
LOAN NUMBER 2578 - IND

LOAN AGREEMENT
(Ordinary Operations)

(South Asia Tourism Infrastructure Development Project – India portion)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 4 OCTOBER 2010

LAL: IND 39399

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 4 October 2010 between INDIA, acting by its President (the "Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) as a participant of the South Asia Tourism Infrastructure Development Project, the Borrower, along with Nepal and the People's Republic of Bangladesh, has resolved to improve connectivity and destination infrastructure for subregional tourism development in the State of Sikkim (the "State");

(B) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the State through its Department of Tourism ("DOT"), and for this purpose the Borrower will make available to the State the proceeds of the Loan provided for herein upon terms and conditions mutually agreeable to the Borrower and ADB; and

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

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, 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:

(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:

(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 (February 2007, as amended from time to time);

(b) “Consulting Services” means consulting services to be financed out of the proceeds of the Loan, and excludes related services rendered under a contract for the supply of Goods or Works;

(c) “DOT” means the State’s Department of Tourism;

(d) “Environmental Management Plan” means each and any of the Environmental Management Plans prepared for the Project under the IEEs;

(e) “Goods” means materials and equipment to be financed out of the proceeds of the Loan, and includes related services rendered under a contract for the supply of these materials and equipment, such as transportation, insurance, installation, inspection, commissioning, training, and initial maintenance;

(f) “IEEs” means the Initial Environmental Examinations prepared for the Project by DOT and approved by ADB;

(g) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (January 2007, as amended from time to time);

(h) “NPSC” means the National Project Steering Committee referred to in paragraph 2 of Schedule 5 to this Loan Agreement;

(i) “PMIU” means the Project Management and Implementation Unit referred to in paragraph 4 of Schedule 5 to this Loan Agreement;

(j) “PPMS” means the project performance and monitoring system referred to in paragraph 22 of Schedule 5 to this Loan Agreement;

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

(l) "Procurement Plan" means the procurement plan for the Project dated 8 October 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;

(m) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State, acting through DOT or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(n) "Project facilities" means the facilities to be constructed or rehabilitated under the Project:

(o) "Resettlement Plan" means the resettlement plan prepared for the Project by DOT and approved by ADB;

(p) "RRP" means the Report and Recommendation to ADB's Board of Directors relating to the Project;

(q) "SSC" means the State level Steering Committee referred to in paragraph 3 of Schedule 5 to this Loan Agreement;

(r) "State" has the meaning given thereto in Recital (A) of this Loan Agreement;

(s) "STF" means the subregional task force referred to in paragraph 1 of Schedule 5 to this Loan Agreement; and

(t) "Works" means construction, civil and electrical works to be financed out of the proceeds of the Loan, and includes ancillary services rendered under a contract to perform these works, such as drilling or mapping, and project-related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of twenty million Dollars (\$20,000,000), 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 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% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.40% 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 1 December and 1 June 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. The Borrower shall make the proceeds of the Loan available to the State upon terms and conditions mutually agreeable to the Borrower and ADB, and shall cause the State to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The categorization of Goods, Works, 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 the different categories of Goods, Works, 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 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 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 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 15 March 2015 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the State to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental and tourism industry 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 the State, promptly as needed and on terms and conditions acceptable to ADB, the funds, facilities, services 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 the State to perform its obligations under the Project Agreement and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the financing arrangements with the State pursuant to Section 3.01 in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In relation to the Project, no rights or obligations under the Borrower's financing arrangements with the State pursuant to Section 3.01 shall be assigned, amended, abrogated or waived without prior notice to ADB.

ARTICLE V

Effectiveness

Section 5.01 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 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. Either of the Secretary, Additional Secretary, Joint Secretary, Director or Deputy Secretary in the Department of the Economic Affairs, Ministry of Finance of the Borrower, is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India
Department of Economic Affairs
Ministry of Finance
North Block
New Delhi – 110001 India

Facsimile Number:

(9111) 2309-2024.

For ADB

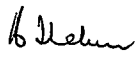
Asian Development Bank
6 ADB Avenue
Mandaluyong City 1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2293.

