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**Lao People's Democratic Republic**  
Peace Independence Democracy Unity Prosperity

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Ministry of Natural Resources and Environment

No. 8030/MONRE

Vientiane Capital, dated 17 December 2013

**Ministerial Instruction on the Process of Environmental and Social Impact  
Assessment of the Investment Projects and Activities**

- Reference is made to Article 22 of the Law on Environmental Protection (Amended) No. 29/NA, dated 18 December 2012;
- Reference is made to the Government Decree on the Establishment and Function of the Ministry of Natural Resources and Environment No. 435/PM, dated 28 November 2011.

**The Minister of the Ministry of Natural Resources and Environment issues the following Instructions:**

**Part I**

**Objectives and Principles**

**1.1 Objectives of the Instruction**

This Instruction is implementing and extending the provisions prescribed under Article 22 of the Law on Environmental Protection (Amended) No. 29/NA, dated 18 December 2012. This Instruction aims to ensure the uniformity in the conductance of the Environmental and Social Impact Assessment by every Investment Projects and Activities of a public and private both domestic and foreign enterprise operating in Lao PDR that causes or is likely to cause environmental and social impacts. Those Investment Projects and Activities shall conduct the efficient Environmental and Social Impact Assessment, contribute in the sustainable socio-economic development of the country and shall mitigate as well as enhance the global warming adaptation.

## **1.2 Principles of Environmental and Social Impact Assessment Process**

The Environmental and Social Impact Assessment Process shall be implemented based on the principles as follows::

-- The Project Owner shall be fully responsible for the conductance of the Environmental and Social Impact Assessment Process of the Investment Projects and Activities. The Project Owner shall obtain the Environmental Compliance Certificate approving the Environmental and Social Impact Assessment Report from the Ministry of Natural Resources and Environment prior to conducting construction of such proposed Investment Projects and Activities;

-- The Project Owner shall conduct the Environmental and Social Impact Assessment Process strictly in compliance with every provision of this Ministerial Instruction, including the relevant technical guidelines and other related laws and regulations;

-- The Environmental and Social Impact Assessment Process of the Investment Projects and Activities shall be conducted by the domestic or the foreign Environmental Service Provider which have been established and operating pursuant to Article 44 and Article 45 of the Law on Environmental Protection (Amended);

-- The Project Owner shall ensure the involvement of the Public participation and the consultation with the different levels of local administration, the Project-- Affected Persons and other related stakeholders to rightly and strictly comply with this Instruction, the Technical Guideline on Public Involvement and other related laws and regulations;

-- The Project Owner shall ensure the implementation of the environmental and social management and mitigation measures as defined in the Environmental and Social Management and Monitoring Plan and the Project Owner shall be fully responsible for all the environmental and social impacts caused by its Investment Project and Activities throughout the construction and operation period of such Investment Project;

-- The Project Owner shall conduct additional cumulative impact assessment in case its project and activities are expected to generate cumulative Environmental and Social Impacts to other investment project located in the adjacent areas; provided that such cumulative impact assessment shall be conducted pursuant to the related technical guidelines;

-- The Project Owner shall conduct additional transboundary impact assessment in case its Investment Project and Activities are expected to cause transboundary social and environmental impacts to other neighboring countries; provided that such transboundary impact assessment shall be conducted pursuant to the related regulations and technical guidelines;

-- In case that the Project Owner intends to engage any contractors to perform any part of the Investment Project and Activities, the Project Owner shall incorporate the detailed conditions in relation to the environmental and social management and monitoring measures into the engagement contract to ensure a fully compliant

performance of such contractor. However, in all circumstances, the Project Owner shall remain fully responsible for any action or omission of the contractor, which results in the social and environmental impacts from the Investment Projects and Activities;

-- During the construction or the operation phase of the Investment Projects and Activities, if the Ministry of Natural Resources and Environment perceives that the Environmental and Social Management and Monitoring Plan of such Investment Projects and Activities do not include sufficient measures to mitigate and remedy the social and environmental impacts; and do not match the actual circumstance; or and cannot achieve the anticipated objectives, the Ministry of Natural Resources and Environment will notify the Project Owner in writing of any revisions that they would require and the timeline within which the Project Owner shall revise those plans. Then, the Project Owner shall submit the revised Environmental and Social Management and Monitoring Plan to the Ministry of Natural Resources and Environment for re-approval;

-- The Project Owner who intends to transfer their Investment Projects and Activities (the former Project Owner) to other person (the new Project Owner) shall incorporate the detailed conditions in the ownership transfer contract that the new Project Owner shall continue to complete the performance and implementation of all the environmental and social management and monitoring measures as defined in the approved Environmental and Social Management and Monitoring Plan;

-- 6 months prior to the end of the investment period of the Investment Projects and Activities, the Project Owner shall propose to the Ministry of Natural Resources and Environment to monitor and assess the implementation of the environmental and social mitigation and monitoring measures undertaken by the Project Owner. In case that all the measures are fully and completely implemented and there is no residual environmental or social impact, the Ministry of Natural Resources and Environment will issue the confirmation letter to the Project Owner. On the contrary, in case there is any residual impact remaining, the Ministry of Natural Resources and Environment will advise the Project Owner to continue to mitigate all of those residual impacts. Upon the completion of all residual impacts mitigation, the Project Owner will then be considered being released from the obligation to implement the environmental and social mitigation measures;

-- In case that the Project Owner intends to expand its Investment Projects and Activities, either in the form of the establishment of the new component of the Investment Projects and Activities or the expansion of the area or size of the Investment Projects and Activities, such Project Owner shall be obliged to conduct the Environmental and Social Impact Assessment if such expanded Investment Projects and Activities is categorized at Group 2. The Project Owner shall comply with this Instruction and shall obtain the Environmental Compliance Certificate approving the Environmental and Social Impact Assessment report prior to the commencement of any operation in such expanded components.

