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LOAN NUMBER 3131-BAN(SF)

LOAN AGREEMENT  
(Special Operations)

(Skills for Employment Investment Program – Tranche 1)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 4 JUNE 2014

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BAN 42466

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 4 June 2014 between PEOPLE'S REPUBLIC OF BANGLADESH ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 30 March 2014 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Skills for Employment Investment Program;

(B) by a periodic financing request dated 30 March 2014, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the Finance Division under the Ministry of Finance of the Borrower with the assistance of the Bangladesh Bank ("BB"), Directorate of Technical Education of the Ministry of Education ("MOE-DTE"), Bangladesh Institute of Technical Assistance Center of the Ministry of Industries ("MOI-BITAC"), Bangladesh Bureau of Manpower, Employment and Training of the Ministry of Expatriates' Welfare and Overseas Employment ("MOEWOE-BMET"), Bangladesh Technical Education Board ("BTEB") and National Skill Development Council Secretariat ("NSDC-S"), and for this purpose the Borrower will make available to these agencies proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(D) the Borrower has separately applied to the Government of Switzerland to finance the Project through the Swiss Agency for Development and Cooperation ("SDC"), which will be administered by ADB; and

(E) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and BB;

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(25) is deleted and the following is substituted therefor:

“Project Agreement” means the Project Agreement of even date herewith between ADB and BB.

- (b) The term “Project Executing Agency” appearing in Sections 6.01(a), 8.01(d), 8.01(f), 8.01(k), 9.01(c) and 9.02(c) of the Loan Regulations shall be substituted by the term “BB”.

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 as referred to in paragraph 2 of Schedule 1 to this Loan Agreement;

(c) “Environmental Assessment and Review Framework” or “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;

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

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

(f) “FAM” means the Facility administration manual dated 30 March 2014 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;

(g) “FFA” means the framework financing agreement dated 30 March 2014 between ADB and the Borrower with respect to the Facility;

(h) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(i) “Investment Program” means the Skills for Employment Investment Program;

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

(k) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

- (l) “M&E” means monitoring and evaluation;
- (m) “PFR” means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 30 March 2014;
- (n) “PKSF” means Palli-Karma Sahayak Foundation;
- (o) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);
- (p) “Procurement Plan” means the procurement plan for the Project dated 30 March 2014 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;
- (q) “Project Executing Agency” for the purposes of and within the meaning of the Loan Regulations means the Finance Division of the Ministry of Finance of the Borrower, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (r) “Project facilities” means the facilities to be constructed, rehabilitated or improved under the Project;
- (s) “Project Implementation Agreement” means any project implementation agreement or arrangement between the Borrower and any Project Implementing Agency with respect to the proceeds of the Loan provided to the relevant Project Implementing Agency under the Project as grant;
- (t) “Project Implementing Agency” or “Project Implementing Agencies” means any one or any combination of BB, MOE-DTE, MOI-BITAC, MOEWOE-BMET, BTEB and NSDC-S, including participating public training institution under them as outlined in the FAM, or any successor or successors thereto acceptable to ADB;
- (u) “Resettlement Framework” or “RF” means the resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;
- (v) “Safeguard Policy Statement” or “SPS” means ADB’s Safeguard Policy Statement (2009);
- (w) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of, and compliance with, the Safeguard Policy Statement, including any corrective and preventative actions;
- (x) “Small Ethnic Communities Planning Framework” or “SECPF” means the small ethnic communities planning framework for the Investment Program, including any updates thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(y) “Small Ethnic Community Peoples Safeguards” means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS; and

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

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to sixty four million seven hundred five thousand Special Drawing Rights (SDR64,705,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 2% per annum during the grace period and thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term “grace period” as used in subsection (a) 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 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

## **ARTICLE III**

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

Section 3.01. (a) The Borrower shall make part of the proceeds of the Loan available to the Project Implementing Agencies as grant in accordance with the relevant Project Implementation Agreement and shall cause the Project Implementing

Agencies 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.