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

INDIA

By 
ANURADHA THAKUR
Director (ADB)
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
HUN KIM
Country Director
India Resident Mission

SCHEDULE 1

Description of the Project

1. The impact of the Project is a contribution to sustainable and inclusive development in South Asia by tapping the potential of contiguous and complementary tourism assets of the Borrower, Nepal, and the People's Republic of Bangladesh. The expected outcome of the Project is the development of the State's portion of subregional circuits of nature and culture-based tourism destinations with (i) improved connectivity; (ii) better quality environment and visitor services; (iii) enhanced natural and cultural heritage, and capacities for sustainable heritage management; and (iv) greater engagement of communities in heritage management and tourism benefits.

2. The Project comprises the following three components:

(a) Connectivity Enhancement: construction and rehabilitation works to improve access roads to attractions around the Rumtek Monastery and the site of the Himalayan Training Institute;

(b) Destination Improvements: construction and rehabilitation works to (i) improve on-site infrastructure (including – without limitation - landscaping, water supply, sanitation, drainage, and waste management), site presentation and visitor facilities at the Rumtek Monastery, the Shanti view point and the Rey khola water front; (ii) develop and improve trails on the West Sikkim Himalayan Trail as well as on-site infrastructure and visitor facilities at Yuksam base camp and other camp sites along the Trail; (iii) establish the Himalayan Training Institute and improve the adjacent site of the Guru Padmasambhava statue; and (iv) improve access roads, tourism infrastructure and visitor facilities in three villages with heritage attractions of appeal to markets and located within easy access of major destinations improved under the Project.

(c) Fostering Community Participation, Capacity Building and Project Management, as follows:

(i) Fostering Community Participation: implementing programs to promote awareness and develop skills of communities to participate in livelihood opportunities arising from heritage management and tourism with a focus on communities of villages selected for village tourism infrastructure development and the West Sikkim Himalayan Trail.

(ii) Capacity Building:

(a) improving institutional capacity at DOT, the Department of Forests, the Ecclesiastical Department and other relevant departments and bodies to develop, manage and promote heritage sites in a sustainable manner; and preparation of a master plan for the Rumtek monastery circuit;

- (b) development and implementation of an operations and business plan to make the Himalayan Training Institute operational and transforming it in a self-sustaining, non-profit organization within 5 years of its completion; and
 - (iii) Project Management: provision of equipment, logistical support and consulting services to assist the PMIU with implementation of the Project.
- 3. The Project is expected to be completed by 15 September 2014.

SCHEDULE 2

Amortization Schedule (South Asia Tourism Infrastructure Development Project – India portion)

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

<u>Date Payment Due</u>	<u>Installment Share ¹ (Expressed as a % based on 10% annuity)</u>
1 December 2014	0.827816
1 June 2015	0.869207
1 December 2015	0.912667
1 June 2016	0.958301
1 December 2016	1.006216
1 June 2017	1.056526
1 December 2017	1.109353
1 June 2018	1.164820
1 December 2018	1.223061
1 June 2019	1.284214
1 December 2019	1.348425
1 June 2020	1.415846
1 December 2020	1.486639
1 June 2021	1.560971
1 December 2021	1.639019
1 June 2022	1.720970
1 December 2022	1.807019
1 June 2023	1.897369
1 December 2023	1.992238
1 June 2024	2.091850
1 December 2024	2.196442
1 June 2025	2.306264
1 December 2025	2.421578
1 June 2026	2.542657
1 December 2026	2.669789
1 June 2027	2.803279
1 December 2027	2.943443

<u>Date Payment Due</u>	<u>Installment Share ¹</u> <u>(Expressed as a % based on 10% annuity)</u>
1 June 2028	3.090615
1 December 2028	3.245146
1 June 2029	3.407403
1 December 2029	3.577773
1 June 2030	3.756662
1 December 2030	3.944495
1 June 2031	4.141720
1 December 2031	4.348806
1 June 2032	4.566246
1 December 2032	4.794558
1 June 2033	5.034286
1 December 2033	5.286000
1 June 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 of expenditure 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.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, 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

4. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, and Consulting Services and other items shall be disbursed in accordance with Loan Disbursement Handbook.

