
LOAN NUMBER 3663-MYA(COL)

LOAN AGREEMENT
(Ordinary Operations [Concessional])

(Third Greater Mekong Subregion Corridor Towns Development Project)

between

THE REPUBLIC OF THE UNION OF MYANMAR

and

ASIAN DEVELOPMENT BANK

DATED 12 SEPTEMBER 2018

MYA 48175

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LOAN AGREEMENT
(Ordinary Operations [Concessional])

LOAN AGREEMENT dated 12 September 2018 between THE REPUBLIC OF THE UNION OF MYANMAR ("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 Mon State Government ("MSG") and the Kayin State Government ("KSG"), and for this purpose the Borrower will make available to MSG and KSG the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a concessional loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of ADB's Ordinary Operations (Concessional) Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

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

- (a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;
- (c) "East-West Economic Corridor" means an economic development program initiated in order to promote development and integration of Myanmar, Thailand, Laos, Cambodia and Vietnam, the concept of which was agreed upon in 1998 at the Ministerial Conference of

the Greater Mekong Subregion, and which became operational in 2006;

- (d) "EMP" means each environmental management plan for a Subproject, including any update thereto, incorporated in the IEE for that Subproject;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "GESIAP" means the gender equity and social inclusion action plan prepared for the Project, including any update thereto, and agreed to between the Borrower and ADB
- (g) "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;
- (h) "IEE" means each initial environmental examination for a Subproject, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (i) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (j) "KSG" means the Kayin State Government of the Borrower;
- (k) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (l) "MOC" means the Borrower's Ministry of Construction;
- (m) "MSG" means the Mon State Government of the Borrower;
- (n) "PAM" means the project administration manual for the Project dated 12 April 2018 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (o) "PIU" means the Project implementation unit established by the KSG in the city of Myawaddy and responsible for carrying out the day-to-day activities for Subproject 2 in Myawaddy as described in the PAM;
- (p) "PMO" means the Project Management Office established for each Subproject by the relevant Project Implementing Agency responsible for carrying out detailed implementation of such Subproject and as described in the PAM;

- (q) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (r) "Procurement Plan" means the procurement plan for the Project dated 12 April 2018 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;
- (s) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MOC or any successor thereto acceptable to ADB, which is responsible for carrying out of the Project;
- (t) "Project Implementing Agency" means each of the KSG and MSG, or any successor thereto acceptable to ADB;
- (u) "RP" means each resettlement plan for a Subproject, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (v) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMPs and the RPs (as applicable), including any corrective and preventative actions;
- (w) "SPS" means ADB's Safeguard Policy Statement (2009);
- (x) "Subproject" means each of:
 - (i) Subproject 1, being the subproject to be implemented by the MSG and comprising the Project activities described in paragraphs 2(a)(i) and (ii), and 2(b)(i) and (iii) of Schedule 1 to this Loan Agreement;
 - (ii) Subproject 2, being the subproject to be implemented by the KSG and comprising the Project activities described in paragraphs 2(a)(iii), and 2(b)(ii) and (iv) of Schedule 1 to this Loan Agreement;
 and "Subprojects" means both of them;
- (y) "Subproject facilities" means, in respect of a Subproject, the equipment to be provided and the facilities to be installed, constructed, operated, upgraded and maintained under that Subproject; 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.

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ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of eighty million Dollars (\$80,000,000).

