
LOAN NUMBER 4117 - IND

LOAN AGREEMENT
(Ordinary Operations)
(Maharashtra Agribusiness Network Project)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 26 October 2021

IND 53264-001

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 26 October 2021 between INDIA acting by its President ("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 the Borrower's State of Maharashtra ("State") acting through the MAGNET Society (the "Project Executing Agency" or "EA"), and for this purpose the Borrower will make the proceeds of the Loan provided for herein available to the State and through the State to the EA, upon terms and conditions mutually satisfactory to ADB and the Borrower; and

(C) 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 on the one part, and the State and the MAGNET Society on the other part.

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 (Definitions) subsection (xx) shall be deleted and replaced in its entirety as follows:
 - (xx) "Reference Rate" means, (i) except as ADB has otherwise made a determination in accordance with Section 3.02(c), in respect of any Loan Currency other than Euro, LIBOR, and in respect of Euro, Euribor; and (ii) if a determination is made in accordance with Section 3.02(c), such other reference rate and any spread for the Loan Currency as ADB shall reasonably determine and promptly notify the Borrower and the Guarantor.

- (b) A new subsection 3.02(c) shall be inserted after subsection 3.02(b) as follows:

Section 3.02(c). If interest on any amount of the Loan is calculated based on LIBOR or Euribor, and ADB determines that (i) such Reference Rate has permanently ceased to be quoted for the relevant Loan Currency or a public statement or publication of information by the regulatory supervisor for the administrator of the Reference Rate announcing such Reference Rate is no longer representative has been made or (ii) ADB is no longer able, or it is no longer commercially acceptable for ADB, to continue to use such Reference Rate for purposes of its asset and liability management, ADB shall apply such other Reference Rate for the relevant Loan Currency, including any applicable spread, as it may reasonably determine. ADB shall promptly notify the Borrower and the Guarantor of such other reference rate and any spread, and of related amendments to the provisions of the Loan Agreement necessary to give effect to its application, which shall become effective as of the date of such notice.

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) "EA" or "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through the MAGNET Society, or any successor thereto, which is responsible for the carrying out of the Project;

(b) "EMP" means each of the Environmental Management Plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA, cleared by ADB, and incorporated in the related 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) "ESMS" means each of the Environmental and Social Management System prepared by a PFI or the relevant IA of the Matching Grant as the context requires, including any update thereto prepared and submitted by the Borrower through the EA, and cleared to ADB;

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

(f) "FMAP" means the Financial Management Action Plan;

(g) "FPO" means a Farmer Producer Organization, a legally constituted entity, financed under the Project, as the context requires, for (i) capacity building, or (ii) meets the qualification and eligibility criteria for a Subloan or Matching Grant as set forth in Appendix 3 of the PAM;

(h) "GESI AP" means the Gender Equality and Social Inclusion Action Plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by 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) "IA" means the MSAMB and each PFI responsible to implement relevant Output under the Project as detailed in the PAM;

(k) "IEE" means each of the initial environment examination for the Project including any update thereto, prepared and submitted by the Borrower through the EA, pursuant to the requirements of SPS, and cleared by ADB;

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

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

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

(p) "MAGNET Society" means the Maharashtra Agribusiness Network Project Society, formed under the Borrower's Societies Registration Act, 1860;

(q) "Matching Grant" means a one-off, non-reimbursable transfer from MAGNET Society to project beneficiaries with the beneficiary's condition for the purpose of Subproject;

(r) "MSAMB" means the Maharashtra State Agricultural Marketing Board established under the Maharashtra Agricultural Produce Marketing (Development & Regulation) Act, 1963 of the Borrower;

(s) "Output" means each of the Outputs as listed under Schedule 1 to this Loan Agreement;

(t) "PAM" means the Project Administration Manual for the Project dated August 2021 and agreed between the Borrower, ADB, and the EA, as updated from time to time;

(u) "PFI" means a Participating Financial Intermediary that meets the eligibility criteria and compliance requirements set out in Appendix 2 of the PAM;

(v) "PIU" means each of the Project Implementation Units established by the EA or related PFI as the context may require;

(w) "PMU" means the Project Management Unit established by the EA;

(x) "Procurement Plan" means the procurement plan for the Project as agreed between the Borrower, EA, and ADB and included in the PAM, as updated from time

to time in accordance with the Procurement Policy, Procurement Regulations, and other arrangements agreed with ADB;

(y) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);

(z) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);

(aa) "Project facilities" means the facilities to be rehabilitated or created under the Project;

(bb) "Reflow Funds" means the principal amount of Subloans that is repaid by the PFI to MAGNET Society;

(cc) "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 respective EMP, ESMS, and the related safeguards documents if any, including any corrective and preventative actions;

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

(ee) "State" means the State of Maharashtra;

(ff) "Subloan" means a loan made by MAGNET Society through the PFI to finance a Subproject using Loan proceeds, including Reflow Funds;

(gg) "Subproject" means a project financed by MAGNET Society through a PFI or Matching Grant under the Loan proceeds including Reflow Funds; and

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

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred million Dollar (\$100,000,000) 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 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) LIBOR; and

(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.