Imprest Accounts; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, a first generation imprest account at the Reserve Bank of India. Except as ADB may otherwise agree, the State shall establish a second generation imprest account at a commercial bank, acceptable to ADB and the Borrower. The first generation imprest account and the second generation imprest account (collectively called the imprest accounts) shall be established, managed, replenished and liquidated in

accordance with the Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest accounts shall be Dollar. The initial aggregate amount to be deposited into the imprest accounts 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.

(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 accounts, in accordance with the Loan Disbursement Handbook 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 \$100,000.

Retroactive Financing

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

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (South Asia Tourism Infrastructure Development Project – India portion)			
CATEGORY			ADB FINANCING BASIS
		Total amount allocated for ADB financing USD	Percentage of ADB Financing from the Loan Account
Number	Item	Category	
1	Civil Works	15,000,000	77.5 percent of total expenditure claimed
2	Equipment, Vehicles and Furniture	2,780,000	84.7 percent of total expenditure claimed
3	Training/Fellowships	220,000	100 percent of total expenditure claimed*
4	Consulting Services	2,000,000	85.8 percent of total expenditure claimed
	Total	20,000,000	

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

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

General

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

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
National Competitive Bidding
Shopping

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The State 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.

4. The State may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.
5. The State and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the proposed bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications agreed between the State and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after written approval of such change by the State and ADB.

Selection of Consulting Services

6. Except as ADB may otherwise agree, the State shall apply the following selection methods for selecting and engaging Consulting Services:

Quality and Cost Based Selection (QCBS)
Consultants' Qualifications Selection (CQS)
Least-Cost Selection

The methods for selection and engagement of Consulting Services are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The State may only modify these methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Industrial or Intellectual Property Rights

7. (a) The State 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 State 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.

8. The State 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.

Condition for Award of Works Contracts

9. The State shall not award any Works contracts until (i) an updated Resettlement Plan have been submitted to, and approved by, ADB following detailed design of the Project activities and (ii) an archeological impact assessment has been undertaken and approved by ADB.

Execution of Civil Works Contracts

10. The State shall ensure that, subsequent to award of a Works contract under the Project, no land shall be handed over to the contractor unless the applicable provisions of the Resettlement Plan and the Environmental Management Plans have been complied with.

ADB's Review of Procurement Decisions

11. All contracts for Goods, Works and Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the State and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Project Execution Arrangements; Project Implementation Matters

PROJECT EXECUTION ARRANGEMENTS

Subregional Task Force

1. Together with Nepal and the People's Republic of Bangladesh, the Borrower shall establish and maintain a Subregional Task Force (STF) for purposes of the South Asia Tourism Infrastructure Development Project and ensure adequate representation from its national Ministry of Finance, national Ministry of Tourism and from DOT and other relevant line ministries/departments of the State, in the STF. The STF shall (i) coordinate the national components of the subregional project as described in the RRP, (ii) review the Project's progress and address key issues, and (iii) monitor the subregional actions set out in the Sustainable Heritage and Tourism Action Plan attached as Appendix 4 to the RRP.

National Project Steering Committee

2. For the entire duration of the Project, the Borrower shall maintain a National Project Steering Committee (NPSC) comprising representatives from the Department of Economic Affairs from the Borrower's Ministry of Finance and representatives from DOT. The Borrower shall designate the Secretary of the Ministry of Tourism as chair of the NPSC. The NPSC shall supervise and provide guidance on the implementation of the Project to the SSC, especially in relation to any subregional aspects of the Project. The NPSC shall meet annually, preferably prior to the annual meeting of the STF.