## Part II

### Environmental and Social Impact Assessment Process

#### 2.1 Screening of the Investment Projects and Activities

Screening is the first step in the Environmental Impact Assessment process which is the important step to determine whether or not the Investment Projects and Activities as proposed need any Environmental Impact Assessment. The details for the screening process are as follows:

--- The Project Owner shall apply the List of Investment Projects and Activities as the reference for the screening process to determine whether its proposed investment project and activities categorized into group of projects level which are required for conducting the Environmental Impact Assessment ;

--- In case the Investment Projects and Activities are not categorized in any group in the List of Investment Projects and Activities, the Ministry of Natural Resources and Environment shall apply a criteria comparing environmental and social impacts from undertaking related information as specified in the investment application for screening whether those proposed investment projects and activities fall to which level of the Environmental Impact Assessment t or there are not necessary for conducting Environmental Impact Assessment;

--- For Investment Projects and Activities which have been screened as not being required to conduct any Environmental Impact Assessment, the Ministry of Natural Resources and Environment will define certain conditions or any requirement to the Project Owner to implement the environmental and social management and monitoring plan .

#### 2.2 List of Investment Projects and Activities

List of Investment Projects and Activities divides the Investment Projects and activities into 2 groups as follows:

- Group 1: Investment Projects and Activities that are anticipated to cause the insignificant or minimal environmental and social impacts; which should conduct an Initial Environmental Examination Process;
- Group 2: Investment Projects and Activities that are anticipated to cause the significant or major environmental and social impacts; which should conduct an Environmental and Social Impact Assessment Process.

List of Investment Projects and Activities categorizing these groups of Investment Projects and Activities shall be prescribed separately in the Decision of the Ministry of Natural Resources and Environment.

### **2.3 Determining the Scope of Study and Terms of Reference**

After the screening, if perceiving that Investment Projects and Activities that are categorized as Group 2, the Project Owner shall conduct the Environmental and Social Impact Assessment Process. Before conducting impact assessment. The Project Owner shall prepare the scope of study and terms of reference as report in the designated format and in pursuant to the relevant technical guideline with the full assurance of the appropriate Public Involvement and shall submit the report to the Ministry of Natural Resources and Environment for their review and approval prior to the conductance of the Environmental and Social Impact Assessment Process.

During the preparation of the Scope of Study and Terms of Reference for the conductance of the Environmental and Social Impact Assessment, the Project Owner shall pay attentions for implementation as follows:

--- For the determining the scope of study, , the Project Owner shall clearly define the scope of the environmental and social impact that are assessed to incur from the Investment Projects and Activities and shall incorporate the material information collected that would constitute basis for the Environmental and Social Impact Assessment Process;

--- For the determining the terms of reference, the Project Owner shall clearly and comprehensively define the scope of works to be undertaken to achieve the result for each aspects of the scoping for the Environmental and Social Impact Assessment Process.

### **2.4 Review of the Scoping Report and the Terms of Reference**

The Ministry of Natural Resources and Environment shall review the Scoping Report and the Terms of Reference within 15 business days and respond to the Project Owner in writing in one of the following manner:

--- approving the Scoping Report and the Terms of Reference and allowing the Project Owner to start conducting the Environmental and Social Impact Assessment pursuant to the approved Scoping Report and Terms of Reference;

--- commenting on such Scoping Report and Terms of Reference and sending the same to the Project Owner for their revision and re--submission to the Ministry's consideration later.

### **2.5 Environmental and Social Impact Assessment Report (ESIA Report)**

In the preparation of the ESIA Report, the Project Owner shall strictly comply with the following conditions:

--- The Project Owner shall prepare the ESIA Report in strict compliance with the process and conditions specified in this Instruction, the relevant technical guidelines and the relevant laws and regulations;

--- The Project Owner shall ensure that the Environmental and Social Management and Monitoring Plan are attached as one component in the ESIA Report; provided that such Environmental and Social Management and Monitoring Plan shall be prepared in compliance with the conditions specified in Part II Clause 2.9 of this Instruction and the relevant technical guideline; and

--- The Project Owner shall prepare the ESIA Report in Lao language otherwise it will not be considered for the issuance of the Environmental Compliance Certificate.

## **2.6 Review of the Environmental and Social Impact Assessment Report**

The review of the ESIA Report shall be undertaken in the following sequences:

--- The Project Owner shall submit 1 set of an application including the final version of the ESIA Report that integrates the Environmental and Social Management and Monitoring Plan amended pursuant to the comments gathered from the district/provincial consultation meetings to Ministry of Natural Resources and Environment. This application should attach with the minutes from every consultation meeting signed by minutes taker, by the representatives of the Project Owner and the Ministry of Natural Resources and Environment;

--- Within 10 business days, the Ministry of Natural Resources and Environment shall review the ESIA Report to ensure that the Environmental and Social Impact Assessment is correct and comprehensive and shall notify the Project Owner in writing of the result from the examination in one of the following manner:

- a. in case the ESIA Report submitted is accurate and comprehensive, requesting the Project Owner to submit 15 or more ESIA Reports both in paper and electronic copies to the Ministry of Natural Resources and Environment for review; or
- b. in case the ESIA Report submitted is inaccurate and incomprehensive, requesting the Project Owner to revise the ESIA Report before submitting the revised ESIA Report to the Ministry of Natural Resources and Environment for its consideration again.

