
LOAN NUMBER 3982-GEO

LOAN AGREEMENT
(Ordinary Operations)

(Sustainable Water Supply and Sanitation Sector Development Project)

between

GEORGIA

and

ASIAN DEVELOPMENT BANK

DATED 15 OCTOBER 2020

GEO 51132

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 15 October 2020 between GEORGIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB"),

WHEREAS

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

(B) the Project will be carried out by UWSCG as the implementing agency, under the oversight of MRDI as the executing agency, and for this purpose the Borrower will make available to UWSCG the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(C) by an agreement of even date herewith between the Borrower and ADB ("Program Loan Agreement"), ADB has agreed to provide a loan from its ordinary capital resources in the amount of €115,310,000 for the purposes of financing expenditures of the Program described in Schedule 1 to the Program Loan Agreement; and

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

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, subject, however, to the following modifications:

(a) Section 2.01(uu) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and UWSCG, as such agreement may be amended from time to time; and such project agreement includes all schedules to the Project Agreement.

(b) The term "Project Executing Agency" appearing in Sections 7.01(a)(i), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "UWSCG".

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 Services" means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (b) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (c) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (d) "FY" means the fiscal year of UWSCG;
- (e) "GAP" means the gender action plan for the Project, including any update thereto;
- (f) "GNERC" means Georgian National Energy and Water Supply Regulatory Commission of the Borrower;
- (g) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (h) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (i) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (j) "IPMO" means the investment program management office at UWSCG;
- (k) "LARF" means the land acquisition and resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (l) "LARP" means any land acquisition and resettlement plan for the Project, including any update thereto, prepared and submitted during the Project implementation, as necessary, by the Borrower pursuant to the requirements set forth in the LARF and cleared by ADB;
- (m) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);

- (n) "MRDI" means the Ministry of Regional Development and Infrastructure of the Borrower or any successor thereto;
- (o) "Nonconsulting Services" means nonconsulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (p) "PAM" means the project administration manual for the Project dated 11 August 2020 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;
- (q) "Procurement Plan" means the procurement plan for the Project dated 11 August 2020 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;
- (r) "Procurement Policy" means ADB's Procurement Policy – Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (s) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (t) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MRDI or any successor thereto acceptable to ADB, which is responsible for carrying out the Project;
- (u) "Project Implementing Agency" means UWSCG or any successor thereto acceptable to ADB, which is responsible for implementing the Project;
- (v) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMP, the LARP (as applicable), including any corrective and preventative actions;
- (w) "Services" means Consulting Services and Nonconsulting Services;
- (x) "SPS" means ADB's Safeguard Policy Statement (2009);
- (y) "Subsidiary Loan Agreement" means the agreement among the Borrower (represented by its Ministry of Finance), MRDI and UWSCG referred to in Section 3.01(a) of this Loan Agreement;
- (z) "UWSCG" means the United Water Supply Company of Georgia Limited Liability Company established under the laws and regulations of the Borrower with its current registered address at 76b, Vazha Pshavela Ave., Tbilisi 0186, Georgia, or any successor thereto acceptable to ADB;

- (aa) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services, and project related services that are provided as part of a single responsibility or turnkey contract; and
- (bb) "WSS" means water supply and sanitation.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of seventeen million seven hundred forty thousand Euros (€17,740,000), 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 9 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) EURIBOR;
- (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 0.20% 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 15 April and 15 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. (a) The Borrower shall relend the proceeds of the Loan to UWSCG under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for relending the proceeds of the Loan shall include the same loan terms and interest at the same per annum rate as is payable by the Borrower to ADB under this Loan Agreement (inclusive of foreign exchange risk).

(b) The Borrower shall cause the proceeds of the Loan to be applied exclusively 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 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 9.02 of the Loan Regulations shall be 30 June 2025 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 4 to this Loan Agreement and the Project Agreement.

Section 4.02. 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 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods, Works and Services, and any relevant records and documents.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the Project Implementing Agency to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the Subsidiary Loan 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 the Subsidiary Loan Agreement shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

ARTICLE V

Effectiveness

Section 5.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the Program Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.

Section 5.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the Program Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and is legally binding upon the Borrower in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 5.03. 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 Minister 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

Ministry of Finance
16 Gorgasali Street, 0114
Tbilisi, Georgia

Email:

publicdebt@mof.ge

For ADB

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

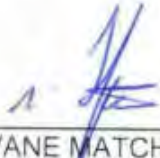
Facsimile Numbers:

(632) 8636-2444
(632) 8636-2301.

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.


