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LOAN NUMBER 3256-BAN (SF)

LOAN AGREEMENT  
(Special Operations)

(Third Primary Education Development Project – Additional Financing)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 8 JUNE 2015

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BAN 42122

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 8 June 2015 between PEOPLE'S REPUBLIC OF BANGLADESH ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a loan agreement dated 15 September 2011 between the Borrower and ADB ("Initial Special Operations Loan Agreement"), ADB provided the Borrower a loan from ADB's Special Funds resources in an amount equivalent to two hundred two million two hundred twelve thousand Special Drawing Rights (SDR202,212,000) for the purposes of the project described in Schedule 1 to the Initial Special Operations Loan Agreement ("Initial Project");

(B) the Government of Australia (through AusAid), Government of Canada (through CIDA), DFID, EU, JICA, Sida, WB, and UNICEF (all as defined below) also provided loans and grants in the aggregate amount equivalent to seven hundred thirty five million five hundred thousand Dollars (\$735,500,000) for the purposes of jointly financing the Borrower's PEDP3 Program (as defined below);

(C) the Borrower has applied for an additional loan from ADB's Special Funds resources for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(D) the Borrower has also applied to WB, GPE, EU, and UNICEF (all as defined below) for additional loans and grants in the aggregate amount equivalent to five hundred forty six million six hundred thousand Dollars (\$546,600,000) for the purposes of jointly financing the Borrower's PEDP3 Program (as defined below); and

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

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

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

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless

modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) “ASPR” means the annual sector performance report to be prepared every year by MOPME and DPE and submitted to ADB and other DPs, as described in paragraph 23 of Schedule 5 to this Loan Agreement;

(b) “AusAid” means the Australian Agency for International Development, subsumed by the Government of Australia, one of the DPs, that provided the Borrower with a grant in the amount equivalent to thirty five million Dollars (\$35,000,000) to finance a portion of the PEDP3 Program;

(c) “CIDA” means the Canadian International Development Agency, one of the DPs, that provided the Borrower with a grant in the amount equivalent to sixty five million Dollars (\$65,000,000) to finance a portion of the PEDP3 Program;

(d) “Consolidated Fund” means the Borrower’s consolidated fund maintained at the Bangladesh Bank into which all withdrawals from the Loan Account shall be deposited;

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

(f) “Consulting Services” means the services to be financed out of the proceeds of the Loan, as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(g) “DFID” means the Department for International Development, one of the DPs, that provided the Borrower with a grant in the amount equivalent to one hundred ninety million Dollars (\$190,000,000) to finance a portion of the PEDP3 Program;

(h) “Disbursement Schedule” means the schedule for the disbursements of ADB and other DP’s loans and grants proceed to the Consolidated Fund, which has been agreed between the Borrower and the DPs, as set forth in the PAM;

(i) “DLIs” means disbursement linked indicators as described in paragraphs 7 and 8 of Schedule 5 to this Loan Agreement;

(j) “DPE” means the Directorate of Primary Education under the MOPME, and any successor thereto acceptable to ADB;

(k) “DPs” or “Development Partners” means the multilateral and bilateral development agencies that are parties to the JFA, including ADB, the Government of Australia, the Government of Canada, DFID, EU, GPE, JICA, Sida, WB and UNICEF;

(l) “EIA” or “Environmental Impact Assessment” means each environmental impact assessment for an activity under the PEDP3 Program, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the EMF and cleared by ADB and other DPs;

(m) “Eligible Expenditures” means the items of expenditure eligible for financing from the Loan proceeds, as described in paragraph 2(b) of Schedule 3 to this Loan Agreement;

(n) “EMF” means the environmental management framework prepared by the Borrower for PEDP3 Program and endorsed by ADB and other DPs;

(o) “EMP” or “Environmental Management Plan” means the environmental management plan for the PEDP3 Program, including any update thereto, incorporated in the IEE;