(b) The Loan has a principal repayment period of 24 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 an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

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

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

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

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be made available to each of the Project Implementing Agencies and the Borrower shall cause each of the Project Implementing Agencies to ensure that the proceeds of the Loan are applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

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

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

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Section 3.04. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 September 2025 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

Section 4.02. (a) The Borrower shall ensure that the Project Executing Agency and each Project Implementing Agency: (i) maintain separate accounts and records for the Project (in the case of the Project Executing Agency) and their respective Subprojects (in the case of the Project Implementing Agencies); (ii) (in the case of the Project Executing Agency) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds and compliance with financial covenants, and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Borrower shall ensure that the Project Executing Agency and Project Implementing Agencies enable ADB, upon ADB's request, to discuss the financial statements for the Project, the Subprojects, the Project Executing Agency's financial affairs where they relate to the Project and the financial affairs of the Project Implementing Agencies where they relate to their respective Subprojects with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Project Executing Agency and the relevant Project Implementing Agency, unless the Project Executing Agency or relevant Project Implementing Agency shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Subprojects, the Goods and Works, and any relevant records and documents.

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 9.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Borrower's Minister or Deputy Minister of Planning and Finance is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Ministry of Planning and Finance
Building No. 26 Nay Pyi Taw
Republic of the Union of Myanmar

Facsimile Number:

+95 67 410198.

For ADB

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

Facsimile Numbers:

(632) 636-2444

(632) 636-2336.

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.

THE REPUBLIC OF THE UNION OF
MYANMAR

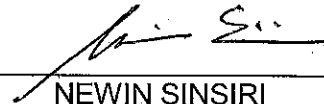
By

 12.9.2018

SI SI PYONE
Director General
Treasury Department
Ministry of Planning and Finance

ASIAN DEVELOPMENT BANK

By



NEWIN SINSIRI
Country Director
Myanmar Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to improve urban services in the cities of Mawlamyine, Hpa-An and Myawaddy.
2. The Project shall comprise:
 - (a) Component 1: improved urban planning through:
 - (i) piloting built heritage conservation through the renovation and upgrading of the general administration department building adjoining the courthouse in the city of Mawlamyine;
 - (ii) preparation of a joint spatial development plan for Myawaddy and Mae Sot as a formal document detailing the future development strategy for the two linked towns; and
 - (iii) development of Hpa-An industrial zone development plan to help the industrial zone grow as a regional economic hub along the East-West Economic Corridor.
 - (b) Component 2: upgraded basic social infrastructure through improved water supply and solid waste management through:
 - (i) rehabilitating the existing dam, constructing a new water treatment plant, extending water distribution network, and constructing new connections in Mawlamyine;
 - (ii) constructing a new water intake and treatment plant, extending water distribution network, and construct new connections in Hpa-An;
 - (iii) upgrading the existing dump site to a waste management center including sanitary landfill and compost plant in Mawlamyine; and
 - (iv) constructing a new waste management center including sanitary landfill and compost plant, and closing the existing dump sites in Hpa-An.
 - (c) Component 3: strengthened urban management capacity through:
 - (i) carrying out capacity development and policy dialogue with the Project Implementing Agencies in operation and maintenance and financial management of the Subproject Facilities, and municipal financial management;

- (ii) providing assistance to the Department of Urban and Housing Development of the Project Executing Agency to implement the Urban and Regional Development Planning Law;
- (iii) providing assistance to the Project Implementing Agencies in the carrying out of a public awareness program on environmental protection and public health for the residents of Mawlamyine, Hpa-An, and Myawaddy cities.

3. The Project includes Consulting Services to support all components specified in paragraph 2 above, as described in the Procurement Plan.

4. The Project is expected to be completed by 31 March 2025.

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SCHEDULE 2**Amortization Schedule**

