
LOAN NUMBER ____-PAK (SF)

LOAN AGREEMENT
(Special Operations)

(Federally Administered Tribal Areas Rural Development Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED _____ 2006

LAS:PAK 33268

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated _____2006 between ISLAMIC REPUBLIC OF PAKISTAN (the "Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Federally Administered Tribal Areas Rural Development ("the Project") described in Schedule 1 to this Loan Agreement; and

(B) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources ("Loan") upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (the "Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Loan Regulations are applicable to this Loan Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "APB" means the Agency Project Board to be established in each of the Agencies, as more fully described in paragraph 8 of Schedule 6 to this Loan Agreement;

(b) "Agency" individually means any of the Bajaur Agency, the Khyber Agency or the Mohmand Agency; and "Agencies" collectively mean the Bajaur Agency, the Khyber Agency and the Mohmand Agency;

(c) "Bajaur Agency PIU" means the Project Implementation Unit in the Bajaur Agency;

(d) "Department of Agriculture Extension" means the Department of Agriculture Extension under the Governor's Secretariat (FATA) or any successor thereto, acceptable to ADB;

(e) “Department of Forest” means the Department of Forest under the Governor’s Secretariat (FATA) or any successor thereto, acceptable to ADB;

(f) “Department of Irrigation” means the Department of Irrigation under the Governor’s Secretariat (FATA) or any successor thereto, acceptable to ADB;

(g) “Department of Livestock and Dairy Development” means the Department of Livestock and Dairy Development under the Governor’s Secretariat (FATA) or any successor thereto, acceptable to ADB;

(h) “Department of Works and Services” means the Department of Works and Services under the Governor’s Secretariat (FATA) or any successor thereto, acceptable to ADB;

(i) “FATA” means the Federally Administered Tribal Areas of Pakistan, which consist of seven agencies, namely Bajaur, Khyber, Kurram, Mohmand, North Waziristan, Orakzai, South Waziristan and six frontier regions namely Bannu, D. I. Khan, Kohat, Lakki, Peshawar, and Tank;

(j) “Gender Strategy and Plan” means the Gender Strategy and Plan as set out in Appendix 14 of the RRP;

(k) “Governor” means the Governor of NWFP;

(l) “Governor’s Secretariat (FATA)” means the secretariat of the Governor established by the Borrower, the mandate of which was strengthened pursuant to a directive issued by President of the Borrower on January 23, 2002 to include overseeing the development affairs pertaining to FATA;

(m) “Khyber Agency PIU” means the Project Implementation Unit in the Khyber Agency;

(n) “Line Departments” means collectively the (i) Departments of Agriculture Extension; (ii) Livestock and Dairy Development; (iii) Forest; Irrigation; and (iv) Works and Services, in the Project area;

(o) “MIS” means the Management Information System to be established for the purposes of the Project, as more fully described in Schedule 1 to this Loan Agreement;

(p) “Ministry of SAFRON” means the Ministry of States and Frontier Regions of the Borrower or any legal successor thereto, acceptable to ADB;

(q) “Mohmand Agency PIU” means the Project Implementation Unit in the Mohmand Agency;

(r) “NWFP” means the North West Frontier Province of the Borrower;

(s) “PIU” means the Project Implementation Unit to be established in each of the Agency, as more fully described in paragraph 5 of Schedule 6 to this Loan Agreement;

(t) "PMU" means the Project Management Unit, as more fully described in paragraphs 3 and 4 of Schedule 6 to this Loan Agreement;

(u) "PPMS" means the Project Performance Management System to be established for the purposes of the Project, as more fully described in paragraphs 16 and 17 of Schedule 6 to this Loan Agreement;

(v) "PRB" means the Project Review Board to be established for the purposes of the Project, as more fully described in paragraph 7 of Schedule 6 to this Loan Agreement;

(w) "PSC" means the Project Steering Committee to be established for the purposes of the Project, as more fully described in paragraph 6 of Schedule 6 to this Loan Agreement;

(x) "Political Agent" means the head of an Agency;

(y) "Project area" means the areas within the Bajaur Agency, the Khyber Agency and the Mohmand Agency;

(z) "Project Director" means the head of the PMU;

(aa) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the Ministry of SAFRON which is responsible for the carrying out of the Project;

(bb) "Project facilities" mean the equipment, material, supplies and facilities provided/ constructed/ aligned/ improved/ rehabilitated or to be provided/constructed/ aligned/ improved/ rehabilitated under the Project;

(cc) "Project Implementing Agency" means the Governor's Secretariat (FATA) or any successor thereto, acceptable to ADB;

(dd) "Project Manager" means the head of the PIU;

(ee) "RRP" means the Report and Recommendation of the President of ADB to the Board of Directors of ADB for the Loan;

(ff) "Rupees" or the sign "Rs" means Pakistan rupees, the currency of the Borrower;

(gg) "Shalman - Landi Kotal Water Supply Scheme" means the drinking water supply scheme in Khyber Agency to be financed/established under the Project;

(hh) "VAHW" means village animal husbandry worker; and

(ii) "Water Resources Assessment and Management Plan" means the Water Resources Assessment and Management Plan as described in paragraph 4(a) of Schedule I to this Loan Agreement.

