
LOAN NUMBER 3468-BAN(SF)

LOAN AGREEMENT
(Special Operations)

(Skills for Employment Investment Program – Tranche 2)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 14 FEBRUARY 2017

BAN 42466

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 14 February 2017 between PEOPLE'S REPUBLIC OF BANGLADESH ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB"),

WHEREAS

(A) by a framework financing agreement dated 30 March 2014 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Skills for Employment Investment Program;

(B) by a periodic financing request dated 9 August 2016, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the Finance Division under the Ministry of Finance of the Borrower with the assistance of the Directorate of Technical Education of the Ministry of Education ("MOE-DTE"), Bangladesh Industrial and Technical Assistance Center of the Ministry of Industries ("MOI-BITAC"), Bangladesh Bureau of Manpower, Employment and Training of the Ministry of Expatriates' Welfare and Overseas Employment ("MOEWOE-BMET"), Directorate of Youth Development of the Ministry of Youth and Sports, ("MOYS-DYD"), Bangladesh Technical Education Board ("BTEB") and National Skills Development Council Secretariat ("NSDC-S"), and for this purpose the Borrower will make available to these agencies proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(D) the Borrower has separately applied to the Government of Switzerland through the Swiss Agency for Development and Cooperation ("SDC") for a grant ("Grant"), to be administered by ADB, for the purposes of cofinancing expenditures under the Project;

(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; and

(F) ADB and the Borrower have agreed to implement the designation of all loans from ADB's Special Funds resources as concessional loans from ADB's ordinary capital resources with effect from 1 January 2017, which is implemented through the amendment of applicable legal agreements as set forth in the amendment letter dated 3 October 2016, including this Loan Agreement. Accordingly, this Loan Agreement shall be read together with the amendment letter;¹

NOW THEREFORE the parties agree as follows:

¹ Subject to the President's consideration and approval of the proposed loan on or prior to 31 December 2016.

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All 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, subject, however, to the following modifications:

- (a) Section 3.01 is deleted and the following is substituted therefor:

Loan Account. The principal amount of the Loan, as denominated in accordance with Section 4.01, shall be credited to the Loan Account and may be withdrawn therefrom in accordance with the provisions of the Loan Agreement and these Regulations.

- (b) Section 4.01 is deleted and the following is substituted therefor:

Denomination of the Loan. The Loan shall be denominated in the particular currency specified in the Loan Agreement.

- (c) Section 4.02 is deleted and the following is substituted therefor:

Currency of Withdrawal. Withdrawals from the Loan Account shall be made in the particular currency specified in the Loan Agreement.

- (d) Section 4.03 is deleted and the following is substituted therefor:

Currency of Payment of Principal. The principal of the Loan shall be expressed and repayable in the particular currency specified in the Loan Agreement. The Borrower shall repay the amount withdrawn from the Loan Account in accordance with the Loan Agreement."

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

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan and/or the Grant as described in paragraph 3 of Schedule 1 to this Loan Agreement, and as will be reflected in the PIAs;

(c) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program,

including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(d) "Environmental Management Plan" or "EMP" means each and any environmental management plan for the Project, including any updates thereto, incorporated in the IEEs;

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

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

(g) "FAM" means the updated facility administration manual dated 6 November 2016 and agreed between the Borrower and ADB, as further updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(h) "FFA" means the framework financing agreement dated 30 March 2014 between ADB and the Borrower with respect to the Facility;

(i) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the Borrower and ADB;

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

(k) "Initial Environmental Examination" or "IEE" means each and any initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the EARF and cleared by ADB;

(l) "Investment Program" means the Skills for Employment Investment Program;

(m) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(n) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(o) "M&E" means monitoring and evaluation;

(p) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 9 August 2016;

(q) "PKSF" means Palli Karma-Sahayak Foundation;

(r) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(s) "Procurement Plan" means the procurement plan for the Project dated 6 November 2016 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(t) "Project Executing Agency" for the purposes of and within the meaning of the Loan Regulations means the Finance Division of the Ministry of Finance of the Borrower, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(u) "Project facilities" means the facilities to be constructed, rehabilitated or improved under the Project;

