



SRI LANKA RESIDENT MISSION

15 March 2017

Dr. R.H.S. Samaratunga
Secretary
Ministry of Finance
The Secretariat Building
Colombo 1
Sri Lanka

Date Received		
20/03/2017	ACT	INFO
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Re: Project Design Advance for Northern Province Sustainable Fisheries Development Project
Loan Number: PDA 6011-SRI (Ordinary Operations [Concessional])
Project number: 49325-001

Dear Dr. Samaratunga,

Democratic Socialist Republic of Sri Lanka ("Borrower") has requested ADB for financial assistance under ADB's Project Design Facility for preparation of the Northern Province Sustainable Fisheries Development Project ("Ensuing Project").

In response to the above request, ADB has agreed to provide a project design advance ("PDA") in the form of a concessional loan ("PDA Loan") from ADB's ordinary capital resources in an amount of one million three hundred thousand Dollars (\$1, 300,000) on the terms and conditions set forth in this letter agreement and the Attachments hereto ("PDA Loan Agreement"), for the purposes of the project ("PDA Project") as set out below.

The PDA Project shall comprise detailed engineering design.

The Borrower acknowledges and agrees that no provision of this PDA Loan Agreement constitutes or implies a commitment or legal obligation on the part of ADB to provide financial assistance for the Ensuing Project.

According to ADB's Public Communication Policy 2011 ("PCP") on disclosure and exchange of information, this PDA Loan Agreement will be publicly disclosed on the ADB website once it has been signed by both parties. If ADB is advised that this PDA Loan Agreement contains any information or data of a sensitive or confidential nature falling within the PCP exceptions to presumed disclosure under the PCP, this PDA Loan Agreement will be disclosed after removing such information.

The Borrower is requested to confirm its agreement to the terms and conditions of this PDA Loan Agreement by having an authorized representative countersign the two original counterparts of this PDA Loan Agreement in the space indicated below. Please retain one signed original counterpart for your records, and return one signed original counterpart to ADB.


Very truly yours,

Sri Widowati
Country Director

ASIAN DEVELOPMENT BANK
SRI LANKA RESIDENT MISSION
23, Independence Avenue
Colombo 7, Sri Lanka
Tel +94 11 4455455
Fax +94 11 4455499
www.adb.org/srilanka

The Borrower hereby agrees to the terms and conditions of this PDA Loan Agreement and confirms that this PDA Loan Agreement does not contain information or data that falls within the PCP exceptions.

On behalf of Democratic Socialist Republic of Sri Lanka



Name: Dr. Ranepura Hewage Samantha Samaratunga

Title: Secretary, Ministry of Finance

Date: 17/03/2017

Attachment 1: Terms and Conditions

Attachment 2: Amortization Schedule

Attachment 3: Allocation Table

Attachment 4: PDA Project Administration Manual

Terms and Conditions**ARTICLE I****Loan Regulations; Definitions**

Section 1.01. The provisions of the Ordinary Operations (Concessional) Loan Regulations Applicable to Concessional Loans Made from ADB's Ordinary Capital Resources, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this PDA Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

- (a) the term "Loan", wherever it appears in the Loan Regulations as a defined term or as part of a defined term, shall be substituted by the term "PDA Loan"; and
- (b) the term "Project", wherever it appears in the Loan Regulations as a defined term or as part of a defined term, shall be substituted by the term "PDA Project".

Section 1.02. Wherever used in this PDA 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 PDA Loan Agreement have the following meanings:

- (a) "Allocation Table" means the table showing the allocation of the PDA Loan proceeds to items of expenditure under the PDA Project, and the withdrawal percentage for disbursement for each such item of expenditure from the PDA Loan proceeds, as set forth in Attachment 3 to this PDA Loan Agreement;
- (b) "Amortization Schedule" means the amortization schedule for repayment of the withdrawn principal amount of the PDA Loan in the event that the PDA Loan is not refinanced by ADB, as set forth in Attachment 2 to this PDA Loan Agreement;
- (c) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (d) "Consulting Services" means the consulting services to be financed out of the proceeds of the PDA Loan;
- (e) "Ensuing Financing Agreement" means the loan and/or grant agreement to be entered into between the Borrower and ADB for financing the Ensuing Project, which, inter alia, provides for refinancing of the PDA Loan made by ADB under this PDA Loan Agreement;

