
LOAN NUMBER 3636-PAK

LOAN AGREEMENT
(Ordinary Operations)

(Enhancing Public-Private Partnerships in Punjab Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 13th April 2018

PAK 49128

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 13th April 2018 between ISLAMIC REPUBLIC OF PAKISTAN ("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 Borrower has also applied to the United Kingdom of Great Britain and Northern Ireland ("UK") for financial assistance for the Project, and the UK, represented by the Department for International Development, has agreed to provide a grant to the Borrower in the amount of fifteen million two hundred seventy-one thousand three hundred thirty-one British Pounds (£15,271,331) ("UK Grant") to be fully administered by ADB pursuant to its relevant cofinancing arrangement with the UK and subject to the terms and conditions of an externally financed grant agreement of even date herewith between the Borrower and ADB ("Externally Financed Grant Agreement");

(C) the Project will be carried out by the Borrower's Province of Punjab ("Punjab"), acting through the Planning and Development Department of the Government of Punjab ("P&DD"), and for this purpose the Borrower will make available to Punjab the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(D) 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 and Punjab;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations 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) "Agency" means a department, attached department, body corporate, autonomous body of Punjab, local government, or any organization or corporation owned or controlled by Punjab or a local government;

- (b) "Consulting Services" means the services (i) to be financed from the PDF and (ii) to be procured in connection with PPP;
- (c) "EIA" means an environmental impact assessment for a PPP Project, including any update thereto, prepared and submitted by Punjab pursuant to the requirements set forth in the ESMS and cleared by ADB;
- (d) "EMP" means an environmental management plan for a PPP Project, including any update thereto, incorporated in the EIA or IEE, as applicable;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "ESMS" means an environmental and social management system for the Project, including any update thereto, prepared and submitted by Punjab and cleared by ADB;
- (g) "Goods" means equipment and materials to be procured in connection with PPP, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (h) "IEE" means an initial environmental examination for a PPP Project, including any update thereto, prepared and submitted by Punjab pursuant to the requirements set forth in the ESMS and cleared by ADB;
- (i) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;
- (j) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (k) "IPP" means an indigenous peoples plan for a PPP Project, including any update thereto, prepared and submitted by Punjab pursuant to the requirements set forth in the ESMS;
- (l) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (m) "PAM" means the project administration manual for the Project dated 3 November 2017 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;
- (n) "P&DD" has the meaning set forth in recital (C) above;
- (o) "PDF" means the project development facility established by Punjab for the purpose of providing, in accordance with the PDF Guidelines,

funding for pre-feasibility studies and transaction structuring work to develop selected PPP project proposals into full business cases for private sector participation;

- (p) "PDF Guidelines" means the guidelines adopted and notified by Punjab governing the management and operation of the PDF, as amended from time to time;
- (q) "PPP" means a partnership carried out under a PPP Agreement between the public sector represented by an Agency and a private entity for the provision of an infrastructure facility, management functions and/or service with a clear allocation of risks between the two parties;
- (r) "PPP Act" means the Punjab Public-Private Partnership Act 2014, as amended from time to time;
- (s) "PPP Agreements" means arrangements between government and private entities for the purpose of providing public infrastructure, community facilities and related services in relation to PPP Projects;
- (t) "PPP Cell" means the PPP cell established within P&DD in accordance with the PPP Act for the purpose of coordinating PPP activities in Punjab, or any successor thereto acceptable to ADB;
- (u) "PPP Policy" means the Punjab Policy for PPP's in Private Infrastructure dated August 2009;
- (v) "PPP Project" means a project that meets the eligibility criteria referred to in paragraph 6 of Schedule 5 to this Loan Agreement;
- (w) "PPP Steering Committee" means the steering committee established within the Government of Punjab in accordance with the PPP Act for the purpose of considering and approving PPP project proposals, or any successor thereto acceptable to ADB;
- (x) "private entity" means a person who enters into a PPP Agreement with an Agency;
- (y) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (z) "Project Executing Agency" means for the purposes of, and within the meaning of, the Loan Regulations means Punjab, acting through P&DD, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (aa) "Punjab" has the meaning set forth in recital (C) above;
- (bb) "RP" means a resettlement plan for a PPP Project, including any update thereto, prepared and submitted by Punjab pursuant to the requirements set forth in the ESMS;

