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LOAN NUMBER 2714-PNG (SF)

LOAN AGREEMENT  
(Special Operations)

(Town Electrification Investment Program - Tranche 1)

between

INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 25 FEBRUARY 2011

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PNG 41504

## **LOAN AGREEMENT (Special Operations)**

LOAN AGREEMENT dated 25 February 2011 between the INDEPENDENT STATE OF PAPUA NEW GUINEA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

### WHEREAS

(A) by a framework financing agreement dated 25 October 2010 between the Borrower and ADB, ADB has agreed to provide a multitranches financing facility to the Borrower for purposes of financing projects under the Town Electrification Investment Program;

(B) by a periodic financing request dated 25 October 2010 submitted by the Borrower, the Borrower has applied to ADB for: (i) a loan from ADB's Special Funds resources; and (ii) a loan from ADB's ordinary capital resources, for the purposes of the Project as more fully described in Schedule 1 to this Loan Agreement;

(C) by an agreement of even date herewith between the Borrower and ADB ("Ordinary Operations Loan Agreement"), ADB has agreed to lend to the Borrower from its ordinary capital resources an amount of forty million nine hundred thousand Dollars (\$40,900,000) for the purposes of the Project;

(D) the Project will be implemented by PNG Power Limited and for this purpose the Borrower will make available to PNG Power Limited the proceeds of the loan provided for herein upon terms and conditions mutually agreeable to ADB and the Borrower; and

(E) ADB has agreed to make a loan to the Borrower 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 PNG Power Limited;

NOW THEREFORE the parties agree as follows:

## **ARTICLE I**

### **Loan Regulations; Definitions**

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

(a) Section 2.01(25) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and PNG Power Limited."

- (b) The term "Project Executing Agency" appearing in Section 6.01(a), 8.01(d), 8.01(f), 8.01(k), 9.01(c) and 9.02(c) of the Loan Regulations shall be substituted by the term "PNG Power Limited."

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2010, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3, Parts 3 and 4, of Schedule 1 to this Loan Agreement;

(c) "Divune Hydropower Plant" means the hydropower plant as more fully described in paragraph 3, Part 1A, of Schedule 1 to this Loan Agreement;

(d) "DPE" means the Department of Petroleum and Energy of the Borrower;

(e) "EARF" means the environmental assessment and review framework prepared by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

(f) "EMP" means each environmental management plan prepared for the Project and set out in the respective IEEs;

(g) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Town Electrification Investment Program;

(h) "FAM" means the Facility administration manual dated 5 October 2010 and agreed between the Borrower, DPE, PPL and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(i) "FFA" means the framework financing agreement dated 25 October 2010 between ADB and the Borrower with respect to the Facility;

(j) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(k) "IEE" means each initial environmental examination report prepared for the Project in accordance with the EARF by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

(l) "IPP" means each indigenous peoples plan prepared for the Project in accordance with the IPPF by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

(m) "IPPF" means the indigenous peoples planning framework prepared by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

(n) "Lake Hargy Interconnection" means the transmission system as more fully described in paragraph 3, Part 2, of Schedule 1 to this Loan Agreement;

(o) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2007, as amended from time to time);

(p) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purposes of this Loan Agreement means the periodic financing request dated 25 October 2010;

(q) "PPL" means PNG Power Limited, or any successor thereto acceptable to ADB;

(r) "Procurement Guidelines" means ADB's Procurement Guidelines (2010, as amended from time to time);

(s) "Procurement Plan" means the procurement plan for the Project dated 5 October 2010 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(t) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DPE, or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(u) "Ramazon Hydropower Plant" means the hydropower plant as more fully described in paragraph 3, Part 1B, of Schedule 1 to this Loan Agreement;

(v) "RF" means the resettlement framework prepared by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

(w) "RP" means each resettlement plan prepared for the Project in accordance with the RF by the Borrower and approved by ADB, and referred to in Schedule 5 to the FFA;

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

(y) "Subsidiary Loan Agreement" means the agreement between the Borrower and PPL referred to in Section 3.01(a) of this Loan Agreement; and

(z) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related

services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to ten million five hundred sixty five thousand Special Drawing Rights (SDR10,565,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 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 the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 June and 1 December in each year.

Section 2.04. The Borrower 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 Loan 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 Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

## **ARTICLE III**

### **Use of Proceeds of the Loan**

Section 3.01. (a) The Borrower shall relend the proceeds of the Loan together with other funds required for the Project to PPL under a Subsidiary Loan Agreement upon same terms and conditions as the Loan, and in a form satisfactory to ADB.