| Date Payment Due | Payment of Principal (Expressed in USD) |
|------------------|--|
| 15 November 2026 | 1,666,667 |
| 15 May 2027 | 1,666,667 |
| 15 November 2027 | 1,666,667 |
| 15 May 2028 | 1,666,667 |
| 15 November 2028 | 1,666,667 |
| 15 May 2029 | 1,666,667 |
| 15 November 2029 | 1,666,667 |
| 15 May 2030 | 1,666,667 |
| 15 November 2030 | 1,666,667 |
| 15 May 2031 | 1,666,667 |
| 15 November 2031 | 1,666,667 |
| 15 May 2032 | 1,666,667 |
| 15 November 2032 | 1,666,667 |
| 15 May 2033 | 1,666,667 |
| 15 November 2033 | 1,666,667 |
| 15 May 2034 | 1,666,667 |
| 15 November 2034 | 1,666,667 |
| 15 May 2035 | 1,666,667 |
| 15 November 2035 | 1,666,667 |
| 15 May 2036 | 1,666,667 |
| 15 November 2036 | 1,666,667 |
| 15 May 2037 | 1,666,667 |
| 15 November 2037 | 1,666,667 |
| 15 May 2038 | 1,666,667 |
| 15 November 2038 | 1,666,667 |
| 15 May 2039 | 1,666,667 |
| 15 November 2039 | 1,666,667 |
| 15 May 2040 | 1,666,667 |
| 15 November 2040 | 1,666,667 |
| 15 May 2041 | 1,666,667 |
| 15 November 2041 | 1,666,667 |
| 15 May 2042 | 1,666,667 |
| 15 November 2042 | 1,666,667 |
| 15 May 2043 | 1,666,667 |
| 15 November 2043 | 1,666,667 |
| 15 May 2044 | 1,666,667 |
| 15 November 2044 | 1,666,667 |
| 15 May 2045 | 1,666,667 |
| 15 November 2045 | 1,666,667 |
| 15 May 2046 | 1,666,667 |
| 15 November 2046 | 1,666,667 |

| Date Payment Due | Payment of Principal (Expressed in USD) |
|------------------|--|
| 15 May 2047 | 1,666,667 |
| 15 November 2047 | 1,666,667 |
| 15 May 2048 | 1,666,667 |
| 15 November 2048 | 1,666,667 |
| 15 May 2049 | 1,666,667 |
| 15 November 2049 | 1,666,667 |
| 15 May 2050 | 1,666,651 |
| Total | 80,000,000 |

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

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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 allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

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

Reallocation

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

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

Disbursement Procedures

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

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Condition for Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account until the PMOs and PIU have been established as set out in the PAM and the following staff have been appointed: (a) Project Manager of each of the PMOs, who have received all necessary authorizations to sign contracts for the procurement of Works, Goods and Consulting Services; (b) Finance Officer and Senior Engineer of the PMOs.

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TABLE

| ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Third Greater Mekong Subregion Corridor Towns Development Project) | | | |
|---|----------------------|------------------------|---|
| Number | Item | Category \$ | Basis for Withdrawal from the Loan Account |
| 1 | Works* | 50,750,000 | 95% of total expenditure claimed |
| 2 | Equipment* | 6,920,000 | 93% of total expenditure claimed |
| 3 | Consulting Services* | 4,800,000 | 95% of total expenditure claimed |
| 4 | Surveys* | 890,000 | 95% of total expenditure claimed |
| 5 | Project Management* | 2,040,000 | 100% of total expenditure claimed |
| 6 | Interest Charge | 3,270,000 | 100% of amounts due |
| 7 | Unallocated | 11,330,000 | |
| | TOTAL | 80,000,000 | |

* Subject to the condition for withdrawal described in paragraph 6 of Schedule 3.

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. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. 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

4. Goods and Works shall be procured on the basis of the procurement methods set forth below:
 - (a) International Competitive Bidding; and
 - (b) Shopping.

Domestic Preference

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

Conditions for Award of Contract

6. The Borrower shall not award any Works contracts in respect of a Subproject until:
 - (a) the Ministry of Environmental Conservation and Forestry of the Borrower has provided the final environmental approval for the Project;
 - (b) the Project Implementing Agency for that Subproject has prepared and submitted to ADB the final EMP for that Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such EMP;
 - (c) the Project Implementing Agency for that Subproject has incorporated the relevant provisions from the EMP into the Works contracts; and
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- (d) the Project Implementing Agency for that Subproject has prepared and submitted to ADB the final RP for that Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

7. The Borrower shall apply Quality- and Cost-Based Selection for Consulting Services.

Industrial or Intellectual Property Rights

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

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

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

ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures and shopping 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.

