
LOAN NUMBER 2248 - IND

LOAN AGREEMENT
(Ordinary Operations)

(Rural Roads Sector II Investment Program – Project 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 29 August 2006

LAL: IND 37066

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 29 August 2006 between INDIA, acting by its President (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

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

(B) the Project will be carried out by (i) the Borrower's Ministry of Rural Development (hereinafter called "MORD"); (ii) the State of Assam (hereinafter called "Assam"); (iii) the State of Orissa (hereinafter called "Orissa"); and (iv) the State of West Bengal (hereinafter called "WB"); and for this purpose the Borrower will make available to MORD, Assam, Orissa, and WB, the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; 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 (i) ADB, MORD and Assam; (ii) ADB, MORD and Orissa; and (iii) ADB, MORD and WB;

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, (said Ordinary Operations Loan Regulations being hereinafter called the Loan Regulations).

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) "CPF" means each of the agreed Community Participation Frameworks applicable for Assam, Orissa, and WB, and similar frameworks to be prepared for New State(s) that may be included during implementation of the Facility;

(b) "Consulting Guidelines" means "Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers" dated April 2006, as amended from time to time;

(c) "District" means a district in a State as defined under Article 243-P of the Constitution of India;

(d) "EAF" means each of the agreed Environment Assessment Frameworks applicable for Assam, Orissa, and WB, and similar frameworks to be prepared for New State(s) that may be included during implementation of the Facility;

(e) "ECOP" means each of the agreed Environmental Codes of Practice for Assam, Orissa, and WB, and similar documents to be prepared for New State(s) that may be included during implementation of the Facility;

(f) "FAM" means the facility administration memorandum to be prepared and agreed between ADB and the Borrower to facilitate implementation and processing of the Facility and related PFRs;

(g) "FFA" means the Framework Financing Agreement dated 25 November 2005 between ADB and India, for the Facility;

(h) "Facility" means the multitranche financing facility provided by ADB to the Borrower in accordance with ADB's policy under *Pilot Financing Instruments and Modalities* (R194-05, 4 August 2005);

(i) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;

(j) "IA" means the implementing agency in each State responsible for implementation of subprojects as specified in each PFR;

(k) "Investment Program" means the entire program for rural roads development under the PMGSY for Assam, Orissa, and WB for a total cost of 2.1 billion dollars;

(l) "MORD" means Ministry of Rural Development of the Borrower;

(m) "NRRDA" means the National Rural Roads Development Agency, set up as an agency of MORD to operationalize and manage the PMGSY at central level;

(n) "New States" mean such other State(s) as may be included subject to the requirements of paragraph 28 of Schedule 5 to this Loan Agreement;

(o) "PFR" means the periodic financing request to be submitted by the Borrower for purposes of each loan under the Facility and for purposes of this Loan Agreement means the PFR dated 31 May 2006;

(p) "PIC" means Project implementation consultants as described in Schedule 4 to this Agreement;

(q) "PIU" means the Program implementation units established by each State in accordance with the PMGSY Guidelines;

(r) "PMC" means Project Management consultants engaged under the Rural Roads Sector I Project (Loan No. 2018);

(s) "PMGSY" means *Pradhan Mantri Gram Sadak Yojana* (Prime Minister's Rural Roads Program);

(t) "PMGSY Guidelines" means the PMGSY Guidelines issued by MORD, as revised and issued in November 2004, as amended from time to time, and includes the Operations Manual issued in February 2005, and other instructions or notifications as may be issued under the stated guidelines;

(u) "Panchayat" means an institution of self-government constituted for rural areas in a State under Article 243-B of the Constitution of India;

(v) "Procurement Guidelines" means the "Procurement Guidelines" dated April 2006, as amended from time to time;

(w) "Procurement Plan" means the procurement plan for the Project dated 25 July 2006 and agreed between the Borrower, MORD, the relevant State, and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(x) "Project" means as generally defined under the Loan Regulations and referred to as Project 1 under the Investment Program for this Loan Agreement;

