LOAN NUMBER 3113-VIE (CIF)

LOAN AGREEMENT
(ADB Clean Technology Fund)

(Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK
acting as an implementing entity of the
Clean Technology Fund

DATED July 18, 2014

VIE 45200

LOAN AGREEMENT
(ADB Clean Technology Fund)

LOAN AGREEMENT dated July 18, 2014 between SOCIALIST REPUBLIC OF VIET NAM ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB"), acting not in its individual capacity but solely in its capacity as an implementing entity of the Clean Technology Fund ("CTF").

WHEREAS

(A) the Borrower has applied to CTF for a loan to be administered by ADB for the purposes of a part of the Project as described in Schedule 2 to this Loan Agreement ("CTF Part");

(B) ADB has established the ADB Clean Technology Fund to receive, hold in trust and administer CTF funds;

(C) by an agreement of even date herewith between the Borrower and ADB (the "Special Operations Loan Agreement"), ADB has agreed to lend to the Borrower from ADB's Special Funds resources an amount of six million five hundred thirty thousand Special Drawing Rights (SDR6,530,000) ("ADB Loan") for the purposes of the SF Part of the Project as described in Schedule 1 to the Special Operations Loan Agreement;

(D) the CTF Part of 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

(E) ADB, acting in its capacity as an implementing entity of CTF, has agreed to make a loan to the Borrower from the ADB Clean Technology Fund upon the terms and conditions set forth herein, in the Special Operations Loan Agreement and in the Project Agreement of even date herewith between ADB and HCMC PC ("Project Agreement");

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of the standard terms ("Standard Terms") attached in Schedule 1 to this Loan Agreement shall apply to this Loan Agreement.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Standard Terms and Section 1.02 of the Special Operations Loan Agreement have the respective meanings therein set forth unless modified herein or the context otherwise requires.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from the ADB Clean Technology Fund an amount of forty-eight million nine hundred fifty thousand Dollars ($48,950,000).

Section 2.02. The Borrower acknowledges that the Loan is funded out of resources made available by the International Bank for Reconstruction and Development, acting as trustee to CTF, to ADB as an implementing entity of the CTF. In accordance with Section 2.02 of the Standard Terms, the Borrower may only withdraw Loan proceeds subject to the availability of such resources.

Section 2.03. The Borrower shall pay a Management Fee to ADB. The Management Fee shall be equal to 0.18% per annum on the amount of the Loan remaining unwithdrawn from the Loan Account from time to time. The Management Fee shall accrue from the date which is 60 days after the date of the Loan Agreement to the respective dates on which amounts are withdrawn by the Borrower from the Loan Account or cancelled.

Section 2.04. The Borrower shall pay to ADB an interest charge at the rate of 0.25% per annum on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

Section 2.05 The interest charge and the Management Fee on the Loan shall be payable semiannually on 15 July and 15 January in each year.

Section 2.06. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 3 to this Loan Agreement.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall (a) onlend $17,685,000 of the proceeds of the Loan to HCMC PC under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB; (b) make the remaining part of the proceeds of the Loan available to HCMC PC on a grant basis; and (c) cause HCMC PC to apply proceeds of the Loan to the financing of expenditures on the CTF Part of 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 4 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 5 to this Loan Agreement.

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

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

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

(b) Goods, Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 7.02 of the Standard Terms shall be 30 June 2020 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

Section 4.02. The Borrower shall or shall cause to enable ADB's representatives to inspect the CTF Part of the Project, the Goods, Works and Consulting Services and any relevant records and documents.

Section 4.03. The Borrower shall take all actions which shall be necessary on its part to enable the Project Executing Agency 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.

Section 4.04. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Subsidiary Loan Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 7.01(i) of the Standard Terms: If the ADB Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 7.07(d) of the Standard Terms: the event specified in Section 5.01.

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 8.01(b) of the Standard Terms:

(a) the Special Operations Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness shall have been fulfilled;

(b) the Subsidiary Loan Agreement shall have been duly executed and delivered on behalf of the Borrower and the Project Executing Agency upon terms and conditions satisfactory to ADB, and all conditions precedent to its effectiveness shall have been fulfilled; and

(c) the Project Agreement shall have been duly executed and delivered on behalf of HCMC PC, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.

Section 6.02. 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 8.04 of the Standard Terms.

ARTICLE VII

Miscellaneous

Section 7.01. The State Bank of Vietnam of the Borrower is designated as representative of the Borrower for the purposes of Section 10.02 of the Standard Terms.

Section 7.02. The following addresses are specified for the purposes of Section 10.01 of the Standard Terms:

For the Borrower

State Bank of Vietnam
47 – 49 Ly Thai To
Ha Noi, 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- 2015.

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 Viet Nam

ASIAN DEVELOPMENT BANK

By _____

TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

SCHEDULE 1

STANDARD TERMS

ARTICLE I

Definitions; Interpretation

Section 1.01. **Definitions.** Except where the context otherwise requires, the following terms have the following meanings wherever used in these Standard Terms:

1. "ADB Clean Technology Fund" or "ADB CTF" means the trust fund established and administered by ADB to receive, hold in trust and administer the CTF funds transferred to ADB by the CTF Trustee;

2. "assets" includes property, revenues and claims of any kind;

3. "Clean Technology Fund" or "CTF" means the fund established by approval of the International Bank for Reconstruction and Development executive directors on 1 July 2008, and governed under the CTF Governance Framework;

4. "convertible currency" means any currency so designated by ADB at any time;

5. "CTF Governance Framework" means the framework adopted on 18 November 2008 by the Clean Technology Trust Fund Committee at the joint meeting of the Trust Fund Committees for the Strategic Climate Fund and the Clean Technology Fund, and as the said framework may be amended from time to time in accordance with its terms;

6. "CTF Trustee" means the International Bank for Reconstruction and Development;

7. "currency" of a country or a territory means such currency as at the time referred to is legal tender for the payment of public and private debts in that country or territory;

8. "Dollar" or the sign "$" each means the lawful currency of the United States of America;

9. "Effective Date" means the date on which the Loan Agreement shall have come into force and effect pursuant to Section 8.03;

10. "external debt" means any debt payable in any medium other than local currency whether such debt is or may become payable absolutely or at the option of the creditor in such other medium;

11. "foreign currency" means any currency other than local currency;