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SCHEDULE 5

Execution of Project; Financial Matters; Operations

Implementation Arrangements

1. The Borrower, the Project Executing Agency and Project Implementing Agencies 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 and ADB. In the event of any discrepancy between the PAM, this Loan Agreement, the provisions of this Loan Agreement shall prevail.
2. The Borrower shall ensure that the Project Executing Agency, each PMO and the PIU are equipped with professionally skilled staff, reasonable office space, equipment, and adequate financial resources required for implementation of the Project throughout Project implementation.

Design and Construction Quality Management

3. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that all Works under the Project are designed and constructed in accordance with all relevant national, municipal and local design codes and standards and that the construction supervision, quality control, contract management, and completion inspection and acceptance procedures are in accordance with all applicable national laws and local regulations.

Operations and Maintenance

4. The Borrower, through the Project Executing Agency, shall ensure that adequate funding and human resources are allocated so that any Subproject facilities are maintained and operated in good condition, and in strict conformity with all applicable laws, regulations and standards of the Borrower.
5. The Borrower, through the Project Executing Agency, shall ensure that MSG allocates adequate budget to maintain the general administration department building adjoining the courthouse in the city of Mawlamyine following its renovation and upgrading as a pilot built heritage conservation, and shall ensure that MSG undertakes proper maintenance of the building.

Tariff Roadmaps, Operations Targets

6. **Water Tariff Roadmap.** Within one year of the Effective Date, whether water is supplied directly to households, or indirectly under a bulk supply agreement to another water supply provider, the Borrower, through the Project Executing Agency, shall ensure that the Project Implementing Agencies have reviewed the current water tariff levels and structure, made revisions thereto and prepared a water tariff roadmap which:

- (a) aims to ensure gradual cost recovery and that revenues fully cover the costs of operations and maintenance;

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- (b) takes into account the affordability of the tariffs to households belonging to low-income groups and in particular, includes initiatives to provide low-income households with affordable access to piped, metered water supply such as (amongst others) socialized fee schemes or lifeline tariffs, flexible installment payment options, waiving of connection fees; and
- (c) ensures the tariffs and connection fees set out in bulk supply agreements are affordable to low-income households.

7. The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency consults with ADB on the preparation of their respective water tariff roadmaps and has provided ADB with a final copy of the roadmaps.

8. **Solid Waste Tariff Roadmap.** Within one year of the Effective Date, the Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency has developed a solid waste tariff roadmap which:

- (a) aims to ensure gradual cost recovery and that revenues fully cover operating expenditures and the costs of operations and maintenance;
- (b) takes into account the affordability of the tariffs to households belonging to low-income groups;

9. The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency consults with ADB on the preparation of their respective solid waste tariff roadmaps and has provided ADB with a final copy of the roadmaps.

10. **Annual Review of Water Tariffs and Solid Waste Tariffs, Shortfall.** The Borrower, through the Project Executing Agency, shall ensure that:

- (a) each Project Implementing Agency reviews its respective water tariffs and solid waste tariffs annually and such tariffs are adjusted in a timely manner to enable itself to maintain financial sustainability and ensure cost recovery;
- (b) each Project Implementing Agency provides ADB with documents providing details of the revised water tariffs and solid waste tariffs;
- (c) if, in any given period, the collections from water supply and solid waste tariff revenues of any Project Implementing Agency is insufficient to satisfy its costs and expenditures arising from its respective water supply and solid waste operations, the Project Executing Agency shall consult with such Project Implementing Agency to ensure that it secures a subsidy, fiscal transfer or other financial support from the Project Executing Agency to meet the shortfall.