- (f) "Goods" means equipment and materials to be financed out of the proceeds of the PDA Loan under a contract for Consulting Services;
- (g) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);
- (h) "PDA PAM" means the project administration manual for the PDA Project, as initially set forth in Attachment 4 to this PDA Loan Agreement and as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (i) "PDA Project Executing Agency" within the meaning of the Loan Regulations means the Ministry of Fisheries and Aquatic Resources Development of the Borrower, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the PDA Project;
- (j) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (k) "Procurement Plan" means the procurement plan for the PDA Project incorporated in the PDA PAM, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB; and
- (l) "Refinancing Date" means the effective date of the Ensuing Financing Agreement as specified in Section 2.03 of this PDA Loan Agreement, or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE II

The PDA Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one million three hundred thousand Dollars (\$1,300,000).

Section 2.02. Interest shall accrue on the principal amount of the Loan withdrawn and outstanding from time to time at a rate of 2% per annum.

Section 2.03. (a) In the event that the Loan is refinanced by ADB pursuant to an Ensuing Financing Agreement, on the Refinancing Date:

- (i) the Borrower shall repay the principal amount of the PDA Loan withdrawn from the PDA Loan Account along with interest and other charges accrued hereunder in accordance with the terms of the Ensuing Financing Agreement; and

- (ii) the right of the Borrower to make withdrawals from the PDA Loan Account shall terminate, and any unwithdrawn amount of the PDA Loan shall be cancelled.

(b) The Refinancing Date shall be 1 June 2018 or such other date as may from time to time be agreed between the Borrower and ADB.

Section 2.04. (a) In the event that the PDA Loan is not refinanced by ADB:

- (i) ADB shall notify the Borrower of the PDA Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations;
- (ii) the currency of repayment of the principal amount of the PDA 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 Dollar; and
- (iii) subsection (b) or subsection (c) hereinafter shall apply.

(b) If the amount of the PDA Loan withdrawn from the PDA Loan Account on the PDA Loan Closing Date exceeds \$50,000 equivalent:

- (i) the Borrower shall repay the principal amount of the PDA Loan withdrawn from the PDA Loan Account in accordance with the provisions of the Amortization Schedule, subject to such changes in the Principal Payment Dates as ADB may notify to the Borrower;
- (ii) the PDA Loan will have a principal repayment period of 5 years, and a grace period as defined in subsection (b)(iii) hereinafter;
- (iii) the term "grace period" as used in this subsection (b) means the period prior to the first Principal Payment Date in accordance with the Amortization Schedule, subject to any change as described in subsection (b)(i) hereinabove; and
- (iv) interest and other charges shall be payable semiannually on 15 May and 15 November in each year, except that interest and other charges accrued during the grace period shall be payable on the first Principal Payment Date.

(c) If the amount of the PDA Loan withdrawn from the PDA Loan Account on the PDA Loan Closing Date is the equivalent of \$50,000 or less, the Borrower shall repay the entire principal amount of the PDA Loan to ADB along with the interest and other charges accrued hereunder, within 60 days of a notice to that effect from ADB to the Borrower.

ARTICLE III

Use of Proceeds of the PDA Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures on the PDA Project in accordance with the provisions of this PDA Loan Agreement.

Section 3.02. Except as ADB may otherwise agree, the proceeds of the PDA Loan shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure, as set forth in the Allocation Table.

Section 3.03. Except as ADB may otherwise agree, the PDA Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Section 3.04. 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 PDA Loan in accordance with the Consulting Guidelines and the Procurement Guidelines, as the case may be.

Section 3.05. Except ADB may otherwise agree, the Borrower shall apply such methods for selecting and engaging Consulting Services and for procurement of Goods as are set out in the Procurement Plan.

Section 3.06. All contracts for procurement of 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.

