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LOAN NUMBER 3415-CAM(SF)

LOAN AGREEMENT  
(Special Operations)

(Decentralized Public Service and Financial Management Sector Development Program –  
Subprogram 2)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 6 OCTOBER 2016

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CAM 41392

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

LOAN AGREEMENT dated 6 October 2016 between KINGDOM OF CAMBODIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

### WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 11 July 2016 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's public service and financial management sector ("Program");

(B) the Program comprises the second subprogram of a programmatic approach, as described in paragraph 1 of Schedule 1 to this Loan Agreement ("Programmatic Approach"), and the Borrower has applied to ADB for a loan for the purposes of the Program;

(C) the Borrower has also applied for a loan from ADB's Special Funds resources in support of Decentralized Public Service and Financial Management Sector Development Project ("Project") and by a loan agreement of even date herewith between the Borrower and ADB ("Project Loan Agreement"), ADB has agreed to provide a loan from its Special Funds resources equivalent to fourteen million three hundred five thousand Special Drawing Rights (SDR14,305,000); and

(D) 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 the 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, subject, however, to the following modifications:

- (a) Section 2.01(24) is deleted and the following is substituted therefor:

24. The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

(b) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Program".

(c) Section 2.01(26) is deleted and the following is substituted therefor:

26. The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Loan Agreement.

(d) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency".

(e) Section 5.01(b) is deleted and the following is substituted therefor:

(f) Except as ADB and the Borrower shall otherwise agree, no withdrawals shall be made on account of payments made prior to the Effective Date.

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) "Cambodian Riel" means the currency of the Borrower;

(b) "Counterpart Funds" means the local currency generated from the Loan proceeds under the Program;

(c) "Deposit Account" means the account referred to in paragraph 3 (a) of Schedule 3 to this Loan Agreement;

(d) "Eligible Items" means the Imports described in the Attachment to Schedule 3 to this Loan (except for those procured from countries which are not members of ADB, or financed by official international or bilateral aid agencies or any other loans or grants made by ADB);

(e) "GAP" means the gender action plan for the Program, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(f) "IP3" means the 3 year Implementation Plan (2015-2017) for NP-SNDD;

(g) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(h) "NCDD" means the Borrower's National Committee for Sub-National Democratic Development or any successor thereto;

(i) "NP-SNDD" means the Borrower's National Program for Sub-National Democratic Development (2010-2019);

(j) "Policy Letter" means the development policy letter referred to in Recital (A) of this Loan Agreement;

(k) "Policy Matrix" means the policy matrix agreed between the Borrower and ADB attached to the Policy Letter, setting forth the objectives, policies and actions accomplished or to be accomplished by the Borrower under the Program;

(l) "Program Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means NCDD, through its secretariat or any successor thereto acceptable to ADB, which is responsible for the carrying out of Subprogram 2; and

(m) "SNAs" means the Borrower's sub-national administrations.

## 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 ten million seven hundred twenty-nine thousand Special Drawing Rights (SDR10,729,000).

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 paragraph (a) of this Section 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 15 October and 15 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 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 Program in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be 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. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2017 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 Program, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

Section 4.02. As part of the reports and information referred to in Section 6.05 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (a) the Counterpart Funds and the use thereof; and (b) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

### 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 Project Loan Agreement.

Section 5.02. The following are 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 are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: all reform actions and measures set out in the Policy Matrix for Subprogram 2 have been undertaken to the satisfaction of ADB.

Section 6.02. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

**ARTICLE VII****Miscellaneous**

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

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

**For the Borrower**

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

(855-23) 427-798

(855-23) 428-424.

**For ADB**

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

Facsimile Numbers:

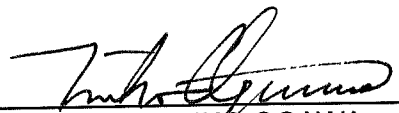
(63-2) 636-2444  
(63-2) 636-2331.

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 the ADB.

KINGDOM OF CAMBODIA

By   
H.E. DR. AUN PORNMONIROTH  
Senior Minister  
Minister, Ministry of Economy and  
Finance

ASIAN DEVELOPMENT BANK

By   
NORIKO OGAWA  
Deputy Director General  
Southeast Asia Department

**SCHEDULE 1****Description of the Program**

1. The principal objective of the Programmatic Approach is the development of an efficient system of intergovernmental fiscal relations that assists service delivery by SNAs. The Programmatic Approach comprises 2 subprograms and the Program is the second subprogram. The Program is described in more detail in the Policy Letter and the Policy Matrix.
2. The Program is expected to be completed by 30 June 2017.