(b) The Borrower shall cause PPL to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

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

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

Section 3.04. Withdrawals from the Loan Account in respect of Goods, Works and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and Works and Consulting 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, Works and Consulting 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 shall be 30 June 2014 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. In the carrying out the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

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

Section 4.03. (a) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement, all in the English language); and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Borrower pursuant to subparagraph (a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Borrower unless the Borrower shall otherwise agree.

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

Section 4.05. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

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

## **ARTICLE V**

### **Suspension; Acceleration of Maturity**

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations:

(a) the Borrower shall have failed to perform any of its obligations under the Ordinary Operations Loan Agreement; or

(b) the Borrower or PPL shall have failed to perform any of its obligations under the Subsidiary Loan Agreement.

Section 5.02. The following are specified as additional events for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

## **ARTICLE VI**

### **Effectiveness**

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

(a) the Ordinary Operations Loan Agreement shall have been duly authorized or ratified by, executed and delivered on behalf of, the Borrower, and all conditions precedent to its effectiveness, other than a condition requiring effectiveness of this Loan Agreement, shall have been fulfilled; and

(b) the Subsidiary Loan Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of, the Borrower and PPL, and shall have become binding upon the Borrower and PPL in accordance with its terms.

Section 6.02. The following are specified as additional matters for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB:

(a) the Ordinary Operations Loan Agreement has been duly authorized or ratified by, executed and delivered on behalf of, the Borrower, and is legally binding upon the Borrower in accordance with its terms; and

(b) the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and PPL, and is legally binding upon the Borrower and PPL, in accordance with its terms.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

## **ARTICLE VII**

### **Miscellaneous**

Section 7.01. The Minister for Treasury of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

#### For the Borrower

Secretary  
 Department of Treasury  
 Vulupindi Haus  
 P.O. Box 542  
 Waigani, National Capital District  
 Papua New Guinea

Facsimile Numbers:

(675) 312-8804  
 (675) 312-8808



For ADB


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

Facsimile Numbers:


(632) 636-2444  
(632) 636-2446.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

INDEPENDENT STATE OF PAPUA  
NEW GUINEA

By   
SIMON TOSALI  
Secretary  
Department of Treasury

ASIAN DEVELOPMENT BANK

By   
ALLAN LEE  
Officer-in-Charge  
Papua New Guinea Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Town Electrification Investment Program is to improve power supply in provincial urban centers through replacement of high cost diesel power generation with sustainable renewable energy power generation.

2. The objective of the Project is to improve supply of reliable and clean power to 3 provincial urban centers.

3. The Project shall consist of:

Part 1: A. Divune Hydropower Plant

Construction and operation of run-of-the-river hydropower plant in Northern Province, which will include: construction of concrete gravity diversion weir and intake structure on the Luwini river; underground low pressure pipeline; powerhouse containing turbines; transmission line to Popondetta and Kokoda; upgradation and construction of access roads; and construction of houses for operators.

B. Ramazon Hydropower Plant

Construction and operation of run-of-the-river hydropower plant in the Autonomous Region of Bougainville, which will include: construction of concrete gravity diversion weir and the intake structure on the Ramazon river; underground low pressure pipeline; above ground penstock; powerhouse containing turbines, generators and a small outdoor substation; transmission line to Buka; upgradation and construction of access roads; and construction of houses for operators.

Part 2: Lake Hargy Interconnection

Construction and operation of 66kV overhead single circuit transmission line of approximately 150km from Bialla to Kimbe, including step down transformers.

Part 3: Capacity Development

Provision of consulting services for capacity development of (i) PPL in procurement and financial management; and (ii) the Project beneficiaries in maintenance, safety and utility skills.

Part 4: Project Management

Provision of consulting services for training of staff of PPL and the Project management unit.

4. The Project is expected to be completed by 31 December 2013.

**SCHEDULE 2****Amortization Schedule****(Town Electrification Investment Program – Tranche 1)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 December 2018	220,104
1 June 2019	220,104
1 December 2019	220,104
1 June 2020	220,104
1 December 2020	220,104
1 June 2021	220,104
1 December 2021	220,104
1 June 2022	220,104
1 December 2022	220,104
1 June 2023	220,104
1 December 2023	220,104
1 June 2024	220,104
1 December 2024	220,104
1 June 2025	220,104
1 December 2025	220,104
1 June 2026	220,104
1 December 2026	220,104
1 June 2027	220,104
1 December 2027	220,104
1 June 2028	220,104
1 December 2028	220,104
1 June 2029	220,104
1 December 2029	220,104
1 June 2030	220,104
1 December 2030	220,104
1 June 2031	220,104
1 December 2031	220,104
1 June 2032	220,104
1 December 2032	220,104
1 June 2033	220,104
1 December 2033	220,104
1 June 2034	220,104
1 December 2034	220,104
1 June 2035	220,104
1 December 2035	220,104
1 June 2036	220,104
1 December 2036	220,104
1 June 2037	220,104