--- The review of the ESIA Report shall be completed within 95 business days from the date that the Project Owner submits every documents required above to the Ministry of Natural Resources and Environment; provided that such timeline will not include the period of time that the Project Owner takes to revise the ESIA Reports again. The review shall be undertaken based on the following steps:

- a. Within 5 business days, the Ministry of Natural Resources and Environment shall distribute the ESIA Report to the relevant lined agencies at the central level, the Provincial/Capital Department of Natural Resources and Environment and other relevant Stakeholders as necessary for their comments;

- b. Within 50 business days after the last date that the ESIA Report is submitted to the relevant parties as specified in a. above, the relevant lined agencies at the central level, the Provincial/Capital Department of Natural Resources and Environment and other relevant Stakeholders shall complete their review of the ESIA Report and submit their comments to the Ministry of Natural Resources and Environment. If no comment is made and submitted by any line agencies to Ministry of Natural Resources and Environment within such specified period of time, it is regarded that the above ESIA Report is agreed by those line agencies;
- c. The Ministry of Natural Resources and Environment, in coordination with the Project Owner, shall hold the technical and consultation meetings at the provincial/central level in due time during the review period. During such technical and consultation meetings, the Project Owner will explain about the ESIA Report to the representatives from the relevant departments at the central level, the Provincial/Capital Department of Natural Resources and Environment, the District/City Natural Resources and Environmental Office and the Project---Affected Person including the relevant Stakeholders who are necessary to attend and can take additional site inspection if necessary;
- d. The Ministry of Natural Resources and Environment shall compile all the written comments, comments from the technical meeting and consultation meetings with the comments that the Ministry itself has and sends all those comments to the Project Owner for their reference in the revision of the ESIA Report into the final version. Then, the Project Owner shall submit the final version of the ESIA Report to the Ministry of Natural Resources and Environment for re---consideration;
- e. Within 40 business days after the receipt of the final ESIA Report from the Project Owner, the Ministry of Natural Resources and Environment shall give a written response back to the Project Owner in one of the following manners:
  - + issuing the Environmental Compliance Certificate to approve the ESIA Report and its Environmental and Social Management and Monitoring Plan; or
  - + providing comments to the Project Owner to revise the ESIA Report before re---submitting the revised ESIA Report to the Ministry of Natural Resources and Environment again; or
  - + rejecting the ESIA Report in case the Ministry of Natural Resources and Environment considers that the result from the study and review in the ESIA Report shows that substantial, unavoidable and unremedied social and environmental impacts will be caused from the Investment Projects and Activities; or such Investment Projects and Activities are not in consistent with the National Environmental Policy or Strategic Plan of the Natural Resources and Environment Agencies;

## **2.7 Review of the Environmental and Social Impact Assessment in case of the Complicated Investment Projects and Activities**

For the Investment Projects and Activities which scoping report and term of reference have been reviewed pursuant to Part II Clause 2.4 of this Instruction and were considered by the Ministry of Natural Resources and Environment as Complicated Investment Projects and Activities, the review of the ESIA Report for such Complicated Investment Projects and Activities shall be undertaken pursuant to the procedures specified in Part II Clause 2.6 of this Instruction; provided that certain procedures will be differentiated as follows:

--- Within 20 business days after receiving the complete set of documents from the Project Owner, the Ministry of Natural Resources and Environment shall appoint the technical expert committee to review the ESIA Report. Such technical expert committee may consist of the domestic and foreign experts and consultants who selected by the Ministry; provided that such technical expert committee shall not have any direct or indirect involvement with these Investment Projects and Activities;

--- Within 35 business days after receiving the complete set of documents from the Ministry of Natural Resources and Environment, the technical expert committee shall complete its review process of such ESIA Report and shall submit its comments to the Ministry of Natural Resources and Environment; provided that the technical expert committee shall keep all the information received in strict confidential;

--- In overall, the Ministry of Natural Resources and Environment shall complete the review process of the ESIA Report which includes the Environmental and Social Management and Monitoring Plan for the Complicated Investment Projects and Activities within 120 business days; provided that such timeline will not include the period of time that the Project Owner takes to revise the ESIA Report pursuant to the comments gathered during the review process;

--- The timing for the review of the ESIA Report shall be the same timing specified for the review process of the ESIA Report in Part II Clause 2.6 of this Instruction, yet the Ministry of Natural Resources and Environment shall have 65 business days to complete the review of the final ESIA Report for the Complicated Investment Projects and Activities.

## **2.8 Review of the ESIA Report for the Investment Projects and Activities involving in the Compensation and Resettlement**

For the Investment Projects and Activities which have been determined pursuant to the review process of the Scoping Report and Terms of Reference under Part II Clause 2.4 of this Instruction to be the Investment Projects and Activities that involves the Compensation and Resettlement under the provisions of the Decree on Compensation and Resettlement from the Development Project No. 192/PM, dated 7/7/2005 or other substitute legislature, the Project Owner shall prepare the ESIA Report by dividing the report into 2 separate reports such as Social Impact Assessment Report and the Environmental Impact Assessment Report.



For the preparation and review of the Environmental Impact Assessment Report including the Environmental Management and Monitoring Plan, the Project Owner shall comply with the steps for the preparation and review of the ESIA Report as specified in this Instruction.

For the preparation and review of the Social Impact Assessment Report including the Social Management and Monitoring Plan, the Project Owner shall comply with the steps and conditions prescribed under the Decree on Compensation and Resettlement from the Development Project No. 192/PM, dated 7/7/2005 or other substitute legislature.

## **2.9 Environmental and Social Management and Monitoring Plan (ESMMP)**

In the preparation of the ESMMP, the Project Owner shall comply with the following conditions:

--- The Project Owner shall prepare the ESMMP to incorporate into the package of the ESIA Report but putting in a separate report strictly in compliance with the procedure specified in Part II, Article 2.9 of this Instruction and the relevant technical guidelines;

--- The Project Owner shall prepare the ESMMP in Lao language to be accepted for review and consideration for the issuance of the Environmental Compliance Certificate;

--- 6 months prior to the commencement of the operation period of the Investment Projects and Activities, the Project Owner shall evaluate its results of implementation of the ESMMP during the construction period. Subsequently, the Project Owner shall revise such ESMMP in strictly compliance with the circumstance of the operation period and submit the revised ESMMP for the Operation Period to the Ministry of Natural Resources and Environment for its approval before any implementation of such ESMMP;

--- In case that any Investment Projects and Activities are the Investment Projects and Activities that cause a major social and environmental impacts and are the complicated Investment Projects and Activities, the Project Owner shall prepare the Environmental and Social Management and Monitoring Plan separately for the Construction Period and the Operation Period and submit those two separate plans for the Ministry of Natural Resources and Environment's review and approval, before the Project Owner can start its construction and operation.