(p) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(q) “EU” means the European Union, one of the DPs, that provided the Borrower with a grant in the amount equivalent to seventy million Dollars (\$70,000,000), and will provide the Borrower with an additional grant in the amount equivalent to forty six million and five hundred thousand Dollars (\$46,500,000), to finance a portion of the PEDP3 Program;

(r) “FY” or “Fiscal Year” means the fiscal year of the Borrower, in relation to any year, the twelve (12) month period starting from 1 July of the previous year and ending on 30 June of such year;

(s) “GAP” means the gender action plan prepared by the Borrower for PEDP3 Program, as included in the inclusive education action plan and agreed by ADB and other DPs;

(t) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(u) “GPE” means the Global Partnership for Education, one of the DPs, that will provide the Borrower with a grant in the amount equivalent to one hundred million Dollars (\$100,000,000) to finance a portion of the PEDP3 Program;

(v) “IBAS” means the Borrower’s integrated budget and accounting system;

(w) “IEE” or “Initial Environmental Examination” means the initial environmental examination report prepared for the Project by the Borrower and approved by ADB;

(x) “IFR” means interim financial report or reports generated by IBAS;

(y) “Involuntary Resettlement Safeguards” means the principles and requirements set forth in Chapter 5, Appendix 2, and Appendix 4 (as applicable) on the SPS;

(z) “JFA” means the Joint Financing Arrangement, an agreement relating to the PEDP3 Program entered into between the Borrower and the DPs;

(aa) “JICA” means the Japan International Cooperation Agency, one of the DPs, that has provided the Borrower with a grant in the amount equivalent to thirty million Dollars (\$30,000,000) to finance a portion of the PEDP3 Program;

(bb) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(cc) “MOF” means the Borrower’s Ministry of Finance, and any successor thereto;

(dd) “MOPME” means the Borrower’s Ministry of Primary and Mass Education, and any successor thereto acceptable to ADB;

(ee) “NGOs” means non-government organizations;

(ff) “PAM” means the project administration manual for the Initial Project dated 30 May 2011 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(gg) “PBH” means the PEDP3 Program’s budget categorization numbered 4500, 4600, 4700, 4800, 4900, 5900, 6700, 6800, 7000, and 7900 in IBAS, as described in paragraph 2 (a) of Schedule 3 of this Loan Agreement;

(hh) “PEDP3 Program” means the Borrower’s third primary education development program to be supported by the DPs, excluding projects that are separately financed outside of the main program, or known as discrete projects, by the Borrower and other donors, within the sub-sector framework;

(ii) “PFM” means public financial management;

(jj) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(kk) “Procurement Plan” means the procurement plan for the PEDP3 Program agreed between the Borrower, ADB, and other DPs, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(ll) “Program Document” means the Borrower’s program document incorporating the PEDP3 Program design and implementation arrangements;

(mm) “Project Executing Agency” for the purposes, and within the meaning, of the Loan Regulations means the PEDP3 Program’s executing agency or MOPME, or any successor thereto acceptable to ADB, which is responsible for leading the overall coordination of the PEDP3 Program;

(nn) "Project facilities" means the facilities, equipment and vehicles provided under the PEDP3 Program;

(oo) "RP" or "Resettlement Plan" means resettlement plans for a project or an activity, including any update thereto, prepared and submitted by the Borrower and cleared by the DPs;

(pp) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB and other DPs that describes progress with implementation of and compliance with the EMP and the RP (as applicable) including any corrective and preventive actions;

(qq) "SECP" or "Small Ethnic Communities Plan" means each small ethnic communities plan for an activity under the PEDP3 Program, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the SECPF and cleared by the DPs;

(rr) "SECPF" or "Small Ethnic Communities Planning Framework" means the small ethnic communities planning framework for the PEDP3 Program, including any update thereto, prepared and submitted by the Borrower and cleared by the DPs, as part of the SMF;

