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LOAN NUMBER 2047-PAK

LOAN AGREEMENT  
(Ordinary Operations)  
(Sindh Devolved Social Services Program)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED \_\_\_\_\_

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PLL:PAK 34337

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated \_\_\_\_\_ between \_\_\_\_\_  
(hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 14 November 2003 (hereinafter called the Policy Letter), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's devolved social services sector in the Province of Sindh (hereinafter called the Program);

(B) the Borrower has applied to ADB for: (i) a loan from its Ordinary Capital resources; and (ii) a loan from its Special Funds resources for the purposes of the Program;

(C) by a Loan Agreement of even date herewith between the Borrower and ADB (hereinafter called the Special Operations Loan Agreement), ADB has agreed to provide to the Borrower from ADB's Special Fund resources, a loan in various currencies equivalent to Sixty-nine Million Eight Hundred Forty-three Thousand Special Drawing Rights (SDR69,843,000), for the purposes of the Program;

(D) to implement the Program, ADB, of the first part, and the Province of Sindh (hereinafter called Sindh) of the second part, have entered into a Program Agreement (hereinafter called the Program Agreement) of even date herewith;

(E) in support of the Program, the Borrower has applied to ADB for a technical assistance loan in connection with strengthening devolved social services sector, Program management and monitoring, capacity building in social sector governance and development, and supporting specific reforms in devolved social services sector;

(F) by a Loan Agreement of even date herewith between the Borrower and ADB (hereinafter called the Technical Assistance Loan Agreement), ADB has agreed to make to the Borrower, a technical assistance loan in various currencies equivalent to Six Million Nine Hundred Eighty-four Thousand Special Drawing Rights (SDR6,984,000), for the purposes of the Sindh Devolved Social Services Project (hereinafter called the Project), as more fully described in Schedule 1 to the Technical Assistance Loan Agreement;

(G) to implement the Project, ADB, of the first part, and Sindh of the second part, have entered into a Project Agreement (hereinafter called the Project Agreement) of even date herewith; and

(H) ADB has, on the basis inter alia of the foregoing, agreed to make a loan to the Borrower from ADB's Ordinary Capital resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

## ARTICLE I

### Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, 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 thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

(a) Section 2.01(49) is deleted and the following is substituted therefor:

49. The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

(b) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Program".

(c) Section 2.01(51) is deleted and the following is substituted therefor:

51. The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Loan Agreement.

(d) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency".

(e) Section 6.01(a) is deleted and the following is substituted therefor:

(a) Subject to any conditions or restrictions specified in the Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments for expenditures required for the Program and to be financed under the Loan Agreement.

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Special Operations Loan Agreement and the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "First Tranche" means the portion of the proceeds of the Loan in an amount not exceeding the equivalent of Seven Billion Two Hundred Eighty-nine Million Nine Hundred Thirty-five Thousand Yen (¥7,289,935,000) to be withdrawn pursuant to and subject to the provisions of paragraph 5 of Schedule 3 to this Loan Agreement;

(b) "Second Tranche" means the portion of the proceeds of the Loan in an amount not exceeding the equivalent of Four Billion Twenty-five Million Seven Hundred Eighty-five Thousand Yen (¥4,025,785,000) to be withdrawn pursuant to and subject to the provisions of paragraph 6 of Schedule 3 to this Loan Agreement; and

(c) "Third Tranche" means the balance of the proceeds of the Loan in an amount not exceeding the equivalent of Six Hundred Fifty-two Million Eight Hundred Thirty Thousand Yen (¥652,830,000) remaining in the Loan Account after utilization of the Second Tranche to be withdrawn pursuant to and subject to the provisions of paragraph 7 of Schedule 3 to this Loan Agreement.

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of Eleven Billion Nine Hundred Sixty-eight Million Five Hundred Fifty Thousand Yen (¥11,968,550,000) as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.07 of this Loan Agreement.

(b) The Loan has a term of fifteen (15) years, including a grace period of three (3) years, as provided 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 LIBOR and [0.60%]<sup>1</sup> as determined by Section 3.02 of the Loan Regulations.

