

COMMUNITY-BASED TOURISM GROUPS ESTABLISHMENT, BYLAWS AND LAND USE AGREEMENT

- A. Process for Certifying and Registering Community-Based Tourism Groups**
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- C. Sample Community-Based Tourism Groups Bylaws**
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A. PROCESS FOR CERTIFYING AND REGISTERING COMMUNITY-BASED TOURISM GROUPS

Community-based Tourism (CBT) management of project funded facilities will include certifying and registering CBT groups by the process outlined below:

1. CBT Land-use agreement

- 1.1 The Royal government of Cambodia will provide the CBT group with a legally binding land-use agreement which will secure long term land tenure.

2. Establishment of CBT Groups and Certification by Local Government Authorities

- 2.1 The CBT group is established, and the CBT management committee is elected. The purpose, aims, mission statement and scope of operations of the CBT group is clearly defined in the model bylaws of the CBT.
- 2.2 The management board will be elected by CBT group members based on the job descriptions and skills for CBT management committee positions outlined in the CBT bylaws.
- 2.3 The Chief of the CBT committee and CBT management committee members attend and are “certified” by either the commune or district office.

3. CBT Registration Process

- 3.1 The CBTs are then referred to the Ministry of Tourism’s (MOT) Product Development Department who will provide the CBT with an application form and details of the minimum CBT standards required for “registration”.
- 3.2 The CBT completes the registration and application process and provides documents that support the required minimum CBT standards. These minimum standards are similar to the minimum standards adopted under the ASEAN Standards system which includes standards for CBTs.
- 3.3 The MOT’s Product Development Department completes a technical review of the application and if the application satisfies all of the criteria, then the Department issues the CBT Certification.
- 3.4 CBTs are required to submit a request to MOT’s Product Development Department to renew their CBT certification each year.

4. CBT Legal Standing and Rights to Trade as an Enterprise

- 4.1 There is no requirement for CBTs to be “legally registered” and the bylaws are sufficient to establish the purpose, function and operation of the CBT enterprise. The CBTs are legally empowered to enter contracts, land-use agreements, collect and disburse revenue, enter into sublease agreements and other contracts including maintenance and employment contracts.
- 4.2 CBTs are not required to register for taxation purposes.
- 4.3 At the option of the CBTs, the Provincial Department of Economy and Finance (PDoEF) can support CBT groups to issue expressions of interest and requests for proposals for local businesses to manage the restaurants at their tourist facility.
- 4.4 At the option of CBTs, a lease/contract may be signed between the CBT and local businesses for a set term, and renewable based on performance including service and profitability. This arrangement can also be executed through a community - private partnership agreement which will provide both the CBT and the private operator the security of longer-term tenure and revenue streams.
- 4.5 A monthly lease/rental fee will be negotiated (which could be incrementally scaled up or as a percentage of net profits) and this rental fee will be paid into the bank accounts of the CBT group and disbursed or retained according to CBT bylaws and financial management policies. Alternatively, a profit share arrangement under a community-private partnership agreement could be negotiated.
- 4.6 The CBT groups will use this revenue stream to provide basic services including waste management, security patrols and reserve funds for depreciation (capital replacement).
- 4.7 In the event of dispute between the CBT groups and the local businesses the PDoEF can act as an arbitrator as a first step. If the disputes cannot be settled by the PDoEF within statutory time frames or those stated in sublease contracts, CBT groups and private sector operators can revert to the provisions of dispute resolution and arbitration provisions of the Civil Code of Cambodia (June 2003). In addition, and if required, PDoEF will support CBT groups to achieve tax exemptions from the General Department of Taxation (GDT) to further underwrite financial viability of CBTs for a specified period to be agreed by the GDT.
- 4.8 CBT membership and CBT management committees will comprise of a diverse range of MSEs including vendors, homestay operators, farmers, transport services, tour guides and other local small business operators which will also bring the commercial and business skills to financial, management and operational experience and skills which will underwrite the viability of CBTs.

C. SAMPLE COMMUNITY-BASED TOURISM BYLAWS

Internal Statute for Community Based Tourism (CBT)

For Decho Thamacheat Village and Angkor Borei CBTs

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1. Objective of CBT Management Committee Establishment

The purpose of the CBT management committee establishment is to prepare, implement, monitor and report on the tourism interventions including infrastructure development; based on community led development in Decho Thamacheat village in Preah Vihear province and Angkor Borei in Takeo province. In addition, the CBT management committee will establish tourism hubs in collaboration with NGOs, MSEs, local businesses, associations, government agencies, and other development partners to promote heritage and eco-tourism in order to improve the income of the villagers from the target villages and adjacent areas.

2. Benefits of CBT

The benefits of CBT include (i) direct income for CBT members generated from providing tourism products and services (ii) protection of the local environment biodiversity, water ways and

reservoirs, natural forests and habitats (iii) protection of local cultural heritage sites and (iv) maintenance of local tourism sites (v) contribution to tourism development plans.

3. Election of CBT Management Committee

3.1 Composition and Election of CBT Management Committee

The composition of CBT management committee is 11 members (at least 40% are female) which will be elected in a general assembly of the villages. CBT management committee candidacy is voluntarily base on the qualification and criteria established by CBT bylaws the local authorities from both sites. The process of the election is clearly defined and the required female management committee membership of which 40% is assured.

3.2 Election Rights

Villagers who are participating in the election will be 18 years or older. The villagers are requested to register their names with commune councils in order to be eligible for election. The election is conducted by secret ballot.