## **2.10 Environmental Compliance Certificate**

Environmental Compliance Certificate is the certificate approving the ESIA Report and ESMMP of the Investment Projects and Activities that the Ministry of Natural Resources and Environment shall issue.

The validity and the conditions attached to such Environmental Compliance Certificate should be undertaken as follows:

--- The Environmental Compliance Certificate shall become effective from the issuance date of such certificate. However, if the Project Owner fails to commence any activities as specified in the project development plan and the Ministry of Natural Resources and Environment evaluates that the Investment Projects and Activities do not have any progress within 2 years after obtaining the Environmental Compliance Certificate, such certificate shall become void.

In case the certificate holder whose certificate is void intends to continue with its Investment Projects and Activities, such certificate holder shall apply for a new Environmental Compliance Certificate with Ministry of Natural Resources and Environment by improving all documents related to the previous endorsed Environmental and Social Impact Assessment, especially the baseline data shall reflect the actual circumstance in order to consider and issue Environmental Compliance Certificate again to the Project Owner, but application can be renewed only once

--- The Environmental Compliance Certificate approving the ESIA Report shall be valid throughout the investment period of the Investment Projects and Activities; provided, however, such Environmental Compliance Certificate shall be terminated in case the Environmental Compliance Certificate approving the ESMMP is terminated or is not renewed;

--- The Environmental Compliance Certificate approving the ESMMP shall be valid for the period of 2 to 5 years, depending on the determination of the Ministry of Natural Resources and Environment based on the impact severity of each type of the Investment Projects and Activities. Such Environmental Compliance Certificate can be renewed periodically throughout the investment period of the Investment Projects and Activities,

--- The Project Owner shall review and revise the ESMMP to reflect the actual circumstance of each period in the Investment Projects and Activities and submit the revised ESMMP to the Ministry of Natural Resources and Environment for the approval and the renewal of the Environmental Compliance Certificate. The Ministry of Natural Resources and Environment shall complete reviewing the renewal application of the Environmental Compliance Certificate within 30 business days, excluding the time that the Project Developer would spend to revise the document;

--- The Environmental Compliance Certificate shall contain certain conditions that the Project Owner shall strictly comply with;

--- In case that it is found that the Project Owner fails to comply with any conditions set out in the Environmental Compliance Certificate resulting in causing substantial social and environmental impacts, the Ministry of Natural Resources and Environment, in the agreement from the high-ranking authorities, shall be entitled to revoke or suspend the validity of the Environmental Compliance Certificate any time during the investment period of the Investment Projects and Activities. Also, the Ministry of Natural Resources and Environment shall be entitled to propose to the investment competent authority to consider revoking the Concession Registration

Certificate or the Enterprise Registration Certificate of such Investment Projects and Activities in case the substantial and dangerous social and environmental impacts are caused by the Investment Projects and Activities;

-- The process for the revocation or suspension of the validity of the Environmental Compliance Certificate shall be undertaken as follows:

- + The Ministry of Natural Resources and Environment which issued the Environmental Compliance Certificate shall send official notification letter to warn the Project Owner to resolve and improve any non-compliance found within 90 days from the issuance date of such warning including drafting the minutes with the Project Owner;
- + In case the Project Owner does not resolve and improve such non-compliance within the specified period of time above, the Ministry of Natural Resources and Environment shall issue the second notice to the Project Owner to resolve and improve the non-compliance within 60 days from the issuance date of such second warning including drafting the minutes with the Project Owner;
- + Thereafter, if actions have been taken by the Project Owner within the specified period of time above, the Ministry of Natural Resources and Environment shall issue the notice to revoke and suspend the validity of the Environmental Compliance Certificate of such Investment Projects and Activities. Also, the Ministry of Natural Resources and Environment, in coordination and agreement with the relevant investment competent authority, shall be entitled to stop the activities that cause the substantial social and environmental impacts.

### **2.11 Issuance of the Environmental Compliance Certificate for the Existing Investment Projects and Activities**

The Project Investments and Activities that are currently existing and operating but did not receive the Environmental Compliance Certificate prior to the effectiveness of this Instruction shall comply with the following conditions:

-- The Provincial/Capital Department of Natural Resources and Environment shall collect all the list of Investment Projects and Activities that are currently operating and categorized as Group 1 or Group 2 within their territory and submit such list to the Ministry of Natural Resources and Environment within 90 business days after the effectiveness of this Instruction;

-- The Ministry of Natural Resources and Environment shall consider and give any of the following directions:

- + For the Investment Projects and Activities that do not cause any social and environmental impacts, the Ministry of Natural Resources and Environment shall notify the Project Owner to continue their business operation and give certain instructions in relation to the

environmental and social management that the Project Owner shall comply with. Also, the Ministry of Natural Resources and Environment shall submit a copy of such notice to the investment competent authorities and the Provincial/Capital Department of Natural Resources and Environment for their information;

- + For the Investment Projects and Activities that cause any social and environmental impacts, the Ministry of Natural Resources and Environment shall instruct the Project Owner to prepare and complete the Environmental and Social Management and Monitoring Plan within 120 business days. If the Project Owner cannot complete such ESMP within the specified period of time, the Project Owner shall be subject to the sanctions as specified in Article 92, 93, 94, 95, 96 and 97 of the Law on Environmental Protection (Amended) No.29/NA, dated 18 December 2012 as appropriate;
- + The Ministry of Natural Resources and Environment, in coordination with the relevant agencies from the central and local levels, shall review the Environmental and Social Management and Monitoring Plan that the Project Owner prepared in due time. Then, the result from such review shall be notified in writing to the Project Owner and a copy of such notification shall be submitted to the relevant investment competent and the relevant Provincial /Capital Department of Natural Resources and Environment for their information.

