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LOAN NUMBER 3689-IND

LOAN AGREEMENT  
(Ordinary Operations)

(Kolkata Environmental Improvement Investment Program – Project 3)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 3 OCTOBER 2018

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IND 42266

**LOAN AGREEMENT  
(Ordinary Operations)**

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

**WHEREAS**

(A) by a framework financing agreement dated 8 August 2013 between the Borrower and ADB, ADB has agreed to provide a multitranche financing to the Borrower for the purposes of financing projects under the Kolkata Environmental Improvement Investment Program ("Investment Program");

(B) by a periodic financing request dated 8 May 2018 submitted by the Borrower ("PFR"), 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 State of West Bengal ("State") acting through the Kolkata Municipal Corporation ("KMC"), and for this purpose the Borrower will make available to the State acting through KMC, 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 on the one part, and the State and KMC on the other part.

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) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

- (b) "Environmental Management Plan" or "EMP" means each environmental management plan for the Project, including any update thereto, incorporated in an IEE;
- (c) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (d) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;
- (e) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;
- (f) "Fiscal Year" or "FY" means a fiscal year of the Borrower;
- (g) "Framework Financing Agreement" or "FFA" means the framework financing agreement dated 8 August 2013 between ADB and the Borrower with respect to the Facility;
- (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 between the Borrower, the EA and 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) "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 pursuant to the requirements set forth in the EARF and cleared by ADB;
- (k) "km" means kilometer;
- (l) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (m) "NRW" means nonrevenue water;
- (n) "PAM" means the project administration manual for the Project dated June 2018 and agreed between the Borrower, EA and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower, EA and ADB;
- (o) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

- (p) "Procurement Plan" means the procurement plan for the Project dated June 2018 and agreed between the Borrower, EA and ADB, as updated from time to time in accordance with the Procurement Guidelines, and other arrangements agreed with ADB;
- (q) "Project Executing Agency" or "EA" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through the KMC, or its successor thereto that is responsible for carrying out the Project;
- (r) "Project facilities" means the facilities to be constructed and the Goods to be provided under the Project;
- (s) "Project Management Unit" or "PMU" means the management unit for the Project within the EA;
- (t) "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;
- (u) "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;
- (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 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;
- (x) "Sewage Treatment Plant" or "STP" means a sewage treatment plant;
- (y) "State" means the State of West Bengal;
- (z) "Subproject" means each subproject that is in compliance with Schedule 4 to the FFA as further described in the PAM; and
- (aa) "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 one hundred million Dollars (\$100,000,000), 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 15 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; and
- (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.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 February and 15 August in each year.

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

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

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

outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

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

### **ARTICLE III**

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

Section 3.01. The Borrower shall 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 August 2023 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 by the EA, 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. In so far as it relates to the Project, the Borrower shall ensure or cause the State and the EA to, take all actions which shall be necessary on its part to enable the State and the EA to perform their respective obligations under the Project

Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.04. (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:

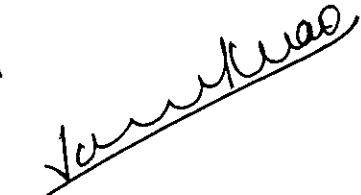
(632) 636-2444  
(632) 636-2293.



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: improved sanitation service quality, operational sustainability and climate resilience in selected areas of KMC.
2. The Project shall comprise:
  - (a) continuation of sewerage and drainage network extension to peripheral areas, through construction of:
    - (i) approximately 43 km of additional sewer drain pipes;
    - (ii) four pumping stations and approximately 13 km of pumping mains; and
    - (iii) three sewage treatment plants with approximately 115 million liters/day combined capacity.
  - (b) strengthened operational capacity of KMC for urban services.
3. The Project is expected to be completed by 30 April 2023.

**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.

Payment Due	Installment Share (Expressed as a %)
15 February 2024	3.333333
15 August 2024	3.333333
15 February 2025	3.333333
15 August 2025	3.333333
15 February 2026	3.333333
15 August 2026	3.333333
15 February 2027	3.333333
15 August 2027	3.333333
15 February 2028	3.333333
15 August 2028	3.333333
15 February 2029	3.333333
15 August 2029	3.333333
15 February 2030	3.333333
15 August 2030	3.333333
15 February 2031	3.333333
15 August 2031	3.333333
15 February 2032	3.333333
15 August 2032	3.333333
15 February 2033	3.333333
15 August 2033	3.333333
15 February 2034	3.333333
15 August 2034	3.333333
15 February 2035	3.333333
15 August 2035	3.333333
15 February 2036	3.333333
15 August 2036	3.333333
15 February 2037	3.333333
15 August 2037	3.333333
15 February 2038	3.333333
15 August 2038	<u>3.333343</u>
<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 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 in connection with Works, Goods and incremental administrative costs, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing</b>	<b>Basis for Withdrawal from the Loan Account</b>
		<b>(\$)</b>	
		<b>Category</b>	
1	Works and Goods	88,762,000	75.7% of total expenditure claimed
2	Incremental Administrative Costs	1,420,000	71.0% of total expenditure claimed
3	Unallocated	9,818,000	
	<b>TOTAL</b>	<b>100,000,000</b>	

**SCHEDULE 4****Procurement of Goods and Works**General

1. The procurement of Goods and Works shall be subject to and governed by the Procurement Guidelines.
2. Except as ADB may otherwise agree, Goods and Works shall be procured only on the basis of the procurement 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 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.

