

LOAN AGREEMENT
(Ordinary Operations)

(North Eastern Region Capital Cities Development
Investment Program – Project 3)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 28 JANUARY 2016

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 28 January 2016 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 14 May 2009 as amended to date ("FFA"), between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the North Eastern Region Capital Cities Development Investment Program ("NERCCDIP");

(B) by a periodic financing request dated 24 June 2015, 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 (i) the Borrower's Ministry of Urban Development or any successor thereto ("MOUD"); (ii) the State of Mizoram ("Mizoram"); and (iii) the State of Tripura ("Tripura") and for this purpose the Borrower will make available to MOUD, Mizoram, and Tripura 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 Agreements of even date herewith between ADB, MOUD and each State;

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 Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("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 thereof:

(a) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit. (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the amount of the credit against the interest payable by the Borrower.

(b) Section 3.06 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(c) Section 3.07 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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) "Capital City" or "Capital Cities" refers to each or all of the following cities: Agartala, in Tripura; and Aizawl, in Mizoram;

(b) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(c) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 2 of Schedule 1 to this Loan Agreement;

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

(e) "EMP" means each environmental management plan under the Project, including any update thereto, incorporated in the IEE;

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

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

(h) "Financing Arrangements" means the arrangements between the Borrower and the States as per current policy of the Borrower, and acceptable to ADB;

(i) "GAP" means the gender action plan for Project 3;

(j) "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;

(k) "HH" means households;

(l) "IEE" means each initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower through the relevant Project Executing Agency pursuant to the requirements set forth in the EARF and cleared by ADB;

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

(n) "Investment Program" or "Program" refers to the NERCCDIP as defined below;

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

(p) "IPCC" means Investment Program Coordination Cell, established under the first project under NERCCDIP;

(q) "IPEC" means Investment Program Empowered Committee, established under the first project under NERCCDIP;

(r) "IPP" means an indigenous peoples plan for the Project, including any update thereto, prepared and submitted by the Borrower through the relevant Project Executing Agency pursuant to the requirements set forth in the IPPF and cleared by ADB;

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

(t) "IPPMS" means Investment Program performance monitoring system established by IPCC, as described more fully in paragraph 21 of Schedule 5 to this Loan Agreement;

(u) "km" means kilo meter(s);

(v) "kV" means kilo volt(s);

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

(x) "MLD" means million liters per day;

(y) "MT" means metric tonnes;

(z) "NRW" means non-revenue water;

(aa) "NSC" means National Steering Committee, established under the first project under NERCCDIP;

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

(cc) "PAM" means the Project administration manual dated October 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;

(dd) "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 24 June 2015.

(ee) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(ff) "Procurement Plan" means the procurement plan for the Project as included in the PAM, and agreed between the Borrower, MOUD, the States, and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(gg) "Project area" refers to the Capital Cities defined under (a) above;

(hh) "Project Executing Agencies" for the purposes of, and within the meaning of the Loan Regulations, means (i) at the national level, MOUD or any successor thereto acceptable to ADB; and (ii) at the State level, the SEAs, as defined hereunder, or any successor thereto acceptable to ADB;

(ii) "Project facilities" means the equipment or facilities to be provided under the Project;

(jj) "RF" means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower through the relevant Project Executing Agency and cleared by ADB;

(kk) "RP" means a resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower through the relevant Project Executing Agency pursuant to the requirements set forth in the RF and cleared by ADB;

(ll) "RRP" refers to the Report and Recommendations of ADB's President to ADB's Board for the Facility;

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

(nn) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the relevant Project Executing Agency to ADB that describes progress with implementation of, and compliance with, the EMP, the RP and the IPP (as applicable), including any corrective and preventative actions;

(oo) "SEA" or "SEAs" means state-level Executing Agency or Agencies and refers to any or all of the following: (i) for Mizoram: its Urban Development and Poverty Alleviation Department; and (ii) for Tripura: its Urban Development Department;

(pp) "SIPMIU" means State Investment Program Management and Implementation Unit, established under the first project under NERCCDIP;

(qq) "SSC" means State Steering Committee, established under the first project under NERCCDIP;

(rr) "State" or "States" means any or all of the States of Mizoram and Tripura of the Borrower;

(ss) "ULB" or "ULBs" refers to any or all urban local body or bodies of a State, or all States, as the context may require;

(tt) "Urban Reform Program" refers to the Urban Institutional, Financial, Regulatory, and Operational Program agreed between the Borrower, the States, and ADB and which is included in Appendix 12 to the RRP, in as far as it is applicable to the Project;

(uu) "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; and

(vv) "WTP" means water treatment plant.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of eighty million Dollars (\$80,000,000) 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 paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (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 01 May and 01 November 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 paragraph (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) 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 MOUD and the States upon terms and conditions mutually agreeable between ADB and the Borrower and shall cause MOUD and the States to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreements.