## **2.12 Duties and Responsibilities of the Project Owner in the Environmental and Social Impact Assessment Process**

In the Environmental and Social Impact Assessment Process, the Project Owner shall have the following duties and responsibilities:

-- to conduct study on overall physical, biological and socio-economic aspects, and to estimate the potential social and environmental impacts which may arise from the Investment Projects and Activities, by referring to the data and information gained from the concerned sectors, local administrations and other sources, including data and information collected in the field survey and from consultations with the Project-Affected Persons and other Stakeholders, both at the central and local levels;

--- to coordinate with the Ministry of Natural Resources and Environment who is responsible for the review of the ESIA Report in undertaking the Public Involvement in strictly in compliance with Part II, Article 2.14 and 2.15 of this Instruction and the relevant Public Involvement guideline and to ensure that there is no threat, coercion, force, violence, bribery or deception involved;

--- to coordinate with the Ministry of Natural Resources and Environment who is responsible for the review of the ESIA Report in arranging the dissemination meeting at the local and central level as the Ministry of Natural Resources and Environment has

instructed to the Project Owner to arrange in order to explain the development plan of the Investment Projects and Activities, the potential benefit, social and environmental impacts that such Investment Projects and Activities may cause and in order to summarize and record all the comments from the Project---Affected Person gained from the consultation meetings into the ESIA Report;

--- to prepare the ESIA Report which includes the ESMMP that defines all the protective and mitigation measures on social and environmental impacts;

--- to arrange the consultation meetings at the village/district, district/provincial, provincial/central levels and the technical meeting as necessary, in coordination with the Ministry Natural Resources and Environment who is responsible for the review of the scoping report, term of reference, and the ESIA Report of its Investment Projects and Activities to present the ESIA Report to representatives of all relevant parties from the central and local levels such as the Natural Resources and Environment sector at the central and local levels, local administration, the Project--- Affected Person including other involved people as necessary. ;

--- to revise and submit the scoping report, term of reference and final version of ESIA Report to the Ministry of Natural Resources of Environment who is responsible for the review of the scoping report and term of reference and ESIA Report of its Investment Projects and Activities for review and approval prior to commencing any implementation of the Investment Projects and Activities;

--- to strictly implement the environmental and social management and monitoring measures as specified under the ESMMP throughout the investment period of the Investment Projects and Activities;

--- to revise the ESMMP periodically, in particular, during the time that the Project Owner prepares for the renewal of the Environmental Compliance Certificate approving the ESMMP from the Ministry of Natural Resources and Environment.

### **2.13 Duties and Responsibilities of the State Line Agencies in relation to the Environmental and Social Impact Assessment Process**

The State Line Agencies that have the mandate relating to the Environmental and Social Impact Assessment Process include the Natural Resources and Environment Agencies and other lined agencies have the following duties and responsibilities:

a. Ministry of Natural Resources and Environment shall have the following duties and responsibilities:

--- to create the legislatures, technical guidelines including various handbooks in relation to the Environmental and Social Impact Assessment Process which will be used nationwide;

--- to provide technical guidance in relation to the preparation and review of the Environmental and Social Impact Assessment to the Project Owner;

-- to create and update the list of Investment Projects and Activities that shall conduct the environmental impact assessment, criteria to assess and evaluate the social and environmental impacts for the screening process and the format of the Scoping Report and Terms of Reference for the preparation of the ESIA Report;

--to conclude and report the nationwide status of the Environmental and Social Impact Assessment to the Government from time to time;

--to be the central coordinator with the relevant parties at the central and local levels to cooperate and facilitate the Project Owner in the survey and data collection within its project area for the preparation of the ESIA Report and in the Public Involvement with the Project--Affected Persons and other Stakeholders to disseminate the information on the objectives, benefits and potential social and environmental impacts that may arise from the Investment Projects and Activities;

-- to take lead for the review, consideration and the approval of the Scoping Report and the Terms of Reference for the work of EISA report;

--to take lead for the review and the issuance of the Environmental Compliance Certificate approving the ESIA Report and the ESMMP;

-- to take lead or the arrangement of the consultation meeting, the dissemination meetings at each level and the technical meeting, in coordination with the Project Owner and other local authorities, including the local Natural Resources and Environmental authorities to approve the Scoping Reports, the Terms of Reference, the ESIA Report and the ESMMP and to participate in the field inspection as necessary;

-to receive the complaints from the Project--Affect Persons and the Stakeholders in relation to the process of preparation and review of the ESIA Report including the environmental and social management and monitoring plan and including resolving the disputes which falls under its responsibility.

b. Provincial/Capital Natural Resources and Environment shall have the following duties and responsibilities:

-- to be the central coordination with the relevant parties and to cooperate and facilitate the Project Owner in the survey and data collection within its province/Capital for the preparation of the ESIA Report and in conducting the Public Involvement with the Project--Affected Persons and other Stakeholders;

-- to provide cooperate with the Project Owner in the dissemination of information and explaining to the Project--Affected Persons understanding the objectives, benefits and potential social and environmental impacts that may arise from the Investment Projects and Activities;

- to propose to the superior to establish the technical committee or the ad-hoc committee at the provincial/Capital level as necessary, such as the environmental monitoring unit, the public involvement unit, monitoring unit and other units;

-to provide comments, to be the co-host with the Ministry of Natural Resources and Environment in the arrangement of the consultation meeting at the

district/provincial level in coordination with the Project Owner, the local administrations and the District Office/City of Natural Resources and Environment and the Village Unit of Natural Resources and Environment to present the ESIA Report including to participate in the field inspection;

- to receive the complaints from the Project---Affected Persons and the other Stakeholders in relation to the Environmental and Social Impact Assessment Process including resolving the disputes which fall under its responsibility;

