
LOAN NUMBER 4025-IND

LOAN AGREEMENT
(Ordinary Operations)

(Uttar Pradesh Power Distribution Network Rehabilitation Project – Tranche 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 18 December 2020

IND 51395

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 18 December 2020 between INDIA acting by its President ("Borrower"), and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 27 October 2020 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing subprojects under the Uttar Pradesh Power Distribution Network Rehabilitation Project;

(B) by a periodic financing request dated 27 October 2020, the Borrower has applied to ADB for a loan for purposes of financing slices of the contract packages to be awarded under the Project described in Schedule 1 to this Loan Agreement (the "Project");

(C) the Project will be carried out by the State of Uttar Pradesh ("State") acting through Uttar Pradesh Power Corporation Limited ("UPPCL") ("EA" or "Project Executing Agency"), and for this purpose the Borrower will make available to the State, the proceeds of the loan provided for herein upon terms and conditions mutually satisfactory to ADB and the Borrower; and

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

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) "Companies Act" means the Borrower's Companies Act, 2013 (Act No. 18 of 2013);

- (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;
- (c) "DVVNL" means Dakshinanchal Viduyt Vitran Nigam Ltd.;
- (d) "EA" or "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through UPPCL, or any successor thereto, which is responsible for the carrying out of the Project;
- (e) "EMP" means 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 IEE;
- (f) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (g) "ERP" means enterprise resource planning;
- (h) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing subproject components under the Project;
- (i) "FAM" means the Facility administration manual for the Project dated October 2020 as agreed between the Borrower, EA and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower, EA and ADB;
- (j) "FFA" means the framework financing agreement dated 27 October 2020 between ADB and the Borrower with respect to the Facility;
- (k) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;
- (l) "FY" means financial year. Where used in this Loan Agreement, references to FY for a particular year refer to the financial year ending 31 March of such indicated year;
- (m) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (n) "IA" means each of DVVNL, MVVNL, PuVVNL and PVVNL acting as an implementing agency under the Project;
- (o) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower

through the EA pursuant to the requirements set forth in the SARF and cleared by ADB;

- (p) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (q) "km" means kilometer;
- (r) "kV" means kilovolt;
- (s) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (t) "MVVNL" means Madhyanchal Vidyut Vitran Nigam Ltd.;
- (u) "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;
- (v) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purposes of this Loan Agreement means the periodic financing request dated 27 October 2020;
- (w) "Procurement Plan" means the procurement plan for the Project as agreed between the Borrower, EA and ADB and included in the FAM, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;
- (x) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (y) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (z) "Project facilities" means all facilities and structures to be created under the Project;
- (aa) "PuVVNL" means Purvanchal Vidyut Vitran Nigam Ltd.;
- (bb) "PVVNL" means Paschimanchal Vidyut Vitran Nigam Ltd.;
- (cc) "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the SARF and cleared by ADB;

- (dd) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the EA to ADB that describes progress with implementation of, and compliance with the EMP, the RP and SDDR (as applicable), including any corrective and preventative actions;
- (ee) "SARF" means the safeguards assessment and review framework for the Project, incorporating the requirements of an environmental assessment and review framework and a resettlement framework as set out in Schedule 5 of the FFA, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;
- (ff) "SDDR" means a social due diligence report for a Subproject which has impacts on private assets, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the SARF and the RP and cleared by ADB;
- (gg) "Services" means Consulting Services and Nonconsulting Services;
- (hh) "SPS" means ADB's Safeguard Policy Statement (2009);
- (ii) "State" means the State of Uttar Pradesh;
- (jj) "Subprojects" means the subprojects to be carried out under the Project, each of which shall comprise one of the two components set out in paragraph 2 of Schedule 1 to this Loan Agreement;
- (kk) "UPPCL" means Uttar Pradesh Power Corporation Limited or any successor thereto; and
- (ll) "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.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of three hundred million Dollars (\$300,000,000), 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 15 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 01 June and 01 December in each year.

