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GRANT NUMBER 0648-PNG

GRANT AGREEMENT  
(Externally Financed – Government of Australia)  
(Health Services Sector Development Project – Additional Financing)

between

INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 21 June 2019

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PNG 51035

**GRANT AGREEMENT  
(Externally Financed)**

GRANT AGREEMENT dated 21 June 2019 between the INDEPENDENT STATE OF PAPUA NEW GUINEA ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

**WHEREAS**

(A) by a loan agreement dated 13 June 2018 between the Recipient and ADB ("Original Concessional Loan Agreement"), ADB provided to the Recipient a concessional loan from its ordinary capital resources in the amount of forty-nine million nine hundred thousand Dollars (\$49,900,000) ("Original Concessional Loan") for the purposes of the Project described in Schedule 1 to the Original Concessional Loan Agreement ("Original Project");

(B) by a loan agreement dated 13 June 2018 between the Recipient and ADB ("Original Ordinary Operations Loan Agreement"), ADB provided to the Recipient a regular loan from its ordinary capital resources in the amount of forty-five million one hundred thousand Dollars (\$45,100,000) ("Original Ordinary Operations Loan") for the purposes of the Original Project;

(C) by a loan agreement dated 13 June 2018 between the Recipient and ADB, ADB provided to the Recipient a regular loan from its ordinary capital resources in the amount of one hundred million Dollars (\$100,000,000) for the purposes of the Health Services Sector Development Program;

(D) the Recipient has applied to the Government of Australia, through its Department of Foreign Affairs and Trade ("DFAT"), for a grant, to be administered by ADB, for the purposes of the Project described in Schedule 1 to this Grant Agreement ("Project");

(E) by a cofinancing agreement dated 12 April 2018 between ADB and DFAT ("Cofinancing Agreement"), DFAT has agreed to provide, and ADB has agreed to administer, the grant provided for herein upon the terms and conditions set out in the Cofinancing Agreement; and

(F) ADB has agreed to make the proceeds of the grant from DFAT available to the Recipient upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Grant Regulations; Definitions**

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

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

- (a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (b) "Consulting Services" means the services to be financed out of the proceeds of the Grant as described in paragraph 3 of Schedule 1 to this Grant Agreement;
- (c) "DOT" means the Department of Treasury;
- (d) "EA" or "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DOT, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (e) "EARF" or "Environmental Assessment and Review Framework" means the environmental assessment and review framework for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (f) "EMP" or "Environmental Management Plan" means an environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (g) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (h) "GAP" or "Gender Action Plan" means a gender action plan prepared for the Project and agreed between the Recipient and ADB;
- (i) "Goods" means equipment and materials to be financed out of the proceeds of the Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (j) "IEE" or "Initial Environmental Examination" means any initial environmental examination for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (k) "IPPF" or "Indigenous Peoples Planning Framework" means the indigenous peoples planning framework for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;

- (l) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;
- (m) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (n) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (o) "O&M" means operation and maintenance;
- (p) "PAM" means the project administration manual for the Project dated 24 May 2019 and agreed between the Recipient and ADB, as updated from time to time in accordance with the respective administrative procedures of the Recipient and ADB;
- (q) "PHA" means Provincial Health Authority;
- (r) "PFM" means public financial management;
- (s) "PMU" means, for the purpose of this Grant Agreement, a project management unit;
- (t) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (u) "Procurement Plan" means the procurement plan for the Project dated 24 May 2019 and agreed between the Recipient and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;
- (v) "Project facilities" means the facilities to be improved, rehabilitated, constructed, and/or maintained, and the equipment to be provided and installed under the Project;
- (w) "PPMS" means project performance monitoring system;
- (x) "RF" or "Resettlement Framework" means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (y) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);
- (z) "Safeguards Monitoring Report" means each report prepared and submitted by the Recipient to ADB that describes progress with implementation of, and compliance with the EMP, including any corrective and preventative actions; and

- (aa) "Works" means construction or civil works to be financed out of the proceeds of the Grant, 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 Grant**

Section 2.01. ADB agrees to make available to the Recipient a grant from DFAT in the amount of thirty-eight million Dollars (\$38,000,000).

## **ARTICLE III**

### **Use of Proceeds of the Grant**

Section 3.01. (a) The Recipient shall cause the proceeds of the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement.

(b) The Recipient agrees that the proceeds of the Grant may be used to pay ADB's administration fees and other charges pursuant to the Cofinancing Agreement. ADB shall be entitled to withdraw from the Grant Account and pay to itself, on behalf of the Recipient, the amounts required to meet payments, when due, of such administration fees and other charges.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 3 to this Grant Agreement.