GEORGIA

By


IVANE MATCHAVARIANI
Minister of Finance

ASIAN DEVELOPMENT BANK

By


SHANE ROSENTHAL
Country Director
Georgia Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is improved WSS sector performance and financial sustainability in Georgia.
2. The Project shall include:
 - (a) rehabilitation of water supply system in Telavi;
 - (b) improvement of UWSCG's operations and maintenance capacity and equipment;
 - (c) preparation activities for rural WSS sector development;
 - (d) strengthening of project management, and monitoring and evaluation; and
 - (e) increase in public awareness of infection prevention measures in the context of COVID-19 through emphasizing importance of health, hygiene and sanitation, and water conservation.
3. The Project is expected to be completed by 31 December 2024.

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.

Payment Due	Installment Share (Expressed as a %)
15 October 2034	5.555556
15 April 2035	5.555556
15 October 2035	5.555556
15 April 2036	5.555556
15 October 2036	5.555556
15 April 2037	5.555556
15 October 2037	5.555556
15 April 2038	5.555556
15 October 2038	5.555556
15 April 2039	5.555556
15 October 2039	5.555556
15 April 2040	5.555556
15 October 2040	5.555556
15 April 2041	5.555556
15 October 2041	5.555556
15 April 2042	5.555556
15 October 2042	5.555556
15 April 2043	5.555548
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 2 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 (a) 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 (b) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of 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 allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest and Commitment Charges

3. The amount allocated to Category "Interest and Commitment Charges" is for financing interest and commitment charges on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charges.

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.

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 in connection with Works and Services, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition for Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account until the Subsidiary Loan Agreement, in form and substance satisfactory to ADB, has been duly authorized and executed and delivered on behalf of the Borrower (represented by its Ministry of Finance), MRDI and UWSCG, and is legally binding upon such parties in accordance with its terms.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (EUR)	Basis for Withdrawal from the Loan Account
		Category	
1	Works, Equipment, Services	13,788,000	84.7% of the total expenditures claimed*
2	Project management and audit	1,210,000	84.7% of the total expenditures claimed*
3	Interest and Commitment Charges	510,000	100% of amounts due
4	Unallocated	2,232,000	
	TOTAL	17,740,000	

* Subject to the condition for withdrawal described in paragraph 7 of Schedule 3.

SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

1. The Borrower shall ensure, or cause UWSCG 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 and ADB. In the event of any discrepancy between the PAM, on one hand, and this Loan Agreement and the Project Agreement, on the other, the provisions of this Loan Agreement and the Project Agreement shall prevail.
2. The Borrower shall and cause UWSCG to maintain the IPMO as agreed in the PAM, with adequate resources and staff necessary for the duration of the Project. The Borrower shall cause UWSCG to undertake best efforts to ensure that the same persons will continue to be assigned to key positions in the IPMO for the entire duration of the Project, including, without limitation, the head of the IPMO. In the event that the head of the IPMO needs replaced during the Project, the selection and appointment of a replacement IPMO head shall be conducted in consultation with ADB.

Procurement

3. The Borrower shall ensure, or cause UWSCG to ensure, that:
 - (a) the procurement of Goods, Works and Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;
 - (b) Goods, Works and Services shall be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Borrower may modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan, and
 - (c) (i) all Goods and Works procured and Services obtained (including 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; and (ii) all contracts for the procurement of Goods, Works and Services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.
4. The Borrower shall cause UWSCG not to award any Works or Nonconsulting Services contract which involves environmental impacts until UWSCG has:

- (a) obtained the final approval of the applicable IEE from the appropriate authority of the Borrower and cleared by ADB; and
- (b) incorporated the relevant provisions from the EMP into the Works or Nonconsulting Services contract.

5. The Borrower shall not award any Works or Nonconsulting Services contract which involves involuntary resettlement impacts, until the UWSCG has prepared and submitted to ADB the final LARP based on the Project's detailed design, and obtained ADB's clearance of such LARP.

Environment

6. The Borrower shall ensure or cause UWSCG 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 IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

7. The Borrower shall ensure or cause UWSCG to ensure that all land and all rights-of-way required for the Project and all Project 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 LARF; and (d) all measures and requirements set forth in any LARP to be developed, as necessary, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

8. Without limiting the application of the Involuntary Resettlement Safeguards, LARF or the LARP, the Borrower shall ensure or cause UWSCG to ensure that no physical or economic displacement takes place in connection with the Project until:

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

Indigenous Peoples

9. The Borrower shall ensure or cause UWSCG to ensure that the Project does not have any indigenous peoples impacts within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower shall or shall cause UWSCG to, take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower relating to indigenous peoples and the SPS.

Human and Financial Resources to Implement Safeguards Requirements

10. The Borrower shall make available or cause UWSCG to make available necessary budgetary and human resources to fully implement the EMP and the LARP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

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

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP, and the LARP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the UWSCG 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, and the LARP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

12. The Borrower shall do the following or cause UWSCG 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 risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, and the LARP, 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, or the LARP promptly after becoming aware of the breach.