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 nine million one hundred eighty one thousand Special Drawing Rights (SDR 29,181,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half percent (1.5%) per annum 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 paragraph (a) of this Section means the period prior to payment of the first principal amount of the Loan on the 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 of the Loan and the currency of payment of the interest charge for purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be United States Dollar.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. 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.

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such goods and services and other items of expenditure shall be 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, all goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 and Schedule 5 to this Loan Agreement.

Section 3.04. Withdrawals from the Loan Account in respect of goods and services shall be made only on account of expenditures relating to

- (a) goods which are produced in and supplied from and 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) goods and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 December 2011 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 6 to this Loan Agreement.

Section 4.02. (a) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than six (6) months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest accounts/statement of expenditures), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the Borrower's auditors, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Borrower unless the Borrower shall otherwise agree.

Section 4.03. Without limiting the generality of Section 6.05(a) of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB quarterly reports on the carrying out of the Project and on the operation and management of the Project facilities.

Section 4.04. The Borrower shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Loan, and any relevant records and documents.

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: PMU shall have been established and full-time (i) Project Director; (ii) deputy director, finance and administration; and (iii) deputy director, planning and monitoring, with qualifications, experience, expertise and terms of reference acceptable to ADB shall have been appointed.

Section 5.02. A date ninety (90) 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 Secretary of Economic Affairs Division, the Ministry of Economic Affairs and Statistics 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

Secretary
Economic Affairs Division
Ministry of Economic Affairs and Statistics
Islamabad, Pakistan

Cable Address:

ECONOMIC
ISLAMABAD

Telex Number:

5634 ECDIV PK

Facsimile Numbers:

(92-51) 920 5971
(92-51) 921 0734.

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

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 and to be delivered at the principal office of ADB, as of the day and year first above written.

ISLAMIC REPUBLIC OF PAKISTAN

By _____
Authorized Representative

ASIAN DEVELOPMENT BANK

By _____

SCHEDULE I

Description of the Project

1. The key development objective of the Project is to improve the productive potential of participating watersheds and their associated natural resource base. The associated objectives of the Project are (i) to strengthen the planning, implementation and management capacity of the communities in the Project area for participatory involvement in planning, implementation, social and environmental management, and maintenance of assets emanating from local development programs; and (ii) to have the Line Departments operate in a more socially inclusive manner within the framework of a convergent watershed development planning process.

2. The Project shall consist of the following three (3) components:

Component 1: Integrated Resource Management

3. This component shall consist of the following three (3) sub-components:

(a) Farming Systems and Crop Production

- (i) provide assistance to improve seed technology and farming demonstrations;
- (ii) provide training of trainers and farmer field training in integrated crop management;
- (iii) conduct adaptive research trials;
- (iv) provide varietal screening of specific seeds; and
- (v) train relevant staff of the Line Departments to strengthen their capabilities in extension techniques.

(b) Livestock and Fodder Development

Provide training and knowledge transfer on animal nutrition and animal husbandry practices at the community level, through: (a) analysis, planning and capacity building for the staff of the Line Departments; (b) improved fodder and forage production; and (c) training of VAHW, which shall include women.

(c) Community Forestry and Range Management

- (i) integrate farm forestry activities within existing farming system;
- (ii) rehabilitate and develop denuded community lands through improved vegetative cover;

- (iii) introduce participatory and multiple use forest management in existing scrub forests; and
- (iv) build the technical, social, institutional, and entrepreneurial capacity of small farmers, including women.

Component 2: Community Infrastructure

4. This component shall comprise of the following four (4) sub-components.

(a) Water Resources Assessment and Management Plan

- (i) conduct a ground and surface water assessment;
- (ii) develop a ground and surface water monitoring system; and
- (iii) prepare a ground and surface water development and management framework and plan.

(b) Drinking Water Supply Schemes

- (i) construct around two hundred and twelve (212) spring fed gravity flow systems;
- (ii) establish around six hundred and twenty four (624) dug well-based schemes in the Agencies, particularly, in areas where the ground water table is high and stable;
- (iii) provide around thirty one (31) tube well based water supply systems in areas where the groundwater is sustainable for their supply;
- (iv) construct around one hundred and thirty five (135) hand-pumps and provide technical assistance during construction and operation & maintenance (O&M) training to selected villagers; and
- (v) construct the Shalman - Landi Kotal water supply scheme, which is located in the Khyber Agency.