12. "foreign expenditure" means any expenditure other than local expenditure;

13. "guarantee" includes, as the case requires, any counter-guarantee, indemnity or any other arrangement which has the effect of a guarantee, counter-guarantee or indemnity, given by a member in favor, or for the benefit of ADB;

14. "interest charge" means a charge made on the Loan pursuant to Section 2.03;

15. "lien" includes mortgages, pledge, charges, privileges and priorities of any kind;

16. "Loan" means the loan provided for in the Loan Agreement;

17. "Loan Account" means the account opened or to be opened by ADB on its books in the name of the Borrower to which the amount of the Loan has been or will be credited;

18. "Loan Closing Date" means the date specified by ADB that is not later than the first Principal Payment Date shown in the amortization schedule to the Loan Agreement, or such other date as may be agreed between ADB and the Borrower for such purpose;

19. "Loan Currency" means the currency in which the principal amount of the Loan is denominated from time to time;

20. "local currency" means the currency of the member in whose territory the Project is to be carried out;

21. "local expenditure" means expenditure incurred, or to be incurred, in the currency of the member in whose territory the Project is to be carried out for goods produced in, and services supplied from, the territory of such member, excluding, however, expenditure on the import content of such goods and services;

22. "Management Fee" means the management fee specified in this Loan Agreement for the purposes of Section 2.04;

23. "member" means a member of ADB;

24. "Principal Payment Date" means each date specified in the Loan Agreement on which all or any portion of the principal amount of the Loan is payable;

25. "Project Executing Agency" means any entity responsible for the carrying out of the Project as specified in this Loan Agreement;

26. "Subsidiary Loan Agreement" means the agreement between the Borrower and HCMC PC referred to in Section 3.01 of the Loan Agreement; and

27. "taxes" includes imposts, levies, fees and duties of any nature, whether in effect at the date of the Loan Agreement, if any, or thereafter imposed.

Section 1.02. **Interpretation.** Except where the context otherwise requires, (a) a reference to the incurring of debt includes the assumption and guarantee of debt; (b) references in these Standard Terms to Articles or Sections are to Articles or Sections of these Standard Terms; (c) the headings of the Articles and Sections are inserted for convenience of reference only and are not a part of these Standard Terms; (d) singular may include plural and vice versa; and (e) a reference to any gender includes any other gender.

ARTICLE II

Loan Account; Interest Charge; Repayment; Place of Payment

Section 2.01. **Loan Account.** The principal amount of the Loan shall be credited to the Loan Account in the Loan Currency and may be withdrawn therefrom in accordance with the provisions of this Loan Agreement.

Section 2.02. **Funding Shortfall.** Notwithstanding the provisions of Section 2.01, no withdrawals shall be made if, as a result of such withdrawal, the total amount of the Loan withdrawn from the Loan Account would exceed the amount available to ADB from resources provided to it for purposes of the Loan. Only the resources made available to ADB for the purposes of the Loan shall be considered for the enforcement of any obligations, claims or liabilities under or in connection with the Loan.

Section 2.03. **Interest charge.** An interest charge at the rate specified in this Loan Agreement shall be payable on the principal amount of the Loan withdrawn from the Loan Account and outstanding from time to time. The interest charge shall accrue from the respective dates on which amounts shall be withdrawn from the Loan Account. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet interest charge payments, when and if due.

Section 2.04. **Management Fee.** The Borrower shall pay ADB a Management Fee on the Loan at the rate specified in this Loan Agreement. If this Loan Agreement provides for the financing of the Management Fee out of the proceeds of the Loan, ADB shall, on behalf of the Borrower, withdraw from the Loan Account on or after the Effective Date and pay to itself the amount of the Management Fee.

Section 2.05. **Computation of Interest Charge and Other Charges.** The interest charge and the Management Fee, if the Borrower elects to pay the Management Fee not as a lump sum but semiannually at a rate per annum calculated on the unwithdrawn amount of the Loan from time to time, shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 2.06. **Repayment and Prepayment.** (a) The Borrower shall repay ADB the principal amount of the Loan withdrawn from the Loan Account in accordance with Schedule 3 to this Loan Agreement.

(b) After giving not less than 45 days' written notice to ADB, the Borrower shall have the right to repay in advance of maturity, as of a date acceptable to ADB (provided, that the Borrower shall have paid all amounts due under this Loan Agreement as such date): (i) all of the principal amount of the Loan then outstanding; or (ii) all of the principal amount of any one or more maturities of the Loan.

(c) If ADB shall at any time receive from the Borrower an amount which is less than the full amount then due and payable to ADB under this Loan Agreement, ADB shall have the right to allocate and apply the amount so received in any manner and for such purposes under this Loan Agreement as ADB shall in its sole discretion determine.

Section 2.07. **Place of Payment.** The principal of, and interest charge and other charges (including the Management Fee) on, the Loan shall be paid at such places as ADB shall reasonably request.

ARTICLE III

Currency Provisions

Section 3.01. **Currency of Withdrawal.** Withdrawals from the Loan Account shall be made in the Loan Currency.

Section 3.02. **Currency of Payment.** The principal of the Loan shall be repayable in the Loan Currency and, the interest charge on any portion of the Loan and the Management Fee shall be payable in the Loan Currency.

Section 3.03. **Purchase of Currencies.** If the Borrower shall so request, ADB shall, acting as agent of the Borrower, and on such terms and conditions as ADB shall determine, purchase the Loan Currency for the purpose of repayment of principal, and payment of interest charge and the Management Fee upon timely payment by the Borrower of sufficient funds for that purpose in a currency or currencies acceptable to ADB; provided, however, that the Borrower shall be deemed to have made any payment required under this Loan Agreement only when and to the extent that ADB has received such payment in the Loan Currency.

Section 3.04. **Valuation of Currencies.** Whenever it shall be necessary for the purposes of this Loan Agreement to determine the value of one currency in terms of another, such value shall be as reasonably determined by ADB.

Section 3.05. **Manner of Payment.** (a) Any payment required under this Loan Agreement to be made to ADB in the currency of any country shall be made in such manner, and in currency acquired in such manner, as shall be permitted under the

laws of such country for the purpose of making such payment and effecting the deposit of such currency to the account of ADB with a depository of ADB in such country.

