
LOAN NUMBER 2368- SAM (SF)

GRANT NUMBER 0087 - SAM (SF)

FINANCING AGREEMENT
(Special Operations)
(Power Sector Expansion Project)

between

INDEPENDENT STATE OF SAMOA

and

ASIAN DEVELOPMENT BANK

DATED 11 DECEMBER 2007

FAS:SAM 38183

**FINANCING AGREEMENT
(Special Operations)**

FINANCING AGREEMENT dated 11 December 2007 between INDEPENDENT STATE OF SAMOA (the "Beneficiary") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Beneficiary has applied to ADB for a loan and a grant for the purposes of the Project described in Schedule 1 to this Financing Agreement;

(B) the Beneficiary has also applied to the Japan Bank for International Cooperation ("JBIC") for a loan equivalent to thirty-eight million dollars (\$38 million) for the purposes of the Project (the "JBIC Loan"), and JBIC has agreed to provide the amount and for the amount to be fully administered by ADB;

(C) the Beneficiary has also applied to the Government of Australia for a grant equivalent to eight million dollars (\$8 million) for the purposes of the Project (the "Government of Australia Grant"), and the Government of Australia has agreed to provide the amount and for the amount to be fully administered by ADB;

(D) the Project will be carried out by the Electric Power Corporation (the "EPC"), and for this purpose the Beneficiary will make available to the EPC the proceeds of the loan and the grant, and the JBIC Loan and the Government of Australia Grant, provided for herein in accordance with the terms and condition satisfactory to ADB; and

(E) ADB has agreed to provide financing by making a loan and a grant to the Beneficiary from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and the EPC;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations and Grant Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (the "Loan Regulations"), are hereby made applicable to the Loan made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) the term "Loan Agreement", wherever it appears in the Loan Regulations, shall be substituted by the term "Financing Agreement"; and

(b) the term "Borrower", wherever it appears in the Loan Regulations, shall be substituted by the term "Beneficiary" as defined in the opening paragraph of this Financing Agreement.

Section 1.02. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 (the "Grant Regulations"), are hereby made applicable to the Grant made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein subject, however, to the following modifications:

(a) the term "Grant Agreement", wherever it appears in the Grant Regulations, shall be substituted by the term "Financing Agreement"; and

(b) the term "Recipient", wherever it appears in the Grant Regulations, shall be substituted by the term "Beneficiary" as defined in the opening paragraph of this Financing Agreement.

Section 1.03. The definitions set forth in the Loan Regulations and Grant Regulations are applicable to this Financing Agreement, in each case unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "Affected People" means persons affected by land acquisition, compensation, relocation, resettlement or rehabilitation pursuant to the Project;

(b) "Arrears" means any bill unpaid for a period of 30 days from the date of the reading of the meter;

(c) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers dated February 2007, as amended from time to time;

(d) "Disconnection Policy" means a policy of the EPC on service disconnection and reconnection for customers with payments in Arrears to be adopted as per Section 6.01 of this Financing Agreement;

(e) "EARF" means the Environment Assessment and Review Framework set out in Appendix D of the RRP;

(f) "EARP" means the Environment Assessment and Review Plan prepared by the ESU for a Subproject pursuant to the EARF;

(g) "EIA" means the Environmental Impact Assessment prepared by the ESU for a Subproject pursuant to the EARF;

(h) "EMMP" means the Environmental Management and Monitoring Plan prepared by the ESU for a Subproject pursuant to the EARF;

(i) "ESU" means the Environment and Social Unit of the EPC, as described in Schedule 5 to this Financing Agreement;

(j) "Fiscal Year" means the period from 1 July of the current year to 30 June of the following year (i.e. Fiscal Year 2007 denotes 1 July 2007 to 30 June 2008);

(k) "Government" means the government of the Independent State of Samoa;

(l) "IEE" means the Initial Environmental Examination prepared by the ESU for a Subproject pursuant to the EARF;

(m) "LARF" means the Land Acquisition and Resettlement Framework set out in Appendix C of the RRP;

(n) "LARP" means the Land Acquisition and Resettlement Plan prepared by the ESU for a Subproject pursuant to the LARF;

(o) "MOF" means the Ministry of Finance of the Beneficiary;

(p) "PEAR" means the Preliminary Environmental Assessment Report prepared by the ESU for a Subproject pursuant to the EARF;

(q) "PMC" means the Project Management Committee of the EPC, as described in Schedule 5 to this Financing Agreement;

(r) "PMU" means the Project Management Unit of the EPC, as described in Schedule 5 to this Financing Agreement;

(s) "PPMS" means the Project Performance Monitoring System to be established by the EPC, as described in Schedule 5 to this Financing Agreement;

(t) "PSC" means the Project Steering Committee, as described in Schedule 5 to this Financing Agreement;

(u) "Prepayment Meter Policy" means a policy of the EPC on the use of prepayment meters to be adopted as per Section 6.01 of this Financing Agreement;

(v) "Procurement Guidelines" means ADB's Procurement Guidelines dated February 2007, as amended from time to time;

(w) "Procurement Plan" means the procurement plan for the Project dated 27 September 2007 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(x) "RRP" means the Report and Recommendation of the President of ADB to the Board of Directors of ADB recommending the approval of the Loan and Grant;

(y) "Subproject" means a Subproject of the Project selected and approved in accordance with the eligibility criteria and procedures for candidate Subprojects set out in Schedule 5 of this Financing Agreement;

(z) "Subsidiary Financing Agreement" means the agreement between the Beneficiary and the EPC referred to in Section 6.01(b) of this Financing Agreement; and

(aa) "Write-Off Policy" means a policy of the EPC on writing-off outstanding customer debts to be adopted as per Section 6.01 of this Financing Agreement.