Section 2.03. The Borrower shall pay to ADB a commitment charge at the rate of three-fourths of one percent (0.75%) per annum on the unwithdrawn amount of the Loan. Such charge shall accrue from a date sixty (60) days after the date of this Loan Agreement to the respective dates on which amounts shall be withdrawn from the Loan Account or shall be cancelled.

Section 2.04. The Borrower shall pay to ADB a front-end fee in an amount equal to one-half of one percent (0.5%)<sup>2</sup> of the amount of the Loan.

<sup>1</sup> Please note that the currently applicable spread of 0.60% is subject to change and will be determined only on the date of signature of this Loan Agreement.

<sup>2</sup> ADB Board has authorized the reduced 0.5% front-end fee for programs/projects that receive Board approval on or prior to 31 December 2003.

Section 2.05. Interest and other charges on the Loan shall be payable semiannually on 15 March and 15 September in each year.

Section 2.06. 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 2.07. (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 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 paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) 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 relend the proceeds of the Loan to Sindh, upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the Borrower shall relend the proceeds of the Loan to Sindh, on the same terms and conditions, as are applicable to the Borrower. The foreign exchange risk shall be borne by Sindh. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures for the Program in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan may be withdrawn from the Loan Account only for the purposes of financing foreign currency expenditures incurred for Eligible Items under the Program 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, all Eligible Items to be financed out of the proceeds of the Loan shall be produced in, and procured from, ADB's member countries in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB shall not finance a contract for goods which have not been procured in accordance with procedures agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account in respect of expenditures for Eligible Items incurred more than one hundred and eighty (180) days prior to the Effective Date.

Section 3.05. The front-end fee referred to in Section 2.04 of this Loan Agreement is ¥59,842,750. On or promptly after the Effective Date, ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amount of this fee.

Section 3.06. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 1 August 2007 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. (a) The Borrower shall cause the Program to be carried out with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental and devolved service delivery practices.

(b) In the carrying out of the Program and operation of the Program facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Program and for the operation and maintenance of the Program facilities.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Program and operation of the Program facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. (a) The Borrower shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Loan and to indicate the progress of the Program.

(b) The Borrower shall enable ADB's representatives to inspect any relevant records and documents referred to in paragraph (a) of this Section.

Section 4.05. As part of the reports and information referred to in Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

## **ARTICLE V**

### **Suspension; Cancellation; 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(l) of the Loan Regulations:

- (a) the Borrower has, in the opinion of ADB, failed to perform any of its obligations under the Special Operations Loan Agreement; and
- (b) the Borrower has, in the opinion of ADB, failed to perform any of its obligations under the Technical Assistance Loan Agreement.

Section 5.02. The following are specified as additional events for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: either 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 Special Operations 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);
- (b) the Technical Assistance 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);
- (c) the Project Agreement shall have been duly executed and delivered on behalf of Sindh, and all conditions precedent to its effectiveness (other

than a condition requiring the effectiveness of this Loan Agreement shall have been fulfilled); and

- (d) the PSC shall have been established in accordance with the provision of Schedule 5 of this Loan Agreement.

Section 6.02. The following are specified as additional matters, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB:

- (a) that the Special Operations Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and is legally binding upon the parties in accordance with its terms;
- (b) that the Technical Assistance Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and is legally binding upon the parties in accordance with its terms; and
- (c) that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, Sindh and is legally binding upon the parties in accordance with its terms;

Section 6.03. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.03 of the Loan Regulations.

## **ARTICLE VII**

### **Delegation of Authority**

Section 7.01. The Borrower hereby designates Sindh, its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.06 of this Loan Agreement and under Sections 6.01, 6.02, 6.03 and 6.04 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by Sindh pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on Sindh under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

**ARTICLE VIII**

**Miscellaneous**

Section 8.01. The Secretary, Economic Affairs Division, Ministry of Economic Affairs and Statistics of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary  
Economic Affairs Division  
Ministry of Economic Affairs and Statistics  
Islamabad, Pakistan

Cable Address:

ECONOMIC  
ISLAMABAD

Telex Number:

5634 ECDIV PK

Facsimile Number:

(92-51) 920-5971  
(92-51) 921-0734.

For ADB

Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Cable Address:

ASIANBANK  
MANILA

Telex Numbers:

29066 ADB PH (RCA)  
42205 ADB PM (ITT)  
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444  
(632) 636-2293.

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 and to be delivered at the principal office of ADB, as of the day and year first above written.

