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LOAN NUMBER 3733 - IND

LOAN AGREEMENT  
(Ordinary Operations)

(Himachal Pradesh Clean Energy Transmission Investment Program - Project 3)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 16 November 2018

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IND: 43464-027

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 16 November 2018 between India acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

**WHEREAS**

(A) by a framework financing agreement dated 17 August 2011 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Himachal Pradesh Clean Energy Transmission Investment Program;

(B) by a periodic financing request dated 24 November 2017, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the State of Himachal Pradesh (the "State") acting through Himachal Pradesh Power Transmission Corporation Limited ("HPPTCL"), and for this purpose the Borrower will make the proceeds of the loan provided for herein available to the State, and the State will make the proceeds of the Loan available to HPPTCL, upon terms and conditions mutually acceptable to ADB and the Borrower; and

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

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of ADB's Ordinary Operations Loan Regulations, dated 1 January 2017 ("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) "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 as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "EA" or the "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through HPPTCL;

(c) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

(d) "Environmental Management Plan" or "EMP" means an environmental management plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;

(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 multitranches financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(g) "FFA" means the framework financing agreement dated 17 August 2011 between ADB and the Borrower with respect to the Facility;

(h) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;

(i) "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;

(j) "HPERC" means the Himachal Pradesh Electricity Regulatory Commission, or any legal successor thereto;

(k) "HPPTCL" means Himachal Pradesh Power Transmission Corporation Limited, established under the Borrower's Companies Act, 1956, or any legal successor thereto;

(l) "Indigenous Peoples Plan" or "IPP" means an indigenous peoples plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA, pursuant to the requirements set forth in the IPPF and cleared by ADB;

(m) "Indigenous Peoples Planning Framework" or "IPPF" means the indigenous peoples planning framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

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

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

(p) "Investment Program" means the Himachal Pradesh Clean Energy Transmission Investment Program;

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

(r) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);

(s) "PAM" means the project administration manual for the Project dated September 2018 and agreed between the Borrower, ADB, and the EA, as updated from time to time in accordance with the respective administrative procedures of the Borrower, EA and ADB;

(t) "PFR" means the periodic financing request submitted by the Borrower for the purposes of each loan under the Facility, and for this Loan Agreement means the periodic financing request dated 24 November 2017;

(u) "PMU" means the project management unit established within HPPTCL for the purposes of the Investment Program;

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

(w) "Procurement Plan" means the procurement plan for the Project as agreed between the Borrower through the EA, and ADB, and included in the PAM, including as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(x) "Project facilities" means the substations, transmission lines and other facilities constructed under the Project;

(z) "Resettlement Framework" or "RF" means the resettlement framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

(aa) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA, pursuant to the requirements set forth in the RF and cleared by ADB;

(bb) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the EA to ADB that describes progress with implementation of, and compliance with, the EMP, the RP and an IPP (as applicable), including any corrective and preventative actions;

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

(dd) "State" means the State of Himachal Pradesh;

(ee) "Subproject" means each and any of the subprojects found eligible for financing under the Project in accordance with Schedule 4 of the FFA; and

(ff) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including project related services such as auxiliary services rendered under the contracts to perform works such as survey and investigation, that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred and five million Dollars (\$105,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) 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 2.02. 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:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 01 April and 01 October in each year.

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

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

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

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

### **ARTICLE III**

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

Section 3.01. The Borrower shall make the proceeds of the Loan available to the EA upon terms and conditions mutually satisfactory to ADB and the Borrower, and shall cause the EA to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The 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 ensure, or cause the EA to ensure, that the items of expenditure to be financed out of the proceeds of the Loan are procured in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 29 September 2021 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 by the EA, all obligations set forth in this Loan Agreement and the Project 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. 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.

Section 4.04. In so far as it relates to the Project, the Borrower shall ensure or cause the State to ensure to take all actions which shall be necessary on its part to enable the EA 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) In so far as it relates to the Project, 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) In so far as it relates to the Project, no rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without prior notice to ADB.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

## **ARTICLE VI**

### **Miscellaneous**

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

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

For the Borrower

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

Facsimile Number:

(91)11- 23094075

For ADB

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

Facsimile Numbers:

(632) 636-2444  
(632) 636-2388

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.

