree lost based on appropriate agency's (Forestry) estimate, related to type, age and productive value plus cost of replacement seedlings based on valuation of independent appraiser.
5. Income and restriction to access for income generation		
	Losers of business or employment income	<ul style="list-style-type: none"> • Permanent loss: cash compensation based on the losses as validated by the Appraisal Agency. • Temporary loss: cash compensation of net income, salary or wage for the number of months of stoppage, to a maximum of two months.
6. Public Facilities		

Nature of AP's loss	Eligibility Criteria	Entitlement
	The affected government agency	<ul style="list-style-type: none"> • Reconstruction of the lost asset in consultation with the affected agency; or • Full replacement or rehabilitation of the facility agreed by both parties
7. Services and utilities		
	Owners or users of land or structures to which services/access to utilities have been disrupted or lost	Full cost of restoration of the service/utility, e.g. telephone and power reconnections and charges
8. Taxes and administrative costs		
	All categories of AP	<ul style="list-style-type: none"> • No deduction for taxes and transaction administrative cost for compulsory land acquisition/involuntary resettlement.
9. Vulnerability allowance		
	AP households with any of the following characteristics regardless of severity impacts: headed by a single parent; headed by women, elderly; considered poor, masyarakat adat, and landless poor.	<ul style="list-style-type: none"> • Participate in livelihood restoration program, and; • Priority for employment of a household member on a project-related job for which they have relevant skills and experience; livelihoods program.
10. Contingencies		
	Any AP identified in the course of the RP, and /or accepted as eligible by the RP projects	Determined case-by-case on the principles above.

A. Basis of Valuation and Compensation

63. Compensation, relocation and rehabilitation assistance should improve or at least equal the standards of living of the AP before the project. Lost assets or elements of livelihood should be compensated at full replacement cost.

B. Land Valuation and Involuntary Acquisition Process

64. Valuation is the responsibility of a national land agency as constituted under the land acquisition law. The National Land Agency through its local land office is responsible for determining official values of affected land and market value of land-based assets, and facilitating discussion and negotiation between the project proponent and APs on the land valuation and compensation rate referring to the valuation result by the independent appraiser.

65. The land office will appoint an appraisal agency and notify the appointed agency to value the objects of land acquisition, per area of land parcels that cover land, buildings, plants, space above ground and underground, other objects relating to land, and other losses that can be valued including income losses and job losses. Forms of compensation offered include cash, replacement land, ownership of shares, and other forms agreed by both parties. .

C. Asset Valuation

1. Land-based Assets

66. Land based assets valuation and compensation done by independent appraisers will take into account:

- (i) The indicated price or standard tree pricing released by district governments as reference for land based assets valuation. Under the standard tree pricing released, the valuation calculates only economic value of one year's harvest of the affected trees.
- (ii) =

- (iii) The market value of crops or produce lost at the value of the season of acquisition. In case the lost production has not been harvested, plant owners will be given one-time harvest compensation.
- (iv) Alternative land for grazing livestock and poultry.¹⁷ If alternative legally owned / communally owned graze lands cannot be found, the IAs will provide a special community development support / program
- (v) Loss of ponds/fishing grounds to be compensated at replacement cost.

2. Structures

67. National Land Agency will mobilize independent appraisers who will value the structure. A decree related to pricing standard of buildings material and other assets issued by district governments will be one of the references used by the appraisers. Under normal government procedures for calculating compensation, the older structures are depreciated and the value after depreciation is therefore lower than for new structures. Where the IAs are bound by law or regulation to apply a depreciation value to any structure affected, other measures will be devised to meet replacement cost principle. The repair and restoration costs of structures damaged will be provided, where only partial acquisition has been required as well as costs of restoration of utilities and services to affected land or structures.

68. Transactional costs are assessed at (i) actual costs of transactions, including any fees, duties or taxes incurred, and (ii) actual cost of reconnection of any utility or service lost or disrupted. Under the negotiated process, the PIU will hold successive meetings until agreement is reached, or failing agreement, will withdraw and find an alternative option.

D. Economic Losses

69. The IAs will recognize economic impacts from restriction to access, loss of business, employment or livelihood activity due to the project, whether temporary or permanent. In the event of loss of business or employment, provision will be made for cash compensation at net income or salary to a maximum of two months. APs will be required to bring evidence of the loss to negotiation of settlements.