State Level Steering Committee

3. For the entire duration of the Project, the State shall maintain a State level Steering Committee (SSC) comprising representatives from DOT and the State's Departments of Finance, Public Works, Forestry, Cultural Affairs and Heritage, Urban Development and Housing, Rural Development, and the Ecclesiastical Department. The State shall designate the Chief Secretary as head of the SSC. The SSC shall supervise and provide guidance on the implementation of the Project to the PMIU, pursuant to which it shall (i) facilitate coordination and cooperation among agencies involved in project implementation and release of resources, (ii) take action to ensure that project management and implementation arrangements are in place, (iii) oversee Project progress and monitor the implementation of the Sustainable Heritage and Tourism Action Plan, and address key issues, and (iv) provide policy guidance and support to the PMIU. The SSC shall meet quarterly. The SSC shall prepare and submit annual progress reports to the STF through the NPSC.

Role of DOT; Project Management and Implementation Unit

4. The Borrower shall designate the State, acting through DOT, as the Project Executing Agency. Within DOT, the State shall establish and maintain a Project Management and Implementation Unit (PMIU), headed by a full-time Project Director, for overall management and implementation, including, without limitation, (i) detailed design and construction supervision; (ii) procurement of goods works, and services for the Project; (iii) contract administration; (iv) management of the Project accounts, including processing disbursement

requests, operation of the imprest accounts and preparation of financial statements; (v) monitoring and reporting on Project implementation in compliance with the provisions of this Loan Agreement and the Project Agreement; and (vi) coordination, support, and liaison activities as required. The PMIU will maintain project implementation units in South Sikkim and West Sikkim to oversee implementation and construction activities in the field.

5. The State shall ensure that the PMIU employs sufficient staff with adequate expertise in the field of project management, financial management, engineering, architectural design, eco-tourism, community tourism, heritage management, procurement, environmental and social safeguards implementation, and marketing. The State shall keep the PMIU equipped with the necessary office space, facilities, equipment, support staff and management information systems for the entire duration of the Project.

GENERAL PROJECT IMPLEMENTATION MATTERS

Sustainable Heritage and Tourism Action Plan

6. The State (through DOT, the Department of Finance, Department of Forest and the Urban Development and Housing Department) shall take all necessary steps to complete the actions for which it is responsible under the Sustainable Heritage and Tourism Action Plan attached as Appendix 4 to the RRP, on schedule and in a manner satisfactory to ADB.

Counterpart Funds

7. The State shall make available all counterpart funds required for timely and effective implementation of the Project, including any funds required to make land available for the Project, to mitigate unforeseen environmental and social impacts and to meet additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances. The State shall make the resources thus required available on an annual basis for each fiscal year.

Operation and Maintenance of the Project facilities

8. The State shall ensure that sufficient funds are provided to meet any shortfall between the cost and revenues for the operation and maintenance of the Project facilities.

Environmental Safeguards

9. The State shall ensure that (a) the Project is carried out in accordance with the project design, and construction and operations will comply with applicable national and local environmental laws and ADB's *Environment Policy* (2002); (b) the relevant environmental mitigation measures specified in the Environmental Management Plans are incorporated in tender and bidding documents; (c) Works contractors' specifications include requirements to comply with the environmental mitigation measures contained in the Environmental Management Plans; (d) Works contractors are closely supervised to ensure proper implementation of mitigation and management measures; (e) the Project environmental performance will be monitored; and (f) a monitoring report describing the progress in implementing the Environmental Management Plans and measures adopted to address environmental issues, if any, is prepared and submitted annually to ADB.

Resettlement and Land Acquisition

10. The State shall, subject to compliance with the relevant provisions of the Resettlement Plan and the Environmental Management Plans and in accordance with all applicable laws and regulations of the Borrower and the State, acquire or make available the land and rights to land required for commencement of construction activities of the Project facilities in accordance with the schedule agreed under the related Works contract, and will have cleared the utilities, trees and any other obstruction from such land.

11. The State shall ensure that the Resettlement Plan, including compensation and entitlements for affected households and persons, is implemented in conformity with all applicable laws and regulations of the Borrower and the State, as amended from time to time, and the entitlement benefits as listed in the Borrower's and the State's applicable laws and ADB's *Involuntary Resettlement Policy* (1995).