(c) Small Irrigation Systems

- (i) rehabilitate around seventy two (72) existing and construct around thirty six (36) new irrigation structures, through cost-sharing arrangements with local communities;
- (ii) provide training to farmers in techniques to construct irrigation structures and O&M;

- (iii) construct around one hundred and thirty (130) check dams;
 - (iv) introduce small ponds and few small dams for reservoirs to create storage for irrigation, improve ground re-charge and to ensure water supplies for live stock and other non-drinking needs of the local communities; and
 - (v) construct protection bunds along affected land.
- (d) Road Construction and Improvement
- (i) provide training to villagers and village organizations on maintenance repair and management of roads;
 - (ii) construct around one hundred and twenty (120) km of low-cost link roads; and
 - (iii) improve and upgrade around seventy-two (72) km of existing roads that have fallen into disrepair or are in need of priority works.

Component 3: Project Planning, Management and Support

5. The Project shall provide Project planning, management and other support services to facilitate timely implementation of the Project. This shall include the establishment and implementation of MIS which links the Project Executing Agency, the Project Implementing Agency, PMU and PIUs.

6. The Project is expected to be completed by 30 June 2011.

SCHEDULE 2

Amortization Schedule (Federally Administered Tribal Areas Rural Development Project)

Date Payment Due	Payment of Principal (expressed in SDR)*
15 September 2014	SDR 607,938
15 March 2015	607,938
15 September 2015	607,938
15 March 2016	607,938
15 September 2016	607,938
15 March 2017	607,938
15 September 2017	607,938
15 March 2018	607,938
15 September 2018	607,938
15 March 2019	607,938
15 September 2019	607,938
15 March 2020	607,938
15 September 2020	607,938
15 March 2021	607,938
15 September 2021	607,938
15 March 2022	607,938
15 September 2022	607,938
15 March 2023	607,938
15 September 2023	607,938
15 March 2024	607,938
15 September 2024	607,938
15 March 2025	607,938
15 September 2025	607,938
15 March 2026	607,938
15 September 2026	607,938
15 March 2027	607,938
15 September 2027	607,938
15 March 2028	607,938
15 September 2028	607,938
15 March 2029	607,938
15 September 2029	607,938
15 March 2030	607,938
15 September 2030	607,938
15 March 2031	607,938
15 September 2031	607,938
15 March 2032	607,938
15 September 2032	607,938

* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

Date Payment Due		Payment of Principal (expressed in SDR)*	
15 March	2033	SDR	607,938
15 September	2033		607,938
15 March	2034		607,938
15 September	2034		607,938
15 March	2035		607,938
15 September	2035		607,938
15 March	2036		607,938
15 September	2036		607,938
15 March	2037		607,938
15 September	2037		607,938
15 March	2038		607,914
Total		SDR	<u><u>29,181,000</u></u>

* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

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

1. The table attached to this Schedule sets forth the Categories of goods, 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 (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories 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.

Interest Charge

3. The amount allocated to Category 11 is for financing the 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 then 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.

Imprest Account; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date: (i) an imprest account at the National Bank of Pakistan for the Project Executing Agency; and (ii) four (4) second generation imprest accounts ("the Second Generation Imprest Accounts") at the National Bank of Pakistan for: (a) the PMU; (b) the Bajaur Agency PIU; (c) the Mohmand Agency PIU; and (d) the Khyber Agency PIU. The imprest account and the Second Generation Imprest Accounts shall be established, managed, replenished and liquidated in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and the detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited into: (i) the imprest account shall not exceed the estimated six months expenditure of the Project or 10% of the loan amount, whichever is lower and (ii) the Second Generation Imprest Accounts for (a) the PMU shall not exceed the equivalent of \$150,000; (b) the Bajaur Agency PIU shall not exceed the equivalent of \$100,000; (c) the Khyber Agency PIU shall not exceed the equivalent of \$100,000; and (d) the Mohmand Agency PIU shall not exceed the equivalent of \$100,000.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest accounts, in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$50,000.

Condition of Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account until the PMU and PIUs shall have established their accounting and financial management system, acceptable to ADB.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Federally Administered Tribal Areas Rural Development Project)					
CATEGORY				ADB FINANCING	
Number	Item	Amount Allocated SDR		Percentage	Basis for Withdrawal from the Loan Account
		Category	Subcategory		
1	Civil Works	14,259,000			
1A	Design and Supervision		877,000	82	percent of total expenditure
1B	Survey and Investigation		150,000	100	percent of total expenditure *
1C	Construction		13,232,000	74	percent of total expenditure
2	Vehicles and Equipment	1,805,000			
2A	Vehicles		1,172,000	100	percent of total expenditure*
2B	Equipment and Furniture		633,000	100	percent of total expenditure*
3	Specialist Services	915,000		100	percent of total expenditure*
4	Service Contracts	911,000		100	percent of total expenditure*
5	Training and Capacity Building	1,352,000		100	percent of total expenditure*
6	Crop Demonstration and Trials	857,000		100	percent of total expenditure*
7	Forest Nurseries and Plantations	2,095,000		88	percent of total expenditure
8	Studies, Plans and Research	30,000		100	percent of total expenditure*
9	Implementation Supervision	4,007,000			
9A	Contract Staff		2,414,000	46	percent of total expenditure
9B	Incremental Office & Vehicle Operating Costs		1,593,000	100	percent of total expenditure*
10	Beneficiary Provided O&M	363,000		100**	percent of total expenditure *
11	Interest Charge	599,000		100	percent of amount due
12	Unallocated	1,988,000			
	Total	29,181,000			

* Exclusive of local taxes

** To be decreased to 75% in year 2, 50% in year 3 and 25% thereafter

SCHEDULE 4

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of goods and services to be financed out of the proceeds of the Loan. In this Schedule and the Attachment hereto, the term "goods" includes equipment and materials; the term "services" does not include consulting services.

