

Resettlement Framework

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ABBREVIATIONS

ADB	–	Asian Development Bank
AF	–	additional financing
AP	–	Affected person/people
C/S	–	Commune/Sangkat
CAO	–	Cadastral Administration Office
DCR	–	Donation Confirmation Report
DMS	–	detailed measurement survey
GAP	–	gender action plan
GDR	–	General Department of Resettlement
GRC	–	grievance redress committee
IRC	–	Inter-ministerial Resettlement Committee
m	–	meter
MEF	–	Ministry of Economy and Finance
MOI	–	Ministry of Interior
NCDDS	–	National Committee for Sub-National Democratic Development Secretariat
NGO	–	nongovernment organization
PCO	–	project coordination office
PGRC	–	Provincial Grievance Redress Committee
PIM	–	project implementation manual
PRSC	–	provincial resettlement sub-committee
PSC	–	project steering committee
RCS	–	replacement cost study
ROW	–	right of way
TSSDP	–	Tonle Sap Poverty Reduction and Smallholder Development Project

GLOSSARY

Affected Persons		Refers to any person, households or entity physically (relocation, loss of residential land or loss of shelter) and/or economically (loss of land, assets, access to assets, income sources, or means of livelihood) affected as a result of land acquisition and involuntary resettlement.
Beneficiary	–	Refers to all persons and households from the villages who voluntarily seek to avail themselves of, and be part of, the project.
Compensation	–	Refers to payment in cash or in kind at the replacement cost for the assets or a resource acquired or affected by a project.

Cut-off Date	—	Is the date established by the government procedures that establishes the eligibility for receiving compensation and resettlement assistance by the project affected or displaced persons.
Displaced persons	—	Displaced persons are those who are physically displaced (see 6 below) and economically displaced (see 5 below) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Economic displacement	—	Refers to loss of land, assets, access to assets, income sources, or means of livelihood as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas
Physical displacement	—	Refers to relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land; or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Eligible	—	Refers to any person or persons, household, firm, private or public institution who has settled in the Project area before the cut-off date, that (i) loss of shelter, (ii) loss of assets or ability to access such assets, permanently or temporary, or (iii) loss of income sources or mean of livelihood, regardless of relocation will be entitled to be compensation and/or assistance.
Entitlement	—	Refers to resettlement entitlement with respect to a particular eligibility category are the sum of total compensation and other forms of assistance provided to affected persons in the respective eligibility category.
Affected household	—	Refers to all persons living and eating together as a single social unit.
Income restoration	—	Refers to re-establishing productive livelihood of the displaced persons to enable income generation equal to or, if possible, better than that earned by the displaced persons before the resettlement..
Improvements	—	Structures constructed (dwelling unit, fence, waiting sheds, pigpens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization.
Land acquisition	—	The process whereby a person involuntarily loses ownership, use of, or access to, land as a result of the project. Land acquisition can lead to a range of associated impacts, including loss of residence or other fixed assets (fences, wells, tombs, or other structures or improvements that are attached to the land).

Project Authorities		Refers to the Ministry of Agriculture, Forestry and Fishery (MAFF), Ministry of Interior (Mol), the Ministry of Economy and Finance (MEF), the General Department of Resettlement (GDR) of the Ministry of Economy and Finance.
Project Executive Agency		Refers to Ministry of Agriculture, Forestry and Fishery (MAFF) and Ministry of Interior (Mol) and its Project Steering Committee (PSC)
Replacement cost	—	Is the cost involves replacing an asset at a cost prevailing at the time of its acquisition. This includes fair market value, transaction costs, interest accrued, transitional and restoration costs, and any other applicable payments, if any. Depreciation of assets and structures should not be taken into account for replacement costs. 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 costs
Resettlement	—	Means that all measures should be taken to mitigate any and all adverse impacts of a project on AP property and/or livelihoods, including compensation, and relocation (where relevant).
Vulnerable groups	—	distinct groups of people who: (1) have the vulnerable status: (i) female headed households with dependents; (ii) disabled household heads with no means of support; (iii) households falling under the Cambodia national indicator for poverty; (iv) elderly households who are landless and with no other means of support; and (v) indigenous people who often have traditional land rights but no formal titles, (2) might suffer disproportionately or face the risk of being further marginalized by the effect of resettlement; that will be confirmed/identified during the detailed measurement survey.

NOTE

In this report, "\$" refers to US dollars.

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I. INTRODUCTION

A. Project Description

1. The current Tonle Sap Poverty Reduction and Smallholder Development Project (TSSDP) is designed to improve the living standards of an estimated 1.75 million rural Cambodians living in 196 communes within five provinces (Banteay Meanchey, Kampong Cham, Kampong Thom, Siem Reap, and Tbong Khmum) along the East-West corridor stretching from Viet Nam in the east to Thailand in the West. The project has been a foster community driven development through investments in the improvement of productivity, rural infrastructure and capacity development in the 196 communes in the selected five provinces. The Ministry of Agriculture, Forestry and Fisheries and the National Committee for Sub-National Democratic Development Secretariat (NCDDS) are the executing agencies. The Council for Agricultural and Rural Development is the chair of the project steering committee which is to provide policy and strategic guidance to the project. TSSDP aims to impact the livelihoods in the target communes within the five provinces in the Tonle Sap Basin so that these are improved by 2020. The proposed outcome is an increase in agricultural productivity as well as an improved access to markets in these 196 communes within the Tonle Sap Basin. Given the successes of the TSSDP and the persisting poverty in the Tonle Sap Basin, the Royal Government of Cambodia (RGC) has requested ADB's support in the form of additional financing (AF) in order to scale up the current project activities to cover additional geographical areas and increase project beneficiaries. Furthermore, by using the AF modality the previous successes can be built upon, and the use of the project's current resources can be optimized.

2. Under the AF, the TSSDP will expand its activities in two further provinces in Cambodia² and increase the target communes from 196 to 271. The AF-project expects to enhance agricultural productivity and to improve access to markets in the 271 target communes through investments in climate-resilient infrastructure for increased agricultural production, as well as capacity building of the communities and commune councils in disaster risk management. It will also facilitate an enabling environment for agricultural production, diversification and climate resilience

3. The additional subprojects under the AF-project will be appraised and prepared after the approval of the AF by ADB. The additional subprojects are not expected to involve significant land acquisition and involuntary resettlement impacts, as most infrastructures will be rehabilitated or reconstructed at the current locations within the existing road corridor. It is unlikely that the subprojects will require permanent land acquisition and physical displacement (loss of residential houses and structures).

4. This resettlement framework (RF) has been prepared to address potential land acquisition/resettlement impacts that may arise in the additional two subprojects. The RF describes procedures for (a) screening of land acquisition/resettlement impacts; (b) social impact assessment and preparation of resettlement plan (RP), if needed; (c) negotiation and agreements for land access; (d) resettlement principles and entitlements; and (e) implementation and monitoring arrangements. It is based on applicable laws and regulations of the RGC and ADB's *Safeguard Policy Statement* (2009). The Ministry of Agriculture, Forestry and Fisheries, and the National Committee for Sub-National Democratic Development Secretariat are the executing agencies, The Council for Agricultural and Rural Development is the chair of the project steering committee which will provide policy and strategic guidance to

² Includes Battambang and Prey Veng provinces.

the implementation of the AF-project and the General Department of Resettlement (GDR) of the Ministry of Economy and Finance (MEF) will be responsible for implementation of the RPs, if any, for each subproject.

B. Nature of Resettlement Impact

5. The main objective of the AF-project is to fund elements of the Commune Investment Plan that are planned and/or have already implemented with the direct participation of the beneficiaries. These activities can be funded in one of the three components. The activities which will be eligible for funding from the project may involve infrastructure investment and therefore may require acquisition of land and/or assets (structures, crops, and trees). The infrastructure developments will consider disaster risk reduction and climate resilience measures in their design and by doing so, some subprojects, such as the roads construction improvement subprojects may involve raising the road height and making the slopes less steep. Additionally, irrigation scheme rehabilitation through weather proofing of critical structures and construction of secondary canals, may entail both temporary and permanent loss of small areas of land, crops and trees. Temporary loss or disruption to the use of land or other assets may be caused by construction works and the storage and movement of construction equipment and materials. Permanent loss would be due to the expansion of existing roads and improvement of irrigation canals. The improvement of irrigation canals are needed to improve the efficiency of the irrigation system through improved water management and distribution which in itself a key factor in improving irrigated crop yields.

6. All subprojects under additional financing must be filtered through safeguards screening during the AF-project's preparation. These filters will be done during the AF-project's implementation to identify additional subprojects and the AF project will reject cases requiring any "significant" involuntary resettlement or land acquisition activity. Where land acquisition is necessary, as mentioned in earlier paragraph, it mostly will be related to access disruptions and impacts on small areas of land, crops and trees that are on the edge of the ROWs. In such cases, it will be carried out through a negotiated settlement based upon what the community and individual households are willing to donate. Where communities/households are willing to voluntarily donate small strips of land, letter to certify their donations will be produced and signed by the affected households. All donated assets will subject to stringent conditions and due diligence to verify bona fides. The AF-project will limit land acquisition and subprojects will only be eligible for funding when they involve:

- (i) thin strips of land to accommodate irrigation canal construction and access road improvement within irrigation schemes, or
- (ii) minor road widening to accommodate raised profiles and reduced slopes on verges when roads are rehabilitated to incorporate climate resilience/disaster risk reduction measures.

