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LOAN NUMBER 3167-CAM (SF)

LOAN AGREEMENT  
(Special Operations)

(Technical and Vocational Education and Training Sector Development Project)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 27 OCTOBER 2014

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CAM 46064

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 27 October 2014 between KINGDOM OF CAMBODIA (“Borrower”) and ASIAN DEVELOPMENT BANK (“ADB”).

WHEREAS

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

(B) the Borrower has also applied for a loan from ADB’s Special Funds resources in support of Technical and Vocational Education and Training Sector Development Program (“Program”) and by a loan agreement of even date herewith between the Borrower and ADB (“Program Loan Agreement”), ADB has agreed to provide a loan from its Special Funds resources equivalent to four million five hundred thirty-three thousand Special Drawing Rights (SDR4,533,000); and

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

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (“Loan Regulations”), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

- (a) “CoE” means center of excellence to be established under the Project;
- (b) “Consulting Guidelines” means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (c) “Consulting Services” means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;
- (d) “CQF” means Cambodia Qualifications Framework;

(e) “DGTVET” means the Borrower’s Directorate General of Technical Vocational Education and Training within MLVT or any successor thereto;

(f) “EMP” or “Environmental Management Plan” means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;

(g) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(h) “GAP” means the Gender Action Plan for the Project;

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

(j) “ICT” means information and communication technology;

(k) “IEE” or “Initial Environmental Examination” means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

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

(m) “IPP” or “Indigenous Peoples Plan” means the indigenous peoples plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(n) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(o) “MLVT” means the Borrower’s Ministry of Labour and Vocational Training or any successor thereto;

(p) “NTB” means the Borrower’s National Training Board chaired by its Deputy Prime Minister or any successor thereto;

(q) “NTTI” means the Borrower’s National Technical Training Institute;

(r) “PAM” means the project administration manual for the Project dated 3 July 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(s) “Priority Skills Areas” means auto mechanics, construction, electrical works, ICT/ business, and manufacturing sectors which will be main focus for the Program;

(t) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(u) “Procurement Manual” means the Procurement Manual dated 22 May 2012 (as amended from time to time) under the Standard Operating Procedures dated 22 May 2012 (as amended from time to time) prepared by the Borrower, providing procurement-related policies and procedures applicable to all externally-financed projects and programs and endorsed by ADB;

(v) “Procurement Plan” means the procurement plan for the Project dated 3 July 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB (which include the Procurement Standard Operating Procedures and the Procurement Manual as updated from time to time);

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

(x) “Project Facilities” means the equipment to be provided and the facilities to be constructed, upgraded and/or rehabilitated under the Project;

(y) “PSC” means the Project steering committee to be established under the Project and described in paragraph 5 of Schedule 5 to this Loan Agreement;

(z) “PTC” means provincial training center;

(aa) “public TVET institutions” means the Borrower’s all public TVET institutions under MLVT, including PTCs, RTCs, and other technical institutions;

(bb) “RPL/RCC” means recognition of prior learning and recognition of current competencies;

(cc) “RTC” means regional training center;

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

(ee) “SBP” means the Borrower’s existing national Skills Bridging Program;

(ff) “SPS” or “Safeguard Policy Statement” means ADB’s Safeguard Policy Statement (2009);

(gg) “SSC” means the sector skills council to be established under the Program comprising of industry associations and large employers representing each of the Priority Skills Areas;

(hh) “Standard Operating Procedures” means the standard operating procedures of the Borrower (22 May 2012, as amended from time to time) providing procedures applicable to all externally-financed projects and programs;

(ii) “TVET” means technical and vocational education and training;

- (jj) "VSC" means vocational skills certification;
- (kk) "VSTP" mean the Borrower's existing national Voucher Skills Training Program; and
- (ll) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to fourteen million eight hundred ninety-five thousand Special Drawing Rights (SDR14,895,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in subsection (a) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 October and 1 April in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

## ARTICLE III

### Use of Proceeds of the Loan

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

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

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

Section 3.05. Withdrawals from the Loan Account in respect of Goods, Works, and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and Works and Consulting Services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and
- (b) Goods, Works, and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2020 or such other date as may from time to time be agreed between the Borrower and ADB.

## ARTICLE IV

### Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project Facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall and shall cause MLVT to ensure that (i) each Project beneficiary institution, including MLVT, public TVET institutions, RTCs, PTCs and CoEs maintain separate accounts and records for the Project; (ii) consolidated annual financial statements for the Project are prepared in accordance with accounting principles acceptable to ADB; (iii) such consolidated financial statements are audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest fund and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter are submitted to ADB, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

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

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

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

## **ARTICLE V**

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

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

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

## ARTICLE VI

### Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Program Loan Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower, shall have become legally binding upon the Borrower in accordance with its terms, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the matter specified in Section 6.01 of this Loan Agreement shall have been satisfied.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

## ARTICLE VII

### Miscellaneous

Section 7.01. The Minister of Economy and Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

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

For the Borrower

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

Facsimile Numbers:

(855-23) 427-798  
(855-23) 428-424.



