LOAN NUMBER 2956-VIE

LOAN AGREEMENT
(Ordinary Operations)

(Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program – Loan 2)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 4 JULY 2013

LOAN AGREEMENT
(Ordinary Operations)

LOAN AGREEMENT dated 4 July 2013 between SOCIALIST REPUBLIC OF VIET NAM ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 13 December 2010 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program;

(B) by a periodic financing request dated 26 July 2012, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Borrower has also applied to Kreditanstalt für Wiederaufbau ("KfW") for a loan and a grant to finance a portion of the Project ("KfW Financing") upon terms and conditions set forth in the respective financing agreement between the Borrower and KfW ("KfW Financing Agreement");

(D) the Borrower has also applied to European Investment Bank ("EIB") for a loan to finance a portion of the Project ("EIB Loan") upon terms and conditions set forth in the respective loan agreement between the Borrower and EIB ("EIB Loan Agreement");

(E) the Project will be carried out by Ho Chi Minh City People's Committee ("HCMC PC"), and for this purpose the Borrower will make available to HCMC PC the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(F) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and HCMC PC;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(50) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and the Ho Chi Minh City People's Committee.

(b) The term "Project Executing Agency" appearing in Section 7.04(b), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "Ho Chi Minh City People's Committee".

(c) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit; Maturity Premium. (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower.

(c) The Borrower shall pay a maturity premium at the rate specified in the Loan Agreement, which maturity premium shall remain fixed for the term of the Loan. ADB shall add the maturity premium to the interest payable by the Borrower.

(d) Section 3.06 is deleted and the following is substituted therefor:

Rebate. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum) by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan

on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(e) Section 3.07 is deleted and the following is substituted therefor:

Surcharge. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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

(a) "Affected Persons" means displaced persons, as defined in the SPS, who are physically and/or economically displaced as a result of involuntary acquisition of land or involuntary restrictions on land use or on access to legally designated parks and protected areas under the Project;

(b) "Environmental Impact Assessment" or "EIA" means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by HCMC PC and cleared by ADB;

(c) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the EIA;

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

(e) "FAM" means the facility administration manual for the Project dated 21 September 2012 and agreed between HCMC PC and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(f) "GAP" means the gender action plan for the Project, including any update thereto, prepared and submitted by HCMC PC and cleared by ADB;

(g) "HCMC PC" means the people's committee of Ho Chi Minh City within the territory of the Borrower;

(h) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;

(i) "Investment Program" means the Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program;

(j) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(k) "Loan 1" means ADB's loan to the Borrower: Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program – Loan 1, dated 11 March 2011;

(l) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);

(m) "MAUR" means the Management Authority for Urban Railways established within HCMC PC;

(n) "MRT" means a mass rapid transit, including underground subways and elevated urban railways;

(o) "MRT Line 2" means the mass rapid transit line connected between Ben Thanh and Tham Luong;

(p) "NGO" means a non-government organization;

(q) "PMU" means a Project management unit established within MAUR;

(r) "Procurement Guidelines" means ADB's Procurement Guidelines (2013, as amended from time to time);

(s) "Procurement Plan" means the procurement plan for the Project dated 21 September 2012 and agreed between HCMC PC and ADB, as updated from time to time in accordance with the Procurement Guidelines and other arrangements agreed with ADB;

(t) "Project facilities" means facilities developed, constructed, updated and/or maintained under the Project;

(u) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by HCMC PC and cleared by ADB;

(v) "Safeguards Monitoring Report" means each report prepared and submitted by HCMC PC to ADB that describes progress with implementation of and compliance with the EMP and RP, including any corrective and preventative actions;

(w) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009); and

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

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of five hundred million Dollars ($500,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 23 years, and a grace period as defined in subsection (c) hereinafter.

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

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

(a) LIBOR;

(b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.20% as provided by Section 3.03 of the Loan Regulations; and

(c) a maturity premium of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 April and 15 October in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

(i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;

(ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and

(iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to HCMC PC upon terms and conditions satisfactory to ADB and shall cause HCMC PC to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

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

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

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

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2018 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause HCMC PC to carry out the Project with due diligence and efficiency and in conformity with sound applicable technical, financial, business, and development practices.