3.3 Election Term

The CBT management committee shall be elected for a 5-year term. New elections will be conducted at the end of year 4 to enable incoming committee members to be trained for each CBT management committee position by the incumbent committee. This will ensure the effective transfer of knowledge and adequately prepare new members to undertake their roles on behalf of the CBT.

4. Roles and Responsibilities of CBT Management Committee

The CBT management committee has following roles and responsibilities:

- (i) Develop and monitor the CBT implementation plan, and report on the community-based tourism interventions managed by the community
- (ii) Collaborate with relevant provincial departments, local NGOs and other stakeholders to develop and operationalize a protection strategy and management plan for local cultural heritage and natural resources
- (iii) Responsible for both positive and negative results of the CBT implementation
- (iv) Raise awareness on CBT concept and benefits to villagers in order to increase meaningful participation
- (v) Provide full access to villagers on the progress, challenges and CBT plans and receive community feedback on the CBT implementation process
- (vi) Communicate with stakeholders including local government authorities, local NGOs on CBT implementation on issues of land tenure assurance and tourist market linkages
- (vii) Collect feedback from visitors on areas of improvements in regard to tourism products and services of the CBT

5. CBT Management Committee Structure

5.1 Structure of CBT Management Committee

The CBT management committee will be comprised of 11 members as described below:

1. Chief of CBT management committee
2. Vice chief of CBT management committee
3. Accountant and cashier
4. CBT management committee member – Tour guides and product development
5. CBT management committee member – Tour transportation

6. CBT management committee member – Security and Patrol
7. CBT management committee member – Cleaning and solid waste management
8. CBT management committee member – Shops, Retail and vendor services management
9. CBT management committee member – Parking and traffic management
10. CBT management committee member – Ticket services
11. CBT management committee member – Commune representative

5.2 Roles and responsibilities of CBT Management Committee Members

5.2.1 Chief of CBT Management Committee

- Coordinate all CBT tourism activities
- Support conflict resolution arising during the CBT activities implementation
- Build capacity to CBT management committee members
- Monitor CBT cash flow
- Lead planning, implementing, monitoring and reporting on CBT activities
- Lead the CBT documents management
- Lead resource mobilization with stakeholders for CBT improvement
- Delegate responsibilities to vice chief when absent
- Lead the preparation of monthly, quarterly, semester and annual reports of CBT implementation and disseminate to stakeholders/oversight committee

5.2.2 Vice chief of CBT Management Committee

- Assist Chief of CBT and act as CBT chief when CBT chief is absent
- Implement the tasks assigned by CBT chief
- Maintain effective and productive working relationships with CBT chief and other management committee members
- Support capacity building of other CBT management committee members
- Report to Chief of CBT
- Provide CBT information to CBT members

5.2.3 CBT Accountant and Cashier

- Manage the cash flow of the CBT
- Prepare the income and expense sheet and statements
- Maintain CBT financial documents and accounting system
- Prepare financial report to chief of CBT and management committee every month
- Maintain effective and productive working relationships with CBT chief and other management committee members
- Manage the list of tourists visiting the CBT sites

5.2.4 CBT Management Committee Member - Tour Guide and Product Development

- Manage the tour guides for tourists
- Assign CBT members as tour guides for tourists (both domestic and international tourists)
- Note feedback from tourists in order to improve the CBT products and services
- Create and maintain linkages with CBT supported homestays
- Support transparency in CBT financial administration
- Prepare the monthly reports for CBT chief and management committee members
- Train to tour guide in CBT
- Raise awareness on environment and natural resources to tour guides and tourists
- Record the number of tourists

- Take the lead on packaging CBT tours and services for local and international tour agencies

5.2.5 CBT Management Committee Member – Tour Transportation

- In charge of transportation preparation for tourists
- Mobilize CBT members to participate and/or provide transportation services
- Lead the maintenance of the transportation means in CBT
- Support transparency for financial administration
- Prepare monthly report to Chief of CBT and management committee members

5.2.6 CBT Management Committee Member – Security and Patrol

- Manage the patrolling and security activities of the CBT
- Establish list of CBT members who are volunteer to join the patrolling and security activities
- Prepare patrolling and security plan
- Prepare monthly report to Chief of CBT and management committee members
- Collaborate and cooperate with local authorities
- Instruct to patrolling and security team for site rosters
- Report to Chief of CBT and management committee members in the event of reportable incidents during patrolling and security mission
- Raise awareness on CBT internal rules and regulations

5.2.7 CBT Management Committee Member – Cleaning and Solid Waste Management

- Mobilize the CBT members for cleaning and solid waste management services
- Collect and submit toilet usage fees to CBT Accountant and Cashier
- Plan and implement daily/weekly cleaning and solid waste management activities
- Educate and raise awareness for tourists on good solid waste management practices
- Prepare monthly activity report to CBT chief and management committee members
- For land areas under CBT control, ensure all roadways, pathways, gardens, restaurants, parking and utility area and CBT facilities are kept clean.
- Educate and raise awareness on solid waste management to CBT retail outlets and vendors.

5.2.8 CBT Management Committee Member – Shops, Retail and Vendor Services Management

- Prepare retail services plan for CBT members
- Manage and maintain the shops and retail/vendor sites
- Prepare and maintain the inventory list of equipment
- Maintain the inventory list documentation
- Monitor retail vendor/services and collect agreed rental payments
- Prepare monthly activity report to Chief of CBT and management committee members

5.2.9 CBT Management Committee Member – Parking and Traffic Management

- Managing parking tickets and income from parking tickets and submit to Account and Cashier
- Prepare monthly income report and submit to accountant and cashier
- Record number of buses, motorbikes and cars using the car parking facilities
- Maintain the parking area and security of cars and motorbikes
- Prepare monthly report to CBT chief and management committee members

5.2.10 CBT Management Committee Member – Ticketing Services

- Prepare tickets for tourists
- Manage tourist data (both domestic and international)
- Manage the daily/monthly income from tickets selling
- Be responsible for selling tickets and report ticket income to CBT accountant and cashier
- Prepare monthly activity report to Chief of CBT and management committee members.

