
LOAN NUMBER 3327-IND

LOAN AGREEMENT
(Ordinary Operations)

(Assam Power Sector Investment Program – Project 2)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 7 NOVEMBER 2016

IND 47101

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 7 November 2016 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 13 May 2014 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Assam Power Sector Investment Program;

(B) by a periodic financing request dated 13 May 2015 submitted by the Borrower, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the State of Assam ("State") and the Assam Power Distribution Company Limited ("APDCL"), and for this purpose the Borrower will make available to the State the proceeds of the loan provided for herein upon terms and conditions mutually agreeable to ADB and the Borrower; 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 on the one hand, and the State and APDCL on the other hand;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

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

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

Commitment Charge; Credit; Maturity Premium. (a)

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

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

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

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

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

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

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

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

by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

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

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

(a) "APDCL" means Assam Power Distribution Company Limited, or any successor thereto acceptable to ADB;

(b) "APGCL" means Assam Power Generation Corporation Limited, or any successor thereto acceptable to ADB;

(c) "Bill Collection Efficiency Ratio" is the ratio between total collection amount and the amount of current receivables;

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

(e) "Consulting Services" means the services to be financed out of the proceeds of the Loan;

(f) "EA" or the "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State and APDCL or any successors thereto acceptable to ADB, that are responsible for carrying out the Project;

(g) "EARF" or "Environmental Assessment and Review Framework" means the environmental assessment and review framework for the Investment Program, including any update thereto, agreed between the Borrower through the EA, and ADB, and incorporated by reference in the FFA;

(h) "EMP" or "Environmental Management Plan" means the environmental management plan, including any update thereto, incorporated in the IEE;

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

(j) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(k) "FFA" means the framework financing agreement dated 13 May 2014 between ADB and the Borrower with respect to the Facility;

(l) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;

(m) "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;

(n) "IEE" or "Initial Environmental Examination" means the initial environmental examination, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the EARF and cleared by ADB;

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

(p) "Investment Program" means the Assam Power Sector Investment Program;

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

(r) "IPPF" or "Indigenous Peoples Planning Framework" means the indigenous peoples planning framework for the Investment Program, including any update thereto, agreed between the Borrower through the EA, and ADB, and incorporated by reference in the FFA;

(s) "km" means kilometer;

(t) "kV" means kilovolt;

(u) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(v) "PAM" means the project administration manual for the Project dated October 2015 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;

(w) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 2015;

(x) "PIU" means the Project Implementation Unit of APDCL;

(y) "PMU" means the Project Management Unit for the Investment Program;

(z) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

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

(bb) "RF" or "Resettlement Framework" means the resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower through the EA, and ADB, and incorporated by reference in the FFA;

(cc) "RP" or "Resettlement Plan" means each and any resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the RF and cleared by ADB;

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

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

(ff) "State" means the State of Assam;

(gg) "Steering Committee" means the steering committee for the Investment Program, co-chaired by the Chairman of APDCL and the Commissioner & Secretary, Department of Power, Government of Assam;

(hh) "Subsidiary Financing Arrangement" means the arrangements between the State and APDCL referred to in Section 3.01(b) of this Loan Agreement; and

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

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of forty eight million Dollars (\$48,000,000), 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 20 years, and a grace period as defined in subsection (c) hereinafter.

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

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

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

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

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 01 May and 01 November in each year.

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

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

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and

outstanding from a Floating Rate to a Fixed Rate, or vice versa;
and

- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

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

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall make the proceeds of the Loan available to the State under Financing Arrangements upon terms and conditions mutually agreeable to ADB and the Borrower.

(b) The Borrower shall cause the State to make the proceeds of the Loan available to APDCL under Subsidiary Financing Arrangements mutually agreeable to ADB and the Borrower. Under the Subsidiary Financing Arrangements, the State shall onlend to APDCL 10% of the proceeds of the Loan and make 90% of the proceeds of the Loan available to APDCL as equity contribution of the State.

(c) The Borrower shall cause the State and APDCL 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 by the EA, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

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

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2019 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

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

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

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

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

Section 4.05. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.06. The Borrower shall take all actions which shall be necessary on its part to enable the EA to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.07. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements with the State in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

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

ARTICLE V

Effectiveness

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

ARTICLE VI

Miscellaneous

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

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

For the Borrower

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

Facsimile Numbers:

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

For ADB


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

Facsimile Numbers:

+63 2 636-2444
+63 2 636-2338.

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

INDIA

By 

RAJ KUMAR
Joint Secretary (MI)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By 

M. TERESA KHO
Country Director

SCHEDULE 1**Description of the Project**

1. The objective of the Investment Program is to increase capacity and efficiency of energy generation and distribution systems in the State.

2. The objective of the Project is to increase the efficiency and capacity of the power distribution system in the State.