ISLAMIC REPUBLIC OF PAKISTAN

By \_\_\_\_\_  
Authorized Representative

ASIAN DEVELOPMENT BANK

By \_\_\_\_\_

**SCHEDULE 1****Description of the Program**

1. The overall goal of the Program is to improve education and health services, and access to water and sanitation, thereby helping to reduce poverty and gender imbalances. The principal objectives of the Program are to: (i) increase primary and middle school enrolment of children; (ii) increase immunization coverage; (iii) increase the proportion of pregnant women who are able to deliver their children in hospitals; (iv) increase the proportion of households with access to safe drinking water; and (v) increase the proportion of households with proper sanitation facilities. The Program aims to achieve these objectives, primarily, by improving governance in the social sector and funding levels available to the DGs and the TMAs for health, education and water and sanitation. The Program is described in more detail in the Policy Letter. The Program will be implemented during the period starting from 1 February 2004 to 1 February 2007.

2. In support of the Program:

(a) the proceeds of the Loan shall be used to finance the foreign exchange costs of Eligible Items; and

(b) the Counterpart Funds shall be used to finance the local currency costs relating to the implementation of certain programs and other activities consistent with the objectives of the Program, pursuant to the provisions of paragraphs 8 and 9 of Schedule 5 to this Loan Agreement.

3. The proceeds of the Loan are expected to be utilized by 1 February 2007.

**SCHEDULE 2****Amortization Schedule****(Sindh Devolved Social Services Program)**

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.

<b><u>Payment Due</u></b>			<b><u>Installment Share</u></b> <b>[(Expressed as a %)]</b>
1	15 March	2007	2.25
2	15 September	2007	2.36
3	15 March	2008	2.48
4	15 September	2008	2.60
5	15 March	2009	2.73
6	15 September	2009	2.87
7	15 March	2010	3.01
8	15 September	2010	3.16
9	15 March	2011	3.32
10	15 September	2011	3.49
11	15 March	2012	3.66
12	15 September	2012	3.84
13	15 March	2013	4.04
14	15 September	2013	4.24
15	15 March	2014	4.45
16	15 September	2014	4.67
17	15 March	2015	4.91
18	15 September	2015	5.15
19	15 March	2016	5.41
20	15 September	2016	5.68
21	15 March	2017	5.96
22	15 September	2017	6.26
23	15 March	2018	6.57
24	15 September	2018	6.89
TOTAL			<u>100.00</u>

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.

(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**

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Loan proceeds from the Loan Account.

2. (a) Withdrawals from the Loan Account shall be made for the financing of the foreign exchange cost of Eligible Items.

(b) No withdrawals from the Loan Account shall be made in respect of (i) any local expenditures; or (ii) any foreign exchange expenditures which have been financed by credits from official international or bilateral aid agencies or any other loans made by ADB.

3. (a) An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.

(b) Such withdrawal application shall be accompanied by a certificate of the Borrower confirming that (i) in case the proceeds of the Loan will finance imports already made, the value of Eligible Imports in the period concerned exceeded the amount of the requested withdrawal, or (ii) in case the proceeds of the Loan will finance items to be imported, the value of Eligible Imports in the immediately preceding one-year period was equal to or greater than the amount of the requested withdrawal plus all other amounts expected to be withdrawn from the Loan Account during the succeeding one-year period.

(c) For the purposes of this paragraph, the term "Eligible Imports" means the total imports of the Borrower during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports for ineligible items specified in Attachment 1 to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans made by ADB.

(d) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower has certified the value of Eligible Imports in its withdrawal application.

4. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall open an account (the Deposit Account) at SBP into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with consistently maintained sound accounting principles. Upon ADB's request, the Borrower shall have the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

(c) Throughout the Program implementation period, the Borrower shall submit trade statistics and any other information as ADB may require from time to time to assess the Borrower's compliance with the formula for determining Eligible Imports.

5. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the First Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the First Tranche specified in Attachment 2 to this Schedule.

6. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the Second Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the Second Tranche specified in Attachment 3 to this Schedule.

7. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the Third Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the Third Tranche specified in Attachment 4 to this Schedule.