ARTICLE II

The Loan and the Grant

Section 2.01. ADB agrees to provide to the Beneficiary from ADB's Special Funds resources, on terms and conditions set forth in this Financing Agreement:

(a) a loan in various currencies equivalent to seventeen million one hundred fifty-one thousand Special Drawing Rights (SDR 17,151,000) (the "Loan"); and

(b) a grant in the amount of fifteen million three hundred and ninety thousand dollars (\$15,390,000) (the "Grant").

Section 2.02 (a) The Beneficiary shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half percent (1.5%) per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to payment of the first principal amount of the Loan on the payment date in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.04. The Beneficiary shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Section 4.03(a) and 4.04 of the Loan Regulations shall be Dollar.

ARTICLE III

Use of Proceeds of the Financing

Section 3.01. (a) The Beneficiary shall relend the proceeds of the Loan and the Grant, and the JBIC Loan, to the EPC under a Subsidiary Financing Agreement upon terms and conditions satisfactory to ADB.

(b) The Beneficiary shall cause the EPC to apply the proceeds of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant, to the financing of expenditures on the Project in accordance with the provisions of this Financing Agreement and the Project Agreement.

Section 3.02. The goods and services and other items of expenditures to be financed out of the proceeds of the Loan and the Grant and the respective allocation of amounts of the Loan and the Grant among different categories of such goods and services and other items of expenditures shall be in accordance with the provisions of Schedule 3A and Schedule 3B, respectively, to this Financing Agreement, as such Schedule 3A and Schedule 3B may be amended from time to time by agreement between the Beneficiary and ADB.

Section 3.03. Except as ADB may otherwise agree, all goods and services and other items of expenditures to be financed out of the proceeds of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant, shall be procured in accordance with the provisions of Schedule 4 to this Financing Agreement.

Section 3.04. Withdrawals from the Loan Account and the Grant Account in respect of goods and services shall be made only on account of expenditures relating to:

(a) goods which are produced in and supplied from and services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and

(b) goods and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2016 or, in each case, such other date as may from time to time be agreed between the Beneficiary and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Beneficiary shall carry out the Project with due diligence and efficiency and in conforming with sound administrative, financial, engineering, environmental and public utilities practices.

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

Section 4.02. The Beneficiary shall make available promptly, as needed, the funds, facilities, services, land and other resources which are required, in

addition to the proceeds of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant, for the carrying out of the Project and for the operation and maintenance of the Project facilities.

Section 4.03. The Beneficiary shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant, and any relevant records and documents.

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

Section 4.05. (a) The Beneficiary shall exercise its rights under the Subsidiary Financing Agreement in such a manner as to protect the interests of the Beneficiary and ADB and to accomplish the purposes of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant.

(b) No rights or obligations under the Subsidiary Financing Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Beneficiary to make withdrawals from (a) the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations, and (b) the Grant Account for the purposes of Section 8.01 (k) of the Grant Regulations:

(a) either the Beneficiary or the EPC shall have failed to perform any of its respective obligations under the Subsidiary Financing Agreement;

(b) the governing law or any provision in the Subsidiary Financing Agreement shall have been repealed, suspended or amended in any manner which in the reasonable opinion of ADB upon consultation with the Beneficiary will or may adversely affect the carrying out of the Project or the operation of the Project facilities;

(c) the JBIC Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date; and

(d) the Government of Australia Grant shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following are specified as additional events for acceleration of maturity of the Loan for the purposes of Section 8.07(d) of the Loan

Regulations: the events specified in Section 5.01 of this Financing Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Financing Agreement for the purposes of Section 9.01(f) of the Loan Regulations and Section 9.01 (e) of the Grant Regulations, respectively:

(a) the Beneficiary shall have settled all electricity Arrears of Government agencies and Government-owned entities as of 30 September 2007;

(b) the Beneficiary shall have entered into the Subsidiary Financing Agreement with the EPC, in form and substance satisfactory to ADB and providing *inter alia*: (i) for the relending of the proceeds of the Loan, the Grant and the JBIC loan to the EPC in two tranches; the first tranche having a 25 year term (including a grace period of 5 years), an interest rate of 6.5% and a principal amount equal to the relending to EPC for the financing of subprojects completed prior to June 30, 2012; the second tranche having a 28 year term (including a grace period of 8 years) interest rate of 6.5% and a principal amount equal to the remainder of the Loan, the Grant and the JBIC Loan less the principal amount of the first tranche; (ii) for the transfer of the interest on the proceeds of the Grant to the Clean Energy Fund (and of which the Clean Development Mechanism Sub-Fund is part of the Clean Energy Fund); (iii) that the annual aggregate disbursements from the Government of Australia Grant is treated as an equity in the EPC's annual financial statements and audited accounts and that this equity shall be reflected as part of the EPC's share capital when the EPC is registered as a limited company; and (iv) that the Beneficiary shall establish an incentive scheme for canceling repayment by the EPC of the Grant relented by the Beneficiary, through treating such portion of the relented Grant as a grant from the Beneficiary to the EPC (up to 7% of Project costs or a ceiling of \$10 million) on the timely and to-budget implementation of the Subprojects by the EPC;

(c) the Beneficiary shall have established the PSC;

(d) the Beneficiary shall, and shall have cause the EPC to, have established the PMC;

(e) the Beneficiary shall, and shall have cause the EPC to, have established the PMU and the EPC shall have, by the Effective Date, communicated to the Beneficiary and ADB: (i) confirmation of the formal establishment of the PMU; and (ii) appointment on a full-time basis in the PMU of a project manager, a project accountant, a generation engineer, a transmission engineer, a power systems planner, and a public relations and community liaison specialist;

(f) the Beneficiary shall, and shall have cause the EPC, to have established the ESU;

(g) the agreement between the Beneficiary and JBIC for the JBIC Loan shall have been duly executed and delivered on behalf of the Beneficiary and JBIC and is fully effective and binding upon the parties thereto in accordance with its terms, subject only to the effectiveness of this Financing Agreement; and

(h) the Beneficiary shall have obtained a commitment from the Government of Australia with respect to the availability of the Government of Australia Grant for the Project.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations and Section 9.02 of the Grant Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Subsidiary Financing Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Beneficiary and the EPC and is legally binding upon the Beneficiary and the EPC in accordance with its terms, subject only to the effectiveness of this Financing Agreement.