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 December 2037	220,104
1 June 2038	220,104
1 December 2038	220,104
1 June 2039	220,104
1 December 2039	220,104
1 June 2040	220,104
1 December 2040	220,104
1 June 2041	220,104
1 December 2041	220,104
1 June 2042	220,112
Total	<u>10,565,000</u>

\* The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

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

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Categories of the Table.)

Percentages of ADB Financing

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

Interest Charge

3. The amount allocated to Category 4 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

**TABLE**

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Town Electrification Investment Program – Tranche 1)</b>			
<b>CATEGORY</b>			<b>ADB FINANCING</b>
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (SDR) Category</b>	<b>Percentage and Basis for Withdrawal from the Loan Account</b>
1	Works	3,221,000	23% of total expenditure claimed
2	Goods and Materials	4,832,000	23% of total expenditure claimed
3	Project Management and Capacity Development	773,000	23% of total expenditure claimed
4	Interest Charge	773,000	100% of amounts due
5	Unallocated	966,000	
	Total	10,565,000	

## SCHEDULE 4

### Procurement of Goods, Works and Consulting Services

#### General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

#### Procurement of Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
  - (a) International Competitive Bidding;
  - (b) National Competitive Bidding; and
  - (c) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower 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.

#### National Competitive Bidding

5. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

#### Selection of Consulting Services

6. Except as ADB may otherwise agree, and except as set forth in the Procurement Plan, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.
7. The Borrower shall recruit the individual consultants, if necessary, in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

8. (a) The Borrower shall ensure that all Goods and Works 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 contracts for the procurement of Goods and Works 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.

9. The Borrower 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

10. 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 Borrower and ADB and set forth in the Procurement Plan.



## SCHEDULE 5

### Execution of Project and Operation of Project Facilities; Financial Matters

#### Implementation Arrangements

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

#### Operational

2. In respect of the Divune Hydropower Plant, the Borrower shall cause PPL to ensure that off-take agreements are signed with additional commercial or industrial consumers for a minimum purchase of 6,000 MWh per annum. Alternatively, the Borrower shall cause PPL to confirm the financial viability of the Divune Hydropower Plant prior to release of the tenders for its construction.

3. In respect of the Ramazon Hydropower Plant, the Borrower shall cause PPL to collect additional streamflow data prior to the detail design to confirm estimated flows.

4. The Borrower shall cause PPL to allocate adequate counterpart financing and staffing to ensure construction of transmission lines in accordance with the proposed implementation schedules.

5. The Borrower shall cause PPL to ensure that a maintenance program is established for Divune Hydropower Plant, the Ramazon Hydropower Plant and the Lake Hargy Interconnection, and that PPL shall provide adequate financing for the Project implementation.

#### Financial Performance

6. (a) Upon commencement of commercial operations of the Divune Hydropower Plant, the Ramazon Hydropower Plant and the Lake Hargy Interconnection, the Borrower shall cause PPL to maintain: a debt-service coverage ratio of 1.2; a maximum debt-equity ratio of 80:20; and accounts receivables not exceeding 2 months' sales.

(b) The Borrower shall cause PPL to improve the debt-service coverage ratio to 1.3 within 5 years of commercial operation of Divune Hydropower Plant, the Ramazon Hydropower Plant and the Lake Hargy Interconnection.

7. The Borrower shall cause PPL to ensure that: (a) internal controls of the Project management unit shall be in accordance with national accounting standards and shall be subject to regular review by PPL's internal audit department; and (b) the Project management unit will adopt computerized accounting and management information systems acceptable to ADB.

8. The Borrower shall cause PPL to advise ADB of any changes in relevant operational policies that may adversely affect the financial viability of any part of the Project.