For ADB

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


Facsimile Numbers:

(63-2) 636-2228.

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

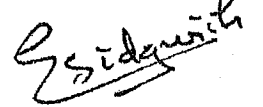
KINGDOM OF CAMBODIA

By

  
\_\_\_\_\_  
H. E. DR. AUN PORNMONIROTH  
Minister  
Ministry of Economy and Finance

ASIAN DEVELOPMENT BANK

By

  
\_\_\_\_\_  
ERIC SIDGWICK  
Country Director  
Cambodia Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is an accessible, demand-driven TVET system responsive to continuing and emerging labor market demands in Cambodia.
2. The Project shall comprise the following outputs:

#### **Output 1: Increased Access to TVET Programs**

This Output comprises:

- (a) developing qualification requirements for piloting the VSC with the existing non-formal TVET courses in auto mechanics, construction and ICT/business offered by public TVET institutions;
- (b) training approximately 80 staff from DGTVET, public TVET institutions, and managers of assessment centers to implement the process for RPL/RCC, and about 200 assessors (10% female) from public TVET institutions to conduct competency assessments as part of RPL/RCC process;
- (c) piloting RCC/RPL, including competency assessments, with approximately 150 young adults (10% female) enrolled in TVET courses in auto mechanics, construction, and ICT/business, and rolling out RCC/RPL process to assess approximately 900 Cambodians (70% from the poorest communes and 30% disadvantaged) for competency in the aforementioned sectors over a period of 2 years;
- (d) providing stipends to approximately 4,000 poor and disadvantaged youth (30% women) for middle level training;
- (e) constructing 1 women's dormitory each on the premises of 3 selected PTCs;
- (f) piloting outsourced dormitory management and career mentorship programs in the 3 newly constructed women's dormitories under the Project to offer monthly learning events on entrepreneurship, financial literacy and information sessions about specific career tracks and job opportunities;
- (g) building capacity of DGTVET to develop a TVET social marketing campaign to improve the poor public perception of TVET and vocationally-oriented occupations; and
- (h) hiring a social marketing agency to develop and implement social marketing messages, particularly among women and disadvantaged populations.

#### **Output 2: Improved Quality and Relevance of TVET System**

This Output comprises:

- (a) introducing a quality assurance system for TVET institutions in Cambodia;

- (b) establishing competency-based assessment and certification system, including the VSC;
- (c) introducing competency-based TVET instructor training at the NTTI, inclusive of return to industry scheme enabling approximately 600 instructors from public TVET institutions to receive instructor apprenticeship from the relevant industries for gaining industry experience;
- (d) enhancing quality and relevance of the VSTP by forming stronger linkages to the labor market, integration with the CQF, and gender equity by providing relevant training to approximately 35,000 trainees (60% female);
- (e) improving SBP to reflect competency-based training principles and to include a gender inclusive learning module on career opportunities following vocational training and providing training to approximately 6,400 trainees (approximately 50% female) under the improved SBP; and
- (f) constructing 1 classroom building and approximately 9 workshops, including provision of equipment; and rehabilitation of the DGTVET building.

### **Output 3: Increased Involvement of Employers in TVET Delivery**

This Output comprises:

- (a) establishing SSCs composed of industry associations and large employers representing construction, auto mechanics, electrical works and manufacturing sectors;
- (b) engaging SSCs to support the development of CoEs in the Priority Skills Areas, as well as to establish the following key training programs: (i) sector-specific soft skills training programs in cooperation with CoEs; (ii) return to industry scheme for TVET instructors in cooperation with NTTI; and (iii) internship program offered by public TVET institutions in cooperation with Industry Liaison Units and CoEs. The Internship Policy will guide the reform of the internship program; and
- (c) providing stipends to approximately 200 trainees (20% female) to participate in internships associated with Level 2-4 training.

### **Output 4: Strengthened Governance and Management in TVET System**

This Output comprises:

- (a) building capacity of public TVET institutions, including RTCs, in business development including planning, budgeting, program implementation, and monitoring and evaluation;
- (b) financing start-up costs for public TVET institutions, including RTCs, to deliver courses at Levels 2-4 in construction, auto mechanics and ICT/business sectors;
- (c) training by each RTC of approximately 2,700 trainees through a maximum of 90 courses;

- (d) strengthening capacity of all of the PTCs to deliver Level 2 training program in construction, auto mechanics and ICT/business sectors;
- (e) training by PTCs of approximately 7,000 trainees through 234 courses;
- (f) conducting study on unit costs for Levels 2-4 training; and
- (g) expanding and linking the TVET Management Information System and Labor Market Information System.