(b) The Borrower shall ensure that the principal of, and the interest charge and other charges on, the Loan are paid without restrictions of any kind imposed by, or in the territory of the Borrower.

ARTICLE IV

Withdrawal of Loan Proceeds

Section 4.01. **Withdrawal from the Loan Account.** (a) Loan proceeds shall be used only for the purposes of the Project. Subject to any conditions or restrictions specified in this Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall have been paid, or, if ADB shall so agree, such amounts as shall be required to meet payments to be made, for the reasonable cost of goods, services and any other expenditures required for the Project and to be financed under this Loan Agreement.

(b) Except as ADB and the Borrower shall otherwise agree, no withdrawals shall be made on account of (i) payments made prior to the Effective Date; and (ii) expenditures in the territory of any country which is not a member or for goods produced in, or services supplied from, such territory. ADB may refuse to finance a contract where goods and services have not been procured in accordance with 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.

(c) Withdrawals of the proceeds of the Loan from the Loan Account shall be made in the Loan Currency. ADB may, at the request and acting as an agent of the Borrower, and on such terms and conditions as ADB shall determine, purchase with such currency withdrawn from the Loan Account such other currencies as the Borrower shall reasonably request to meet payments for items of expenditure to be financed from the Loan. Whenever it shall be necessary for the purpose of this Loan Agreement to determine the value of one currency in terms of another, such value shall be as reasonably determined by ADB.

Section 4.02. **Commitment Letters by ADB.** Upon the Borrower's request, ADB may issue commitment letters to pay amounts in respect of the cost of goods and services to be financed under the Loan notwithstanding any subsequent suspension or cancellation.

Section 4.03. **Application for Withdrawal.** When the Borrower shall desire to withdraw any amount from the Loan Account or to request ADB to issue commitment letters pursuant to Section 4.02, the Borrower shall promptly deliver to ADB an application in such form and containing such statements, representations, warranties and agreements, as ADB shall reasonably request.

Section 4.04. **Evidence of Authority to Sign Applications.** The Borrower shall furnish to ADB sufficient evidence of the authority of the person authorized to sign applications for withdrawal and the authenticated specimen signature of each person.

Section 4.05. **Supporting Evidence.** The Borrower shall furnish to ADB such documents and other evidence in support of the application for withdrawal as ADB shall reasonably request, whether before or after ADB shall have permitted any withdrawal requested in the application.

Section 4.06. **Sufficiency of Applications and Documents.** Each application for withdrawal and the accompanying documents and all other evidence must be sufficient in form and substance to satisfy ADB that the Borrower is entitled to withdraw from the Loan Account the amount applied for and that the amount to be withdrawn from the Loan Account is to be used only for the purposes specified in this Loan Agreement.

Section 4.07. **Payment by ADB.** Payment by ADB of amounts which the Borrower is entitled to withdraw from the Loan Account shall be made to or on the order of the Borrower.

ARTICLE V

Particular Covenants

Section 5.01. **Cooperation and Information.** ADB and the Borrower shall cooperate fully to ensure that the purposes of the Loan will be accomplished. To that end, ADB and the Borrower shall:

(a) from time to time, at the request of any one of them, exchange views with regard to any matters relating to the progress of the Project, the purposes of the Loan or the maintenance of the service thereof, the performance of their respective obligations under this Loan Agreement, and furnish to the other party all such related information as it shall reasonably request; and

(b) promptly inform each other of any condition which interferes with, or threatens to interfere with, the matters referred to in paragraph (a) above.

Section 5.02. **Negative Pledge.** (a) If the Borrower shall create or permit the creation of any lien on any of its assets as security for any foreign currency debt, the Borrower undertakes to expressly provide that such lien will ipso facto equally and ratably secure the payment of the principal of, and interest charge on, the Loan. If any statutory lien shall be created on any assets of the Borrower (as hereinafter defined), as security for any foreign currency debt, the Borrower shall grant to ADB an equivalent lien satisfactory to ADB.

(b) The provisions of paragraph (a) of this Section shall not apply to (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(c) The term "assets of the Borrower" as used in paragraph (a) of this Section includes assets of any political subdivision or any agency of the Borrower and assets of any agency of any such political subdivision, and assets of any entity owned or controlled by, or operating for the account or benefit of, the Borrower or any such political subdivision or agency, including any other institution performing the functions of a central bank for the Borrower.

Section 5.03. **Insurance.** (a) The Borrower shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice. The Borrower shall be deemed to have opted for self-insurance in the absence of any specific insurance for the Project.

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure, or cause to be insured, the goods to be imported for the Project and to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such goods.

Section 5.04. **Records, Accounts and Audits.** The Borrower shall maintain, or cause to be maintained, records and accounts adequate to identify the goods and services and other items of expenditure financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, the operations and financial condition of the Borrower.

Section 5.05. **Reports.** (a) The Borrower, and the Guarantor shall furnish, or cause to be furnished, to ADB all such reports as ADB shall reasonably request concerning (i) the Loan, and the expenditure of the proceeds and maintenance of the service thereof; (ii) the goods and services and other items of expenditure financed out of the proceeds of the Loan; (iii) the Project and the Project Executing Agency; (iv) the administration, operations and financial condition of the Borrower; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, the Borrower shall furnish to ADB quarterly reports, or reports at such other later interval as may be agreed for this purpose between ADB and the Borrower on the execution of the Project, on the accomplishment of the targets and actions agreed between ADB and the Borrower, and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three months thereafter or such later date as may be agreed for this purpose between the Borrower and ADB, the Borrower shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by the Borrower of its obligations under this Loan Agreement and the accomplishment of the purposes of the Loan.

Section 5.06. **Counterpart Obligations and Land Acquisition.** The Borrower shall make available, promptly as and when needed, the funds, facilities, services, land, and other resources as shall be necessary or required, in addition to the proceeds of the Loan, for the carrying out of the Project and for the operation and maintenance of the Project facilities. The Borrower shall furnish to ADB, promptly at its request, evidence satisfactory to ADB that such funds, facilities, services, land, and other resources are available for purposes related to the Project.

Section 5.07. **Work Schedules, Plans and Design Standards.** The Borrower shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to the Borrower and ADB, as applicable. When required by ADB, the Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 5.08. **General Undertakings.** (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound applicable financial, business and development practices.