Section 6.03 A date ninety (90) days after the date of this Financing Agreement is specified for the effectiveness of the Financing Agreement for the purposes of Section 9.04 of the Loan Regulations and Section 9.04 of the Grant Regulations.

ARTICLE VII

Delegation of Authority

Section 7.01. The Beneficiary hereby designates the EPC its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02 and 3.05 of this Financing Agreement and under Sections 5.01, 5.02, 5.03 and 5.04 of the Loan Regulations, and Sections 5.01, 5.02, 5.03 and 5.04 of the Grant Regulations.

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

Section 7.03. The authority conferred on the EPC under Section 7.01 of this Financing Agreement may be revoked or modified by agreement between the Beneficiary and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The Minister of Finance of the Beneficiary is designated as representative of the Beneficiary for the purposes of Section 11.02 of the Loan Regulations and Section 11.02 of the Grant Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations and Section 11.01 of the Grant Regulations:

For the Beneficiary

Ministry of Finance
Private Bag
Apia, Samoa

Facsimile Numbers:

(685) 21312
(685) 24779

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) 636-2445

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Financing 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.

INDEPENDENT STATE OF SAMOA

By 
CEPPIE KURNIADI SUMADILAGA
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
LIQUN JIN
Vice President (Operations 1)

SCHEDULE 1

Description of the Project

1. The objective of the Project is to provide sustainable and reliable electricity services to consumers at affordable prices by improving the capacity of the power sector to: (a) meet growing electricity demands; and (b) improve quality, reliability and cost-effectiveness of electricity supply. The Project is part of the Beneficiary's power sector development program, which also includes taking institutional and regulatory measures to improve the financial and operational performance of the EPC and the overall performance of the sector.

2. The Project consists of the following components:

(a) Component A: Upgrading the Hospital Feeder

Upgrade the hospital feeder through:

- (i) constructing an approximately 900 meters 22 kV underground cable to replace the existing 6.6kV overhead feeder section from Togafuafua to Saleufi;
- (ii) installing a new 6.6kV/22kV transformer at the Tanugamanono power station for the 22kV underground cables; and
- (iii) installing nine new 6.6kV/22kV distribution transformers to replace the existing 6.6kV/400V distribution transformers at Tanugamanono power station.

(b) Component B: Installing Pre-Payment Meters

Supply and install approximately 21,000 single-phase pre-payment meters and approximately 250 three-phase pre-payment meters on Savai'i and Upolu.

(c) Component C: Implementing Candidate Subprojects

- (i) Support the EPC's investment plan for improving power generation and transmission on Savai'i and Upolu through the implementation of approximately 17 Subprojects, including 11 transmission Subprojects, 4 generation Subprojects, a system control and data acquisition Subproject, and a voltage and current, and stream flow gauging measurement equipment Subproject.

(d) Component D: Supporting Project Management

Support the EPC's management of the Project through:

- (i) the establishment of the PMU; and

- (ii) the appointment of a project manager and implementation consultants in the PMU.

3. The Project is expected to be completed by 30 June 2016.

SCHEDULE 2**Amortization Schedule
(Power Sector Expansion Project)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 May 2016	357,313.00
15 November 2016	357,313.00
15 May-2017	357,313.00
15 November 2017	357,313.00
15 May 2018	357,313.00
15 November 2018	357,313.00
15 May 2019	357,313.00
15 November 2019	357,313.00
15 May 2020	357,313.00
15 November 2020	357,313.00
15 May 2021	357,313.00
15 November 2021	357,313.00
15 May 2022	357,313.00
15 November 2022	357,313.00
15 May 2023	357,313.00
15 November 2023	357,313.00
15 May 2024	357,313.00
15 November 2024	357,313.00
15 May 2025	357,313.00
15 November 2025	357,313.00
15 May 2026	357,313.00
15 November 2026	357,313.00
15 May 2027	357,313.00
15 November 2027	357,313.00
15 May 2028	357,313.00
15 November 2028	357,313.00
15 May 2029	357,313.00
15 November 2029	357,313.00
15 May 2030	357,313.00
15 November 2030	357,313.00
15 May 2031	357,313.00
15 November 2031	357,313.00
15 May 2032	357,313.00
15 November 2032	357,313.00
15 May 2033	357,313.00
15 November 2033	357,313.00
15 May 2034	357,313.00
15 November 2034	357,313.00
15 May 2035	357,313.00
15 November 2035	357,313.00

Schedule 2

15 May 2036	357,313.00
15 November 2036	357,313.00
15 May 2037	357,313.00
15 November 2037	357,313.00
15 May 2038	357,313.00
15 November 2038	357,313.00
15 May 2039	357,313.00
15 November 2039	357,289.00
Total	<u>17,151,000.00</u>

* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3A**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the categories of goods and services and other items of expenditures to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Interest Charge

3. (a) The interest charged shall be paid by the Beneficiary to ADB on a semi-annual basis on the payment dates specified in Section 2.03 of this Financing Agreement and the payment shall be made by the Beneficiary on a cash basis.

(b) ADB reserves the right to suspend disbursements from the Loan Account in the case where interest charges are not paid by the Beneficiary as and when such payments fall due.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table:

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Beneficiary: (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 then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, reallocate such excess amount to any other Category.

