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LOAN NUMBER 3292-GEO (SF)

LOAN AGREEMENT  
(Special Operations)

(Urban Services Improvement Investment Program – Project 5)

between

GEORGIA

and

ASIAN DEVELOPMENT BANK

DATED 26 OCTOBER 2015

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GEO 43405

## **LOAN AGREEMENT (Special Operations)**

LOAN AGREEMENT dated 26 October 2015 between GEORGIA (“Borrower”) and ASIAN DEVELOPMENT BANK (“ADB”).

### WHEREAS

(A) by the FFA dated 1 March 2011, as amended, between the Borrower and ADB, ADB has agreed to provide a multitranches financing facility to the Borrower for purposes of financing projects under the Urban Services Improvement Investment Program;

(B) by a periodic financing request dated 30 March 2015, the Borrower has applied to ADB for (i) a loan from ADB’s Special Funds resources and (ii) a loan from ADB’s ordinary capital resources for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) by an agreement between the Borrower and ADB, ADB has agreed to lend to the Borrower from ADB’s ordinary capital resources an amount of forty three million Dollars (\$43,000,000) for the purposes of the Project;

(D) the Project will be carried out by UWSCG as the implementing agency, under the oversight of MRDI as the executing agency, and for this purpose the Borrower will make available to UWSCG the proceeds of the Ordinary Operations Loan and the loan provided for herein in accordance with terms and conditions satisfactory to 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 between ADB and UWSCG.

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 to the following modifications:

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

“Project Agreement” means the Project Agreement between ADB and UWSCG.

- (b) The term “the 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 “UWSCG”.

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 Loans as described in subparagraph 3(c) of Schedule 1 to this Loan Agreement;

(c) “EARF” means the Environmental Assessment and Review Framework for the Investment Program, including any update thereto, and agreed between the Borrower and ADB and incorporated by reference in the FFA;

(d) “EMP” means each Environmental Management Plan for the Project, including any update thereto, incorporated in an IEE;

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

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

(g) “FFA” means the framework financing agreement dated 1 March 2011, as amended, between ADB and the Borrower with respect to the Facility;

(h) “FY” means the fiscal year of UWSCG;

(i) “GAP” means the Gender Action Plan for the Project, including any update thereto;

(j) “GNEWSRC” means the Georgia National Energy and Water Supply Regulatory Commission of the Borrower or any successor thereto;

(k) “IEE” means each Initial Environmental Examination for the Project, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the EARF and cleared by ADB;

(l) “Investment Program” means the Urban Services Improvement Investment Program;

(m) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2015, as amended from time to time);

- (n) “Loans” means the Loan and the Ordinary Operations Loan;
- (o) “MRDI” means the Ministry of Regional Development and Infrastructure of the Borrower;
- (p) “Ordinary Operations Loan” means the loan referred to in recital (C) of this Loan Agreement;
- (q) “Ordinary Operations Loan Agreement” means the agreement referred to in recital (C) of this Loan Agreement;
- (r) “PAM” means the project administration manual for the Project dated 23 July 2015 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;
- (s) “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 2015;
- (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 23 July 2015 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;
- (v) “Project Executing Agency”, for the purposes of, and within the meaning of, the Loan Regulations, means MRDI or any successor thereto acceptable to ADB, which is responsible for carrying out the Project;
- (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 EMPs, including any corrective and preventative actions;
- (x) “SPS” means ADB’s Safeguard Policy Statement (2009);
- (y) “Subsidiary Loan Agreement” means the agreement among the Borrower, MRDI and UWSCG referred to in Section 3.01(a) of this Loan Agreement;
- (z) “UWSCG” means the United Water Supply Company of Georgia Limited Liability Company established under the laws and regulations of the Borrower with its current registered address at 76b, Vazha Pshavela Ave., Tbilisi 0186, Georgia, or any successor thereto acceptable to ADB;
- (aa) “Works” means construction or civil works to be financed out of the proceeds of the Loans, 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; and
- (bb) “WSS” means water supply and sanitation.

## **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 twenty three million five thousand Special Drawing Rights (SDR23,005,000).

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 March and 15 September 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 Dollar.

## **ARTICLE III**

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

Section 3.01. (a) The Borrower shall relend the proceeds of the Loan to UWSCG under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB. Except as ADB shall otherwise agree, the terms for relending the proceeds of the Loan shall include interest charge at the rate of 2% per annum during the grace period and thereafter and a repayment period of 25 years including a grace period of 5 years. Foreign exchange risk shall be borne by UWSCG.

(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. Withdrawals from the Loan Account in respect of Works and Consulting Services shall be made only on account of expenditures relating to:

- (a) Works and Consulting Services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and
- (b) Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2019 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.