(b) 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 5.09. **Contractors and Consultants.** Whenever applicable, in the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors, acceptable to the Borrower and ADB, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

Section 5.10. **Maintenance.** The Borrower shall ensure that any facilities relevant to the Project are operated, maintained and repaired in accordance with sound operational and maintenance practices. The Borrower shall promptly as needed, make or cause to be made all necessary repairs and renewals thereof.

ARTICLE VI

Exemption from Taxation

Section 6.01. **Exemption from Taxation.** The Borrower shall ensure that:

(a) the principal of, and interest charge and other charges (including the Management Fee) on the Loan are exempt from, and are paid without deduction for, any taxes levied by, or in the territory of, the Borrower; and

(b) this Loan Agreement is exempt from any taxes levied by, or in the territory of, such member on or in connection with the execution, delivery or registration thereof.

ARTICLE VII

Suspension; Cancellation; Acceleration of Maturity

Section 7.01. **Suspension by ADB.** If any of the following events shall have occurred at any time after the date of this Loan Agreement and be continuing, ADB may by notice to the Borrower suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account:

(a) The Borrower shall have failed to make payment (notwithstanding the fact that such payment may have been made by a third party) of principal, interest charge or any other charge (including the Management Fee) required under (i) this Loan Agreement; or (ii) any other loan agreement or guarantee agreement with ADB; or (iii) in consequence of any guarantee or other financial obligation of any kind extended by ADB to any third party with the agreement of the Borrower.

(b) The Borrower shall have failed to perform any other of its obligations under this Loan Agreement.

(c) ADB shall have suspended in whole or in part the right of the Borrower to make withdrawals under any other loan agreement with ADB because of a failure by the Borrower to perform any of its obligations under such loan agreement or any related guarantee agreement with ADB.

(d) A situation shall have arisen or developed which in the reasonable opinion of ADB will or may make it improbable that the Project can be successfully carried out or that the Borrower or the Project Executing Agency will be able to perform any of its obligations under this Loan Agreement.

(e) The member in whose territory the Project is to be carried out shall have been suspended from membership in, or ceased to be a member of, ADB, or shall have delivered a notice to withdraw from ADB.

(f) A representation made by the Borrower in or pursuant to this Loan Agreement, or any statement furnished in connection therewith and intended to be relied upon by ADB in making the Loan, shall have been incorrect in any material respect.

(g) Any authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the Project Executing Agency, the alienation or transfer of any of its assets other than in the normal course of business, or for the suspension of its operations.

(h) ADB shall have determined, with respect to any contract to be financed in full or in part out of the proceeds of the Loan, that corrupt, fraudulent, coercive or collusive practices, as determined by ADB, were engaged in by representatives of the Borrower or any beneficiary of the Loan during the procurement of goods and services, consultants' selection or the execution of a contract, without the Borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation; or ADB shall have determined that the procurement of any goods or services to be financed out of the proceeds of the Loan is inconsistent with the relevant procedure set out in this Loan Agreement.

(i) Any other event specified in this Loan Agreement for the purposes of this Section shall have occurred.

The right of the Borrower to make withdrawals from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event which gave rise to such suspension shall have, in the reasonable opinion of ADB, ceased to exist or until ADB shall have notified the Borrower that the right to make withdrawals has been restored in whole or in part, whichever is the earlier.

Section 7.02. **Cancellation by ADB.** If (a) the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of 30 days; (b) at any time ADB determines, after consultation with the Borrower, that any amount of the Loan will not be required for the purposes of the Project; (c) by the date specified in this Loan Agreement as the Loan Closing Date, an amount of the Loan shall remain unwithdrawn from the Loan Account; (d) at any time ADB determines, with respect to any contract to be financed in full or in part out of the proceeds of the Loan, that corrupt, fraudulent, coercive or collusive practices, as determined by ADB, were engaged in by representatives of the Borrower, or any beneficiary of the Loan during the procurement of goods and services, consultants' selection or the execution of a contract, without the Borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation; or (e) at any time, ADB determines that the procurement of any goods or services to be financed out of the proceeds of the Loan is inconsistent with the procedure set out in this Loan Agreement, ADB may by notice to the Borrower terminate the

right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Loan shall be cancelled.

Section 7.03. **Cancellation by the Borrower.** After consultation with ADB the Borrower may by notice to ADB cancel any amount of the Loan which the Borrower shall not have withdrawn prior to the giving of such notice.

Section 7.04. **Amounts Subject to Commitment Letters.** No suspension or cancellation shall apply to amounts subject to any commitment letter issued by ADB pursuant to Section 4.02 except as expressly provided in such commitment letter.

Section 7.05. **Application of Cancellation.** Except as ADB and the Borrower shall otherwise agree, any cancellation shall be applied *pro rata* to the remaining maturities of the principal amount of the Loan which shall mature after the date of such cancellation.

Section 7.06. **Effectiveness of Provisions After Suspension or Cancellation.** Notwithstanding any cancellation or suspension, all the provisions of this Loan Agreement and the Project Agreement shall continue in full force and effect except as specifically provided in this Article.

Section 7.07. **Acceleration of Maturity.** If any of the following events shall have occurred and continued for the period, if any, specified below, then at any subsequent time during the continuance thereof ADB may by notice to the Borrower declare the principal of the Loan then outstanding, together with all accrued interest charge thereon, to be due and payable immediately, and upon any such declaration such principal and interest charge shall become due and payable immediately:

(a) Any event specified in paragraph (a) of Section 7.01 shall have occurred and continued for a period of 30 days.

(b) Any event specified in paragraph (b) of Section 7.01 shall have occurred and continued for a period of 60 days after notice thereof shall have been given by ADB to the Borrower.

(c) Any event specified in paragraph (f) or paragraph (g) of Section 7.01 shall have occurred.

(d) Any other event specified in this Loan Agreement for the purposes of this Section shall have occurred and continued for the period, if any, specified in this Loan Agreement.

ARTICLE VIII

Effectiveness; Termination

Section 8.01. **Conditions Precedent to Effectiveness.** The Loan Agreement shall not become effective until evidence satisfactory to ADB shall have been furnished to ADB that:

(a) the execution and delivery of this Loan Agreement on behalf of the Borrower have been duly authorized or ratified by all necessary corporate and governmental action; and

(b) all other events specified in this Loan Agreement as additional conditions to its effectiveness have occurred.