2. Procurement of goods and services shall be subject to the provisions of the "Guidelines for Procurement under Asian Development Bank Loans" dated November 2004 (hereinafter called the Guidelines for Procurement), as amended from time to time, which have been furnished to the Borrower.

3. Procurement of goods and services shall be made without any restriction against, or preference for, any particular supplier or contractor or any particular class of suppliers or contractors, except as otherwise provided in paragraph 6 below.

International Competitive Bidding

4. (a) Each civil works contract estimated to cost the equivalent of more than \$1,000,000 and each supply contract for vehicles, equipment or materials estimated to cost the equivalent of more than \$500,000 shall be awarded on the basis of international competitive bidding as described in Chapter II of the Guidelines for Procurement.

(b) For contracts to be awarded on the basis of international competitive bidding, there shall be submitted to ADB, as soon as possible, and in any event not later than 90 days before the issuance of the first invitation to bid for the Project, a General Procurement Notice (which ADB will arrange to publish separately) in such form and detail and containing such information as ADB shall reasonably request. ADB shall be provided the necessary information to update such General Procurement Notice annually as long as any goods remain to be procured on the basis of international competitive bidding.

(c) For contracts to be awarded on the basis of international competitive bidding, procurement actions shall be subject to review by ADB in accordance with the procedures set forth in Chapter IV of the Guidelines for Procurement. Each draft invitation to bid, to be submitted to ADB for approval under such procedures, shall reach ADB at least 21 days before it is issued and shall contain such information as ADB shall reasonably request to enable ADB to arrange for the separate publication of such invitation.

International Shopping

5. (a) Each supply contract for vehicles, equipment or materials estimated to cost the equivalent of \$500,000 or less (other than minor items) shall be awarded on the basis of international shopping as described in Chapter III of the Guidelines for Procurement.

(b) Each draft invitation to bid and related bid document shall be submitted to ADB for approval before they are issued.

(c) Notwithstanding paragraph 3.03(b) of the Guidelines for Procurement, any award of contract shall be subject to prior ADB approval.

6. In comparing bids under international competitive bidding, a margin of preference may be provided, at the option of the Borrower and in accordance with the provisions of the Attachment to this Schedule, for goods manufactured in the territory of the Borrower, provided that the bidder offering such goods shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods.

Local Competitive Bidding

7. The civil works contracts estimated to cost the equivalent of \$1,000,000 or less may be awarded on the basis of local competitive bidding among contractors in accordance with the standard procurement procedures of the Borrower and acceptable to ADB. The selection and engagement of contractors shall be subject to the approval of ADB. As soon as the bids received have been evaluated, the proposal for award of contract shall be submitted to ADB for approval. For this purpose, ADB shall be furnished with three copies of (i) an account of the public opening of bids; (ii) a summary and evaluation of the bids; (iii) the proposal for award; and (iv) a draft contract or a draft letter of acceptance. Promptly after each contract is awarded, ADB shall be furnished with three copies of the contract as executed.

8. Notwithstanding the above, civil works contracts estimated to cost the equivalent of \$50,000 or less shall be subject to ADB's post-facto approval procedures. If the terms of such contracts are not subsequently approved by ADB, the Borrower shall be required to refund ADB for any payment made from the loan to finance such contract and to provide financing for such contracts from its own or other resources.

Direct Procurement

9. Equipment and materials estimated to cost, in the aggregate, the equivalent of less than \$100,000, may be procured directly from the manufacturers of the original equipment or their agents. Prior to such procurement, a list of individual items to be procured, an estimate of their costs, an indication of potential sources of supply and any related documents shall be submitted to ADB for approval. After award, three copies of each contract for such items shall be furnished to ADB.

Intellectual Property Rights

10. (a) The Borrower shall ensure that all ADB-financed goods and services 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 that all ADB-financed contracts for the procurement of goods and services 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.

Preference for Domestically Manufactured Goods

1. In the procurement of goods through international competitive bidding, goods manufactured in the territory of the Borrower may be granted a margin of preference in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods. The 20 percent domestic value added applies to the total ex-factory bid price of the goods and not only to one item in a list.