7. Table 1 below provides some guidance for possible resettlement impacts. These guidelines will be used in all subprojects, especially, when they involve the rehabilitation and improvement of small-scale irrigation and drainage systems; the upgrading and rehabilitation of intra-commune/rural access roads; and the construction, rehabilitation or upgrading of local commune markets designed to lend support to reach the overall objective of the TSSDP. Additionally, all further infrastructure subprojects which are proposed by the community will be determined through Commune Participatory Design Consultation Meetings.

Table 1: Anticipated Resettlement Impacts

Component/	Anticipated Land Acquisition and Resettlement Impacts
<p>(1) Factor Productivities Development (e.g., land development, rehabilitation of small scale irrigation schemes, farmer managed small scale water works, client oriented farm based research, supply of quality inputs, demand driven extension services)</p>	<p>Limited resettlement impacts.</p> <ul style="list-style-type: none"> • 'Small scale irrigation rehabilitation' will upgrade the existing tertiary canal and secondary canals to connect the Rice SDP's^a irrigation schemes (main canals) within the reserved areas for canal rehabilitation. Minimal land used for crop production within the reserved area may be acquired by the subproject. If the conditions for voluntary donation are met, the subproject can be implemented through voluntary donation. • 'Land development' will be done in existing land without altering current land use. • 'Farmer managed small scale water works' will likely be within existing right of way (ROW) and not likely to require minor acquisition of land or assets (crops, trees and structures). If the conditions for voluntary donation are met, the subproject can be implemented through voluntary donation. • 'Supply of quality input's, 'Farm based research' and 'extension services' will be implemented using existing facilities and/or provided on farm.
<p>(2) Market links strengthening (e.g., rehabilitation of the existing commune roads incorporating disaster risk reduction (DRR) design, building of roads along dikes, commune level rural markets including market infrastructure, village storage (rice banks), bio-secure agriculture, development of rural information and communication technology)</p>	<p>Limited resettlement impacts.</p> <ul style="list-style-type: none"> • 'Farm to market roads' will upgrade existing road by surfacing, minimal expansion of the road's width (incorporating DRR design), raising embankment, resurfacing and spot repairs that may involve minimal land acquisition, temporary occupation of land during construction. Trees and crops within existing ROW may require compensation and if the conditions for voluntary donation are met, the subproject can be implemented through voluntary donation. • 'Commune level market' will require upgrading of existing facilities without additional land acquisition that may involve the temporary occupation of land during construction. If new facilities are to be upgraded, it will use unoccupied public land. • Village storage will be arranged using unoccupied public lands or if the conditions for voluntary donation are met, it can be implemented through voluntary donation.
<p>(3) Livelihood opportunities development (e.g., community and family fish ponds and rice field fishery, livestock and poultry production, farm based cottage industries, and small enterprises)</p>	<p>Involuntary resettlement effects are NOT foreseen.</p> <ul style="list-style-type: none"> • The component will not involve construction of new physical facilities. • Various technical training will be implemented using existing facilities, e.g., commune council halls and/or village hall. • Agricultural extension services will be provided on farms.
<p>(4) Improvement of access to rural finance (e.g., credit lines and strengthen capacity of financial institutions, increase the credit outreach, build capacity of borrowers)</p>	<p>Involuntary resettlement effects are NOT foreseen.</p> <ul style="list-style-type: none"> • The component will not involve construction of new physical facilities. • Various technical training will be implemented using existing facilities, e.g., commune council halls and/or village hall.
<p>(5) Promotion of social development (e.g., skill development, vocational education, training and skill development on health and nutrition, sanitation, and implementation of gender action plan)</p>	<p>Involuntary resettlement effects are NOT foreseen.</p> <ul style="list-style-type: none"> • The component will not involve construction of new physical facilities. • Various technical training will be implemented using existing facilities, e.g., commune council halls and/or village hall. Some financial services will be provided on farm and/or individual houses.

Component/	Anticipated Land Acquisition and Resettlement Impacts
(6) Policy and Institutional Reform and Capacity Development	No involuntary resettlement effects are foreseen. The component will not involve construction of new physical facilities.

^a Loans 3006/3007/8271 and Grants 0349/0350-CAM:Climate Resilient Rice Commercialization Sector Development Program.

Source: PPTA Consultants

II. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS

A. Objectives

8. The objective of the AF-project is to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project design alternatives, to enhance, or to least restore, the livelihoods of all displaced persons relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups. The RF provides a process of resettlement impact assessment, preparation of the RP and implementation of compensation and income restoration measures for the DPs. It covers both physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihood) as a result of land acquisition or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

9. To avoid and minimize resettlement impacts, the AF-project will adopt the following resettlement criteria in the selection of subproject: (i) a candidate subproject should be an existing infrastructure similar to those as under the current project; (ii) preference will be given to those subprojects which can be undertaken within the existing ROW/boundary or on government/public land; and (iii) if land acquisition cannot be totally avoided, only subprojects without significant land acquisition/resettlement impacts will be selected. The screening form enclosed in Annex 1 will be used as the screening tool to ascertain significance or category on involuntary resettlement. If land acquisition/resettlement impacts are identified for any subprojects, the executing agencies and GDR will follow the policies and procedures spelled out in this RF in compliance with applicable laws and regulations of the RGC and the safeguard policy requirement of ADB on involuntary resettlement.

10. Following principles and criteria have been adapted for the AF-project to avoid and minimize the involuntary resettlement.

- (i) A subproject with involuntary resettlement impact, i.e., which involves involuntary acquisition of land, structures, crops, and trees, will be screened out.
- (ii) Any subproject which identifies landless affected people will be excluded from the AF-project
- (iii) In principle, upgrading/rehabilitating of existing infrastructure (roads, markets, water facilities) will be done within existing ROW and not require acquisition of private land, but it may request the donation of crops, trees and structures. Construction of new physical facilities or infrastructure (e.g., market, rice banks etc.) will be on unused public land, in principle, and it may request the voluntary donation of crops, trees and structures from those illegally occupying the public land.
- (iv) Individual or communities may make voluntary donations of land, structures,

crops, and trees in exchange for benefits from infrastructure under the conditions below.

- a. Location and types of infrastructure is selected in full consultation with those opted for donation, in particular with women and the ethnic minority population. Minutes of meetings will be recorded by commune facilitators, and voluntary donation will be confirmed through a written record.
 - b. Those who opted for donation will directly benefit from: (a) the infrastructure; and (b) at least one of the training programs under the project;
 - c. Those who opted for donation will not fall under the category of: (i) the poorest (household monthly income is below the poverty line); (ii) an elderly household head (above 60 years old) or elderly without any supporting structure; and (iii) a female headed household without any support.
 - d. Those who opted for donation will not be coerced and this will be verified by an independent monitoring organization such as a designated NGO or consultant.
- (v) Proposals for civil works will include confirmation that no involuntary land acquisition and/or resettlement will be required under the subproject.

11. The project will develop commune development plan implementation guidelines at the project inception stage. These procedural guidelines for confirming resettlement impact will be incorporated in the above guidelines. The project will provide training programs on commune development planning targeted at commune council members and commune facilitators. The principles (as given in the above paragraph) will be included in the training materials.

12. In the event of unforeseen land acquisition or involuntary resettlement, the government will immediately inform ADB and prepare the necessary planning documents in compliance with ADB SPS (2009).

B. Royal Government of Cambodia Legal Framework and Regulations on Land Acquisition

13. **The 1993 Constitution of Cambodia** sets out two basic principles for land acquisition. The first is Article 44 which states that the "right to confiscate properties from any person shall be exercised only in the public interest as provided by law and shall require fair and just compensation in advance". In addition, Articles 73 and 74 of the constitution stipulate special consideration and support for vulnerable people including mothers and children, the disabled and families of combatants who sacrificed their lives for the nation. Indigenous minorities however are not explicitly included in these two articles but included in the Land Law.