(ss) "Sida" means the Swedish International Development Agency, one of the DPs, that provided the Borrower with a grant in the amount equivalent to forty five million Dollars (\$45,000,000) to finance a portion of the PEDP3 Program;

(tt) "Small Ethnic Communities Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(uu) "SMF" means the social management framework, including the SECPF and the RP, prepared by the Borrower for the PEDP3 Program and endorsed by ADB and other DPs;

(vv) "SOE" means statement of expenditures in a format and presentation acceptable to ADB and other DPs, with a free format without ceiling, based on IBAS reports for PBHs, as described in paragraph 7 of Schedule 3 of this Loan Agreement;

(ww) "SPRSS" means the summary poverty reduction and social strategy for the PEDP3 Program;

(xx) "SPS" means ADB's Safeguards Policy Statement (2009);

(yy) "UNICEF" means the United Nations Children's Education Fund, one of the DPs, that provided the Borrower with a grant in the amount equivalent to five hundred thousand Dollars (\$500,000) and will provide the Borrower with an additional grant in the amount equivalent to one hundred thousand Dollars (\$100,000), to finance a portion of the PEDP3 Program;

(zz) "upazila" means administrative unit, which is a subdivision of a district formerly known as "thana";

(aaa) "WB" or "IDA" means the World Bank or the International Development Association, one of the DPs, that provided the Borrower with a loan in the amount equivalent to three hundred million Dollars (\$300,000,000), and will provide the Borrower with an additional loan in the amount equivalent to four hundred million Dollars (\$400,000,000) to finance a portion of the PEDP3 Program; and

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

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to eighty seven million five hundred thirty three thousand Special Drawing Rights (SDR87,533,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 2.0% per annum during the grace period and thereafter on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in subsection (a) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 June and 1 December in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

## **ARTICLE III**

### **Use of Proceeds of the Loan**

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of Eligible Expenditures in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be withdrawn from the Loan Account only for the purposes of financing Eligible Expenditures incurred in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 December 2017 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall (i) have the PEDP3 Program financial statement, showing the PBH, audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB and in accordance with international standards for auditing or the national equivalent acceptable to ADB; (ii) furnish to ADB, as soon as available but in any event not later than 9 months after the end of each related Fiscal Year, certified copies of such audited accounts and financial statements, and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the procedures for withdrawal, statement of expenditures and IBAS financial statements), all in the English language; and (iii) furnish to ADB such other information concerning such account and financial statements and the audit thereof as ADB shall from time to time reasonably request.



(b) ADB shall disclose the annual audited financial statements for the PEDP3 Program and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the PEDP3 Program and its financial affairs where they relate to the PEDP3 Program with the auditors appointed by the Borrower pursuant to subparagraph (a) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Borrower, unless the Borrower shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the PEDP3 Program, the Goods and Works, and any relevant records and documents.

## **ARTICLE V**

### **Suspension; Acceleration of Maturity**

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations:

- (a) the Borrower is in breach of, or is non-compliant with, the terms of the JFA; and
- (b) the annual fiduciary review, or the quarterly fiduciary review, or annual audit found material irregularities.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

**ARTICLE VII****Miscellaneous**

Section 7.01. The Senior Secretary or Secretary or any Additional Secretary, Joint Secretary or Joint Chief, Deputy Secretary or Deputy Chief, Senior Assistant Secretary or Senior Assistant Chief, Assistant Secretary or Assistant Chief of the Economic Relations Division of the Borrower is designated as representatives of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Economic Relations Division  
Ministry of Finance  
Government of the People's Republic of Bangladesh  
Sher-e-Bangla Nagar  
Dhaka 1207  
Bangladesh

Facsimile Number:

+880 2 918 0788.

For ADB

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

Facsimile Numbers:

+63 2 636-2444

+63 2 636-2449.