- (cc) "RMU" means the Risk Management Unit established within the Finance Department of the Government of Punjab in accordance with the PPP Act for the purpose of assessing the fiscal aspects of PPP project proposals, or any successor thereto acceptable to ADB;
- (dd) "Safeguards Monitoring Report" means each report prepared and submitted by Punjab to ADB on Punjab's performance with regard to the ESMS, including any corrective and preventative actions;
- (ee) "SPS" means ADB's Safeguard Policy Statement (2009);
- (ff) "VGF" means the viability gap fund established by Punjab to support PPP infrastructure projects in Punjab by providing grants, subsidies or guarantees to a private entity if the project is economically justified but falls short of financial viability;
- (gg) "VGF Guidelines" means the guidelines adopted and notified by Punjab governing the management and operation of the VGF, as amended from time to time; and
- (hh) "Works" means construction or civil works to be procured in connection with PPP, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract.

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 million Dollars (\$100,000,000), 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; and

- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit 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 February and 15 August 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(f) 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 Punjab upon terms and conditions satisfactory to ADB and shall cause Punjab 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 to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2023 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. 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.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the Project Executing Agency to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(m) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Externally Financed Grant Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: the event specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI**Effectiveness**

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the Externally Financed Grant Agreement shall have been duly executed and delivered and all conditions to its effectiveness (other than effectiveness of this Loan Agreement) shall have been fulfilled.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the Externally Financed Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower, and is legally valid and binding upon the Borrower in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII**Delegation of Authority**

Section 7.01. The Borrower hereby designates Punjab, through P&DD, as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.04 of this Loan Agreement and under Sections 7.01, 6.02, 6.03 and 6.04 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by Punjab, through P&DD, pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on Punjab, through P&DD, under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VIII**Miscellaneous**

Section 8.01. The Secretary, Economic Affairs Division, Ministry of Finance, Revenue and Economic Affairs of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary
Economic Affairs Division
Ministry of Finance, Revenue and Economic Affairs
Government of Pakistan
Islamabad, Pakistan

Facsimile Number:

(9251) 910-4016.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2424.

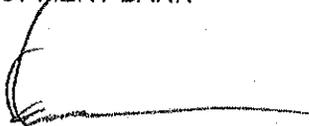
IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

ISLAMIC REPUBLIC OF PAKISTAN

By 

SYED GHAZANFAR ABBAS JILANI
Secretary
Economic Affairs Division

ASIAN DEVELOPMENT BANK

By 

XIAOHONG YANG
Country Director
Pakistan Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is to promote sustainable and fiscally responsible PPP projects that offer value for money in Punjab.
2. The Project shall comprise provision of financial support to the PDF and the VGF.
3. The Project is expected to be completed by 31 December 2022.

SCHEDULE 2

Amortization Schedule

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.

Date Payment Due	Installment Share (Expressed as a %)
15 February 2023	3.333333
15 August 2023	3.333333
15 February 2024	3.333333
15 August 2024	3.333333
15 February 2025	3.333333
15 August 2025	3.333333
15 February 2026	3.333333
15 August 2026	3.333333
15 February 2027	3.333333
15 August 2027	3.333333
15 February 2028	3.333333
15 August 2028	3.333333
15 February 2029	3.333333
15 August 2029	3.333333
15 February 2030	3.333333
15 August 2030	3.333333
15 February 2031	3.333333
15 August 2031	3.333333
15 February 2032	3.333333
15 August 2032	3.333333
15 February 2033	3.333333
15 August 2033	3.333333
15 February 2034	3.333333
15 August 2034	3.333333
15 February 2035	3.333333
15 August 2035	3.333333
15 February 2036	3.333333
15 August 2036	3.333333
15 February 2037	3.333333
15 August 2037	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 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 and Commitment Charges

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

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.

Conditions for Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for the Viability Gap Fund expense item until:
- (a) VGF Guidelines, in form and substance acceptable to ADB and Punjab, shall have been formally adopted and notified by Punjab and incorporated into the standard operating procedures of the RMU;
 - (b) the RMU shall have adequate staffing for VGF monitoring;
 - (c) Punjab shall have established the ESMS and there shall be adequate staffing for implementation and monitoring of the ESMS for PPP Projects; and
 - (d) dedicated VGF and PDF accounts shall have been established in a manner acceptable to ADB (ringfenced from others accounts used by Punjab in relation to its infrastructure-related expenditures).

