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LOAN NUMBER 3528-IND

LOAN AGREEMENT  
(Ordinary Operations)

(Madhya Pradesh Urban Services Improvement Project)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 19 JUNE 2017

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IND 42486

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 19 June 2017 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) the Project will be carried out by the State (as defined below) acting through UDHD and MPUDC (as defined below), 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

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB, on the one side, and the State and MPUDC, on the other side;

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations, 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, however, to the following modifications:

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

"Project Agreement" means the Project Agreement of even date herewith between ADB, on the one side, and the State and MPUDC, on the other side, as such agreement may be amended from time to time; and such term includes all agreements supplementary to the Project Agreement and all schedules to the Project Agreement.

(b) The term "Project Executing Agency" appearing in Section 7.01(a)(i), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term the "State".

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 described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "DBO" means design, build and operate;

(d) "EA" or "Project Executing Agency" means the State acting through UDHD or any of its successors thereto acceptable to ADB, that is responsible for carrying out the Project;

(e) "EARF" means the environmental assessment and review framework for the Project, including any update thereto, prepared and submitted by the Borrower through MPUDC and cleared by ADB;

(f) "EMP" means each environment management plan for a Subproject, including any update thereto, incorporated in the related 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) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;

(i) "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;

(j) "IA" or "Project Implementing Agency" means MPUDC or any of its successors thereto acceptable to ADB, that is responsible for the day to day implementation of the Project;

(k) "IEE" means each initial environmental examination for a Subproject, including any update thereto, prepared and submitted by the Borrower through the State and MPUDC pursuant to the requirements set forth in the EARF and cleared by ADB;

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

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

(n) "IPP" means each indigenous peoples plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through MPUDC pursuant to the requirements set forth in the IPPF and cleared by ADB;

(o) "IPPF" means the indigenous peoples planning framework for the Project, including any update thereto, prepared and submitted by the Borrower through MPUDC and cleared by ADB;

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

(q) "MPUDC" means the Madhya Pradesh Urban Development Company Limited;

(r) "O&M" means operations and maintenance;

(s) "PAM" means the project administration manual for the Project dated 28 February 2017 and agreed between the Borrower, the State, MPUDC, and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(t) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(u) "Procurement Plan" means the procurement plan for the Project dated 28 February 2017 and agreed between the Borrower, through the State and MPUDC, and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(v) "Project Towns" means the 64 small and medium-sized towns within the State that will receive support under the Project;

(w) "RF" means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower through the State and MPUDC and cleared by ADB;

(x) "RP" means each resettlement plan of a Subproject, including any update thereto, prepared and submitted by the Borrower through the State and MPUDC pursuant to the requirements set forth in the RF and cleared by ADB;

(y) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the State and MPUDC to ADB that describes progress with implementation of, and compliance with, the EMP, the RP, and the IPP (as applicable), including any corrective and preventive actions;

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

(aa) "State" means the State of Madhya Pradesh;

(bb) "Subproject" means a subproject that is found eligible for financing under the Project in compliance with the selection criteria and approval procedure for Subprojects set out in the PAM;

(cc) "UDHD" means the State's Urban Development and Housing Department, or any successor thereto;

(dd) "ULB" means urban local bodies; and

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

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred seventy five million Dollars (\$275,000,000), 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 November and 15 May 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. (a) The Borrower shall make the proceeds of the Loan available to State upon terms and conditions mutually agreeable to ADB and the Borrower and shall cause the State 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 exclusively 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. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2022 or such other date as may from time to time be agreed between the Borrower and ADB.

## ARTICLE IV

### Particular Covenants

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

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

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

Section 4.03. In the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors, acceptable to ADB, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

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

Section 4.05. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable the State and MPUDC 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 4.06. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.07. (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

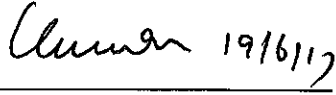
Facsimile Numbers:

(632) 636-2444  
(632) 636-2430.




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  19/6/17  
RAJ KUMAR  
Joint Secretary (MI)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By   
L.B. SONDJAJA  
Officer-in-Charge  
India Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is to improve urban services delivery in Madhya Pradesh.
2. The Project shall comprise:
  - Part A: Improved Water Supply Infrastructure and Flood and Sanitation Infrastructure
    - (i) Design, build and operate water supply infrastructure in Project Towns, including raw water intakes, water treatment plants, overhead tanks, distribution networks, and metered household connections;
    - (ii) Construction of sewerage and storm water management system in Khajuraho and Rajnagar; and
    - (iii) Strengthening project implementation capacity.
  - Part B: Sustained Urban Infrastructure Operation and Management in Project Towns and MPUDC
 

Provision of support to the State and the ULBs during project implementation period, in establishing and maintaining ten years performance based O&M water supply contracts.
  - Part C: Improved Institutional Effectiveness and Strengthened Capacity
    - (i) Provision of geographic information system (GIS)-based asset management and service delivery monitoring system;
    - (ii) Provision of information technology system in 15 ULBs for day-to-day management;
    - (iii) Support for septage management in project towns;
    - (iv) Provision of training to MPUDC staff and Project Town officials in managing DBO contracts and asset management; and
    - (v) Support for awareness raising activities on water conservation, environmental protection and hygiene in project towns.
3. Consulting Services will be provided to support the above stated activities.
4. The Project is expected to be completed by 30 June 2022.