(b) Of the Loan proceeds, the Borrower shall provide (i) to MOUD an amount equivalent to one million one hundred thousand Dollars (\$1,100,000); (ii) to Mizoram an amount equivalent to fifty-eight million three hundred thousand Dollars (\$58,300,000); and (iii) to Tripura an amount equivalent to twenty million six hundred thousand Dollars (\$20,600,000). MOUD and the States shall apply the proceeds of the Loan in accordance with the allocation of Loan proceeds under Schedule 3 to this Loan 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. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all Goods, Works and consulting services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 22 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. (a) The Borrower shall cause the Project to be carried out by the Project Executing Agencies with due diligence and efficiency and in conformity with sound applicable technical, financial, business and urban 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 Project Executing Agencies, all obligations set forth in Schedule 5 to this Loan Agreement.

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

Section 4.03. The Borrower shall ensure, or cause the States to ensure, that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

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. (a) The Borrower shall or shall cause MOUD to (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and on the use of the procedures for imprest fund and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 9 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

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

Section 4.06. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable MOUD and each State to perform its obligations under each Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

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 the 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
Department of Economic Affairs
Ministry of Finance
North Block
New Delhi – 110001
India

Facsimile Numbers:

+91 11 2309-2511

For ADB

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

Facsimile Numbers:

+63 2 636-2444
+63 2 636-2293.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

INDIA

Kumar 28.01.2016

By _____
RAJ KUMAR
Joint Secretary (MI)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

Md

By _____
M. TERESA KHO
Country Director

SCHEDULE 1

Description of the Project

1. The objective of the Project is to increase sustainable and improved urban services in the Project area.

2. The Project comprises the following 4 parts:

1. Water Supply Infrastructure Constructed and Rehabilitated

a. Aizawl

- (i) construction of around intake and around 37 MLD WTP;
- (ii) construction of around 20 km of pumping mains;
- (iii) construction of around 9 storage reservoirs;
- (iv) construction of 1 rain water harvesting unit;
- (v) construction of around 31 km of feeder mains;
- (vi) installation of around 43 bulk water meters;
- (vii) rehabilitation and expansion of around 224 km of distribution network; and
- (viii) connection and provision of meter to around 30,000 additional HH.

b. Agartala

- (i) rehabilitation of around 31 MLD WTP; and
- (ii) construction and rehabilitation of around 12 deep tubewells;
- (iii) installation of around 30 bulk water meters;
- (iv) rehabilitation and expansion of around 178 km of distribution network; and
- (v) connection and metering of around 40,000 additional HH.

2. Solid Waste Management Infrastructure Constructed and Rehabilitated

a. Aizawl

- (i) construction of two resource centers;
- (ii) construction of two vermi compost plant;
- (iii) construction of one mechanical compost plant;
- (iv) construction of around 20,000 m² sanitary landfill; and
- (v) provision of around 54 solid waste collection and compaction vehicles.

b. Agartala

- (i) provision of around 151 solid waste collection and compaction vehicles.

3. Septage Infrastructure Constructed**a. Aizawl**

- (i) provision of around 5,290 additional HH with decentralized septage management using bio-digesters and other technologies on a pilot scale.

b. Agartala

- (i) provision of around five cesspool cleaners.

4. Capacity for Project Implementation and Service Delivery Improved

- (i) support the implementation of area-based property tax reforms and increase the number of assessed properties to 70% in the Capital Cities;
- (ii) support Aizawl Municipal Council's and Agartala Municipal Corporation's water and sanitation divisions to ring-fence and recover between 60%-100% of their O&M costs;
- (iii) provide training to 100% SIPMIUs' and IPCC's staff in planning, construction management, procurement, safeguards, and gender equality; and
- (iv) establishment of a single window cell for Aizawl's septage management.