(v) "Project Implementing Agency" or "Project Implementing Agencies" means any one or any combination of (i) MOE-DTE, MOI-BITAC, MOEWOE-BMET, MOYS-DYD, BTEB and NSDC-S, including participating public training institutions under those agencies, (ii) the twelve industry associations, and (iii) PKFS, as outlined in the FAM, or any successor or successors thereto acceptable to ADB;

(w) "Project Implementation Agreement" or "PIA" means any project implementation agreement or arrangement between the Borrower and any Project Implementing Agency with respect to the proceeds of the Loan provided to the relevant Project Implementing Agency under the Project as grant, upon terms and conditions satisfactory to ADB;

(x) "Resettlement Framework" or "RF" means the resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(y) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(z) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of, and compliance with, the Safeguard Policy Statement, including any corrective and preventative actions;

(aa) "Small Ethnic Communities Planning Framework" or "SECPF" means the small ethnic communities planning framework for the Investment Program, including any updates thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(bb) "Small Ethnic Community Peoples Plan" or "SECPP" means the small ethnic community peoples plan for the Project, including any updates thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the SECPF and cleared by ADB;

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

(dd) "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 of one hundred million Dollars (\$100,000,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 2% 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 15 May and 15 November 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 make part of the proceeds of the Loan available to the Project Implementing Agencies as grant in accordance with the relevant Project Implementation Agreement and shall cause the Project Implementing Agencies to apply such proceeds exclusively to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn 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. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2022 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 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 enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. (a) The Borrower shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds, and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) 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 4.04. (a) The Borrower shall exercise its rights under each Project Implementation Agreement 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 any Project Implementation Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension

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 8.01(m) of the Loan Regulations: the Borrower or any Project Implementing Agency shall have failed to perform any of its obligations under the relevant Project Implementation Agreement.

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 or Chief, 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's Ministry of Finance 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 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 
KAZI SHOFIQL AZAM
Secretary (In-charge)
Economic Relations Division

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 increase employment in priority sectors and skills for males and females.
2. The Project shall comprise:
 - (a) **Market responsive inclusive skills training:** This will include:
 - (i) Training of about 240,000 new entrants and existing workers through public training institutions under MOE, MOI, MOEWOE and MOYS; 12 industry associations; and PKSF; and
 - (ii) Training of about 2,000 industry representatives and selected university graduates through industry-specific middle-level managerial training programs.
 - (b) **Quality assurance system strengthening:** This will include:
 - (i) Development of additional competency-based skills standards and assessment tools;
 - (ii) Training of trainers, industry assessors, and school managers to upgrade their pedagogic, technical, and managerial skills;
 - (iii) Advanced industry-specific training for a group of master trainers, including overseas training; and
 - (iv) Overseas training for government officials of relevant agencies to learn about international best practices in quality assurance systems.
 - (c) **Institutional strengthening:** This will include:
 - (i) Supporting National Human Resource Development Fund by developing its operational guidelines and establishing its administrative and managerial structure;
 - (ii) Supporting the establishment of National Skills Development Authority or a human resource development division as a regulatory and administrative body for skills training across different ministries and the private sector;
 - (iii) Supporting NSDC-S and selected industry skills councils;
 - (iv) Supporting efforts toward sector-wide approach by implementing a skills development framework together with the Borrower and other development partners;

- (v). Modernization of three technical training centers under MOEWOE-BMET by improving facilities and equipment; and
 - (vi). Development of an investment plan for two priority sectors to establish a network of public and private institutions as centers of excellence to address advanced skills needs.
- (d) **Strengthening monitoring and management for skills development:** This will include:
- (i) Supporting trainee management system to track training and its outcomes;
 - (ii) Supporting tracer studies to assess the relevance and effectiveness of training for employment;
 - (iii) Supporting periodic in-depth analysis of skills gaps in key industries to help sector planning and financing for skills development; and
 - (iv) Supporting implementation of fiduciary risk management plans for training partners to ensure the effective management and governance of skills development efforts.
3. Consulting Services will be provided to undertake the above.
4. The Project is expected to be completed by 31 December 2021.