(y) "SRRDA" means each of the State rural roads development agency established for implementing rural roads construction and development under the PMGSY;

(z) "Schedule Tribe" means tribes or communities or parts of groups within tribes or tribal communities notified as such by the Borrower under Article 342 of the Constitution of India, for each of the State;

(aa) "State" means any or all of the States of Assam, Orissa, WB, Chhattisgarh, and Madhya Pradesh, and such other New State of the Borrower, as the context may require;

(bb) "Subprojects" mean the subprojects financed accordance with the provisions of this Agreement;

(cc) "TSC" means the technical support consultants as more fully described in paragraph 29 of Schedule 5 to this Loan Agreement;

(dd) "Works" means construction or civil works to be financed out of the proceeds of the Loan, and including services such as drilling or mapping, and project related

services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services; and

(ee) "zilla panchayat" means Panchayat at District level as defined under Article 243 B of the Constitution of India.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred and eighty million dollars (\$180,000,000), 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 term of 25 years, including a grace period of 5 years, as provided 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.

Section 2.03. (a) The Borrower shall pay a commitment charge at the rate of three-fourths of one percent (0.75%) per annum. Such charge shall accrue on amounts of the Loan (less amounts withdrawn from time to time), during successive periods commencing sixty (60) days after the date of this Loan Agreement, as follows:

during the first twelve-month period, on \$27,000,000;
 during the second twelve-month period, on \$81,000,000;
 during the third twelve-month period, on \$153,000,000; and
 thereafter, on the full amount of the Loan.

(b) If any amount of the Loan is cancelled, the amount of each portion of the Loan stated in paragraph (a) of this Section shall be reduced in the same proportion as the cancellation bears to the full amount of the Loan before such cancellation.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 January and 15 July 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 MORD upon terms and conditions satisfactory to ADB and shall cause MORD 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) Of the Loan proceeds (i) the Borrower shall provide MORD an amount equivalent to four hundred thousand dollars (\$400,000) for carrying out the Capacity Building Component as described in Schedule 1 to this Loan Agreement; and (ii) cause MORD to make available on a grant basis, Loan proceeds to (1) Assam in an amount equivalent to eighty seven million four hundred thousand dollars (\$87,400,000) only; (2) Orissa in an amount equivalent to fifty four million seven hundred thousand dollars (\$54,700,000) only; and (3) WB in an amount equivalent to thirty seven million five hundred thousand dollars (\$37,500,000) only, respectively, for carrying out the Road Connectivity Component in their respective State as referred in Schedule 1 to this Loan Agreement, in accordance with allocation of Loan proceeds under Schedule 3 to this Loan Agreement. Provided that if in the view of the Borrower and MORD, the Project so requires and is in the interest of efficient implementation of the Project in the three States, the Borrower may under intimation to ADB, make inter-State reallocations of the Loan proceeds, under the Road Connectivity Component.

(c) Except as the Borrower and ADB may otherwise agree, the amounts allocated to expenditures under Schedule 3 to this Loan Agreement shall be as follows:

- (i) for Road Connectivity Component of the Project, an amount of \$179,600,000; and
- (ii) for Capacity Building Component of the Project, an amount of \$400,000.

(d) The Borrower shall cause MORD, Assam, Orissa, and WB to apply the proceeds of the Loan to the financing of above expenditures on the Project in accordance with the provisions of this Loan Agreement and the relevant 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 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 2008 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 MORD, Assam, Orissa, and WB to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, social, and rural roads development practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available to MORD, Assam, Orissa, and WB, promptly as needed, 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 MORD, Assam, Orissa and WB 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 in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the financing arrangements relating to the Project shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations: the PMGSY Guidelines or any provision thereof shall have been repealed, suspended or amended in any manner in so far as it relates to the Project, which in the reasonable opinion of ADB shall or may adversely affect the carrying out of the Project or the operation of the Project facilities.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: the event specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. A date within 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 VII

Miscellaneous

Section 7.01. Any of the Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. 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:

(91-11) 2309-2477
(91-11) 2309-7511.