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

## ARTICLE IV

### Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Grant Agreement.

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

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

(c) The Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient's financial affairs where they relate to the 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 Recipient, unless the Recipient shall otherwise agree.

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

Section 4.04. The Recipient acknowledges and agrees that this Grant Agreement is entered into by ADB, not in its individual capacity, but as grant administrator for DFAT. Accordingly, the Recipient agrees that (a) it may only withdraw Grant proceeds to the extent that ADB has received proceeds for the Grant from DFAT and such proceeds has not been suspended or cancelled in whole or in part by DFAT pursuant to the Cofinancing Agreement; and (b) that ADB does not assume any obligations of DFAT in respect of the Project or the Grant other than those set out in this Grant Agreement.

## **ARTICLE V**

### **Suspension**

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the Recipient shall have failed to perform any of its obligations under the Original Concessional Loan Agreement or the Original Ordinary Operations Loan Agreement.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of this Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

## **ARTICLE VII**

### **Miscellaneous**

Section 7.01. The Minister of Treasury of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

#### **For the Recipient**

Secretary, Department of Treasury  
The Treasury Building  
P.O. Box 542  
Waigani, National Capital District  
Papua New Guinea

#### **For ADB**

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

## Facsimile Numbers:

+63 2 636-2444

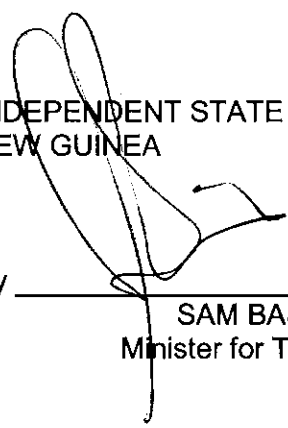
+63 2 636-2443.



IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant 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.

INDEPENDENT STATE OF PAPUA  
NEW GUINEA

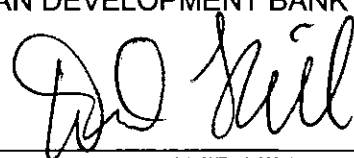
By



SAM BASIL  
Minister for Treasury

ASIAN DEVELOPMENT BANK

By



DAVID HILL  
Country Director  
Papua New Guinea Resident Mission

**SCHEDULE 1****Description of the Project**

1. The objective of the Project is to achieve a more sustainable and efficient healthcare system.

2. The Project shall comprise:

**Part 1: Enhancing national frameworks and PFM**

- (a) support to the Recipient's Department of Health for preparing cost estimates for service delivery that will inform and enhance the Recipient's next National Health Plan 2021-2030;

**Part 2: Strengthening subnational health system management**

- (b) support for the revitalization of the reproductive health and obstetrics training curriculum for clinical upskilling of 200 health workers and health management training at the PHAs; and

**Part 3: Strengthening health service delivery components**

- (c) upgrading health facility upgrades by extending the network of rural health services to include an additional health center and eight community health posts aligned with the Recipient's Medium-Term Development III Strategy which lays out the service delivery profile by district and other relevant national health standards.

3. Consulting Services shall be provided to support the above activities.

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

**SCHEDULE 2****Allocation and Withdrawal of Grant 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 Grant and the allocation of the Grant proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category of the Table.)

Basis for Withdrawal from the Grant Account

2. Except as ADB may otherwise agree, the proceeds of the Grant 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.

Reallocation

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

- (a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

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

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS			
Number	Item	Total Amount Allocated for DFAT Financing (\$)	Basis for Withdrawal from the Grant Account
1	Civil Works, Medical Equipment and Information, Communication and Technology, Consulting Services, Trainings, Administration and Operation, Monitoring and Evaluation	34,200,000	100% of total expenditures claimed
2	Miscellaneous Administration Costs	760,000	100% of amounts due
3	Unallocated	3,040,000	
	<b>TOTAL</b>	<b>38,000,000</b>	

### **SCHEDULE 3**

#### **Procurement of Goods, Works and Consulting Services**

##### General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. All terms used in this Schedule and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

##### Eligible Source of Procurement

4. Goods, Works and Consulting Services may also be procured under the Project from non-member countries of ADB.

##### Goods and Works

5. Goods and Works shall be procured on the basis of national competitive bidding.

##### National Competitive Bidding

6. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient 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 Recipient and ADB.

##### Conditions for Award of Contract

7. The Recipient shall not award any Works contract which involves environmental impacts until the Recipient has:
  - (a) obtained the final approval of the IEE from the appropriate environmental authority of the Recipient; and
  - (b) incorporated the relevant provisions from the EMP into the Works contract.