SCHEDULE 2**Amortization Schedule****(Skills for Employment Investment Program – Tranche 2)**

| <u>Date Payment Due</u> | <u>Payment of Principal</u> (expressed in \$)* |
|-------------------------|---|
| 15 May 2022 | 2,500,000 |
| 15 November 2022 | 2,500,000 |
| 15 May 2023 | 2,500,000 |
| 15 November 2023 | 2,500,000 |
| 15 May 2024 | 2,500,000 |
| 15 November 2024 | 2,500,000 |
| 15 May 2025 | 2,500,000 |
| 15 November 2025 | 2,500,000 |
| 15 May 2026 | 2,500,000 |
| 15 November 2026 | 2,500,000 |
| 15 May 2027 | 2,500,000 |
| 15 November 2027 | 2,500,000 |
| 15 May 2028 | 2,500,000 |
| 15 November 2028 | 2,500,000 |
| 15 May 2029 | 2,500,000 |
| 15 November 2029 | 2,500,000 |
| 15 May 2030 | 2,500,000 |
| 15 November 2030 | 2,500,000 |
| 15 May 2031 | 2,500,000 |
| 15 November 2031 | 2,500,000 |
| 15 May 2032 | 2,500,000 |
| 15 November 2032 | 2,500,000 |
| 15 May 2033 | 2,500,000 |
| 15 November 2033 | 2,500,000 |
| 15 May 2034 | 2,500,000 |
| 15 November 2034 | 2,500,000 |
| 15 May 2035 | 2,500,000 |
| 15 November 2035 | 2,500,000 |
| 15 May 2036 | 2,500,000 |
| 15 November 2036 | 2,500,000 |
| 15 May 2037 | 2,500,000 |
| 15 November 2037 | 2,500,000 |
| 15 May 2038 | 2,500,000 |
| 15 November 2038 | 2,500,000 |
| 15 May 2039 | 2,500,000 |
| 15 November 2039 | 2,500,000 |
| 15 May 2040 | 2,500,000 |
| 15 November 2040 | 2,500,000 |
| 15 May 2041 | 2,500,000 |
| 15 November 2041 | <u>2,500,000</u> |
| TOTAL | 100,000,000 |

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

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

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

3. The amount allocated to Category 9 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

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

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook and as per the detailed disbursement arrangements outlined in the FAM.

Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12

months before the date of this Loan Agreement, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

| ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Skills for Employment Investment Program – Tranche 2) | | | | |
|--|--|---|-------------|---|
| Number | Item | Total Amount Allocated for ADB Financing (\$) | | Basis for Withdrawal from the Loan Account |
| | | Category | Subcategory | |
| 1 | Civil Works | 11,169,000 | | 100% of total expenditure claimed |
| 2 | Training | 4,810,000 | | |
| 2A | Local Training | | 1,960,000 | 100% of total expenditure claimed |
| 2B | Overseas Training | | 2,850,000 | 100% of total expenditure claimed |
| 3 | Consultancy | 5,240,000 | | |
| 3A | International Consultants | | 740,000 | 100% of total expenditure claimed |
| 3B | National Consultants | | 4,500,000 | 100% of total expenditure claimed |
| 4 | Grants for Training | 57,070,000 | | 100% of total expenditure claimed |
| 5 | Studies and Workshop | 750,000 | | 100% of total expenditure claimed |
| 6 | Stipend for Disadvantaged Group | 3,850,000 | | 100% of expenditure claimed |
| 7 | Manpower | 3,060,000 | | 100% of expenditure claimed |
| 8 | Operating Cost | 2,451,000 | | 100% of expenditure claimed |
| 9 | Interest Charge During Implementation | 4,100,000 | | 100% of amount due |
| 10 | Unallocated | 7,500,000 | | |
| | TOTAL | 100,000,000 | | |

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. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. 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

4. Goods and Works shall be procured on the basis of procurement methods set forth below:
 - (a) international competitive bidding;
 - (b) national competitive bidding; and
 - (c) shopping.

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 which involves environmental impacts until the Borrower and the Project Executing Agency have incorporated the relevant provisions from the EMP into the Works contract.
7. The Borrower and the Project Executing Agency shall ensure that no Works commence under any Works contract which involves small ethnic community peoples impacts, until the Borrower has carried out all measures and meet all requirements stated in paragraph 3 of Schedule 5 to this Loan Agreement.