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) 636-2340.

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 _____
ARVIND MAYARAM
Joint Secretary
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By _____
TADASHI KONDO
Country Director

SCHEDULE 1**Description of the Project**

1. The objectives of the Project are to assist the Borrower (i) under the PMGSY to provide rural habitations in Assam, Orissa and WB with all-weather road connections, and (ii) to improve efficiency and sustainability of PMGSY implementation in Assam, Orissa and WB by providing support for capacity building in technical, safeguard, financial and road safety aspects.
2. The Project comprises following Components;
 - (a) Road Connectivity Component- This comprises improvements of rural roads including new connectivity that are part of PMGSY to provide all habitations of at least 500 persons with all-weather roads under Subprojects covering about 3,200 km of rural roads (about 1,000 km in Assam, about 1,200 km in Orissa, and about 1,000 Km in WB).
 - (b) Capacity Building Component – This comprises (i) State level capacity building for project implementation, by providing improved standard operating procedures in the form of guidelines and manuals applicable to all PMGSY states as also (ii) institutional building at State level to prepare and implement rural roads development in an efficient and sustainable manner, with proper address of policy issues such as safeguard and road safety throughout the Project cycle.
3. The Project is expected to be completed by 30 June 2008.

SCHEDULE 2

Amortization Schedule

(Rural Roads Sector II Investment Program – Project 1)

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.

Date Payment Due	Year	Installment Share (Expressed as a %)
15 January	2012	0.83
15 July	2012	0.87
15 January	2013	0.91
15 July	2013	0.96
15 January	2014	1.01
15 July	2014	1.06
15 January	2015	1.11
15 July	2015	1.16
15 January	2016	1.22
15 July	2016	1.28
15 January	2017	1.35
15 July	2017	1.42
15 January	2018	1.49
15 July	2018	1.56
15 January	2019	1.64
15 July	2019	1.72
15 January	2020	1.81
15 July	2020	1.90
15 January	2021	1.99
15 July	2021	2.09
15 January	2022	2.20
15 July	2022	2.31
15 January	2023	2.42
15 July	2023	2.54
15 January	2024	2.67
15 July	2024	2.80
15 January	2025	2.94
15 July	2025	3.09
15 January	2026	3.25

Schedule 2

Date Payment Due		Installment Share (Expressed as a %)
15 July	2026	3.41
15 January	2027	3.58
15 July	2027	3.76
15 January	2028	3.94
15 July	2028	4.14
15 January	2029	4.35
15 July	2029	4.57
15 January	2030	4.79
15 July	2030	5.03
15 January	2031	5.29
15 July	2031	5.54
TOTAL		100%

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.

Schedule 2

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. This Schedule sets forth the allocation of amounts of the Loan.

Withdrawals

2. Subject to the provisions of Section 3.01 of the Loan Agreement, and except as the Borrower and ADB may otherwise agree, the Loan proceeds shall be disbursed on the basis of following percentages:

- (a) civil works - 80% of total expenditures; and
- (b) consulting services – 100% of total expenditures.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and subject to paragraph 2 of this Schedule,

(a) if the amount of the Loan allocated to any Loan Component appears to be insufficient to finance all agreed expenditures in that Component, ADB may, by notice to the Borrower, (i) reallocate to such Component, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Component 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 Component may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Component appears to exceed all agreed expenditures in that Component, ADB may, by notice to the Borrower, reallocate such excess amount to any other Component.

Disbursement; Statement of Expenditures

4. (a) Disbursements from the Loan account shall follow the ADB's "Loan Disbursement Handbook" dated January 2001, and the "Interim Guidelines for Disbursement Operations, LIBOR-Based Loan Product July 2002, each as amended from time to time, using direct payment and reimbursement procedures.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, and the "Interim Guidelines for Disbursement Operations, LIBOR-Based Loan Product July 2002, each 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 \$100,000.