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11. **Billing, Collection, Non-Revenue Water.** The Borrower, through the Project Executing Agency, shall ensure that the Project Implementing Agencies take appropriate measures to: (a) accurately calculate levels of water production and consumption and non-revenue water; (b) ensure water bills accurately reflect actual water consumption, including by repairing broken meters; (c) ensure that by the year 2024: (i) non-revenue water due to physical and commercial losses is reduced to the target set following detailed surveys conducted during Project implementation; (ii) the percentage of metered connections is increased to the target set following detailed surveys conducted during Project implementation; and (iii) effectiveness in collecting outstanding water bills is improved to the target set following detailed diligence conducted during Project implementation; and (d) protect their water resources and facilities including through prosecution for violations such as water meter tampering or water theft.

12. **Solid Waste Collection Rate, Recycling and Composting Targets.** The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency undertakes appropriate measures to ensure that it achieves in a timely manner the target rates set during Project implementation for collection, recycling and composting.

Financial Matters and Counterpart Support

13. The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency requests its annual budgets in a timely manner to cover the counterpart fund required during Project implementation.

14. In addition to the foregoing, the Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency has sufficient funds to satisfy its liabilities arising from any Works, Goods and/or Consulting Services contract.

Governing Laws, Ownership, Development Coordination

15. **Governing Laws.** The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency promptly notifies ADB of any proposal to amend, suspend or repeal any provision of any law, regulation, decree, resolution, notification or other instrument which governs or regulates the water supply and sanitation sector including water tariffs and will afford ADB an adequate opportunity to comment on such proposal prior to taking any action thereon.

16. **Change in Ownership.** The Borrower and the Project Executing Agency shall ensure that: (a) in the event of any change in ownership, control, operation or management of any Subproject facilities; or (b) any proposed sale, transfer, assignment or issuance of any interest in any Subproject facilities; or (c) any proposed new governance structure of any Project Implementing Agency's water supply operations, the relevant Project Implementing Agency shall consult with ADB at least 6 months prior to the implementation of such change.

17. The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency ensures that concurrent with any of the changes described in paragraph 16 above, the rights and obligations of that Project Implementing Agency under the Subproject are assumed by the acquiring entity and all other applicable policies of ADB are followed and that such changes carried out in a lawful and transparent manner.

18. **Development Coordination.** The Borrower, through the Project Executing Agency, shall ensure that each Project Implementing Agency keeps ADB informed of discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Project or the Subprojects including relating to any institutional and sector restructuring and shall (a) share all such related documents with ADB including to the maximum extent permissible, all such documents of development partners; (b) ensure that each Project Implementing Agency provides ADB with an opportunity to comment on any resulting policy reforms which could affect the Project take into account ADB's views before finalizing and implementing any such proposals.

Environment

19. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project, each Subproject and all Subproject facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health, and safety; (b) the Environmental Safeguards; (b) all measures and requirements set forth in the respective IEEs and EMPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

20. The Borrower, through the Project Executing Agency and Project Implementing Agencies shall ensure that all land and all rights-of-way required for each Subproject and all Subproject facilities are made available to the Works contractors in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the respective RPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

21. Without limiting the application of the Involuntary Resettlement Safeguards or the RPs, the Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that no physical or economic displacement takes place in connection with the Subprojects until the following has been completed at least one month prior to the commencement of Works:

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

Indigenous Peoples

22. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that the Project does not have any indigenous peoples impacts, within the meaning of the SPS. In the event that the Project does have any such

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impact, the Project Executing Agency shall ensure that each Project implementing Agency takes all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

23. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall make available necessary budgetary and human resources to fully implement the EMPs and the RPs.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

24. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall 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 relevant IEEs, EMPs and the RPs (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 Project Executing Agency and the relevant Project Implementing Agency with a written notice of any unanticipated environmental or resettlement risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEEs, the EMPs or the RPs;
- (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.

