
LOAN NUMBER 3062 - IND

LOAN AGREEMENT
(Ordinary Operations)

(Jaipur Metro Rail Line 1 – Phase B Project)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 29 May 2014

IND 46417

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 29 May 2014 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

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

(B) the Project will be carried out by the State of Rajasthan ("State") acting through the Urban Development and Housing Department ("UDH") and Jaipur Metro Rail Corporation ("JMRC"), and for this purpose the Borrower will make available to the State the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB on the one part and the State and JMRC on the other part;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

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

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

Commitment Charge; Credit; Maturity Premium.

(a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

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

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

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

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

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

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

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

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

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

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

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "EA" or "Project Executing Agency" means the State acting through the UDH and JMRC;

(d) "EIA" means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;

(e) "EMP" means the environmental management plan, including any update thereto, incorporated in the EIA;

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

(g) "Financing Arrangements" means the arrangements between the Borrower and the State for purposes of section 4.06 as per current policy of the Borrower, and acceptable to ADB;

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

(i) "Indigenous Peoples Plan" or "IPP" means the indigenous peoples plan for the Project, including any update thereto, to be prepared and submitted by the Borrower through the EA and cleared by ADB;

(j) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

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

(l) "JMRC" means Jaipur Metro Rail Corporation;

(m) "Line 1" means the East-West corridor of about 12 kilometers from Mansarovar to Badi Chopar in the city of Jaipur in the State;

(n) "Line 1-Phase B" means the underground portion of the metro line of about 2.3 kilometer from Chandpole to Badi Chopar in the city of Jaipur in the State;

(o) "Line 2" means the North-South corridor of about 23 kilometers from Ambabadi to Sitapura in the city of Jaipur in the State;

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

(q) "PAM" means the project administration manual for the Project dated September 2013 and agreed between the Borrower, the State, JMRC and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower, the State, JMRC, and ADB;

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

(s) "Procurement Plan" means the procurement plan for the Project included in the PAM, as agreed between the Borrower, State, JMRC, and ADB, including as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

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

(u) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the EA to ADB that describes progress with implementation of, and compliance with, the EMP, the RP and the IPP (as applicable), including any corrective and preventative actions;

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

(w) "SHE" means the Safety, Health and Environment guidelines of the State on environment safeguards that are incorporated into contract agreements to be adhered to by the contractors under Works.

(x) "State" means the State of Rajasthan;

(y) "UDH" means the Urban Development and Housing Department of the State; and

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

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred and seventy six million Dollar (\$176,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 15 years, and a grace period as defined in subsection (c) hereinafter.

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

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

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.20% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% as provided by Section 3.03 of the Loan Regulations.

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

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

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

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

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

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

ARTICLE III

Use of Proceeds of the Loan

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

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

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

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

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

ARTICLE IV

Particular Covenants

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

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

Section 4.02. The Borrower shall make available, or cause to be made available, promptly as needed, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

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

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

Section 4.05. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable State and JMRC to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.06. (a) In so far as it relates to the project, the Borrower shall exercise its rights under the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In so far as it relates to the Project, no rights or obligations under the Subsidiary Loan Agreement shall be assigned, amended, abrogated or waived without the prior notice to ADB.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India
Department of Economic Affairs
Ministry of Finance
North Block
New Delhi – 110001
India

Facsimile Numbers:

(91-11) 2309-2477
(91-11) 2309-2511.

For ADB


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

Facsimile Numbers:

(632) 636-2444
(632) 636-2337.

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

INDIA

By 

NILAYA MITASH
Joint Secretary (MI)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By 

M. TERESA KHO
Country Director

SCHEDULE 1

Description of the Project

1. The objective of the Project is improved mass rapid transit system in the city of Jaipur.
2. The Project shall comprise
 - (a) Line 1-Phase B comprising underground rail infrastructure of about 2.3 kilometers length and 2 stations; and
 - (b) Line 2 plans updated including detailed project report.
3. Updating of Line 2 plans under paragraph 2 of this Schedule will be through the provision of advisory services.
4. The Project is expected to be completed by 31 March 2018.