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

PEOPLE'S REPUBLIC OF  
BANGLADESH

By



\_\_\_\_\_  
MOHAMMAD MEJBAHUDDIN  
Senior Secretary  
Economic Relations Division  
Ministry of Finance

ASIAN DEVELOPMENT BANK

By



\_\_\_\_\_  
KAZUHIKO HIGUCHI  
Country Director  
Bangladesh Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is to support the PEDP3 Program in achieving an efficient, inclusive and equitable primary education system delivering effective and relevant child-friendly learning to all children from pre-primary through to grade 5.
2. The Project shall finance Eligible Expenditures in the relevant PEDP3 Program activities:

#### **Part I. Improved Teaching and Learning for All**

- (i) support initiatives to enhance student performance;
- (ii) conduct school and classroom based assessment to ensure monitoring and feedback on student learning outcomes;
- (iii) support initiatives to strengthen curriculum and textbooks;
- (iv) support production and distribution of textbooks;
- (v) provide information and communication technology to enhance learning; and
- (vi) support activities to improve teacher education and development.

#### **Part II. Reduced Disparities (Universal Access and Participation)**

- (i) provide second chance and alternative education to students that have never been enrolled in primary school or may have dropped out from formal school;
- (ii) provide one year pre-primary education to children at age 5;
- (iii) mainstream inclusive education to address the particular needs in formal schools of tribal children, ethnic minorities, children with learning disabilities, and disabled children;
- (iv) provide education in emergencies to prepare disaster prone areas for continuing schooling during emergencies;
- (v) develop and implement a communication framework and an action plan for social change strategy;
- (vi) provide stipends to poor students;
- (vii) develop school health and school feeding programs;

- (viii) enhance school physical environment; and
- (ix) provide needs-based school infrastructure and furniture.

### **Part III. Decentralized and Effective Organization**

- (i) strengthen field level offices by providing qualified and trained personnel;
- (ii) decentralize school management and governance by deepening school-level improvement plans and upazila primary education plans, and piloting district primary education plans to plan, monitor and target improvements;
- (iii) strengthen and develop school-level leadership by enhancing the role of head teachers as academic supervisors;
- (iv) review and strengthen field offices organizational structure by creating and filling positions, and institutionalizing career path;
- (v) improve quality of grade 5 terminal examination;
- (vi) maintain efficient recruitment and deployment of teachers;
- (vii) strengthen annual school census by expanding its coverage to include all types of primary school; and
- (viii) strengthen and institutionalize national student assessment.

### **Part IV. Improved PEDP3 Program Planning and Management**

- (i) provide support to MOPME and DPE in managing the PEDP3 Program;
- (ii) implement the PEDP3 Program procurement and financial management action plan;
- (iii) ensure adequate sector financing to meet the PEDP3 Program requirements;
- (iv) strengthen monitoring functions of the PEDP3 Program management by building on evidence-based planning and results-based management;
- (v) strengthen human resources development based on needs, and revise the existing organizational development and capacity building handbook; and
- (vi) promote public private partnership to support education for all.

3. Consulting Services will be provided to support the above stated activities.
4. The Project is expected to be completed by 30 June 2017.

## SCHEDULE 2

### Amortization Schedule

#### (Third Primary Education Development Project – Additional Financing)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 December 2020	2,188,325
1 June 2021	2,188,325
1 December 2021	2,188,325
1 June 2022	2,188,325
1 December 2022	2,188,325
1 June 2023	2,188,325
1 December 2023	2,188,325
1 June 2024	2,188,325
1 December 2024	2,188,325
1 June 2025	2,188,325
1 December 2025	2,188,325
1 June 2026	2,188,325
1 December 2026	2,188,325
1 June 2027	2,188,325
1 December 2027	2,188,325
1 June 2028	2,188,325
1 December 2028	2,188,325
1 June 2029	2,188,325
1 December 2029	2,188,325
1 June 2030	2,188,325
1 December 2030	2,188,325
1 June 2031	2,188,325
1 December 2031	2,188,325
1 June 2032	2,188,325
1 December 2032	2,188,325
1 June 2033	2,188,325
1 December 2033	2,188,325
1 June 2034	2,188,325
1 December 2034	2,188,325
1 June 2035	2,188,325
1 December 2035	2,188,325
1 June 2036	2,188,325
1 December 2036	2,188,325
1 June 2037	2,188,325
1 December 2037	2,188,325
1 June 2038	2,188,325
1 December 2038	2,188,325
1 June 2039	2,188,325
1 December 2039	2,188,325
1 June 2040	<u>2,188,325</u>
<b>Total</b>	<b>87,533,000</b>

