
LOAN NUMBER 3853-BAN

LOAN AGREEMENT
(Ordinary Operations)

(Dhaka and Western Zone Transmission Grid Expansion Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 11 DECEMBER 2019

BAN 51137

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 11 December 2019 between PEOPLE'S REPUBLIC OF BANGLADESH ("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 Borrower has also applied to the Asian Infrastructure Investment Bank ("AIIB") for a loan in an amount of two hundred million Dollars (\$200,000,000) ("AIIB Loan") for the purposes of cofinancing expenditures under the Project;

(C) by a project co-lenders' agreement dated 14 October 2019 between ADB and AIIB ("Cofinancing Agreement"), ADB has agreed to partially administer the AIIB Loan on the terms and conditions set out in the Cofinancing Agreement;

(D) the Borrower intends to borrow the AIIB Loan under a Loan Agreement to be entered into between AIIB and the Borrower (the "AIIB Loan Agreement");

(E) the Borrower has also applied to the People's Republic of China Poverty Reduction and Regional Cooperation Fund ("PRCF") for a grant in an amount of seven hundred and fifty thousand Dollars (\$750,000) ("Grant"), to be administered by ADB, for the purposes of cofinancing expenditures under the Project;

(F) by a grant agreement of even date between the Borrower and ADB ("Grant Agreement"), ADB has agreed to make the proceeds of the Grant available to the Borrower on the terms and conditions set forth therein;

(G) the Project will be carried out by Power Grid Company of Bangladesh Limited ("PGCB"), and for this purpose the Borrower will make available to PGCB the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(H) 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 PGCB;

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) "CAP" means the corrective action plan for the Project, including any update thereto, included in the Environmental Audit;
- (b) "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 and Grant;
- (c) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (d) "Environmental Audit" means the environmental audit for the Project, including any update thereto, incorporated in the IEE;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan and Grant including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (g) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (h) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (i) "km" means kilometer;
- (j) "kV" means kilovolt;
- (k) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (l) "MVA" means megavolt-ampere;
- (m) "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 and Grant;
- (n) "PAM" means the project administration manual for the Project dated 9 September 2019 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;

- (o) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (p) "Procurement Plan" means the procurement plan for the Project dated 9 September 2019 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;
- (q) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (r) "Project Executing Agency" for the purposes of, and within the meaning of the Loan Regulations means PGCB, which is responsible for the carrying out of the Project;
- (s) "Project facilities" means the facilities to be improved, constructed or provided under the Project;
- (t) "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (u) "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, CAP, and the RP (as applicable), including any corrective and preventative actions;
- (v) "Services" means Consulting Services and Nonconsulting Services;
- (w) "SPS" means ADB's Safeguard Policy Statement (2009);
- (x) "Subsidiary Financing Agreement" means the agreement between the Borrower and PGCB referred to in Section 3.01(a) of this Loan Agreement; and
- (y) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan and Grant, including any related Nonconsulting Services and project related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred seventy-one million eight hundred thirty-eight thousand Euros (€271,838,000), 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) 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 0.10% 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 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 PGCB under a Subsidiary Financing Agreement upon terms and conditions satisfactory to ADB.

(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 31 December 2024 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. The Borrower shall enable ADB's representatives to inspect the Project, the Goods, Works and Services, 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. The Borrower shall take all actions which shall be necessary on its part to enable PGCB 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 Financing 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 Financing Agreement shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(m) of the Loan Regulations:

- (a) the Borrower shall have failed to perform one or more of its obligations under the AIIB Loan Agreement or the Grant Agreement; or
- (b) the AIIB Loan or Grant shall have become liable for suspension or cancellation for any reason whatsoever.

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

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations:

- (a) the AIIB 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 or arrangements satisfactory

to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB;

- (b) the Grant 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; and
- (c) the Subsidiary Financing Agreement shall have been duly executed and delivered on behalf of the Borrower and PGCB, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled

Section 6.02. 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 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 Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

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:

(632) 8636-2444
(632) 8636-2293.