5.2.11. CBT Management Committee Member – Commune Representative

- Coordinate conflict resolution
- Advise and provide inputs to CBT management committee on tourism development plan
- Participate in CBT monthly meeting
- Share information from monthly CBT progress and challenges to commune councils
- Report to upper line agencies.

6. Mandate of CBT Management Committee

The term of CBT management committee and members is 5 years. At the end of year 3 preparation for election of the management committee will commence. Incumbent management committee members are eligible for re-election. Incoming committee members will be trained by incumbent committee members at least one year before commencing their positions on the CBT management committee.

7. CBT Management Committee Meetings

The CBT management committee will conduct and attend monthly management meetings to discuss CBT implementation progress and business. Meeting resolutions will be adopted when 75% of the CBT management committee members vote in favor of the resolutions. Minutes of all CBT meetings will be taken and made available to all CBT members and posted at the CBT office.

8. Dismissal CBT Management Committee Member

- In the event that a CBT management committee member does not attend monthly meetings without justification, the CBT management committee shall dismiss the officer. A duly elected CBT member will fill the vacant position.
- Where a CBT management committee member does not follow and respect the rules and regulations of the CBT, the officer will be held accountable and rectify his/her behavior to the satisfaction of the CBT management committee. If he/she does not rectify the behavior he/she will be dismissed from CBT management committee. A duly elected CBT member will fill the vacant position.
- In the event that a CBT management committee member is convicted of fraud and/or corruption, she/he will be subject to Cambodian Criminal code and dismissed from the CBT management committee.

9. Reporting Mechanisms

On monthly, quarterly, semester and annual basis, the CBT management committee through its meeting minutes, the CBT chief will prepare the report and submit to local authorities and other relevant line government agencies.

10. Conflict Resolution

The CBT management committee is the first point of contact for conflict resolution through monthly meeting to discuss and address the problem. If the issue has not been addressed within

CBT management committee then it will go to commune councils and other relevant line government agencies.

11. Amendment of CBT Internal Statutes

Each article of the internal statute of CBT can be amended upon 75% agreement from CBT management committee. The CBT management committee agrees on all articles aforementioned mentioned in this CBT internal statute and all CBT members and management committee members will perform their duties according to their responsible roles and responsibilities.

12. Source and Utilization of Income for CBT

The CBT management committee will raise revenue through providing the following services:

- (i) Rental income from restaurants
- (ii) Rental income from community center hall hire
- (iii) Recreational equipment hire
- (iv) Income as a percentage of guiding and local transportation services
- (v) Income from the sale of tour packages to national and inbound tour operators
- (vi) Parking and toilet income

Contracts for leasing restaurants will be provided in the Expressions of Interest (EOI) issued by the CBT management committee.

All tax invoices and receipts will have the logo of the CBT and coded by serial number

The accounts of the CBT will be audited each year to support transparency and quarterly Profit and Loss statements will be made available to all CBT members and stakeholders.

The income will be retained to cover operating costs and schemes including:

- 30% for operational expenses of the CBT management committee
- 30% for reserve funds for CBT
- 10% for community development activities
- 20% for CBT infrastructure maintenance
- 10% for supporting social protection to women and vulnerable in CBT.

List of CBT Management Committee Members

(Name and position)

D. OUTLINE OF CAMBODIAN ASEAN COMMUNITY-BASED TOURISM STANDARDS

The Cambodian Ministry of Tourism adopted the Implementation of Cambodia Community Based Tourism Standard through Prakas No. 147 dated 12 September 2016. The Cambodian ASEAN CBT standard is designed to support Cambodian Community Based Tourism (CBTs) and Community Based Eco-Tourism Organizations (CBETs) through the achievement of eight standards. The Implementation of the Cambodian CBT Standard Prakas is structured and detailed below. The adoption of the full standard is voluntary but with the minimum standards required to be met CBT registration specified by the MOT's Department of Product Development

Purpose

1. Monitor and evaluate the development of the Cambodian community tourism sector.
2. Strengthen the management of sustainable tourism communities, quality, efficiency and responsibility.
3. Encourage the participation of the local people.
4. Strengthen and expand trust in the tourism community from all stakeholders.

Definition

Community-based tourism is a form of tourism that refers to “a location or tourist attraction organised by the local community individually or in cooperation to strengthen local development in order to reduce poverty, improve the livelihood of the community and serve the interests of local people through the development of sustainable tourism”.