(b) The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

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

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, 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. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2018 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 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. (a) The Borrower shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles 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 international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest fund(s) and statement of expenditures) 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 30 days of the date of their receipt by posting them on ADB's website; and

(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 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the BB 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) The Borrower shall exercise its rights under each Project Implementation Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under any Project Implementation Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

## **ARTICLE V**

### **Suspension**

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: the Borrower or any Project Implementing Agency shall have failed to perform any of its obligations under the relevant Project Implementation Agreement.

**ARTICLE VI****Effectiveness**

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

**ARTICLE VII****Miscellaneous**

Section 7.01. The Senior Secretary or Secretary or any Additional Secretary, Joint Secretary or Joint Chief, Deputy Secretary or Deputy Chief, Senior Assistant Secretary or Senior Assistant Chief, Assistant Secretary or Assistant Chief of the Economic Relations Division of the Borrower's Ministry of Finance 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 11.01 of the Loan Regulations:

For the Borrower

Economic Relations Division  
Ministry of Finance  
Government of the People's Republic of Bangladesh  
Sher-e-Bangla Nagar  
Dhaka 1207, Bangladesh

Facsimile Number:

+880 2 918-0788.

For ADB

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

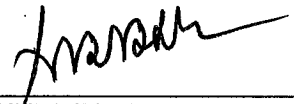
Facsimile Numbers:

+63 2 636-2444  
+63 2 636-2449.



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.

PEOPLE'S REPUBLIC OF BANGLADESH

By   
SAIFUDDIN AHMED  
Joint Secretary  
Economic Relations Division  
Ministry of Finance

ASIAN DEVELOPMENT BANK

By   
KAZUHIKO HIGUCHI  
Country Director  
Bangladesh Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is: increased employment in priority sectors and skills for males and females.
2. The Project shall comprise:
  - A. Market responsive inclusive skills training delivered:** This will include:
    - (i) Training of about 47,400 people through public training institutions under three ministries of the Borrower;
    - (ii) Training of over 200,000 people through nine industry associations (which will train 192,600 people), PKSf (which will train 10,000 people) and BB (which will train 10,000 people);
    - (iii) Ensuring that of the total trainees, 40,000 are from disadvantaged groups including people with disabilities and 40% are women; and
    - (iv) Support to piloting targeting schemes.
  - B. Quality Assurance Strengthened:** This will include:
    - (i) Supporting development of at least 5 qualification packages including occupational standards, one for each priority sector, and support registration of all participating training providers;
    - (ii) Training of trainers, industry assessors, and principals and managers of public and private training institutions;
    - (iii) Support improvements of training facilities or participating public training providers, following public-private partnership modality including helping the establish centers of excellence; and
    - (iv) Strengthening the capacity for assessment and certification through partnership between BTEB and industry skills councils in each priority sector, and supporting recognition of prior learning.
  - C. Institutional strengthening:** This will include:
    - (i) Supporting the establishment of National Human Resources Development Fund as envisaged in the Borrower's National Skill Development Policy to increase funding to substantially scale-up high quality skilling and up-skilling;

- (ii) Supporting the establishment of a new ministry or a skills authority with its own medium term budgetary framework for skills development;
- (iii) Delegating powers to 32 participating public training institutions to generate earnings which will be reflected in additional budget, hire trainers and any other resource persons, offer flexible courses, and enter into partnership with employers and enterprises; and
- (iv) Strengthening industry linkages, job placement and career counseling in partnership with training providers and employers.

**D. Effective program management:** This will include:

- (i) Supporting M&E system to track students and training providers to ensure high quality training and job placement;
- (ii) Strengthening sector planning and budgeting for the skills development sector to move towards a sector wide approach by 2017;
- (iii) Establishment of mechanism to strengthen governance and risk management in skills development in close partnership with NSDC-S; and
- (iv) Supporting strong project management including effective management of technical assistance under the Project particularly in targeting, quality assurance, institutional development, M&E and capacity development.

Consulting Services will be provided to undertake the above.