-- to provide a summary and report on the status of the Environmental and Social Impact Assessment Process to the Provincial/Capital Natural Resources and Environment from time to time.

c. District Office/City of the Natural Resources and Environment shall have the following duties and responsibilities:

--- to be the central coordination with the relevant parties and to cooperate and facilitate the Project Owner in the survey and data collection within its district/city for conducting the Social and Environmental Impact Assessment Process and conducting the consultation process with the Project---Affected Persons and the Stakeholders;

-- to cooperate with the Project Owner in the dissemination of information to the Project---Affected Persons and the Stakeholders on the objectives, benefits and the social and environmental impacts that may arise from the Investment Projects and Activities;

--- to participate in the field inspection; to give comments on ESIA report and to be the co---host with the Natural Resources and Environment at central level in arranging the consultation meetings in coordination with the Project Owner, the local administrations at the district/city and village levels to present the first and revised versions of ESIA Report. ;

- to propose to the superior to establish the technical committee or ad---hoc committee at the district/City level as necessary, such as the environmental monitoring units, the public involvement unit and monitoring units, others;

- to receive the complaints from the Project---Affect Persons and the other Stakeholders in relation to the Environmental and Social Impact Assessment Process including resolving the disputes which falls under its responsibility;

--- to provide a summary and report on the status of activities related to the Environmental and Social Impact Assessment Process to the leaders of district /City and the Provincial/Capital Department of Natural Resources and Environment for information from time to time.

d. Village Unit of the Natural Resources and Environment shall have the following duties and responsibilities:

--- to be the central coordination with the relevant parties including to cooperate and facilitate the Project Owner in the survey and data collection within its

village for the preparation of the ESIA Report and conducting the Public Involvement Process with the Project--Affected Persons and the Stakeholders;

-- to cooperate with the Project Owner in the information dissemination and explaining to the Project--Affected Persons for understanding the objectives, benefits and the social and environmental impacts that may arise from the Investment Projects and Activities;

-- to participate in the field inspection; to review; to comment the ESIA Report; and to participate in the consultation meeting at each level;

-- to propose to the superior to establish the technical committee or the ad-hoc committee at the village level as necessary;

--to receive the complaints from the Project--Affected Persons and the Stakeholders in relation to Environmental and Social Impact Assessment Process including resolving the disputes which fall under the its responsibility;

-- to provide a summary and report on the status of the Environmental and Social Impact Assessment Process to the head of the village and the District/City Office of the Natural Resources and Environment for information from time to time.

e. Other lined agencies at the central and local levels shall have the following duties and responsibilities:

-- to participate in the field inspection; to review to give comments on the ESIA Report and its ESMMP; and to participate in the technical meeting and the consultation meeting at each level;

-- to appoint staff to the technical unit or ad-hoc committees as proposed;

-- to participate in the grievance redress committee to resolve the disputes relating to the Environmental and Social Impact Assessment Process according to their mandates.

#### **2.14 Public Involvement of the Project-Affected Persons and Other Stakeholders**

The Project--Affected Persons and other Stakeholders associated with drafting and review of ESIA report shall have the following participation:

-- to receive information on the development plan of the Investment Projects and Activities, the benefit to be received, the social and environmental impacts that may arise from the Investment Projects and Activities;

-- to cooperate and provide information on local social environmental and natural environment status in the area within the Investment Projects and Activities and in the nearby locations to be used in the preparation of the ESIA Report ;

-- to receive information in relation to the ESIA Report as well as the progress report on the implementation of the environmental and social management and monitoring measures;



-- to participate in the field inspection and to be the main party participating in the consultation meetings at all levels to give comment on the preparation and review of the ESIA Report;

-- to officially propose to the local administration at each level to resolve the social and environmental impacts caused by the Investment Projects and Activities;

-- to participate in the monitoring activities which will be conducted to ensure the implementation of the environmental and social management and monitoring measures and to report to the Natural Resources and Environmental Agencies at the local levels in case of they found any social and environmental impacts caused.

## **2.15 Public Involvement Process**

The Ministry of the Natural Resources and Environment, local administrations, Investment organizations and the Project Owner have joint duty and responsibility in conducting the process of public involvement with the Project Affected People and other stakeholders to be undertaken pursuant to the following steps of the Environmental and Social Impact Assessment Process:

-- During the process of data collection for the preparation of the ESIA Report, the dissemination meeting shall be held for the Project--Affected Persons and the Stakeholders in various forms both in Lao language and local language to explain the development plan and social and environmental impact including hearing to the feedback of the Project--Affected Persons and other Stakeholders;

-- During the process of the preparation and review of the ESIA Report, the consultation meetings shall be held at the village/district and district/provincial, and provincial/central levels in consistent with the review process of the ESIA Report in order to give an opportunity for the Project--Affected Persons and the Stakeholders have contributed comments to the first up to the final versions of ESIA report.;

-- During the start of operation of the Investment Projects and Activities, the Project Owner shall inform the Project--Affected Persons and other Stakeholders of the activities conducted in the Investment Projects and Activities which are likely to cause the social and environmental impacts and shall allow the Project--Affected Persons and other Stakeholders to access to information about the Investment Projects and Activities;

-- During the preparation for the closure of the Investment Projects and Activities, the Project Owner shall inform the Project--Affected Persons and other Stakeholders of the implementation of the closure and rehabilitation plan of their Investment Projects and Activities and shall entitle the Project--Affected Persons and other Stakeholders to provide comments and assess the completion or any remaining issues relating to the implementation by the Project Owner of the environmental and social management and monitoring plan throughout the investment period of the Investment Projects and Activities. Such comments from the Project--Affected Persons and other Stakeholders are one of the conditions before the Ministry of Natural

Resources and Environment will issue the letter to confirm the end of the Investment Projects and Activities.