Community Based Tourism Principles

Based on the definition above, the tourism community must implement the 10 following principles:

1. Participate and empower communities to ensure transparent ownership and management of tourist facilities and marketing of products and services
2. Establish partnerships with stakeholders
3. Recognized by the local authorities
4. Improve social welfare and maintain the dignity of the community
5. Establish a transparent and accurate benefit-sharing mechanism
6. Promote local community economic integration in the regional economy
7. Respect the tradition and culture of the local community
8. Contribute to the conservation of natural resources
9. Improve the quality of tourism by strengthening the relationship between landlords and tourists
10. The process towards financial self-sufficiency

Tourism Based Community Standard

The Cambodian Tourism Based Community Standard consists of 8 indicators, 23 detailed indicators and a total of 169 criteria, including 86 “medium” criteria, 52 “advanced” criteria and 31 “highest” criteria. The CBT standards are summarized in 8 tables and include:

1. Community ownership and management
2. Contribution to social welfare
3. Sustainable management of the environment and natural resources
4. Encouragement of interaction between the local community and guests
5. Quality tour and guiding services
6. Quality Food and Beverages
7. Quality Accommodation

8. Performance of tourism-based community tour operator

Evaluation Mechanism of CBT Standard

CBT certification is based on 169 criteria (i) Standard criteria 52 points (ii) intermediate criteria 86 points and (iii) advanced criteria 31 points. The CBT standard will be awarded to any CBT scoring at least 60% of the standard intermediate and advanced criteria. CBT labels are issued based on 3 levels (medium, advanced and best) represented by one, two or three Romduol flowers respectively.¹ The CBT standard is valid for two years. In addition, CBT Certification will be awarded to any CBT achieving a score of 50% of the standard criteria. CBTs are not required to pay a fee to apply for a Cambodian Tourism Community Label

Application Process Stages

Stage 1: All CBT are able to participate in the certification process

Stage 2: Self-assessment audit check before applying to the General Department of Tourism of the Ministry of Tourism

Stage 3: Application of Tourism Community to General Department Tourism of the Ministry of Tourism, accompanied by a preliminary assessment document of the tourism community.

Stage 4: After receiving the application of the tourism community, the Tourism community assessment team of the Ministry of Tourism will directly inspect and evaluate the location of the tourism community.

Stage 5: Report on the results of the inspection and evaluation of the tourism community of Ministry of Tourism team on Cambodian Tourism Community Standards.

Stage 6: Giving labels to the tourism community.

Annexes

1. Vocabulary and Definition
2. Conditions for applying for the Cambodia Tourism Community Standard Label

Appendix 1: Community Based Tourism Member's Code of Conduct

Appendix 2: Community Based Tourism Guide's Code of Conduct

Appendix 3: Community Based Tourism Food and Beverage Service Provider's Code of Conduct

Supplementary Annexes

1. Letter of No Criminal Records
2. Letter of Compliance
3. Cambodia Tourism Community Rating Assessment Application
4. Certificate of CBT
5. Application Forms: Label Cambodia Tourism Community Standard Application Form for Cambodian Community-Based Tourism and Ecotourism
6. Community Based Tourism Classification

¹ The Romduol flower is the national flower of Cambodia.

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ



ចំណាត់ថ្នាក់សហគមន៍ទេសចរណ៍កម្ពុជា
Cambodia Community Based Tourism Classification



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(ឈ្មោះសហគមន៍ ទេសចរណ៍)

2017-2018

E. SAMPLE AGREEMENT BETWEEN JFPR 9168 PROJECT AND HOMESTAY OWNERS

This agreement between Civil Society Alliance Forum (CSAF), as the Executing Agency (hereafter referred to as the CSAF) of the JFPR funded and ADB Administered “Community-Based Tourism for COVID-19 Recovery Project” (hereafter referred to as the “Project”) located at #41 Russian Federation Blvd, 110 Street, Phnom Penh Cambodia AND (insert name of Homestay Owner) of (insert address and phone number) (hereafter referred to as the “Homestay Owner”). Collectively the CSAF, the project and the Homestay owner are hereafter referred to as the “Parties”.

The Parties now agree to the following terms and conditions for the execution of this agreement:

1. Contribution by the Project

The Project, through CSAF will provide the Homestay Owner with renovation, improvements or replacement of the following areas of the homestay property

- (i) Sleeping rooms
- (ii) Kitchens
- (iii) Access (stairs and railing, pathways)
- (iv) Separate toilets and showers with septic tanks (for guests)
- (v) Other renovations and equipment as needed to provide a safe and comfortable environment for guests

2. Proof of Land Ownership

The Homestay Owner has provided proof of land ownership attached as Appendix A.

3. Assessment of Works and Equipment for Homestays

The CSAF has consulted with the National Civil Engineer, National Social Safeguards, National Environmental Safeguards, International Community Enterprise Development Specialist and the CBT management committee to assess and agree on the scope of support and detailed renovations, improvements and equipment listed in Appendix A. The National Social Safeguards and National Environmental Safeguards Consultants have verified that there are no adverse environmental impacts or involuntary resettlement issues (IR) and these are verified in Appendix B and C.

4. Design Drawings and Bill of Qualities

The National Civil Engineer has provided designs drawings, BOQ and a list of equipment and these are attached as appendix D

5. Value of Project Contribution

The average value of each Homestay renovation/equipment support package is approximately \$2,900 for renovations and improvement and approximately \$900 for equipment.

6. Mandatory Contribution and Obligations of the Homestay Owner

The Homestay Owner agrees to the following terms and conditions in return for Project support specified in clause 5.