**Negative List**

1. No withdrawals shall be made from the Loan Account in respect of the following:

- (i) expenditures for goods included in the following chapters and headings of the Customs Coordination Council Nomenclature, Alphabetical Index to the Nomenclature and the Explanatory Notes (English Text), amending Supplement No.15 Customs Coordination Council, Brussels, 2<sup>nd</sup> Edition, June 1978 as designated by ADB by notice to the Borrower:

<b>Chapter</b>	<b>Heading</b>	<b>Description of Items</b>
22	22.03–22.10	Alcoholic beverages
24	24.01	Tobacco, unmanufactured tobacco refuse
24	24.02	Tobacco, manufactured (whether or not containing tobacco substitutes)
28	28.50–28.52	Radioactive and associated materials
71	71.01–71.04	Pearls, precious and semiprecious stones, unworked or worked
71	71.05–71.06 71.09–71.15	Jewelry of gold, silver, or platinum group Metals (except watches and watch cases) goldsmiths' or silversmiths' wares (including gems)
71	71.07–71.08	Gold, non-monetary (excluding gold ores and concentrates)
84	84.59	Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors

- (ii) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (iii) expenditures for pesticides categorized as extremely hazardous or highly hazardous in Class 1a and 1b, respectively, of the World Health Organization's Classification of Pesticide by Hazard and Guidelines to Classification 4; or
- (iv) expenditure for goods supplied or to be supplied under a contract that any national or international financing institution or any other financial agency has financed or agreed to finance including any contract financed or to be financed under any loan from ADB;
- (v) expenditures incurred more than 180 days prior to the date of effectiveness of the Loan.

### **Conditions for Release of the First Tranche**

The conditions for the release of the First Tranche are as follows:

A. **Devolving Social Services to Local Governments**

(i) Sindh shall have achieved complete devolution of administrative and financial powers in the social sector, including approval of budgets, development programs and staff transfers to the DGs and the TMAs in accordance with the SLGO.

(ii) Sindh, in consultation with the DGs, shall have prepared an action plan specifying the responsibilities and authority of the EDOs, the DOs and the DDOs (hereinafter called the Delegation Plan).

(iii) PLDs shall have articulated their new roles and responsibilities in the social sector in relation to policy, sector monitoring and provision of technical support to the DGs and the TMAs.

B. **Improve Social Sector Financing**

(i) Sindh shall maintain the level of social sector allocations as a proportion of total revenues in the fiscal year 2003-2004 and shall have allocated Thirty-three Million Dollars (\$33,000,000) as an additionality.

(ii) In consultation with the DGs and the TMAs, Sindh shall have proposed an interim formula for the distribution of extra funds available under the Loan to the DGs and the TMAs as conditional grants. Such formula proposal shall be considered and finalized by the PFC or the PSC, in case PFC has not been set up.

(iii) Sindh shall have committed to implement the PFC award to transfer funds to the DGs and the TMAs through Account No. IV, in a timely manner, including salary grants within two (2) years.

C. **Improve Participation, Linkages, and Public Accountability**

(i) Sindh shall have finalized the draft of the GRAP and presented the same to the Provincial Cabinet.

(ii) Sindh shall have committed to prepare an action plan for the DGs and the TMAs to promote transparent and participatory planning and monitoring, in accordance with the provisions of the SLGO.

(iii) Sindh shall have developed a system for the DGs and the TMAs to access the conditional grants through memoranda of understanding (MOUs) between Sindh and the DGs/TMAs.

D. Rationalize Services and Set Minimum Standards

(i) Sindh shall have, in consultation with the DGs and the TMAs, finalized the social sector activities qualifying for support under the annual sector plans prepared by the DGs and the TMAs.

(ii) Sindh shall ensure that the MOUs require the DGs and the TMAs to rationalize services and staff.

(iii) Sindh shall follow a policy of transparent merit based contractual facility specific recruitment, preferably of locals and females with the aim of operationalizing schools and health centers.

(iv) Sindh shall have committed to ban new civil works and reopening closed schools, facilities and schemes, until a comprehensive plan to operationalize the services has been prepared and, in the education sector, such works, schemes and operationalization of services have been carried out by the SMCs.