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

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

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

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

ARTICLE III

Use of Proceeds of the Loan

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

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall ensure, or cause the EA to ensure, that the items of expenditure to be financed out of the proceeds of the Loan are procured in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2026 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 State and the EA, all obligations set forth in this Loan Agreement and the Project Agreement.

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

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. In so far as it relates to the Project, the Borrower shall take all actions, or cause the State to take all actions, which shall be necessary on its part to enable the EA to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In so far as it relates to the Project, no rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without prior notice to ADB.

ARTICLE V

Effectiveness

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

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary, in the Department of 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
Department of Economic Affairs
Ministry of Finance
North Block
New Delhi – 110001
India

Facsimile Number:

(91-11) 2309-4075

For ADB

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

Facsimile Numbers:

(632) 8636-2444
(632) 8636-2338.

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



C S Mohapatra
Additional Secretary
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 improve the efficiency, reliability, and sustainability of power supply in selected rural areas of the State.
2. The Project shall comprise the following components:
 - (a) replacement of approximately 65,000 km of existing bare conductors with aerial bundle conductors in the rural low voltage distribution network; and
 - (b) establishment of systems for separating electricity for agriculture customers from residential consumers through separation and construction of a parallel network of 11 kV feeders of approximately 17,000 km in length to connect the existing distribution transformers supplying residential consumers while retaining the existing 11 kV feeders for supplying pumped tube well consumers.
3. The Loan will finance slices of the contract packages awarded for purposes of implementing Project activities.
4. The Project activities to be financed by the Loan are expected to be completed by 31 December 2025.

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.

Date Payment Due	Installment Share (Expressed as a %)
1 June 2026	3.333333
1 December 2026	3.333333
1 June 2027	3.333333
1 December 2027	3.333333
1 June 2028	3.333333
1 December 2028	3.333333
1 June 2029	3.333333
1 December 2029	3.333333
1 June 2030	3.333333
1 December 2030	3.333333
1 June 2031	3.333333
1 December 2031	3.333333
1 June 2032	3.333333
1 December 2032	3.333333
1 June 2033	3.333333
1 December 2033	3.333333
1 June 2034	3.333333
1 December 2034	3.333333
1 June 2035	3.333333
1 December 2035	3.333333
1 June 2036	3.333333
1 December 2036	3.333333
1 June 2037	3.333333
1 December 2037	3.333333
1 June 2038	3.333333
1 December 2038	3.333333
1 June 2039	3.333333
1 December 2039	3.333333
1 June 2040	3.333333
1 December 2040	3.333343
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.

Reallocation

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

- (a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, in consultation with and 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 upon between ADB and the Borrower.

Retroactive Financing

5. Withdrawals from the Loan Account may be made to finance eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with items to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Loan Account
1	Works	292,600,000	100% of total expenditure claimed
2	Consulting Services and quality testing	7,400,000	100% of total expenditure claimed
	TOTAL	300,000,000	

SCHEDULE 4**Execution of the Project; Financial Matters**Implementation Arrangements

1. The Borrower, the State and the EA shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the FAM. Any subsequent change to the FAM shall become effective only after approval of such change by the Borrower, the State, the EA and ADB. In the event of any discrepancy between the FAM 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 the Project implementation or use of funds are addressed effectively and efficiently.

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

Procurement

3. The Borrower shall ensure, or cause the EA 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 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.

Conditions for Award of Contracts: Commencement of Works

4. The Borrower shall ensure, or cause the EA to ensure, that no Works contract is awarded for a Subproject which involves environmental impacts until the relevant provisions from the EMP have been incorporated into the Works contract.
5. The Borrower shall ensure, or cause the EA to ensure, that Works which involve involuntary resettlement impacts are not permitted to commence until the EA or applicable IA has prepared and submitted to ADB the SDDR based on the Subproject's detailed design, and obtained ADB's clearance of such SDDR.
6. The Borrower shall ensure, or shall cause the EA to ensure, that the EA and IAs, as applicable, announce the Project and business opportunities (i.e., invitation of potential bids) associated with the Project on their websites. The website shall disclose the following information in relation to Goods, Works 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, Works and Services procured.

