
LOAN NUMBER 4094-PNG

LOAN AGREEMENT
(Ordinary Operations)

(Sustainable Highlands Highway Investment Program – Tranche 2)

between

INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 14 OCTOBER 2021

PNG 48444

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 14 OCTOBER 2021 between INDEPENDENT STATE OF PAPUA NEW GUINEA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 15 May 2017 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Sustainable Highlands Highways Investment Program;

(B) by a periodic financing request dated 09 March 2020, the Borrower has applied to ADB for loans for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) by an agreement of even date herewith between the Borrower and ADB ("Concessional Loan Agreement"), ADB has agreed to make a concessional loan ("COL Loan") to the Borrower from ADB's ordinary capital resources in an amount of forty million Dollars (\$40,000,000) for the purposes of the Project; 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;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

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

(a) Section 2.01 (Definitions) subsection (xx) shall be deleted and replaced in its entirety as follows:

(xx) "Reference Rate" means, (i) except as ADB has otherwise made a determination in accordance with Section 3.02(c), in respect of any Loan Currency other than Euro, LIBOR, and in respect of Euro, Euribor; and (ii) if a determination is made in accordance with Section 3.02(c), such other reference rate and any spread for the Loan Currency as ADB shall reasonably determine and promptly notify the Borrower and the Guarantor.

- (b) A new subsection 3.02(c) shall be inserted after subsection 3.02(b) as follows:

Section 3.02(c). If interest on any amount of the Loan is calculated based on LIBOR or Euribor, and ADB determines that (i) such Reference Rate has permanently ceased to be quoted for the relevant Loan Currency or a public statement or publication of information by the regulatory supervisor for the administrator of the Reference Rate announcing such Reference Rate is no longer representative has been made or (ii) ADB is no longer able, or it is no longer commercially acceptable for ADB, to continue to use such Reference Rate for purposes of its asset and liability management, ADB shall apply such other Reference Rate for the relevant Loan Currency, including any applicable spread, as it may reasonably determine. ADB shall promptly notify the Borrower and the Guarantor of such other reference rate and any spread, and of related amendments to the provisions of the Loan Agreement necessary to give effect to its application, which shall become effective as of the date of such notice.

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) "CEMP" means each construction environmental management plan for the Project, including any update thereto, prepared by the Works contractors;
- (b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (c) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 2(b) of Schedule 1 to this Loan Agreement;
- (d) "DOW" means the Borrower's Department of Works or any successor thereto acceptable to ADB;
- (e) "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB, and incorporated by reference in the FFA;
- (f) "EMP" means the 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) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;
- (i) "FAM" means the Facility administration manual dated 08 May 2017 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (j) "FFA" means the framework financing agreement dated 15 May 2017 between ADB and the Borrower with respect to the Facility;
- (k) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the Borrower and ADB;
- (l) "Goods" means equipment and materials to be financed out of the proceeds of the Loan and the COL Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (m) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (n) "Investment Program" means the Sustainable Highlands Highway Investment Program, as more fully described in Schedule 1 to the FFA;
- (o) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (p) "IPPF" means the indigenous peoples planning framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;
- (q) "LARF" means the land acquisition and resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB, and incorporated by reference in the FFA;
- (r) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (s) "PAM" means the project administration manual for the Project activities dated 24 June 2021 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;
- (t) "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 referred to in Recital B of this Loan Agreement;

- (u) "PMO" means the project management office established within DOW for the purposes of the Project;
- (v) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (w) "Procurement Plan" means the procurement plan for the Project dated 24 June 2021 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;
- (x) "RP" means each resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB; and
- (y) "Works" means construction or civil works to be financed out of the proceeds of the Loan and the COL 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 two hundred eighty-five million Dollars (\$285,000,000), 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 15 February and 15 August in each year.

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

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

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

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

ARTICLE III

Use of Proceeds of the Loan

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

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

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

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2026 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

Section 4.02. (a) The Borrower 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 Loan 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 Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower'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 Borrower, unless the Borrower shall otherwise agree.

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

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(m) of the Loan Regulations:

- (a) the Borrower shall have failed to perform one or more of its obligations under the Concessional Loan Agreement; or
- (b) the COL Loan shall have become liable for suspension or cancellation.

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

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the Concessional Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.

Section 6.02. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister for Treasury of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

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

Facsimile Number:

(675) 313 3760.

For ADB

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

Facsimile Numbers:

(632) 8636-2444
(632) 8636-2446.

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.

INDEPENDENT STATE OF
PAPUA NEW GUINEA

By

IAN LING-STUCKEY, CMG, MP
Minister for Treasury



ASIAN DEVELOPMENT BANK

By


LEAH GUTIERREZ
Director General
Pacific Department

SCHEDULE 1**Description of the Project**

1. The objective of the Investment Program and the Project is to increase the efficiency and safe movement of people, goods and services between the Borrower's Highlands region and markets.
2. The Project shall consist of:
 - (a) upgrading of seventy-one (71) bridges along the national Highlands Highway between Lae Nadzab airport to Kagamuga airport to meet national design standards and mitigate climate change risks; and
 - (b) strengthening the capacity of DOW to design, construct and manage all bridges in the national highway network through training and knowledge-sharing on best practices on bridge performance data collection, use of advanced equipment, and maintenance and replacement programming.
3. The Project is expected to be completed by 31 December 2025.