3. The Project is expected to be completed by 31 December 2017.

**SCHEDULE 2****Amortization Schedule****(Skills for Employment Investment Program – Tranche 1)**

| <b>Date Payment Due</b> | <b>Payment of Principal<br/>(expressed in Special Drawing<br/>Rights)*</b> |
|-------------------------|--|
| 15 November 2019        | 1,617,625  |
| 15 May 2020             | 1,617,625  |
| 15 November 2020        | 1,617,625  |
| 15 May 2021             | 1,617,625  |
| 15 November 2021        | 1,617,625  |
| 15 May 2022             | 1,617,625  |
| 15 November 2022        | 1,617,625  |
| 15 May 2023             | 1,617,625  |
| 15 November 2023        | 1,617,625  |
| 15 May 2024             | 1,617,625  |
| 15 November 2024        | 1,617,625  |
| 15 May 2025             | 1,617,625  |
| 15 November 2025        | 1,617,625  |
| 15 May 2026             | 1,617,625  |
| 15 November 2026        | 1,617,625  |
| 15 May 2027             | 1,617,625  |
| 15 November 2027        | 1,617,625  |
| 15 May 2028             | 1,617,625  |
| 15 November 2028        | 1,617,625  |
| 15 May 2029             | 1,617,625  |
| 15 November 2029        | 1,617,625  |
| 15 May 2030             | 1,617,625  |
| 15 November 2030        | 1,617,625  |
| 15 May 2031             | 1,617,625  |
| 15 November 2031        | 1,617,625  |
| 15 May 2032             | 1,617,625  |
| 15 November 2032        | 1,617,625  |
| 15 May 2033             | 1,617,625  |
| 15 November 2033        | 1,617,625  |
| 15 May 2034             | 1,617,625  |
| 15 November 2034        | 1,617,625  |
| 15 May 2035             | 1,617,625  |
| 15 November 2035        | 1,617,625  |
| 15 May 2036             | 1,617,625  |
| 15 November 2036        | 1,617,625  |
| 15 May 2037             | 1,617,625  |
| 15 November 2037        | 1,617,625  |

| <b>Date Payment Due</b> | <b>Payment of Principal<br/>(expressed in Special Drawing)</b> |
|-------------------------|--|
| 15 May 2038             | 1,617,625  |
| 15 November 2038        | 1,617,625  |
| 15 May 2039             | <u>1,617,625</u>   |
| <b>TOTAL</b>            | <b>64,705,000</b>  |

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

### 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 disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

##### Interest Charge

3. The amount allocated to Category 8 is for financing the interest charge on the Loan during the implementation period of the Project.

##### 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 and as per the detailed disbursement arrangements outlined in the FAM.

##### Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than

12 months before the date of this Loan Agreement, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition for Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account unless the Skills Development Coordination and Monitoring Unit at the Project Executing Agency is staffed in a manner acceptable to ADB and comprising of at least one professionally qualified accountant in addition to a financial management specialist and an audit specialist.

8. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made on account of Category 4 of the Table from the Loan Account unless a trainee tracking system, acceptable to ADB, is put in place to track the performance of the trainees who will receive training under the Project.

TABLE

| <b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b>             |                                       |   |                    |   |
|---|---------------------------------------|---|--------------------|---|
| <b>(Skills for Employment Investment Program – Tranche 1)</b> |                                       |   |                    |   |
| <b>Number</b>   | <b>Item</b>                           | <b>Total Amount Allocated for ADB Financing (SDR)</b> |                    | <b>Basis for Withdrawal from the Loan Account</b> |
|   |                                       | <b>Category</b>                                       | <b>Subcategory</b> |   |
| 1   | Equipment                             | 3,688,000   |                    | 100% of total expenditure*                        |
| 2   | Training                              | 1,967,000   |                    |   |
| 2A  | Local Training                        |   | 388,000            | 100% of total expenditure claimed*                |
| 2B  | Overseas Training                     |   | 1,579,000          | 100% of total expenditure claimed*                |
| 3   | Consultancy                           | 8,438,000   |                    |   |
| 3A  | International Consultants             |   | 4,452,000          | 100% of total expenditure claimed*                |
| 3B  | National Consultants                  |   | 3,986,000          | 100% of total expenditure claimed*                |
| 4   | Grants for Training                   | 34,941,000  |                    | 100% of total expenditure claimed*                |
| 5   | Seminar and Workshop                  | 388,000   |                    | 100% of total expenditure claimed*                |
| 6   | Stipend for disadvantaged group       | 1,061,000   |                    | 100% of expenditure claimed*                      |
| 7   | Operating Cost                        | 5,047,000   |                    | 100% of expenditure claimed*                      |
| 8   | Interest Charge during implementation | 2,653,000   |                    | 100% of amount due                                |
| 9   | Unallocated                           | 6,522,000   |                    |   |
|   | <b>Total**</b>                        | <b>64,705,000</b>                                     |                    |   |

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

\*\*Subject to disbursement conditions described in paragraph 7 and paragraph 8 of Schedule 3



## **SCHEDULE 4**

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

#### General

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

#### Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the method of procurement set forth below:

National Competitive Bidding.

