
LOAN NUMBER 3265-IND

LOAN AGREEMENT
(Ordinary Operations)

(Orissa Integrated Irrigated Agriculture and Water Management Investment Program -
Project 2)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 7 JUNE 2016

IND 38411

LOAN AGREEMENT
(Ordinary Operations)

LOAN AGREEMENT dated 7 June 2016 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 8 August 2008 between the Borrower and ADB, ADB agreed to provide a multitranchise financing facility to the Borrower for purposes of financing projects under the Orissa Integrated Irrigated Agriculture and Water Management Investment Program;

(B) by a periodic financing request dated 11 March 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 the State of Odisha ("State") acting through its Department of Water Resources ("DOWR") and for this purpose the Borrower will make the proceeds of the Loan available to the State under 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 under the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and the 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:

(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 credit against the interest payable by the Borrower.

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

Rebate. (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:

Surcharge. (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 have the following meanings:

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

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 4 of Schedule 1 to this Loan Agreement;

(c) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the State and cleared by ADB;

(d) "Environmental Management Plan" or "EMP" means each environmental management plan for a Subproject, 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) "FAM" means the Facility administration manual dated June 2015 and agreed between the Borrower, State and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(h) "FFA" means the framework financing agreement dated 8 August 2008 between ADB and the Borrower with respect to the Facility;

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

(j) "Gender Action Plan" means the gender action plan prepared for the Project and approved by the Borrower and the State;

(k) "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;

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

(m) "Indigenous Peoples Planning Framework" or "IPPF" means the indigenous peoples planning framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the State and cleared by ADB;

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

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

(p) "Investment Program" means the Orissa Integrated Irrigated Agriculture and Water Management Investment Program;

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

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

(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 11 March 2015;

(t) "PIM-CAD Directorate" means the participatory irrigation management and command area development directorate established within the DOWR;

(u) "PP Rules" means the Pani Panchayat Rules, 2003, as amended from time to time;

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

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

(x) "Resettlement Framework" or "RF" means the resettlement framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the State and cleared by ADB;

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

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

(aa) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the State 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;

(bb) "SIOs" means the seven Subproject implementation offices to be established to supervise the implementation of the four major and three medium Subprojects described in paragraph 3(b) of Schedule 1 to this Loan Agreement;

(cc) "Subproject" means a subproject under the Project that meets the subproject eligibility criteria set forth in Schedule 4 to the FFA and Appendix 8 to the FAM; and

(dd) "WUAs" means water user associations.

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 twenty million Dollars (\$120,000,000), 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 1 September and 1 March 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(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. The Borrower shall make the proceeds of the Loan available to the State upon terms and conditions mutually agreeable to ADB and the Borrower, and shall cause the State to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

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 items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 17 September 2018 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, 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 the State, promptly as needed, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.04. 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 4.05. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable the State to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.06. (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 the 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 are designated as representatives 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 Numbers:

(91-11) 2309-2477
(91-11) 2309-2511

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2391.

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

 7/6/16

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

ASIAN DEVELOPMENT BANK

By  _____
M. TERESA KHO
Country Director

SCHEDULE 1

Description of the Project

1. The objective of the Investment Program is to enhance the productivity, water-use efficiency, and sustainability of irrigated agriculture in selected existing schemes in the river basins having 215,000 hectares designed command area.
2. As a part of the Investment Program, the Project aims to increase the productivity of agriculture in selected river basins in the State.
3. The Project shall comprise of:
 - (a) State and Water Users Institutions Strengthened for Water Resource and Irrigation Management: Strengthening the institutional capacity of DOWR, the PIM-CAD Directorate and SIOs to improve irrigation system performance through, among others, (i) the establishment of systems for quantitative water uses in the Baitrani river basin; and (ii) re-electing around 169 WUAs in accordance with the PP Rules.
 - (b) Irrigation System and Associated Infrastructure Modernized and Managed: (i) modernization of the irrigation infrastructure on four major and three medium Subprojects to improve around 108,091 hectares of irrigated land area; (ii) rehabilitation of around 750 MLI schemes; (iii) development of field channels and distribution structures to benefit around 54,045 hectares; and (iv) restoration of around 57 kilometers of saline embankments in the coastal divisions of Aul, Puri, Khurda and Nimapara.
4. Consulting Services will be provided to support the relevant activities under paragraph 3 above.
5. The Project is expected to be completed by 17 September 2018.