E. Income Restoration and Special Measures for the Vulnerable

70. The socioeconomic survey elicits information about vulnerability factors. Vulnerable AOPs could receive additional assistance tailored to their specific needs such as:

- (i) Preference for employment of a household member on the project in some capacity appropriate to skills
- (ii) Training for employment on the project or for an alternative livelihood
- (iii) Credit to establish an enterprise
- (iv) Secure access to land where the AP could plant and tend productive trees or crops. This could be linked with landscaping to beautify the project plant or area
- (v) Livestock or poultry to rear, and training or extension support
- (vi) Additional equipment or facilities to mitigate for any AP disability.

71. Income restoration initiatives may be linked with existing programs of government, both local and national.

F. Negotiated Land Acquisition

72. The ADB-SPS on Involuntary Resettlement does not apply to negotiated settlements even if among the stakeholders, unless expropriation would result upon the failure of negotiations. Negotiated settlement may be applied, as it is normally a faster and more effective

¹⁷ These are identified income sources in the two models: Mentawai and Bintan.

arrangement than expropriation. Thus, consultation processes, policies, and laws that are applicable to such transactions, third-party validation, mechanisms for calculating the replacement costs of land and other assets affected, and record-keeping requirements will be in line with this RF. The transaction process must openly address the risk of asymmetry of information availability and bargaining power of both parties. A Negotiated Land Acquisition Form (See **Appendix 3** for a sample form) must be attached to the RP.

73. As per the provision under the Law No. 2/2012, acquisition of land less than 1 hectare will be undertaken through transaction, exchange, or other means acceptable by both parties. MMAF will apply the following principles in undertaking land acquisition through negotiation:

- (i) Compensation is paid based on replacement value which takes into account prevalent market prices as determined by independent appraisal or through consultation with APs including those without legal title to assets to enable all affected land owners to replace their affected assets. No administrative cost will be deducted and tax obligations will be covered by the negotiated transaction.
- (ii) MMAF will acquire land that is free of any encumbrances and to the extent possible does not affect any households other than the land owners. Where this is not possible, land users, whether titled or not, will be compensated, especially leaseholders and shareholders.
- (iii) All negotiations with the land owners and users if any will be carried out in an accessible location, in an open and consultative manner without any coercion and with sufficient time for consideration of offers.
- (iv) The documents pertaining to the land acquisition such as map, land registries, sales written records, consultation records, decision records, law and policies for the negotiations and development plans are to be disclosed to the APs who are involved in the negotiated land acquisition or settlement
- (v) Adequate and fair price for land and/or other assets will be offered. Owners are free to refuse to sell their land or to refuse MMAF's offers. If negotiations fail, an alternative site is selected and the process begins again.
- (vi) An independent external party will be engaged to ensure that the negotiation with APs will address risks of asymmetry of information and bargaining power of the parties involved in such transaction. The said independent party will document and validate the negotiation and settlement process
- (vii) When negotiations are completed, inventories of affected land and other fixed assets are prepared in consultation with affected land owners and a copy of the same is to be given to each land owner.
- (viii) The negotiated amount will be paid immediately after all necessary documents required for the land acquisition processes have been completed by the land owners.
- (ix) All market analysis, negotiation and other consultation proceedings will be documented and the agreement for sale and purchase of land will be signed by the negotiating parties in the presence of PPAT (Pejabat Pembuat Akta Tanah) and the village head or community leaders
- (x) Land acquisition identification, planning and monitoring will ensure that gender concerns are incorporated. .
- (xi) Grievance mechanism will be established to receive and facilitate resolution of the APs concerns.
- (xii) MMAF will not award a civil works contract until (a) payment has been fully provided to the APs and rehabilitation measures if any; (b) already-compensated APs have cleared the area in a timely manner; and (c) the area is free from any encumbrances.

G. Voluntary Land Donation

74. Since this is a CDD project, infrastructure constructions will positively impact on the incomes and livelihoods of local people, following priorities and consensual agreement of the local people and considering that the scale of impact is minor. The type of infrastructure that will be built in the protected zone most likely a marine information centre, a guard house, floating landing place, etc and some of the land to build these facilities have been voluntarily donated by the communities. Voluntary land acquisition for the subproject may be applied if:

- (i) Impacts are marginal (based on percentage of loss and minimum size of remaining assets);
- (ii) Impacts do not result in displacement of households or cause loss of household's incomes and livelihood;
- (iii) Households making voluntary donations are direct beneficiaries of the project;
- (iv) Donated land is free from any dispute on ownership or any other encumbrances;
- (v) Consultations with affected households is conducted in a free and transparent manner;
- (vi) Land transactions are supported by transfer of titles; and
- (vii) Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained.