INDIA

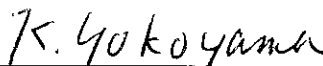
By



Sameer Kumar Khare  
Additional Secretary (FB & ADB)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By



Kenichi Yokoyama  
Country Director



**SCHEDULE 1****Description of the Project**

1. The objective of the Project is to improve the capacity of HPPTCL to transmit electricity from hydropower generation sources within and outside of the State and manage its operations.
2. The Project shall comprise the following outputs as detailed in the PFR:
  - (a) new transmission system assets made operational, including 5 transmission lines and 4 substations within the State; and
  - (b) an enterprise resource planning ("ERP") system fully operational.
3. The Project is expected to be completed by 31 March 2021.

## SCHEDULE 2

### Amortization Schedule

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.

Sequence	Date Payment Due	Installment Share (Expressed as a %)
1	1 April 2024	2.500000
2	1 October 2024	2.500000
3	1 April 2025	2.500000
4	1 October 2025	2.500000
5	1 April 2026	2.500000
6	1 October 2026	2.500000
7	1 April 2027	2.500000
8	1 October 2027	2.500000
9	1 April 2028	2.500000
10	1 October 2028	2.500000
11	1 April 2029	2.500000
12	1 October 2029	2.500000
13	1 April 2030	2.500000
14	1 October 2030	2.500000
15	1 April 2031	2.500000
16	1 October 2031	2.500000
17	1 April 2032	2.500000
18	1 October 2032	2.500000
19	1 April 2033	2.500000
20	1 October 2033	2.500000
21	1 April 2034	2.500000
22	1 October 2034	2.500000
23	1 April 2035	2.500000
24	1 October 2035	2.500000
25	1 April 2036	2.500000
26	1 October 2036	2.500000
27	1 April 2037	2.500000
28	1 October 2037	2.500000
29	1 April 2038	2.500000
30	1 October 2038	2.500000
31	1 April 2039	2.500000
32	1 October 2039	2.500000

Schedule 2

Sequence	Date Payment Due	Installment Share (Expressed as a %)
33	1 April 2040	2.500000
34	1 October 2040	2.500000
35	1 April 2041	2.500000
36	1 October 2041	2.500000
37	1 April 2042	2.500000
38	1 October 2042	2.500000
39	1 April 2043	2.500000
40	1 October 2043	2.500000
	Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

- (a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule; and
- (b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

Schedule 2

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

### SCHEDULE 3

#### Allocation and Withdrawal of Loan Proceeds

##### General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category and Subcategory ("Table"). (Reference to "Category" or "Subcategory" 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 allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

##### Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, in consultation with and notice to the Borrower and the EA, (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, in consultation with and notice to the Borrower and the EA, reallocate such excess amount to any other Category.

##### Disbursement Procedures

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

##### Retroactive Financing

5. 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 in connection with items to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (\$)</b>	<b>Basis for Withdrawal from the Loan Account</b>
		<b>Category</b>	
1	Turnkey Contracts for Transmission Line	42,340,000	100% of total expenditure claimed
2	Turnkey Contracts for Substations	33,600,000	100% of total expenditure claimed
3	ERP and Related Hardware	10,700,000	100% of total expenditure claimed
4	Tools and Equipment	1,360,000	100% of total expenditure claimed
5	Auxiliary Civil Works	3,240,000	100% of total expenditure claimed
6	Unallocated	13,760,000	
	<b>TOTAL</b>	105,000,000	

**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 through the EA 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 the procurement methods of procurement set forth below:
  - (a) International Competitive Bidding;
  - (b) National Competitive Bidding; and
  - (c) Shopping.

Domestic Preference

5. The Borrower may allow the EA to grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

National Competitive Bidding

6. The EA's standard bidding documents and procurement procedures, under ongoing ADB Loan No. 3001-IND as in use by the EA were reviewed by ADB. These were found consistent with ADB's requirements, and shall apply to the Project. Modifications if any to such bidding documents shall be subject to mutual agreement between the Borrower, the EA and ADB.