- (a) For application of domestic preference, all responsive bids shall first be classified into the following three categories:

Category I -- bids offering goods manufactured in the territory of the Borrower which meet the minimum domestic value added requirement;

Category II -- bids offering other goods manufactured in the territory of the Borrower; and

Category III -- bids offering imported goods.

- (b) The lowest evaluated bid of each category shall then be determined by comparing all evaluated bids in each category among themselves, without taking into account customs duties and other import taxes levied in connection with the importation, and sales and similar taxes levied in connection with the sale or delivery, pursuant to the bids, of the goods.
- (c) Such lowest evaluated bids shall next be compared with each other and if, as a result of this comparison, a bid from Category I or Category II is found to be the lowest, it shall be selected for the award of contract.

- (d) If, however, as a result of the comparison under subparagraph (c) above, the lowest bid is found to be from Category III, it shall be further compared with the lowest evaluated bid from Category I. For the purpose of this further comparison only, an upward adjustment shall be made to the lowest evaluated bid price of Category III by adding either
 - (i) the amount of customs duties and other import taxes which a nonexempt importer would have to pay for the importation of the goods offered in such Category III bid; or
 - (ii) 15 percent of the CIF bid price of such goods if the customs duties and import taxes referred to above exceed 15 percent of the CIF bid price.

If, after such further comparison, the Category I bid is determined to be the lowest, it shall be selected for the award of contract; if not, the lowest evaluated bid from Category III shall be selected for the award.

2. (a) Bidders applying for the preference shall provide evidence necessary to establish the eligibility of a bid for the preference, including the minimum domestic value added.

(b) The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of a bid for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above.

Domestic Preference for Turnkey Contracts and
Supply-and-Installation Contracts

3. In single-responsibility turnkey (including design-build) contracts and supply-and-installation contracts for large and complex packages, procured through international competitive bidding and in which discrete items of goods are grouped into one contract package and where the CIF cost of goods to be used for or in the permanent works under such contracts is estimated, prior to bidding, to equal or exceed 60 percent of the total cost of such works, a margin of preference shall be applied to the domestically manufactured goods in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods. The 20 percent domestic value added applies to the total ex-factory bid price of the goods and not only to one item in a list.

- (a) The margin of preference shall not be applied to the whole package but only to the domestically manufactured goods within the package.
- (b) Goods offered from outside the territory of the Borrower shall be quoted CIF and goods offered domestically shall be offered ex-factory or ex-works (free of sales and similar taxes).
- (c) All other cost components, such as design as well as works installation and supervision, shall be quoted separately.
- (d) In the comparison of bids (which should not be classified into Categories I, II or III as with the domestic preference for goods), only the CIF price in each bid of the goods offered from outside the territory of the Borrower shall be increased by the applicable duty and other taxes payable by a nonexempt importer or by 15 percent, whichever is less.
- (e) If duties vary from item to item within a package, the appropriate tariff for each item shall apply.
- (f) No margin of preference shall be applied to any associated services or works included in the package.
- (g) Bidders will not be permitted or required to modify the mix of domestic and foreign goods after bid opening.

4. (a) Bidders applying for the preference shall provide evidence necessary to establish the eligibility of a bid for the preference.

(b) The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of a bid for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above.

SCHEDULE 5**Consultants**

1. The services of international and domestic consultants shall be utilized in the carrying out of the Project, particularly with regard to:

- (a) watershed planning and management;
- (b) hydraulic engineering;
- (c) geo-hydrology and hydrology analyses;
- (d) water resources;
- (e) irrigation/on-farm water management;
- (f) natural resources management;
- (g) environment assessment;
- (h) resettlement;
- (i) economic analyses;
- (j) baseline survey;
- (k) community mobilization and public information dissemination;
- (l) independent performance audit;
- (m) surface and groundwater assessment;
- (n) MIS establishment and implementation; and
- (o) water supply and electro-mechanical engineering.

The terms of reference of the consultants shall be as determined by agreement between ADB and the Borrower.

2. The selection, engagement and services of the consultants shall be subject to the provisions of this Schedule and the provisions of the "Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers" dated January 2005 (hereinafter called the Guidelines on the Use of Consultants), as amended from time to time, which have been furnished to the Borrower.

3. The consultants to perform the consulting services under paragraph 1(a) to (n) shall be selected and engaged through one or more firms by the Borrower using the quality-and-cost-based selection (QCBS) method in accordance with the following procedures.

(a) Invitation for technical and financial proposals. The invitation to submit technical and financial proposals (hereinafter called the Request for Proposals or RFP) and all related documents shall be approved by ADB before they are issued. For this purpose, three copies of the draft RFP, the names of consultants to be short-listed, the proposed criteria for evaluation of both proposals, a draft consultancy contract, and other related documents shall be submitted to ADB. A copy of the final RFP as issued, together with all related documents, shall be furnished to ADB for information promptly after issuance. The validity period for the technical and financial proposals as provided in the RFP shall usually not exceed three months from the date specified for submission of the technical and financial proposals. The approval of ADB shall be obtained for any request to extend such validity period. Except as ADB may otherwise agree, the validity period, including any extensions, shall not exceed a maximum total period of six months. If the contract is not signed within the validity period in accordance with the Guidelines on the Use of Consultants, the selection shall be invalid and the selection and engagement process as provided in this paragraph shall be followed again.