14. **The 2001 Land Law** is a comprehensive law that governs land and property rights in Cambodia. Based on the provisions of the 1993 constitution, it determines the regime of ownership of immovable properties that are defined as including land, trees and immovable structures. The rights and responsibilities of the government with respect to eminent domain are specified in the Land Law. The government can acquire private land for public purposes but has to pay fair and just compensation in advance of the land acquisition. The Land Law, Article 5 states that "No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by the law and regulations, and after the payment of fair and just compensation in advance." Other provisions of the Land Law that are relevant to land acquisition, compensation

and resettlement in the context of this project include:

- (i) Legal possession as defined by the Law is the sole basis for ownership, and all transfer or changes of ownership shall be carried out in accordance with the required general rules for sale, succession, exchange and gift or by court decision. (Article 6);
- (ii) Any regime of ownership of immovable property prior to 1979 shall not be recognized. (Article 7);
- (iii) Only persons or legal entities of Khmer nationality are entitled to own land in Cambodia; or to buy or sell land. (Article 8, 66);
- (iv) State public land includes, among other categories, any property: (a) that has a natural origin, such as forests, courses and banks of navigable and floatable rivers or natural lakes; (b) that is made available for public use such as roads, tracks, oxcart ways, pathways, gardens, public parks and reserved land; or (c) that is allocated to render a public service, such as public schools, public hospitals or administrative buildings. (Article 15);
- (v) Persons that illegally occupy, possess or claim title to state public land cannot claim any compensation. This includes land established by the government as public rights-of-way for roads and railways. Moreover, failure to vacate illegally occupied land in a timely manner is subject to fines and/or imprisonment. (Article 19);
- (vi) Ownership of lands is granted by the state to indigenous communities³ as collective ownership, including all the rights and protection enjoyed by private owners. The exercise of collective ownership rights are the responsibility of the traditional authorities and decision-making mechanism of the indigenous community, according to their customs and subject to laws such as law on environmental protection. (Article 26);
- (vii) No authority outside the community may acquire any rights to immovable properties belonging to the indigenous community. (Article 28);
- (viii) Persons with legally valid possession of land for five years (at the time the law came into effect) are allowed to be registered as the owner of the land (Article 30). Persons who (at the time the law came into effect) held legal possessions, but had not yet completed the five years are allowed to remain in possession until they are eligible to be registered as the owner. (Article 31);
- (ix) However, temporary possession claims made by persons after the law comes into effect will not be recognized, rescinding a previous right under the 1992 Land Law for acquiring land by taking possession. (Articles 29,34);
- (x) Landless people may apply for land for residential and subsistence-farming purposes at no cost, as part of a social land concession scheme. The concessionaire may obtain ownership of this land after fulfilling conditions set out in a separate Sub-Decree on Social Land Concessions. (Articles 50, 51); and
- (xi) Acquisition of land through gift is permitted with the following conditions: (a) the gift of immovable property is only effective if it is made in writing and registered with the Cadastral Registry Unit; (b) once accepted, gifts or immovable property

³ As per Article 23 of the Land Law, "An indigenous community is a group of people that resides in Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to the customary rules of collective use".

are irrevocable; and (c) the donor may retain the right of usufruct in the property and the right of use and habitation of an immovable property. (Articles 80-84).

15. **The Expropriation Law** was passed by the National Assembly in 29 December 2009 and afterwards promulgated by the King on 4 February 2010.

- (i) Article 2: This law has the following purposes to:
 - a. ensure reasonable and just deprivation of a legal rights to ownership of private property;
 - b. ensure payment of reasonable and just prior compensation;
 - c. serve the public and national interest; and
 - d. develop public physical infrastructure.
- (ii) Article 7: Only the state may carry out an expropriation for use in the public and national interest. Expropriation may only be carried out for the implementation of projects stipulated in Article 5 of this Law.
- (iii) Article 8: The state shall accept the purchase of part of the real property left over from an expropriation at a reasonable and just price at the request of the owner of and/or the holder of right in the expropriated real property who is unable to live near the expropriated scheme or to build a residence of conduct any business.
- (iv) Article 16: Prior to making any expropriation project proposal, the expropriation committee shall conduct a public survey by recording of detailed description of all entitlements of the owner and/or of then holder of real right to immovable property and other properties subject to compensation as well as the recording of relevant issues.
- (v) Article 22: An amount of compensation to be paid to the owner and/or holder of rights in the real property shall be based on the market value of the real property or the alternative value as of the date of the issuance of the Prakas on the expropriation scheme. The market value or the alternative value shall be determined by an independent commission or agent appointed by the expropriation committee.

16. **Regulations** on private ownership of lands was re-established in 1989 and confirmed in the 2001 *Land Law* (Article 4). Cambodians are able to register the land they occupy with the local Cadastral Administration Office (CAO), whereupon a Certificate of Land Title is granted. Issuing a land title is a lengthy process and most offices have a major backlogs and pending applications. People are given a receipt and until the official title deed is issued, and the receipt is acceptable proof of real occupants of the land for purposes of sale.

17. The present legal status of land use in Cambodia can be classified as follows:

- (i) **Privately owned land with title:** The owner has official title to land and both owners and the CAO have a copy of the deed.
- (ii) **Privately owned land without title:** The owner has a pending application for land title and is waiting for the issuance of a title deed. The CAO recognizes the owner.
- (iii) **Land Use Rights Certificate:** In this case, a receipt for long-term land use has been issued. This land use right is recognized by CAO.
- (iv) **Lease Land:** The government or private owners lease the land, usually for a short period. There is provision for owners to reclaim land if it is needed for development.
- (v) **Non-legal Occupation:** The user has no land use rights to state Land that he

occupies or uses. The CAO does not recognize the use of this land.

18. The **Sub Decree on Social Land Concession, March 2003** provides for allocations to landless people of state lands for free for residential or family farming purposes, including the provision of replacement land lost in the cases of involuntary resettlement.

19. **Prakas No. 6** entitled "*Measures to Crack Down on Anarchic Land Grabbing and Encroachment*" sets the right of way (ROW) for road and railways. In support of this Prakas, MEF issued Decree No. 961 on 6 April 2000 prohibiting compensation for structures and other assets located inside the ROW. Some Roads dimensions are modified by the Sub-Decree No.197 (dated 23 November 2009) on the management of ROW along the national roads and railways in Cambodia. Table 2 below shows the amended ROW dimensions by virtue of Prakas No. 6.

Table 2: Road and Railway Right of Way (ROW) Dimensions

Road Category	ROW Dimension under Prakas No. 6	ROW Dimension under Sub-Decree No.197
National Road -1, 4, 5	30 meter (m) from the centerline	30 m from the centerline
Other 1-digit National Roads	25 m from the centerlines	30 m from the centerline
2-digit National Roads	25 m from the centerline	25 m from the centerline
Provincial Roads	20 m from the centerline	not specified
Commune Roads	15 m from the centerline	not specified
Railway outside city, province and crowded place	30 m from the centerline	30 m from the centerline
Railways in forested areas	100 m from the centerline	100 M from the centerline

Source: Sub-decree No.197 dated 23 November 2009

20. **Sub-Decree 98**, dated 24 July 2015 on Management of River Basin defines the ROW of shore side, waterside, and estuary of the river basin as follows;

- Shore and estuary: 100 meters (m) from the edge of the shore and estuary (at the maximum of rising water)
- River: 50 m from the edge of the river
- Stream: 30 m from the edge of the stream
- Creek: 20 m from the edge of the creek
- Brook: 10 m from the edge of the brook
- Main canal: 10 m from the outside edge of the canal
- Sub-canal: 5 m from the outside edge of the canal
- Irrigation ditch: 3 m from the maximum level of water in the ditch
- Basin: 100 m from the maximum level of the water in the basin
- Lake/Pond: 50 m from the maximum level of water in the basin
- Dam: 20 m from the bottom of the dam which is less than 4 m in height. 100 m from the bottom of the dam which is between 4 m to 8 m. In case, the dam which is above 8 m in height, that will need to be determined in a separate Sub-Decree.

21. The acquisition by private ownership of State or public land is illegal and the persons responsible could face civil and criminal changes.

22. **Sub-Decree on Social Land Concession, March 2003.** This provides for allocations by the State for private land for the purposes of the alleviation of landlessness and poverty, including the replacement of land lost in the context of involuntary resettlement.

23. **MEF Sub-Decree No. 115** dated 26 May 2016 on promoting Resettlement Department to General Department of Resettlement provides mandate to GDR to lead all resettlement activities including preparation of RP, implementing and internal monitoring of the resettlement plan.

24. **Decision No. 001 SSR/NCDD on Promulgating of the Second Revision of the Commune/Sangkat (C/S) Fund Project Implementation Manual (PIM)** dated on 14 January 2009 is for implementing C/S fund projects. The C/S Fund will support local/community infrastructure. A local infrastructure project is a project which creates a durable physical asset that is fixed in one place and can be used by all the people in the local area.⁴ Section 2.9 of the C/S Fund PIM provides guidelines for preparing land study reports consisting of voluntary land contribution reports and land acquisition reports if land and/or asset, used or owned by someone, are affected by the local infrastructure development.

C. ADB Safeguard Policy

25. The objectives of the ADB's SPS (2009) are: (i) to avoid impacts on people and the environment, where possible; (ii) where avoidance is not possible, minimize, mitigate, or compensate for adverse project impacts on the environment and the affected people; and (iii) help the executing agency strengthen its safeguard system. Towards this end, ADB resettlement policy principles includes the following:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of affected persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carryout meaningful consultations with affected persons, host communities and concerned nongovernment organizations (NGOs). Inform all displaced persons of their entitlements and resettlement options. Pay particular attention to the needs of the of the vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism.
- (iii) Improve, or at least restore, the livelihoods of all affected persons through: (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods; (ii) prompt replacement of assets with access to assets of equal or higher value; (iii) prompt compensation at full replacement cost for assets that cannot be restored; and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically affected persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land,

⁴ The "local area" can mean the whole commune (for example, a road project), or a part of one village (for example, a well) but it cannot mean just one house. The parts of the infrastructure that are used by just one house (for example, the wire connecting one house to the electricity system) should be paid for by the house owner.

better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.

