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LOAN NUMBER 3696-IND

LOAN AGREEMENT  
(Ordinary Operations)

(West Bengal Drinking Water Sector Improvement Project)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 3 OCTOBER 2018

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IND 49107

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 3 October 2018 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

**WHEREAS**

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(B) by a grant agreement of even date herewith between the Borrower and ADB ("Grant Agreement"), the Borrower has also applied to the Japan Fund for Poverty Reduction for a grant in the amount of approximately three million Dollars (\$3,000,000) to be administered by ADB for the Project ("Grant"), upon terms and conditions set forth in the Grant Agreement;

(C) the Project will be carried out by the State of West Bengal ("State") acting through the Public Health Engineering Department, 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 satisfactory 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 and the State.

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

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

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

- (a) "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 Loan and Grant as described in paragraph 2 of Schedule 1 to this Loan Agreement;
- (c) "EA" or "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through the Public Health Engineering Department, or any successor thereto, that is responsible for carrying out the Project;
- (d) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;
- (e) "Environmental Management Plan" or "EMP" means each environmental management plan for the Project, including any update thereto, incorporated in an IEE;
- (f) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (g) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;
- (h) "Gender Equality and Social Inclusion Action Plan" or "GESI Action Plan" means the gender equality and social inclusion action plan prepared for the Project, including any update thereto, and agreed to between the Borrower, the EA and ADB;
- (i) "Goods" means equipment and materials to be financed out of the proceeds of the Loan and Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (j) "Indigenous Peoples Plan" or "IPP" means each indigenous peoples plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the IPPF and cleared by ADB;
- (k) "Indigenous Peoples Planning Framework" or "IPPF" means the indigenous peoples planning framework for the Project, including any update thereto, prepared and submitted by the Borrower through the EA 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) "Initial Environmental Examination" or "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;
- (n) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (o) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (p) "PAM" means the project administration manual for the Project dated May 2018 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;
- (q) "PIU" means the project implementation unit;
- (r) "PMU" means the program management unit;
- (s) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (t) "Procurement Plan" means the procurement plan for the Project dated May 2018 as agreed between the Borrower, the EA and ADB, and included in the PAM, as also updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;
- (u) "Resettlement Framework" or "RF" means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;
- (v) "Resettlement Plan" or "RP" means each resettlement plan, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the RF and cleared by ADB;
- (w) "Project facilities" means the facilities to be constructed and the Goods to be provided under the Project;
- (x) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);
- (y) "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 and the RP, including any corrective and preventative actions;

- (z) "State" means the State of West Bengal;
- (aa) "Subproject" means a subproject under the Project that meets the subproject eligibility criteria set forth in Appendix 1 to the PAM; and
- (bb) "Works" means construction or civil works to be financed out of the proceeds of the Loan and 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 Loan**

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred and forty million Dollars (\$240,000,000), 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 January and 01 July in each year.

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

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

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

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

### **ARTICLE III**

#### **Use of Proceeds of the Loan**

Section 3.01. The Borrower shall make the proceeds of the Loan available to the EA upon terms and conditions mutually satisfactory to ADB and the Borrower, and shall cause the EA 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 ensure, or cause the EA to ensure that, the items of expenditure to be financed out of the proceeds of the Loan are procured 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 31 December 2024 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

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

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

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. In so far as it relates to the Project, the Borrower shall ensure, or cause the State to ensure, to 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 4.05. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements 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 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 Number:

(91-11) 2309-4075

For ADB

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

Facsimile Numbers:

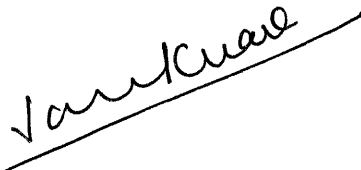
(63 2) 636-2444

(63 2) 636-2293.

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

  
\_\_\_\_\_  
SAMEER KUMAR KHARE  
Additional Secretary (FB & ADB)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By

  
\_\_\_\_\_  
KENICHI YOKOYAMA  
Country Director



## SCHEDULE 1

### Description of the Project

1. The objective of the Project is to deliver safe, sustainable, and inclusive drinking water services in project districts.
2. The Project shall comprise the following components that will also be assisted through provision of Consulting Services as applicable:

**Output 1: Construction of climate resilient drinking water infrastructure.**

This output will include: (a) completion of connections for piped water supply to approximately 390,000 households; (b) construction of three additional water treatment plants and storage reservoirs equipped with smart water management devices; (c) commissioning of approximately 4,800 kilometers of water distribution network; and (d) incorporation of climate resilience measures into all the water treatment plants, storage reservoirs and distribution network commissioned under the Project.