Goods and Works

4. Goods and Works shall be procured on the basis of methods of procurement set forth below:
  - (a) National Competitive Bidding; and
  - (b) Shopping.

National Competitive Bidding

5. The EA's standard bidding documents and procurement procedures as in use by the EA were reviewed by ADB. These were found consistent with ADB's requirements and shall apply to the Project. Modifications, if any, to such bidding documents shall be subject to mutual agreement between the Borrower, EA and ADB.

Conditions for Award of Contract

6. The Borrower shall ensure or cause the EA to ensure that no Works contract is awarded for a Subproject which involves environmental impacts until (i) ADB has cleared the final IEE for such Subproject based on the Subproject's detailed design, and (ii) the relevant provisions from the respective IEE and EMP have been incorporated into the Works contract by the EA.
7. The Borrower shall ensure or cause the EA to ensure that no Works contract is awarded for a Subproject which involves involuntary resettlement impacts until ADB has cleared the final RP for such Subproject based on the Subproject's detailed design.

Conditions for Commencement of Works

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 (i) final approval of the IEE from ADB, and environmental clearance, including approval of the environmental assessment report, from the relevant environment authority of the Borrower and the State, have each been obtained; and (ii) updates to the EMP have been incorporated into the Works Contract by the EA.

Industrial or Intellectual Property Rights

9. (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.



**SCHEDULE 5****Execution of Project**Implementation Arrangements

1. The Borrower shall ensure or cause the State, and the 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 and the Project Agreement, the provisions of this Loan 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 EA to ensure that it complies with all the requirements and obligations on its part as included in the Loan 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 posting sufficient staff in the PMU for the duration of the Project with adequate and relevant expertise in the field of project management, financial management, engineering, procurement, and environmental and social safeguards implementation. The Borrower shall ensure or cause the EA to ensure to keep the PMU 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 EA to (a) ensure that all counterpart staff assigned to the PMU are assigned to the Project on a full-time basis; (b) undertake best efforts to ensure that they remain in their positions for a reasonable period of time; and (c) ensure 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 proceeds to the EA under appropriate arrangements mutually acceptable to ADB and the Borrower, and to ensure:

- (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project;
- (b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, to be provided to the State's Water Supply Department and Sewerage and Drainage Department, during and after the Subprojects' completion; and

- (c) the EA has sufficient funds to satisfy its liabilities resulting from any Works and/or Goods contract.

#### Subprojects Evaluation and Selection; Documents Retention

6. The Borrower shall ensure or cause the EA to ensure that the Subprojects are evaluated and selected in accordance with the criteria set out in Schedule 4 to the FFA. All documents forming the basis for screening, selection and processing of Subprojects shall be made available to ADB upon request and shall be kept available for such purposes for a minimum period of five years from the date of the Project completion report.

#### Environment

7. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation, operation and decommissioning of each Subproject, 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

8. The Borrower shall ensure or cause the EA to ensure that all land and all rights-of-way required for the Project and all Project and Subproject facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower 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 respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

9. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RP, the Borrower shall ensure or cause the EA to ensure that no physical or economic displacement takes place in connection with any Subproject 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

10. The Borrower shall ensure or cause the EA to ensure that the Project does not involve any indigenous peoples' impacts within the meaning of the SPS. In the event the Project involves any such impacts, the Borrower shall ensure, or cause the EA to take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and the State and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

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

Safeguards – Related Provisions in Bidding Documents and Works Contracts

12. 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 and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the 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 or the RP;
- (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

13. The Borrower shall ensure or cause the EA to do 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 or 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 breach of compliance with the measures and requirements set forth in the EMP or the RP or promptly after becoming aware of the breach.

Prohibited List of Investments

14. The Borrower shall ensure or cause the EA to ensure that no proceeds of the Loan 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, Health & Safety

15. 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, 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

16. 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

17. 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 in the PAM.

Procurement

18. 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.

Governance and Anticorruption

19. The Borrower shall ensure and cause the EA to ensure that it shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date); (b) ensure that the anticorruption provisions acceptable to ADB, the Borrower and the 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 State and 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; (c) allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (d) 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 (e) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

#### Operations

20. The Borrower shall ensure or cause the EA to ensure adequate provision of financial resources, through tariff, transfer and/or taxes, and human resources to ensure sufficient operational costs are available to sustain and maintain the assets and services supported under the Project, in particular the sewerage and drainage network and the sewage treatment plants.

21. The Borrower shall ensure or cause the EA to ensure that effluent from all sewerage and drainage networks constructed under the Investment Program shall be treated and meet required effluent standards of the Borrower and the State.

22. The Borrower shall ensure or cause the EA to ensure that the Baghajatin STP or another existing STP is rehabilitated or augmented sufficiently to take any additional effluent from the sewerage and drainage networks constructed under the Investment Program, in case the effluent cannot be sent to new STPs constructed under the Project. The Borrower shall ensure or cause the EA to ensure that no untreated effluent will be discharged from the Project to the East Kolkata Wetlands.

#### Reform Measures; Undertakings

23. The Borrower shall ensure or cause the EA to:

- (a) implement the reform activities set forth in table 10 of Schedule 1 to the FFA ("Challenges, Approaches and Reforms"); and
- (b) undertake the reform measures stipulated in paragraph 5 of Schedule 6 to the FFA;

all in a time bound manner as agreed with ADB.