
LOAN NUMBER 2540-PAK

LOAN AGREEMENT
(Ordinary Operations)

(National Highway Development Sector Investment Program – Project 2)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 2 SEPTEMBER 2009

LAL:PAK 37559

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 2 September 2009 between the ISLAMIC REPUBLIC OF PAKISTAN (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) by a framework financing agreement dated 29 October 2005 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the National Highway Development Sector Investment Program (hereinafter called the Investment Program);

(B) by a periodic financing request dated 26 March 2009 submitted by the Borrower and subsequently amended, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and NHA;

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, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

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

Commitment Charge; Credit. (aa) 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.

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

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

Rebate. (aa) 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.

(bb) 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. (aa) 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.

(bb) 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, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2007, as amended from time to time);

(b) "EIA" means Environmental Impact Assessment;

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

(d) "FFA" means the Framework Financing Agreement dated 29 October 2005 between ADB and the Borrower, with respect to the Facility;

(e) "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;

(f) "Investment Program" has the meaning ascribed to it in the Recital A;

(g) "NHA" means the National Highway Authority of the Borrower;

(h) "PFR" means a 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 26 March 2009, as subsequently amended;

(i) "PIU" means a Project Implementation Unit established for the Project or any component thereof;

(j) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);

(k) "Procurement Plan" means the procurement plan for the Project dated 19 August 2009 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(l) "Project Executing Agency", for the purposes and within the meaning of the Loan Regulation, means NHA or any legal successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(m) "Project facilities" means the facilities constructed or to be constructed, and the equipment and materials provided or to be provided under the Project;

(n) "Project Road" means the road sections totaling approximately 225 km to be improved under the Project, as described in Schedule 1 to this Loan Agreement; and

(o) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred thirty million Dollars (\$230,000,000), 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 twenty (20) years, and a grace period as defined in paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (b) of this Section 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 LIBOR and 0.60% per annum as provided by Section 3.02 of the Loan Regulations, less a credit of 0.40% per annum 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 sixty (60) days after the date of this Loan Agreement.

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

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

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

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;

- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall make the proceeds of the Loan available to NHA upon terms and conditions satisfactory to ADB and shall cause NHA 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.

(b) The Borrower shall cause NHA to apply the proceeds of the Loan 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 Goods, Works and consulting 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, Works and consulting 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, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting or services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

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

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2013 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 NHA to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, road construction, and operation and maintenance 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 to NHA, promptly as needed, the funds, facilities, services, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

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

Section 4.04. The Borrower shall take all action which shall be necessary on its part to enable NHA 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.

ARTICLE V

Effectiveness

Section 5.01. A date thirty (30) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Delegation of Authority

Section 6.01. The Borrower hereby designates NHA its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Loan Agreement and under Sections 6.01, 6.02, 6.03 and 6.04 of the Loan Regulations.

Section 6.02. Any action taken or any agreement entered into by NHA pursuant to the authority conferred under Section 6.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 6.03. The authority conferred on NHA under Section 6.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VII

Miscellaneous

Section 7.01. The Secretary, Economic Affairs Division, of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

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

Facsimile Number:

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

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2428.

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 

RUNE STROEM
Country Director
Pakistan Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Investment Program is to develop a network of national highways within the Borrower's territory.
2. As part of the Investment Program, the Project aims to improve economic performance in the project area as a result of the efficiency gain for road users along the Project Road.
3. As detailed in the PFR, the Project comprises the following components:
 - (a) Improvement of Sukkur–Jacobabad road, which represents a portion of N65 highway that provides connectivity between N5 and N55 highways at Shikarpur and links Quetta, the capital of Baluchistan with Sindh and Punjab provinces. The Project will (i) widen the existing section (65 km) between Sukkur and Jacobabad to a 4-lane dual-carriageway road, and (ii) construct a new road bypassing at Shikarpur (5 km); and
 - (b) Improvement of Qila Saifullah–Zhob road, which represents a portion of N50 highway. The Project will widen and improve the existing 3.65 meter-wide section (155 km) between Qila Saifullah and Zhob to become 7.3 meter-wide 2-lane carriageway road with 3 meter shoulders.
4. The Project is expected to be completed by 30 June 2013.