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

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on such financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable UWSCG 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 the Subsidiary Loan 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 the Subsidiary Loan Agreement shall be assigned, amended or waived without the prior concurrence of ADB.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Ordinary Operations Loan Agreement has been duly authorized, ratified, executed and delivered on behalf of the Borrower and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) have been fulfilled.

Section 5.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Ordinary Operations Loan Agreement has been duly authorized, ratified, executed and delivered on behalf of the Borrower and is legally binding on the Borrower in accordance with its terms.

Section 5.03. A date 60 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 VI**

### **Miscellaneous**

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

#### For the Borrower

Ministry of Finance  
16 V. Gorgasali Street, 0114  
Tbilisi, Georgia

Facsimile Number:

(99532) 2262 423.

For ADB

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


Facsimile Numbers:

(632) 636-2444  
(632) 636-2301.

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.


GEORGIA

By

  
\_\_\_\_\_  
NODAR KHADURI  
Minister of Finance

ASIAN DEVELOPMENT BANK

By

  
\_\_\_\_\_  
YESIM ELHAN-KAYALAR  
Country Director  
Georgia Resident Mission



**SCHEDULE 1****Description of the Project**

1. The objective of the Investment Program is to improve water supply and sanitation services in the secondary towns of Georgia.
2. As a part of the Investment Program, the Project aims to improve sanitation services in the urban centers of Zugdidi and Mestia in Georgia.
3. The Project shall comprise:
  - Component 1 – Infrastructure Improvement
    - (a) construction of sewer lines, sewage pumping stations, and a sewage treatment plant in Zugdidi;
    - (b) construction of a sewage treatment plant in Mestia; and
  - Component 2 – Project Implementation Support
    - (c) provision of support to UWSCG for (i) project implementation and management, (ii) roll out of a public awareness program on water, hygiene and sanitation in Zugdidi, and (iii) establishment of customer care units in WSS service centers in Zugdidi, which are staffed by at least 30% women, that inform, educate, and communicate on water, hygiene, and sanitation.
4. The Project is more fully described in the PFR.
5. The Project is expected to be completed by 31 December 2018.

**SCHEDULE 2****Amortization Schedule****(Urban Services Improvement Investment Program - Project 5)**

<u>Date Payment Due</u>	<u>Payment of Principal (expressed in Special Drawing Rights)*</u>
15 September 2020	575,125.00
15 March 2021	575,125.00
15 September 2021	575,125.00
15 March 2022	575,125.00
15 September 2022	575,125.00
15 March 2023	575,125.00
15 September 2023	575,125.00
15 March 2024	575,125.00
15 September 2024	575,125.00
15 March 2025	575,125.00
15 September 2025	575,125.00
15 March 2026	575,125.00
15 September 2026	575,125.00
15 March 2027	575,125.00
15 September 2027	575,125.00
15 March 2028	575,125.00
15 September 2028	575,125.00
15 March 2029	575,125.00
15 September 2029	575,125.00
15 March 2030	575,125.00
15 September 2030	575,125.00
15 March 2031	575,125.00
15 September 2031	575,125.00
15 March 2032	575,125.00
15 September 2032	575,125.00
15 March 2033	575,125.00
15 September 2033	575,125.00
15 March 2034	575,125.00
15 September 2034	575,125.00
15 March 2035	575,125.00
15 September 2035	575,125.00
15 March 2036	575,125.00
15 September 2036	575,125.00
15 March 2037	575,125.00
15 September 2037	575,125.00

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

15 March 2038	575,125.00
15 September 2038	575,125.00
15 March 2039	575,125.00
15 September 2039	575,125.00
15 March 2040	575,125.00
<b>TOTAL</b>	<b>23,005,000.00</b>

**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 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 3 is for financing 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.

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, in connection with Works and Consulting Services, 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 withdrawal shall be made from the Loan Account until the Subsidiary Loan Agreement, in form and substance satisfactory to ADB, has been duly authorized and executed and delivered on behalf of, the Borrower, MRDI and UWSCG, and is legally binding upon the parties thereto in accordance with its terms.

**TABLE**

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b> <b>(Urban Services Improvement Investment Program – Project 5)</b>			
<b>CATEGORY</b>			<b>ADB FINANCING</b>
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (SDR) Category</b>	<b>Basis of Withdrawal from the Loan Account</b>
1	Works	20,582,000	84.75% of total expenditure claimed*
2	Interest Charge	644,000	100% of amounts due
3	Unallocated	1,779,000	
	Total	23,005,000	

\* Financing allocated to this item under this Loan Agreement will be utilized first at 84.75% of every claim until it has been disbursed in full. Thereafter, financing allocated to this item under the Ordinary Operations Loan Agreement will be utilized at 84.75% of every claim.