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Loan Account
1	Viability Gap Fund**	93,100,000	46.2% of total expenditure claimed*
2	Interest and Commitment Charges	6,900,000	100% of amounts due
	Total	100,000,000	

* Exclusive of taxes and duties imposed in the territory of the Borrower.

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

SCHEDULE 4**Procurement of Goods, Works and Consulting Services**General

1. (a) Private entities with whom Punjab enters into PPP Agreements shall be selected in a transparent manner by adopting competitive bidding procedures acceptable to ADB.

(b) Punjab shall cause the private entities with whom it enters into PPP Agreements to apply their own procedures for procurement of Goods, Works and Consulting Services, provided such procedures are applied in a transparent manner, preferably through competitive bidding procedures.

(c) Punjab shall ensure, and shall cause Agencies to ensure, that Consulting Services financed from the PDF are procured in a transparent manner using procedures acceptable to ADB.

(d) Goods, Works and Consulting Services may also be procured from non-member countries of ADB.

Industrial or Intellectual Property Rights

2. (a) Punjab shall cause private entities to ensure that all Goods and Works (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) Punjab shall cause private entities to 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) hereinabove.

3. Punjab shall, and shall cause private entities to, ensure that all contracts that Punjab or such private entities enter(s) into 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.

SCHEDULE 5**Execution of Project; Financial Matters**Implementation Arrangements

1. The Borrower and Punjab 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 and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

2. (a) The Borrower shall, and shall cause Punjab to, 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.

(b) The Borrower shall ensure that Punjab complies with all the requirements and obligations on its part as included in this Loan Agreement and the Project Agreement to meet the objectives of the Project in a timely and efficient manner.

Coordination among Punjab's Agencies

3. The Borrower confirms that it is, and shall ensure that Punjab is, fully committed to the Project and shall ensure that all ministries, agencies and divisions of Punjab involved in the implementation of the Project, including local government authorities, give their full cooperation to ensure smooth implementation of the Project.

Counterpart Funding

4. The Borrower shall cause Punjab to ensure that the PPP Agreements provide for sufficient funds required for timely and effective implementation of each PPP Project, including, without limitation, any funds required (a) to meet any shortfall between cost and revenues for the operation and maintenance of facilities constructed under a PPP Project; (b) to mitigate unforeseen environmental or social impacts; and (c) to meet any additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances.

PPP Sector Matters

5. The Borrower shall, and shall cause Punjab to, ensure that: (a) ADB is kept informed of the policies and programs of the Borrower and Punjab in respect of PPP and those that may have implications for implementation of the Project; and (b) ADB is given an opportunity to comment on any proposed new PPP policies or programs. Notwithstanding the foregoing, for the duration of the Project, the Borrower shall cause Punjab to ensure that it will provide ADB with an opportunity to comment on any proposed amendments, suspension or repeal in the PPP Policy, the PDF Guidelines or the VGF Guidelines and shall take into account ADB's views before finalizing and implementing such amendments, suspension or repeal.

Selection Criteria and Approval Process for PPP Projects

6. The Borrower shall cause Punjab to ensure that each PPP project proposed to be supported by any portion of the VGF financed by the Loan:
- (a) meets the eligibility criteria set forth in the PPP Policy, PPP Act and the VGF Guidelines; provided, however, that such PPP project shall only receive support from the VGF;
 - (b) is processed in accordance with the PPP Policy, PPP Act and the VGF Guidelines, and is otherwise technically, institutionally, financially and economically feasible based on due diligence conducted by Punjab;
 - (c) adheres to the safeguards requirements set forth in paragraphs 8 to 15 below; and
 - (d) does not involve any activity included in the list of prohibited investment activities provided in Appendix 5 of ADB's Safeguard Policy Statement (2009),

provided, that, for the avoidance of doubt, the Borrower and Punjab shall not be required to comply with the provisions of this Loan Agreement, the Externally Financed Grant Agreement or the Project Agreement (including the Schedules to each such agreement) in respect of any PPP project that receives VGF support using proceeds entirely apart from the Loan.

7. The Borrower shall cause Punjab to ensure that all documents forming the basis for screening and selection of PPP Projects proposed to be supported by the VGF are made available to ADB upon request and are kept available for such purposes for a minimum period of 5 years from the date of the project completion report for the Project.