- (v) Improve the standards of living of the affected poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement.
- (vii) Ensure that affected persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on affected persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose a draft RP, including documentation of the consultation process in a timely manner, before project appraisal, in an acceptable place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final RP and its updates to affected persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of the project's cost and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the RP under close supervision throughout the project's implementation.
- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of affected persons, and whether the objectives of the RP have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

26. The objective of ADB Policy on **Indigenous Peoples** set out in the Safeguard Policy Statement (2009) is to design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

27. The ADB policy on **Gender and Development** (ADB, 2006; ADB, 1998) adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women participate in and that their needs are explicitly addressed in the decision-making process for development activities. For projects that have the potential to have substantial gender impacts, a gender action plan is prepared to identify strategies to address gender concerns and the involvement of women in the design, implementation and monitoring of the project.

28. Other policies of the ADB that have bearing on resettlement planning and implementation are: (i) Public Communication Policy (2005);⁵ and (ii) Accountability Mechanism (2003).⁶

D. Identification of Gaps between ADB SPS and RGC Laws and Gap-filling Measures

29. Cambodia currently does not have a comprehensive policy on involuntary resettlement and there are gaps between their laws/policies and ADB policy on involuntary resettlement. For example, under the Land Law and Prakas No. 961, those who have occupied a ROW or public properties are not entitled to any compensation or social support, regardless of their being an affected person or from a vulnerable group (Article 19). The same article in the Land Law provides that persons having assets on road and rail ROWs will be punished more heavily if their failure to relocate results in delays in works of public interest. In contrast, ADB policy includes the provision that the absence of a formal legal title to land should not be a bar to compensation. For compensation, while affected persons are entitled for compensation for land (Article 5), it does not provide compensation for other type of losses. The ADB policy states that non-land assets must be compensated at replacement cost. Table 3 summarizes the differences between ADB SPS requirements and government Laws on Land Acquisition and Resettlement, and gap-filling measures.

Table 3: Summary of Resettlement Policy and Its Application in Cambodia

No.	Items with Difference in Policy	ADB Policy	Legislation of Royal Government of Cambodia	Measures to Address the Difference in the TSSDP
1	Eligibility for compensation and assistance does not include affected persons (APs) without land title	Those without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for lost of non-land assets. Improve standard of living of the displaced poor and other	Illegal occupants are not entitled to compensation due to violation on declared land use plan; or if they have constructed without permit or have encroached on demarcated land for right of way (ROW).	All APs without any discrimination whether or not land is owned are eligible for resettlement assistance and compensation for loss of non-land assets. Particular focus on improving the standards of living of the displaced poor and other vulnerable groups, including women.

⁵ The ADB **Public Communications Policy** (ADB, 2005 and updated in 2011) seeks to encourage the participation and understanding of people affected by and other stakeholders to 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. With respect to land acquisition, compensation and resettlement, information should be distributed to affected peoples (APs) and publicly in the following manner: (i) prior to loan appraisal, the draft Resettlement Plan (RP); (ii) following completion of the final RP, and (iii) following any revisions, the revised RP. This information can be in the form of brochures, leaflets or booklets, in the local language(s) as well as English, the working language of the ADB. When APs include non-literate people, other appropriate methods of communications will be used.

⁶ The ADB **Accountability Mechanism** (ADB, 2003) serves to enhance the capacity of ADB to respond to, prevent and/or resolve problems associated with the implementation of its policies in ADB-funded project. It consists of two separate but complementary functions: (i) a consultation phase consisting of a special project facilitator (SPF) who will respond to specific problems of locally affected people in ADB-assisted projects through a range of informal and flexible methods; and (ii) a compliance review phase consisting of a compliance review panel (CRP) to investigate and make recommendations to remediate alleged violations of ADB operational policies and procedures that have resulted or are likely to result in direct, adverse and material harm to project-affected people. The relevant ADB operations department has the initial responsibility to respond to the concerns of affected communities.

No.	Items with Difference in Policy	ADB Policy	Legislation of Royal Government of Cambodia	Measures to Address the Difference in the TSSDP
		vulnerable groups, particularly women.		
2	No compensation for those illegally settled on the ROW.	All affected households (AHs) including those without titles, or are within the ROW are eligible to resettlement assistance and compensation for loss of non- land based assets.	Individuals who have occupied ROW are illegal by Law or public properties are not entitled to any compensation or social support, regardless of their being an AH or a member of vulnerable groups.	Resettlement assistance will be provided for those who occupied the ROW to move out the affected area. Allowances will be provided for those who are making a living within the ROW. Additional cash assistance will be provided (if the vulnerable household has an affected movable kiosk or small shop).
3	Immoveable assets.	All APs shall be entitled for resettlement assistance and compensation for non-land based assets.	Any regime of ownership of immovable property prior to 1979 shall not be recognized (Article 7).	All APs including those without titles, or are within ROW are eligible to resettlement assistance and compensation for loss of non- land assets.
4	Unregistered businesses.	For non-land assets, all eligible AHs, whether titled, legitimate, or non-titled need to be compensated at replacement cost through cash or replacement assets. Included among these AHs are renters of buildings, tenants and of affected business.	Recognizes businesses or economic entities only if they hold a business certificate (i.e., excludes non-registered businesses).	Inclusion of those who are economically displaced, even those who are not formally registered (e.g., unregistered, businesses, employees without labor contracts). All APs will be assisted to ensure that their income sources are restored to at least pre-project levels.
5	Entitlements on severity of losses.	ADB policy defines affected persons to have experienced severe losses when they are physically displaced from housing or lose 10% or more of their productive assets (income generating).	No specific legislation on severity of losses on productive land.	AHs who will lose 10% or more of their productive assets (income generating) or who will be physically displaced will be provided with additional assistance and income restoration measures to ensure that their income sources are restored to at least pre-project levels.
6	Land valuation.	ADB policy requires an independent/qualified land appraiser who has working knowledge on property valuation and that the	The Law requires all loss of assets to be compensated at replacement cost and the replace cost is determined by an	No gap. The replacement cost study will be conducted in parallel with the detailed measurement survey (DMS) by an independent valuation consultant/firm.

No.	Items with Difference in Policy	ADB Policy	Legislation of Royal Government of Cambodia	Measures to Address the Difference in the TSSDP
		appraisal methodology used is consistent with international standards.	Independent agent.	
7	Consultation and disclosure	<p>Consultation with APs, host communities, and concerned nongovernment organizations to ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs.</p> <p>All RPs, and monitoring reports will be disclosed on the ADB website.</p>	<p><i>Article 16 of the Expropriation Law:</i> "Prior to making any expropriation project proposal, the Expropriation Committee shall conduct a public survey by recording of a detailed description of all entitlements of the owners of and/or of the holder of real right to immovable property and other properties subject to compensation as well as recording of all relevant issues.</p> <p>In conducting the survey, the Expropriation Committee shall organize public consultations at the Capital, Municipal-Provincial, and District-Khan authority levels with Commune/Sangkat councils and village or community representative to be affected by the expropriation to provide specific and concise information and collect inputs from all stakeholders regarding the proposed basic public infrastructure project."</p>	<p>Extensive consultation and participation of AHs will be conducted at every stage of RP planning and implementation. The Inter-ministerial Resettlement Committee (IRC) will distribute public information booklets to all AHs.</p> <p>All RPs, and monitoring reports will be disclosed on the ADB website.</p>
8	Grievance redress mechanism (GRM)	GRM should be established as soon as the project starts to receive and facilitate the resolution of AP's concerns and grievances about physical and economic	"The Expropriation Committee and the Grievance Redress Committee shall have the competence to review and resolve the complaint." (<i>Article 32 of Expropriation Law</i>).	Grievance Redress Committee will be established in each province affected by the project. ADB will receive regular (quarterly and bi-annual) reports on the functioning of the GRM.

No.	Items with Difference in Policy	ADB Policy	Legislation of Royal Government of Cambodia	Measures to Address the Difference in the TSSDP
		displacement and other project impacts, paying particular attention to the impacts on vulnerable groups. ADB will receive regular reports on grievances and their resolution.	In resettlement practice, for every project that involves involuntary resettlement, Grievance Redress Committee is established from commune to provincial level.	
9	Internal and external monitoring	Internal and External monitoring are required, ADB requires the executing agencies to submit quarterly and bi-annual resettlement monitoring reports which will be disclosed on the ADB website.	<p><i>Sub-decree No.115 dated 26 May 2016</i> on promoting Resettlement Department to General Department of Resettlement (GDR) provide mandate to GDR to lead all resettlement activities including preparation of the RP, implementing and internal monitoring of the RP.</p> <p>In practice, for projects with significant involuntary resettlement impacts, GDR-IRC will recruit an external monitoring firm to carry out monitoring of the implementation of the RP.</p>	<p>Internal monitoring and reporting is under the mandate of GDR-IRC. The GDR will provide progress report to executing agencies which will submit quarterly and bi-annual resettlement monitoring reports which will be disclosed on the ADB website.</p> <p>External monitoring will be required based on the severity of impact after the DMS is completed. Monitoring indicators will be developed and end-of-project report will be done to confirm whether the objectives of the ADB's SPS were achieved.</p>

Source: PPTA Consultants

E. Additional Financing Projects Resettlement Policy Principles and Entitlements

30. Consistent with the ADB SPS (2009), this resettlement framework will apply to all three types of displaced persons as follows: (i) persons with formal or legal rights to land lost in its entirety or in part; (ii) persons who lost the land they occupy in its entirety or in part who have no formal legal rights to such land, but who have claims to such land that are recognized or recognizable under national laws; and (iii) persons who lost the land they occupy in its entirety or in part (as of the cut-off date) who have neither formal legal rights nor recognized or recognizable claims to such land.