SCHEDULE 2**Amortization Schedule****(National Highway Development Sector 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>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 October 2014	0.827816
15 April 2015	0.869207
15 October 2015	0.912667
15 April 2016	0.958301
15 October 2016	1.006216
15 April 2017	1.056526
15 October 2017	1.109353
15 April 2018	1.164820
15 October 2018	1.223061
15 April 2019	1.284214
15 October 2019	1.348425
15 April 2020	1.415846
15 October 2020	1.486639
15 April 2021	1.560971
15 October 2021	1.639019
15 April 2022	1.720970
15 October 2022	1.807019
15 April 2023	1.897369
15 October 2023	1.992238
15 April 2024	2.091850
15 October 2024	2.196442
15 April 2025	2.306264
15 October 2025	2.421578
15 April 2026	2.542657
15 October 2026	2.669789
15 April 2027	2.803279
15 October 2027	2.943443

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 April 2028	3.090615
15 October 2028	3.245146
15 April 2029	3.407403
15 October 2029	3.577773
15 April 2030	3.756662
15 October 2030	3.944495
15 April 2031	4.141720
15 October 2031	4.348806
15 April 2032	4.566246
15 October 2032	4.794558
15 April 2033	5.034286
15 October 2033	5.286000
15 April 2034	5.550311
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: (i) the exchange rate that reflects the amounts of principal in

said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of Goods, Works, consulting services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Interest and Commitment Charge

3. The amount allocated to Category 4 is for financing interest and commitment charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charge.

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.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, consulting services and other items shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2007 (ADB's Loan Disbursement Handbook), as amended from time to time.

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower of Pakistan shall establish immediately after the Effective Date, an imprest account at the National Bank of Pakistan. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest account shall be the Dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan amount. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for the Project and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

Retroactive Financing

7. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with eligible Project expenditures, subject to a maximum amount equivalent to 20 percent of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (National Highway Development Sector Investment Program – Project 2)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing \$ '000 Category	Percentage of ADB Financing from the Loan Account
1	Works	158,083	81 percent of total expenditure
2	Consulting Services & Project Management	4,977	85 percent of total expenditure
3	Incremental Administrative Support	3,903	100 percent of total expenditure*
4	Interest and Commitment Charge	24,005	100 percent of amounts due
5	Unallocated	39,032	
	TOTAL	230,000	

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

SCHEDULE 4**Procurement of Goods and Works, and Consulting Services****A. General**

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

B. Procurement for 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:

International Competitive Bidding

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

C. Selection of Consulting Services

5. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging consulting services.

D. Industrial or Intellectual Property Rights

6. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

7. 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.

E. ADB's Review of Procurement Decisions

8. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

I. IMPLEMENTATION ARRANGEMENTS

Project Executing Agency and Management

1. (a) NHA as the Project Executing Agency (EA) shall be responsible for carrying out of the Project.

(b) A coordinating committee chaired by the Chairman of NHA shall monitor the utilization of the Loan proceeds and implementation of the Project.

2. (a) NHA shall establish separate project implementation units (PIUs) for each of the Project components described in Schedule 1 hereto.

(b) Each such PIU shall be headed by a project director and complemented with a supervision team and accountant/administration specialist. NHA shall provide staff and resources to the PIUs as may be necessary from time to time.

3. Each PIU shall be responsible for the day-to-day implementation of the Project (in relevant part) including, among other things, (i) monitoring the progress of Project implementation; (ii) preparing withdrawal applications and Project progress reports; (iii) maintaining Project accounts and completing financial records for auditing the Project; and (iv) carrying out procurement, including advance contracting activities.