Retroactive Financing

5. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project before the date of this Loan Agreement, but not earlier than a maximum of 12 months prior to the date of this Loan Agreement, in connection with items to be retroactively financed, subject to a maximum of 20 percent of the Loan amount, i.e., thirty six million dollars (\$36,000,000).

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods and 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, Works shall be procured only on the basis of the methods of procurement set forth below:

National Competitive Bidding

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.

4. National Competitive Bidding. PMGSY standard bidding documents, MORD's and relevant State's standard procurement procedures, are subject to the following modifications:

(a) Subject to clause (b) of this paragraph, the prequalification if any, 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) the 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.

(b) For the first five contract packages in each of the States, the IA shall submit the procurement documents and bid evaluation for ADB review and approval prior to award of the contract. Subject to the procurement documents and bid evaluation for the first five contract packages being found to be satisfactory by ADB, for subsequent contract packages the IA shall proceed with procurement procedures and contract award without prior ADB review and approval. In such cases the following post-facto approval procedures shall apply: (i) the IA shall retain a record of all procurement documentation, including copies of the signed contract and the bid evaluation report, to be available for inspection, (ii) at the time of each contract award the IA shall provide ADB with a certified summary sheet reporting on the main aspects of the bid evaluation and contract award, (iii) ex-post audit of the procurement processes and contract awards shall be carried out annually as part of the

Schedule 4

Project performance audit, and (iv) if any contract award is found to be unacceptable, ADB may refuse to finance the contract.

C. Conditions for Award of Contract

5. The Borrower through MORD and relevant State shall ensure, that no Works contracts financed under the Loan are awarded until all requirements as referred to in this Schedule and in paragraphs 12, 13, 14 and 22 of Schedule 5 to this Loan Agreement have been complied with.

D. Selection of Consulting Services

6. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower through MORD and the relevant State shall apply quality- and cost-based selection for selecting and engaging consulting services.

7. The Borrower's standard procedures for selecting and engaging domestic consultants are subject to the following modifications:

(a) The selection and engagement of domestic consultants undertaking activities financed out of the proceeds of the Loan (hereinafter referred to as the TSCs) shall be subject to the approval of ADB with regard to their competence and experience for carrying out the assignment and shall be in accordance with following procedures:

(i) As soon as the proposals received have been evaluated but before negotiations are started with the consultants selected for negotiations, ADB shall be furnished with three copies of (1) a list of consultants invited; (2) an evaluation of the proposals (together with one set of the first-ranked proposal); and (3) justification for the selection.

(ii) After the conclusion of negotiations but before the signing of the contract, the contract as negotiated shall be furnished to ADB 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.

(b) The selection and engagement of domestic consultants undertaking activities financed from the Borrower's own resources (hereinafter referred to as the PICs as described more fully in paragraph 29 of Schedule 5 to this Loan Agreement) shall be in accordance with the PMGSY procedures found acceptable to ADB.

E. Industrial or Intellectual Property Rights

8. (a) The Borrower through MORD and the relevant 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 Borrower through MORD and the relevant 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.

9. The Borrower through MORD and the relevant 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.

SCHEDULE 5

Execution of Project and Operation of Project Facilities

Execution and Implementation

1. (a) The Borrower shall ensure that the Project is carried out in accordance with the PMGSY Guidelines as supplemented by Project-specific requirements including those more fully described in the agreed CPF and the EAF for each State.

(b) The Executing Agencies for the Project shall be (i) MORD at the central level and (ii) relevant State at the State level. MORD shall be responsible for overall supervision and execution of the Project at central level and each State through the respective IA shall be responsible for executing the Project at the State level.

2. Each State shall assist the related IA in obtaining approvals and clearances for timely Project execution under the PMGSY Guidelines and other applicable laws and regulations of the Borrower and the respective State.