3. The Project will include provision of consulting services to (a) facilitate project management, implementation, and supervision; (b) manage women dormitories and career mentorship program; (c) manage construction under the Project; and (d) strengthen the institutional and operational capacity of the Project Executing Agency.

4. The Project is expected to be completed by 31 December 2019.

**SCHEDULE 2****Amortization Schedule****(Technical and Vocational Education and Training Sector Development Project)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
01 Oct 2022	310,313
01 Apr 2023	310,313
01 Oct 2023	310,313
01 Apr 2024	310,313
01 Oct 2024	310,313
01 Apr 2025	310,313
01 Oct 2025	310,313
01 Apr 2026	310,313
01 Oct 2026	310,313
01 Apr 2027	310,313
01 Oct 2027	310,313
01 Apr 2028	310,313
01 Oct 2028	310,313
01 Apr 2029	310,313
01 Oct 2029	310,313
01 Apr 2030	310,313
01 Oct 2030	310,313
01 Apr 2031	310,313
01 Oct 2031	310,313
01 Apr 2032	310,313
01 Oct 2032	310,313
01 Apr 2033	310,313
01 Oct 2033	310,313
01 Apr 2034	310,313
01 Oct 2034	310,313
01 Apr 2035	310,313
01 Oct 2035	310,313
01 Apr 2036	310,313
01 Oct 2036	310,313
01 Apr 2037	310,313
01 Oct 2037	310,313
01 Apr 2038	310,313
01 Oct 2038	310,313
01 Apr 2039	310,313
01 Oct 2039	310,313
01 Apr 2040	310,313
01 Oct 2040	310,313
01 Apr 2041	310,313
01 Oct 2041	310,313

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
01 Apr 2042	310,313
01 Oct 2042	310,313
01 Apr 2043	310,313
01 Oct 2043	310,313
01 Apr 2044	310,313
01 Oct 2044	310,313
01 Apr 2045	310,313
01 Oct 2045	310,313
01 Apr 2046	310,289
<b>TOTAL</b>	<b>14,895,000</b>

\* The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

### SCHEDULE 3

#### Allocation and Withdrawal of Loan Proceeds

##### General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

##### Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

##### Interest Charge

3. The amount allocated to Category 7 is for financing interest charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest charge.

##### Reallocation

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

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

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

##### Disbursement Procedures

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



TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Technical and Vocational Education and Training Sector Development Project)</b>				
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (SDR)</b>		<b>Basis for Withdrawal from the Loan Account</b>
		<b>Category</b>	<b>Subcategory</b>	
1	Works	1,418,000		100% of total expenditure claimed*
2	Mechanical and Equipment	2,461,000		100% of total expenditure claimed*
3	Consulting Services	2,442,000		100% of total expenditure claimed*
4	Training	5,730,000		100% of total expenditure claimed*
5	Start-up Costs** and Contracts	1,056,000		100% of total expenditure claimed*
6	Incremental Operations and Maintenance Costs***	389,000		100% of total expenditure claimed
7	Interest Charge	479,000		100% of total amounts due
8	Unallocated	920,000		
	<b>Total</b>	<b>14,895,000</b>		

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

\*\*Start-up cost for delivering CQF level 2 and above training by public TVET institutions.

\*\*\*Exclusive of salary supplements for Borrower's counterpart staff.

## SCHEDULE 4

### Procurement of Goods, Works and Consulting Services

#### General

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

#### Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
  - (a) International Competitive Bidding;
  - (b) National Competitive Bidding; and
  - (c) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### National Competitive Bidding

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

#### Conditions for Award of the Contract

6. The Borrower shall and shall cause MLVT not to award any Works contract which involves environmental impacts until:
  - (a) the Borrower has granted the final approval of the IEE; and
  - (b) the Borrower has incorporated the relevant provisions from the EMP into the Works contract.
7. The Borrower shall not award any Works contract which involves impacts on indigenous peoples until the Borrower has prepared and submitted to ADB the final IPP, and obtained ADB's clearance of such IPP.

Consulting Services

8. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

9. The Borrower shall apply the following methods for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan:

- (a) Quality- and cost-based selection for Project supervision; and
- (b) Consultants' Qualifications Selection for managing women dormitories and career mentorship center.

10. The Borrower shall recruit the civil engineer and site supervision engineers as individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

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

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

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

ADB's Review of Procurement Decisions

13. Contracts procured under international competitive bidding procedures, first two contracts procured under national competitive bidding procedures, first contract procured under shopping, and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

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

#### Counterpart Financing

2. The Borrower through the Project Executing Agency shall ensure that counterpart financing necessary for the Project is provided in time, and that MLVT and DGTVET make available all funds and resources necessary for construction, administration, management and operation and maintenance of the Project Facilities on a timely basis.