4. The Borrower shall cause NHA to consult with ADB on all significant matters relating to management and implementation of the Project to ensure continuity, transparency, efficiency, and good management. All matters relating to selection or appointment, or any changes to such selection or appointment, of any project director or deputy project director, will be duly notified to ADB along with the qualifications of the incumbents and the departing officers and reasons for such changes. A project director or deputy project director shall not be terminated or terms of such appointment altered in any material way until the third anniversary of such appointment unless a determination of gross dereliction of duty or such other serious misconduct is made through due process.

5. The Borrower shall ensure effective coordination and consultation among the EA, PIUs, and other government agencies concerned during Project implementation.

II. OPERATIONAL COVENANTS

Counterpart Funding

6. The Borrower shall ensure that all funds and resources necessary for rehabilitating the Project Road are provided on a timely basis in accordance with the financing plan agreed for the Project. The Borrower shall cause NHA to provide, and shall ensure that NHA provides, timely certification and release of payment to the contractor/consultants as per the respective contracts.

Land Acquisition and Resettlement

7. The Borrower shall ensure through NHA that land acquisition and resettlement are undertaken in accordance with applicable laws, and ADB's *Involuntary Resettlement Policy* (1995), as well as in accordance with the resettlement framework and resettlement plans.

8. The Borrower shall cause NHA to: (i) prepare and implement resettlement plans, in accordance with ADB's *Involuntary Resettlement Policy* (1995) with the principles and procedures laid out in the agreed resettlement framework, (ii) disclose land acquisition and resettlement plan(s) (LARP) to APs in a form and language easily comprehensible to affected persons (APs) prior to submission to ADB for review and approval before award of related civil works contracts or a similar milestone, (iii) monitor and submit the quarterly progress and completion reports on land acquisition and resettlement, (iv) appoint an independent monitoring expert prior to commencement of land acquisition and resettlement activities, and (v) ensure that reports are simultaneously submitted to NHA and ADB.

9. The LARP shall be fully implemented prior to the commencement of the Works on the Project Road or the relevant component thereof.

10. The resettlement budget will be revised based on the new data collected, and additional land acquisition and resettlement cost that may be required will be borne by the Borrower. If there is any change in the scope of the Investment Program subprojects, the resettlement plans will be revised and submitted for ADB approval prior to award of Works contracts.

11. The Borrower shall through NHA ensure that (i) compensation for land and structures will be provided to APs in full at replacement value including financial assistance/grants, if any, prior to taking possession of their assets; and that essential public infrastructure affected by land acquisition and resettlement are replaced appropriately and expeditiously; (ii) acquire or make available on a timely basis (i.e., strictly in accordance with the schedule as agreed under the related Works contract) the land and rights in land, free from any encumbrances; and (iii) clear the utilities, trees, and any other obstruction from such land, on a timely basis (i.e., strictly in accordance with the schedule as agreed under the related Works contracts), as required for construction activities relating to each section of the related Works contract under the Project.

Environment

12. The Borrower, through NHA, shall ensure that the Project is carried out in accordance with, and that all Project's components are designed, carried out, maintained and monitored in compliance with (a) all applicable laws and regulations, (b) ADB's *Environment Policy* (2002), and (c) the relevant environmental mitigation plan (EMP), including the mitigation measures and monitoring requirements arising from the implementation of the environmental assessment and review procedures outlined in the EIA. The Borrower shall ensure that the EMP is (i) incorporated into the design of the Project, (ii) implemented in accordance with its terms during the construction, operation and maintenance of the Project, and (iii) updated at such time when the detailed engineering design becomes available.

13. The Borrower, through NHA, shall ensure that (a) Works contractors' specifications include requirements to comply with the environmental mitigation measures

contained in each EIA and EMP; and (b) Works contractors are supervised to ensure compliance with the requirements of each EIA and EMP.