3. The Project shall comprise the following:

Part A. Expansion and Up-gradation of the Distribution System including:

- (i) construction of one new 33 kV / 11 kV substation and associated lines;
- (ii) construction of approximately 137 km of 33 kV lines;
- (iii) construction of a 33 kV railway line and a river crossing;
- (iv) construction of approximately 7 km of 11 kV lines;
- (v) installation of approximately seventeen 33 kV bays to serve new and existing 33 kV lines;
- (vi) re-conductoring and refurbishing of approximately 955 km of 33 kV lines, 1,000 km of 11 kV lines, and 1,555 km of low voltage lines;
- (vii) replacement of approximately 204 distribution transformers; and
- (viii) replacement of approximately 14 km of 11 kV overhead lines with underground cables.

Part B. Strengthening institutional capacity of APDCL, including:

- (i) establishing two area load-dispatch centers;
- (ii) setting up one independent meter testing laboratory;
- (iii) establishing one information technology module to expand the centralized uniform revenue billing system for APDCL customers; and

(iv) project and Investment Program management and implementation support, including the environmental assessment studies for the Lower Kopili hydropower project.

4. Consulting Services will be provided to support the above stated activities.
5. The Project is expected to be completed by 30 June 2019.

SCHEDULE 2**Amortization Schedule****(Assam Power Sector Investment Program – Project 2)**

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 %)
1 May 2021	2.500000
1 November 2021	2.500000
1 May 2022	2.500000
1 November 2022	2.500000
1 May 2023	2.500000
1 November 2023	2.500000
1 May 2024	2.500000
1 November 2024	2.500000
1 May 2025	2.500000
1 November 2025	2.500000
1 May 2026	2.500000
1 November 2026	2.500000
1 May 2027	2.500000
1 November 2027	2.500000
1 May 2028	2.500000
1 November 2028	2.500000
1 May 2029	2.500000
1 November 2029	2.500000
1 May 2030	2.500000
1 November 2030	2.500000
1 May 2031	2.500000
1 November 2031	2.500000
1 May 2032	2.500000
1 November 2032	2.500000
1 May 2033	2.500000
1 November 2033	2.500000
1 May 2034	2.500000
1 November 2034	2.500000
1 May 2035	2.500000
1 November 2035	2.500000
1 May 2036	2.500000

Date Payment Due	Installment Share (Expressed as a %)
1 November 2036	2.500000
1 May 2037	2.500000
1 November 2037	2.500000
1 May 2038	2.500000
1 November 2038	2.500000
1 May 2039	2.500000
1 November 2039	2.500000
1 May 2040	2.500000
1 November 2040	<u>2.500000</u>
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 2 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").

Basis for Withdrawal from the Loan Account

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

Reallocation

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

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

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB.

Retroactive Financing

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

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Assam Power Sector Investment Program – Project 2)			
CATEGORY			ADB FINANCING
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Percentage and Basis for Withdrawal from the Loan Account
1	Equipment	36,150,000	100% of total eligible expenditure claimed*
2	Civil Work	7,820,000	100% of total eligible expenditure claimed*
3	Consultants	1,400,000	100% of total eligible expenditure claimed*
4	Unallocated	2,630,000	
	Total	48,000,000	

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

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

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

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) international competitive bidding; and
 - (b) national competitive bidding.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Domestic Preference

5. The EA 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.

National Competitive Bidding

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

Condition for Award of Contract

7. The Borrower shall ensure, or cause the EA to ensure, to not award any Works contract for the Project until the EA has:
 - (a) obtained the final approval of the IEE from the relevant environmental authority of the Borrower and the State, and ADB; and

- (b) incorporated the relevant provisions from the EMP into the Works contract.

8. The Borrower shall not award any Works contract which involves involuntary resettlement impacts, until the Borrower has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

9. Except as ADB may otherwise agree, the EA shall apply quality- and cost-based selection or individual consultant selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

10. (a) The EA 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 EA 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.

11. The EA 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

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

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

1. The Borrower and the EA 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, the State, APDCL and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.
2. Towards smooth implementation of the Project, grievance(s) if any from stakeholders, relating to Project implementation or use of funds, will be addressed effectively and efficiently by the State and APDCL.

Counterpart Funds

3. The State shall:
 - (a) ensure sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project including, without limitation, any funds required to meet additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances; and
 - (b) ensure by itself or through APDCL, as required, adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, during and after the Project's completion.

Resources

4. The Borrower and the EA shall ensure that the PMU and the PIU shall be provided with adequate staff, resources, and facilities to implement the Project.
5. The EA shall ensure that the position of Director Finance at APDCL is filled by December 2016.

Safeguards and SocialEnvironment

6. The Borrower shall ensure, or cause the EA to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project, and all Project facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to environment, health, and safety; (b) the Environmental Safeguards; (c) the EARF; and (d) all measures and requirements set forth in the IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

7. The Borrower shall ensure, or cause the EA to ensure, that all land and all rights-of-way required for the 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 relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

8. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall ensure, or cause the EA to ensure, that no physical or economic displacement takes place in connection with the Project until:

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

Indigenous Peoples

9. The Borrower shall ensure, or cause the EA to ensure, that the Project does not have any indigenous peoples impacts, within the meaning of SPS. In the event that the Project does have any such impact, the Borrower shall take or cause the EA to take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower, the State, SPS, and the IPPF.