- (i) Registered as a member of (insert name of CBT) CBT
- (ii) Provide a log book of payments and bio-data received from guests to the CBT each month
- (iii) Pay ___% of Net Profit to CBT each month
- (iv) Participate in project trainings including ASEAN (Cambodian) Homestay Standards
- (v) Participate in gender, environmental and social safeguard trainings provided by the project
- (vi) Work closely with the CBTs Management Committee Member responsible for Tour Guide and Product Development to market the Homestay
- (vii) Maintain a Depreciation Operation and Maintenance (O&M) account and allocate 10% of month net revenue to this account for O&M

This agreement between the Parties is signed in good faith on this day (insert date)

Signed by CSAF as the project owner

Signed by the Homestay Owner

Name
Position

Name
Position

F. LAND-USE AGREEMENT

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

USUFRUCT AGREEMENT

BETWEEN

**State Land Trustee Authority of Choam Khsant, Preah Vihear Province, who is the
Authorized Representative of
THE ROYAL GOVERNMENT OF CAMBODIA**

AND

Boeng O Svay Eco Tourism Community

Fourth Draft: 2 June 2021

KINGDOM OF CAMBODIA
Nation Religion King

Usufruct Agreement

- Having seen Royal Kram No. N.S./RKM/0801/14, dated 30 August 2001, promulgating the land law;
- Having seen Royal Kram No. N.S./RKM/1207/030, dated 08 December 2007, promulgating the Civil Code of the Kingdom of Cambodia;
- Having seen Royal Kram No. N.S./RKM/0508/017, dated 22 May 2008, promulgating the Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans;
- Having seen Royal Kram No. N.S./RKM/1120/030, dated 12 August 2020, promulgating the Law on Management, Use and Disposal of State Properties;
- Having seen Sub-decree No. 118/ANKr./BK, dated 07 October 2005 on State Land Management;
- Having seen the Sub-Decree No. 216 ANKr.BK dated December 14, 2009 on the roles, responsibilities and working relationships of provincial councils and boards of governors, municipal councils and boards of governors, and district councils and boards of governors;
- Having seen the Sub-decree No.191 ANKr.BK dated September 14, 2016 on functional assignment of Early Childhood Education, Primary Education and Non-formal Education to Municipality and District Administration;
- Having seen Sub-decree No. 184 ANKr.BK on Functions and Structure of District Administration;
- Having seen Letter No. 226/20 VSS, dated October 09, 2020 of the Civil Society Alliance Forum;
- Having seen Letter No. 246/20 VSS, dated October 12, 2020 of the Civil Society Alliance Forum;
- Having seen Letter No. 445/20 Sor Chor Nor, dated November 11, 2020 on the request to support and facilitate to provide location for implementing Techo-100 village project in Preah Vihear province of Preah Vihear Administration;
- Having seen an Authorization Letter, dated..... or Letter of Delegation of Full Power No..... Dated..... of the Royal Government of Cambodia to the district state-land trustee of Preah Vihear Province or Preah Vihear Province Administration to sign the usufruct agreement;

This Usufruct Agreement is made in Preah Vihear province, on [enter date].

BETWEEN

State Land Trustee Authority of Choam Khsant District Council, Preah Vihear Province, represented by Mr./Ms., Nationality: Khmer, Citizenship: Khmer, Position:....., Address: House No....., Street....., Samdech Decho Eco-Village, Sre Em Commune, Choam Khsant District, Preah Vihear Province, hereinafter referred to as Party A.

AND

Boeng O Svay Eco Tourism Community, which is a community tourism organization, established and recognized by the legal authorities of the Kingdom of Cambodia and represented by Mr./Ms., Date of Birth:, Nationality: Khmer, Citizenship: Khmer, Position....., Office Address: House No....., Street....., Samdech Decho Eco-Village, Sre

Em Commune, Choam Khsant District, Preah Vihear Province, hereinafter referred to as Party B, (the “Agreement”).

“Party A” and “Party B” are referred to individually as “Party” and collectively as “the Parties”.

DEFINITIONS

- “Competent Ministry or Institution” means the relevant ministry or institution having the authority to issue permits, authorizations or licenses in relation to the Immovable Property.
- “Community Based Tourism Organization By-laws” means the by-laws of Party B, as attached in Annex 3 of this Agreement.
- “Development Plan” means the rolling 5-year development plan developed by Party B following the adoption of the Community Based Tourism Organization By-laws.
- “Immovable Property” means the land situated in the Project area, and as described in Article 1 of this Agreement.
- “Laws and Regulations” means laws and regulations of the Royal Government of Cambodia, which have been enacted and remain in effect.
- “Project” means the Community-Based Tourism COVID-19 Recovery Project, which will support tourism development to improve the household income for two project villages and surrounding areas in Cambodia, to construct tourist infrastructure on the Immovable Property in accordance with the site plans, detailed engineering design and other project documents;
- “Serious Breach” means a breach of obligations of this Agreement, which have caused the Parties to be unable to undertake their obligations under this Agreement;
- “State Land Trustee Authority” means a Territorial Authority, who has received the right to possess, manage, and use the Immovable Property, pursuant to the hierarchy of the law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans.
- “Territorial Authority” means all levels of authorities at Kampong Luong Village, Angkor Borei Commune, Angkor Borei District, Takeo Province.
- “Third Party” means a third person other than the Parties to this Agreement.
- “Usufruct” means the right to use and to benefit from the Immoveable Property, which is the subject matter of this Agreement, and includes the right to repair, improve, plant, build constructions, and to enjoy the natural benefits of, and the legal benefits arising from, the Immovable Property, including but not limited to, leasing the Immovable Property.

PREAMBLE

WHEREAS:

- Asian Development Bank (“ADB”) will administer a grant provided by the Japan Fund for Prosperous and Resilient Asia and the Pacific to the Government of Cambodia in an amount of \$3,000,000 (three million US dollars) to implement the Project.
- Party B will operate and maintain the Immovable Property for the duration of the Agreement, during and after Project implementation.
- Party A, in its capacity as State Land Trustee Authority, has been entrusted by the Royal Government of Cambodia to possess the Immovable Property, which is vacant land, for which the relevant authorities have provided the land use agreement to be used for the public benefit for the local community people.
- Party A realizes that the keeping of the Immovable Property in such a vacant state does not contribute to the improvement of the livelihood of the local community people.