(v) Sindh shall have committed to prepare: (a) interim policy of solid waste management focusing on the role of the private sector; and (b) interim policy of drinking water supply focusing on community ownership and financial sustainability.

E. Public-Private Partnerships for Improved Service Delivery

(i) Sindh shall have prepared an overall plan to promote the role of the CBOs.

(ii) Sindh shall have announced expansion of support to CBOs, including SMCs up to grade twelve (12) and shelterless schools based on the number of students enrolled rather than number of classrooms.

(iii) Sindh shall ensure that the MOUs require the DGs and the TMAs to promote increased funding of the CBOs for improved service delivery.

### **Conditions for Release of the Second Tranche**

The conditions for the release of the Second Tranche are as follows:

A. **Devolving Social Services to Local Governments**

(i) Sindh shall have established a framework for monitoring the delegation of administrative and financial powers to the DGs and the TMAs.

(ii) Public Health Engineering Department, Sindh shall have completed devolution of administrative and technical sanctioning powers to the TMAs.

(iii) The Chief Secretary and the DGs shall have approved the Delegation Plan.

(iv) Sindh shall have approved, published, and initiated implementation of the new role and responsibilities of the PLDs.

B. **Improve Social Sector Financing**

(i) Sindh, the DGs and the TMAs shall have agreed to maintain the level of social sector expenditures as a proportion of total revenues in the fiscal year 2003-2004 and shall have allocated Thirty-three Million Dollars (\$33,000,000) as an additionality.

(ii) The PFC shall have established a mechanism for the needs and performance-based distribution of the PFC grant (hereinafter called the PFC Grant) to the DGs and the TMAs.

(iii) Within one (1) month of the start of the fiscal year 2005, Sindh shall have transferred twenty five percent (25%) of total non-salary allocations for the DGs and the TMAs through Account No. IV and shall have agreed to transfer seventy five percent (75%) of total non-salary allocations on a monthly basis.

C. **Improve Participation, Linkages, and Public Accountability**

(i) Sindh shall have approved the GRAP.

(ii) Sindh shall have implemented the provincial action plan to promote transparent and participatory planning in the DGs and the TMAs.

(iii) Majority of the DGs and the TMAs shall have executed the MOUs.

D. **Rationalize Services and Set Minimum Standards**

(i) The DGs and the TMAs shall have utilized the conditional grants in accordance with the agreed eligibility criteria of scope, process and performance.

(ii) The DGs shall have developed strategies to rationalize services, staff and funds and shall have incorporated such strategies in their annual sector plans.

(iii) The DGs and the TMAs shall have assessed technical and financial feasibility before committing to new civil works or reopening schools, schemes or services.

(iv) The DGs shall have recruited staff on need basis using a transparent selection procedure.

(v) Sindh shall have, in consultation with the TMAs, prepared an interim solid waste management policy.

E. Public-Private Partnerships for Improved Service Delivery

(i) Sindh shall have, in consultation with the DGs and the TMAs, approved expansion of support to non-formal home schools for girls, health boards and VDAs.

(ii) Majority of DGs shall have provided financial support to the SMCs for shelterless schools.

(iii) The DGs shall have allocated at least fifteen percent (15%) of conditional grants to the CBOs.

**Conditions for Release of the Third Tranche**

The conditions for the release of the Third Tranche are as follows:

**A. Devolving Social Services to Local Governments**

(i) Sindh shall monitor the implementation of administrative and financial powers to the DGs and the TMAs.

(ii) Majority of the DGs shall have implemented the Delegation Plan.

(iii) Sindh shall continue implementation of the new role and responsibilities of the PLDs and shall review progress made in this regard.

**B. Improve Social Sector Financing**

(i) Sindh, the DGs and the TMAs shall have agreed to maintain the level of social sector expenditures as a proportion of total revenues in the fiscal year 2003-2004 and shall have allocated Thirty-four Million Dollars (\$34,000,000) as an additionality.

(ii) Sindh shall have ensured smooth implementation of the PFC Grant distribution mechanism.

(iii) Within one (1) month of the start of the fiscal year 2006, Sindh shall have transferred twenty five percent (25%) of total non-salary allocations for the DGs and the TMAs through Account No. IV and shall have agreed to transfer seventy five percent (75%) of total non-salary allocations on a monthly basis.