75. A Voluntary Land Donation Form (See **Appendix 4** for a sample form) must be attached to the RP. A confirmation through an independent party such as designated nongovernmental organization or legal authority to ensure land donation do not severely affect the living standard of affected persons. In some areas, land donation certificate has been prepared and signed by the right parties and for any other potential land donations during project implementation will be done through all the proper procedures and will be recorded accordingly.

VI. GRIEVANCE REDRESS MECHANISMS

76. The MMAF/PIU will ensure a culturally and gender sensitive grievance redress mechanism to receive and address, in coordination with provincial authorities, project related concerns and to resolve AP related disputes that may arise during project implementation. It is anticipated that all grievances related to benefits and other assistance will be resolved at the subproject and PIU level especially as the project upholds CDD as the overarching approach.

77. At the village level affected APs through their facilitator or representative may bring the complaints to the village leaders and/or customary leaders, then they may bring it to the officers in project's field office or sub-project site office. Specifically,

- (i) The AP narrates discontent to the community leader
- (ii) The leader prepares an official report for documentation purposes and attempts to address and resolve the grievance at the community level.
- (iii) If the AP is satisfied, there is no need to elevate the issue. If the grievance cannot be addressed at the village level, the *Penghulu* submits the complaint to PIU.

78. The community development officer(s), and/or safeguards consultant(s) will assist APs in registering their complaints with PIU, field office or sub-project site office, and preparing their specific grievance. The PIU Project Manager will consider the complaint and within 15 working days will convey a decision to the APs. These staff, along with local government district officials, will assist the Project Manager in reviewing and addressing the complaint. Project's district

officer will record/file keeping the complaint. The safeguards staff will facilitate communication between the affected APs and the PIU.

79. However, in the event that complaints arise, avenues for grievance redress is provided as guided by GOI laws and procedures in harmony with ADB principles on grievance redress. There are two types of complaints that have to be specific in modalities of redress, (i) on compensation rates; and (ii) other resettlement concerns. The name of persons and institution in charge of complaints and receiving any inputs from the stakeholders with their address/phone numbers will be disseminated to the participating communities

80. **Compensation rate.** An aggrieved AP may bring the grievance/complaint directly to PIU or land agency through the *informal leader* who will submit it to the PIU either in writing or relay it verbally. PIU together with the land agency and the informal leader will attempt to seek consensus to achieve an acceptable settlement with the aggrieved AP. If the aggrieved AP does not accept the offered compensation, the land agency will deposit the compensation money with the district court. The aggrieved AP may lodge the complaint with the court within 14 days after deliberation for the establishment of compensation. The court shall decide the case not later than 30 days after submission of the grievance/objection and if the aggrieved AP is still not satisfied with the court decision, the aggrieved AP may bring the case to the Supreme Court for final decision. The PIU shall be responsible for recording and keeping file of all project-related complaints.

81. **Other compensation and dispute** In case of complaints related to project construction and other resettlement matters like restriction to access, the aggrieved party may bring the complaint through the *informal leader*, either to the contractor or to the PIU. If the aggrieved AP is not satisfied with the decision or handling of the complaint, he/she may bring the grievance, either in writing or verbally to the regent of the district (*Bupati*) accompanied by an explanation on the causes and reasons for the objection within a period of 14 days from the issuance of the decision of the PIU or contractor/concerned entity. The *Bupati* will decide on the complaint within a period of 30 days by requesting for opinions/wishes from (i) the aggrieved AP; (ii) PIU; and (iii) other concerned entities (i.e., contractor, Land Agency). The *Bupati's* decision will be delivered to the aggrieved AP, the PIU, and other entity. If after 30 days, no decision to the complaint is made or if the aggrieved AH is not satisfied with the decision taken by the *Bupati*, it may bring the complaint/case to the governor. The governor will decide on the complaint within a period of 30 days. The opinions/wishes of (i) the aggrieved AP; (ii) the PIU; and (iii) other concerned entity may be required for the decision. The governor's decision on the complaint will be delivered to the aggrieved AP, the PIU, and other concerned entity. If after another 30 days, no decision to the complaint is made or if the aggrieved AP is not satisfied with the decision taken by *Bupati* and/or the governor, it may bring the complaint/case to the court for adjudication.

VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

A. Institutional Arrangements

82. Consistent with the successful implementation arrangements under COREMAP Phase II, the Directorate General of Marine, Coasts and Small Islands under the Ministry of Marine Affairs and Fisheries (MMAF) will serve as the executing agency. The Indonesian Institute of Science (LIPI), Directorate, General of Capture Fisheries (DGCF), the Technical Implementation Unit (UPT) of the National Marine Conservation Areas (LKKPN) of Pekanbaru and the Technical Unit of Coastal and Marine Management (BPSPL) in Padang, will be the national implementing units of the Project. The district/municipality, through the District Implementing Unit will implement the Project at the district level. At the village level, the activities will be carried out by

Community Coral Reef Management Board (LPSTK) and community groups (Pokmas). The Project will be implemented over a period of 5 years, from 2013 to 2018.

83. The PIU will handle the daily activities of the Project. The MMAF/PIU at provincial and district level has overall responsibility to oversee adherence to this RF as well as RP preparation and implementation. It will undertake the surveys, consultations, and land acquisition processes with the help of qualified experts.

84. The MMAF/PIU will ensure that entitlements and measures in the RP are consistent with this RF and that suitable budgetary provisions are made for timely implementation of the RP. MMAF/PIU will also coordinate with relevant government agencies in the formal land acquisition process. For subprojects involving acquisition of customary land, the MMAF/PIU will ensure that: (i) any land disputes are resolved and a written on use of the land is signed with customary landowners and included in the RP; and (ii) that compensation or lease rates are agreed with landowners before work begins on the site.

85. The detailed tasks of the MMAF/PIU include:

- (i) Collaboration with provincial and/or district land officer to carry out their work in compliance with the Project and ADB requirements;
- (ii) Provision of qualified personnel/entities to conduct the surveys (both census and socioeconomic sampling surveys) and village profiling;
- (iii) Collaborate with provincial and/or district land officer for any negotiated land settlement and leases for use of land;
- (iv) Ensure all requirements are carried out concerning consultation and disclosure, and grievance redress;
- (v) Endorsement of the draft RP for ADB approval;
- (vi) Ensure all land acquisition and compensation activities are completed in a timely manner;
- (vii) Monitor RP implementation; and
- (viii) Coordination with civil works.

86. The Advisor (Manager or Director) of Provincial Land Agency will work with MMAF/PIU to plan, implement and monitor land acquisition activities for the subprojects in the province and/or delegate responsibility to the relevant Land officer. The Advisor's responsibility include: (i) organising registered land surveyors to conduct land and other inventory of losses surveys; (ii) negotiating with the community leaders and affected landowners; (iii) cooperating with the State Court or Justice officer to allocate mediators to help facilitate resolution of disputes and grievances; and (iv) consulting with and advising affected communities about the Program, its policies and procedures on land acquisition and resettlement. As delegated by the Advisor, the PLO/DLO will also assist the PIU in this process.

87. MMAF will not issue notice to proceed for any civil works contract or will not allow any project construction activities until there is confirmation that compensation payment has been fully disbursed to APs and rehabilitation measures are in place as per-project entitlements in the agreed RP.

88. The Project Treasure, in coordination with MMAF is responsible for ensuring that adequate funds are allocated and disbursed on time to pay land and service payments and allowances for provincial (and/or district) subprojects that are included in the Project. Safeguards consultant(s) will be important participants in all consultations with local communities, APs and other stakeholders. They will be responsible for collaborating with MMAF/PIU in organizing and carrying out these consultations.

89. LPTSK or institution of coral reef resource management at the village level in collaboration with DKP officials at the district level be the impelmenters at the village level. LPTSK will coordinate all subprojects activities defined including resettlement activities if any with the fishermen groups and/or community business groups (or Pokmas = kelompok masyarakat) at the community level.

90. The resettlement plan when needed will be prepared per district level.

B. Capacity Building

91. COREMAP III implementation will designate safeguards staff at the PIU level to be backed up by resettlement consultants to carry out this RF. Capacity building will be necessary to orient project management on operationalization of this RF as well as prevailing GOI policies impinging on involuntary resettlement, to include concerns on indigenous peoples and gender. Similarly, all structures across management levels will be capacitated.

VIII. BUDGET AND FINANCING

92. Necessary land acquisition, compensation, and livelihood/income restoration costs for the project, will be financed by the executing agency (i.e. MMAF) using counterpart funds. The actual budget for such activities under each subproject will be prepared and incorporated in each RP after detailed discussions with community members on impacts, and following detailed survey and investigation by representatives of the Land Appraisal Team. The government will release sufficient budget for implementation of compensation and rehabilitation activities in an appropriate and timely manner.