SCHEDULE 2

Amortization Schedule

(Jaipur Metro Rail Line 1-Phase B Project)

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

Sequence	Date Payment Due	Installment Share (Expressed as a %)
1	15 May 2022	3.333333
2	15 November 2022	3.333333
3	15 May 2023	3.333333
4	15 November 2023	3.333333
5	15 May 2024	3.333333
6	15 November 2024	3.333333
7	15 May 2025	3.333333
8	15 November 2025	3.333333
9	15 May 2026	3.333333
10	15 November 2026	3.333333
11	15 May 2027	3.333333
12	15 November 2027	3.333333
13	15 May 2028	3.333333
14	15 November 2028	3.333333
15	15 May 2029	3.333333
16	15 November 2029	3.333333
17	15 May 2030	3.333333
18	15 November 2030	3.333333
19	15 May 2031	3.333333
20	15 November 2031	3.333333
21	15 May 2032	3.333333
22	15 November 2032	3.333333
23	15 May 2033	3.333333
24	15 November 2033	3.333333
25	15 May 2034	3.333333
26	15 November 2034	3.333333
27	15 May 2035	3.333333

Schedule 2

Sequence	Date Payment Due	Installment Share (Expressed as a %)
28	15 November 2035	3.333333
29	15 May 2036	3.333333
30	15 November 2036	3.333343
	Total	100.000000

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

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

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

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

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

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

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

Reallocation

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

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

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

Disbursement Procedures

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

Retroactive Financing

5. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with items eligible to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Jaipur Metro Rail Line 1-Phase B Project)			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Loan Account
1	Works	117,730,000	100% of total expenditure claimed*
2	Equipment	37,060,000	100% of total expenditure claimed*
3	Consulting Services	970,000	100% of total expenditure claimed*
4	Unallocated	20,240,000	
	Total	176,000,000	

*Inclusive of central customs and excise duties, and exclusive of local State taxes imposed within the territory of the Borrower.

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) International Competitive Bidding;
 - (b) National Competitive Bidding; and
 - (c) Direct Contracting.

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

Domestic Preference

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

National Competitive Bidding

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

Conditions for award of contracts; commencement of Works

7. As conditions for award of any Contract under the Project, the EA shall ensure the following:

- (a) JMRC shall not award any Works contract which involves environmental impacts until the JMRC has incorporated the relevant provisions from the EMP and SHE into the Works contract.
- (b) JMRC shall not award any Works contract involving involuntary resettlement impacts until the JMRC has prepared and submitted to ADB the relevant RP and obtained ADB's clearance of such RP.
- (c) JMRC shall not award any Works contract which involves impacts on indigenous peoples until JMRC has prepared and submitted to ADB the relevant IPP and obtained ADB's clearance of such IPP.

8. As a condition for commencement of Works contract under the Project which involves environmental impacts and if it requires environmental clearances, the State through JMRC shall ensure that the final approval of environmental clearance including the EIA, SHE, from the appropriate *authority* has been obtained.

9. As a condition for commencement of civil works under any Works contract, the EA shall ensure that

- (a) JMRC shall not allow commencement of civil works under the relevant section of the contract involving any involuntary resettlement impacts until the JMRC has implemented related RP as applicable; and
- (b) JMRC shall not allow commencement of civil works under the relevant section of the contract involving any impacts on indigenous peoples until JMRC has implemented the related IPP as applicable.

Consulting Services

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

11. The State through JMRC shall apply the following methods for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Consultants' Qualifications Selection for advisory service for accessibility audit.

Industrial or Intellectual Property Rights

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

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

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

ADB's Review of Procurement Decisions

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

SCHEDULE 5

Execution of Project

Implementation Arrangements

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

(b) The State and JMRC shall ensure that towards smooth implementation of the Project, grievances if any from stakeholders, relating to any Project implementation or use of funds are addressed effectively and efficiently.