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 

MONOWAR AHMED
Secretary
Economic Relations Division
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 

MANMOHAN PARKASH
Country Director
Bangladesh Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to improve the reliability and efficiency of electricity supply in Greater Dhaka and the western zone within the territory of the Borrower.
2. The Project shall comprise:
 - (a) the construction and commissioning of (i) 22 km of 400 kV transmission lines; (ii) 9 km of 230 kV transmission lines; (iii) 9 km of 132 kV underground cabling; and (iv) 3 indoor GIS substations with a total capacity of 4,450 MVA in Greater Dhaka;
 - (b) the construction and commissioning of (i) 135 km of 230 kV transmission lines; (ii) 233 km of 132 kV transmission lines; and (iii) 12 GIS substations with a total capacity of 3,070 MVA and 20 bay extensions in existing 9 substations in the western zone; and
 - (c) enhancement of PGCB's financial capacity through (i) supporting installation and operation of an enterprise resource planning system; and (ii) establishing a Drone Inspection Center within the Operations and Maintenance Department of PGCB.
3. The Project is expected to be completed by 30 June 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.

| <u>Payment Due Date</u> | <u>Installment Share</u> (Expressed as a %) |
|-------------------------|--|
| 15 April 2025 | 2.500000 |
| 15 October 2025 | 2.500000 |
| 15 April 2026 | 2.500000 |
| 15 October 2026 | 2.500000 |
| 15 April 2027 | 2.500000 |
| 15 October 2027 | 2.500000 |
| 15 April 2028 | 2.500000 |
| 15 October 2028 | 2.500000 |
| 15 April 2029 | 2.500000 |
| 15 October 2029 | 2.500000 |
| 15 April 2030 | 2.500000 |
| 15 October 2030 | 2.500000 |
| 15 April 2031 | 2.500000 |
| 15 October 2031 | 2.500000 |
| 15 April 2032 | 2.500000 |
| 15 October 2032 | 2.500000 |
| 15 April 2033 | 2.500000 |
| 15 October 2033 | 2.500000 |
| 15 April 2034 | 2.500000 |
| 15 October 2034 | 2.500000 |
| 15 April 2035 | 2.500000 |
| 15 October 2035 | 2.500000 |
| 15 April 2036 | 2.500000 |
| 15 October 2036 | 2.500000 |
| 15 April 2037 | 2.500000 |
| 15 October 2037 | 2.500000 |
| 15 April 2038 | 2.500000 |
| 15 October 2038 | 2.500000 |
| 15 April 2039 | 2.500000 |
| 15 October 2039 | 2.500000 |
| 15 April 2040 | 2.500000 |
| 15 October 2040 | 2.500000 |

Schedule 2

| <u>Payment Due Date</u> | <u>Installment Share</u> (Expressed as a %) |
|-------------------------|--|
| 15 April 2041 | 2.500000 |
| 15 October 2041 | 2.500000 |
| 15 April 2042 | 2.500000 |
| 15 October 2042 | 2.500000 |
| 15 April 2043 | 2.500000 |
| 15 October 2043 | 2.500000 |
| 15 April 2044 | 2.500000 |
| 15 October 2044 | <u>2.500000</u> |
| 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 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

3. The amount allocated to Category "Interest" is for financing interest 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.

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 Goods, Works and Consulting Services, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

| ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS | | | |
|--|---|--|---|
| Number | Item | Total Amount Allocated for ADB Financing (€) | Basis for Withdrawal from the Loan Account |
| | | Category | |
| 1 | Turnkey contracts (Packages 1,2,3,4,6) | 232,874,000 | 100% of total expenditure claimed* |
| 2 | ERP system | 5,790,000 | 100% of total expenditure claimed* |
| 3 | Consulting Services | 580,000 | 100% of total expenditure claimed* |
| 4 | Interest during construction | 22,141,000 | 100% of amounts due |
| 5 | Unallocated/ contingencies | 10,453,000 | |
| | TOTAL | 271,838,000 | |

*Exclusive of taxes and duties imposed within the territory of the Borrower.

SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

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

Counterpart Support

2. The Borrower shall make available, through budgetary allocations or other means, all counterpart funds required for the timely and effective implementation of the Project, including funds required under any Works contract or other contract or to mitigate unforeseen environmental, resettlement and other social impacts, and to meet additional costs arising from design changes, financing gaps, price escalation in construction costs or other unforeseen circumstances.

Communications and Coordination

3. The Borrower shall ensure that (a) all ministries, agencies and divisions involved in the implementation of the Project give their full cooperation to ensure the smooth and timely implementation of the Project; and (b) PGCB receives full cooperation and support in obtaining any licenses, permits or approvals required for the Project.

Operation and Maintenance

4. The Borrower shall allocate, on an annual basis, funds required for the operations and maintenance of the Project facilities and ensure that such funds are released to PGCB in a timely manner.

Operational and Resource Planning Covenants

5. The Borrower shall cause PGCB to develop a detailed time bound action plan to (a) address all material external audit qualifications raised in the 2017-2018 audited financial statement report; and (b) implement the enterprise resource planning system referred to in sub-para. 2(c) of Schedule 1 to this Loan Agreement by no later than 31 December 2019.

6. The Borrower shall (a) ensure that PGCB files a tariff application at least once a year to ensure PGCB's financial sustainability; and (b) request and require the Bangladesh Energy Regulatory Commission to review such tariff applications in a timely manner in accordance with the Bangladesh Energy Regulatory Commission Act, 2003 (as amended from time to time).

Procurement

7. The Borrower shall cause PGCB to ensure that:

Schedule 4

- (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.
8. The Borrower shall cause PGCB to not award any Works contracts that involves environmental impacts until:
- (a) the Borrower's Department of Environment has granted its approval of the final IEE; and
 - (b) the Borrower has incorporated the relevant provisions from the EMP into the Works contract.
9. The Borrower shall cause PGCB to not award any Works contract which involves involuntary resettlement impacts until the PGCB has prepared and submitted to ADB the final RP based on the Project's detailed design and obtained ADB's clearance of such RP.

Environment

10. The Borrower shall or shall cause PGCB 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; (c) all measures and requirements set forth in the IEE, EMP and CAP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

11. The Borrower shall or shall cause PGCB to ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement

Schedule 4

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; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

12. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall or shall cause PGCB 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 RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Tribes, Minor Races, Ethnic Sects and Communities

13. The Borrower shall or shall cause PGCB to ensure that the Project does not have any Tribes, Minor Races, Ethnic Sects and Communities Safeguards impacts. If the Project does have any such impacts, the Borrower shall cause PGCB to take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

14. The Borrower shall make available or cause PGCB to make available necessary budgetary and human resources to fully implement the EMP and the CAP.

Safeguards Related Provisions in Bidding Documents and Works Contracts

15. The Borrower shall or shall cause PGCB 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, the CAP, and the RP (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 Borrower and PGCB with a written notice of any unanticipated environmental, resettlement or tribes, minor races, ethnic sects and communities risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the RP;

- (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

16. The Borrower shall do the following or shall cause PGCB 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 RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
 - (c) no later than 90 days after the Effective Date, engage qualified and experienced external expert under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts;
 - (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach.

Prohibited List of Investments

17. The Borrower shall and shall cause PGCB 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

18. The Borrower shall and shall cause PGCB to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall cause PGCB 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.

19. The Borrower shall cause PGCB to strictly monitor compliance with the requirements set forth in paragraph 17 above and provide ADB with regular reports.

Governance and Anticorruption

20. The Borrower and PGCB 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.

21. The Borrower and PGCB 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.