12. The State shall ensure that people affected by the Project are fairly compensated in a timely manner in accordance with all applicable laws and regulations of the Borrower and the State, ADB's *Involuntary Resettlement Policy* and the Resettlement Plan, and that payments will be made in a timely manner, prior to dispossession from land and other assets. The State shall submit progress and completion reports on land acquisition and resettlement under the quarterly progress reports.

13. The State shall ensure that prior to land acquisition and any resettlement for the Project, the Resettlement Plan, including its update based on consensus of the affected persons, is disclosed with all necessary information made available to persons affected by the Project and confirm that it be uploaded onto the ADB website.

14. The State shall ensure that essential public infrastructure that may be affected by land acquisition and resettlement is replaced, as appropriate, in an expeditious manner in accordance with the Resettlement Plan.

15. The State shall ensure that construction contracts contain binding requirements for construction contractors to fully reinstate pathways, other local infrastructures, and agricultural land to at least their pre-project condition upon construction completion. The State shall adequately record the condition of roads, agricultural land and other infrastructure prior to transport of material and construction commencement.

16. The State shall establish, within 3 months of the Effective Date, a grievance redress committee or committees with representation from all stakeholders in the Project facilities for addressing any grievances from affected peoples concerning resettlement, environment and any other social issues in a timely manner, misuse of funds or any other irregularities.

17. Any changes to the location, land alignment, or social or environmental impacts on account of detailed designs shall be subject to prior approval by ADB.

Indigenous Peoples

18. The State shall ensure that the Project will not negatively impact vulnerable groups, such as indigenous peoples. In the unforeseen event that indigenous people are affected by

the Project, the State shall ensure that the Project complies with applicable laws and regulations of the Borrower and the State and ADB's *Policy on Indigenous Peoples* (1998).

Social and Other Matters

19. The State shall ensure that the bidding documents for the Works contracts include specific provisions to ensure that the Works contractors (a) comply with applicable labor laws of the Borrower and the State and incorporate applicable workplace occupational safety norms; (b) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmittable infections, including HIV/AIDS, to the employees of Works contractors engaged under the Project and to members of the local communities surrounding the Project facilities, particularly to females; (c) follow and implement all statutory provisions on labor (including the prohibition on employment of child labor, forced or compulsory labor and the requirement to provide equal payment for equal work, regardless of gender or caste); and (d) to the extent possible, maximize employment of local poor and disadvantaged persons for construction purposes, provided that the requirements for efficiency are adequately met.

20. The State shall ensure that the Project considers gender issues at all appropriate stages of the project particularly during design, and that the Project will be carried out in accordance with ADB's *Policy on Gender and Development* (1998).

21. The State shall announce the Project and business opportunities associated with the Project on its websites. In addition, the websites shall at least disclose the following information in relation to goods and services procured for the Project: (i) the list of participating bidders, (ii) the name of the winning bidder, (iii) the amount of the contracts awarded, and (iv) the goods and services procured.

Performance Monitoring and Reporting

22. The Borrower and the State shall ensure that within 3 months of the Effective Date, a Project Performance Monitoring System (PPMS) shall have been established in a form and with a composition acceptable to ADB, based upon the PPMS indicators agreed upon between the Borrower and ADB. The State shall collect base line data for performance monitoring and undertake periodic Project performance review in accordance with the PPMS to evaluate the scope, implementation arrangements, progress and achievements of objectives of the Project.

Review

23. ADB, the Borrower and the State shall meet regularly as required to discuss the progress of the Project and any changes to implementation arrangements or remedial measures required to be undertaken towards achieving the objectives of the Project.

24. ADB, the Borrower and the State shall jointly undertake a comprehensive mid-term review of the Project. The mid-term review shall assess the Project's achievements and progress in implementing the Project against the PPMS indicators and the project implementation schedule in order to identify any difficulties or constraints encountered in implementing the Project and to make adjustments, if necessary, for the remaining project implementation period. In particular, the mid-term review shall, among others, evaluate the

Project scope, costs, overall implementation progress, and status of compliance with loan covenants.