- Party A intends to grant a Usufruct over the Immovable Property in favour of Party B to allow the local community, through Party B, to use and to enjoy the benefit of, the Immoveable Property for the purposes of the Project.
- Party B is the legal representative of the Boeng O Svay Eco Tourism Community, which has been established and recognized by the laws of the Kingdom of Cambodia.
- Party B has the expertise and experience to establish and maintain eco-tourism activities and infrastructure on the Immovable Property with the support of relevant stakeholders including financial, technical and managerial support.

The Parties have approved and agreed to abide by the following provisions:

ARTICLE 1: IDENTITY OF THE IMMOVEABLE PROPERTY

The identity of the Immoveable Property is as follows:

1. A piece of land which is 14,000 (Fourteen Thousand) square meters of the total area of 21,559 (Twenty-One Thousand Five Hundred and Fifty-Nine) square meters, land parcel no. 2688, located at the north-west of O Svay Lake, in Samdech Decho Eco-Village, Sra Em Commune, Choam Khsant District, Preah Vihear Province, with Immoveable Property Ownership Certificate No. 13030807-2688, dated 17 October 2017, issued by the Director of Department of Land Management, Urban Planning, Construction and Cadastre of Preah Vihear Province.

2. Location map of O Svay Lake, which is the public state land, which is managed by Choam Khsant District Administration, located in Samdech Decho Eco-Village, Sra Em Commune, Choam Khsant District, Preah Vihear Province, with map of O Svay Lake No....., dated [enter date], which is certified by Choam Khsant District Governor.

The boundaries of the Immoveable Property are as follows:

- The north side is attached to O Svay Lake
- The south side is attached to provincial land
- The eastern side is attached to Samdech Akka Moha Sena Padei Techo Hun Sen Srah Kdol Primary School.

Photocopies of the Immoveable Property Ownership Certificate and Location Map of O Svay Lake is attached as Annex 1 to this Agreement.

ARTICLE 2: OBJECTIVE OF AGREEMENT

The Parties have a common intention to establish this Agreement, whereby Party A agrees to grant a Usufruct and Party B agrees to accept the Usufruct over the Immoveable Property, so that Party B can legally use and enjoy the benefit of the Immovable Property for the purpose of establishing a community managed eco-tourism area in accordance with the Project and the laws of the Kingdom of Cambodia.

ARTICLE 3: FEE

This Agreement is entered into free of charge and the Usufruct granted under this Agreement is granted free of charge.

ARTICLE 4: DURATION OF AGREEMENT

4.1. This Agreement is valid for a duration 50 (fifty) years, commencing from [Enter Date] and will expire on [Enter Date] (the “Expiry Date”).

4.2. The Parties may renew the term in clause 4.1 based on the agreement of the Parties and pursuant to the terms and conditions stipulated in Article 10 of this Agreement.

ARTICLE 5: RIGHTS AND OBLIGATIONS OF PARTY A

5.1. Party A shall provide the Immoveable Property to Party B to use and to enjoy the benefit of for the purpose described in Article 2, within a period of, at the latest, one month after signing this Agreement.

5.2. Party A shall determine the boundaries and install the boundary posts of the Immoveable Property, to ensure that the boundaries are clearly demarcated so as to avoid confusion, complaints or demands from a Third Party regarding the overlapping of boundaries, ownership, or possession of any section of the Immoveable Property. However, in case of boundary overlap or demand of ownership or possession of the Immoveable Property by a Third Party, Party A shall be responsible for solving the issue, without affecting the implementation of the Development Plan or the infrastructure provided by the Project. Party A shall demarcate the Immoveable Property in the presence of Party B and the Parties should use their best efforts to arrange the demarcation.

5.3. Party A shall not undertake any activities that obstruct or cause obstacles to Party B’s use and enjoyment of the Immoveable Property.

5.4. Party A allows Party B to construct structures and buildings on the immoveable property, in accordance with the Development Plan.

5.5. Party A shall not interfere or intervene in any manner whatsoever in the implementation or management of the Project by Party B.

5.6. Subject to the provisions of Article 10 of this Agreement, if this Agreement terminates at the Expiry Date or prior to the Expiry Date due to Party B’s breach (as the case may be), Party A shall have the right to acquire ownership of the tourism infrastructure on the Immoveable Property without having to pay any fee to Party B.

5.7. Party A acknowledges the validity of this Agreement during its entire term even if the authorized representative of Party B who signed this Agreement has changed to different person.

5.8. Party A shall ensure that, during the term of this Agreement, Party B is not required to make payment of any service fee, premium, income or other expense related to the Project, or Party B’s use of and rights to the Immoveable Property.

5.9 Party A shall support coordination with the relevant Competent Ministry or Institution in order to grant the right of Usufruct to Party B of the Immoveable Property.

5.10. Party A shall be responsible to pay all taxes and other duties relating to the Immoveable Property where required to do so by the laws of the Kingdom of Cambodia.

5.11. In the case where any Competent Ministry or Institution, or any Third Party, lodges or declares an ownership claim over any section of the Immoveable Property, Party A agrees to take the necessary steps on behalf of Party B in dealing with such a claim.