3. Each State shall provide, as necessary, respective counterpart staff, land facilities, and counterpart funding for the Project in accordance with the financing plan, cost of making land available for the Subprojects and assistance, and implementation and monitoring under the CPF and EAF (including unforeseen expenses beyond the estimates), utility relocation, general Project management expenses, and road maintenance, in a timely manner through approved annual budget allocations.

4. Each State shall ensure that the respective IA recruits the PICs with expertise in social development and environmental management to help implement the provisions of the CPF and the EAF for all Subprojects in the State.

Coordination Committees

5. (a) The Borrower shall ensure that within not more than 3 months of the Effective Date, a Coordination Committee is set up that shall be chaired by the MORD Joint Secretary. The committee members shall comprise senior officials of MORD, the Department of Economic Affairs, Ministry of Finance, NRRDA, and the State governments. The committee shall meet on a quarterly basis and monitor the use of Loan funds and overall implementation performance of the Project under the Facility.

(b) Each State shall likewise ensure that within not more than 3 months of the Effective Date, the State level Project Implementation Committee is set up in each State. Each of these committees shall each be chaired by the Chief Executive Office of related IA and its members shall comprise representatives from respective State departments responsible for rural roads development, PIUs, and consultants. As necessary other State agencies may be invited to this Committee to assist in implementing the Project in areas such as forestry, land availability etc. Each committee shall meet on a monthly basis to monitor the use of Loan funds and overall implementation performance of the Project under the Facility at the respective State level.

Road Maintenance

6. In accordance with the PMGSY Guidelines, each State shall provide adequate and timely funding for proper maintenance of the PMGSY roads. Any increases in the actual amounts to be provided shall be met by the respective State through its respective additional budget allocations, or other alternative sources of financing.
7. Each State shall ensure that the financing of maintenance of PMGSY roads as required under the PMGSY Guidelines shall not involve reduction of budgets for maintaining other roads under the responsibility of the respective State not included under the PMGSY.
8. As also required under the PMGSY Guidelines, except as ADB may otherwise agree, each State shall require the respective IA (through the PIU) to ensure proper maintenance of the PMGSY roads until these are transferred to the designated zilla panchayats in accordance with the PMGSY Guidelines. Each State shall also allocate the requisite funds to the relevant functionaries (the related PIU/zilla panchayat) for such maintenance in accordance with the requirements of the PMGSY Guidelines.
9. Each State shall ensure that the related PIU/zilla panchayat as the case may be, shall enter into further maintenance contracts with competitively procured contractors (on the basis of the standard performance-based contracts for road maintenance to be prepared by PMC under Rural Roads Sector I Project (Loan No. 2018)). The contracts shall begin upon completion of the initial 5-year maintenance period under the related construction contracts and shall cover routine maintenance and renewal of all PMGSY roads for further periods of not less than 5 years.

Road Safety

10. As part of the mid term review of the Investment Program as also the Project, the Borrower, each State, and ADB shall review the outcomes of the road safety program, to consolidate the institutional mechanism, financing modalities, and detailed implementing arrangements to further ensure sustainable road safety programs for the roads to be developed under PMGSY and the Investment Program at the national and State levels.

Land Availability

11. Each State shall ensure that the respective IA implements the provisions of the CPF for all Subprojects as agreed upon with ADB and in conformity with all relevant applicable laws and regulations of the Borrower/respective State.
12. Each State shall ensure that the respective IA shall, subject to compliance with the relevant provisions of the CPF and EAF/ECOP and in accordance with all relevant applicable laws and regulations of the Borrower/respective State, acquire or make available the land and rights to land free from any encumbrances, clear the utilities, trees and any other obstruction from such land, required for commencement of construction activities in accordance with the schedule agreed under the related civil works contract.

Schedule 5

13. (a) Each State shall ensure that the respective IA shall (i) carry out the community consultation process for all Subprojects in accordance with the PMGSY Guidelines as supplemented by the CPF, (ii) disseminate the information on process of land transfer/availability as the case may be, support/assistance provisions and grievance procedures to the Project affected communities in a timely manner so that all related issues are resolved before awarding civil work contracts, and (iii) ensure that in case of voluntary land donations/transfer there are undertaken in a transparent manner under proper documentation, and avoid any kind of coercion or forced donations/transfer; and in this regard shall not exercise any eminent domain or related mechanisms that may be deemed to be compulsory acquisition of land.