Counterpart Funds

2. The State shall make available the ADB loan proceeds to JMRC under appropriate arrangements acceptable to ADB, and ensure:

(a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and

(b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, to be provided to JMRC, during and after the Project completion.

Safeguards and Social

Environment

3. The Borrower shall ensure or cause the State through JMRC to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project facilities comply with (i) all applicable laws and regulations of the Borrower and State relating to environment, health, and safety including SHE; (ii) the Environmental Safeguards; and (iii) all measures and requirements set forth in the EIA and the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

4. (a) Where the need arises, the Borrower shall ensure or cause the State through JMRC to ensure that all land and all rights-of-way required for the Project, and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (i) all applicable laws and regulations of the Borrower and State relating to land acquisition and involuntary resettlement; (ii) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

(b) Without limiting the application of the Involuntary Resettlement Safeguards, or the RP, the Borrower shall ensure or cause the State through JMRC to ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

5. Where the need arises, the Borrower shall ensure or cause the State through JMRC to ensure that the preparation, design, construction, implementation and operation of the Project, and all Project facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the respective IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

6. (a) The Borrower shall ensure or cause the State through JMRC to ensure that all necessary budgetary and human resources to fully implement the EMP, the RP and the IPP as required, are made available.

(b) The Borrower shall ensure or cause the State through JMRC to ensure that at least one expert each is designated to supervise implementation of the EMP, SHE, and RP as required.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

7. The Borrower shall ensure or cause the State through JMRC to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the EIA, the EMP, SHE, and the RP and the IPP as applicable (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the JMRC with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks if any, or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP, SHE, and the RP or the IPP if any;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and

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

Safeguards Monitoring and Reporting

- 8. The Borrower shall ensure or cause the State through JMRC to ensure the following:
 - (a) submit quarterly Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
 - (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP, SHE, and the RP or the IPP as applicable, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - (c) report any breach of compliance with the measures and requirements set forth in the EMP, SHE, and the RP or the IPP if any, promptly after becoming aware of the breach.

Prohibited List of Investments

- 9. The Borrower shall ensure or cause the State through JMRC to ensure that no proceeds of the Loan under the Project are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of ADB's Safeguard Policy Statement (2009).

Other Social Measures

- 10. The EA shall ensure that civil works contracts under the Project follow all applicable labor laws of the Borrower and State and that these further include provisions to the effect that contractors; (i) carry out HIV/AIDS awareness programs for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (ii) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.

- 11. The EA shall ensure the safety and status of the heritage sites and structures involved in the Project site at its own cost and in this regard ensure all appropriate steps included as detailed in the PAM.

Gender

- 12. The EA shall ensure that the Project is undertaken in conformity with the stakeholder communication strategy as agreed between ADB, the Borrower, State, and JMRC and referred in the PAM.

Procurement

13. The EA shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, State, and JMRC are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and JMRC and all contractors, suppliers, consultants, and other service providers as they relate to the Project. The Borrower, State and JMRC shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project.

14. JMRC shall announce the Project and business opportunities associated with the Project on its website. The website shall disclose the following information in relation to goods and services procured for the Project: (i) the list of participating bidders, (ii) the name of the winning bidder, (iii) the amount of the contracts awarded, and (iv) the goods and services procured.

Facilities Maintenance

15. The State shall provide timely and adequate funds to JMRC for maintenance of the facilities created under the Project, during implementation of the Project, as also after its completion.

Governance and Anticorruption

16. The Borrower, State and JMRC, will comply with ADB's Anticorruption Policy (1998, as amended to date) and shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project.

17. The Borrower, State and JMRC shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, State, and JMRC are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and JMRC and all contractors, suppliers, consultants, and other service providers as they relate to the Project.