\*The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

### SCHEDULE 3

#### Withdrawal of Loan Proceeds

##### General

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Loan proceeds from the Loan Account.

##### Eligible Expenditures

2. (a) Withdrawals from the Loan Account shall be made for the financing of the cost of Eligible Expenditures included under the following PBHs:

- (i) 4500 – Pay of Officers;
- (ii) 4600 – Pay of Establishment;
- (iii) 4700 – Allowances;
- (iv) 4800 – Supplies and Services;
- (v) 4900 – Repairs and Maintenance;
- (vi) 5900 – Grants in Aid;
- (vii) 6700 – Revenue General (Contingencies);
- (viii) 6800 – Capital Expenditure;
- (ix) 7000 – Works; and
- (x) 7900 – Custom Duties and VAT.

(b) Except as ADB may agree otherwise, Eligible Expenditures shall include:

- (i) Salaries of teachers and primary education personnel;
- (ii) Allowance;
- (iii) Works, goods and services procured under NCB;
- (iv) Consulting Services;
- (v) School grants, stipends and upazila-level grants;
- (vi) School feeding;
- (vii) School repair and maintenance;
- (viii) Social mobilization;
- (ix) Training;
- (x) Surveys and studies; and
- (xi) Seminars and workshops.

##### Disbursement Procedures and Schedule

3. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook, SOE and detailed arrangements agreed upon between the Borrower and ADB.

4. (a) Except as ADB may otherwise agree, and except as set forth in paragraph 8 of Schedule 5 to this Loan Agreement, the Loan proceeds shall be disbursed by ADB and transferred to the Consolidated Fund on semi-annual basis in January and July, or such other date as may from time to time be agreed between the Borrower and ADB, of each



Fiscal Year, in accordance with the Disbursement Schedule and detailed arrangements agreed upon between the Borrower and ADB, as set forth in the PAM.

(b) The Borrower shall submit withdrawal applications and relevant SOEs to ADB for reimbursement of Eligible Expenditures incurred against the PBHs on semi-annual basis. Except as set forth in paragraphs 5 and 6 of this Schedule and paragraph 8 of Schedule 5 to the Loan Agreement, the Loan proceeds, and the amount, shall be disbursed semi-annually on the following conditions and in the following manner:

- (i) 50% of the amount of the Loan proceeds agreed to be disbursed during a Fiscal Year shall be disbursed in July, or such other date as may from time to time be agreed between the Borrower and ADB, subject to (a) fulfillment by the Borrower of the DLIs that have been agreed between the Borrower and the DPs for the specified Fiscal Year; (b) submission of relevant SOE showing that PEDP3 Program financing and Eligible Expenditure incurred, as indicated in the relevant IFR for PBHs, have exceeded the disbursement to be made by the DPs for the relevant period; (c) submission of the ASPR for the relevant Fiscal Year showing the education sector performance and the progress of the overall PEDP3 Program; and (d) submission of report by the Borrower, in the relevant Fiscal Year, relating to social and environmental safeguard, inclusive education action plan including the GAP, procurement and financial management, as set out in Schedule 5 to this Loan Agreement; and
- (ii) 50% of the amount of the Loan proceeds agreed to be disbursed during a Fiscal Year shall be disbursed in January, or such other date as may from time to time be agreed between the Borrower and ADB, subject to submission by the Borrower of relevant SOE showing that PEDP3 Program financing and Eligible Expenditures incurred, as indicated in the relevant IFRs for the PBHs, have exceeded the disbursement to be made by the DPs for the relevant period.