(b) Evaluation and scoring of technical proposals. Immediately after the technical proposals have been evaluated and scored, approval of ADB shall be obtained to the evaluation and scoring of the technical proposals. For this purpose, ADB shall be furnished with three copies of the technical proposals.

(c) Public opening of financial proposals. The financial proposals of the firms whose technical proposals meet the minimum qualifying technical score shall be opened publicly after adequate notice is given to such firms or their representatives to attend the opening of the financial proposals.

(d) Evaluation and scoring of financial proposals and ranking of technical and financial proposals. After the financial proposals have been evaluated and scored, the ranking of the technical and financial proposals shall be made. Before negotiations are started with the first-ranked consultants, approval of ADB shall be obtained to the evaluation and scoring of the financial proposals and the ranking of the technical and financial proposals. For this purpose, ADB shall be provided with three copies of (i) the evaluation and scoring of the financial proposals and (ii) the ranking of the technical and financial proposals.

(e) Execution of contract. After the conclusion of negotiations but before the signing of the contract, ADB shall be furnished with the contract as negotiated for approval. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract. If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

4. Individual consultants shall be selected and engaged by the Borrower to perform the consulting services under paragraph 1(o), in accordance with the following procedures.

Schedule 5

(a) A list of the candidates together with their qualifications and a draft contract shall be furnished to ADB for approval before the selection of consultants.

(b) Promptly after the contract is signed, ADB shall be furnished with the evaluation of the candidates and a brief justification for the selection, together with three copies of the signed contract.

(c) If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

5. The Borrower 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.

SCHEDULE 6

Execution of Project and Operation of Project Facilities; Financial Matters

Project Execution and Implementation Arrangements

Project Executing Agency

1. The Ministry of SAFRON shall be the Project Executing Agency and shall be responsible for: (a) overall coordination and management of the Project, including, *inter alia*, coordination with the concerned ministries, agencies, and stakeholders; (b) ensuring timely budgetary allocations to the PMU for the smooth implementation of the Project; and (c) ensuring timely issuance of national-level approvals necessary for the carrying out the Project.

Implementing Agency

2. The Governor's Secretariat (FATA) shall be the Project Implementing Agency and shall be responsible for, *inter alia*, coordination and day-to-day supervision of the implementation of the Project.

Project Management Unit

3. Prior to the Effective Date, the Borrower shall ensure the establishment of the PMU and appointment on full-time basis: (a) the Project Director, who shall head the PMU and be responsible for, *inter alia*, resolution of operational issues; (b) deputy director, finance and administration; and (c) deputy director, planning and monitoring, all with qualifications, experience, expertise and terms of reference acceptable to ADB. Within three (3) months of the Effective Date, the Borrower shall ensure that the PMU shall have: (a) been fully staffed and operational; and (b) established the accounting and financial management systems, acceptable to ADB. The Borrower shall establish, prior to undertaking any land acquisition and resettlement activities, a land acquisition and resettlement cell within the PMU.

4. The PMU shall: (a) coordinate on Project related issues with the Project Executing Agency, Project Implementing Agency, PIUs, and private and civil society; (b) consolidate work plans prepared by the PIUs and facilitate their approval by the PSC; (c) award any procurement contract exceeding the amount equivalent to one hundred thousand United States Dollars (US\$100,000); (d) recruit consultants under the Project; (e) perform monitoring and evaluation under the Project; (f) supervise consultants and contractors; and (g) manage finances under the Project. Within six (6) months of the Effective Date, the Borrower shall ensure that the PMU undertake a community mobilization process, acceptable to ADB.

Project Implementation Unit

5. Within three (3) months of the Effective Date, the Borrower shall ensure: (a) the establishment of a PIU in each Agency; (b) that the PIUs are fully staffed and operational; and (c) that the PIUs shall have established their accounting and financial management systems, acceptable to ADB. Each PIU shall have the responsibilities to: (a) coordinate the relevant activities of Line Departments that are related to the Project in their respective Agency; (b) award procurement contract worth equivalent to one hundred thousand United States Dollars (US\$100,000) or less; (c) assist the PMU in the supervision, of the consultants and contractors; (d) prepare work-plans under the Project; (e) assist the PMU in the monitoring and evaluation process; and (f) manage finances related to the activities in their respective Agency. Each PIU shall be headed by a Project Manager and assisted by, among others, (a) deputy manager for finance and administration, and (b) deputy manager for planning and monitoring. The Project Manager shall report to the Project Director.