Screening, Categorization, and Environmental and Social Assessment and Planning

8. The Borrower shall, and shall cause Punjab to, ensure that before any PPP Project is approved to receive support from the VGF:
- (a) the ESMS is used to screen and categorize the significance of potential environmental, indigenous peoples or involuntary resettlement impacts associated with such PPP Project;
 - (b) an EIA or IEE (as applicable), an EMP, a RP and/or an IPP are prepared for such PPP Project as required pursuant to the ESMS; and
 - (c) the EIA or IEE (as applicable), the EMP, the RP and the IPP are cleared by ADB if such PPP Project is Category A or Category B within the meaning of the SPS.

Condition for Disbursement for PPP Projects

9. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for the purpose of any PPP Project until Punjab has established the ESMS in a manner satisfactory to ADB.

Environment

10. The Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, ensure that the preparation, design, construction, implementation, operation and decommissioning of each PPP Project comply with (a) all applicable laws and regulations of the Borrower and Punjab relating to environment, health, and safety; (b) the Environmental Safeguards; (c) the ESMS; and (d) all measures and requirements set forth in the respective IEE or EIA (as applicable) and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

11. The Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, ensure that all land and all rights-of-way required for each PPP Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and Punjab relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the ESMS; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

12. Without limiting the application of the Involuntary Resettlement Safeguards, the ESMS or the RP, the Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, ensure that no physical or economic displacement takes place in connection with any PPP 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

13. The Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, ensure that the preparation, design, construction, implementation and operation of each PPP Project comply with (a) all applicable laws and regulations of the Borrower and Punjab relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) the ESMS; and (d) 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

14. The Borrower shall, and shall cause Punjab and each private entity carrying out a PPP Project to, ensure that necessary budgetary and human resources are made available to fully implement the ESMS.

Safeguards Monitoring and Reporting

15. The Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB;
- (b) if any unanticipated environmental and/or social risks and impacts arise during implementation of a PPP Project, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) ensure that, by no later than the time a PPP Agreement is entered into for a PPP Project involving Category A impacts within the meaning of the SPS, qualified and experienced external experts or qualified NGOs are engaged under a selection process and terms of reference acceptable to ADB, to verify information produced through the monitoring process of such PPP project, and facilitate the carrying out of any verification activities by such external experts;
- (d) ensure that, by no later than the time a PPP Agreement is entered into for a PPP Project involving Category A impacts that are deemed by ADB to be highly complex and sensitive within the meaning of the SPS, an independent advisory panel is engaged to monitor and report upon implementation of such PPP project, and facilitate the carrying out of any monitoring activities by such panel; and
- (e) report any actual or potential breach of compliance with the measures and requirements set forth in the ESMS and any EMP, RP or IPP promptly after becoming aware of the breach.

Social

16. The Borrower shall, or shall cause Punjab and each private entity carrying out a PPP Project to, ensure that the PPP Agreements and other Works contracts under the Project follow all applicable labor laws of the Borrower and Punjab and that these further include provisions to the effect that the contractors (a) 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 (b) follow and implement all statutory provisions on labor (including not employment 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.

Gender and Development

17. The Borrower shall cause Punjab to ensure that (a) the Gender Action Plan (GAP) developed for the Project agreed between Punjab and ADB 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 GAP (if applicable); (c) adequate resources are allocated for implementation of the GAP; (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB; and (e) at least one social sector PPP Project approved for financing includes a project gender action plan for review by ADB, with gender-inclusive design elements, that clearly demonstrate benefits for women, in addition to other gender benefits.

Governance, Corruption and Transparency

18. Both the Borrower and Punjab 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 with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

19. Both the Borrower and Punjab shall ensure that anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of Punjab to audit and examine the records and accounts of all contractors, suppliers, consultants and other service providers as they relate to the Project. At the request of ADB, the Borrower shall cause Punjab to promptly (i) exercise the right to audit and examine the records and accounts of such contractors, supplier, consultants and other service providers as provided in the foregoing sentence, and (ii) provide to ADB all documents and information obtained through such audit and examination as ADB shall request (and it shall be ensured that Punjab has the right to provide such documents and information to ADB).

20. Both the Borrower and Punjab shall ensure that Punjab establishes and maintains a website that makes continuously available to the public, among other things, (a) the VGF Guidelines; (b) any other set(s) of guidelines, rules, or similar documents that govern operation of the VGF; (c) a list of all outstanding commitments with respect to the VGF; (d) a list of all disbursements made from the VGF; and (e) the quarterly and annual risk monitoring reports prepared in respect of the VGF.