**Output 2: Institutional strengthening and stakeholder capacity building for drinking water service delivery.**

This output will include: (a) adoption of the government order on asset management and service delivery framework by at least 70% of the project *Gram Panchayats*; (b) completion of district level drinking water quality action plans for all districts in West Bengal; (c) commissioning of smart water management system both at the EA and at all the project *Gram Panchayats*; (d) completion of guidelines for water and sanitation safety plans for West Bengal; (e) commissioning of flood forecasting and early warning system; (f) approval of gender strategy for the EA; (g) completion of fecal sludge and septage management regulatory framework for West Bengal and commissioning of a pilot treatment plant in one project district; (h) reporting of increased skills in utility management of approximately 660 additional locals in project *Gram Panchayats* and at approximately 200 EA staff; (i) reporting of increased leadership and water-related livelihood skills of approximately 300 locals project *Gram Panchayats*; and (j) reporting of increased awareness on water conservation, demand management and water sanitation and hygiene of approximately 500 locals in project *Gram Panchayats*.

3. The Project is expected to be completed by 30 June 2024.

## 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>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 January 2024	2.500000
1 July 2024	2.500000
1 January 2025	2.500000
1 July 2025	2.500000
1 January 2026	2.500000
1 July 2026	2.500000
1 January 2027	2.500000
1 July 2027	2.500000
1 January 2028	2.500000
1 July 2028	2.500000
1 January 2029	2.500000
1 July 2029	2.500000
1 January 2030	2.500000
1 July 2030	2.500000
1 January 2031	2.500000
1 July 2031	2.500000
1 January 2032	2.500000
1 July 2032	2.500000
1 January 2033	2.500000
1 July 2033	2.500000
1 January 2034	2.500000
1 July 2034	2.500000
1 January 2035	2.500000
1 July 2035	2.500000
1 January 2036	2.500000
1 July 2036	2.500000
1 January 2037	2.500000
1 July 2037	2.500000
1 January 2038	2.500000

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 July 2038	2.500000
1 January 2039	2.500000
1 July 2039	2.500000
1 January 2040	2.500000
1 July 2040	2.500000
1 January 2041	2.500000
1 July 2041	2.500000
1 January 2042	2.500000
1 July 2042	2.500000
1 January 2043	2.500000
1 July 2043	2.500000
<b>Total</b>	<b>100.000000</b>

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 or Subcategory 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.

##### 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 and the EA, (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 and the EA, 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 ADB and the Borrower.

##### Retroactive Financing

5. 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, 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 (\$) Category	Basis for Withdrawal from the Loan Account
1	Works and Equipment	193,980,000	76.9% of total expenditure claimed
2	Consulting Services	12,910,000	87.0% of total expenditure claimed
3	Unallocated	33,110,000	
	<b>TOTAL</b>	<b>240,000,000</b>	

## **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 and EA may only modify the procurement method 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 methods of procurement set forth below:
  - (a) International Competitive Bidding;
  - (b) National Competitive Bidding;
  - (c) Shopping; and
  - (d) Community Participation.

#### Conditions for Award of Contract; Commencement of Works

5. The Borrower shall ensure, or cause the EA to ensure, that no Works contract is awarded for a Subproject which involves environmental impacts until the EA has incorporated the relevant provisions from the EMP into the Works contract.
6. The Borrower shall ensure, or cause the EA to ensure, that no Works contract involving involuntary resettlement impacts for a Subproject is awarded until the EA has prepared and submitted to ADB the final RP for such Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP.
7. The Borrower shall ensure, or cause the EA to ensure, that no Works contract for a Subproject which involves impacts on indigenous peoples is awarded until the EA has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

8. The Borrower shall ensure, or cause the EA to ensure, that no commencement of Works is allowed under any Works contract under a Subproject which involves environmental impacts and requires environmental clearances, until the EA has obtained the final approval of (a) the IEE from ADB, and (b) environmental clearance including approval of the environmental assessment report, from the relevant environment authority of the Borrower and the State.

#### Consulting Services

9. Except as set forth in the paragraph below, the Borrower shall ensure or cause the EA to apply Quality- and Cost-Based Selection for Consulting Services.

10. The Borrower shall ensure or cause the EA to apply the following selection method for the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Fixed Budget Selection for local non-governmental organizations and/or consulting firms conducting capacity building activities for *Gram Panchayats* under output 2.

11. The Borrower shall ensure or cause the EA to recruit the individual consultants for capacity development and institutional strengthening activities, including community development, sanitation and fecal sludge management and smart water management, in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

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

13. The Borrower shall ensure, or cause the EA to 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

14. 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, the EA and ADB and set forth in the Procurement Plan.



## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Borrower shall ensure, or cause the State and EA to 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, EA and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the Grant Agreement and the Project Agreement, the provisions of this Loan Agreement, the Grant Agreement and the Project Agreement shall prevail.