93. Table 3 provides the allowable budget line items.

Table 3. Allowable RP Costs and Budget Line Items.

CATEGORY	COST ITEM
Resettlement preparation and compensation	Cost of census and survey of affected people and inventory of assets Replacement Cost Study by independent property appraiser Cost of IEC and consultation Compensation for assets lost (land, structures, etc.)
	Please note that most of the land acquired will be for building a small information centre, a guard house and floating jetty. And in some project sites, community has already donated their lands for these purpose through a proper record with third party signatures. It is not anticipated that there will be a huge compensation needed as most of the protected zones are selected through participatory approach.
Income restoration plans	Training for income restoration plans (e.g., training, livelihood/small business, community enterprise) and capacity development for IAs, and affected people
Administrative costs	Operation staff (managerial, technical), and support staff
	Evaluation by independent agency

94. All costs covered under this RF shall be borne by the GOI or partly by Loan if it is requested by MMAF and as per agreement between GOI and ADB. Funds flow will follow the procedures established under the overall project funds flow. Total amount for RP preparation and implementation is allocated for US 315,000.

IX. MONITORING AND REPORTING

A. Monitoring Arrangements

95. The MMAF, with assistance from Project consultants, will monitor all activities associated with land acquisition, payment of compensation to APs and other aspects. The scope of monitoring includes (but not limited to):

- (i) Payment of compensation to all APs in various categories, according to the compensation policy described in the RP.
- (ii) Delivery of income restoration and social support entitlements.
- (iii) Public information dissemination and consultation procedures.
- (iv) Adherence to grievance procedures and outstanding issues requiring management's attention.
- (v) Priority of APs regarding the options offered.
- (vi) The benefits provided from the project.

96. The implementing agencies will periodically collect information from the different resettlement committees. Monthly reports will be submitted to MMAF as the EA for RP activities. The EA in turn will include updates on resettlement in its regular progress reports to ADB.

97. The services of an external entity or institute will be retained by the EA to monitor for (i) payment of compensation and rehabilitation assistance being in place before award of civil contracts, (ii) land donation and negotiated settlements, and (iii) evaluation of overall RP implementation after project completion.

B. Monitoring Indicators

98. Monitoring indicators address the specific contents of the RF/RP activities and entitlements matrix. Potential monitoring indicators, from which specific indicators can be developed and refined according to the circumstances, are set out in Table 11.

- (i) Payment of compensation
- (ii) Coordination of completion of land acquisition activities for any component should be completed prior to award of the civil works contract.
- (iii) Provision of income restoration assistance under the Project, if at all.
- (iv) Entitlements of project benefits.
- (v) Public consultation and awareness of compensation policy.
- (vi) APs should be monitored regarding restoration of productive activities.
- (vii) Level of satisfaction of APs with various aspects of the RP. The operation of the mechanisms for grievance redress, and the speed of grievance redress will be monitored.
- (viii) Throughout the implementation process, the trends of living standards will be observed and surveyed. Any potential problems in the restoration of living standards will be reported.

C. Reporting and Disclosure

99. MMAF is required to prepare semiannual monitoring reports for submission to ADB that will include the progress in compensation payment as well as other activities stipulated in the RF/RP. Monitoring reports shall include the following topics:

- (i) The number of APs by category of impact per component, and the status of compensation payment and assistance/income restoration for each category.

- (ii) The amount of funds allocated for operations or for compensation and the amount of funds disbursed for each.
- (iii) The eventual outcome of complaints and grievances and any outstanding issues requiring action from management.
- (iv) Implementation problems.

100. Monitoring reports are subject to review by ADB and posted on the ADB and project web sites, if applicable. MMAF through its implementing units shall disclose results of monitoring to the affected communities/persons specifically the status of the resettlement plan, information on benefits sharing, and corrective action plans, if any.

D. Assessment and Evaluation

101. MMAF shall conduct an evaluation of the overall RP implementation after project completion in order to assess whether activities planned actually achieved intended objectives. At a minimum, the assessment will generate gender-disaggregated data include such indicators as income levels, accessibility to social services, and AP satisfaction.