Conditions for Award of Contract

7. The Borrower shall ensure or cause the EA to ensure that it shall not award any Works contract for a Subproject that involves involuntary resettlement impacts for a Subproject until it has prepared and submitted to ADB the final RP based on the Subproject's detailed design, and obtained ADB's clearance of such RP.

8. The Borrower shall ensure or cause the EA to ensure that it shall not award any Works contract for a Subproject that involves environmental impacts until it has (i) has prepared and submitted to ADB the final IEE and EMP based on the Subproject's detailed design; (ii) obtained ADB's clearance of such IEE and EMP; and (iii) has incorporated the relevant provisions from the EMP into the Works contract.

9. The Borrower shall ensure or cause the EA to ensure that it shall not award any Works contract for a Subproject that involves indigenous peoples impact for a Subproject until it has prepared and submitted to ADB the final IPP based on the Subproject's detailed design, and obtained ADB's clearance of such IPP.

#### Consulting Services

10. Except as ADB may otherwise agree and as set forth in the Procurement Plan, the Borrower shall ensure or cause the EA to ensure to apply Quality- and Cost-Based Selection for Consulting Services.

#### Industrial or Intellectual Property Rights

11. (a) The Borrower shall ensure or cause the EA to 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 or cause the EA to 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 or cause the EA to 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 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, EA, and ADB and set forth in the Procurement Plan.



## SCHEDULE 5

### Execution of Project

#### Implementation Arrangements

1. The Borrower shall ensure and cause the State, and HPPTCL to 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, the EA and ADB. In the event of any discrepancy between the PAM, this Loan Agreement, and the Project Agreement, the provisions of this Loan Agreement shall prevail.
2. The Borrower shall ensure or cause the EA to ensure towards smooth implementation of the Project, that grievances if any from stakeholders, relating to Project implementation or use of funds under the Project are addressed effectively and efficiently.
3. The Borrower shall ensure that the EA shall (i) ensure that the PMU employs sufficient staff for the duration of the Project with adequate and relevant expertise in the field of project management, financial management, engineering, construction supervision, procurement, equipment inspection and testing, and environmental and social safeguards implementation; (ii) keep the PMU equipped with the necessary office space, facilities, equipment, support staff and management information systems for the entire duration of the Project; and (iii) endeavor to assign the same persons to key positions in the PMU for the entire duration of the Project.
4. The Borrower shall ensure or cause the EA to ensure compliance with all the requirements and obligations in its part as included in this Loan Agreement and Project Agreement to meet the objectives of the Project in a timely and efficient manner.

#### Counterpart Support; Funds

5. The Borrower shall cause the State to make available the Loan proceeds to the EA under appropriate arrangements acceptable to ADB, and ensure:
  - (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
  - (b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, to be provided to the EA, during and after Project completion.

#### Selection Criteria and Approval Process for Subprojects

6. The Borrower shall ensure or cause the EA to ensure that all Subprojects are selected and approved in accordance with the selection criteria and approval process stipulated in Schedule 4 to the FFA.
7. The Borrower shall ensure or cause the EA to ensure that all documents forming the basis for screening, selection and processing of Subprojects are made available to ADB upon request and are kept available for such purposes for a minimum period of five years from the date of the project completion report for the Project.

SafeguardsEnvironment

8. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation, operation and decommissioning of each Subproject comply with (i) all applicable laws and regulations of the Borrower and the State relating to environment, health, and safety; (ii) the Environmental Safeguards; (iii) the EARF; and (iv) all measures and requirements set forth in the IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

9. The Borrower shall ensure or cause the EA to ensure that all land and all rights-of-way required for each Subproject 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 (i) all applicable laws and regulations of the Borrower and the State relating to land acquisition and involuntary resettlement; (ii) the Involuntary Resettlement Safeguards; (iii) the RF; and (iv) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

10. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RP, the Borrower shall ensure or cause the EA to ensure that no physical or economic displacement takes place in connection with the Subprojects 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.