**SCHEDULE 2****Amortization Schedule****(Madhya Pradesh Urban Services Improvement Project)**

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 November 2022	2.500000
15 May 2023	2.500000
15 November 2023	2.500000
15 May 2024	2.500000
15 November 2024	2.500000
15 May 2025	2.500000
15 November 2025	2.500000
15 May 2026	2.500000
15 November 2026	2.500000
15 May 2027	2.500000
15 November 2027	2.500000
15 May 2028	2.500000
15 November 2028	2.500000
15 May 2029	2.500000
15 November 2029	2.500000
15 May 2030	2.500000
15 November 2030	2.500000
15 May 2031	2.500000
15 November 2031	2.500000
15 May 2032	2.500000
15 November 2032	2.500000
15 May 2033	2.500000
15 November 2033	2.500000
15 May 2034	2.500000
15 November 2034	2.500000
15 May 2035	2.500000
15 November 2035	2.500000
15 May 2036	2.500000
15 November 2036	2.500000
15 May 2037	2.500000

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 November 2037	2.500000
15 May 2038	2.500000
15 November 2038	2.500000
15 May 2039	2.500000
15 November 2039	2.500000
15 May 2040	2.500000
15 November 2040	2.500000
15 May 2041	2.500000
15 November 2041	2.500000
15 May 2042	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.

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

Disbursement Procedures

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

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 in connection with Works, equipment and Consulting Services, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Madhya Pradesh Urban Services Improvement Project)</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (\$) Category</b>	<b>Basis for Withdrawal from the Loan Account</b>
1	Civil Works and Equipment	194,430,000	86.6% of total expenditure claimed
2	Project Management and Capacity Development	11,738,000	87.0% of total expenditure claimed
3	Incremental O&M Costs	24,950,000	26.0% of total expenditure claimed
4	Incremental Administrative Costs	7,460,000	80.0% of total expenditure claimed
5	Unallocated	36,422,000	
	<b>Total</b>	<b>275,000,000</b>	

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

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

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. 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 procurement methods of procurement set forth below:
  - (a) International Competitive Bidding; and
  - (b) National Competitive Bidding.

National Competitive Bidding

5. The Borrower's bidding documents and procurement procedures, used for national competitive bidding (civil works / goods) as in use by the Borrower were reviewed by ADB. These were found consistent with ADB's requirements, and shall apply to the Project. The Borrower shall submit any modifications to such standard bidding documents and procurement procedures to ADB, together with justification, for ADB's prior approval and incorporation in the Procurement Plan and use under the national competitive bidding.

Conditions for Awards of Contracts; Commencement of Works

6. The Borrower shall ensure, or cause the MPUDC to ensure, that no Works contract is awarded for a Subproject which involves
  - (a) environmental impacts until MPUDC has prepared and submitted to ADB an IEE including EMP for such Subproject, obtained ADB's clearance of such EMP, and incorporated the relevant provisions from the EMP into the Works contract;
  - (b) involuntary resettlement impacts until MPUDC 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; and



- (c) impacts on indigenous peoples until MPUDC has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

7. The Borrower shall ensure, or cause the MPUDC to ensure, that no commencement of Works is allowed under any Works contract under any Subproject which involves environmental impacts and requires environmental clearances, until MPUDC has obtained the final approval of the IEE from ADB, and environmental clearance including approval of the environmental assessment report, from the State Environmental Impact Assessment Authority.

#### Consulting Services

8. The Borrower, through the State and MPUDC, shall apply Quality- and Cost-Based Selection for Consulting Services.

#### Industrial or Intellectual Property Rights

9. (a) The Borrower, through the State and MPUDC, 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, through the State and MPUDC, 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, through the State and MPUDC, 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, the State, MPUDC, and ADB and set forth in the Procurement Plan.

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

1. The Borrower, the State, through UDHD, and MPUDC 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.

2. (a) The State, through UDHD, and MPUDC shall ensure that towards smooth implementation of the Project, grievances if any from stakeholders, relating to any Subproject implementation or use of funds are addressed effectively and efficiently.

(b) The Borrower shall ensure that State, through UDHD, and MPUDC complies with all the requirements and obligations in its part as included in this Loan Agreement and the Project Agreement to meet the objectives of the project in a timely and efficient manner.

Counterpart Funds

3. The State shall make available the Loan proceeds to MPUDC under appropriate arrangements acceptable to ADB, 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 MPUDC, during and after Subprojects' completion.