## SCHEDULE 4

### Procurement of Works and Consulting Services

#### General

1. The procurement of 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.

#### Works

3. Except as ADB may otherwise agree, Works shall only be procured on the basis of International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### Conditions for Award of Contract

5. The Borrower shall cause UWSCG not to award any Works contract for the Project which involves environmental impacts until UWSCG has:
  - (a) obtained the final approval of the applicable IEE from the appropriate authority of the Borrower; and
  - (b) incorporated the relevant provisions from the applicable EMP into the Works contract.

#### Consulting Services

6. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall cause UWSCG to apply quality- and cost-based selection for selecting and engaging Consulting Services.
7. The Borrower shall cause UWSCG to apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Least-Cost Selection for the auditing of financial statements for projects under the Investment Program.

Industrial or Intellectual Property Rights

8. (a) The Borrower shall cause UWSCG to ensure that all 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 cause UWSCG to ensure that all contracts for the procurement of 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.

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

ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

11. In the case of a contract for Works, which is subject to ADB's prior review, the Borrower shall cause UWSCG to seek ADB's prior approval of any modification or waiver of the terms and conditions of the contract, including:

- (a) granting an extension of the stipulated time for completion of a contract for a period of 1 month or more, or which is likely to require an extension of the Loan Closing Date; and
- (b) increases in aggregate of the original price by more than 5% (for the avoidance of doubt, such increase shall take into account any previous change under such contract).

12. In the case of a contract for Works, which is subject to ADB's post review, ADB shall review the required contract modification or waiver and respond to the Borrower as soon as practicable, but not later than 1 month after the receipt of the required document.

13. The Borrower shall cause UWSCG to provide to ADB copies of all time extensions, modifications or waivers to the contracts (including change orders) within 1 month following amendment of the contract.



## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Borrower and UWSCG 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 on one hand, and this Loan Agreement, the Ordinary Operations Loan Agreement and/or the Project Agreement on the other, the provisions of this Loan Agreement, the Ordinary Operations Loan Agreement and/or the Project Agreement shall prevail.

#### Counterpart Funding and Resources

2. The Borrower shall ensure that: (a) the financial, technical and human resources which are necessary for the implementation of the Project are provided on a timely basis throughout the implementation of the Project; and (b) adequate funds are allocated for the maintenance of the infrastructure that is built, and the items that are procured, under the Project. Without limiting the generality of the foregoing, if the Project experiences cost overruns in excess of the proceeds of the Loan and the Ordinary Operations Loan, the Borrower shall provide financial support to UWSCG towards any reasonable cost overruns in order to achieve the objective of the Project, unless otherwise agreed by the parties.

#### Construction Quality

3. The Borrower shall ensure that the Project is carried out in accordance with applicable standards and with international best practice for design, technical specifications, construction supervision, quality control and project management.

#### Sector Development

4. The Borrower shall ensure that: (a) ADB is kept informed of the Borrower's policies and programs for the WSS sector that will materially affect the economic viability of the Project; and (b) best efforts are used to sustain and strengthen the WSS sector.

5. The Borrower shall take steps to strengthen GNEWSRC's regulatory function, including tariff setting and the regulation of the service standards of service providers. The Borrower shall take adequate steps to ensure that, beginning 2017, GNEWSRC will determine tariffs based on cost recovery principles, in particular to assure recovery of operation and maintenance costs, taxes, depreciation of assets, and a return on capital based on socially equitable principles that ensure that consumers will not pay for inefficient services.

6. The Borrower shall cause UWSCG to prepare a financial model taking into account UWSCG's financial performance from 2010 and projecting UWSCG's long term financials until 2025. The Borrower shall cause UWSCG to incorporate the financial model into UWSCG's business plan for 2015-2017 and to exert its best efforts to submit such business plan (with the financial model incorporated) soonest, and, in any case, UWSCG

shall submit such business plan to ADB by 15 October 2015. In the event that UWSCG is not able to submit such business plan by this date for reasons not within its control, the parties agree to discuss and consider setting a later date for the submission.

7. The Borrower shall ensure that ADB's consent is obtained at least 3 months prior to the implementation of any of the following: (a) any change in the ownership or control of UWSCG or any asset, facility or structure rehabilitated, procured or constructed under the Project; or (b) any change to UWSCG's authority or functions, that may affect the implementation of the Project. The Borrower shall ensure that any such change is carried out in accordance with all applicable laws and regulations of the Borrower.