Indigenous Peoples

11. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation and operation of the relevant Subproject(s) comply with (i) all applicable laws and regulations of the Borrower and the State relating to indigenous peoples; (ii) the Indigenous Peoples Safeguards; (iii) the IPPF; and (iv) all measures and requirements set forth in the relevant IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

12. The Borrower shall ensure or cause the EA to ensure that all necessary budgetary and human resources to fully implement the EMP, the RP and any IPP as required are made available on a timely basis.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

13. The Borrower shall ensure or cause the EA 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, the EMP, the RP and any IPP (as applicable), 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 EA with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP or any IPP;
- (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

14. The Borrower shall ensure or cause the EA to ensure 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 risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP or any IPP (as applicable), 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 breach of compliance with the measures and requirements set forth in the EMP, the RP or any IPP (as applicable) promptly after becoming aware of the breach.

Prohibited List of Investments

15. The Borrower shall ensure or cause the EA 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 Standards

16. The Borrower shall ensure or cause the EA to ensure that Works contracts under the Project follow all applicable labor laws of the Borrower and the State and that these further include provisions to the effect that contractors (i) carry out HIV/AIDS awareness programs for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (ii) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.

Gender

17. The Borrower shall ensure or cause the EA to ensure that the principles of gender equality aimed at increasing Project benefits and impact on women in the Project area are followed during implementation of the Project. These include (i) equal pay to men and women for work of equal value; (ii) enabling working conditions for women workers; and (iii) taking necessary actions to encourage women living in the Project area to participate in the design and implementation of Project activities.

Procurement

18. The Borrower shall ensure or cause the EA to announce the Project and business opportunities (i.e., invitation of potential bids) associated with the Project on its website. The website shall disclose the following information in relation to goods and services procured for the Project and Subprojects: (a) the list of participating bidders; (b) the name of the selected bidder; (c) the amount of the contracts awarded; and (d) the goods and services procured.

Facilities Maintenance

19. The Borrower shall ensure or cause the State to ensure timely and adequate funds to the EA for maintenance of the Project facilities.

Communications and Participation

20. The Borrower shall ensure or cause the EA to ensure that the Project is undertaken in conformity with the stakeholder communication strategy as agreed between ADB, the Borrower, and the EA and referred in the PAM.

Governance and Anticorruption

21. The Borrower shall ensure and cause the EA to ensure that it shall a) comply with ADB's Anticorruption Policy (1998, as amended to date) and (b) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, and the EA are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the EA and all contractors, suppliers, consultants, and other service providers as they relate to the

Schedule 5

Subprojects and the Project, and as included in the PAM; (c) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (d) 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 (e) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

Financial and institutional matters

22. The Borrower shall ensure or cause the EA to ensure that HPPTCL undertakes the following activities on a timely basis.

- (a) Tariff: Submits to HPERC tariff applications for each Subproject in a timely manner prior to commercial operation of the Subproject; and that HPPTCL shall promptly cause to be delivered all documentation reasonably requested by the competent regulatory State authorities to ensure a prompt decision by HPERC on the applicable tariff rates.
- (b) Implementation of capacity development recommendations: Analyzes the recommendations made by consultants under the capacity development component of the Project for adoption of suitable management information systems, and agree with ADB on implementation in accordance with a time-bound action plan that ensures that the relevant outputs are achieved within the Project implementation period.
- (c) Organizational Matters: Recruits additional key personnel in the areas of procurement, finance and other staff required to meet substantially all its other staffing requirements for effective execution of the projects under the MFF.

23. The Borrower shall ensure or cause the EA to ensure, that subject to HPPTCL's recruitment and promotion rules, HPPTCL shall generally recruit all personnel on a competitive and transparent basis through open advertisements in the relevant printed media and on their websites.

Debt service coverage ratio

24. The Borrower shall ensure or cause the EA to ensure that except as otherwise required by the HPERC, from January 2021 onwards HPPTCL shall maintain a debt-service coverage ratio of 1.2. For the purposes of this provision, the term "debt" means any indebtedness maturing by its terms more than one year after the date on which it is originally incurred.