## **2.12 Funding Obligations of the Project Owner**

The Project Owner shall be obliged to provide sufficient funding for all of these budget items:

-- all the costs associated with the Environmental and Social Impact Assessment as conducted by the Project Owner, Environmental Service Provider and other Governmental authorities such as: the cost for field inspection, dissemination meeting, consultation meeting at the village/district, district/provincial, provincial/capital levels, technical meeting and other activities undertaken in relation to the Public Involvement;

-- the costs for engaging the technical committee both domestic and foreign consultants to assist the Ministry of Natural Resources and Environment for the review of the ESIA Report for the Complicated Investment Projects and Activities;

-- all certificate fees and service charges payable for the issuance of the Environmental Compliance Certificate; provided that the Project Owner is only required to pay a certificate fee once upon the obtainment of such Environmental Compliance Certificate while the Project Owner is required to pay a service charge for every renewal of the Environmental Compliance Certificate approving the ESMMP;

-- the costs incurred for the implementation of the environmental and social management measures as specified under the ESMMP and under the conditions of the Environmental Compliance Certificate either the measures to be performed and undertaken by the Project Owner or by the Governmental organizations; and

-- the costs incurred for the monitoring activities of the implementation of the environmental and social management and monitoring plans as proposed under the ESMMP and the implementation of any conditions to the Environmental Compliance Certificate either to be conducted by the Project Owner and the monitoring of the Governmental organizations pursuant to the provision of Part II Clause 2.22 and 2.23 of this Instruction, including the cost for capacity building and equipment, necessary vehicles for the monitoring purpose to be provided to the Governmental organizations at the central and local levels.

## **2.17 Management of the Fees and Service Charges**

The Ministry of Natural Resources and Environment that issues and approves the renewal of the Environmental Compliance Certificate shall have the duty to collect the fees and service charges from the Project Owner at the rate as prescribed under the Presidential Edict on Fees and Service Charges.

All the fees and service charges shall be put into the State Treasury. In case the Ministry of Natural Resources and Environment needs to use the technical service fees

collected, the Ministry will prepare the budget utilization plan and submit to the its superior for approval as appropriate.

## **2.18 Information Provision**

-- The Project Owner shall keep, create, update and submit every information relating to the Environmental and Social Impact Assessment of their Investment Projects and Activities in both paper and electronic copies to the Ministry of Natural Resources and Environment responsible for the review of the ESIA Report and its ESMMP;

-- The Project Owner shall be fully responsible for the accuracy, clarity, comprehensiveness and reliability of all the information that he creates relating to the Environmental and Social Impact Assessment of its Investment Projects and Activities.

## **2.19 Reporting Obligations**

Throughout the investment period of the Investment Projects and Activities, the Project Owner shall prepare and submit report as follows:

-- The Project Owner shall prepare and submit the report periodically: on a monthly basis, quarterly basis and annual basis as specified as the conditions to the Environmental Compliance Certificate issued for each Investment Projects and Activities. Those reports shall include the following information:

- + the progress, breach, or mistakes including the results of self-- monitoring of the implementation of the environmental and social management and monitoring measures as specified under the ESMMP including the conditions defined in the Environmental Compliance Certificate and other contractual commitments;
- + the difficulty confronted by the Project Owner during the implementation period of the environmental and social management and monitoring measures; and
- + other necessary information.

-- For the report prepared in relation to the ESIA Report, the Project Owner shall submit those reports in 3 sets or more as requested to the Ministry of Natural Resources and Environment.

-- In case of any accidents, emergency incidents or any breach committed by the Project Owner resulting in the severe social and environmental impacts, the Project Owner shall prepare and submit the incident report to the Ministry of Natural Resources and Environment, and Natural Resources and Environment Agency at local level for information within 24 hours after the Project Owner becoming aware of such incidents.

## **2.20 Information Disclosure to Public**

-- The Project Owner shall publicly disclose the information relating to the Project Owner; the social and environmental impacts; obligation and mitigation measures of environmental and social impact, ESIA report including other reports that the Project Owner has prepared and submitted to the Governmental Organizations; the monitoring result of measures implementation; budget provided by the Project owner for the Environmental and Social Impact Assessment and the implementation of all the environmental and social management and monitoring measures as specified under the ESMMP; any breach of any obligation or measures committed by the Project Owner; and other information requested to be disclosed by the Governmental Organizations to the public.

-- The information that the Project Owner shall disclose to the public shall be prepared in Lao and local languages to the fullest extent.

-- The Ministry of Natural Resources and Environment shall be entitled to reserve the right not to disclose any information relating to privacy of any individual, information relating to the property or commercial rights of the Project Owner.

-- In case that the Project Owner does not want to disclose any information as required above, the Project Owner shall submit the written request, attached with those information that it does not want to disclose, to the Ministry of Natural Resources and Environment for its consideration whether or not to allow the Project Owner not to disclose such information. Within 25 business days, the Ministry of Natural Resources and Environment shall finish its consideration of whether or not the information requested should be disclosed to public. If any information is considered information not to be disclosed, such information shall be kept confidential for the period of time as agreed between the Ministry of Natural Resources and Environment and the Project Owner.

## **2.21 Monitoring Organizations**

The monitoring organizations shall include as follows:

- Monitoring by the Project Owner;
- Monitoring by the Governmental organizations, include:
  - +the Natural Resources and Environmental Agencies at the central and local levels who are the key agencies to conduct direct monitoring to the Project Owner in the implementation of mitigation measures of the environmental and social impacts as specified under the ESMMP attached to the ESIA Report;
  - + other related line agencies at central and local levels.

## 2.22 Self-Monitoring by the Project Owner

-- The Project Owner shall be obliged to be the primary and first party to conduct self-monitoring to provide a summary and report the monitoring status of the implementation of the environmental and social impacts as specified under the ESMMP and the Environmental Compliance Certificate to the Ministry of Natural Resources and Environment for information from time to time as specified in the Environmental Compliance Certificate.