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

Section 4.02. The Borrower shall make available to HCMC PC, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.05. The Borrower shall take all actions which shall be necessary on its part to enable HCMC PC to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations:

(a) the KfW Financing shall have become liable for suspension or cancellation;

(b) the EIB Loan shall have become liable for suspension or cancellation; and

(c) HCMC PC shall have failed to perform any of its obligations under the Project Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Delegation of Authority

Section 7.01. The Borrower hereby designates HCMC PC as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Loan Agreement and under Sections 6.01, 6.02 and 6.03 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by HCMC PC pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on HCMC PC under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The Governor of the State Bank of Vietnam is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

State Bank of Vietnam
47 – 49 Ly Thai To
Hanoi, Viet Nam

Facsimile Numbers:

(84-4) 38250-612
(84-4) 38258-385.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2331.

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

SOCIALIST REPUBLIC OF VIET NAM

By _____
NGUYEN VAN BINH
Governor
State Bank of Vietnam

ASIAN DEVELOPMENT BANK

By _____
TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Investment Program is to provide competitive MRT services in Ho Chi Minh City and its neighboring provinces.

2. As a part of the Investment Program, the Project aims to effectively implement MRT Line 2 operations and maintenance system.

3. The Project shall consist of constructing the first stage of MRT Line 2, from Ben Thanh to Tham Luong with 10 stations and the remaining depot site works, including twin bored tunnels, underground stations, elevated station, transition, viaduct, spur line, track work and third rail.

4. The Project is expected to be completed by 31 December 2017.

SCHEDULE 2

Amortization Schedule

(Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program – Loan 2)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

Date Payment Due	Installment Share (Expressed as a %)
15 April 2020	2.173913
15 October 2020	2.173913
15 April 2021	2.173913
15 October 2021	2.173913
15 April 2022	2.173913
15 October 2022	2.173913
15 April 2023	2.173913
15 October 2023	2.173913
15 April 2024	2.173913
15 October 2024	2.173913
15 April 2025	2.173913
15 October 2025	2.173913
15 April 2026	2.173913
15 October 2026	2.173913
15 April 2027	2.173913
15 October 2027	2.173913
15 April 2028	2.173913
15 October 2028	2.173913
15 April 2029	2.173913
15 October 2029	2.173913
15 April 2030	2.173913
15 October 2030	2.173913
15 April 2031	2.173913
15 October 2031	2.173913
15 April 2032	2.173913

15 October 2032	2.173913
15 April 2033	2.173913
15 October 2033	2.173913
15 April 2034	2.173913
15 October 2034	2.173913
15 April 2035	2.173913
15 October 2035	2.173913
15 April 2036	2.173913
15 October 2036	2.173913
15 April 2037	2.173913
15 October 2037	2.173913
15 April 2038	2.173913
15 October 2038	2.173913
15 April 2039	2.173913
15 October 2039	2.173913
15 April 2040	2.173913
15 October 2040	2.173913
15 April 2041	2.173913
15 October 2041	2.173913
15 April 2042	2.173913
15 October 2042	2.173915
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

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

Interest and Commitment Charges

3. The amount allocated to Category 2 is for financing interest and commitment charges on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charges.

Reallocation

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

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

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

Disbursement Procedures

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

Schedule 3

Condition for Withdrawal

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for Works, until all conditions of disbursement, other than a condition/conditions requiring the disbursement under the Loan Agreement, for each of the KfW Financing Agreement and the EIB Loan Agreement have been met.

Attachment to Schedule 3

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Ho Chi Minh City Urban Mass Rapid Transit Line 2 Investment Program – Loan 2)			
Number	**Item**	**Total Amount Allocated for ADB Financing ($) Category**	**Basis for Withdrawal from the Loan Account**
1	Works*	363,900,000	71% of total expenditure claimed
2	Interest and Commitment Charges	34,900,000	100% of amounts due
3	Unallocated	101,200,000	
	Total	500,000,000	

* Withdrawal of this amount is subject to the condition provided in paragraph 6 of this Schedule 3.

SCHEDULE 4

Procurement of Works

General

1. The procurement of Works shall be subject to and governed by the Procurement Guidelines.

2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines.