ARTICLE 6: RIGHTS AND OBLIGATIONS OF PARTY B

6.1. Party B shall implement the Project in accordance with the Development Plan and the Community Based Tourism Organization By-laws and shall also abide by the measure of environmental protection, hygiene, keeping and managing liquid and solid wastes in a proper manner and pursuant to the technical standards which is determined by the Competent Authority or relevant Ministries or Institutions.

6.2. Party B shall minimize negative environmental impact on the land, water, space and general situation of the area surrounding the Immoveable Property and meet all approvals and

abide by technical conditions on environmental protection measure in accordance with instruction of competent authorities, ministries or institutions.

6.3. Party B shall manage the solid and liquid wastes in accordance with the environmental management plan and Initial Environmental Examinations (March 2021) as agreed by the ADB and RGC, and waste management regulations which are updated from time to time.

6.4. Party B shall enjoy use and benefit from the Immoveable Property in good-faith and with integrity and shall not use the Immovable Property in any way that will cause destruction to the Immovable Property or create any negative impacts to the local community.

6.5. Party B shall not use the Immovable Property as a place to commit any offences which are prohibited by law, including but not limited to, possession of illegal substances, human or drug trafficking, exploitation of child labour, establishing political party offices, or supporting any form of illegal activity.

6.6. Party B has the right to lease services such as shops, restaurants, and community multi-use centres operated on the Immovable Property to any qualified Third Party for long or short term or on a seasonal basis pursuant to the Community Based Tourism Organization By-laws. The term of each such lease shall not exceed five (5) years and private-community partnership agreements will be permitted. The duration of the lease shall not exceed the remaining duration of this Agreement as stated in Article 4, and the leasing Third Party shall abide by the provisions of this Agreement.

6.7. Party B has the right to receive the rental revenue from any leasing or sub-leasing arrangements referred to in clause 6.6, including but not limited to, any fees generated by other services used by tourists, such as toilet and parking fees, entry fees, transportation fees, homestay fees and fees for tour packages.

6.8. In accordance with the Community Based Tourism Organization By-laws, Party B does not have the right to sell the tourist infrastructure or any structures affixed to the Immovable Property to a Third Party-

6.9. Party B has the right to renovate and build additional structures that support safety, efficiency, amenity and revenue base of the tourist infrastructure, provided that the proposed use does not compromise the design intent of the infrastructure.

6.10. Party B shall acquire all legal permits and renovate and construct new buildings in conformance with Cambodian building and construction codes which are updated from time to time.

6.11. Party B shall request any permits, licences and authorizations related to the operation of the Project on the Immovable Property from the relevant Competent Ministry or Institution, if required by law.

6.12. Party B shall respect the laws and regulations in force of the Kingdom of Cambodia.

6.13. Party B has the right to organize its management structure and implement the Project in accordance with the Community Based Tourism Organization By-laws and Party A has no right to interfere with Party B's implementation of the Development Plan.

6.14. Party B shall be responsible for solving disputes or complaints which are caused by its agents, staff, legal representatives, or subcontractors, resulting from the Project implementation and operation on the Immovable Property, without involving Party A, unless such dispute or complaint is caused by Party A.

6.15. Party B has full legal right to file any complaint to any Competent Ministry or Institution or all levels of courts in case of the breach of any right by Party A, as stated in this Agreement.

6.16. Party B has the right to receive funding from the Royal Government of Cambodia or any national or international non-governmental organization, charity or other source in accordance with the Community Based Tourism Organization By-laws, in order to implement Party B's Development Plan.

6.17. At the expiry date of the Agreement, Party B has the right to remove non-fixed equipment or facilities, except in the case where building or fixtures, chattels and equipment which cannot be removed, or in the case that such removal would damage the original building infrastructure provide by the Project. However, if Party A wishes to purchase the removable equipment, Party A and Party B shall discuss the price based on the actual market value. If Party A does not wish to purchase such equipment, Party B shall have the right to sell such equipment to a third party.

ARTICLE 7: FORCE MAJEURE OR UNCONTROLLABLE EVENTS

7.1. In the event that either Party is unable to fulfill its obligations under this Agreement due to force majeure or uncontrollable event, such obligations which cannot be fulfilled shall be temporarily suspended. The implementation of the obligations will start again when the force majeure or uncontrollable event ends. The ending of the force majeure or uncontrollable event shall be determined by Prakas (declaration) of the Royal Government of Cambodia and its legal representative.

7.2. The force majeure or uncontrollable events include global economic crises, political crisis, war, military intervention, epidemics and natural disasters.

7.3. The Party impacted by such force majeure or uncontrollable event shall, by all possible means, notify the other Party.

7.4. The suspended duration of fulfilling the obligation of this Agreement shall be discussed and agreed upon by the Parties and concluded within 6 months of formal notice of such force majeure or uncontrollable event.

ARTICLE 8: NOTIFICATION OR COMMUNICATION

8.1. All notifications from one Party to another should be made by written letter in the Khmer language and signed by its fully authorized representative.

All notifications shall be valid as long as:

- (a) The receiving party has signed and dated the notice to appropriately acknowledge receipt;
- (b) The notification has been received by or on behalf of the concerned party to deliver to the other party; or
- (c) The notification has been sent to the receiving party to the address specified below or through various means supported by valid evidence.

Address Serving for Notification

- Party A: State Land Trustee Authority of Choam Khsant District Council, Preah Vihear Province, represented by Mr./Ms., Nationality: Khmer, Citizenship: Khmer, Position:....., Address: House No....., Street....., Samdech Techo Eco-Village, Sre Em Commune, Choam Khsant District, Preah Vihear Province; Phone number.....
- Party B: Boeng O Svay Eco Tourism Community, represented by Mr./Ms., Date of Birth:, Nationality: Khmer, Citizenship: Khmer, Position:....., Office Address: House No....., Street....., Samdech Decho Eco-Village, Sre Em Commune, Choam Khsant District, Preah Vihear Province.