SCHEDULE 2

Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 August 2026	2.500000
15 February 2027	2.500000
15 August 2027	2.500000
15 February 2028	2.500000
15 August 2028	2.500000
15 February 2029	2.500000
15 August 2029	2.500000
15 February 2030	2.500000
15 August 2030	2.500000
15 February 2031	2.500000
15 August 2031	2.500000
15 February 2032	2.500000
15 August 2032	2.500000
15 February 2033	2.500000
15 August 2033	2.500000
15 February 2034	2.500000
15 August 2034	2.500000
15 February 2035	2.500000
15 August 2035	2.500000
15 February 2036	2.500000
15 August 2036	2.500000
15 February 2037	2.500000
15 August 2037	2.500000
15 February 2038	2.500000
15 August 2038	2.500000
15 February 2039	2.500000
15 August 2039	2.500000
15 February 2040	2.500000
15 August 2040	2.500000

15 February 2041	2.500000
15 August 2041	2.500000
15 February 2042	2.500000
15 August 2042	2.500000
15 February 2043	2.500000
15 August 2043	2.500000
15 February 2044	2.500000
15 August 2044	2.500000
15 February 2045	2.500000
15 August 2045	2.500000
15 February 2046	2.500000
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; and
- (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"). (Reference to "Category" in this Schedule is to a Category of the Table.)

Basis for Withdrawal from the Loan Account

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

Interest and Commitment Charges

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

Reallocation

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

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

Disbursement Procedures

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

Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance 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 Works and Consulting Services, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Loan Account
		Category	
1	Civil Works	211,000,000	73% of total expenditure claimed
2	Consulting Services	27,000,000	90% of total expenditure claimed
3	DOW Capacity Building and Program Management	4,500,000	90% of total expenditure claimed
4	Project Management	9,000,000	90% of total expenditure claimed
5	Interest and Commitment Charges	15,739,125	100% of amounts due
6	Unallocated	17,760,875	
	TOTAL	285,000,000	

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

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

Goods and Works

4. Goods and Works shall be procured on the basis of the following procurement method: International Competitive Bidding.

Conditions for Commencement of Works

5. The Borrower may award a Works contract involving environmental impacts with respective IEE based on preliminary design having been submitted to and cleared by ADB if the contract:
 - (a) is of a "design and build" or "turnkey" type under which the design must be completed for the Works contract before the IEE is updated to reflect the final project design; and
 - (b) expressly provides that no works shall commence until: (i) an IEE for the Works contract reflecting the final project design having been submitted to, and cleared by ADB; (ii) the Borrower's Conservation and Environmental Protection Authority has granted the final approval of the IEE; (iii) the relevant provisions from the EMP have been incorporated into the Works contract; and (iv) the relevant Works contractor has prepared and submitted the CEMP and the CEMP has been cleared by the PMO.
6. The Borrower may award a Works contract involving involuntary resettlement impacts prior to the final RP having been submitted to and cleared by ADB if the contract:
 - (a) is of a "design and build" or "turnkey" type under which the design must be completed for the Works contract before the RP is finalized; and

- (b) expressly provides that the installation and construction phase (and commencement thereof) is conditional upon: (i) a final RP for the Works contract based on the Works contract's detailed design having been submitted to, and cleared by ADB; and (ii) the Borrower having notified ADB and the contractor in writing through the RP completion report that due consultation has been carried out, all required physical and/or economic displacement has been completed, compensation and other entitlements have been provided to affected people in accordance with the RP.

Consulting Services

7. Except as set forth in the paragraph below, the Borrower shall apply Quality- and Cost-Based Selection for Consulting Services.

8. The Borrower shall recruit the individual consultants for capacity building for DOW in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

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

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

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

ADB's Review of Procurement Decisions

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 Borrower and ADB and set forth in the Procurement Plan.

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

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

Counterpart Funds

2. The Borrower shall provide 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 funding shortfalls; (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.

Coordination among the Borrower's Agencies

3. The Borrower shall ensure that (a) all its ministries, agencies and divisions involved in the implementation of the Project provide their full cooperation to ensure smooth implementation of the Project; and (b) DOW issues any licenses, permits or approvals required in connection with Project without any undue delay.

Environment

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

Land Acquisition and Involuntary Resettlement

5. The Borrower shall ensure that all land and all rights-of-way required for the Project, and all Project facilities 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; (c) the LARF; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

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

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

Indigenous Peoples

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

Human and Financial Resources to Implement Safeguards Requirements

8. The Borrower shall make available necessary budgetary and human resources to fully implement each EMP and RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

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

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE, the EMP and RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower 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 IEE, EMP and RP;
- (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

10. The Borrower 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 IEE, the EMP, the RP, and the IPPF, 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 or the RP promptly after becoming aware of the breach.

Prohibited List of Investments

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

Labor Standards, Health and Safety

12. The Borrower shall ensure that the core labor standards and the applicable laws and regulations of the Borrower are complied with during Project implementation. The Borrower shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) have written terms of employment with all hired workers, pay equal wages for work of equal value, and pay wages to women and men directly with distribution of pay slips; (b) comply with the applicable labor law and regulations of the Borrower and Sindh and incorporate applicable workplace occupational safety norms; (c) do not use child labor; (d) do not discriminate workers in respect of employment and occupation; (e) do not use forced labor; (f) allow freedom of association and effectively recognize the right to collective bargaining; and (g) 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.

13. The Borrower shall cause the Project Executing Agency to strictly monitor compliance with the requirements set forth in paragraph 12 above and provide ADB with regular reports.

Gender and Development

14. The Borrower 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.

Governance and Anticorruption

15. The Borrower 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.

16. The Borrower 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 contractors, suppliers, consultants, and other service providers as they relate to the Project.