31. The AF project will follow both the national laws and the ADB SPS. In case of any gap, the ADB policy will apply. The project's key resettlement principles are: (i) it will avoid or minimize involuntary land acquisition and resettlement through careful design; (ii) displaced persons will receive compensation at replacement cost and/or assistance so that they will be as well-off as without the project; (iii) displaced persons will be consulted during project cycle; (iv) absence of formal title will not be a bar to compensation for house, structures and trees/crops, and particular attention will be paid to vulnerable groups; (v) land compensation

and resettlement assistance will be completed before start of civil works; and (vi) land acquisition and resettlement will be conceived as part of the project and costs related to resettlement will be included in and financed out of the project cost.

32. All affected persons who are identified in the subproject impacted areas on the cut-off date would be entitled to compensation for their affected assets, and rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels. The cut-off date will be the final day of the detailed measurement survey (DMS) in each proposed subproject. Those who encroach into the proposed subproject area after the cut-off date will not be entitled for compensation or any other assistance. Affected persons under AF-project, may be categorized into (i) legal owner; (ii) recognizable owner; and (iii) unrecognized/unauthorized user. The three categories will also be impacted differently based on severity. Thus, eligible affected people (AP) will be entitled to receive compensation based on category of AP, and scope of impact and severity. The three categories of affected persons and his/her entitlements include:

- (i) **Legal owner.** If a person or household, who is a legal owner of land (with land title) as defined under the Land Law, loses fixed assets or access to agricultural land in the planned AF-project area, he/she is entitled to receive compensation for land and assets. All affected persons are identified in the project impacted areas as of the date of the DMS. They are entitled with rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income earning capacity and production levels.
- (ii) **Recognizable owner.** Refer to a person or household who has no land title but he/she is legitimate as owner, collective or co-owner, and customary land right under the Land Law. A person falling under this category will be entitled to the same as a legal owner.⁷
- (iii) **Unrecognized/unauthorized user.** Refers to a person or household who are using or residing on public land or other land that is prohibited under the Land Law. A person falling under this category will not be entitled for land compensation. However, he/she will be entitled for compensation, at replacement cost, for fixed assets he/she owned, a part of land. He/she may request for proof of ownership of the non-land affected assets. Additionally, he/she will also be entitled for livelihood restoration and/or special assistance if he/she is severely affected and/or fall under the special consideration (the vulnerable group).

33. The AF-project will follow eligibility and provisions in the RF for compensating all types of losses resulting for land acquisition and or restriction on land use or access. The DPs will receive compensation at full replacement cost, and other resettlement assistance such as shifting allowance. Household headed by women and other vulnerable households will receive further assistances as determined during the detailed measurement survey and the replacement cost study and outlined in the entitlement matrix in Table 4. The estimates on the number of affected persons and the likely categories of physically and economically displaced persons for each subproject will determined during the feasibility study and detailed design stages and recorded in the RP of each subproject.

⁷ The Commune/Sangkat Fund Project Implementation Manual uses the term "affected land user" to refer to both any person who owns land, or uses the land for residence, business or agriculture, "even if they do not have a land title." As such, these people or households are "recognized" by the local community as being entitled to compensation if they do not wish to donate their land for subproject.

Table 4: Entitlement Matrix for Involuntary Resettlement

Type of Loss	Eligible Persons/Household	Entitlements	Implementation Issues
A. Loss of Land			
Private Land			
Loss of Land: Either Partial or Entire Land	<ul style="list-style-type: none"> All AP with recognized or recognizable proof of ownership whose land will be acquired. 	<ul style="list-style-type: none"> Land for land replacement with similar quality and productivity; or Cash compensation at replacement cost. 	<ul style="list-style-type: none"> AP to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. Inter-ministerial Resettlement Committee (IRC) will ensure payment of all compensation for which AP are entitled to at least <u>30 days</u> prior to the commencement of civil works.
State Public/Private Land			
Partial Loss of Residential and/or Commercial Land, in which the remaining land is STILL VIABLE for continued use	<ul style="list-style-type: none"> AP with main house and/or small shop (independent/ family-owned business). 	<ul style="list-style-type: none"> AP must be removed entirely from state public/private land without compensation for such loss of land. No new permanent or non-permanent structures (i.e., structures on a foundation or wooden house larger than the affected one or small store) are permitted to be reconstructed. 	<ul style="list-style-type: none"> AP to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. If AP fully occupies state public/private land, the remaining portion remains state public/private land. All new structures will not be compensated if needed for further development in the future.
B. Loss of Structures			
Partially loss of Houses or Shop/Store; "Entirely lost or partially lost but remain portion is not viable and is not allowed for use under the project"	<ul style="list-style-type: none"> All the AP confirmed to be residing in, doing business within the project affected area before and on the cut-off date. 	<ul style="list-style-type: none"> Cash compensation at replacement cost without deduction for depreciation or salvageable materials. 	<ul style="list-style-type: none"> AP will be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project.

Type of Loss	Eligible Persons/Household	Entitlements	Implementation Issues
			<ul style="list-style-type: none"> AP will get cash compensation at least <u>30 days</u> ahead of civil works in the locality to allow the AP sufficient time to gradually reorganize the house and/or shop, thereby avoiding any disruption in their livelihood. AP must completely cut and move back the affected land within <u>30 days</u> after receiving compensation.
Other Structures (porch, extended eaves, spirit house, fence, etc.)	<ul style="list-style-type: none"> All the AP confirmed to be residing in, doing business within the project affected area before or on the cut-off date. 	<ul style="list-style-type: none"> Cash compensation at replacement cost without deduction for depreciation or salvageable materials. 	<ul style="list-style-type: none"> AP to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. IRC will ensure payment of all allowances for which AP are entitled to at least <u>30 days</u> prior to the scheduled start of civil works.
C. Loss of Crops and Trees			
Loss of Crops	<ul style="list-style-type: none"> Owners of crops regardless of land tenure status. 	<ul style="list-style-type: none"> To the extent possible, AP will be allowed to harvest their annual and perennial crops prior to construction. If crops cannot be harvested due to construction schedule, AP are entitled to cash compensation for the affected crops at replacement cost. 	<ul style="list-style-type: none"> Annual crops – AP will be given <u>90 days'</u> notice that the land on which their crops are planted will be used by the project and that they must harvest their crops before the civil work.
Loss of Fruit or Shade Trees	<ul style="list-style-type: none"> Owners of trees regardless of land tenure status. 	<ul style="list-style-type: none"> Fruit trees will be compensated in cash at replacement cost. In the case of mature fruit bearing trees, the value of a year harvest for the tree multiplied by the 	<ul style="list-style-type: none"> AP will be notified at least <u>90 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project.

Type of Loss	Eligible Persons/Household	Entitlements	Implementation Issues
D. Loss of Common Property Resources Partial or Entire Loss of Community and/or Public Assets (i.e., pagoda gate, school, health center fences) resulted from infrastructure improvements	<ul style="list-style-type: none"> Affected communities or concerned government agencies who own the assets. 	<ul style="list-style-type: none"> amount of time for the tree to reach maturity will also be compensated. 	<ul style="list-style-type: none"> Remaining right of way is still public state land.
		<ul style="list-style-type: none"> Access to alternative public assets within the vicinity (Commune or District). 	<ul style="list-style-type: none"> Communities to be notified at least 30 days in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project.
E. Temporary Impacts and Allowance Temporary loss of business income	<ul style="list-style-type: none"> Owners of assets 	<ul style="list-style-type: none"> Restoration of income lost during the period in which the business was interrupted equivalent to 3 months of losses as determined during the replacement cost study (RCS). 	<ul style="list-style-type: none"> Disruption period should be no longer than 30 days.
		<ul style="list-style-type: none"> One time cash assistance equivalent to 2 months of minimum wage as determined during the RCS. 	<ul style="list-style-type: none"> Business shall be fully resume not more than 30 days. All vulnerable affected persons shall be the beneficiary of the project. The entitlement for vulnerability will be identified during the DMS.
Vulnerable affected households	<ul style="list-style-type: none"> Affected persons 		

^a The size of viable land will be discussed between IRC-Working Group and the project affected households during the DMS.
Source: PPTA consultants

III. SOCIAL IMPACT ASSESSMENT AND PREPARATION OF RESETTLEMENT PLAN

A. Subproject Screening and Classification

34. Each subproject will be screened for its land acquisition and resettlement impacts (screening form attached as Annex1). The screening will reflect if there will be any such impacts. The screening form will be completed after site visits, and, as relevant, in consultation with the potential DPs to understand land use/ownership arrangements.

35. The screening will be conducted as a first step to see wherever resettlement impacts can be avoided, mitigated or minimized as much as possible. Where the screening identifies that a subproject will require land acquisition/resettlement, and assessment of social impacts needs to be undertaken to prepare the RP.