Selection Criteria and Approval Process for Subproject Components

7. The Borrower shall cause the EA to ensure that all Subproject components are selected and approved in accordance with the selection criteria and approval process stipulated in Schedule 4 to the FFA.
8. The Borrower shall cause the EA to ensure that all documents relating to the screening, selection and processing of Subproject components are made available to ADB upon request.

SafeguardsEnvironment

9. The Borrower shall ensure, or cause the EA to ensure, that the preparation, design, construction, implementation, operation and decommissioning of each Subproject and 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 SARF; and (d) all measures and requirements set forth in the IEE and EMP and any corrective or preventative actions set forth in a Safeguards Monitoring Report.
10. The Borrower shall ensure, or cause the EA to ensure, that throughout the operation of the Project, all Project facilities remain fully compliant with the Borrower's Regulation of Polychlorinated Biphenyls Order, 2016.

Land Acquisition and Involuntary Resettlement

11. The Borrower shall ensure, or cause the EA to ensure, that all land and all rights-of-way required for each Subproject are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and the State relating to land acquisition and involuntary

resettlement; (b) the Involuntary Resettlement Safeguards; (c) the SARF; and (d) all measures and requirements set forth in the RP and the respective SDDR, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

12. Without limiting the application of the Involuntary Resettlement Safeguards, the SARF, the RP and the respective SDDRs, the Borrower shall ensure, or cause the EA to ensure, that no physical or economic displacement takes place in connection with the Subprojects until:

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

Indigenous Peoples

13. The Borrower shall ensure, or cause the EA to ensure, that each Subproject does not have any indigenous peoples impacts, all within the meaning of the SPS. In the unforeseen event of any indigenous peoples impacts in connection with any Subproject, the Borrower shall ensure or cause the EA to ensure to take all steps required to ensure compliance with the applicable laws and regulations of the Borrower and the State, and the SPS.

Human and Financial Resources to Implement Safeguards Requirements

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

Safeguards – Related Provisions in Bidding Documents and Works Contracts

15. 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 SARF, the IEE, the EMP, the RP and SDDRs (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 EA and the IAs, as applicable, with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP and SDDRs;

- (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

16. The Borrower shall ensure, or cause the EA to ensure, the following:
- (a) submission of semiannual Safeguards Monitoring Reports in respect of environmental matters until the completion of construction and annually thereafter, and semiannual Safeguards Monitoring Reports in respect of land acquisition and resettlement matters, in each case to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
 - (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP and SDDR, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - (c) report any breach of compliance with the measures and requirements set forth in the SARF, the EMP, the RP or SDDR promptly after becoming aware of the breach.

Prohibited List of Investments

17. The Borrower shall ensure, or cause the EA to ensure, that no proceeds of the Loan under the Project are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Safeguards Grievance Redress Mechanism

18. The Borrower shall ensure, or cause the EA to ensure, that a grievance redress mechanisms addressing safeguard aspects and features acceptable to ADB are established in accordance with the provisions of the SARF, the IEE, the EMP, the RP and SDDR for the Project, within the timeframes specified in the EMP and the RP, to consider safeguards related complaints.

Labor Standards, Health and Safety

19. 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

20. The Borrower shall ensure, or cause the EA 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 monitored and reported to ADB quarterly in accordance with the project performance and monitoring system developed for the Project.

Financial Covenants

21. Except as ADB may otherwise agree, the Borrower shall ensure that the EA (on a consolidated basis) achieves a ratio of its free cash flows for each financial year and its debt service requirements for the same period on all debt, through such minimum ratios as follows:

- (a) 1.0 for each of FY2021 to FY2025; and
- (b) 1.1 for FY2026 and each financial year thereafter.