(b) Each State shall ensure that the details of land made available in accordance with the procedures prescribed in the PMGSY Guidelines, are reflected in the local land records in a timely manner, to avoid any disputes..

Execution of Civil Works Contracts

14. Subject to compliance with the requirements of CPF and EAF/ECOP, each State shall: (i) acquire or make available on a timely basis the land and rights in land, free from any encumbrances; and (ii) 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 civil works contract, as required for construction activities relating to each section of the related civil works contract under the Subproject.

15. Each State shall ensure that subsequent to award of civil works contract under any Subproject, no section or part thereof under the civil works contract will be handed over to the contractor unless the applicable provisions of the CPF and the EAF/ECOP have been complied with.

16. Any changes to the land alignment or environment impacts on account of detailed designs of related Subproject roads shall be subject to prior approval by ADB or related agency (MORD) as the case may be in accordance with the Subproject selection criteria and procedures included in Schedule 2 to the FFA.

Social Impacts

17. (a) Each State shall ensure through specific provisions in the bid documents and the civil works contracts financed under the Project that the contractors shall: (i) disseminate information at work sites on the risks of sexually transmitted diseases and HIV/AIDS as part of the health and safety measures for those employed during construction; (ii) follow legally mandated provisions on health, welfare, sanitation, and appropriate working conditions, including accommodation, where appropriate, for construction workers at camp sites; (iii) comply with all applicable labor laws, not employ child labor for construction and maintenance activities, and provide appropriate facilities for children of labor in construction camp sites; (iv) provide equal opportunity for women for road construction activities, and not differentiate wages for men and women for work of equal value.

Schedule 5

(b) Each State shall ensure that compliance with provisions in clause (a) of this paragraph is monitored by the respective IA. The civil works contracts shall also provide for their termination by the employer for breach of any provision.

18. Each State shall ensure acceptance of the Project through effective community participation in selecting and implementing Subprojects in accordance with the PMGSY Guidelines as supplemented by the CPF.

19. In case of any significant impacts on Scheduled Tribes under any additional Subproject, these shall follow the requirements as set out in the CPF as agreed by ADB. As also laid down in the CPF, for any impact on land involving traditional and tenure rights of the Scheduled Tribes, the legal provisions laid down by the Borrower and the related State pertaining to land transfer shall be followed.

Environment

20. Only those Subprojects that meet the eligibility requirements set out in Subproject selection criteria and procedures included in Schedule 2 to the FFA, and which adhere to the relevant requirements of the PMGSY Guidelines, the CPF, the EAF and other applicable guidelines for Subproject implementation, shall be eligible for financing from the Loan proceeds. Each State shall monitor the implementation of Subprojects through to the completion of each Subproject.

21. Each State shall ensure that: (i) Subprojects shall be implemented in accordance with the EAF; and (ii) relevant provisions of the ECOP identified in the Subproject preparation stage are incorporated into the Subproject designs and followed during Subproject design, construction, operation and maintenance.

22. Each State shall require the related SRRDA to implement the Project in accordance with all applicable laws and regulations regarding wildlife and protected areas/forest areas for Subprojects that involve roads passing through forest areas and address these under the relevant IEE for such Subprojects. No construction work will be undertaken on sections of Subprojects that pass through a forest reserve unless clearance is granted by the Borrower's Ministry of Environment and Forest under applicable laws and regulations of the Borrower/respective State, and no Subproject shall be located within or close to an environmentally sensitive area such as a wildlife sanctuary, national park, or other areas with significant ecological functions that are declared as national parks, sanctuaries, or national/international cultural heritage.