Disbursement Procedures

5. (a) Except as ADB may otherwise agree, the Loan proceeds for financing of goods and services and other items of expenditures shall be disbursed in accordance with

ADB's *Loan Disbursement Handbook* (January 2007, as amended from time to time) (ADB's *Loan Disbursement Handbook*), and the arrangements specified in Appendix 10 (Disbursement and Funding Arrangements) of the RRP.

(b) The proceeds of the Government of Australia Grant and the JBIC Loan shall be disbursed on a pro-rata basis pursuant to Table A6.2 of Appendix 6 (Detailed Cost Estimate by Financiers) of the RRP.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project before the Effective Date, but not earlier than twelve (12) months before the date of this Financing Agreement in connection with items to be retroactively financed, subject to a maximum amount equivalent to 20 percent of the Loan.

Condition of Withdrawals from Loan Account

7. (a) The Government of Australia Grant shall have been transferred to an account at ADB and be available for the Project.

(b) Prior to the commencement of civil works for any Subproject facility: (i) the Planning and Urban Management Agency of the Ministry of Natural Resources and Environment shall have approved the application for development consent of the PEAR for any such Subproject facility; and (ii) ADB shall have approved the IEE for any such Subproject facility.

(c) Notwithstanding any other provision of this Financing Agreement, no withdrawals shall be made from the Loan Account for the Vaita'i Hydropower Subproject until the Beneficiary shall have entered into a legally binding agreement, or obtained a court order, for the compensation of the relevant customary landowners for the acquisition of the requisite land for the Subproject, in the event where the Vaita'i Hydropower Subproject is selected as a Subproject. Such agreement shall include terms and conditions with respect to the 20 meter-wide road reserve required to accommodate the existing access road from Sili Village to the Vaita'i Hydropower Subproject site, inclusive of shoulders and table drains.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Power Sector Expansion Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated SDR Category	Percentage and Basis for Withdrawal from the Loan Account
1	Civil Works	SDR2,237,000	48 percent of total expenditure
2	Equipment Supply and Installation	SDR12,239,000	31 percent of total expenditure
3	Unallocated	SDR2,675,000	
	Total	SDR17,151,000	

SCHEDULE 3B**Allocation and Withdrawal of Grant Proceeds**General

1. The table attached to this Schedule sets forth the categories of goods and services and other items of expenditures to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table:

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Beneficiary: (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, reallocate such excess amount to any other Category.

Disbursement Procedures

4. (a) Except as ADB may otherwise agree, the Grant proceeds for financing of goods and services and other items of expenditures shall be disbursed in accordance with ADB's *Loan Disbursement Handbook* and the arrangements specified in Appendix 10 (Disbursement and Funding Arrangements) of the RRP.

(b) The proceeds of the Government of Australia Grant and the JBIC Loan shall be disbursed on a pro-rata basis pursuant to Table A6.2 of Appendix 6 (Detailed Cost Estimate by Financiers) of the RRP.

Retroactive Financing

5. Withdrawals from the Grant Account may be made for reimbursement of reasonable expenditures incurred under the Project before the Effective Date, but not earlier than twelve (12) months before the date of this Financing Agreement in connection with items to be retroactively financed, subject to a maximum amount equivalent to 20 percent of the Grant.

Condition of Withdrawals from Grant Account

6. (a) The Government of Australia Grant shall have been transferred to an account at ADB and be available for the Project.

(b) Prior to the commencement of civil works for any Subproject facility: (i) the Planning and Urban Management Agency of the Ministry of Natural Resources and Environment shall have approved the application for development consent of the PEAR for any such Subproject facility; and (ii) ADB shall have approved the IEE for any such Subproject facility.

(c) Notwithstanding any other provision of this Financing Agreement, no withdrawals shall be made from the Grant Account for the Vaita'i Hydropower Subproject until the Beneficiary shall have entered into a legally binding agreement, or obtained a court order, for the compensation of the relevant customary landowners for the acquisition of the requisite land for the Subproject, in the event where the Vaita'i Hydropower Subproject is selected as a Subproject. Such agreement shall include terms and conditions with respect to the 20 meter-wide road reserve required to accommodate the existing access road from Sili Village to the Vaita'i Hydropower Subproject site, inclusive of shoulders and table drains.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Power Sector Expansion Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated \$ Category	Percentage and Basis for Withdrawal from the Grant Account
1	Equipment Supply and Installation	\$8,420,000	See paragraph in asterisk*
2	Consultant Services	\$4,570,000	95 percent of total expenditure**
3	Unallocated	\$2,400,000	
	Total	\$15,390,000	

* Overall financing percentage will be 22% for the Grant and the Government of Australia Grant. The Government of Australia Grant will be frontloaded for this category. The disbursement percentages by year are specified in Table A6.2 of Appendix 6 (Detailed Cost Estimate by Financiers) of the RRP.

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

SCHEDULE 4

Provisions on Procurement and Services of Consultants

General

1. Except as ADB may otherwise agree, all goods and services and other items of expenditures to be financed out of the proceeds of the Loan and the Grant, and the JBIC Loan and the Government of Australia Grant, shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively. In this Schedule, the term “goods” include equipment and materials; the term “services” does not include consulting services.
2. All terms used and not otherwise defined in this Financing Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Procurement for Goods and Services

3. (a) Except as ADB may otherwise agree, goods and services shall only be procured on the basis of the methods of procurement set forth below:

International Competitive Bidding
Shopping

- (b) The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Beneficiary may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Selection of Consulting Services

4. Except in the case of the project manager, who will be recruited as an individual consultant for an initial period of 36 months in accordance with the Consulting Guidelines, and except as ADB may otherwise agree, the Beneficiary shall apply quality- and cost-based selection for selecting and engaging consulting services.