8.2. Such notification or communication shall take effect on the day when the other Party has received the notification.

8.3. In the case of changing the address for notifications, the Party changing the address should inform the other Party at least 30 (thirty) days before the change of address is effective.

ARTICLE 9: TERMINATION OF THE AGREEMENT

This Agreement may be terminated for the following reasons:

- 9.1. At the Expiry Date of the Agreement.
- 9.2. By mutual agreement between the Parties.
- 9.3. There is any decision to terminate the Agreement by a Competent Authority or court.

Party A may only terminate the Agreement prior to the Expiry Date in the following circumstances:

9.4. Party B uses the Immoveable Property in violation of any prohibition of the Laws and Regulations.

9.5. Party B uses the Immoveable Property as a place for organizing a political organization for the purpose of toppling down or opposing the Royal Government of Cambodia.

9.6. Party B commits Serious Breach of the Agreement which affects the implementation of Part B's obligations under this Agreement.

9.7. Where Party A terminates the Agreement prior to the Expiry Date, for any reason other than Party B's breach as specified in Article 9.4, 9.5, or 9.6, Party A shall be responsible for compensating the actual damages which Party B has incurred through implementation of the Development Plan, including compensation for tourism infrastructure and other expenses and losses.

9.8. The Party who intends to terminate this Agreement shall notify, in writing and with full justification along with the effective future date of termination to the other Party within 30 (Thirty) days of an event which triggers this Article 9. The notification shall be made twice, with the second notice issued one month (30 days) after issuance of the first notice. Termination shall not be effective until 90 (ninety) days has elapsed to provide either Party with time to arrange its affairs so that financial losses are contained.

ARTICLE 10: CONTINUANCE OF AGREEMENT

10.1. Upon the Expiry Date of this Agreement, if either Party A or Party B intends to renew this Agreement, Party A or Party B, as the case may be, shall notify the other Party within a period of at least 90 days before such Expiry Date.

10.2. In the case where the Parties agree to renew this Agreement, the new agreement shall be made in writing and the terms and conditions of such agreement shall be discussed in an amicable manner and shall be similar to the terms and conditions of this Agreement.

10.3. For the avoidance of doubt, the terms and conditions of such new agreement that require Party B to pay a leasing fee shall not apply.

10.4. In the case where this Agreement terminates at the Expiry Date, Party A shall give the right to Party B to renew the Agreement based on the following conditions:

- (a) Party B has been registered with the Ministry of Tourism's Department of Product Development.
- (b) Party B has properly abided by the Community Based Tourism Organization By-laws.
- (c) Party B has properly managed the tourism facility in accordance with ASEAN CBT tourism standards and the manuals for facility maintenance.
- (d) Party B has maintained Cambodian labour and safety standards.
- (e) Party B has completed and disclosed financial audits within 6 months of the end of the Cambodian financial year.
- (f) Party B has not been convicted of a felony.

ARTICLE 11: AMENDMENT

This Agreement may not be changed or modified unless with written approval by the Parties. In the case where the Parties agree to vary or modify the content of this Agreement, then the Parties shall seek the approval from the Provincial Department of Economy and Finance.

ARTICLE 12: CONFLICT RESOLUTION AND JURISPRUDENCE

In the event that there is a conflict between the Parties, the conflict resolution shall be conducted as follows:

12.1. Negotiation and compromise in an amicable manner for a period of three (3) months; the representative in charge of the negotiations will be the Provincial Department of Economy and Finance.

12.2. In the event that an amicable negotiation and compromise cannot be achieved within the three (3) month period, the Parties may seek resolution through the Cambodian court system.

12.3. The court that has jurisdiction to resolve disputes that may arise from this Agreement is the Court of the Kingdom of Cambodia.

ARTICLE 13: FINAL PROVISIONS

13.1. This Agreement is made in Khmer language in three duplicate copies.

This Agreement is maintained by:

- Party A 1 (one) copy
- Party B 1 (one) copy
- Office of Preah Vihear Province 1 (one) copy

13.2. This Agreement is made in a manner of free-will and without any coercion from any other parties, and the Parties clearly understand the entire contents of the Agreement and agree to affix their signature as legal evidence.

13.3. This Agreement comes into force from the Date of Signing.

PARTY A

PARTY B

.....

.....

No.....

Preah Vihear Province:[Enter Date].....

Seen and Agreed

Governor of the Board of Governors of Preah Vihear Province

ANNEX 1

1. Letter of Authorization, dated..... or Letter of Delegation of Full Power No..... Dated..... of the Royal Government of Cambodia to Choam Khsant district state-land trustee of Preah Vihear province or Preah Vihear province Administration to sign the Usufruct Agreement.
2. Immoveable Property Ownership Certificate No. 13030807-2688, dated 17 October 2017, issued by the Department of Land Management, Urban Planning, Construction and Cadaster of Preah Vihear Province.
3. Location map of O Svay Lake, which the state public land, managed by Choam Khsant District, located in Samdech Decho Eco-village, Sre Em Commune, Choam Khsant District, Preah Vihear province, with the Map of O Svay Lake No....., dated..... which is certified by Choam Khsant District Governor.

ANNEX 2 Site Plan of Decho Tourism Facility

ANNEX 3 Community Based Tourism Organization By-laws of [XXX] dated [XXX]