36. Each proposed subproject must address ADB required criteria to minimize land acquisition and involuntary resettlement. Any impacts noted during detailed design will be minimized by comparing alternatives in the technical design and construction methods. The executing agencies will classify subprojects at the earliest stage of preparation through screening according the ADB's classification system to reflect a subproject's potential involuntary resettlement impact, and they will be classified into the following categories:

- (i) **Category A.** A proposed subproject is likely to have significant involuntary resettlement impacts - 200 or more persons will be physically displaced from home, 200 or more persons lose 10% or more of their productive or income generating assets, or 200 or more persons experience a combination of both.
- (ii) **Category B.** A proposed subproject includes involuntary resettlement impacts that are not deemed significant.
- (iii) **Category C.** A proposed subproject has no involuntary resettlement impact.

37. The classification of each subproject will be submitted by the executing agency to ADB for review and approval. Category A subprojects will be excluded from the project. To comply with ADB's SPS, Category B subprojects require the preparation of a RP that is commensurate with the extent and degree of the impacts. The degree of the impacts will be determined by (i) the scope of physical and economic displacement, and (ii) the vulnerability of the affected persons. The GDR with the assistance of Project Implementation Unit (PIU) and PPTA Consultants will prepare a RP.

38. In cases where subprojects involve voluntary donation and no other land acquisition and involuntary resettlement impacts, the subproject will be classified as Category C. However, the project implementation unit will prepare a report to ADB, which will document that: (i) the subproject site is selected in full consultation with landowners and any non-titled affected people; (ii) voluntary donations do not severely affect the living standards of affected people and the amount of agricultural or other productive land to be acquired from each affected household does not exceed 10% of the total productive landholdings of the household; (iii) voluntary donations are linked directly to benefits for the affected household; (iv) any voluntary donation will be confirmed through a written record and verified by an independent third party such as an external monitoring organization; (v) there is an adequate grievance process; (vi) none of the affected households will be displaced from housing and severely affected; and (viii) none affected households are vulnerable.

39. The template for voluntary donation consent is provided in Annex 2. In cases where the subproject is classified as Category B and involves voluntary donation, the signed voluntary donation forms will be attached to the RP.

B. Assessment of Social Impact and Preparation of Resettlement Plan

40. Any subproject that involve involuntary land acquisition and resettlement impacts will follow the guidelines set out in this RF in respect of assessment of impacts (census of DPs, inventory of losses, and socioeconomic survey) and preparation of an RP. The scope and level of detail of an RP will vary depending on the magnitude and complexity of land acquisition and resettlement issues. The preparation of an RP will be coordinated with the government's formal land acquisition procedure in accordance with the RGC Land Laws and Regulations, as relevant. This RF includes an outline of a RP (Annex 3) and, where required, RP will be prepared accordingly.

41. A comprehensive assessment of impacts based on reliable information about the scope of land acquisition and its impacts on DPs will be a prerequisite for preparation of an RP. In coordination with the Executing Agencies and Consultants, the GDR will carry out consultations with village leaders and DPs and necessary surveys including inventory of losses (IOL) and census of DPs. The IOL and census will be undertaken covering all DPs during feasibility study and updated after detailed design. It will be conducted in a participatory manner to estimate the losses and impacts. A cut-off date will be established as the date of the commencement of an IOL and this will be publicized in advance by the GDR. The landowners and/or users that have documented claims to affected land, crops, trees and/or structures as of the cut-off date will be eligible for compensation and/or rehabilitation assistance.

42. The IOL will document the losses and impacts resulting from the land and/or resource/asset acquisition. The survey form will also contain a number of questions about the socio-economic status of DPs in order to furnish information required for the elaboration of livelihood restoration and stabilization measures. The form will cover the following major items:

- Information of DP/household – number of people in household; gender and age of head of household; tenure of land; ownership of assets; education of household members; livelihood activities (paid and unpaid); cash income; subsistence production;
- Loss of land – by type of land affected (i.e., residential; agricultural; commercial; fishpond, etc.); total area of land (including other plots), area of land affected; tenure of land;
- Loss of assets - by type, i.e., structures, crops and trees (type, area affected, number lost, etc.); time required to rebuild or relocate;
- Loss of, or impacts on livelihood activities – type, dependency, how impacted, restoration measures required; and
- Other impacts or losses.

43. Each of survey forms will be entered onto a database, and analyzed to provide a profile of DPs, to describe the losses and impacts, and assist in the calculation of compensation for the losses and impacts. Data will be disaggregated, as relevant, by gender, ethnic group and income group. The conditions, needs, and priorities of women will be analyzed to ensure that land acquisition and resettlement does not disadvantage women and other vulnerable groups.

for

44. The rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs. The calculation of full replacement cost will be based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. Where market conditions are absent or in a formative stage, the borrower/client will consult with the displaced persons and host populations to obtain adequate information about recent land transactions, land value by types, land titles, land use, cropping patterns and crop production, availability of land in the project area and region, and other related information. The executing agencies and GDR will also collect baseline data on housing, house types, and construction materials. GDR will engage qualified and experienced experts in valuation to carry out the replacement cost study of the acquired assets.

45. A RP will be prepared based on the assessment of impacts and finalized in consultation with DPs. The RP will summarize the scope of land acquisition and resettlement; socio-economic information; consultation process; legal and institutional framework; entitlements; and implementation arrangements. It will also identify gender concerns and ensure that it does not disadvantage women. The plan will include sufficient budget and specify source of funds. The budget will be based on published rates from relevant government authorities and include additional grants, if required, to ensure that compensation rates for affected land and assets are at full replacement cost. The RP will also include an implementation schedule linked with the civil works to ensure that civil works will not commence until compensation and/or assistance has been paid to DPs. The draft RP will be disclosed to DPs and other stakeholders for their comments. The RP will be finalized incorporating comments from DPs.

46. The RPs will be endorsed by the IRC and will be submitted to ADB for review and approval. A "no objection" for the RPs will be received from ADB prior to implementation of a subproject.

1. Socioeconomic Information

47. Socio-economic information of affected households will be obtained through a social impact assessment survey. The sample assessment will take place in the location where the government proposed for the development of small scale infrastructure development and where the design team will undertake two feasibility studies. The two feasibility studies will be undertaken on the rehabilitation of an irrigation scheme, located in Lvea commune, Preah Sdach District, Prey Veng Province and a rural access road rehabilitation, located in Batheay Commune, Batheay District, Kampong Cham Province. The survey will serve as a baseline of affected household living conditions and will form part of the monitoring and evaluation data that will assess the extent to which the measures in resettlement plans are effective in mitigating land acquisition and resettlement impacts. The survey will focus on collecting social data and recording an inventory of loss of the households likely to be impacted because they reside along the proposed two small scale infrastructure development subprojects. The survey aims to provide comprehensive social data in order to assist the formulation of the required social safeguards documents as well as to feed into the feasibility study of the AF-project.

48. The social survey will be supplemented with consultations to cover the need for land acquisition and resettlement impacts, and the community's views on measures to mitigate the anticipated impacts and the information will be used for two main purposes: (i) the data collected and the inventory of loss aim to achieve the development of social safeguards documents; and (ii) it can be used as a baseline that will serve to facilitate measurements to

monitor the overall project progress against set indicators over the course of the project implementation.

2. Development of a Donation Confirmation Report

49. Section 2.9 of the C/S Fund PIM provides guidelines for preparing land study reports consisting of a voluntary land contribution report and/or a land acquisition report if land and/or assets, used or owned by someone, are affected by the local infrastructure development

50. The DCR will be developed for all subprojects involved infrastructure development. The project preparatory technical assistance's Resettlement Specialist and the Inter-ministerial Resettlement Committee (IRC) will supervise the execution of the DMS in order to feed into the formulation of the DCR. The DMS will include 100% of the affected households and will collect data required to verify the details of affected people for finalizing the DCR. This will include details of land ownership, plot sizes, types of land use, the number and types of trees and crops, the types and conditions of affected structural buildings, land prices, affected livelihoods and the required restoration activities as well as associated costs for land for resettlement of displaced people and development costs.

51. The DCR will focus on a rigorous due diligence procedure with full documentation to verify voluntary donation bona fides. Where the land acquisition and asset loss involves voluntary donations, the DCR will demonstrate: (i) the subproject site is selected in full consultation with landowners and any non-titled affected people; (ii) voluntary donations do not severely affect the living standards of affected people and the amount of to be acquired from each affected household does not exceed 10% of the total assets and/or landholdings of the household; (iii) voluntary donations are linked directly to benefits for the affected household; (iv) any voluntary donation will be confirmed through written record and is subject to the due diligence verification report or DCR; (v) there is an adequate grievance process; (vi) no affected household will be displaced from housing and severely affected; and (viii) no affected household is vulnerable.

IV. CONSULTATION, PARTICIPATION AND DISCLOSURE

A. Consultation and Participation

62. Consultation will be undertaken with the affected persons during the preparation and implementation of the subprojects. The GDR and executing agencies will consult affected households, leaders, and representatives of communities to ascertain their needs and concerns about land/asset acquisition. Direct community participation of the selected subproject beneficiaries will be the key by which stakeholders influence and become co-responsible for development initiatives and decisions that affect them. For each subproject there will be a representative of the commune councils who will oversee the infrastructures that will be funded by the TSSDP-AF project. There will be three commune facilitators to assist each commune council. One will be supervising at the commune level and two will be operating on the ground level. These commune council members will facilitate the commune development planning process as well as assist in the preparation and implementation of a social assessment and conduct community consultations. The chief of the commune council, assisted by commune facilitators at the commune level, will do the first screening to ensure that a proposed subproject that requires involuntary resettlement would not be included in their proposal. The commune council chief will: (i) certify that the TSSDP-AF project policy principles are compiled; (ii) attach a 'voluntary donation form' signed by the affected peoples

before submitting any commune development plan.