Works

3. Except as ADB may otherwise agree, Works shall only be procured on the basis of International Competitive Bidding.

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

Conditions for Award of Contract

5. HCMC PC shall cause MAUR to ensure that Works contracts are not awarded until:

(a) its environmental bureau has granted the final approval of the EIA; and

(b) it has caused the relevant provisions incorporated from the EMP into the Works contract.

6. HCMC PC shall cause MAUR to ensure that no Works contract which involves involuntary resettlement impacts is awarded, until it has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Industrial or Intellectual Property Rights

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

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

Schedule 4

ADB's Review of Procurement Decisions

8. Contracts procured under international competitive bidding procedures shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project; Environmental, Social and Financial Matters

Implementation Arrangements

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

2. HCMC PC, through MAUR, shall ensure that the PMU is equipped with professionally skilled staff, reasonable office space, equipment, and adequate financial resources required for implementation of the Project throughout the Project implementation.

Environment

3. The Borrower, through HCMC PC, shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) the Borrower's all applicable laws and regulations relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the EIA, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

4. The Borrower, through HCMC PC, shall ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) the Borrower's all applicable laws and regulations relating to land acquisition and involuntary resettlement; (b) ADB's Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report. Should there be any discrepancy between the ADB's policy and national laws and regulations, ADB's policy shall prevail.

5. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower, through HCMC PC, shall ensure:

(a) prior to award of any Works contract which involves involuntary resettlement impacts, HCMC PC, through its agencies, has (i) finalized the RP following completion of detailed design; (ii) prepared, disclosed to Affected Persons and submitted to ADB the final RP based on the Project's detailed design and obtained ADB's concurrence with such RP;

(b) the measures provided in the final RP, including compensation and entitlements for the Affected Persons, are not downgraded. Land

acquisition, relocation of affected households, and clearance of land does not commence until the respective final RP has been agreed between ADB and HCMC PC and provisions in such final RP have been satisfactorily implemented;

(c) MAUR does not issue a site possession notice to the Works contractors to commence construction activities for a specific section, until the head of the provincial resettlement sub-committee has officially confirmed in writing that (i) payment and assistance has been fully provided to the Affected Persons and rehabilitation measures are in place for that specific section in accordance with the RP; (ii) the Affected Persons, who need to be displaced for the specific section and have already been compensated in accordance with the RP, have been relocated from the concerned area in a timely manner; and (iii) any such section is free from any encumbrances; and

(d) no physical or economic displacement takes place in connection with the Project until compensation and other entitlements have been provided to the Affected Persons and income restoration measures commenced in accordance with the RP.

Indigenous Peoples

6. The Borrower, through HCMC PC, shall ensure that the Project does not have any indigenous peoples impacts, all within the meaning of ADB's Safeguard Policy Statement. In the event that the Project does have any such impact, HCMC PC, through its agencies, shall take all steps required to ensure that the Project complies with the Borrower's applicable laws and regulations and with the Safeguard Policy Statement.

Human and Financial Resources to Implement Safeguards Requirements

7. The Borrower shall cause HCMC PC to make available, necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

8. The Borrower shall cause HCMC PC, through MAUR, to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

(a) comply with the measures relevant to the contractor set forth in the EIA, the EMP and the RP (to the extent they concern impacts on the Affected Persons during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;

(b) make available a budget for all such environmental and social measures;

(c) provide MAUR with a written notice of (i) any unanticipated environmental, or resettlement risks or impacts that arise during construction, implementation or operation of the Project that were not

considered in the EIA, the EMP and the RP; and (ii) corresponding proposed corrective action plan to adequately address such impacts and to ensure compliance with the SPS;

(d) adequately record the condition of roads, land and other infrastructure prior to starting to transport materials and construction; and

(e) reinstate roadways, other local infrastructure, and fauna to at least their pre-Project condition upon the completion of construction.

Safeguards Monitoring and Reporting

9. The Borrower shall cause HCMC PC to do, the following;

(a) submit (i) semiannual Safeguards Monitoring Reports during construction, and (ii) annual Safeguard Monitoring Reports for environment during operation of Project facilities, to ADB for review and disclose relevant information from such reports to the Affected Persons promptly upon submission;

(b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP and the RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;

(c) engage qualified and experienced external experts or qualified NGOs under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts; and

(d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP and the RP, promptly after becoming aware of the breach.