Project Steering Committee

6. Within one (1) month of the Effective Date, the Borrower shall ensure the establishment of the PSC, which shall: (a) provide policy guidance and interpretations in implementation of the Project; (b) approve the periodic consolidated annual work plans under the Project; (c) review on semi-annual basis, the progress of the Project including the performance of the Project Director and other PMU staff; (d) coordinate and direct the activities of the Line Departments under the Project; and (e) recommend issues for consideration of the PRB. The PSC shall be chaired by the secretary, Governor's Secretariat (FATA) and include as members: (a) a representative of the Ministry of SAFRON; (b) representatives of the Line Departments; (c) the Political Agents; and (d) the Project Director who shall also serve as the secretary of the PSC. The PSC shall meet as required but not less than four times a year.

Project Review Board

7. Within one (1) month of the Effective Date, the Borrower shall ensure the establishment of the PRB, which shall: (a) resolve issues of strategic importance which may affect smooth implementation of the Project; (b) take related policy decisions; and (c) undertake annual progress reviews. The PRB shall be chaired by the Governor, NWFP with the secretary, Ministry of SAFRON as its deputy chair. The other members of the PRB shall comprise (a) the chief secretary, NWFP; (b) the additional chief secretary, NWFP; (c) the secretary, Governor's Secretariat (FATA); (d) a representative of EAD; and (e) the Project Director. The secretary, Governor's Secretariat (FATA) shall also serve as the secretary of the PRB. The PRB shall meet as required but not less than twice a year.

Agency Project Board

8. Within three (3) month of the Effective Date, the Borrower shall ensure the establishment of the Agency Project Board (APB) in each Agency. Each APB shall be chaired by the Political Agent of such Agency. The other members of the APB shall comprise: (a) the representatives from the Line Departments in such Agency; (b) two tribal elders; (c) two Agency councilors; and (d) the Project Manager in such Agency, who shall also serve as the secretary of the APB. The APB shall meet as required to review and endorse annual work plans within the Agency.

Project Implementation

9. To ensure continuity, efficiency and smooth implementation of the Project, the Borrower shall ensure that the requisite government staff, with qualifications, experience, expertise and terms of reference acceptable to ADB, shall be seconded to the Project for, at least, a term of three (3) years.

10. The Borrower shall ensure that the Loan proceeds shall not be used for sinking of tube wells in areas not sanctioned under the Water Resources Assessment and Management Plan.

Eligibility Criteria

11. The Borrower shall (a) select the eligible watersheds in accordance with the agreed watershed selection criteria as provided in Appendix 8 of the RRP; and (b) select and implement community infrastructure in accordance with (i) the agreed subproject selection criteria as provided in Appendix 4 of the RRP and (ii) the agreed subproject intervention procedures as provided in Appendix 9 of the RRP.

Shalman - Landi Kotal Water Supply Scheme

12. The Borrower (a) acknowledges to ADB that customary arrangements exist between the Borrower and the Islamic Republic of Afghanistan for withdrawal of water by the Borrower from the Kabul river bank, where the river is located at the boundary between the Borrower and the Islamic Republic of Afghanistan; and (b) confirmed that it has and shall remain to have the right and ability to withdraw a minimum of approximately zero point two (0.2) cubic meter/second of water needed for the Shalman – Landi Kotal Water Supply Scheme.

13. Prior to the commencement of the Shalman – Landi Kotal Water Supply Scheme, the Borrower shall carry out (a) a detailed socio-economic survey to identify the target beneficiaries of the proposed scheme. The survey shall, among others, carefully, examine the willingness of the target beneficiaries to pay water charges; (b) an environmental assessment and resettlement/land acquisition plan based on the detailed designs. The assessment shall be approved by the appropriate government agencies of the Borrower and ADB; and (c) an economic analysis of the Project.

Accounting, Auditing and Reporting

14. The Borrower shall cause the Project Executing Agency and the Project Implementing Agency to monitor and report to ADB, on a quarterly basis, the progress in Project performance, focusing on the use of inputs, participation by local communities, progress in implementation activities, and achievement of outputs. Each PIU shall, after consultation with the Line Departments and endorsement by the APB, submit the annual work plans through the PMU to PSC for final approval. The annual work plans shall detail activities scheduled for the forthcoming year, with target dates, material and financial inputs needed and the outputs expected.

15. PIUs shall submit to the Project Director brief quarterly progress reports detailing the physical and financial progress of activities against the targets set in the annual work plans. Within six (6) months of Effective Date, the PMU shall carry out the Project benchmark socioeconomic survey. The Project Director shall submit to the Borrower and ADB (a) consolidated quarterly progress reports; (b) a summary of findings of the semi-annual reviews with a description of actions taken based on the findings of the semi-annual reviews; and (c) comprehensive year-end annual reports measured against the benchmark socioeconomic survey.

Project Performance Management System

16. To ensure that the Project activities and the Project facilities shall be managed efficiently and that target groups receive the intended benefits, the Borrower shall cause PMU to establish, within nine (9) months of the Effective Date, a participatory PPMS, acceptable to ADB, for monitoring Project impact.