22. For the purpose of paragraphs 21 and 22 of this Schedule:

- (a) the term "free cash flows" means the difference between: (i) the sum of revenues from all sources related to operations, after making adequate provisions for uncollectible debts, adjusted to take account of the EA's rates, dues or other such receivables accrued at the time of the incurrence of debt, and net non-operating income; (ii) the sum of all expenses related to operations, including administration, maintenance, current taxes and payments in lieu of current taxes (but excluding provision for depreciation, other non-cash operating charges, interest and other charges on debt to the extent they are not capitalized, and deferred taxes); and (iii) movements in working capital other than cash; and
- (b) the term "net non-operating income" means the difference between: (i) revenues from all sources other than those related to operations, after making adequate provisions for uncollectible debts; and (ii) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (i) hereinabove;
- (c) the term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each financial year;
- (d) the term "current assets excluding cash" means all assets other than

cash which can, in the ordinary course of business, be converted into cash within 12 months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next financial year;

- (e) the term "operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation following the relevant accounting policy, but excluding interest and other charges on debt;
 - (f) the term "current liabilities" means all liabilities which will become due and payable, or could under circumstances then existing be called for payment, within 12 months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends;
 - (g) the term "debt" means any indebtedness of the EA maturing by its terms more than 1 year after the date on which it is originally incurred. The debt shall be deemed to be incurred: (i) under a loan contract or agreement, or conditional sale or transfer or financing lease agreement or other instrument providing for such debt, or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (ii) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into financial liabilities incurred by the EA who is a lessee under finance leasing agreements may also be included as debt;
 - (h) the term "debt service requirements" means the aggregate amount of all repayments (including sinking fund payments and lease payments under finance leases, if any), whether or not actually paid, and interest and other charges on debt. Interest charges which are incurred in financing capital expenditures during development are excluded, if such charges are capitalized;
 - (i) the projections for the "next financial year" will be based on the EA's 10-year financial projections, updated at least annually, and will include its investment program, financial plan, income statements, cash flow and balance sheets with all its assumptions, provided annually to ADB as of 30 September of each financial year; and
 - (j) the terms "operations" or "operating" mean all the businesses of the EA, including without limitation its distribution operations, and any other businesses in which the EA is or may become engaged.
23. (a) The Borrower shall cause the EA to maintain a corporate debt to equity ratio (based on annual consolidated financial statements of the EA) of not more than
- (i) 4.0 to 1 for FY2021; and

- (ii) 3.0 to 1 for FY2022 and each financial year thereafter.
- (b) For the purpose of subparagraph (a) hereinabove:
 - (i) the term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the EA not allocated to cover specific liabilities; and
 - (ii) the term "debt" has the meaning set forth in subparagraph 22(g) of this Schedule.

24. (a) Except as ADB may otherwise agree, the Borrower shall cause the EA to maintain its accounts receivable at a level not exceeding the following: (i) 498 days for FY2021; (ii) 451 days for FY2022; (iii) 359 days for FY2023; (iv) 290 days for FY2024; (v) 233 days for FY2025; (vi) 166 days for FY2026; (vii) 133 days for FY2027; (viii) 107 days for FY2028; and (ix) 87 days for FY2029.

(b) For purposes of the foregoing, the accounts receivable shall be computed based on the following formula: closing balance of accounts receivable x 365 / turnover. For the purpose of the foregoing,

- (i) the term "accounts receivable" means the aggregate amount of outstanding invoices for supply of electricity less provision for bad and doubtful accounts; and
- (ii) the term "turnover" means the aggregate turnover for electricity supply during each fiscal year recoverable through direct billing to consumers and excludes amounts receivable from the State as subsidies.