Other Provisions in Bidding Documents and Works Contracts

25. In addition to the foregoing, the Borrower, through the Project Executing Agency and Project Implementing Agencies shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) implement a comprehensive environmental, health and safety (EHS) program that will, among others, ensure that all workers use the appropriate personal protective equipment (PPE) such as safety boots, hard hats, overalls, insulating gloves, safety glasses, ear muffs during

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project construction/implementation and provide training to workers on EHS as well as the proper use of PPEs; and

- (b) comply with the Labor Standards, Gender and Development and Governance and Anticorruption covenants set out in paragraphs 28 to 35.

Safeguards Monitoring and Reporting

26. The Borrower, through the Project Executing Agency, shall do the following:
- (a) submit semi-annual 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 IEEs, the EMPs or the RPs, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
 - (c) no later than the date of award of the first Works contract, engage qualified and experienced external experts under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts; and
 - (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMPs or the RPs promptly after becoming aware of the breach.

Prohibited List of Investments

27. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards

28. The Borrower shall ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually

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transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

29. The Borrower shall strictly monitor compliance with the requirements set forth in paragraph 28 above and provide ADB with regular updates in the Safeguards Monitoring Reports.

30. The Borrower shall ensure that the preparation, construction, operation and maintenance of the Subproject facilities comply with all applicable laws and regulations of the Borrower relating to health and safety.

Gender and Development, Stakeholder Communications Plan

31. The Borrower shall ensure that (a) the GESIAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GESIAP; (c) adequate resources are allocated for implementation of the GESIAP; and (d) progress on implementation of the GESIAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB; and (e) key gender outcome and output targets include, but not limited to: (i) meeting the relevant targets for the involvement and participation of women in Project activities; (ii) training stakeholders on gender issues related to the urban water supply and sanitation sector; and (iii) collecting sex-disaggregated data for the purposes of monitoring Project implementation.

32. The Borrower shall ensure that each Project Implementing Agency ensures that: (a) the stakeholder communications plan set out in the PAM is implemented in accordance with its terms; (b) adequate resources are allocated for implementation of the plan; and (c) progress on implementation of the plan is regularly monitored and reported to ADB.

Governance and Anticorruption

33. The Borrower, the Project Executing Agency and each Project implementing Agency shall: (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate fully with any such investigation and extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for satisfactory completion of such investigation.

34. The Borrower, through the Project Executing Agency and Project Implementing Agencies, shall ensure that anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the Project Executing Agency, each Project implementing Agency and all contractors, suppliers, consultants, and other service providers as they relate to the Project. Individuals/entities on ADB's anticorruption debarment lists are ineligible to participate in ADB-financed activity and may not be awarded any contracts under the Project. If the Project Executing Agency, any Project Implementing Agency or ADB is or becomes aware or has a reasonable suspicion that any member of any

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Project implementing Agency, PMO or PIU has engaged in corrupt or fraudulent practices (as defined in ADB's Anticorruption Policy under or in connection with the Project or the loan, the relevant Project Implementing Agency will take such timely and appropriate action satisfactory to ADB to investigate and/or remedy the situation.

35. In addition to these requirements, to deter corruption and increase transparency, the Project Executing Agency shall ensure that each Project implementing Agency creates a Project website within 3 months of the date of the Effective Date, accessible by the public, to disclose various information concerning the Project including general information about the Project, public procurement related to the Project, Project progress and contact details in English and Myanmar language. The website will also provide a link to ADB's Integrity Unit (<http://www.adb.org/Integrity/complaint.asp>) for reporting to ADB any grievances or allegations of corrupt practices arising out of the Project and Project activities. For each contract, the website will include information on, among others, the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of Goods and Consulting Services. The Project Executing Agency shall ensure that each Project implementing Agency permits any bidder to request an explanation as to why a bid was unsuccessful and each Project implementing Agency will respond promptly. The website will be updated regularly. In addition to the web-based disclosure, stakeholders will be provided by each Project implementing Agency with detailed information on procurement on public notice boards in their respective areas.

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