5. The first disbursement of the Loan proceeds shall be subject to (a) fulfillment by the Borrower of the DLIs that have been agreed between the Borrower and the DPs for FY2015; (b) submission of relevant SOE showing that PEDP3 Program financing and Eligible Expenditure incurred, as indicated in the relevant IFR for PBHs, have exceeded the disbursement to be made by the DPs for the period from 1 January 2015 to the Effective Date; (c) submission of the ASPR for the relevant Fiscal Year showing the education sector performance and the progress of the overall PEDP3 Program; and (d) submission of report by the Borrower, in the relevant Fiscal Year, relating to social and environmental safeguard, inclusive education action plan including the GAP, procurement and financial management, as set out in Schedule 5 to this Loan Agreement.

6. The last disbursement of the Loan proceeds for FY2017 shall be made in July 2017, or such other date as may from time to time be agreed between the Borrower and ADB, subject to (a) fulfillment by the Borrower of the DLIs that have been agreed between the Borrower and the DPs for FY2017; (b) submission of relevant SOE showing that PEDP3

Program financing and Eligible Expenditure incurred, as indicated in the relevant IFR for PBHs, have exceeded the disbursement to be made by the DPs for the period from 1 January 2017 to 30 June 2017; (c) submission of the ASPR for the relevant Fiscal Year showing the education sector performance and the progress of the overall PEDP3 Program; and (d) submission of report by the Borrower, in the relevant Fiscal Year, relating to social and environmental safeguard, inclusive education action plan including the GAP, procurement and financial management, as set out in Schedule 5 to this Loan Agreement.

#### Statement of Expenditures

7. The statement of expenditures procedure may be used for reimbursement of Eligible Expenditures, in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

#### Retroactive Financing

8. Withdrawals from the Loan Account may be made for reimbursement of Eligible Expenditures incurred under the PEDP3 Program during the period from 1 January 2015 to the Effective Date, subject to a maximum amount equivalent to 20% of the Loan Amount.

## SCHEDULE 4

### Procurement of Goods, Works and Consulting Services

#### General

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

#### Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the following method of procurement: national competitive bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### National Competitive Bidding

5. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

#### Conditions for Award of Contract

6. The Borrower shall not award any Works contract for an activity under the PEDP3 Program which involves environmental impacts until the MOPME has:
  - (a) obtained the final approval of the IEE from the DOE; and
  - (b) incorporated the relevant provisions from the EMP into the Works contracts.
7. The Borrower shall not award any Works contract involving involuntary resettlement impacts for an activity under the PEDP3 Program until the Borrower has prepared and submitted to ADB and other DPs the final RP for such activity on the activity/project's detailed design, and obtained ADB's and other DPs' clearance of such RP.
8. The Borrower shall not award any Works contract for an activity under the PEDP3 Program which involves impact on small ethnic communities until the Borrower has

prepared and submitted to ADB the final SECP and obtained ADB's and other DPs' clearance of such SECP.

#### Consulting Services

9. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services and indefinite delivery contract for contracting method.

10. The Borrower shall recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

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

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

12. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

#### ADB's Review of Procurement Decisions

13. Contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project and Operation of Project Facilities; Financial Matters

#### Implementation Arrangements

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

2. Furthermore, the Borrower, MOPME and DPE, shall implement, manage, coordinate and monitor the PEDP3 Program in accordance with its objectives, responsibilities, funding mechanism, fiduciary requirements, and other program management arrangements as set out in the Program Document, the agreed JFA, SMF, EMF and the GAP.

#### Borrower's Contribution to PEDP3 Program

3. The Borrower shall provide \$1,665.2 million equivalent as the Borrower's additional contribution to the PEDP3 Program in a timely manner and in accordance with the provisions of the JFA and the Program Document, which has been prepared and agreed by the Borrower, ADB and other DPs.