Financial Management

25. The Borrower shall ensure, or shall cause the EA to ensure, that, except as ADB may otherwise agree, the Financial Management Action Plan (FMAP), as set forth in the FAM, is implemented in accordance with the timelines as described therein, including but not limited to the following required actions:

- (a) by no later than 30 September 2021, the EA shall have appointed independent directors to their respective Boards of Directors in accordance with the requirements of the Companies Act, and any vacancies to these positions shall be promptly filled, but in any event not later than 6 months after the occurrence of each such vacancy;
- (b) by no later than 31 March 2021, the EA and each IA shall have developed a recruitment plan to address staff shortages in their respective finance and accounts departments taking into consideration current staff level, future incremental requirements, and planned separations due to superannuation, natural level of voluntary separation and implementation of the ERP system. Such plan shall include a provision for prompt filling of future vacancies but in any event within 6

months of their occurrence. Within 12 months of the Effective Date, at least 33% of such staff (i.e., 67% of current shortage of 50%) shall have been appointed; and within 24 months of the Effective Date, the remaining 17% of such staff (i.e., 33% of shortage of 50%) shall have been appointed;

- (c) the EA and each IA shall finalize and adopt audited financial statements within the statutory time limits. Without limiting the generality of the foregoing, (i) the EA shall finalize its audited financial statement for FY2019 by no later than 30 November 2020; for FY2020 by 31 March 2021; and for each financial year from FY2021 onwards before 30 September following the ending of such financial year; and (ii) each IA shall finalize its audited financial statements for such financial year starting with FY2020 before 31 August following the ending of the respective financial year in order to ensure that the EA can finalize its consolidated statements by 30 September of such year; and
- (d) the EA and each IA shall obtain the Comptroller and Auditor General audit report (i) for each financial year from and including FY2016 to and including FY2019 by no later than 31 December 2020, (ii) for FY2020 by 30 June 2021, and (iii) for each financial year starting from FY 2021 onward, by 30 September following the end of the financial year ending 31 March of the same year.

Operational Covenant

26. The Borrower shall ensure, or shall cause the EA to ensure, that annual petitions (including multi-year and true-up petitions) are submitted by the EA and the IAs, as applicable, to the Uttar Pradesh Electricity Regulatory Commission for tariff revisions, in accordance with applicable rules and procedures, and shall cause the State to ensure that the tariffs determined for the EA and the IAs, as applicable, are adequate to cover their respective operating costs, maintenance, depreciation and financing costs. Notwithstanding the foregoing, for so long as tariffs are inadequate to cover the respective operating costs, maintenance, depreciation and financings costs of the EA and IAs, as applicable, the Borrower shall cause the State to ensure that subsidies are allocated and released through the State's annual budget to cover any shortfall.

Disbursement of Loan Proceeds; Counterpart Support

27. The Borrower shall cause the State to make available the Loan proceeds to the EA under appropriate arrangements acceptable to ADB, and shall ensure, and cause the State to ensure, that following each withdrawal from the Loan Account, the proceeds of the Loan are made available by the State to the EA within no more than 7 days of their receipt from the Borrower.

28. The Borrower shall make available, or cause the State and the EA to make available, through budgetary allocations or other means, all counterpart funds required for the timely and effective implementation of the Project, including funds required to (a) meet additional costs arising from design changes, price escalation in construction costs or other unforeseen circumstances; (b) ensure effective operation and maintenance of the Works, both

during and after completion of the Project; (c) ensure that the EA and IAs have sufficient funds to meet its liabilities arising from any Works contract; and (d) provide compensation and other entitlements to affected people in accordance with the RPs.

Communications and Participation

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

Governance and Anticorruption

30. The Borrower shall ensure and cause the State, the EA and the IAs to comply 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, the EA and the IAs are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and the EA and all contractors, suppliers, consultants, and other service providers as they relate to the Project, and as included in the FAM; (b) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (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 Project; and (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the FAM.

Financial Management Action Plan

31. The Borrower shall ensure or cause the EA to ensure that all actions as stated in the Financial Management Action Plan as included in the PAM are undertaken and complied in a timely manner as per related timelines.