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 March and 15 September 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 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 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 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 March 2028 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. The Borrower shall take all actions or shall cause the State to take all actions which shall be necessary 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) 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) No rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without the 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 Economic Affairs 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 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
Ministry of Finance
Department of Economic Affairs
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) 8636-2444

(632) 8636-2340

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



26/10/2021

Rajat Kumar Mishra
Additional Secretary (MBC)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By



Takeo Konishi
Country Director

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to increase the State's horticultural production values and reduce post-harvest losses.
2. The Project shall comprise the following outputs included in greater detail in the PAM:
 - Output 1:** Institutional, technical, and marketing capacities of agribusiness institutions and FPOs strengthened.
 - Output 2:** Access to finance of FPOs and value chain operators strengthened.
 - Output 3:** Agriculture value chain infrastructure improved and operational.
3. The Project is expected to be completed by 30 September 2027.

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	15 March 2028	5.555556
2	15 September 2028	5.555556
3	15 March 2029	5.555556
4	15 September 2029	5.555556
5	15 March 2030	5.555556
6	15 September 2030	5.555556
7	15 March 2031	5.555556
8	15 September 2031	5.555556
9	15 March 2032	5.555556
10	15 September 2032	5.555556
11	15 March 2033	5.555556
12	15 September 2033	5.555556
13	15 March 2034	5.555556
14	15 September 2034	5.555556
15	15 March 2035	5.555556
16	15 September 2035	5.555556
17	15 March 2036	5.555556
18	15 September 2036	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.

Schedule 2

(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.

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 based on 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 and by 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 by 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 arrangements agreed between the Borrower and ADB.

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

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Loan Account
1	Works	13,350,000	76% of total expenditure claimed*
2	Goods and Consulting Services	7,820,000	100% of total expenditure claimed*
3	Matching Grant**	26,280,000	100% of total expenditure claimed*
4	Financial Intermediation Loan***	52,550,000	80% of total expenditure claimed*
	Total	100,000,000	

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

**Up to 60% of the cost of subprojects of FPOs is given as a grant and disbursed entirely from the Loan.

***Subloans to PFIs.

SCHEDULE 4

Execution of Project

Implementation Arrangements

1. The Borrower, and State and the EA 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, the EA and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

2. (a) 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.

(b) The Borrower shall ensure or cause the State and EA to ensure compliance with all the requirements and obligations on their respective part as included in this Loan Agreement and the Project Agreement to meet the objectives of the Project in a timely and efficient manner.

3. The Borrower shall ensure or cause the State and the EA to ensure that its PMU, and the PIUs housed within the IAs, employ sufficient staff including increasing the number of adequate staff as included in the PAM, with relevant expertise in the fields of project management, financial management, gender, procurement, operations and management, and environmental and social safeguards implementation. The EA shall ensure and cause the IAs to ensure that the PMU, and the PIUs respectively are equipped with the necessary staff, office space, facilities, equipment, support staff and management information systems for the entire duration of the Project and thereafter.

Counterpart Support; Funds

4. The Borrower shall ensure or cause the State to ensure following:

- (a) the Loan proceeds under the Project are made available to the EA under appropriate arrangements acceptable to ADB;
- (b) sufficient counterpart funds from the budgets of the State and the EA as applicable, for each fiscal year are provided in a timely manner, towards efficient implementation of the Project;
- (c) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, are provided to the EA (including MSAMB), during and after Project completion;

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- (d) as necessary, respective counterpart staff, land facilities, and implementation and monitoring of respective EMPs, ESMS (for the Subloan and Matching Grant), as applicable (including unforeseen expenses beyond the estimates), utility shifting, operations and maintenance of Project facilities, and general Project management expenses are provided in a timely manner through approved annual budget allocations or other means; and
- (e) sufficient funds are available to satisfy the EA's liabilities arising from any Works, Goods and/or Services contract under the Project.

Subproject Selection under Output 2

5. The Borrower shall ensure or cause the EA to ensure that:
- (a) all PFIs, Subprojects, and beneficiaries thereunder are selected and approved in accordance with the agreed criteria and approval process stipulated in the PAM;
 - (b) the financial agreements between the EA and PFIs are duly executed and delivered in form and substance acceptable to ADB and become legally binding upon such parties in accordance with their terms;
 - (c) all Reflow Funds are used for the purposes of the Project; and
 - (d) all documents forming the basis for screening, selection and processing of Subprojects are made available to ADB upon request and are kept for such purposes for a minimum period of five years after submission of the Project completion report.

PFI Selection under Output 2

6. The Borrower shall ensure or cause the EA to ensure that
- (a) the PFI selection is undertaken in accordance with the Eligibility Criteria and Continued Compliance Requirements for PFIs criteria as detailed in Appendix 2 of the PAM, including but not limited to the following compliances to be maintained by eligible PFIs
 - (i) maintain capital adequacy ratios of at least 9% for banks and 15% for non-bank financial companies; and
 - (ii) maintain Net Non-Performing Assets Ratio (as defined by the Reserve Bank of India) of less than 7.5% at all times; and
 - (b) each PFI undertakes the Subprojects in accordance with the ESMS as detailed in the PAM.