Consulting Services

8. The Recipient shall apply quality- and cost-based selection for Consulting Services.

Industrial or Intellectual Property Rights

9. (a) The Recipient 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 Recipient 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.

10. The Recipient 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

11. 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 Recipient and ADB and set forth in the Procurement Plan.

## **SCHEDULE 4**

### **Execution of Project; Financial Matters**

#### Implementation Arrangements

1. The Recipient 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 Recipient and ADB. In the event of any discrepancy between the PAM and this Grant Agreement, the Original Concessional Loan Agreement and the Original Ordinary Operations Loan Agreement, the provisions of this Grant Agreement, the Original Concessional Loan Agreement and the Original Ordinary Operations Loan Agreement shall prevail.

#### Counterpart Support

2. The Recipient shall also provide, through budgetary allocations or other means, all counterpart funds, land and facilities required for timely and effective implementation of the Project, including without limitation, any funds required: (a) to meet any shortfall between cost and revenues for the operation and maintenance of the facilities created or rehabilitated under the Project; (b) to mitigate any unforeseen environmental and social impacts; and (c) to meet additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances. The Recipient shall ensure that the resources thus required are made available on an annual basis for each fiscal year.

#### Environment

3. The Recipient shall 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 Recipient relating to environment, health and safety; (b) the Environmental Safeguards; (c) the EARF; and (d) all measures and requirements set forth in the IEEs, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Indigenous Peoples and Involuntary Resettlement

4. The Recipient shall ensure that the Project does not have any indigenous peoples or involuntary resettlement impacts within the meaning of the Safeguard Policy Statement. In the event that the Project does have any such impact, the Recipient shall ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with: (a) all applicable laws and regulations of the Recipient relating to indigenous peoples and involuntary resettlement; (b) the Indigenous Peoples Safeguards and the Involuntary Resettlement Safeguards; and (c) the IPPF and the RF. If there is any discrepancy between the SPS and the Recipient's laws and regulations, the SPS shall prevail.

#### Human and Financial Resources to Implement Safeguard Requirements

5. The Recipient shall make available necessary budgetary and human resources to fully implement the EMP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

6. The Recipient shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEEs and the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Recipient with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEEs and the EMP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

7. The Recipient shall do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEEs and the EMP, 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 actual or potential breach of compliance with the measures and requirements set forth in the EMP, promptly after becoming aware of the breach.

Prohibited List of Investments

8. The Recipient shall ensure that no proceeds of the Grant are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.



Gender Action Plan

9. The Recipient shall ensure that (a) the GAP 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; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets are regularly monitored and reported to ADB.

Labor Standards, Health and Safety

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

11. The Recipient shall strictly monitor compliance with the requirements set forth in paragraph 10 above and provide ADB with regular reports.

Security and Safety

12. The Recipient shall regularly monitor and evaluate security and safety controls at all Project facilities, and to share such information through periodic briefings with Works contractors and providers of Consulting Services. Such Works contractors and providers of Consulting Services shall be required to prepare and submit to the Recipient a security and emergency evacuation plan prior to commencement of the Works or Consulting Services.

Grievance Redress Mechanism

13. The Recipient shall establish and maintain a grievance redress mechanism acceptable to ADB with representation from all Project stakeholders for the purpose of addressing any grievances arising out the Project, including those from affected peoples concerning land acquisition, environment and any other social issues in a timely manner.

Operational Covenant

14. The Recipient shall ensure that the Project facilities are supplied with adequate medicines at all times.

Operation and Maintenance

15. The Recipient shall ensure that the Project facilities are adequately maintained and that proper technical supervision and adequate funds for this purpose are provided. The

funds required for the O&M shall be allocated annually and released on a timely basis, and the Recipient shall provide to ADB annual reports on the allocation and release of such funds from Grant effectiveness until project completion.

16. The Recipient shall prepare and maintain asset management plans and O&M management systems, and award performance-based maintenance contracts for selected Project facilities. Furthermore, the Recipient shall ensure that all equipment and spare parts financed under the Project shall exclusively be used for the O&M of the Project.

#### Project Performance Monitoring System

17. Within 6 months after Grant effectiveness, the Recipient shall establish a PPMS acceptable to ADB in line with the targets, indicators and procedures agreed between the Recipient and ADB. The Recipient shall monitor the indicators according to the agreed framework on a quarterly basis to determine the efficiency and effectiveness of the Project, and will provide to ADB quarterly reports from the establishment of PMU until project completion, and thereafter on an annual basis for the first 5 years after project completion.

#### Governance and Anticorruption

18. The Recipient 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. The Recipient 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 agency and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.