17. The PPMS shall be done in a format acceptable to ADB and reflect the benchmark socioeconomic survey referred to in paragraph 15 herein above. The output generated from the PPMS shall form part of the MIS established under the Project. The key indicators of the benchmark socioeconomic survey shall be: (a) incorporated in the regular monitoring process to learn from the ground reality and to adapt the Project strategy to the changing socio-economic and political environment and evolving needs of the people; (b) reassessed at each comprehensive review and at Project completion to prepare the reports, (c) used to compare with districts' indicators and programs in NWFP; and (d) used to measure Project contribution to the achievement of the Borrower's Mid-Term Development Framework targets, the Millennium Development Goals, and other relevant targets.

Access of Information

18. The Borrower shall facilitate access to public documents of immediate relevance to the Project and shall ensure that all documents and information relating to the Project shall be in the public domain and freely accessible to the stakeholders and other interested parties.

19. The Borrower shall ensure that the PIUs disseminate information relating to the activity selection, expenditure reporting and operation and maintenance of the various subprojects to the relevant Project stakeholders, including the poor and the disfranchised within the Project area. The dissemination of such information shall be carried out in a transparent manner and in accordance with a methodology acceptable to ADB.

20. To ensure maximum participation from all segments, the Borrower shall advertise in at least two dailies with nationwide coverage all local contracts for goods and services under the Project.

21. The Borrower acknowledges that ADB reserves the right to undertake, directly or through its agents, investigation of any possible financial or managerial impropriety in the conduct of the Project. The Borrower and each of its relevant agencies shall fully cooperate with any such investigation and extend all necessary assistance, including access to all relevant books and records that may be needed for satisfactory completion of such investigations.

Project Review

22. ADB shall conduct semi-annual reviews throughout the Project period to: (a) determine the appropriateness of the proposed implementation arrangements and schedules; (b) assess the level of cooperation from each Agency's political administration in meeting the Project objectives; (c) examine progress made on infrastructure activities; (d) evaluate the integrated resource development activities in terms of their distribution and adoption by beneficiaries; and (e) assess progress of participation by women. A mid-term review shall be jointly undertaken by ADB and the Borrower at the end of thirty (30) months of Project implementation to assess physical and financial progress of the Project, implementation procedures, procurement performance, PPMS activities, PIU effectiveness, and the performance of consultants. The Project Director shall prepare a comprehensive report identifying issues in preparation for each review, which shall serve as the basis for possible changes in Project design and implementation arrangements. Within three (3) months of physical completion, the Borrower shall submit a Project completion report to ADB.

Counterpart Funds

23. The Borrower shall allocate and make available, in a timely manner, requisite counterpart funds from its budget for each fiscal year for the smooth implementation of the Project.

Operation and Maintenance

24. Prior to the completion of the Project, the Borrower shall cause the Line Departments to prepare maintenance plans, satisfactory to ADB, for operation and maintenance of the Project facilities. Upon completion of the Project facilities, the Borrower shall cause the Line Departments to fully implement such maintenance plans.

25. The Borrower shall: (a) allocate and make available or cause to be allocated and made available, in a timely manner, sufficient funds needed for each fiscal year for

operation and maintenance of the Project facilities; and (b) ensure that the Project facilities are properly operated and maintained.

Security Issues

26. The Borrower shall provide adequate security necessary for the safe mobility of persons carrying out the Project to ensure timely and uninterrupted implementation of the Project.

Environment

27. The Borrower shall ensure that adequate environmental protection, safety and mitigation measures are included in the design of the Project facilities and shall further ensure that the Project facilities are constructed, extended, upgraded, renovated, operated and maintained in accordance with the Borrower's environmental laws and regulations and ADB's *Environmental Policy (2002)*.

Safeguard Policies

28. The Borrower shall ensure that no persons shall be adversely affected in terms of ADB's *Policy on Involuntary Resettlement (1995)*. The Borrower shall further ensure that land acquisition/involuntary resettlement, if any, under the Project shall be undertaken in accordance with: (a) ADB's *Policy on Involuntary Resettlement (1995)*, to the satisfaction of ADB; (b) the Summary Resettlement Framework set out in Appendix 6 of the RRP; and (c) the Resettlement Framework set out in Supplementary Appendix D of the RRP, as agreed between the Borrower and ADB.

29. The Borrower shall ensure that no persons shall be adversely affected in terms of ADB's *Policy on Indigenous People (1998)*. In the event adverse impacts on indigenous people are identified during Project implementation, the Borrower shall prepare an indigenous peoples development plan in accordance with ADB's *Policy on Indigenous People (1998)*.

Gender Considerations

30. The Borrower shall ensure timely and effective implementation of the Gender Strategy and Plan developed by the Borrower, in consultation with ADB, and shall further ensure that the requisite female technical staff to be engaged for the purposes of the Project shall be regularized after the completion of the Project, in accordance with the applicable procedures of the Borrower.