SCHEDULE 2

Amortization Schedule

(Orissa Integrated Irrigated Agriculture and Water Management Investment Program - Project 2)

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 September 2020	3.333333
1 March 2021	3.333333
1 September 2021	3.333333
1 March 2022	3.333333
1 September 2022	3.333333
1 March 2023	3.333333
1 September 2023	3.333333
1 March 2024	3.333333
1 September 2024	3.333333
1 March 2025	3.333333
1 September 2025	3.333333
1 March 2026	3.333333
1 September 2026	3.333333
1 March 2027	3.333333
1 September 2027	3.333333
1 March 2028	3.333333
1 September 2028	3.333333
1 March 2029	3.333333
1 September 2029	3.333333
1 March 2030	3.333333
1 September 2030	3.333333
1 March 2031	3.333333
1 September 2031	3.333333
1 March 2032	3.333333
1 September 2032	3.333333
1 March 2033	3.333333
1 September 2033	3.333333
1 March 2034	3.333333

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 September 2034	3.333333
1 March 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 two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (a) 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 (b) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be 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 State (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 State, reallocate such excess amount to any other Category.

Disbursement Procedure

5. 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

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 items to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Orissa Integrated Irrigated Agriculture and Water Management Investment Program - Project 2)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Civil Works	71,466,000		
1A	Major and Medium Schemes		54,982,000	83.5% of total expenditure claimed
1B	Command Area Development		667,000	8.6% of total expenditure claimed
1C	Minor Lift Schemes		3,052,000	87.5% of total expenditure claimed
1D	Emergency Restoration Works		12,765,000	83.5% of total expenditure claimed
2	Equipment	6,031,000		
2A	Equipment, Materials and Vehicles		95,000	100% of total expenditure claimed*
2B	Minor Lift Equipment		5,936,000	84.5% of total expenditure claimed
3	Specialist Services	16,951,000		
3A	Pani Panchayat Strengthening Services		4,122,000	92.2% of total expenditure claimed
3B	Technical Assistance Consultants		10,788,000	53.1% of total expenditure claimed
3C	Studies		546,000	87.5% of total expenditure claimed
3D	Survey and Investigation		1,495,000	70% of total expenditure claimed
4	Training	8,401,000		
4A	Irrigation Management		3,785,000	53.2% of total expenditure claimed
4B	Agriculture and Livelihood		4,616,000	98% of total expenditure claimed
5	Operational Costs	6,993,000		51.9% of total expenditure claimed
6	Unallocated	10,158,000		
	Total	120,000,000		

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

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

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

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) National Competitive Bidding; and
 - (b) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

National Competitive Bidding

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

Community Participation

6. The State may use community participation in procurement for Works contracts for (a) sub-minor canals in irrigation Subprojects; and (b) installation of equipment and other minor Works for minor lift irrigation schemes in accordance with the agreed procedures set out in the Procurement Plan.

Conditions for Award of the Contract

7. The Borrower shall ensure or cause the State to ensure that no Works contract is awarded for a Subproject which involves environmental impacts until the State has incorporated the relevant provisions from the EMP into the Works contract.

8. The Borrower shall ensure or cause the State to ensure that no Works contract is awarded for a Subproject which involves involuntary resettlement impacts until the State has prepared and submitted to ADB the final RP for such Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP.

9. The Borrower shall ensure or cause the State to ensure that no Works contract is awarded for a Subproject which involves impacts on indigenous peoples until the State has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

Consulting Services

10. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall or cause the State to apply quality- and cost-based selection for selecting and engaging Consulting Services.

11. The Borrower shall or cause the State to recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

12. (a) The Borrower shall ensure, or cause the State 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 State 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.

13. The Borrower shall ensure, or cause the State 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.

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

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

2. The Borrower shall ensure, or cause the State to ensure, that towards smooth implementation of the Project, grievances if any from stakeholders, relating to any Subproject implementation or use of funds are addressed effectively and efficiently.

Counterpart Funds

3. The Borrower shall ensure that the State makes available to DOWR the Loan proceeds under appropriate arrangements acceptable to ADB, and ensure that the State makes available:

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

Communication and Participation

4. The Borrower shall ensure, or cause the State to ensure, that the Project is undertaken in conformity with the communication strategy as agreed between ADB, the Borrower, and the State and referred in the FAM.

Environment

5. The Borrower shall ensure or cause the State to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project, 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

6. The Borrower shall ensure, or cause the State to ensure, that all land and all rights-of-way required for the Project, each Subproject 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 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.

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

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

Indigenous Peoples

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

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

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. The Borrower shall ensure, or cause the State 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/EIA, 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 the State 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

11. The Borrower shall, or cause the State 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, 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; and
- (c) 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

12. The Borrower shall ensure, or cause the State 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.

Gender and Development

13. The Borrower shall ensure, or cause the State to ensure, that the Gender Action Plan is effectively implemented, to achieve its objectives of, among others, (a) ensuring equal employment opportunities for women in Project activities; and (b) holding gender-sensitive training courses and modules for DOWR staff.

Labor Standards

14. The Borrower and State shall 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.

Procurement

15. The State shall announce the Project and business opportunities associated with the Project on its website. The website shall disclose the following information in relation to goods and services procured for the Project and Subprojects: (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

16. The Borrower, and the State shall comply with ADB's Anticorruption Policy (1998, as amended to date) and (a) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower and the State 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 all contractors, suppliers, consultants, and other service providers as they relate to the Project, and as included in the FAM; (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 FAM.