Section 8.02. **Legal Opinions.** As part of the evidence to be furnished pursuant to Section 8.01, the Borrower shall furnish, or cause to be furnished, to ADB an opinion or opinions satisfactory to ADB of counsel acceptable to ADB showing:

(a) on behalf of the Borrower, that this Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and is legally binding upon the Borrower in accordance with its terms;

(b) Where there is a Project Agreement, the execution and delivery of the Project Agreement on behalf of the Project Executing Agency shall have been duly authorized or ratified by all necessary corporate, administrative and governmental action; and

(c) such other matters as shall be specified in this Loan Agreement.

Section 8.03. **Effective Date.** (a) Except as ADB and the Borrower shall otherwise agree, this Loan Agreement shall come into force and effect on the date upon which ADB dispatches to the Borrower notice of its acceptance of the evidence required by Section 8.01.

(b) If, before the Effective Date, any event shall have occurred which would have entitled ADB to suspend the right of the Borrower to make withdrawals from the Loan Account if this Loan Agreement had been effective, ADB may postpone the dispatch of the notice referred to in paragraph (a) of this Section until such event shall have ceased to exist.

Section 8.04. **Termination for Failure to Become Effective.** If this Loan Agreement shall not have come into force and effect by the date specified in this Loan Agreement for the purposes of this Section, this Loan Agreement and all obligations of the parties thereunder shall terminate, unless ADB, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. ADB shall promptly notify the Borrower of such later date.

Section 8.05. **Termination on Full Payment.** If and when the entire principal amount of this Loan withdrawn from the Loan Account and all interest charges which shall have accrued on the Loan and all other charges (including the Management Fee) on the Loan shall have been paid, this Loan Agreement and all obligations of the parties thereunder shall forthwith terminate.

ARTICLE IX

Enforceability; Failure to Exercise Rights; Arbitration

Section 9.01. **Enforceability.** (a) The rights and obligations of ADB and the Borrower under this Loan Agreement shall be valid and enforceable in accordance with their terms and, where the Borrower is a member, notwithstanding the law of any state, or political subdivision thereof, to the contrary.

(b) Neither ADB nor the Borrower shall be entitled in any proceeding under this Article to assert any claim that any provision of this Loan Agreement is invalid or unenforceable because of any provision of the Articles of Agreement Establishing the Asian Development Bank or for any other reason.

Section 9.02. **Failure to Exercise Rights.** No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Loan Agreement upon any default shall impair any such right, power or remedy, or be construed to be a waiver thereof or an acquiescence in any such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 9.03. **Arbitration.** (a) Any controversy between the parties to this Loan Agreement and any claim by any such party against any other such party arising under this Loan Agreement which shall not be settled by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

(b) The parties to such arbitration shall be ADB on the one side, and the Borrower on the other side.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by ADB; a second arbitrator shall be appointed by the Borrower; and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by him, by the Secretary-General of the United Nations. If either side shall fail to appoint an arbitrator, the Umpire shall appoint such arbitrator. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party or parties. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought and the name of the arbitrator appointed by the party instituting such proceeding. Within 30 days after the giving of such notice, the other party or parties shall notify the party instituting the proceeding of the name of the arbitrator appointed by such other party or parties.

(e) If within 60 days after the giving of the notice instituting the arbitration proceeding the parties shall not have agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) The law to be applied by the Arbitral Tribunal shall be public international law, the sources of which shall be taken for these purposes to include:

(i) any relevant treaty obligations that are binding reciprocally on the parties;

(ii) the provisions of any international conventions and treaties (whether or not binding directly as such on the parties) generally recognized as having codified or ripened into binding rules of customary law applicable to states and international institutions, as appropriate;

(iii) other forms of international custom, including the practice of states and international institutions of such generality, consistency and duration as to create legal obligations; and

(iv) applicable general principles of law.

(h) Subject to the provisions of this Section and except as the parties shall otherwise agree, the Arbitral Tribunal shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

(i) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance wit the provisions of this Section shall be final and binding upon the parties to this Loan Agreement. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this Section.

(j) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. Each party

shall defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by ADB on the one side, and the Borrower on the other side. The Arbitral Tribunal shall determine any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs.

(k) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the settlement of controversies between the parties to this Loan Agreement and any claim by either party against the other such party arising thereunder.

(l) If within 30 days after the counterparts of the award have been delivered to the parties the award shall not be complied with, any party may enter judgment upon, or institute a proceeding to enforce, the award in any court of competent jurisdiction against any other party, and may enforce such judgment by execution or may pursue any other appropriate remedy against such other party for the enforcement of the award and the provisions of this Loan Agreement. Notwithstanding the foregoing, this Section shall not authorize any entry of judgment or enforcement of the award against any party that is a member except as such procedure may be available otherwise than by reason of the provisions of this Section.

(m) Service of any notice or process in connection with any proceeding under this Section or (to the extent that such remedy shall be available) in connection with any proceeding to enforce any award rendered pursuant to this Section may be made in the manner provided in Section 10.01. The parties to this Loan Agreement waive any and all other requirements for the service of any such notice or process.

ARTICLE X

Miscellaneous Provisions

Section 10.01. **Notices and Requests.** Any notice or request required or permitted to be given or made under this Loan Agreement and any other agreement between any of the parties contemplated by this Loan Agreement, shall be in writing. Except as otherwise provided in Section 8.03 such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or electronic mail to the party to which it is required or permitted to be given or made at such party's address specified in this Loan Agreement or at such other address as such party shall have designated by notice to the party giving such notice or making such request.

Section 10.02. **Authority to Take Action.** Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Loan Agreement, on behalf of the Borrower, may be taken or executed by the representative of the Borrower designated in this Loan Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification of the provisions of this Loan Agreement may be agreed to on behalf of the Borrower by written instrument executed on behalf of the Borrower by the representative so designated or any person authorized in writing by such representative; provided that, in the opinion of such representative or other

person, such modification is reasonable in the circumstances and will not substantially increase the obligations of the Borrower under this Loan Agreement. ADB may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative or other person any modification of the provisions of this Loan Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of the Borrower thereunder.

Section 10.03. **Evidence of Authority.** The Borrower and the Guarantor shall furnish to ADB sufficient evidence of the authority of the person or persons who will, on behalf of the Borrower take any action or execute any documents required or permitted to be taken or executed by the Borrower under this Loan Agreement and the authenticated specimen signature of each such person.