4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### National Competitive Bidding

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

#### Consulting Services

6. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services. The Borrower shall apply the following additional methods for selecting and engaging certain Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: single source selection, quality-based selection and consultants' qualifications selection.
7. The Borrower shall recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Condition for Finalization of Consulting Services Contracts

8. The Borrower shall not finalize any Consulting Services contract for skills training activities under the Project with any training provider until the financial management

assessment including unit cost analysis and cash flow analysis is completed in a manner acceptable to ADB.

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

#### Safeguards

2. 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, involuntary resettlement and small ethnic communities; (b) the Environmental Safeguards, the Involuntary Resettlement Safeguards and Small Ethnic Communities Safeguards; and (c) the EARF, the RF and the SECPF; and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

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

3. The Borrower shall make available, or cause the Project Executing Agency to make available, necessary budgetary and human resources to fully implement the EARF, RF and SECPF, as necessary.

#### Safeguards – Related Provisions in Bidding Documents and Works Contracts

4. The Borrower shall ensure, or cause the Project Executing Agency 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 any safeguards documents (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 environmental and social measures;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or small ethnic community peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered earlier;

- (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

5. The Borrower shall do the following, or shall cause the Project Executing Agency and Project Implementing Agencies to do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission; and
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan.

#### Prohibited List of Investments

6. The Borrower shall ensure, or cause the Project Executing Agency and Project Implementing Agencies to 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

7. The Borrower shall ensure that all Works contract documents to be prepared under the Project incorporate provisions and budget to the effect that contractors (a) comply with all applicable labor laws and related international treaty obligations of the Borrower and do not employ child labor, as defined under Bangladesh law; (b) provide safe working conditions for male and female workers; (c) carry out HIV/AIDS and human trafficking prevention and awareness campaigns in the campsites and corridors of influence; (d) engage women workers as wage laborers depending on their skill; and (e) provide equal wages for equal work between men and women.

#### Counterpart Support

8. The Borrower shall make available, and ensure that the Project Executing Agency makes available, adequate budgetary allocations of the required counterpart funds in respect of the Project on a timely and regular basis.

#### Project Reviews

9. ADB shall conduct semiannual reviews of the progress of the Project as necessary and undertake any necessary midcourse corrections. In addition, ADB shall

conduct special reviews as appropriate. The Borrower shall give all possible assistance for carrying out such reviews.

#### Governance and Anticorruption

10. The Borrower, the Project Executing Agency and each Project Implementing Agency 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.

11. The Project Executing Agency and each Project Implementing Agency 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 agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

12. The Project Executing Agency shall cause each Project Implementing Agency and each industry association and PKSF to prepare and implement a robust code of conduct, acceptable to ADB, for their staff involved in the Project, ensuring, among others, that the staff members working with the project do not have any conflict of interest with any activities under the Project. The Borrower shall take necessary steps to further ensure that all applicable anticorruption laws of the Borrower which apply to public officers are vigorously enforced.

#### Gender Action Plan

13. The Borrower shall ensure that (a) the gender action plan prepared for the Project is effectively implemented to achieve its objectives in a timely manner over the entire Project period; (b) adequate resources are allocated for the implementation of the gender action plan; and (c) key gender outcome and output targets are monitored regularly and achieved.

#### Operation and Maintenance

14. The Borrower shall ensure that each Project Implementing Agency shall at all times have sufficient resource provision for its operation and maintenance cost for assets owned by it.

#### Annual Performance Review

15. ADB and the Borrower shall, as necessary, reallocate grants among the training providers participating in the training activities under the Project at the end of each year based on an annual performance review.