Industrial or Intellectual Property Rights

5. (a) The Beneficiary shall ensure that all 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 Beneficiary shall ensure that all 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.

6. The Beneficiary shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

7. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Beneficiary and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Project Execution and Implementation Arrangements

1. The MOF shall, as the Project Executing Agency, establish the PSC to provide overall direction for the Project. The Chief Executive Officer of the MOF shall chair the PSC. Other PSC members are the Chief Executive Officer of the Ministry of Commerce, Industry and Labour, the Chief Executive Officer of the Ministry of Natural Resources and Environment, the Chief Executive Officer of the Ministry of Women, Community and Social Development, the Chief Executive Officer of Samoa Water Authority, the Attorney General and the General Manager of the EPC. The PSC shall be convened at least on a quarterly basis, commencing within 3 months from the Effective Date, until Project completion.

2. The EPC shall, as the Project Implementing Agency, establish:

(a) the PMC to provide coordination between the Project and non-Project activities within the EPC. The General Manager of EPC shall chair the PMC. Other PMC members are the managers of each of the departments of the EPC and the project manager for the Project. The PMC shall be convened on a weekly basis, commencing the Effective Date, until 31 December 2009 and thereafter on a bimonthly basis until completion of the Project;

(b) the PMU for the day-to-day management and implementation of the Project. The PMU shall be responsible for project planning, monitoring and reporting, and cost and quality control, including: (i) project management and administration; (ii) planning and implementing cost-effective and sustainable infrastructure investments to meet consumer demand; (iii) maintaining Project accounts; (iv) overseeing procurement procedures to ensure compliance with the Beneficiary's and ADB's policies and procedures; (v) liaising with ADB for quarterly Project updates and other reporting; and (vi) preparing the Project completion report of the Beneficiary; and

(c) the ESU in the PMU to be responsible for all environmental and social matters relating to the Project. This includes preparation of the IEE, the PEAR, the EIA, the EMMP, the EARF and the LARP, in each case, as required for any Subproject. The ESU shall be staffed with an environment officer and a land acquisition and resettlement officer, in each case, with qualifications and experience acceptable to ADB.

3. The Beneficiary shall, and shall cause the EPC to, ensure that the PMU is adequately staffed and resourced throughout the Project implementation period for the timely and effective implementation of the Project, including the appointment of a project manager for the PMU for the duration of the Project.

Subproject Selection and Implementation

4. (a) The Beneficiary shall, and shall cause the EPC to, ensure that all candidate Subprojects are selected and approved in accordance with the eligibility criteria and procedures agreed between the Beneficiary and ADB and as set out below:

Schedule 5

(i) the Subproject contributes to the objectives of the power sector development plan of the Government, is identified as a high priority project in EPC's annual business plan and is included in the EPC's investment plan;

(ii) the Subproject is technically feasible and meets the Government's technical standards and requirements;

(iii) the Subproject is justified as the most feasible Subproject to achieve the stated objectives and is shown to be least cost among feasible alternatives;

(iv) the LARP shall have been prepared for the Subproject in accordance with the LARF, if required, and EPC shall have submitted written confirmation to ADB that the landowner and/or lessee in the case of freehold and state-owned land, or in the case customary land, the matai, acting on behalf of Affected Persons under the Subproject, is agreeable to the land acquisition and resettlement plan terms and conditions;

(v) an environmental screening shall have been conducted for the Subproject and the IEE, the PEAR, and the EMMP shall have been prepared for the Subproject, in each case, in accordance with the provisions of the EARF. No category A projects shall be financed under the Project;

(vi) ADB determines that the EPC has the necessary staffing, implementation, and financial management capacity to implement the Subproject or, in the alternative, the EPC can provide specific assurances that assessed shortcomings can be rectified, such as by adding qualified staff or providing timely in-service training;

(vii) the Subproject's implementation timeframe is reasonable, and surveys and design can be prepared, reviewed, safeguard process and procedures followed, and implemented within the Project implementation period;

(viii) the financing plan clearly identifies confirmed sources of financing, including counterpart financing, and includes the provision of budgetary resources to meet counterpart funding requirements for capital expenditures during the construction phase, resettlement costs, as applicable, environmental management costs, loan repayment requirements and routine operations and maintenance costs;

(ix) the Subproject will not adversely impact on the EPC's ability to meet its financial covenants under the loan; and

(x) all required Governmental approvals shall have been obtained.

(b) The Beneficiary shall, and shall cause the EPC to, ensure that the Subprojects selected in accordance with the criteria referred to above are approved and processed in accordance with the arrangements set out below:

(i) the PMU will identify candidate Subprojects meeting the criteria set forth in paragraph 4 above and will obtain approval from the EPC board to assess the feasibility of the candidate Subprojects and inform the PSC of the pending Subprojects feasibility study;

(ii) the PMU will then prepare a feasibility study for each candidate Subprojects. The candidate Subproject feasibility report will, among others, provide technical analysis and description, Subproject rationale, scope and components, cost estimates and financing plan, implementation arrangements, an environmental assessment, and a land acquisition and

resettlement assessment. The feasibility report will also contain an update of the EPC's investment plan and an analysis of the candidate Subproject's impacts on the EPC's 5-year financial projections, key financial ratios, and compliance with this Financing Agreement;

(iii) each feasibility report will be submitted to ADB for review and approval and shall contain sufficient evidence of the candidate Subproject's eligibility under the agreed criteria and shall be prepared in accordance with the detail and quality required to enable ADB to assess the viability and sustainability of the candidate Subproject. The feasibility reports will include a set of relevant benchmark and performance indicators for the Subproject which will be monitored through progress reports; and

(iv) after ADB has endorsed the feasibility study, the PMU will submit the feasibility study to the EPC board and the PSC for review and approval. Implementation of a candidate Subproject may only proceed following the endorsement of the candidate Subproject feasibility report by the PSC, the EPC board and ADB.