Section 3.07. (a) The Borrower shall ensure that all Goods 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 contain appropriate representations, warranties and, if appropriate, indemnities from the supplier with respect to the matters referred to in subsection (a) hereinabove.

(c) 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.

Section 3.08. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the PDA Loan to be used exclusively in the carrying out of the PDA Project.

Section 3.09. Except as stipulated otherwise in this PDA Loan Agreement, withdrawals from the Loan Account in respect of Goods and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from, and Consulting Services which are supplied from, such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and
- (b) Goods and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

ARTICLE IV

Particular Covenants

Section 4.01. The Borrower shall ensure that the PDA Project is implemented in accordance with the detailed arrangements set forth in the PDA PAM. Any subsequent change to the PDA PAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the PDA PAM and this PDA Loan Agreement, the provisions of this PDA Loan Agreement shall prevail.

Section 4.02. The Borrower shall make available, or cause the PDA Project Executing Agency to make available, promptly as needed, the funds, facilities, services as required, in addition to the proceeds of the PDA Loan, for the carrying out of the PDA Project.

Section 4.03. Whenever applicable, in the carrying out of the PDA Project, the Borrower shall ensure, or shall cause the PDA Project Executing Agency to ensure, that competent and qualified consultants acceptable to ADB are employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

Section 4.04. (a) The Borrower shall, or shall cause the PDA Project Executing Agency to, (i) maintain separate accounts and records for the PDA Project; (ii) prepare annual financial statements for the PDA 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 PDA Loan proceeds, and a management letter (which sets out the deficiencies in the internal control of the PDA 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 PDA 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 enable ADB, upon ADB's request, to discuss the financial statements for the PDA Project and the Borrower's financial affairs where they relate to the PDA Project 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 Borrower, unless the Borrower shall otherwise agree.

Section 4.05. The Borrower shall enable ADB's representatives to inspect the PDA Project, the Goods and any relevant records and documents.

Section 4.06. (a) The Borrower, the PDA Project Executing Agency, and the implementing agencies, shall (i) 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 PDA Project; and (ii) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

(b) The Borrower, the PDA Project Executing Agency and the implementing agencies shall ensure that the 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 executing and implementing agencies and all suppliers, consultants, and other service providers as they relate to the PDA Project.

ARTICLE V

Effectiveness

Section 5.01. Notwithstanding the provisions of Sections 9.01 and 9.03 of the Loan Regulations, this PDA Loan Agreement shall become effective upon the date of receipt by ADB of this PDA Loan Agreement duly signed by both the Borrower and ADB.

ARTICLE VI

Miscellaneous

Section 6.01. Each of the Secretary of Ministry of Finance, the Deputy Secretary to the Treasury and the Director General, Department of External Resources of the Ministry of National Policies and Economic Affairs of the Borrower 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

Secretary
Ministry of Finance
Colombo 1
Sri Lanka

cc: Deputy Secretary to the Treasury
Director General, Department of External Resources

Facsimile Number:

0094 112447633

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2391.

Amortization Schedule

<u>Payment Due</u>	<u>Payment of Principal</u> (expressed in USD)*
15 November 2018	130,000
15 May 2019	130,000
15 November 2019	130,000
15 May 2020	130,000
15 November 2020	130,000
15 May 2021	130,000
15 November 2021	130,000
15 May 2022	130,000
15 November 2022	130,000
15 May 2023	<u>130,000</u>
TOTAL	1,300,000

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

Allocation Table

ALLOCATION AND WITHDRAWAL OF PDA LOAN PROCEEDS			
Number	Category	Amount of PDA Loan Allocated to the Category (USD)	Basis for Withdrawal from the PDA Loan Account
1	Consulting Services	\$1,300,000	100% of total expenditure claimed*
	TOTAL	\$1,300,000	

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

Project Administration Manual



Project Design Advance Project Administration Manual

Project Number: 49325-003
Loan Number: PDA6011
March 2017

Democratic Socialist Republic of Sri Lanka: Northern Province Sustainable Fisheries Development Project