63. The public, especially affected households, the local governments and beneficiaries will be consulted and their opinions solicited, and will participate in the preparation, development, and implementation of the donation confirmation. Community consultation and participation will ensure that the needs and priorities of the local population are known, the adverse social impacts of subprojects, including the corresponding mitigating measures, are collectively identified, and the commitment and feeling of ownership for subprojects is developed among affected households.

64. During each community consultation, commune facilitators at the field level will ensure that the villagers are informed of the subprojects, including providing them with the information on resettlement included in the guidelines before deciding on the types of infrastructure, the locations and design. In particular, affected persons (those who opt for donation) will be fully informed that they have rights and option not to opt for voluntary donations. Where necessary, separate meeting for: (i) those affected; and/or (ii) women and ethnic minority populations; will be facilitated so that they can express their preference. Commune facilitators will ensure that those opted for donation will: (i) benefit from infrastructure; and (ii) be beneficiaries of training activities under the AF-project.

B. Disclosure of Information

65. Resettlement Plan will be publically disclosed to the affected households by posting them in key locations such as commune offices during public information meetings, and through the dissemination of the public information brochure. Key information that is to be disclosed includes: (i) relocation and rehabilitation options; (ii) entitlements, if any; (iii) grievance procedures; (iv) schedule of delivery of construction (and assistance if any); and (v) a displacement of asset loss schedule. Translated copies of the donation confirmation will also be disseminated to each district and commune office within the subproject area and will be publically accessible. The RF and any RPs prepared for the subprojects under the AF-project will be publically disclosed as per the disclosure policy of ADB under ADB's Public Communication Policy (2011)⁹ and current practice of GDR to DPs and other stakeholders

V. COMPENSATION, INCOME RESTORATION PROGRAM AND RELOCATION

66. All land acquisition, compensation, resettlement, and income restoration costs (if needed) for the additional subprojects will be financed by the government. The RPs prepared for the additional subprojects will be required to identify the costs of resettlement including: compensation (including in-kind compensation), describing the valuation of land and assets and how replacement cost will be achieved; livelihood restoration, where this is required. Compensation for any land or assets acquired will be at full replacement cost carried out by the replacement cost study consultant after detailed measurement survey. Normally compensation for loss of land by the rightful legal owners is by swap of land of equal productive value.

67. Those AHs, who have been identified as vulnerable, severely and relocated people, will be provided with support to establish means of their livelihood in case these are lost. This may be in the form of cash grants for them to seek new or upgrade their skills or through an

⁹ <http://beta.adb.org/documents/pcp-2011?ref=site/disclosure/publications>.

income support program depending on the numbers who opt for such a program. The cash grant will be six months of minimum monthly wage as determined by the RCS. In case the AHs opt for an income support program, the program will be provided for a period of one year. The option will be decided at the time of the DMS. An income restoration program (IRP), including the period and mechanisms for implementation, will be designed and developed during the RP preparation with the full participation of eligible AHs for approval by IRC and ADB. Those who are entitled to participate in the program include vulnerable AHs affected by impacts to productive assets and/or primary structures; AHs affected by loss of entire houses and shops and those severely affected by loss of land use equivalent to 10% or more of their total productive (income generating) assets or physical relocation.

68. The RP is ensure that provisions are made to provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.

VI. GRIEVANCE REDRESS MECHANISM

69. The TSSDP has established a grievance redress mechanism and this TSSDP-AF-project will also provide a well-defined grievance redress and resolution mechanism to resolve grievances and complaints in a timely and satisfactory manner. All affected persons will be made fully aware of their rights, and if households change their minds, it will be a priority task for the GDR to resolve complaints as quickly as possible and at the local level through a process of conciliation; and, if that is not possible, to provide clear and transparent procedures for appeal. The community will be provided the details of the implementation grievance redress procedures.

70. A grievance redress committee (GRC) will be established at provincial level with a process starting from commune offices. The designated commune officials shall exercise all efforts to settle complaints and issues at the commune level through appropriate community consultation. All discussions of the meetings shall be recorded for each grievance and copies shall be provided to the affected persons. The minutes of meetings and actions undertaken shall be filed and safely kept.

71. During the course of the AF-project, it is possible that people may have concerns with the AF-project's safeguards performance including implementation of the RPs. The grievance redress procedures set out below and endorsed by the IRC will be applied by TSSDP-AF project.

- (i) **Stage 1:** Affected person/household will submit a letter of complaint/request to the village or commune office (a copy may be submitted to the provincial resettlement sub-committee (PRSC) or IRC). The commune office will be obliged to provide immediate written confirmation of receiving the complaint. If, after 15 days, the aggrieved affected person/household does not hear from the village or commune, or if the affected person/household is not satisfied with the decision taken by in the commune office, the complaint may be brought to the district office.
- (ii) **Stage 2:** The district office has 15 days within which to resolve the complaint to

the satisfaction of all concerned. If the complaints cannot be resolved in this stage, the district office will bring the case to the Provincial Grievance Redress Committee (PGRC).

- (iii) **Stage 3:** The PGRC meets with the aggrieved party and tries to resolve the complaint. PGRC may ask for a review of the DMS. Within 30 days of the submission of the grievance, PGRC must make a written decision and submit a copy of the same to IRC and the affected person/household.
- (iv) **Stage 4:** Court Procedures. If the aggrieved affected person/household does not hear from the PGRC or is not satisfied with the proposed solution, the affected person/household can bring the case to the Provincial Court. The Provincial Court will make a written decision and send copies to the affected person/household, to provincial GRC and IRC. If any party is still unsatisfied with the Provincial Court's judgment, the party can refer the case to a higher-level court.

72. Affected persons will be allowed to have access to the DMS or contract document to ensure that all the details have been recorded accurately enabling all parties to be treated fairly. Throughout the grievance redress process, the responsible GRC will ensure that the concerned affected persons are provided with copies of complaints and decisions or resolutions reached.

73. If efforts to resolve disputes using the grievance procedures remain unresolved or unsatisfactory, affected persons have the right to directly discuss their concerns or problems with the ADB's Environment, Natural Resources and Agriculture Division, Southeast Asia Department through the ADB Cambodia Resident Mission. If affected persons are still not satisfied with the responses of ADB Cambodia Resident Mission, they can directly contact the ADB Office of the Special Project Facilitator. The Office of the Special Project Facilitator procedure can proceed based on the accountability mechanism in parallel with the AF-project implementation.

74. All TSSDP-AF subprojects involving involuntary resettlement will be rejected and where communities/households are voluntarily donating small strips of land, letter to certify their donations will be produced and signed by the affected persons. In order to confirm bona fides in all land acquisition and voluntary contributions, ADB supervision missions review all due diligence verification reports and perform random checks, in the event of an inconsistency IRC will hire an external monitoring agency to review compliance with the resettlement framework.

VII. SUBPROJECT IMPLEMENTATION AND MONITORING ARRANGEMENT

A. Institutional and Implementation Arrangement:

75. The **Ministry of Interior (MOI)**, in particular NCDD, which hosts the project coordination office (PCO), has experience in safeguards implementation. However, MOI staff need further support in the procedures for monitoring and recording environmental and social safeguards activities. Staff of other implementing agencies also needs continued support, specifically during the first year of the implementation.

76. **Project Steering Committee (PSC).** The project would be supervised by a PSC chaired by a Secretary of State from the MOI. The PSC will provide the strategic direction and guidance in the management and operations of the project, and would include members from

relevant government institutions involved in rural and urban development programs. Other institutions and individuals from academia, NGOs and the private sector would also be invited to provide advice to the committee. The PSC will ensure that safeguard activities under the TSSDP-AF-project will be carried out in compliance with the provisions set forth in this resettlement framework.

77. The **PCO** will provide overall management and operation of the project under the General Secretariat of the MOI. The PCO would be headed by a Project Manager and composed of a team of specialists responsible for project operations, procurement, financial management, social and environmental safeguards, and monitoring and evaluation activities.

78. The **GDR of MEF**. The resettlement framework is required for review and approval of MEF prior to submitting to ADB for no objection. If there are involuntary resettlement impacts caused by the subprojects, and resettlement plan is required, MOI will request the GDR to deal with resettlement impacts. The MEF, through designated IRC and its Working Group, will work closely with PRSC for coordinating resettlement issues where the subproject is located and have resettlement impact. In this case, an ad-hoc PRSC Working Group will be established as secretariat to PRSC. In this case, MOI through its PSC will prepare the resettlement plan and submit to MEF through GDR for review and approval prior to submitting to ADB for no-objection basis. GDR will take the lead role in resettlement plan implementation. An Outline of a RP is in Annex 3.

79. **C/S Council** is in charge of implementing for all selected subprojects and will comply with guidelines and forms as per C/S Fund PIM.