**C. Improve Participation, Linkages, and Public Accountability**

(i) The DGs shall have increased female representation in budget and social sector committees to at least twenty percent (20%).

(ii) At least fifty percent (50%) of the DGs and twenty five percent (25%) of the TMAs shall have implemented a transparent and participatory planning procedure.

(iii) Sindh shall have reviewed the conditional grants system and shall have published a report with suggestions for improvement and institutionalization.

**D. Rationalize Services and Set Minimum Standards**

(i) The DGs and the TMAs shall have utilized the conditional grants in accordance with the agreed eligibility criteria.

(ii) Majority of the TMAs shall have completed surveys and master plans for drinking water supply and sanitation in accordance with their administrative and technical capacity.

(iii) Sindh shall have, in consultation with the TMAs, prepared the interim water and sanitation policy.

E. Public-Private Partnerships for Improved Service Delivery

(i) Sindh shall have authorized the health boards to collect, retain and use fees and user charges.

(ii) Majority of the DGs shall have provided financial assistance to the health boards on a pilot basis.

(iii) Majority of the TMAs shall have supported the VDAs to manage water supply schemes on self-sustaining basis.

(iv) The DGs shall have allocated at least twenty five percent (25%) of the conditional grants to the CBOs.

(v) The TMAs shall have allocated at least ten percent (10%) of the conditional grants to the CBOs.

**SCHEDULE 4****Procurement**

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of Eligible Items (other than consulting services) to be financed out of the proceeds of the Loan.

2. (a) Except as provided in paragraph 2(b) below, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Borrower's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items which are commonly traded commodities shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

3. (a) The Borrower shall ensure that all ADB-financed goods and services procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all ADB-financed contracts for the procurement of goods and services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

## SCHEDULE 5

### Program Implementation and Other Matters

#### Program Implementation and Coordination

1. The Borrower shall ensure: (a) that the objectives achieved, policies adopted and actions taken prior to the date of this Loan Agreement, as set forth in the Policy Letter will continue to be in full force and effect for the duration of the Program period and subsequently; and (b) proper and timely achievement, adoption, compliance and implementation of the objectives, policies and actions to be achieved, adopted, complied with and implemented as set forth in the Policy Letter and shall ensure that once achieved, adopted, complied with and implemented, such objectives, policies and actions shall continue to be in full force and effect during and subsequent to the Program period.
2. The Finance Department, Sindh shall be the Program Executing Agency and shall be responsible for overall Program and policy reform coordination and monitoring. The SP&DD and the PLDs shall be responsible for planning and implementing sector specific policy reforms. The DGs shall be the implementing agencies for the Program support to the education and health sectors, and the TMAs shall be the implementing agencies for the water supply and sanitation sector. The DGs and the TMAs shall assume responsibility for the CBOs as development partners and monitor their activities.
3. Sindh shall, before the Effective Date, establish the PSC to be chaired by the Additional Chief Secretary, Planning and Development and shall include members of the Finance Department, Sindh, the PLDs, the DGs, the TMAs and civil society. At least two (2) women shall be members of the PSC. The PSC shall be responsible for overall strategic guidance, Program coordination, monitoring, implementation, and reporting to Sindh. The PSC shall advise the PFC in terms of the distribution and use of funds.
4. A PSU shall, within three (3) months of the Effective Date, be established in the Finance Department, Sindh for the purposes of Program management and policy reforms. A director who shall be a senior government officer not below grade nineteen (19) shall head the PSU. The PSU shall have a Program coordinator who may be a government official or may be engaged on contract basis. There shall be sixteen (16) LSUs in Sindh to support the DGs and the TMAs.

#### Program Dialogue

5. The Borrower shall keep ADB informed of, and the Borrower and ADB shall, from time to time, exchange views on the progress made in carrying out the Program.
6. The Borrower shall continue timely policy dialogue with ADB on problems and constraints encountered during implementation of the Program and on desirable changes to overcome or mitigate such problems and constraints, and on further reforms to strengthen the social services sector.

7. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral agencies that have implications for the implementation of the Program, and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take ADB's views into consideration before finalizing and implementing any such proposals.