-- The Project Owner shall establish the environmental management office and the public involvement office in order to ensure the efficient implementation, management and monitoring measures of the environmental and social impacts and perform efficient communication based on the Project Owner's responsibility.

## 2.23 State Monitoring Organizations

State Monitoring Organizations shall have the duty for monitoring associated with the implementation of mitigation measures on the social and environmental impacts under the ESMMP and the conditions specified in the Environmental Compliance Certificate. The duty of each organization in monitoring consist of :

a. Ministry of Natural Resources and Environment shall have the following monitoring duties:

-- to take lead in conducting monitoring and inspection of the implementation of the environmental and social management measures under the ESMMP attached to the ESIA Report, both by the field inspection and self-monitoring report and give comments on monitoring report submitted by the Project Owner;

-- to delegate the level of monitoring and budgeting to Provincial/Capital Department of Natural Resources and Environment, the District Office of Natural Resources and Environment and Village Unit of Natural Resources and Environment to jointly participate in the monitoring and inspection ;

-- to consider establishing the project environmental monitoring units located at the project and the ministerial public involvement units if necessary to monitor the project and proceed communication including the implementation of the environmental and social management measures.;

-- to conclude and report the status of the monitoring of the project to the Government for information and direction from time to time;

-- to perform the duty of monitoring as delegated by the Superior for the Ministry's responsibility;

-to appoint the technical committee or ad-hoc committee to assist in the monitoring , if necessary.

b. Provincial/Capital Department of Natural Resources and Environment shall have the following monitoring duties:

-- to consider and propose to the Superior to establish the project environmental monitoring unit and the Provincial/Capital public involvement unit at the provincial/Capital level if necessary to conduct management and monitoring, communication;

-- to monitor the implementation of the environmental and social management measures under the ESMMP attached in the ESIA Report within scope of monitoring of provincial/Capital responsibility;

-- to conclude and report the status of the monitoring of the project to the provincial/Capital Natural Resources and Environment and the Ministry of Natural Resources and Environment for information and direction from time to time; and

-- to perform the monitoring works as delegated by the Superior to the Department for responsibility.

c. District Office of Natural Resources and Environment shall have the following monitoring duties:

-- to be key organization in conducting monitoring, implementation of the environmental and social management measures under the ESMMP attached to the ESIA Report within scope of work of assigned task of the district;

-- to consider and propose to Superior to establish the project environmental management unit at the district level if necessary to perform the duty of environmental management and monitoring of the project

-- to conclude and report the status of the monitoring of the project to the leaders of district administration and the Provincial/Capital Department of Natural Resources and Environment for information and direction from time to time; and

-- to perform the duty of monitoring assigned by the Superior to the Office's responsibility.

d. Village Unit of Natural Resources and Environment shall have the following monitoring duties:

-- to be key unit for the monitoring and implementation of the environmental and social management measures under the ESMMP attached to the ESIA Report within its village's responsibility;

-- to consider and propose to the Superior to establish the project environmental management unit at the village level if necessary to conduct the duty of the environmental management including monitoring;

-- to conclude and report the status of the monitoring of the project at the village leaders and the District Office of Natural Resources and Environment for information and direction from time to time; and

-- to perform the duty of monitoring as assigned by the Superior to its Unit's responsibility.

e. Local lined agencies at central and local levels shall have the following monitoring duties:

-- to participate in the monitoring team which includes the relevant Natural Resources and Environmental Agencies as the key organization to conduct monitoring activities and the implementation of the environmental and social management mitigation measures under the ESMMP attached to the ESIA Report associated with their responsibility.;

-- to consider and contribute technical staff comments in the environmental management of the project at different levels based on the request;

-- to conclude and report the status of the monitoring of the project within their mandates and responsibilities to their Superior for information from time to time;

-- for the main investment competent authorities of the Investment Projects and Activities, in addition to the participation in the monitoring team led by the Natural Resources and Environmental Authorities, such competent authorities shall be entitled to conduct their monitoring directly based on their own legislatures.

## **2.24 Scope of Duty of Monitoring of the State Organizations in**

The State Organizations shall have the following duty of monitoring:

-- to send their staff or their consultants to the site of the Investment Projects and Activities or the Project Owner's office at any time; provided that the advance notice will be submitted to the Project Owner, except in case of an emergency circumstances which is likely to impose the substantial social and environmental impacts in which the monitoring organizations shall be entitled to access into the site without the advanced notice;

-- to take photos, to record voice, to take samples from the Investment Projects and Activities for testing, to inspect the computers and other equipment of the Project Owner, to review all the documents, to interview staffs and to undertake any other activities as appropriate;

-- in case perceiving that the Project Owner has not complied with obligations in the implementation of environmental and social mitigation measures, as specified under the ESMMP and the conditions to the Environmental Compliance Certificate, the related State Organizations have the duty to send a notification to the Project owner and inform the Project Owner to issue the warning to the Project Owner and the Project Owner shall comply with the instruction given in the warning issued by such State Organizations. If the Project Owner does not comply with such warning, the Environmental Compliance Certificate will be revoked or suspended pursuant to the steps prescribed under this Instruction.

## **Part III**

### **Final Provisions**

#### **3.1 Implementation**

The Ministry of Natural Resources and Environment delegates the authority to the Department of Environmental and Social Impact Assessment to be the central authority to coordinate with other local lined agencies to efficiently disseminate, implement and enforce this Instruction.

The related natural persons, legal entities and organizations, both in private and public sectors, shall acknowledge and implement this Instruction strictly.

The relevant authorities or agencies that owns the state--invested project shall ensure sufficient budget for the conductance of the Environmental and Social Impact Assessment and the implementation of the environmental and social management and monitoring measures for their Investment Projects and Activities.

#### **3.2 Effectiveness**

This Instruction shall be effective from the date of signature onwards Any decisions, provisions and regulations that contradict with this Instruction shall be revoked.

Minister of the Ministry of Natural Resources and Environment

Noulinh SINBANDHIT