2. (a) The Borrower shall ensure, or cause the EA to ensure, that towards smooth implementation of the Project, grievances if any from stakeholders, relating to any Project implementation or use of funds are addressed effectively and efficiently.

(b) The Borrower shall ensure, or cause the State and the EA, to comply with all the requirements and obligations on their part as included in this Loan Agreement, the Grant Agreement and the Project Agreement to meet the objectives of the Project in a timely and efficient manner.

3. The Borrower shall ensure, or cause the EA to ensure, that the PMU is headed by a dedicated project director and that sufficient staff are posted in the PMU and the PIUs for the duration of the Project in accordance with the agreed organogram in the PAM with adequate and relevant expertise in the field of project management, financial management, engineering, procurement, and environmental and social safeguards implementation. The EA shall keep the PMU and the PIUs equipped with the necessary office space, facilities, equipment, support staff and management information systems for the entire duration of the Project.

4. The Borrower shall ensure, or cause the State to (a) ensure that all counterpart staff assigned to the PMU are assigned to the Project on a fulltime basis; and (b) undertake best efforts to ensure that they remain in their positions for a reasonable period of time, and that staff replacements do not unduly disrupt implementation of the Project.

#### Counterpart Support

5. The Borrower shall ensure, or cause the State to ensure, to make available the Loan and Grant proceeds to EA under appropriate arrangements mutually acceptable to ADB and the Borrower, and ensure:

- (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
- (b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, to be provided to EA, during and after Project completion.

Environment

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 respective 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 and the State relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the RPs, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

8. Without limiting the application of the Involuntary Resettlement Safeguards, the RF, or the RPs, 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 RPs; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RPs.

Indigenous Peoples

9. The Borrower shall ensure or cause the EA to 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 Borrower relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) the IPPF; and (d) all measures and requirements set forth in the respective IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

10. The Borrower shall ensure, or cause the EA to ensure, that all necessary budgetary and human resources to fully implement the EMP, the RP, and the IPP are made available.

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, the EMP, the RP, and the IPP (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 EA 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, the EMP, the RP, or the IPP;
- (d) adequately record the condition of roads, agricultural land and 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 ensure, or cause the EA to ensure, 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, the EMP, the RP, or the IPP 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, the RP, or the IPP 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 or Grant under the Project are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

#### Labor Standards

14. The Borrower shall ensure or cause the EA to ensure that 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.

#### Gender

15. The Borrower shall ensure or cause the EA to ensure that (a) the GESI Action Plan 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 GESI Action Plan; (c) adequate resources are allocated for implementation of the GESI Action Plan; and (d) progress on implementation of the GESI Action Plan, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

#### Communications and Participation

16. The Borrower shall ensure, or cause the EA to ensure, that the Project is undertaken in conformity with the communication strategy as agreed between ADB, the Borrower, the State and the EA and referred to in the PAM.

#### Procurement

17. The Borrower shall ensure or cause the EA to announce the Project and business opportunities (i.e., invitation of bids) associated with the Project on its website. The website shall disclose the following information in relation to goods and services procured for the Project and Subprojects: (a) the list of participating bidders; (b) the name of the selected bidder; (c) the amount of the contracts awarded; and (d) the goods and services procured. In accordance with the Procurement Guidelines, the published information for International Competitive Bidding contracts shall also include the bid prices as read out at bid opening, the reasons for rejection of unsuccessful bidders, and the duration of the awarded contract.

#### Governance and Anticorruption

18. The Borrower shall ensure, or cause the EA to ensure, compliance with ADB's Anticorruption Policy (1998, as amended to date) and (a) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State and EA 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 EA and all contractors, suppliers, consultants, and other service providers as they relate to the Subprojects and the Project, and as included in the PAM; (b) 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; (c) 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 (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

Sector Reform

19. The Borrower shall ensure, or cause the State to ensure, that the Asset Management and Service Delivery Framework issued on 09 November 2017 (No. 2643/PN/O/I/4P-03/2017) is duly implemented including the smart water management practices, water user charges collection, and operations and maintenance of the Project facilities. During the Project implementation, the Borrower shall ensure, or cause the State to ensure, to promptly notify ADB of any proposal to amend, suspend or repeal any provision of the Asset Management and Service Delivery Framework, which, if implemented, may adversely affect the carrying out of the Project or the operation of the Project facilities. The State shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

Financial Sustainability

20. The Borrower shall ensure, or cause the State to ensure, that the EA and *Gram Panchayats* impose appropriate levels of user charges and other fees, as necessary to secure sufficient resources to cover the operation and maintenance costs and other expenditures for the bulk water supply system and the transferred assets to the *Gram Panchayats*.