#### Directorate of Primary Education

4. The Borrower shall cause MOPME and DPE to ensure that (a) critical PEDP3 Program staff shall remain in their position on a full-time basis for a reasonable duration to ensure continuity in the implementation of PEDP3 Program; and (b) DPE shall be adequately staffed and provided with the necessary financial, technical, and other resources to perform its functions under PEDP3 Program.

#### Joint Financing Arrangement

5. The Borrower shall ensure that MOPME and DPE shall implement the PEDP3 Program in accordance with the provisions of the JFA.

#### Project Website

6. DPE shall maintain and regularly update a comprehensive PEDP3 Program website which shall disclose information about all material matters relating to the PEDP3 Program and its implementation, including procurement. With regard to procurement, the website shall include information on the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of goods/services procured and the dates and location of the delivery of goods and services.

Disbursement Linked Indicators

7. The Borrower and ADB have agreed on certain activities in 9 selected priority areas for FY2014-FY2016, and in 6 selected priority areas for FY2016-FY2017, which the Borrower has to fulfill during the period of the PEDP3 Program, as conditions of disbursement of 50% of the Loan proceeds. The Borrower, MOPME and DPE agree that the 9 DLIs agreed for FY2014-FY2016 and the 6 DLIs agreed for FY2016-FY2017 shall be satisfied in accordance with the Disbursement Schedule and detailed arrangements set forth in the PAM.

8. Notwithstanding the generality of paragraph 4 of Schedule 3 to this Loan Agreement, in the event the Borrower cannot fulfill any of the required DLIs during a specific Fiscal Year, the amount of the Loan proceeds to be disbursed in the month of July following such Fiscal Year, in accordance with paragraph 4(b)(i) of Schedule 3 to this Loan Agreement, shall be reduced. The Borrower agrees that for the purposes of calculating any such reduction, each of the DLIs shall be priced as an equal share of the amount of the Loan proceeds to be disbursed, and the amount to be deducted out of the Loan proceeds to be disbursed shall correspond to the number of DLIs that are not fulfilled by the Borrower in the relevant period. In the event the Borrower subsequently fulfills said DLIs, the corresponding amount of the Loan proceeds that have not been disbursed may be disbursed in the semi-annual Loan proceeds disbursement following the fulfillment of the relevant DLI.

Environment

9. The Borrower shall ensure or cause MOPME and DPE to ensure that the preparation, design, construction, implementation, operation and decommissioning of the PEDP3 Program each activity under PEDP3 Program and all PEDP3 Program facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health, and safety; (b) the Environmental Safeguards; (c) the EMF; and (d) all measures and requirements set forth in the respective IEE or EIA and EMP, and any corrective or preventative actions set forth in a Safeguard Monitoring Report.

Land Acquisition and Involuntary Resettlement

10. The Borrower shall ensure or cause MOPME and DPE to ensure that all land and all rights-of-way required for the PEDP3 Program, each activity under PEDP3 Program, and all PEDP3 Program facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the SMF; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguard Monitoring Report.

11. Without limiting the application of the Involuntary Resettlement Safeguards, the SMF, and Borrower shall ensure or cause the MOPME and DPE to ensure that no physical or economic displacement takes place in connection with any of the activities under PEDP3 Program until:

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

#### Small Ethnic Communities

12. The Borrower shall ensure or cause MOPME and DPE to ensure that the preparation, design, construction, implementation and operation of the PEDP3 Program, each activity under PEDP3 Program, and all PEDP3 Program facilities comply with (a) all applicable laws and regulations of the Borrower relating to small ethnic communities; (b) the Small Ethnic Communities Safeguards; (c) the SMF; and (d) all measures and requirements set forth in the respective SECP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Human and Financial Resources to Implement Safeguards Requirements

13. The Borrower shall make available or cause MOPME and DPE to make available necessary budgetary and human resources to fully implement the EMP, the RP and the SECP.