(c) The Beneficiary shall, and shall cause the EPC to, ensure that all documentation relating to the Subprojects are kept for a minimum of five years from the date of the project completion report for each such Subproject and made available to ADB upon request.

5. The Beneficiary shall establish an incentive scheme for canceling repayment by the EPC of the Grant relented by the Beneficiary, through treating such portion of the relented Grant as a grant from the Beneficiary to the EPC (up to 7% of Project costs or a ceiling of \$10 million) on the timely and to-budget implementation of the Subprojects by the EPC, in accordance with the provisions of the Subsidiary Financing Agreement referred to in Section 6.01 of this Financing Agreement.

Counterpart Financing

6. Without limiting the generality of Section 4.02 of this Financing Agreement, the Beneficiary shall, and shall cause the EPC to, take all necessary measures to ensure that sufficient counterpart funds are made available for and provided to the Project in a timely manner to support effective Project implementation. In this regard, the Beneficiary shall, and shall cause EPC to, make adequate budgetary allocations for each Fiscal Year as required to: (a) implement the mitigation measures and monitoring requirements of each IEE and EMMP for the Project, in each case, in compliance with the EARF; and (b) implement each LARP for all Subprojects in compliance with the LARF, including providing requisite counterpart funds for land acquisition, resettlement and monitoring activities under any such LARP. The Beneficiary shall, and shall cause the EPC to, meet any unforeseen obligations in excess of the LARP budget in order to satisfy land acquisition and resettlement objectives.

Regulatory Reform and Measures

7. The Beneficiary shall establish a regulatory framework for the power sector under its reform program for the sector. This includes: (a) the Government submitting a draft Electricity Act and draft amendments to the Electric Power Corporation Act 1980 for Cabinet and Parliamentary consideration by 31 December 2009; (b) following approval by Cabinet and Parliament of the draft legislation, approving provision of resource allocations for a power sector regulator for the relevant Fiscal Year; and (c) appointing the power sector regulator for the power sector by 31 December 2010.

8. The Beneficiary shall have settled all electricity Arrears of Government agencies and Government-owned entities as of 30 April 2008 by 31 July 2008.

9. The Beneficiary shall, and shall cause the EPC to, ensure that pre-payment meters are installed on: (a) all new electricity connections by 30 June 2008; and (b) a minimum of 75% of all electricity connections by 31 December 2012. Where the Beneficiary has determined that pre-payment meters shall not be installed on certain Government agencies and Government-owned entities providing basic government services, the Beneficiary shall make a budgetary allocation in each Fiscal Year for the cost of providing power for these services and pay such cost directly to the EPC.

10. The Beneficiary shall, and shall cause the EPC to, implement the Disconnection Policy, the Prepayment Policy and the Write-Off Policy in accordance with their terms.

Financial Ratios, Audits and Financial Projections

11. (a) The Beneficiary shall, and shall cause the EPC to, produce: (i) for each of its fiscal years from Fiscal Year 2008 to Fiscal Year 2015, cash from internal sources equivalent to not less than 12% of the annual average of the EPC's capital expenditures incurred, or expected to be incurred, for that Fiscal Year, the previous Fiscal Year and the next following Fiscal Year; and (ii) for each Fiscal Year after Fiscal Year 2015, cash from internal sources equivalent to not less than 20% of the annual average of the EPC's capital expenditures incurred, or expected to be incurred, for that Fiscal Year, the previous Fiscal Year, and the next following Fiscal Year.

(b) Before 28 February in each of EPC's Fiscal Years, the Beneficiary shall, and shall cause the EPC to, on the basis of forecasts prepared by the EPC and satisfactory to ADB: (i) review whether it will meet the requirements set forth in subparagraph (a) above in respect of such Fiscal Year and the next following Fiscal Year; and (ii) provide ADB a copy of such review upon its completion.

(c) If any such review pursuant to subparagraph (b) above shows that the EPC would not meet the requirements set forth in subparagraph (a) for those EPC's Fiscal Years covered by such review, the Beneficiary shall promptly take or cause the EPC to take all necessary measures (including without limitation, adjustments of the structure or levels of the EPC's electricity tariffs and other charges) in order to meet such requirements.

(d) The Beneficiary shall cause the EPC not to incur any debt unless a reasonable forecast of the revenues and expenditures of the EPC shows that the estimated

free cash flows of the EPC for each Fiscal Year during the term of the debt to be incurred shall be at least 1.3 times the estimated debt service requirements of the EPC in such Fiscal Year on all debts of the EPC, including the debt to be incurred, and no event has occurred since the date of the forecast that has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition of future operating results of the EPC.

(e) For the purposes of this paragraph:

(i) the term “capital expenditures” means all expenditures incurred on account of fixed assets, including interest charged to construction financed under any contract, but excludes (i) interest charged to construction subject to cash settlement in the Fiscal Year in which such interest is charged; and (ii) capital expenditures funded entirely by the Government under a community service obligation;

(ii) the term “cash from internal sources” means the difference between: (A) the sum of cash flows from all sources related to operations, plus cash generated from consumer deposits and consumer advances of any kind, sale of assets, cash yield of interest on investments, payments received by the EPC from the Beneficiary for the refund of all or part of the EPC’s Value Added Goods and Services Tax (VAGST) expense, and net non-operating income; and (B) the sum of all expenses related to operations, including administration, adequate maintenance, selling expense, and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends paid and other cash distributions of surplus, and other cash outflows other than capital expenditures;

(iii) the term “community service obligation” means an obligation under Section 9 of the Public Bodies (Performance and Accountability) Act 2001 of the Beneficiary;