Section 10.04. **Execution in Counterparts.** The Loan Agreement may be executed in several counterparts, each of which shall be an original.

SCHEDULE 2

Description of the CTF Part of the Project

1. The objective of the Project is to improve access to MRT Line 2 stations and connectivity with other modes of public transport in HCMC, as well as strengthen public transport policies and regulations to encourage public transport usage.

2. The CTF Part of the Project shall comprise the following outputs:

Output 1: MRT Line 2 Station Accessibility Improvements: This output will include (a) provision of part of Works in accordance with the Procurement Plan for MRT Line 2 station accessibility improvements with construction of public transport facilities along the first stage of MRT Line 2 from Ben Thanh to Tham Luong stations, primarily within 100 meter around the nine underground and one elevated stations along the 10.3 kilometer line, including, among others, (i) pedestrian subways and footbridges; (ii) bus stops and feeder links; (iii) dedicated taxi stands; (iv) park and ride facilities for two-wheeled vehicles; and (v) waiting areas for other public transport service providers; and (b) establishment of a station access management system to facilitate the efficient flow of people and traffic around MRT Line 2 stations.

Output 2: Public Transport Information Systems: This output will include (a) development of a public transport information system along MRT Line 2 which will be linked to the main bus control centre in HCMC; and (b) provision and installation of equipment for the public transport information system at MRT Line 2 stations.

Output 3: Public Transport Policy Development Program: This output will include (a) development of specific policies and regulations, including (i) a station access management system and enforcement measures to ensure clear pedestrian access and proper use of public space by vendors around the stations; (ii) a station parking policy to provide for the efficient flow of vehicles to and from the MRT Line 2 stations; and (iii) a policy framework for pricing and private transport in HCMC to promote a modal shift from private vehicles to public transport; (b) capacity development and provision of training to HCMC transport agencies to implement and enforce the new policies and regulations; and (c) provision of equipment and support to establish comprehensive multi-modal transport and traffic management modeling systems for developing the detailed pilot schemes for improved public transport integration under the Project.

3. The Project will include provision of consulting services to support and provide (a) Project management and implementation of Project activities; (b) design and supervision; (c) development of specific policies and regulations for urban transport sector development; and (d) establishment of multi-modal transport and traffic management modeling systems.

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

SCHEDULE 3

Amortization Schedule

(Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)

Date Payment Due	Payment of Principal * (expressed in US$)
15 July 2024	489,500
15 January 2025	489,500
15 July 2025	489,500
15 January 2026	489,500
15 July 2026	489,500
15 January 2027	489,500
15 July 2027	489,500
15 January 2028	489,500
15 July 2028	489,500
15 January 2029	489,500
15 July 2029	489,500
15 January 2030	489,500
15 July 2030	489,500
15 January 2031	489,500
15 July 2031	489,500
15 January 2032	489,500
15 July 2032	489,500
15 January 2033	489,500
15 July 2033	489,500
15 January 2034	489,500
15 July 2034	979,000
15 January 2035	979,000
15 July 2035	979,000
15 January 2036	979,000
15 July 2036	979,000
15 January 2037	979,000
15 July 2037	979,000
15 January 2038	979,000
15 July 2038	979,000
15 January 2039	979,000
15 July 2039	979,000
15 January 2040	979,000
15 July 2040	979,000
15 January 2041	979,000
15 July 2041	979,000
15 January 2042	979,000
15 July 2042	979,000
15 January 2043	979,000

Schedule 3

Date Payment Due	Payment of Principal * (expressed in US$)
15 July 2043	979,000
15 January 2044	979,000
15 July 2044	979,000
15 January 2045	979,000
15 July 2045	979,000
15 January 2046	979,000
15 July 2046	979,000
15 January 2047	979,000
15 July 2047	979,000
15 January 2048	979,000
15 July 2048	979,000
15 January 2049	979,000
15 July 2049	979,000
15 January 2050	979,000
15 July 2050	979,000
15 January 2051	979,000
15 July 2051	979,000
15 January 2052	979,000
15 July 2052	979,000
15 January 2053	979,000
15 July 2053	979,000
15 January 2054	979,000
Total	**48,950,000**

* The arrangements for repayment are subject to the provisions of Sections 2.06 and 3.05 of the Standard Terms.

SCHEDULE 4

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

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

Interest Charge

3. The amount allocated to Category 4 is for financing the interest charge on the Loan during the implementation period of the Project.

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.

Attachment to Schedule 4

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)			
Number	**Item**	**Total Amount Allocated for ADB Financing ($)**	**Basis for Withdrawal from the Loan Account**
		Category	
1	Works	23,820,000	76% of total expenditure claimed*
2	Systems and Equipment	4,960,000	100% of total expenditure claimed*
3	Consulting Services	10,380,000	100% of total expenditure claimed*
4	Interest Charge	570,000	100% of total amount due
5	Unallocated	9,220,000	
	Total	**48,950,000**	

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

SCHEDULE 5

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.

2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:

(a) International Competitive Bidding;
(b) National Competitive Bidding; and
(c) Shopping.

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

Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

National Competitive Bidding

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

Conditions for Award of Contract

7. The Borrower shall cause HCMC PC to not award any Works contract which involves environmental impacts until:

(a) Department of Natural Resources and Environment of the Borrower has granted the final approval of the IEE; and

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

8. The Borrower shall cause HCMC PC not to award any Works contract which involves involuntary resettlement impacts, until the HCMC PC has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

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

10. The Borrower shall recruit the individual consultants to provide Project implementation and supervision support in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

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

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

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

ADB's Review of Procurement Decisions

13. All Contracts procured for the Project under the Procurement Plan except for Contracts for Consulting Services using individual consultants selection method shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

LOAN NUMBER 3113-VIE (SF)

LOAN AGREEMENT
(Special Operations)

(Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED July 18, 2014

VIE 45200

LOAN AGREEMENT
(Special Operations)

LOAN AGREEMENT dated July 18, 2014 between SOCIALIST REPUBLIC OF VIET NAM ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

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

(B) the SF Part 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;