#### Counterpart Funds

8. The Borrower shall ensure that the Counterpart Funds shall be used, to the satisfaction of ADB, to provide budgetary support to the DGs and the TMAs for devolved social services in excess of the benchmark agreed with ADB.

9. The Borrower shall cause Sindh to use the Counterpart Funds generated from the proceeds of the Loan to finance costs associated with the implementation of the Program.

#### Auditing and Reporting

10. The Borrower shall cause Sindh to acquire and install forensic accounting capability to ensure to track and minimize corruption in the implementation of the Program.

11. Without limiting the generality of Section 4.05 of this Loan Agreement and paragraphs 5 and 6 of this Schedule 5 to this Loan Agreement, the Borrower shall cause Sindh to ensure that the PSU shall within six (6) weeks of the start of the Program period, prepare and submit to ADB the Program Inception Report which shall summarize actions so far taken and the further actions required for the development of the Program.

12. Without limiting the generality of Section 4.05 of this Loan Agreement and paragraphs 5 and 6 of this Schedule 5 to this Loan Agreement, the Borrower shall cause Sindh to ensure that the PSU shall, within six (6) weeks of the end of each quarter, prepare and submit to ADB, quarterly reports on the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter. Such reports shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

13. Without limiting the generality of Section 4.05 of this Loan Agreement and paragraphs 5 and 6 of this Schedule 5 to this Loan Agreement, within three (3) months of the completion of the Program, the Borrower shall cause Sindh to ensure that the PSU shall prepare and submit to ADB, the Program Completion Report.

Program Performance Management System

14. The Borrower shall cause Sindh to establish the PPMS in accordance with ADB's *Project Performance Management System Handbook* to monitor and evaluate, *inter alia*, use of Counterpart Funds, sector financing, policy reforms and recruitment, etc., in the devolved social services sector from various reports; sector output indicators (disaggregated utilization and other indicators) using existing monitoring systems; and coverage and impact indicators based on surveys that are likely to be disaggregated by districts.

15. The Borrower shall cause Sindh to establish for the water sector, a separate monitoring and evaluation instrument. The Borrower shall allocate funds to engage additional experts to carry out special studies on design features.

16. The Borrower shall cause Sindh to ensure that the PSU shall be responsible for the PPMS, including tracking devolved social services sector financing and policy actions, and Program indicators based on the Policy Matrix. The PSU shall, at quarterly intervals, prepare a report for the PSC review and action. Separate documentation shall be maintained to track progress of each DG and TMA in terms of key performance indicators and projects at district or tehsil level, and each CBO at district level. Workshops, field visits and other participatory activities shall be carried out to consult stakeholders on progress.

Program Review

17. The Borrower shall cause Sindh to ensure that the PSU shall provide to ADB, reports of the PPMS on a quarterly basis. ADB shall conduct an inception mission, quarterly review missions and a Program completion mission. The Borrower shall cause Sindh, with the assistance of an independent expert, to conduct a comprehensive midterm review, in conjunction with ADB, in the last quarter of the second (2) year of Program implementation to evaluate the progress with policy reforms including financial flows, the DGs' and the TMAs' activities, public-private initiatives, service delivery and coverage of services. During each mission, findings shall be discussed with Sindh and an action plan shall be agreed upon. The Program shall have an annual performance review to determine Program progress, compliance with policy conditions for the Tranche releases, and the Borrower and ADB efforts, and agree upon a plan of action. Such review shall use a participatory process including field visits and may, if necessary, use the services of a consultant to make an initial field assessment.

Policy Covenants

18. The Borrower shall ensure that:

(i) Sindh shall provide appropriate administrative, financial and operational autonomy of devolved social services to the DGs and the TMAs and shall ensure that areas where powers have not yet been devolved as a transition arrangement, shall be devolved according to a clear roadmap indicating when and how such powers would be devolved;

(ii) Sindh shall not recentralize devolved functions and responsibilities, except as agreed with ADB;

(iii) Sindh shall demonstrate its commitment to the fiscal decentralization process by ensuring that all fees pertaining to the social sector shall be retained and reused for better management of such services;

(iv) Sindh shall strengthen the financial powers of the social sector EDOs in accordance with the provisions of the SLGO and shall ensure that such officers report to the Controller General Accounts, Sindh;