Prohibited List of Investments

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

Applicability of ADB's Safeguard Policy to Entire Project

11. The Borrower shall ensure that the portion of the Project to be financed by KfW abides by all the requirements under the Safeguard Policy Statement.

Counterpart Funding

12. The Borrower shall cause HCMC PC to ensure that all necessary financing (other than from the Loan proceeds) is provided on a timely basis to enable the full and

timely completion of the Project. In the event of any shortfall or disruption in the financing of the Project due to, inter alia, the lack or inadequacy of funding or delay in financing by HCMC PC, the Borrower shall cause HCMC PC to promptly inform the Borrower and ADB, and shall provide additional funds as may be necessary for the successful implementation of the Project.

Operation and Maintenance

13. The Borrower shall cause HCMC PC, through its agencies, to establish operation and maintenance mechanism of the Project. In particular, the Borrower shall cause HCMC PC to establish an operation and maintenance company, responsible for overall operation and maintenance of Project facilities, and adequately financing the cost of the operation and maintenance.

Health Risks

14. The Borrower shall cause HCMC PC, through MAUR, to ensure that the Work contractors shall (a) implement an HIV/AIDS awareness and prevention training for all employees; (b) provide necessary measures to ensure the safety and health of its employees; (c) together with the local health bureaus, disseminate information on the risks, hazards, impacts and prevention know-how on HIV/AIDS among the staff, workers on the construction sites and the local community by means of information disclosure, education and consultation; and (d) observe local customs concerning acceptable behavior toward the local population.

Gender Action Plan

15. The Borrower shall cause HCMC PC, through MAUR, to ensure that GAP is fully implemented in accordance with ADB's Gender and Development Policy (1998). GAP shall include (a) use of employment targets for women and gender-specific core labor standards as part of all Works and other transport services employment generation; (b) ensuring that gender analysis informs MRT infrastructure design and construction to maximize women's equal access and benefit; (c) mitigating against potential negative impacts from new MRT construction; (d) promoting women's role in transport sector operations and service delivery; and (e) ensuring that electrical and mechanical systems and rolling stock equipment are designed to ensure women's equal access to the MRT service.

Labor Laws

16. The Borrower, through HCMC PC, shall ensure that (a) Works contractors comply with all applicable labor laws and regulations in Vietnam and related international treaty obligations, and (b) the bidding document for Works contracts shall include provisions to require the contractors to (i) provide equal pay for equal work; (ii) provide the timely payment of wages; (iii) use local unskilled labor, as applicable; (iv) comply with core labor standards and the applicable labor laws and regulations, including stipulations related to employment; and (v) not employ child labor or trafficked labor for any activities. The Borrower shall cause HCMC PC to ensure that records of labor employment are properly maintained and tracked in the Project performance monitoring system, and compliance shall be strictly monitored.

Schedule 5

Integration of Traffic System

17. The Borrower shall cause HCMC PC to carry out an urban transport assessment under the Integrated Sustainable Urban Transport Study in Loan 1. Based on the result of the study, the Borrower shall cause HCMC PC, through its relevant agencies, to develop an integrated urban transport system plan and implement necessary policy and regulatory measures to promote shift from private to public transport mode. If necessary, the Borrower shall cause HCMC PC to issue decisions on (a) transport demand management; (b) establish and enforce a parking strategy; (c) bus prioritization measures; and (d) promote fuel efficiency measures.

Governance

18. The Borrower shall ensure, and cause HCMC PC, through MAUR, to ensure, that (a) periodic inspections of the Project contractor's activities related to fund withdrawals and settlements are carried out; (b) relevant provisions of ADB's Anticorruption Policy (1998, as amended to date) are included in all bidding documents for the Project; and (c) contracts, financed under the Project, include provisions specifying the right of ADB to audit and examine the records and accounts of MAUR, contractors, suppliers, consultants, and other service providers as they relate to the Project.

19. The Borrower shall cause HCMC PC, through MAUR, to maintain the Project website, accessible by the general public, to disclose information about various matters concerning the Project, including general Project information, procurement, Project progress, and contact details in English and Vietnamese languages. The website shall also provide a link to ADB's Integrity Unit (http://www.adb.org/Integrity/complaint.asp) for reporting to ADB any grievances or allegations of corrupt practices arising out of the Project and Project activities. With regard to procurement, the website shall include information on the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of Works procured.