(C) the Borrower has also applied to the Clean Technology Fund ("CTF") for a loan ("CTF Loan") in an amount not exceeding the equivalent of forty-eight million nine hundred fifty thousand Dollars ($48,950,000) to be administered by ADB and upon the terms and conditions set forth in a loan agreement between the Borrower and ADB ("CTF Loan Agreement") for the purposes of a part of the Project as described in Schedule 2 to the CTF Loan Agreement ("CTF Part", and together with the SF Part "Project"); and

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

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

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

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

(a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the CTF Loan as described in paragraph 3 of Schedule 2 to the CTF Loan Agreement;

(c) "CTF" means ADB's Clean Technology Fund;

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

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

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

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

(h) "HCMC" means the Ho Chi Minh city within the territory of the Borrower;

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

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

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

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

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

(n) "MRT" means mass rapid transit;

(o) "O&M" means operation and maintenance;

(p) "PAM" means the project administration manual for the Project dated 08 November 2013 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;

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

(r) "Procurement Plan" means the procurement plan for the Project dated 08 November 2013 and agreed between HCMC PC and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(s) "Project" means the SF Part and the CTF Part as described in recital (C) hereinabove;

(t) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means HCMC PC or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(u) "Project facilities" means equipment to be provided and the facilities to be constructed, upgraded, or rehabilitated under the Project;

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

(w) "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 the RP (as applicable), including any corrective and preventative actions;

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

(y) "UTMD1" means urban transport management department no. 1 under the Department of Transport of HCMC PC which will serve as the Project implementation agency or any successor thereto acceptable to ADB; and

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

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to six million five hundred thirty thousand Special Drawing Rights (SDR6,530,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 2% per annum during the grace period and thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

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

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 July and 15 January in each year.

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

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

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to HCMC PC as a grant upon terms and conditions satisfactory to ADB and shall cause HCMC PC to apply such proceeds to the financing of expenditures on the SF Part of 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.

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 SF Part of the Project.

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

(a) Goods, if any which are produced in and supplied from and Works which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and

(b) Goods, if any and Works which meet such other eligibility requirements as shall have been specified by ADB from time to time.

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

ARTICLE IV

Particular Covenants

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

Section 4.02. The Borrower shall or shall cause to enable ADB's representatives to inspect SF Part of the Project, the Goods, if any and Works, and any relevant records and documents.

Section 4.03. The Borrower shall take all actions which shall be necessary on its part to enable the Project Executing Agency 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 is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: If the CTF Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

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

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan

Regulations: the CTF Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness shall have been fulfilled.

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

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

ARTICLE VII

Miscellaneous

Section 7.01. The State Bank of Vietnam of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

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

For the Borrower

State Bank of Vietnam
47 – 49 Ly Thai To
Ha Noi, 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:

(63 2) 636-2444
(63 2) 636- 2015.

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 Viet Nam

ASIAN DEVELOPMENT BANK

By _____
TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the SF Part of the Project

1. The objective of the Project is to improve access to MRT Line 2 stations and connectivity with other modes of public transport in HCMC, as well as strengthen public transport policies and regulations to encourage public transport usage.

2. The SF Part of the Project shall comprise the following output:

MRT Line 2 Station Accessibility Improvements: This output will include (a) provision of part of Works in accordance with the Procurement Plan for MRT Line 2 station accessibility improvements with construction of public transport facilities along the first stage of MRT Line 2 from Ben Thanh to Tham Luong stations, primarily within 100 meter around the nine underground and one elevated stations along the 10.3 kilometer line, including, among others, (i) pedestrian subways and footbridges; (ii) bus stops and feeder links; (iii) dedicated taxi stands; (iv) park and ride facilities for two-wheeled vehicles; and (v) waiting areas for other public transport service providers; and (b) establishment of a station access management system to facilitate the efficient flow of people and traffic around MRT Line 2 stations.

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

SCHEDULE 2

Amortization Schedule

(Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
15 July 2019	163,250
15 January 2020	163,250
15 July 2020	163,250
15 January 2021	163,250
15 July 2021	163,250
15 January 2022	163,250
15 July 2022	163,250
15 January 2023	163,250
15 July 2023	163,250
15 January 2024	163,250
15 July 2024	163,250
15 January 2025	163,250
15 July 2025	163,250
15 January 2026	163,250
15 July 2026	163,250
15 January 2027	163,250
15 July 2027	163,250
15 January 2028	163,250
15 July 2028	163,250
15 January 2029	163,250
15 July 2029	163,250
15 January 2030	163,250
15 July 2030	163,250
15 January 2031	163,250
15 July 2031	163,250
15 January 2032	163,250
15 July 2032	163,250
15 January 2033	163,250
15 July 2033	163,250
15 January 2034	163,250
15 July 2034	163,250
15 January 2035	163,250
15 July 2035	163,250
15 January 2036	163,250
15 July 2036	163,250
15 January 2037	163,250

Schedule 2

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
15 July 2037	163,250
15 January 2038	163,250
15 July 2038	163,250
15 January 2039	163,250
TOTAL	**6,530,000**

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

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

Interest Charge

3. The amount allocated to Category 2 is for financing the interest charge on the Loan during the implementation period of the Project.

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.

Attachment to Schedule 3

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 Project)			
Number	**Item**	**Total Amount Allocated for ADB Financing SDR Category**	**Basis for Withdrawal from the Loan Account**
1	Works	4,924,000	24% of total expenditure claimed*
2	Interest Charge	346,000	100% of total amount due
3	Unallocated	1,260,000	
	Total	**6,530,000**	

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

SCHEDULE 4

Procurement of Goods and Works

General

1. The procurement of Goods, if any and 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.

Goods and Works

3. Except as ADB may otherwise agree, Goods, if any and Works shall only be procured on the basis of the methods of procurement set forth below:

(a) International Competitive Bidding; and
(b) National Competitive Bidding;

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

Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

National Competitive Bidding

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

Conditions for Award of Contract

7. The Borrower shall cause HCMC PC to not award any Works contract which involves environmental impacts until:

(a) Department of Natural Resources and Environment of the Borrower has granted the final approval of the IEE; and

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

8. The Borrower shall cause HCMC PC not to award any Works contract which involves involuntary resettlement impacts, until the HCMC PC 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

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

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

ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures, and national 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; Financial Matters

Implementation Arrangements

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

2. The Borrower shall, through HCMC PC, cause UTMD1 to ensure that throughout the Project implementation, the Project management unit is fully equipped with professionally skilled staff, reasonable office space, adequate equipment, and sufficient financial resources required for the smooth and timely implementation of the Project.