3. The Project includes Consulting Services in relation to each of the parts.

4. The Project is expected to be completed by 22 December 2018.

SCHEDULE 2

Amortization Schedule

(North Eastern Region Capital Cities Development Investment Program – Project 3)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 May 2021	3.333333
1 November 2021	3.333333
1 May 2022	3.333333
1 November 2022	3.333333
1 May 2023	3.333333
1 November 2023	3.333333
1 May 2024	3.333333
1 November 2024	3.333333
1 May 2025	3.333333
1 November 2025	3.333333
1 May 2026	3.333333
1 November 2026	3.333333
1 May 2027	3.333333
1 November 2027	3.333333
1 May 2028	3.333333
1 November 2028	3.333333
1 May 2029	3.333333
1 November 2029	3.333333
1 May 2030	3.333333
1 November 2030	3.333333
1 May 2031	3.333333
1 November 2031	3.333333
1 May 2032	3.333333
1 November 2032	3.333333
1 May 2033	3.333333
1 November 2033	3.333333
1 May 2034	3.333333
1 November 2034	3.333333
1 May 2035	3.333333
1 November 2035	<u>3.333343</u>
TOTAL	100.000000

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 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 Goods, Works, consulting services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages 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 the Borrower and by notice to MOUD and the States, (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 then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with the Borrower and by notice to MOUD and the States, 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 for reimbursement of reasonable 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 (i) civil works, (ii) equipment and materials, and (iii) consultancy services, subject to a maximum amount equivalent to 20% of the total loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (North Eastern Capital Cities Development Investment Program – Project 3)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing \$ Category	Percentage of ADB Financing from the Loan Account
1	Works and Goods	74,764,500	79.0% of total expenditure claimed
2	Consulting Services and Capacity Building	3,625,500	86.7% of total expenditure claimed
3	Project Management and Recurrent Costs	1,610,000	100% of total expenditure claimed
	Total	80,000,000	

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

General

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

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) International Competitive Bidding;
 - (b) National Competitive Bidding; and
 - (c) Shopping.

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

National Competitive Bidding

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

Conditions for Award of Contract; Commencement of Works

5. The Borrower shall ensure, or cause the relevant Project Executing Agency to ensure, that (i) no Works contract which involves environmental impacts is awarded until the relevant Project Executing Agency has incorporated the relevant provisions from the EMP into the Works contract; and (ii) no commencement of Works is allowed under any Works contract which involves environmental impacts and requires environmental clearances until the relevant Project Executing Agency has obtained (a) final approval of the IEE from ADB and (b) environmental clearance including approval of the environmental assessment report from the State Environmental Impact Assessment Authority.

6. The Borrower shall ensure, or cause the relevant Project Executing Agency to ensure, that no Works contract which involves involuntary resettlement impacts is awarded

until the relevant Project Executing Agency has prepared and submitted to ADB the final RP based on detailed design, and obtained ADB's clearance of such RP.

7. The Borrower shall ensure, or cause the relevant Project Executing Agency to ensure, that no Works contract which involves impacts on indigenous peoples is awarded until the relevant Project Executing Agency has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

Consulting Services

8. Except as ADB may otherwise agree, the Borrower shall cause MOUD and the States to apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

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

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

1. The Borrower and the Project Executing Agencies shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to these documents shall become effective only after approval of such change by the Borrower and the Project Executing Agencies, and ADB as required. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Financial and institutional issues

2. The Borrower and the States shall ensure sufficient funds shall be allocated to meet all O&M costs for all assets created under the Investment Program.

3. MOUD shall ensure that any claims received from any of the States in relation to the Project, shall be reimbursed within 30 calendar days after receiving such claim.

Procurement

4. The Project Executing Agencies shall announce the Project and business opportunities associated with the Project on a Project website. The website shall disclose the following information in relation to goods and services procured for the Project: (a) the list of participating bidders, (b) the name of the winning bidder, (c) the amount of the contracts awarded, and (d) the goods and services procured. In accordance with the Procurement Guidelines, the published information for International Competitive Bidding contracts shall also include the bid prices as read out at bid opening, the reasons for rejection of unsuccessful bidders, and the duration of the awarded contract.