#### Environment

9. The Borrower shall ensure, and cause PPL to ensure, that:
- (a) the Project and all the Project facilities are carried out, designed, constructed, operated, maintained and monitored, in compliance with the Safeguard Policy, all applicable environmental laws and regulations of the Borrower, IEE, and the EARF;
  - (b) the IEE and the EMP are updated during detailed engineering design and submitted to ADB for approval before the issuance of related bidding documents for Works;
  - (c) the environmental mitigation measures specified in the EMP are incorporated into the bidding documents, and the Works contractors are required to comply with such the environmental mitigation measures;
  - (d) works contractors are closely supervised to ensure compliance with the EMP;
  - (e) semi-annual progress reports are submitted to ADB on the implementation of the EMP; and
  - (f) an environment officer is recruited by PPL to coordinate with the existing environment staff under PPL.

#### Resettlement

10. The Borrower shall ensure, and cause PPL to ensure, that:
- (a) land acquisition and resettlement is undertaken in compliance with the Safeguard Policy, relevant laws and regulations of the Borrower, the RP, and the RF;
  - (b) adequate resources are allocated for implementation and monitoring of the RP;
  - (c) any landownership issue on any Project site are resolved and land use agreements signed with landowners before start of the detailed engineering design;
  - (d) RP is updated based on the detailed land investigation report and valuation of assets in consultation with affected people;

- (e) adequate national or provincial funds as appropriate are allocated and disbursed to pay compensation to affected people;
- (f) bidding for Works for any part of the Project does not commence until the related RP has been approved by ADB, disclosed to the affected people, and compensation and assistance fully paid to the affected people in accordance with its terms;
- (g) an external monitoring agency is engaged for independent monitoring and evaluation of resettlement activities; and
- (h) reports on land acquisition and resettlement, along with the external monitoring agency report, are submitted to ADB on a semi-annual basis.

11. The Borrower shall finance all land acquisition and resettlement costs from its resources.

#### Indigenous Peoples

12. The Borrower shall ensure, and cause PPL to ensure, that:

- (a) IPP is implemented in accordance with its terms, and in compliance with the Safeguard Policy, relevant laws and regulations of the Borrower, and the IPPF; and
- (b) the affected customary landowners in any Project site receive (i) subsidized hydropower connection; (ii) water supply connection; and (iii) employment in the Project, where possible.

13. The Borrower shall allocate adequate resources for implementation and monitoring of the IPP.

#### Labor Standards

14. The Borrower shall cause PPL to ensure that:

- (a) civil works contractors comply with all applicable labor laws and related international treaty obligations, and do not employ child labor; and
- (b) specific provisions to this effect are included in the bidding documents and Works contracts, and its compliance is strictly monitored.

#### Health

15. The Borrower shall cause PPL to ensure that all Works contractors participate in the STI and HIV/AIDS prevention program in the construction campsites.

16. The Borrower shall cause PPL to ensure that:

- (a) information on the risk of transmission of STI and HIV/AIDS is disseminated at the worksites and local communities, in coordination with national and provincial aids councils and relevant local nongovernment organizations; and
- (b) specific provisions are included to this effect in the Works contracts, and its compliance is strictly monitored.

#### Gender and Development

17. The Borrower cause PPL to:
- (a) implement the gender action plan referred to in Schedule 5 of the FFA;
  - (b) encourage Works contractors to employ women in the Works;
  - (c) provide equal pay to men and women for work of equal type in accordance with national laws and international treaty obligations;
  - (d) provide safe working conditions for both male and female workers;
  - (e) include provisions to such effect in the bidding documents for Works contracts; and
  - (f) review the achievement of hiring women in the Project progress reports.

#### Governance and Anticorruption

18. The Borrower, the Project Executing Agency, and PPL shall:
- (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project;
  - (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation;
  - (c) ensure that relevant PPL staff are trained in anticorruption regulations of the Borrower and ADB's Anticorruption Policy;
  - (d) ensure that the audited annual Project accounts, Project progress, and procurement activities are disclosed on the PPL website;
  - (e) ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all

contractors, suppliers, consultants, and other service providers as they relate to the Project; and

- (f) allow and facilitate ADB's representatives to conduct spot and random checks on (i) flow of funds, and its use for the Project in accordance with this Loan Agreement and the Project Agreement; (ii) work-in-progress; and (iii) Project implementation.

#### Change in Ownership

19. In the event that Borrower or PPL plans to (a) make any change in the ownership of the Project facilities or PPL; or (b) sell, transfer, or assign PPL's direct or indirect interest in the Project; or (c) lease or contract out, or otherwise modify PPL's responsibilities for construction, operation and maintenance of the Project, the Borrower shall at least 6 months prior to implementation of such transaction, consult with ADB and obtain ADB's consent. The Borrower shall ensure that such transaction is implemented in a legal and transparent manner.