#### Financial Covenants

8. Throughout the term of the Ordinary Operations Loan Agreement:

- (a) The Borrower shall cause UWSCG to attain an operating ratio of 1 by the end of 2019, and shall continue to maintain it at less than 1 thereafter, and in accordance with the provisions of the FFA. The Borrower shall cause UWSCG to decrease UWSCG's operating ratio by 5% every year beginning 2015 in order to achieve an operating ratio of 1 by 2019 as set forth in the foregoing sentence. For the purposes of this paragraph 8(a), "operating ratio" shall mean the ratio of UWSCG's operating expenses over its operating revenue, with "operating expenses" meaning all expenses of UWSCG on operation and maintenance including staff salaries, cost of energy, chemicals and consumables, routine maintenance, spare parts, consumables, etc. but excluding capital expenditure, debt service obligations, amortizations and depreciation. "Operating revenue" means the revenue collected by UWSCG from the sale of water and other revenues excluding grants from the government.
- (b) Until such time as tariff increases or other sources of income make it possible for UWSCG to meet the operating ratio defined in paragraph 8(a) above, the Borrower shall provide the funds necessary to meet the operating ratio of 1 starting from FY 2015.
- (c) The Borrower shall cause UWSCG to improve its service delivery, and revenue collection from all domestic consumers and non-domestic consumers through continued attainment of a minimum 90% revenue collection rate per annum from FY 2015, and of an aggregate 95% by the end of FY 2019.

#### Environment

9. The Borrower shall ensure, and shall cause UWSCG to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health, and safety; (b) the Environmental Safeguards; (c)

the EARF; and (d) all measures and requirements set forth in the IEEs and EMPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

10. The Borrower shall ensure, and shall cause UWSCG to ensure, that the Project does not have any involuntary resettlement impacts within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower shall, and shall cause UWSCG to, take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower relating to involuntary resettlement and the SPS. For the avoidance of doubt, any land made available by the Borrower, or caused to be made available by the Borrower, in accordance with Section 4.02 of the Ordinary Operations Loan Agreement shall be subject to the provisions of this paragraph 10.

Indigenous Peoples

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

Human and Financial Resources to Implement Safeguards Requirements

12. The Borrower shall, and shall cause UWSCG to, make available necessary budgetary and human resources to fully implement the EMPs.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

13. The Borrower shall ensure, and cause UWSCG 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 applicable IEE and EMP, 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 UWSCG with a written notice of any unanticipated environmental risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the applicable IEE or EMP;
- (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

14. The Borrower shall, and shall cause UWSCG to, do the following:
- (a) submit semi-annual Safeguards Monitoring Reports to ADB within 1 month of the end of each half of the calendar year and disclose relevant information from such reports to affected people 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 applicable IEE or EMP, 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 applicable EMP promptly after becoming aware of the breach.

#### Prohibited List of Investments

15. The Borrower shall ensure, and shall cause UWSCG to ensure, that no proceeds of the Loans are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

#### Labor Standards and Health

16. The Borrower shall ensure, and shall cause UWSCG to ensure, that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall include, and shall cause UWSCG to 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.

17. The Borrower shall, through MRDI, strictly monitor compliance with the requirements set forth in paragraph 16 above and provide ADB with regular reports.

Gender and Development

18. The Borrower shall ensure, and shall cause UWSCG to ensure, that: (a) the GAP is fully implemented and monitored in a timely manner in accordance with its terms, the related regulations of the Borrower, and ADB's Policy on Gender and Development (1998) and adequate resources are allocated for this purpose; (b) bidding documents include provisions as specified in the GAP, including equal pay to men and women for the same type of work and enabling working conditions for female workers; (c) progress in achieving the GAP targets are reflected in the Project progress reports and Project completion report; (d) targets under the GAP are achieved, including, but not limited to, (i) the training and involvement of local women non-governmental organizations and female community leaders in the distribution of information, education and communication material on water, hygiene and sanitation practices, customer rights and complaint mechanisms; (ii) at least 50% of the targeted women are reached by the public awareness program for water, hygiene and sanitation practices, customer rights and complaint mechanisms; (iii) at least 15% of the new positions created through the Project are set aside for women; and (iv) at least 30% of the staff at the customer care unit in the service center established by UWSCG are women.

Governance and Anticorruption

19. The Borrower and UWSCG 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.

20. The Borrower and UWSCG shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants and other service providers as they relate to the Project.

21. The Borrower shall cause UWSCG to disclose on its website information on (a) bidding procedures, bidders and contract awards; (b) the use of funds disbursed under the Project; (c) the physical progress of the Project; and (d) safeguard matters, including any environmental and/or social safeguards plans required to be prepared for the Project.