Counterpart Financing

3. The Borrower shall, and shall cause HCMC PC to, ensure that: (a) counterpart funds necessary for the smooth and successful completion of the Project are provided in a timely manner; (b) additional funds, as and when needed, are provided to meet any Project shortfall or cost overruns; and (c) adequate funds are provided, in a timely manner, for the O&M of the Project facilities.

Integration of Public Transport

4. The Borrower shall cause HCMC PC to ensure that (a) sector development studies to address public transport sustainability issues is carried out; (b) recommendations from the said studies especially concerning traffic enforcement, parking and transport pricing are fully implemented in a timely manner; (c) all necessary on-bus equipment and bus stop equipment required to implement the bus information system for bus services connected to MRT line 2 is provided in a timely manner for effective implementation of the bus information system.

O&M of Project Facilities

5. The Borrower shall, through HCMC PC, cause UTMD1 to ensure that (a) O&M mechanism for the Project is established; (b) the Project facilities procured, constructed or upgraded are maintained properly; and (c) adequate budget and resources are provided for O&M of the said Project facilities.

Environment

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

7. The Borrower shall cause HCMC PC to ensure that (a) the relevant provisions from the EMP are included in all bidding documents and Works contracts for the Project regardless of the source of financing; and (b) in case of any discrepancy or inconsistency among the Borrower's laws, regulations and procedures relating to environment, health and safety and the SPS, the SPS shall prevail.

Involuntary Resettlement

8. The Borrower shall cause HCMC to 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) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguard; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report. The Borrower shall cause HCMC PC to further ensure that in case of any discrepancy among the Borrower's laws, regulations and procedures relating to land acquisition and involuntary resettlement and the SPS, the SPS shall prevail.

9. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall cause HCMC PC to ensure that no physical or economic displacement takes place in connection with the Project until:

(a) compensation and other entitlements have been provided to affected people in accordance with the RP; and

(b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

10. Without limiting the application of the Involuntary Resettlement Safeguard or the RP, the Borrower shall cause HCMC PC to ensure that (a) the measures provided in the updated RP, including compensation and entitlements for the affected people, are not downgraded; (b) land acquisition, relocation of affected people, and clearance of land does not commence until the respective updated RP has been agreed between ADB and the Borrower and provisions of such final RP have been implemented to the full satisfaction of ADB; and (c) a site possession notice is not issued 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 people and rehabilitation measures are in place for that specific section in accordance with the updated RP; (ii) the affected people, who need to be displaced for a specific section of the Project and have already been compensated in accordance with the updated RP, have been relocated from the concerned area in a timely manner; and (iii) each section of the Project is free from any encumbrances.

Indigenous Peoples

11. The Borrower shall cause HCMC PC to ensure that the Project does not have indigenous peoples impacts, all within the meaning of the SPS. In the event that the Project

does have any such impact, HCMC PC shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

12. The Borrower shall, and 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

13. The Borrower shall through HCMC PC cause UTMD1 to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

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

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

(c) provide HCMC PC with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the RP; and

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

Safeguards Monitoring and Reporting

14. The Borrower shall, and shall cause HCMC PC to, do the following:

(a) submit semi-annual Safeguards Monitoring Reports in respect of implementation of and compliance with the Environmental Safeguards and the EMP and Involuntary Resettlement Safeguards and the RP, and disclose relevant information from such reports to affected persons promptly upon submission;

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

(c) prior to commencement of RP updating, engage qualified and experienced external expert(s) or qualified NGO(s) 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 or the RP, promptly after becoming aware of the breach.

Prohibited List of Investments

15. The Borrower shall, and shall 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.

Gender and Development

16. The Borrower shall cause HCMC PC and through HCMC PC shall cause UTMD1 to ensure that: (a) the GAP is implemented and adequately resourced, supervised and monitored in accordance with ADB's *Policy on Gender and Development* (1998); and (b) measures under the GAP including, but not be limited to the following are implemented effectively: (i) gender friendly design to improve MRT Line 2 station accessibility , including: women-only waiting spaces at the bus terminal, adequate lighting around stations and walkways; separate toilets for women; spaces allocated for women vendors to operate in/ around the stations and terminal; (ii) 20% of Works and 30% of O&M jobs in street management, attendants and security are provided to women; and (iii) public transport information system and scheduling is developed based on a gender analysis of transport patterns and needs and provides trip schedules linked to other types of multi modal public transport, to support accessibility.

Governance and Anticorruption

17. The Borrower shall cause HCMC PC and through HCMC PC shall cause UTMD1 to (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

18. The Borrower shall cause HCMC PC and through HCMC PC shall cause UTMD1 to ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Schedule 5

Grievance Redress Mechanism

19. The Borrower shall cause HCMC PC and through HCMC PC shall cause UTMD1 to ensure that within 3 months of the Effective Date, complaint and problem management mechanisms, acceptable to ADB and in accordance with the Borrower's applicable laws and regulations, are established effectively to (a) review and document eligible complaints of Project stakeholders; (b) proactively address grievances; (c) provide the complainants with notice of the chosen mechanism/action; and (d) prepare periodic reports to summarize the number of complaints received and resolved, and final outcomes of the grievances and chosen actions and make these reports available to ADB as part of the quarterly progress reports. Eligible complaints include those related to the Project, any of the service providers, any person responsible for carrying out the Project, complaints on misuse of funds and other irregularities, and grievances due to any social or other issues.

Health and Labor Standards

20. The Borrower shall cause HCMC PC and through HCMC PC shall cause UTMD1 to ensure that Works contracts and bidding documents under the Project include specific provisions requiring contractors to comply with all core labor standards and the applicable labor laws and regulations of the Borrower including stipulations related to employment on: (a) prohibition of child labor; (b) equal pay for equal work of equal value regardless of gender, ethnicity or caste; (c) timely payment of wages; (d) elimination of forced labor; (e) use of local unskilled labor, as applicable; and (f) the requirement to disseminate information on sexually transmitted diseases including HIV/AIDS to employees and local communities surrounding the Project sites. The Borrower shall, and shall cause HCMC PC to ensure that records of labor employment are properly maintained and tracked in the Project performance management system.