B. Gender and Development

80. A gender action plan (GAP) will be prepared for the subproject. Consistent with the GAP, resettlement guidelines and implementation will ensure that women, as members of affected households are adequately considered. They will be given equal opportunity for participation in consultations in order to ensure gender-sensitive and culturally responsive measures. The TSSDP-AF project will adopt suitable strategies to ensure the active involvement of affected women consistent with the GAP. Project capacity building and training programs will include gender issues relevant to resettlement and also the need for gender disaggregated monitoring of resettlement activities.

C. Monitoring and Reporting

81. The TSSDP-AF project will use the same overall benefit monitoring and reporting system developed for the original project and the RPs it will include indicators that will disclose whether the subproject beneficiaries were able to benefit from the project's interventions. It will also include qualitative indicators such as the beneficiaries' satisfaction with consultation process during the subproject's preparation. In addition, the GDR will recruit an external monitoring organization, where necessary, to the satisfaction of ADB to monitor the implementation of the resettlement plan and delivery of resettlement entitlements to DPs and verify that: (i) principles of voluntary donation are observed; (ii) those who opted for donation are not forced to donate their land and assets; and (iii) living standards of those who opted for donation are not negatively affected. The monitoring will also cover DPs' satisfaction with consultation, timeliness of compensation payment, and restoration of livelihoods (ability of DPs to restore livelihoods to at least pre-project levels). The external monitoring organization will be a qualified NGO or consultant with recognized experience in Cambodia. The external monitoring organization's

observation will be included in the AF-project's quarterly progress reports semi-annual monitoring report. The EA will submit progress reports on land acquisition/RPs to ADB on semi-annual basis, and the findings will be incorporated into the progress reporting of the AF-project. ADB review missions will specifically check the progress of any resettlement and land acquisition undertaken during the implementation of the RPs for each subproject.

82. Additionally, the community will also be provided details of implementation of the grievance redress procedures as an added safety valve. Although a process is to be provided during the project's preparation and no grievances may be received, it is possible that households may change their minds. If households do change their minds, it will be a priority task for the implementation team.

VIII. BUDGET AND FINANCING

83. Budget for implementing resettlement related activities will be estimated at the time of the preparation of the resettlement plan by GDR for each subproject. All land acquisition, compensation, resettlement, and income restoration costs (if needed) for the project will be financed by the government. The budget for such activities will be estimated during feasibility based on interviews with affected communities. This will be updated after the detailed measurement survey and replacement cost study, and further consultations with DPs. The government will release sufficient budget for implementation of compensation, resettlement and income restoration activities in an appropriate and timely manner. The GDR will seek the approval of the MEF for the budget.

84. Any resettlement plan prepared under the AF project will include the detailed cost of compensation and other rehabilitation entitlements as part of the process to compensate affected persons. Arrangements will be made for affected persons property and assets segregated on the basis of agricultural land, residential land, business land, houses, business assets and other holdings. The detailed budgetary estimates will make adequate provision for contingencies and the resettlement plan will explicitly establish sources for all funds required. The resettlement plan will ensure that fund flows are compatible with the timetable for payment of compensation and provision of all other assistance.

85. The budget will cover land acquisition, relocation site development, compensation costs, allowances and administration costs, and contingency. Resettlement costs will be financed by the government and not the project. The government will ensure timely provision of counterpart funds for resettlement to meet any unforeseen obligations in excess of the resettlement budget estimates in order to satisfy resettlement requirements and objective. GDR will be responsible for preparing resettlement plan and resettlement budget and seek approval of MEF.

86. Costs to cover social safeguard screening and assessment on the eligibility of each candidate subproject will be part of the project budgets.

ANNEX 1: SCREENING FORM

<u>Project Title:</u>		<u>ADB Loan/Grant No:</u>		
Project Component:		Date:		
Location and impact area:				
Probable Land Acquisition/Resettlement Effects	Yes	No	Not Known	Remarks
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 Displaced Persons:				
Any estimate of the likely number of persons that will be displaced by the Project? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many? _____				
Category for IR impacts ¹⁰ : A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/>				
Are any of them poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Are any displaced persons from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes				

¹⁰ Impacts are classified as Category A when 200 or more persons experience major resettlement impacts either through being physically displaced from housing, or losing 10% or more of their productive (income generating) assets. Not significant impacts (i.e. other than Category A) will be classified as Category B. No impacts will be classified as Category C.

ANNEX 2: VOLUNTARY CONTRIBUTION CONSENT FORM**VOLUNTARY CONTRIBUTION CONSENT FORM****KINGDOM OF CAMBODIA**

[INSERT NAME] Province

[INSERT NAME] District

[INSERT NAME] Village

CERTIFICATE OF LAND/ASSET TRANSFER

I, [INSERT NAME, AGE, NATIONALITY, OCCUPATION], with residence located in [INSERT NAME] village, [INSERT NAME] district, [INSERT NAME] province,

Certify that I have been previously informed by local authority of my right to entitle compensation for any loss of property (house, land and trees) that might be caused by the construction of infrastructure and related facilities under water supply system or urban environmental (development) improvements under the Proposed Loan: Tonle Sap Poverty Reduction and Smallholder Development Project in

[INSERT NAME] district ([INSERT NAME]).

I confirm that I voluntarily accept the land of [INSERT AMOUNT LOSS] square meters located in [INSERT NAME] village ([INSERT NAME] district) to be provided by the local authority for compensation. I also confirm that I do not request any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES STRUCTURES] and would request the local authority to consider this as my contribution to the Project.

Type of Loss	Area (sqm)	Number of Trees	Unit Rates	Total	Comment
Land					
Total					

Therefore, I prepare and sign this certificate for the proof of my decision.

[INSERT NAME] district

[INSERT DATE]

The owner of the land

[INSERT NAME AND SIGN] Witnesses:

1. [INSERT NAME]

2. [INSERT NAME]

3. [INSERT NAME]

Certified by the Chief of the Village [INSERT NAME AND SIGN]

The Chief of [INSERT NAME] district [INSERT NAME AND SIGN]

ANNEX 3: OUTLINE OF THE RESETTLEMENT PLAN

A resettlement plan is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

- A. **Executive Summary:** This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.
- B. **Project Description:** This section provides a general description of the project, discusses projects components that result in land acquisition, involuntary resettlement, or both and identify the projects area. It also describes the alternatives considered to avoid or minimize resettlement include a table with quantified data and provide a rationale for the final decision.
- C. **Scope of Land Acquisition and Resettlement:** This section:
 - i. discusses the project's potential impacts, and includes maps of the areas or zone of the impact of the project components or activities;
 - ii. describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
 - iii. summarizes the key effects in terms of assets acquired and displaced persons; and
 - iv. provides details of any common property resources that will be acquired.
- D. **Socioeconomic Information and Profile:** The 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, including:
 - i. define, identify, and enumerate the people and communities to be affected;
 - ii. describe the likely impacts of the land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
 - iii. discuss the project's impacts on the poor, indigenous and /or ethnic minorities, and other vulnerable groups; and
 - iv. identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.
- E. **Information Disclosure, Consultations, and Participation:** 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 the project design and preparation for engaging stakeholders;
 - iv. summarizes the results of consultations with displaced persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
 - v. confirms disclosure of the draft resettlement plan to displaced persons and includes arrangements to disclose any subsequent plans; and
 - vi. describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with displaced persons during project implementation.

- F. **Grievance Redress Mechanisms:** This section describes mechanisms to receive and facilitate the resolution of displaced persons' concerns and grievances. It explains how the procedures are accessible to displaced persons and gender sensitive.
- G. **Legal Framework:** 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 requirement; and discuss how any gaps will be addressed;
 - ii. describes the legal and policy commitments from the executing agency for all types of displaced person;
 - iii. outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost of assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and
 - iv. describes the land acquisition process and prepare a schedule for meeting key procedural requirements.
- H. **Entitlements, Assistance and Benefits:** This section:
- i. defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
 - ii. specifies all assistance to vulnerable groups, including women, and other special groups; and
 - iii. outlines opportunities for displaced persons to derive appropriate development benefits from project.
- I. **Relocation of Housing and Settlement:** This section:
- i. describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and /or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
 - ii. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
 - iii. provides timetables for site preparation and transfer;
 - iv. describes the legal arrangements to regularize tenure and transfers titles to resettled persons;
 - v. outlines measures to assist displaced persons with their transfer and establishment at new sites;
 - vi. describes plans to provide civic infrastructure; and
 - vii. explains how integration with host populations will be carried out.
- J. **Income Restoration and Rehabilitation:** This section:
- i. identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
 - ii. describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets)
 - iii. outlines measures to provide social safety net through social insurance and /or project special funds;
 - iv. describes special measures to support vulnerable groups; and
 - v. describes training programs.

- K. **Resettlement Budget and Financial Plan:** This section:
- i. provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training loan implementation;
 - ii. describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items);
 - iii. includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs; and
 - iv. includes information about the source of funding for the resettlement plan budget.
- L. **Institutional Arrangements:** 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 roles 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.
- M. **Implementation Schedule:** This section includes a detailed, time bound, implementation schedule for all keys resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.
- N. **Monitoring and Reporting:** This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of displaced persons in the monitoring process. This section will also describe reporting procedures.
- 