Counterpart Staff

4. The Borrower, through the State shall ensure and shall cause MPUDC to fill all vacancies identified in the MPUDC approved organogram with full time dedicated staff, prior to Effective Date.

5. The Borrower through the State shall cause MPUDC to appoint a qualified and experienced internal auditor to conduct internal audit and report to the Board of Directors in accordance with the requirements of the Companies Act, 2013.

Coordination among Borrower's Agencies

6. The Borrower, the State, UDHD and MPUDC are fully committed to the Project and shall ensure that all its ministries, agencies and divisions involved in the implementation of the Project, including the ULBs, give their full cooperation to ensure smooth implementation of the Project. Specifically, the Borrower shall cause the State, MPUDC and the ULBs to give full, timely and efficient cooperation in issuing any licenses,

permits or approvals required in connection with infrastructure work within their respective area.

#### Subproject Selection Criteria

7. The Borrower shall ensure and shall cause the State and MPUDC to ensure, that all subprojects are selected and approved in accordance with the agreed selection criteria and approval process stipulated in the PAM.

8. The Borrower, the State and MPUDC shall ensure that all documents forming the basis for screening, selection and processing of Subprojects are made available to ADB upon request and are kept for such purposes for a minimum of five years from the date of the project completion report of MPUSIP.

#### Tripartite Agreement

9. The Borrower shall cause the State and MPUDC to enter into a tripartite agreement between the State, MPUDC and each of the ULBs to ensure achievement of conditions precedent before entering into a DBO contract and honor and adhere to the obligations of each party under the DBO Contract especially the provisions related to timely availability of funds, instituting volumetric tariffs sufficient to recover O&M costs during the Design-Build and Operating Service Periods.

10. The State and MPUDC shall ensure and shall cause the ULBs to implement by 31 December 2019, the governance reforms, which includes (i) adoption of accrual basis accounting, (ii) establishment of ULB website, (iii) publication of ULBs' financial statements, (iv) adoption of volumetric tariff, (v) achievement of 90% billing and 90% collection against water and sewerage charges, and (vi) transfer of 18 functions of responsibility under the 14th Finance Commission devolution to ULBs.

#### Financial Matters

11. The Borrower shall cause the State and MPUDC to ensure that the agreed financial management action plan set out in the PAM is implemented within the stipulated time frame and the progress toward achieving the targets, are monitored and reported to ADB. Further, MPUDC shall also ensure that all participating ULBs maintain an annual operating ratio (OR) of less than 1 from the FY 2020. The OR is defined as the ratio of total expenditure to total revenue and includes debt service (principal and interest).

#### Safeguards

##### Environment

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

Involuntary Resettlement

13. The Borrower shall cause the State and MPUDC to ensure that all land and all rights-of-way required for a subproject 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 RF; and (d) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

14. Without limiting the application of the Involuntary Resettlement Safeguards, RF or the RP, Borrower shall cause the State and MPUDC to ensure that no physical or economic displacement takes place in connection with the subprojects until:

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

Indigenous Peoples

15. The Borrower shall ensure and cause the State and MPUDC to ensure that the preparation, design, construction, implementation and operation of the Project, each subproject 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

16. The Borrower shall cause the State and MPUDC to make available necessary budgetary and human resources to fully implement the EMP, the IPP and the RP.

Safeguards related Provisions in Bidding Documents and Works Contracts

17. The Borrower shall cause the State and MPUDC to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

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

18. The Borrower shall cause the State and MPUDC 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;
  - (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 IPP and the RP, 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, the IPP and the RP promptly after becoming aware of the breach.

#### Prohibited List of Investments

19. The Borrower, the State and MPUDC 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.

#### Gender

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

#### Labor Standards

21. The Borrower shall cause the State and MPUDC to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The State and/or MPUDC shall include specific provisions in the

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

#### Operation and Maintenance

22. The Borrower shall cause the State and MPUDC to ensure that it shall enter into and maintain a long term O&M contracts for post construction period with the contractors. The contractors of the Works packages shall continue to operate and provide continuous water supply services for Project Towns for a period of 10 years.

#### Project Performance Monitoring System

23. Within 6 months after the Effective Date, MPUDC shall establish a project performance monitoring system in line with the targets, indicators set in the DMF. The baseline data corresponding to indicators and targets set out in the project status report shall be disaggregated by income levels and sex as required. After the initial baseline survey, the State with support of the consultants shall conduct annual survey and quarterly monitoring of indicators and submit quarterly report to ADB throughout project implementation.

#### Procurement

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

25. The Borrower shall cause the State and MPUDC to announce the Project and business opportunities 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: (i) the list of participating bidders, (ii) the name of the winning bidder, (iii) the amount of the contracts awarded, and (iv) the goods and services procured. In accordance with the Procurement Guidelines, the published information for ICB 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

26. The Borrower, the State, and MPUDC shall comply with ADB's Anticorruption Policy (1998, as amended to date) and (i) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State and MPUDC are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and 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, (ii) 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; (iii) 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 (iv) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.