(v) Sindh shall ensure that the proceeds of the Loan shall be earmarked for social sector services and shall be treated as an additionally to the provincial budget;

(vi) Sindh shall ensure that as part of an effort to create greater fiscal space for the DGs and the TMAs and to ensure that their capability of financial management improves, funds earmarked for devolved social services and related capacity building shall be transferred as grants to the DGs and the TMAs through Account No. IV; and

(vii) Sindh shall ensure that the proceeds of the Loan shall be disbursed by its Finance Department to eligible DGs and TMAs concerned within one (1) month from the date of receipt thereof.

19. The Borrower shall cause Sindh:

(i) to require the DGs and the TMAs to ensure the timely flow of funds to the CBOs;

(ii) to require the DGs, the TMAs and the CBOs to adopt and implement clear procedures for the release and utilization of proceeds of the Loan;

(iii) to undertake purposive actions to achieve role clarity regarding the PLDs, the DGs and the TMAs in relation to the social sector, with clear distinctions between the roles, responsibilities and accountabilities at each level;

(iv) to effectively address issues related to capacity constraints at provincial, district, TMA, and community levels;

(v) to require the DGs, the TMAs and the CBOs to adopt measures to ensure proper use and quality of community services, including school enrolment and retention of students in school, use of maternal and child health services, and water and sanitation utilities.

(vi) to initiate a province wide media campaign to emphasize the need for children, in particular, girls' education and the incentives and services offered by Sindh for such purpose;

(vii) to require the DGs and the TMAs to rationalize non-functional schools, basic health units, and water schemes according to their potential for service delivery;

(viii) to promote public-private partnership in the improvement of social service delivery;

(ix) to promote the GRAP, including giving priority to addressing women's issues and ensuring adequate representation of women in decision making bodies;

(x) to strengthen the SMCs and authorize and enable them to recruit teachers on temporary basis;

(xi) to establish intensive provincial and district level monitoring and supervision mechanisms; and

(xii) to establish a framework to strengthen training institutions for capacity building and technical support of the DGs and the TMAs.

#### Local Governments and Community Based Organizations

20. The Borrower shall cause Sindh to put in place adequate systems to ensure proper financial management and periodic expenditure statements from the implementing agencies, and conduct third party validation to access impact and ensure additionality of funding.

21. The Borrower shall cause Sindh to establish simple procedures for the use of funds provided to the DGs, the TMAs and the CBOs. In the case of the DGs and the TMAs, this shall include an agreement on the scope of activities to be supported, and criteria to be met for using funds (such as public announcement of available funds, annual accounts monitoring, approved annual plan and budget, and possible matching grant). The Borrower shall cause Sindh to ensure that the DGs and the TMAs adopt the general guidelines and procedures for financial management, for use in the social sector, prepared under the DSP. The Borrower shall further cause Sindh to ensure that the CBOs are supported with capacity building for proper bookkeeping and financial reporting standards.

22. The Borrower shall cause Sindh to require the DGs and the TMAs to prepare comprehensive annual plans including other sources and uses of funds as the basis to access the Program funds and to ensure additionality of these funds.

23. The Borrower shall cause Sindh to ensure that the DGs and the TMAs shall install procedures to improve monitoring of performance. The Borrower shall cause Sindh to require the DGs and the TMAs to establish annual social sector performance and expenditure targets, monitor compliance, organize public awareness activities, and ensure transparency through public posting of the DGs and the TMAs annual performances.

#### Resettlement

24. The Borrower shall cause Sindh to ensure that no person shall be adversely affected in terms of ADB's *Policy on Involuntary Resettlement* and ADB's *Policy on Indigenous People*.

Environment

25. The Borrower shall cause Sindh to ensure that the Program shall be carried out in accordance with the Borrower's environmental rules and regulations, ADB's *Environment Policy*, and ADB's environmental guidelines as set forth in *Environmental Assessment Guidelines (2003)*.

Gender and Development

26. The Borrower shall ensure that the Program shall be carried out in accordance with ADB's *Policy on Gender and Development*. The Borrower shall cause Sindh to ensure women's participation in the Program in accordance with the gender strategy as agreed between the Borrower and ADB.