#### Safeguards – Related Provisions in Bidding Documents and Works Contracts

14. The Borrower shall ensure or cause MOPME and DPE to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE or EIA, the EMP, the RP and the SECP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or small ethnic communities risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE or EIA, the EMP, the RP or the SECP.

#### Safeguards Monitoring and Reporting

15. The Borrower shall do the following or shall cause MOPME and DPE to do the following:

- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;

- (b) if any unanticipated environmental and/or social risk and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA or IEE, the EMP, the RP or the SECP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the RP or the SECP promptly after becoming aware of the breach.

#### Prohibited List of Investments

16. The Borrower shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

#### Gender

17. To ensure that women benefit equally from PEDP3 Program, the Borrower shall ensure that MOPME and DPE adopt and implement the GAP under the PEDP3 Program and that adequate resources are allocated for this purpose. In particular, the Borrower shall cause MOPME and DPE to ensure that the targets stated in the GAP shall be achieved. Implementation of the GAP shall be closely monitored and the progress shall be reported to ADB and other DPs.

#### Labor

18. The Borrower shall ensure, or cause MOPME and DPE to ensure, that the civil works contractors procured under the PEDP3 Program, comply with all applicable labor, health, and safety laws and regulations of Bangladesh and, in particular, (a) do not employ child labor for construction and maintenance activities, and (b) provide appropriate facilities (latrines, etc.) for workers at construction sites. The Borrower shall cause MOPME and DPE to require contractors not to differentiate wages between men and women for work of equal value. MOPME and DPE shall ensure that specific clauses shall be included in bidding documents for NCB contracts to ensure adherence to these provisions, and that compliance shall be strictly monitored during project implementation.

#### Governance and Anticorruption

19. The Borrower, MOPME and DPE shall (a) comply with ADB's Anticorruption Policy (1998 as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

20. MOPME and DPE shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and



implementing agencies and all contractors, suppliers, consultants, and other service providers as they related to the Project.

#### PFM Action Plan and Fiduciary Oversight

21. The Borrower shall ensure, or cause MOPME and DPE to ensure, that PFM Action Plan prepared for the PEDP3 Program and agreed by the Borrower, ADB and other DPs shall be implemented in an efficient and timely manner to address the fiduciary risks identified in managing funds and accounting for PEDP3 Program expenditures using the Borrower's financial or treasury system. Furthermore, the Borrower, MOPME and DPE shall provide full cooperation to the DPs in carrying out the fiduciary oversight pursuant to the agreed joint fiduciary oversight mechanism.

#### Accounting

22. The Borrower shall ensure that MOPME and DPE, in close consultation with the MOF, shall maintain the PEDP3 Program accounts and records by funding sources and all expenditures incurred under the PEDP3 Program in accordance with the PBH. The PEDP3 Program accounts shall be maintained following the international accounting principles and practices as well as the Borrower's accounting laws and regulations.

#### Reporting

23. The Borrower shall prepare and provide ADB and other DPs in a timely manner, all information, relevant to the implementation of the PEDP3 Program, including the (a) quarterly IFR; (b) a statement of progress in achievement of results, including achievement of DLIs, during each Fiscal Year; (c) an ASPR reporting on sub-sector development for a specified Fiscal Year, as reflected by key performance indicators; (d) an annual audit report from an independent auditor; and (e) other reports agreed between the Borrower and the DPs to be prepared and issued after joint reviews.

#### Review and Evaluation

24. The Borrower shall ensure that MOPME and DPE conduct, and invite ADB and other DPs to, a joint annual review mission in May each year and a consultation meeting in November each year to review the progress in the PEDP3 Program implementation. The items of agenda to be discussed during these reviews and consultations shall be in accordance with the provisions of the JFA.

25. The Borrower, ADB and other DPs shall jointly conduct an evaluation of the PEDP3 Program in the last year of the PEDP3 Program. During the joint annual review meeting of the PEDP3 Program, the Borrower, ADB and other DPs shall jointly prepare the terms of reference for the evaluation.