Human and Financial Resources to Implement Safeguards Requirements

10. The Borrower shall make available, or cause the EA to make available, all necessary budgetary and human resources to fully implement the EMP as required.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

11. The Borrower shall ensure, or cause the EA to ensure, that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE, RP and the EMP, and any corrective or preventative actions set forth in a Safeguard Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the EA 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 IEE, EMP, RP or the RF;

- (d) adequately record the condition of roads, agricultural land the other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

12. The Borrower shall do, or cause the EA to 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 IEE, EMP, RP or the RF, as applicable, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - (c) report any breach of compliance with the measures and requirements set forth in the EMP promptly after becoming aware of the breach.

Prohibited List of Investments

13. The Borrower shall ensure, or cause the EA to ensure, that no proceeds of the Loan under the Project are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Other Social Measures

14. The EA shall ensure that all civil works contracts under the Project follow all applicable labor laws of the Borrower and the State, and that these further include provisions to the effect that 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 employing or using children as labor, and 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.

Procurement

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

The Borrower, the State, and APDCL shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project.

16. APDCL shall announce the Project and business opportunities associated with the Project including on its corporate website. The website will disclose the following information in relation to goods and services procured for the Project: (a) the list of participating bidders; (b) the name of the winning bidder; (c) the amount of the contracts awarded; and (d) the goods and services procured.

Reform Measures

17. The EA shall undertake on a timely basis compliance with undertakings under Schedule 6 to the FFA, as applicable, with respect to, among others, (a) Project implementation, (b) financial management, (c) accounting and internal audit, and (d) institutional reform.

18. The Borrower shall ensure, or cause the EA to ensure, that (a) annual energy audits are undertaken for all electrical circles in the State in order to identify circles with distribution losses above the annual regulatory targets set by the Assam Electricity Regulatory Commission, and (b) appropriate measures to reduce the distribution losses are implemented.

Financial Management

19. The Borrower shall ensure, or cause the EA to ensure, (a) 70% metering by June 2016, 80% metering by June 2017, 90% metering by June 2018, and 100% metering by June 2019 in the Project areas, and (b) maintenance of functioning metering at, at the minimum, 97% in the Project areas thereafter.

20. The Borrower shall ensure, or cause the EA to ensure, that the Bill Collection Efficiency Ratio in the Project areas is increased to 80% by 31 March 2016, 85% by 31 March 2017, 90% by 31 March 2018, and 95% by 31 March 2019, and maintained at 90%, at the minimum, thereafter.

21. The Borrower shall ensure, or cause the EA to ensure, that the annual accounts receivable ratio is maintained at 120 days by 31 March 2016, 110 days by 31 March 2017, 100 days by 31 March 2018, and 90 days by 31 March 2019.

22. The Borrower shall ensure, or cause the EA to ensure, that a financial restructuring plan for APDCL is (a) submitted to the State by APDCL by June 2016; (b) adopted by the State cabinet by December 2016; and (c) implemented by June 2017.

23. The Borrower shall ensure, or cause the EA to ensure, that the cost of the environmental assessment studies for the Lower Kopili hydropower project is transferred to APGCL by December 2019.

Governance and Anticorruption

24. The Borrower, the State, and APDCL 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 Investment Program; and (ii) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in detail in the PAM.

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

Performance Monitoring, Review and Progress Reports

26. Within six months of Effective date, the EA shall establish for the Facility as well as for the Project, a project performance monitoring system as required by ADB. The performance reports for the Project will be compiled for preparing Facility level performance reporting.

27. The Facility and the Project shall be under regular review by (i) the PMU on a monthly basis; and (ii) by the Steering Committee set by the State and APDCL on a semi-annual basis.

28. In addition to periodic reviews, a mid-term review shall be carried out by ADB, the Borrower and the EA, two (2) years after the Effective Date for the Project as also for the Facility, focusing on all aspects including, but not limited to, the engineering, environmental, resettlement and social aspects, and reviewing the financial status of APDCL. The review will allow for any necessary midcourse corrections to ensure successful Project implementation and achievement of objectives of the overall Facility and the Investment Program.

29. Without limiting the generality of the provisions under Section 2.08 (b) and (c) of the Project Agreement:

- (a) APDCL shall prepare progress reports for the Project and submit these to ADB on a quarterly basis within 30 days from the end of each quarter. Each report will provide a narrative description of progress made during the period in respect of the Project, changes in the implementation schedule, problems or difficulties encountered, and the work to be carried out in the next period. The progress report will also include Project expenditures for the year to date and total expenditure to date. APDCL shall undertake periodic project performance review for the Project, as also for the Facility, to evaluate the scope, implementation arrangements, progress and achievements of objectives of the Project and the overall Facility. Performance shall be evaluated based on indicators and targets stipulated in the Design and Monitoring Framework for the Investment Program and the Project; and
- (b) APDCL shall furnish to ADB a Project completion report within 3 months of physical completion of the Project, and Facility completion

report within 3 months of physical completion of the Facility. These reports will cover a detailed evaluation of the Project and the Facility respectively, covering the design, costs, contractors' and consultants' performance, social, environmental and economic impact, economic rate of return, and other details for the Project and the Facility as may be requested by ADB.