#### Identification of TVET Institutions

3. Within 30 days of the Effective Date, the Borrower shall cause MLVT to provide ADB with a written confirmation of selection of 4 TVET institutions to host CoEs in the Priority Skills Areas using the selection criteria specified in the PAM.

4. The Borrower shall cause MLVT to provide ADB with a written confirmation that DGTVET's recurrent budget includes provision for (a) start-up costs associated with the delivery of training courses for CQF Levels 2-4 at all public TVET institutions, as per the following: (i) 20% of total start-up costs by 28 February 2016; (ii) 50% of total start-up costs by 28 February 2017; (iii) 70% of total start-up costs by 28 February 2018; and (iv) 90% of total start-up costs by 28 February 2019; and (b) operations and maintenance costs for women's dormitories, CoEs and assessment management centers established under the Program.

5. Within 30 days of the Effective Date, the Borrower shall cause MLVT to provide ADB with written confirmation of (a) establishment of the Project coordination unit at DGTVET; (b) counterpart staff, including identification of DGTVET staff forming part of the Project coordination unit; and (c) terms of reference of the counterpart staff.

6. Within 30 days of the Effective Date, the Borrower shall cause MLVT to provide ADB with (a) written confirmation of establishment of PSC; (b) list of PSC members and their terms of reference; and (c) minutes of PSC's first meeting. The Borrower shall further cause MLVT to ensure that the PSC meets every 6 months and provides to ADB minutes of all such meetings immediately after every meeting throughout the Program implementation.

#### Environment

7. The Borrower shall cause MLVT to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project

Facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Involuntary Resettlement Safeguards

8. The Borrower shall cause MLVT to ensure that (a) all construction under the Project is carried out within existing TVET facilities on government owned land; and (b) involuntary resettlement screening for subprojects involving construction is provided to ADB to ensure that the Project does not have any involuntary resettlement impacts, all within the meaning of the SPS.

#### Indigenous Peoples Safeguards

9. The Borrower shall cause MLVT to ensure that the preparation, design, construction, implementation and operation of the Project and all Project Facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

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

10. The Borrower shall cause MLVT to make available necessary budgetary and human resources to fully implement the EMP and the IPP.

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

11. The Borrower shall cause MLVT to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:
- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP, and the IPP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
  - (b) make available a budget for all such environmental and social measures;
  - (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, and the IPP;
  - (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and

- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

#### Safeguards Monitoring and Reporting

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

#### Prohibited List of Investments

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

#### Gender and Development

14. The Borrower shall and shall cause MLVT and DGTVET to ensure that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for the implementation of the GAP; and (d) key gender outcome and output targets are monitored regularly and achieved, including but not limited to (i) 30% of trainees who receive stipends for Level 2-4 training are female; (ii) 20% of female trainees receiving stipends for Level 2-4 training are enrolled in areas that are currently male dominated; (iii) a total of 120 women enrolled in Level 2-4 training and residing in dormitories attend career mentorship programs on a monthly basis; (iv) 20% of trainees who receive internship stipends are female; (v) 60% of VSTP enrollees are females; (vi) approximately 50% of SBP enrollees are female; (vii) 30% of the students trained at Levels 1-4 by RTCs and PTCs are female; (viii) program recognizing prior learning and current competencies is piloted with 150 young adults representing poor and vulnerable groups; and (ix) stipends are provided for women and disadvantaged youth to participate in VSTP.

#### Health and Labor Standards

15. The Borrower shall, and shall cause MLVT and DGTVET to ensure that Works contracts and bidding documents under the Project include specific provisions requiring contractors to comply with all core labor standards and the applicable labor laws and

regulations of the Borrower including stipulations related to employment on: (a) prohibition of child labor; (b) equal pay for equal work of equal value regardless of gender, ethnicity or caste; (c) timely payment of wages; (d) elimination of forced labor; (e) use of local unskilled labor, as applicable; and (f) the requirement to disseminate information on sexually transmitted diseases including HIV/AIDS to employees and local communities surrounding the Project sites. The Borrower shall, and shall cause MLVT and DGTVET to ensure that records of labor employment are properly maintained and tracked in the Project performance management system.

#### Grievance Redress Mechanism

16. The Borrower shall, through MLVT ensure that within 6 months of the Effective Date, complaint and problem management mechanisms acceptable to ADB are established to effectively (a) review and document eligible complaints of Project stakeholders; (b) proactively address grievances; (c) provide the complainants with notice of the chosen mechanism/action; and (d) prepare periodic reports to summarize the number of complaints received and resolved, and final outcomes of the grievances and chosen actions and make these reports available to ADB as part of the quarterly progress reports. Eligible complaints include those related to the Project, any of the service providers, any person responsible for carrying out the Project, complaints on misuse of funds and other irregularities, and grievances due to any safeguard or social issues.

#### Governance and Anticorruption

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

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