Consulting Services

8. Except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for Consulting Services.

9. The Borrower shall apply the following selection methods for the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: single source selection, quality-based selection, fixed-budget selection and consultants' qualifications selection.

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

Condition for Finalization of Project Implementation Agreements

11. The Borrower shall not finalize any Project Implementation Agreements, or any contract variations thereto, for skills training activities under the Project with any training provider until the financial management assessment including unit cost analysis and cash flow analysis is completed in a manner acceptable to ADB.

Industrial or Intellectual Property Rights

12. (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.

13. 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

14. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5**Execution of Project; Financial Matters**Implementation Arrangements

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

Environment

2. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project and all project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEEs, the EMPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Small Ethnic Community Peoples

3. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to small ethnic community peoples; (b) the Small Ethnic Community Peoples Safeguards; and (c) all measures and requirements set forth in the SECPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Involuntary Resettlement

4. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that the Project does not have any involuntary resettlement impacts within the meaning of the Safeguard Policy Statement. In the event that the Project does have any such impact, the Borrower shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower, the Safeguard Policy Statement, the RF and any corrective or preventative actions set forth in a Safeguard Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

5. The Borrower shall make available, or cause each of the Project Executing Agencies to make available, necessary budgetary and human resources to fully implement the EMPs and the SECPP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

6. The Borrower shall ensure, and cause each of the Project Implementing Agencies 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 any safeguards documents (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 environmental and social measures;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or small ethnic community peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEEs, the EMPs and SECPP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

7. The Borrower shall do the following, or shall cause each of the Project Implementing Agencies to do the following:

- (a) submit semiannual 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 risks and impacts arise during construction, implementation or operation of the Project, 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 EMPs and the SECPP promptly after becoming aware of the breach.

Prohibited List of Investments

8. The Borrower shall ensure, and cause each of the Project Implementing Agencies to 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.

Labor, Health and Anti Human Trafficking

9. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that the contractors comply with all applicable labor, health, and safety laws and regulations of the Borrower 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 require contractors not to differentiate wages between men and women for work of equal value. The Borrower and the Project Executing Agency shall ensure that specific clauses shall be included in bidding documents to ensure adherence to these provisions, and that compliance shall be strictly monitored during Project implementation.

10. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that the contractors shall disseminate information on the risk of transmission of sexually-transmitted diseases, including HIV/AIDS, in health and safety programs to all construction workers employed under the Project. Specific provisions to this effect shall be included in bidding documents and civil works contracts, and compliance shall be monitored by the Project Executing Agency and reported to ADB.

11. The Borrower shall ensure, and cause each of the Project Implementing Agencies to ensure, that awareness campaign on anti-human trafficking shall be conducted and that information and print material on anti-human trafficking shall be developed and distributed to all construction workers and the communities in the Project areas throughout the Project implementation period. Compliance shall be monitored by the Project Executing Agency and reported to ADB.

Counterpart Support

12. The Borrower shall make available, and ensure that each of the Project Executing Agencies makes available, adequate budgetary allocations of the required counterpart funds in respect of the Project on a timely and regular basis.

Project Reviews

13. ADB shall conduct semiannual reviews of the progress of the Project as necessary and undertake any necessary midcourse corrections. In addition, ADB shall conduct special reviews as appropriate. The Borrower shall give all possible assistance for carrying out such reviews.

Governance and Anticorruption

14. The Borrower and each Project Implementing Agency 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.

15. The Borrower and each Project Implementing Agency 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 agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

16. The Borrower shall cause each Project Implementing Agency to prepare and implement a robust code of conduct, acceptable to ADB, for their staff involved in the Project, ensuring, among others, that the staff members working with the project do not have any conflict of interest with any activities under the Project. The Borrower shall take necessary steps to further ensure that all applicable anticorruption laws of the Borrower which apply to public officers are vigorously enforced.

Gender and Development

17. The Borrower shall ensure that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Operation and Maintenance

18. The Borrower shall ensure that each Project Implementing Agency shall at all times have sufficient resource provision for its operation and maintenance cost for assets owned by it.

Annual Performance Review

19. ADB and the Borrower shall, as necessary, reallocate grants among the training providers participating in the training activities under the Project at the end of each year based on an annual performance review.