(iv) the term “debt” means any indebtedness of the EPC maturing by its terms more than one year after the date on which it is originally incurred, and debt shall be deemed to be incurred: (a) under a contract or 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 (b) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into;

(iv) the term “debt service requirements” means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt, excluding interest charged to construction and financed from loans;

(v) the term “free cash flows” means the difference between: (A) the sum of cash flows from all sources related to operations, plus cash generated from consumer deposits and consumer advances of any kind, sale of assets, cash yield of interest on investments, and net non-operating income; and (B) the sum of all expenses related to operations, including administration, adequate maintenance, selling expense, and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), but excluding interest and other charges on debt; and

- (vi) The term “net non-operating income” means the difference between: (A) revenues from all sources other than those related to operations after making adequate provisions for uncollectible debts, and excluding payments made to the EPC by the Beneficiary under its community service obligation for the acquisition of fixed assets; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above; and
- (vii) the term “reasonable forecast” means a forecast prepared by the EPC not earlier than nine months prior to the incurrence of the debt in question, which ADB, the Beneficiary and the EPC accept as reasonable, and to which ADB has notified the Borrower of its acceptability.

12. The Beneficiary shall, and shall cause the EPC to, maintain, from the Effective Date, accounts receivables equivalent to not more than two months' equivalent of annual billing for power generation and supply and for all other services provided by EPC.

13. The Beneficiary shall, and shall cause the EPC to, engage independent auditors acceptable ADB to audit its annual financial statements and annual Project accounts (the EPC shall maintain separate accounts for the Project), including assessing EPC's compliance during the previous Fiscal Year with the financial covenants set forth in paragraph 11 above. The terms of reference for the independent auditors shall be provided to ADB for review prior to their engagement. Annual financial statements shall be prepared, and audits shall be conducted, based on international standards. Audited financial statements of EPC and audited Project accounts shall be submitted to ADB within six months of the end of a Fiscal Year. The annual financial statements of EPC shall be consolidated for all of EPC's operations.

Change in Ownership/Operation and Maintenance

14. In the event that the Beneficiary wishes to change the ownership structure of the EPC or its business, or the control of the operation and maintenance of the Project facilities, where such change may have an adverse effect on the EPC's ability to perform its obligations in respect of the Project, the Financing Agreement or the Project Agreement, the Beneficiary shall obtain the prior written consent of ADB. Where any such change is approved by ADB, the Beneficiary shall ensure that the change is carried out in a transparent manner and does not affect repayment of the Loan. Depending on the nature of the change, ADB shall have the right to modify the repayment terms of the Loan.

Land Acquisition and Resettlement

15. The Beneficiary shall, prior to the commencement of civil works for any Project facility, acquire all land and property, together with all rights, easements, privileges and approvals pertaining to such land and property at any Subproject site as shall be necessary or appropriate to implement the Project and in accordance with the LARP, the LARF, all applicable laws and regulations in Samoa (including the Taking of Land Act (1964)), and ADB's *Policy on Involuntary Resettlement* (1995). In case of discrepancies between the applicable laws and regulations and ADB's *Policy on Involuntary Resettlement*, ADB's *Policy on Involuntary Resettlement* shall apply to the Subprojects financed by ADB, the Government of Australia and/or JBIC.

16. The Beneficiary shall, and shall cause the EPC to, ensure that, prior to the commencement of any civil works for any Project facility: (a) all land acquisition, compensation, resettlement and rehabilitation activities, in each case, as specified in the relevant LARP have been completed; and (b) the Subproject site is free and clear of all obstructions; and (c) ADB shall have issued its “no-objection” prior to the award of civil works contracts.

17. The Beneficiary shall, and shall cause the EPC, to: (a) ensure that any land acquisition, compensation, relocation, resettlement and rehabilitation, as applicable, with respect to the Project is carried out in accordance with the LARP, the LARF, all applicable laws and regulations in Samoa (including the Taking of Land Act (1964)), and ADB’s *Policy on Involuntary Resettlement*; and (b) be responsible for the compensation of Affected People. In case of discrepancies between the applicable laws and regulations and ADB’s *Policy on Involuntary Resettlement*, ADB’s *Policy on Involuntary Resettlement* shall apply to the Subprojects financed by ADB, the Government of Australia and/or JBIC.

18. The Beneficiary shall, and shall cause the EPC to, ensure that: (a) in the event there is any significant change in the design of any Subproject covered by a LARP or any substantial changes in resettlement impacts, the relevant LARP is: (i) updated based on a detailed measurement survey, (ii) disclosed to Affected People, and (iii) subsequently provided to ADB for its approval prior to commencement of related civil works; (b) there are requirements in the civil works contractors’ contracts with the EPC for the contractors to comply with each LARP, as applicable; and (c) the ESU supervises and monitors closely civil works contractors to ensure compliance with the requirements of each LARP and their respective terms. Upon the completion of resettlement activities for any LARP, the EPC shall prepare and provide to ADB a resettlement completion report for each such Subproject covered by a LARP.

19. The Beneficiary shall, and shall cause the EPC to, through the ESU: (a) establish a register to record and monitor land acquired for the Project on both a temporary and permanent basis; and (b) keep complete records on consultations and grievances relating to land acquisition and resettlement. The EPC shall make the register and records available to ADB upon request.