Prohibited List of Investments

13. The Borrower shall ensure, and shall cause UWSCG 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, Health and Safety

14. The Borrower shall ensure, and shall cause UWSCG to ensure, that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall ensure, and shall cause UWSCG to include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

15. The Borrower shall strictly monitor compliance with the requirements set forth in paragraph 14 above and provide ADB with regular reports.

Gender and Development

16. The Borrower shall ensure, and shall cause UWSCG to 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.

Counterpart Support

17. The Borrower shall ensure that (a) the financial, technical and human resources which are necessary for the implementation of the Project are provided in a timely basis throughout the implementation of the Project; and (b) adequate funds are allocated for the maintenance of the infrastructure that is built, and the items that are procured, under the Project. Without limiting the generality of the foregoing, if the Project experiences cost overruns in excess of the proceeds of the Loan, the Borrower shall provide financial support to UWSCG towards any reasonable cost overruns in order to achieve the objective of the Project, unless otherwise agreed by the parties. In addition to the foregoing, the Borrower shall ensure that UWSCG has sufficient funds to satisfy its liabilities arising from any Works, Goods and/or Services contract.

Sector Development

18. The Borrower shall ensure that (a) ADB is kept informed of the Borrower's policies and programs for the WSS sector that will materially affect the economic viability of the Project; and (b) best efforts are used to sustain and strengthen the WSS sector.

19. The Borrower shall ensure that, beginning from 2020, UWSCG coordinates with GNERC to initiate tariff rationalization including regular tariff review process based on cost recovery principles, in particular to assure full recovery of operation and maintenance costs, taxes, depreciation of assets, a return on capital and with a goal for UWSCG to reach fully financially sustainable operations (including debt service obligations) based on socially equitable principles that ensure consumers will not pay for inefficient services.

20. Without limiting the Borrower's obligations under paragraph 19 above and paragraph 23 below, the Borrower shall provide to ADB (a) by 30 June 2021 a strategic tariff adjustment plan including the road map; and (b) by 31 December 2023 the tariff implementation report.

21. The Borrower shall ensure that ADB's consent is obtained at least 3 months prior to the implementation of any of the following: (a) any change in ownership or control of UWSCG or any asset, facility or structure rehabilitated, procured or constructed under the Project; or (b) any change to UWSCG's authority or functions, that may affect the implementation of the Project. The Borrower shall ensure that any such change is carried out in accordance with all applicable laws and regulations of the Borrower.

Financial Covenants

22. The Borrower shall cause UWSCG to attain an operating ratio of 1, per the operating ratio definition set below, by the end of FY 2023, and shall continue to maintain it less than 1 thereafter. For the purposes of this paragraph 22, "operating ratio" shall mean the ratio of UWSCG's operating expenses over its operating revenue, including other income, with "operating expenses" meaning all expenses of UWSCG on operation and maintenance, including staff salaries and benefits, cost of electricity, chemicals and consumables, routine maintenance, spare parts, consumables, taxes, etc. but excluding capital expenditures, debt service obligations, amortization and depreciation. "Operating revenue" means the revenue collected by UWSCG from the sale of water and other revenues excluding grants from the government.

23. Until such time as tariff increases or other sources of incomes make it possible for UWSCG to meet the operating ratio targets defined in paragraph 22 above from its own sources, the Borrower shall also ensure provision of adequate funds to UWSCG to enable UWSCG to continue its operations and to meet all its debt obligations in any given period. Both operating ratio, collection rate, and debt service coverage ratio levels for any given fiscal year shall be included as part of the audited entity financial statements of UWSCG submitted annually to ADB.

24. The Borrower shall cause UWSCG to maintain a debt service coverage ratio of more than 1, per the debt service ratio definition set below, by the end of FY 2020, and shall continue to maintain it at more than 1 thereafter. For the purposes of this paragraph, "debt service coverage ratio" shall mean the ratio of the sum of UWSCG's net cash flow from operating activities and all subsidies and grants received from the government, as reported in UWSCG statement of cash flows, over its total debt service obligations, including repayments of borrowings and interest payments.

25. The Borrower shall cause UWSCG to improve its service delivery, and revenue collection from all domestic consumers and non-domestic consumers through continued attainment of an average 95% revenue collection rate per annum from the FY 2020 to FY 2024. The Borrower shall also cause UWSCG to minimize unauthorized water consumption by 35 million m³ by eliminating illegal connections and to reduce metering inaccuracies by installing water meters for at least 80% of all customers by the end of FY 2025.

Governance and Anticorruption

26. The Borrower and UWSCG 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.

27. The Borrower and UWSCG 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 relate to the Project.