Matching Grant Subproject selection and approval process under Output 2

7. The Borrower shall ensure or cause the EA to ensure that the Matching Grant Subproject selection and approval process follows the eligibility and process and the conditions, including in particular compliance with the ESMS as detailed in the PAM.

SafeguardsEnvironment

8. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation and operation of all Project facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to environment, health, and safety; (b) the Environmental Safeguards; (c) the IEE and the ESMS as applicable (for the PFI and Matching Grant under Output 2); and (d) all measures and requirements set forth in the respective IEE and EMP and ESMS as applicable (for the PFI and Matching Grant under Output 2), and any corrective or preventative actions set forth in a Safeguards Monitoring Report. No Category A subprojects as under SPS, shall be financed under the Project.

Land Acquisition and Involuntary Resettlement

9. The Borrower shall ensure or cause the EA to ensure that the Project does not have any involuntary resettlement impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower shall ensure or cause the EA to ensure to take all steps required to ensure that the Project complies with (i) the SPS requirements; (ii) applicable laws and regulations of the Borrower, the State and EA; and (iii) all measures and requirements set forth in the respective ESMS (for the PFI loans and Matching Grant under Output 2) if any as required, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Indigenous Peoples

10. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation and operation of all Subprojects and Project facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) all measures and requirements set forth in the respective ESMS (for the Subloan and Matching Grant under Output 2) if any as required, and any corrective or preventative actions set forth in a Safeguards Monitoring Report. No Category A subprojects as under the SPS, shall be financed under the Project.

11. Notwithstanding the stipulation that no Category A subprojects as under the SPS under environment, involuntary resettlement or indigenous people, shall be financed under the Project, in the unforeseen situation of change in categorization of a Subproject that is under implementation, to Category A, the Borrower shall ensure or cause the EA to ensure that it, in consultation with ADB ensures that such Subproject shall be completed in full compliance of the SPS requirements and applicable laws and regulations of the Borrower and the State.

Human and Financial Resources to Implement Safeguards Requirements

12. The Borrower shall ensure or cause the EA to ensure to make available necessary budgetary and human resources to fully implement the IEE, EMPs, and the ESMS (for the Subloan and Matching Grant under Output 2).

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 relevant IEE, EMP, and ESMS (for the Subloan and Matching Grant under Output 2) as applicable (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the 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 relevant IEE, EMP, or the ESMS (for the Subloan and Matching Grant under Output 2) as applicable;
- (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 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 relevant IEE, EMPs, or the ESMS (for the Subloan and Matching Grant under Output 2) promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and

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- (c) report any breach of compliance with the measures and requirements set forth in the relevant IEE, EMPs, or ESMS (for the Subloan and Matching Grant under Output 2), 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.

Procurement

16. The Borrower shall ensure, or cause the EA to ensure throughout the implementation of the Project 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 through the EA 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.

17. The Borrower shall ensure or cause the EA to ensure 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: (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.

Condition for Issuing Bids

18. The Borrower shall ensure or cause the EA to ensure that the relevant drafts of IEE, are submitted to ADB for review and clearance prior to bidding, and the related EMP is included in the bidding documents.

Condition for award of contracts

19. The Borrower shall ensure or cause the EA to ensure that it shall not award any Works contracts that involves environment impacts until the EA has:

- (a) prepared, submitted and obtained final clearance of the relevant IEE from ADB and the relevant forest and environment clearances from statutory authorities of the State and the Borrower as applicable; and
- (b) incorporated the relevant provisions from the respective EMP into the related Works contract.

Labor Standards

20. 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; (a) 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 (b) 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 and Development

21. The Borrower shall ensure or cause the EA to ensure that (a) the Project 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 GESI AP; (c) adequate resources are allocated for implementation of the GESI AP; and (d) progress on implementation of the GESI AP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Communications and Participation

22. 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, the State, and the EA and referred in the PAM.

Governance

23. The Borrower, State, the EA and IAs shall ensure compliance with ADB's Anticorruption Policy (1998, as amended to date) and (a) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State and the EA are included in all bidding documents and contracts financed by ADB in connection with the Subprojects and the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the EA, IAs, and all contractors, suppliers, consultants, and other service providers as they relate to the Subprojects and the Project, and as included in the PAM; (b) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization

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of funds for the Subprojects and the Project; (c) acknowledge that ADB reserves the right to investigate directly or through its agents any alleged corrupt, fraudulent, collusive or coercive practice relating to the Subprojects and the Project; and (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

Institutional Reforms - Financial Management Action Plan

24. The Borrower shall ensure or cause the EA to ensure that all actions as stated in the FMAP as included in the PAM are undertaken and complied with in a timely manner as per related timelines.