Subproject Selection and Approval Process

23. The Borrower through MORD shall ensure that the Subprojects follow the selection criteria and are promptly processed for approval by ADB as described in detail in Subproject selection criteria and procedures included in Schedule 2 to the FFA.

Performance Audit

24. Without limiting the generality of Section 2.09 of the Project Agreements(s), MORD shall cause each State to (i) have Project performance audits of Subprojects on a sample basis, conducted annually by independent consultants and auditors engaged by the State under PMGSY Guidelines, as acceptable to ADB, to evaluate adherence to procurement procedures and overall contract performance; and (ii) allow ADB to carry out procurement audits during Project implementation as part of its regular review process.

Project Performance Monitoring and Progress Reports

25. The State(s) shall ensure that within 3 months of the Effective Date of the first Loan Agreement under the Facility, the respective IAs shall establish an Investment Program Performance Monitoring System (IPPMS) in a form and substance acceptable to ADB in accordance with the Investment Program performance indicators. The IAs shall undertake periodic Subproject performance review under the Project, as also for the Investment Program, in accordance with the IPPMS to evaluate the scope, implementation arrangements, progress and achievements of objectives of the Project and overall Investment Program.

26. Notwithstanding the generality of Section 2.08 of the Project Agreement(s):

(a) each State through the IA shall provide monthly progress report of Subprojects implementation under the Project, in such form and detail as required by ADB.

(b) Based on the monthly reports provided by each State, MORD with assistance of NRRDA, shall prepare and provide ADB with quarterly progress reports on subprojects' implementation in each State. Such reports shall summarize the monthly reports and include report on progress made during the period of review, use of Loan funds, achievement of Project objectives, compliance with Loan covenants, changes if any on implementation schedule, problems or difficulties encountered and remedial actions taken, and work to be undertaken in coming quarter. The reports that shall be submitted to ADB within 45 days from close of each quarter shall also include a summary financial account for the Project (including the Subprojects), expenditures to date, and report on benefit monitoring undertaken pursuant to previous paragraph of this Schedule.

Reports and Review

27. (a) Without limiting the generality of Section 2.08(c) of each Project Agreement and Section 7.04(d) of the Loan Regulations, the Borrower will submit to ADB a Project completion report within 3 months of physical completion of the Subprojects financed under the Loan and a Facility completion report within 3 months of physical completion of the Subprojects under the Facility. These reports shall cover a detailed evaluation of the Project and the Investment Program respectively, covering the design, costs, contractors' and consultants' performance, social and economic impact, economic rate of return, and other details relating to the Project and Investment Program, for each State as may be requested by ADB.

Schedule 5

(b) ADB, the Borrower, and each State, shall meet regularly as required to discuss Project progress and any changes to implementation arrangements or remedial measures required to be undertaken towards achieving overall Project and investment Program objectives.

(c) A mid-term review of the Project shall be undertaken by ADB, the Borrower and the States, around July 2007. The mid-term review will include review of issues and any problems or weaknesses in implementation arrangements, and agree on any changes needed to achieve the objectives of the Project.

(d) A similar mid-term review of the Investment Program by ADB, the Borrower and the States shall be undertaken in the third year from date of approval of the Facility by ADB.

Inclusion of Subprojects from New States

28. PFRs for financing Subprojects in States other than Assam, Orissa, and WB shall be subject to satisfactory due diligence and preparation of relevant frameworks and other relevant documents. The Borrower and ADB shall agree on a mutually acceptable schedule to initiate these activities, within not more than 6 months of the Effective Date.

Project Implementation Consultants (PIC)

29. The services of domestic consultants financed from the Borrower's own resources (the PIC), shall be utilized in the carrying out of the Project, particularly with regard to assisting the PIUs and the IAs in:

- (a) preparing additional subprojects;
- (b) supervising civil works;
- (c) implementing the CPF to mitigate social impacts;
- (d) monitoring and implementing the EAF and the relevant provisions of the ECOP; and
- (e) supporting in social and environmental safeguard, and road safety.