Environment

20. The Beneficiary shall, and shall cause the EPC to: (a) design, construct, operate, maintain and monitor the Project facilities in accordance with: (i) all applicable laws and regulations in Samoa (including the Planning and Urban Management Act (2004)), (ii) ADB’s *Environment Policy* (2002), and (iii) the EARF and each EMMP; (b) minimize any adverse environmental impacts arising from the Project by implementing the mitigation measures prescribed in each IEE, PEAR and EIA, as applicable; and (c) ensure that the EMMP prepared for any Subproject is: (i) incorporated into the design of each Subproject, (ii) implemented in accordance with its terms during the construction, operation and maintenance of each Subproject, and (iii) updated at such time when the detailed engineering design becomes available. The EPC shall also make available to the public and other interested parties any IEE and/or LARP for a Subproject. In case of discrepancies between the applicable laws and regulations and ADB’s *Environment Policy*, ADB’s *Environment Policy* shall apply to the Subprojects financed by ADB, the Government of Australia and/or JBIC.

21. The Beneficiary shall, and shall cause the EPC to, ensure that: (a) civil works contractors: (i) comply with all environmental impact mitigation requirements set out in each EMMP, and (ii) prepare, on a quarterly basis, mitigation progress and monitoring checklists showing the progress made on mitigation measures contained in the relevant EMMP; and (b) the ESU monitors closely civil works contractors to ensure compliance with the environmental impact mitigation requirements identified in the IEE and EMMP, as applicable.

22. The Beneficiary shall, and shall cause the EPC to, ensure that, prior to the commencement of civil works for any Subproject facility: (a) the Planning and Urban Management Agency of the Ministry of Natural Resources and Environment shall have approved the application for development consent of the PEAR for any such Subproject facility; and (b) ADB shall have approved the IEE for any such Subproject facility.

Employment, Gender and Health

23. The Beneficiary shall, and shall cause the EPC to, advise the contractors to maximize their employment of local persons who meet the job requirements for the construction of the Project facilities. The contractors shall be required to give due consideration to the manner in which women in the communities of the Project area can contribute to the construction, operation and maintenance of the Project facilities.

24. The Beneficiary shall, and shall cause the EPC to, ensure that: (a) there is no differential payment between men and women for work of equal value; and (b) civil works contractors do not employ child labor in Project construction activities.

25. The Beneficiary shall, and shall cause the EPC to, ensure that the civil works contracts include mandatory provisions on health, sanitation and appropriate working conditions, including provisions on health and safety and accommodation for construction workers at campsites during the construction period. This includes ensuring that: (a) the contractors disseminate information to its employees on the risks of socially and sexually transmitted diseases, including HIV/AIDS; and (b) the appropriate entities disseminate information and education to members of the local community, particularly women, living in the areas surrounding the Project facilities during Project implementation and operation of the Project facilities.

Anti-Corruption

26. The Beneficiary shall, and shall cause the EPC to, comply with ADB's *Anticorruption Policy* (1998). The Beneficiary and the EPC agree: (a) that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; and (b) to cooperate fully with any such investigation and extend all necessary assistance, including providing access to all relevant information and records, for the satisfactory completion of any such investigation. The EPC shall also: (a) conduct periodic inspections on the contractors' activities relating to fund withdrawals and settlements; and (b) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of all contractors, suppliers, consultants and other service providers of the Project.

Project Review; Monitoring and Reporting

27. Within one month of the later of: (a) the Effective Date; or (b) the fielding of Project implementation consultants, the Beneficiary, the EPC and ADB shall jointly undertake a Project inception mission for the purpose of identifying potential Project-related risks and determining compliance with environmental and social requirements for the Project.

28. Within six months of the Project inception mission and for the initial three years of the Project implementation period, the Beneficiary, the EPC and ADB shall jointly undertake a semi-annual review of the Project. Each semi-annual review shall assess the Project's achievements and progress in implementing the Project in order to identify any difficulties or constraints encountered in implementing the Project and to make adjustments, if necessary, for the remaining Project implementation period. Specifically, the semi-annual reviews shall: (a) evaluate the Project scope and costs, implementation arrangements, resettlement matters, and status of achieving scheduled targets; (b) identify additional Project-related risks; and (c) review progress in implementing the EMMP of core Subprojects and the EARF. The Beneficiary, the EPC and ADB shall also discuss the EPC's progress in achieving operational efficiencies as well as EPC's financial performance. Within four years of the Effective Date, the Beneficiary, EPC and ADB shall jointly undertake a mid-term review for reviewing the Project implementation progress.

29. Within six months of the Effective Date, the Beneficiary shall, and shall cause the EPC to, establish a PPMS, acceptable to ADB. The PPMS shall include for the Project and as applicable for each Subproject indicators as set forth in the design and monitoring framework for the Project and other indicators as required for monitoring compliance with each of the EARF (including each EMMP), the LARF, and the operational efficiency, financial position and financial projections of the EPC. The EPC shall monitor the PPMS indicators on a quarterly basis to determine the efficiency and effectiveness of the Project and its impacts.

30. The Beneficiary shall, and shall cause the EPC to, provide to ADB quarterly reports, which 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. The quarterly reports shall also provide: (a) on individual Subprojects, in form and substance satisfactory to ADB, a detailed description of: (i) the progress of the Subproject, (ii) any difficulties encountered and/or anticipated, together with proposed corrective actions, (iii) the progress in implementing the LARP, if applicable, and the EMMP for the core Subproject and the EARF, and (iv) a summary of financial accounts, including Subproject expenditures during the previous quarter, year to date, and total Subproject expenditures to date; (b) the key indicators set forth in the PPMS; (c) updates to the Procurement Plan, as appropriate; and (d) the amounts of the interest on the proceeds of the Grant to be transferred to the Clean Energy Fund (and of which the Clean Development Mechanism Sub-Fund is part of the Clean Energy Fund). Within three months of completing any Subproject, EPC shall submit to ADB a Subproject completion report, together with an assessment of the execution and operation of the Subproject, status of compliance with loan covenants and the results of project outcomes and performance. The Beneficiary shall, and shall cause the MOF to, provide to ADB annual statements on the amounts that have been transferred to the Clean Energy Fund pursuant to (d) above.