14. The Borrower shall ensure that NHA obtains all necessary national and provincial environmental statutory clearances such as environmental clearance, forest clearance, and no objection certificates prior to commencing any Works under the Project. The Borrower shall cause NHA to ensure that all conditions attached to these clearances are implemented and monitored, and to develop and implement EMP and submit semiannual reports to ADB and relevant agencies on the implementation of the EMP.

15. The Borrower shall ensure that NHA reports to ADB any change of road alignment or "as change" in a project component that occurs after the EIA report was approved by ADB. ADB's prior approval will be required prior to any such changes taking effect, where in the opinion of ADB, additional environmental assessment will be made. The Borrower shall cause NHA to prepare a semiannual report on implementation of the EMP as part of the progress reports on investment program implementation, and to provide the contractors with the environmental assessment study reports including the EMP. The Borrower shall cause NHA to ensure that the contractors implement the mitigation measures and EMP as described in such reports.

Labor, Gender, Health and Social Protection

16. The Borrower shall cause NHA to ensure that Works contracts under all the subprojects incorporate provisions requiring contractors to (i) carry out HIV/AIDS and women/children trafficking awareness and prevention programs for laborers; (ii) follow and implement legally mandated provisions on labor, health, safety, sanitation, and working conditions, (iii) abstain from child labor in construction and maintenance activities, and (iv) otherwise comply with all applicable labor laws,. The Borrower shall ensure that NHA engages qualified locally based consultants under construction supervision contracts to carry out the HIV/AIDS prevention and anti-trafficking component as agreed with ADB. The PIUs will supervise the consultants and work closely with Pakistan's National AIDS Control Program and other networks dedicated to preventing sexually transmitted infections, HIV/AIDS, and women/children trafficking; and to the empowerment of women and children.

17. The Borrower shall further ensure that NHA (i) encourages Works contractors to hire women and minorities, including Gypsies wherever possible, (ii) provides equal opportunity for women for road construction activities, and (iii) requires contractors to not differentiate wages between men and women for work of equal value. The Borrower, through NHA, shall ensure that specific clauses to this effect are included in all relevant bidding documents, and compliance is strictly monitored and documented during Project implementation. Recognizing the challenges in recruitment of women for such employment, a reputable private organization shall be appointed to independently monitor, develop suggestions and guidelines for improvement of performance in each of these areas and on a quarterly basis, and report on all such matters to ADB through NHA.

Construction Quality

18. The Borrower shall ensure that NHA (a) improves the Project Road in accordance with the design technical specifications; and (b) performs construction supervision, quality control, and contract management in accordance with internationally accepted standards.

Road Safety

19. The Borrower shall ensure that NHA installs appropriate road safety facilities during Project implementation and after completion, such as pavement markings, roads signs and signals, communications facilities, hazard barriers, and traffic monitoring facilities, all in compliance with applicable laws and international conventions. The Borrower shall further ensure that relevant government agencies provide strict road patrol to prevent trafficking of humans, wildlife, endangered species, and illegal substances on the Project Road.

Anticorruption

20. The Borrower shall comply with, and shall ensure NHA complies with ADB's *Anticorruption Policy* (1998, as amended to date). The Borrower, consistent with its commitment to good governance, accountability and transparency, agrees (a) that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project and (b) to cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation. In particular, the Borrower shall (i) conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements, (ii) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of all contractors, suppliers, consultants and other service providers as they relate to the Project, and (iii) the construction supervision consultant shall verify the contractors' invoices in accordance with working drawings and contract specifications.

Midterm Review

21. A comprehensive midterm review, the timing of which is to be determined in agreement between the Borrower and ADB for each component of the Project, shall be undertaken jointly by ADB and NHA to review all aspects of Project implementation, including procurement financing and scheduling matters.

Performance Audit

22. The Borrower shall undertake an annual performance audit for each of the components of the Project pursuant to the terms of reference agreed with ADB.