Governance and Anticorruption

5. The Borrower shall comply, or shall cause the Project Executing Agencies to comply, with ADB's Anticorruption Policy (1998, as amended to date), and (a) shall ensure, and cause the Project Executing Agencies to ensure, that the anticorruption provisions acceptable to ADB, the Borrower, the relevant State and the relevant Project Executing Agency 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 relevant State and the relevant Project Executing Agency and all contractors, suppliers, consultants, and other service providers as they relate to the Project, and as included in the PAM; (b) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (c) acknowledge that ADB reserves the right to investigate directly or through its agents any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

Policy Reforms

6. Each SEA shall, while ensuring that the requirements under the SPS are fully complied with, implement all actions specified in the Urban Institutional, Financial, Regulatory, and Operational Reform Program agreed between the Borrower, the States, and ADB and which is included in Annex 1 Schedule 6 of the FFA as amended, in as far as it is applicable to the Project.

Project Scope

7. The Borrower and the States shall ensure that in the event there are any changes to the Project scope as described in Schedule 1 to this Loan Agreement, those changes shall be made in conformity with the selection criteria as set out in Schedule 4 to the FFA.

Environment

8. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project facilities comply with (a) all applicable laws and regulations of the Borrower and the relevant 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

9. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that all land and all rights-of-way required for the Project, and all Project 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 relevant 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.

10. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or any RP, the Borrower shall ensure, or cause the Project Executing Agencies to ensure, that no physical or economic displacement takes place in connection with the Project until:

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

Indigenous Peoples

11. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower and the

relevant State 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

12. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that all necessary budgetary and human resources to fully implement the EMP, the RP and the IPP (if required) are made available. Each Project Executing Agency shall designate at least one expert to supervise implementation of the EMPs and RPs.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

13. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE, the EMP, the RP and the IPP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide ADB and the relevant Project Executing Agency with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP or the IPP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

14. The Borrower shall cause the Project Executing Agencies to:

- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) submit to ADB semi-annual reports on the carrying out of measures set forth in the EMP, RP and IPP (if required) and any corrective or preventive measures set forth in a Safeguards Monitoring Report;
- (c) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were

not considered in the IEE, the EMP, the RP or the IPP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;

- (d) no later than three months from the commencement of Project implementation, engage qualified and experienced external experts or qualified non-governmental organizations under a selection process and terms of reference acceptable to ADB, to verify information produced through the project monitoring process for resettlement, environment and indigenous peoples (if any), and facilitate the carrying out of any verification activities by such external experts; and
- (e) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the RP or the IPP promptly after becoming aware of the breach.

Prohibited List of Investments

15. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards

16. The Project Executing Agencies shall ensure that Works contracts under the Project follow all applicable labor laws of the Borrower and the relevant 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.

17. The Borrower shall ensure, or cause the Project Executing Agencies to ensure, that (a) the GAP 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 GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

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

(b) The Borrower shall ensure that each State and Project Executing Agency complies with all the requirements and obligations on its part as included in this Loan Agreement and the applicable Project Agreement to meet the objectives of the Project in a timely and efficient manner.

Construction Supervision, Recording, and Reporting

19. Within 3 months of the Effective Date, each SEA shall have approved a time-bound plan, with budget allocation, to strengthen construction supervision, recording, and reporting systems through the use of modern technology. Each SEA shall establish a quality control cell and operationalize an internal third party technical audit mechanism. All Works contracts shall include provisions for third party inspection for quality control.

Project Performance Monitoring and Evaluation

20. IPPMS shall be used to monitor and evaluate each project under the Facility, including the Project. IPPMS shall include: (i) procedures and data collection and reporting; (ii) performance indicators for physical infrastructure, capacity development, and program management support; and (iii) target dates for reaching the performance indicators. Within 6 months of the Effective Date, each State, through its SIPMIU, shall have established baseline indicators for each target.

Project Review

21. The Borrower, the States, and ADB shall jointly review the Project at least twice a year and conduct a detailed mid-term review towards the end of the third year of Project implementation.

Communications and Participation

22. The Project Executing Agencies shall ensure, or cause the Project Executing agencies to ensure, that the project is undertaken in conformity with the communication strategy as agreed between ADB, the Borrower and the Project Executing Agencies and referred in the PAM.

Counterpart Funds

23. The States shall make available the Loan proceeds to the SEAs under appropriate arrangements acceptable to ADB, and ensure:

- (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, are provided for the efficient implementation of the Project; and
- (b) adequate funds towards O&M of Project facilities, through budgetary allocations or other means, are provided in a timely manner to the SEAs, during and after the Project's completion.