**SCHEDULE 2****Amortization Schedule****(Decentralized Public Service and Financial Management Sector Development Program – Subprogram 2)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 October 2024	335,281
15 April 2025	335,281
15 October 2025	335,281
15 April 2026	335,281
15 October 2026	335,281
15 April 2027	335,281
15 October 2027	335,281
15 April 2028	335,281
15 October 2028	335,281
15 April 2029	335,281
15 October 2029	335,281
15 April 2030	335,281
15 October 2030	335,281
15 April 2031	335,281
15 October 2031	335,281
15 April 2032	335,281
15 October 2032	335,281
15 April 2033	335,281
15 October 2033	335,281
15 April 2034	335,281
15 October 2034	335,281
15 April 2035	335,281
15 October 2035	335,281
15 April 2036	335,281
15 October 2036	335,281
15 April 2037	335,281
15 October 2037	335,281
15 April 2038	335,281
15 October 2038	335,281
15 April 2039	335,281
15 October 2039	335,281
15 April 2040	335,289
<b>Total</b>	<b>10,729,000</b>

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

**SCHEDULE 3****Withdrawal of Loan Proceeds**

1. Except as ADB may otherwise agree, Loan Disbursement Handbook and the following provisions of this Schedule shall apply to the withdrawal of Loan proceeds from the Loan Account.
2. An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.
3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall nominate an account the Deposit Account at the National Bank of Cambodia into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.  
  
(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Borrower shall have the financial statements for the Deposit Account audited 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. Promptly after their preparation but in any event not later than 6 months after the date of ADB's request, copies of such audited financial statements and the opinion of the auditors on the financial statements, in the English language, shall be furnished to ADB.
3. No Loan proceeds shall be withdrawn to finance any item specified in the Attachment to this Schedule.
5. The Borrower may withdraw the Loan upon effectiveness of this Loan Agreement.

**Negative List**

No withdrawals of Loan proceeds will be made for the following:

- (i) expenditures for goods included in the following groups or sub-groups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3) or any successor groups or sub-groups under future revisions to the SITC, as designated by ADB by notice to the Borrower:

**Table: Ineligible Items**

Chapter	Heading	Description of Items
112		Alcoholic beverages
121		Tobacco, unmanufactured; tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitute)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), nonirradiated for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, nonmonetary (excluding gold ore and concentrates)

Source: United Nations.

- (ii) expenditures in the currency of the Borrower or for goods supplied from the territory of the Borrower;
- (iii) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loan or grant from the ADB;
- (iv) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (v) expenditures for narcotics;
- (vi) expenditures for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party; and
- (vii) expenditures on account of any payment prohibited by the Borrower in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

## SCHEDULE 4

### Program Implementation and Other Matters

#### Implementation Arrangements

1. The Program Executing Agency shall be responsible for the overall implementation of the Program.
2. The Borrower shall ensure that the NCDD meets semi-annually and if needed, on an ad-hoc basis, to (a) monitor the progress of the Program; and (b) provide guidance and direction to the relevant ministries for implementation of the reforms as provided in the Policy Matrix.

#### Policy Actions and Dialogue

3. The Borrower shall ensure that all policy actions adopted under the Program, as set forth in the Policy Letter and the Policy Matrix, continue to be in effect for the duration of the Programmatic Approach.
4. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take into account ADB's views before finalizing and implementing any such proposal.

#### Governance and Anticorruption

5. The Borrower and the Program Executing Agency 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 Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

#### Monitoring and Review

6. The Borrower shall provide ADB with the opportunity to review and comment on relevant studies, draft legislation, decrees, orders, rules and regulations which may likely impact the objectives and implementation of the Program.

#### Gender and Development

7. The Borrower shall ensure that (a) the GAP is implemented in accordance with its terms; (b) adequate resources are allocated for implementation of the GAP; and (c) progress on implementation of the GAP, including progress toward achieving key gender impacts of the Program, are regularly monitored and reported to ADB. Key gender impacts of the Program include, but not limited to: (i) improved mainstreaming of gender on strategic plans; (ii) the development of personnel regulations that apply quota and targets for female employment in civil service; (iii) decentralization of functions on priority services such as

health and rural water supply; and (iv) targets for training of female local counselors and local civil servants and recruitment of female coaches and provincial advisers.