APPENDIX 1. Subproject LAR Screening Checklist

LAND ACQUISITION AND RESETTLEMENT (LAR) SCREENING CHECKLIST	
Province:	District:
Village:	
Subproject:	
Brief Description of Site and Proposed Works (provide as much detail as possible):	

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
Involuntary Acquisition of Land				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilized within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
Involuntary restrictions on land use or on access to legally designated parks and protected areas				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
Information on Vulnerable Persons:				
Are any of the APs poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Are any APs from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes				

1. Document/Plan Requirements			
Based on the foregoing identification of impacts and the subproject will:			
Create land acquisition/ resettlement impacts (if YES ticked in answer to any question in Section 1), and a Resettlement Plan (completed as per the requirements of the RF) is required.			
Create no resettlement impact, no resettlement plan is required. This screening checklist and a due diligence report will be prepared as the document for the subproject.			
The foregoing has been reviewed and agreed with by:			
Name & Signature: (Team Leader)		Date:	
Name & Signature: (safeguards consultant/specialist)		Date:	

APPENDIX 2: Outline of a Resettlement Plan

A. Executive Summary

1. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

B. Project Description

2. This section provides a general description of the project, discusses project components that result in land acquisition and identify the project area. It also describes the alternatives considered to avoid or minimize land acquisition.

C. Scope of Land Acquisition and Resettlement

3. This section discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities.

D. Socioeconomic Information and Profile

4. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings.

E. Information Disclosure, Consultation, and Participation

5. This section (i) identifies project stakeholders, especially primary stakeholders; (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle; (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders.

F. Grievance Redress Mechanisms

6. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

G. Legal Framework

7. This section (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.

H. Entitlements, Assistance and Benefits

8. This section (defines displaced persons' entitlements and eligibility, and describes all assistance/compensation measures (includes an entitlement matrix) and specifies all assistance to vulnerable groups, including women, and other special groups.

I. Income Restoration and Rehabilitation

9. This section describes income restoration programs, including multiple options for restoring all types of livelihoods.

J. Resettlement Budget and Financing Plan

10. This section (i) provides an itemized budget for staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation; (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items.

K. Institutional Arrangements

11. This section (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan; (ii) includes institutional capacity building program, including technical assistance, if required; (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and (iv) describes how women's groups will be involved in resettlement planning and management.

L. Implementation Schedule

12. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities.

M. Monitoring and Reporting

13. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan.

APPENDIX 3: Sample Negotiated Settlement Agreement

The following agreement has been made on.....day of between Mr./Ms. , aged....., resident of zone, district (the owner) and (the recipient/subproject proponent).

1. That the land with certificate no.....is a part of, is surrounded from eastern side by....., western side by....., northern side by, and southern side by..... .
2. That the owner holds the transferable rights of land(area in sqm), with plot No..... at the above location (include a copy of the certified map, if available) .
3. That the Owner testifies that the land/structure is free of squatters or encroachers and not subject to any other claims.
 - a. That the owner(s) agree to sell above assets for the negotiated price in accordance with the attached schedule.
 - b. That the project owners agree to pay the agreed price for the land and other assets within two weeks from the date of getting approval for the project from the Government of/ PMU.
 - c. In case of any delay in payment within the stipulated time, this agreement will become null and void and the recipient will no longer have any claim over the land and assets.
4. That the recipient shall construct and develop theand take all possible precautions to avoid damage to adjacent land/structure/other assets.
5. That the provisions of this agreement will come into force from the date of signing of this deed.

.....
Name and Signature of the Owner

.....
Signature of subproject proponent/representative

Witnesses:

1.....

2.....

(Signature, name and address)

APPENDIX 4: Sample Voluntary Donation / Contribution Form

The following agreement has been made on.....day of between Mr./Ms., aged....., resident of zone, district (the owner) and (the recipient/subproject proponent).

1. That the land with certificate no.....is a part of, is surrounded from eastern side by....., western side by....., northern side by, and southern side by..... .
2. That the owner holds the transferable rights of land(area in sqm), with plot No..... at the above location (include a copy of the certified map, if available) .
3. That the Owner testifies that the land/structure is free of squatters or encroachers and not subject to any other claims.
 - a. That the Owner hereby grants to the..... (name of the recipient) this asset for the construction and development of thefor the benefit of the community.
 - b. That the Owner will not claim any compensation against the grant of this asset nor obstruct the construction process on the land in case of which he/she would be subject to sanctions according to law and regulations.
 - c. That the(name of the project proponent) agrees to accept this grant of asset for the purposes mentioned.
4. That the recipient shall construct and develop theand take all possible precautions to avoid damage to adjacent land/structure/other assets.
5. That the provisions of this agreement will come into force from the date of signing of this deed.

.....
Name and Signature of the Owner

.....
Signature of subproject proponent/representative

Witnesses:

1.....

2.....

(Signature, name and address)