
LOAN NUMBER 2556-KGZ (SF)

GRANT NUMBER 0163-KGZ (SF)

FINANCING AGREEMENT
(Special Operations)
(Issyk-Kul Sustainable Development Project)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 05 11 09

FAS:KGZ 41548

**FINANCING AGREEMENT
(Special Operations)**

FINANCING AGREEMENT dated 05 11 2009 between KYRGYZ REPUBLIC (hereinafter called the "Beneficiary") and ASIAN DEVELOPMENT BANK (hereinafter called "ADB").

WHEREAS

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

(B) ADB has agreed to provide a loan and a grant to the Beneficiary from ADB's Special Funds resources upon the terms and conditions hereinafter set forth.

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 (hereinafter called 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 (hereinafter called 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. Unless the context requires otherwise, each of the definitions set forth in the Loan Regulations and the Grant Regulations is applicable to this Financing Agreement. In addition, the following terms shall have the meanings respectively defined below:

(a) "BRD" means the Biosphere Reserve Directorate of SAEPF, as defined hereunder, and any successor thereto.

(b) "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;

(c) "EIA" means the Environment Impact Assessment carried out for the Project;

(d) "EMMP" means an environmental management and monitoring plan;

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

(f) "HIV/AIDS" means the human immunodeficiency virus and the acquired immune deficiency syndrome;

(g) "IDEP" means the Interregional Department for Environmental Protection of SAEPF, as defined hereunder, and any successor thereto;

(h) "Loan Disbursement Handbook" means ADB's *Loan Disbursement Handbook* dated January 2007, as amended from time to time;

(i) "MOF" means the Ministry of Finance of the Beneficiary, and any successor thereto;

(j) "*oblast*" means a territorial administrative unit of the Beneficiary;

(k) "Part" means a part of the Project as described in Schedule 1 to this Financing Agreement;

(l) "PIO" means the Project Implementation Office to be established under the Issyl-Kul *oblast* administration of the Beneficiary, as more fully described in Schedule 5 to this Financing Agreement;

(m) "PMO" means the Project Management Office to be established within MOF, as more fully described in Schedule 5 to this Agreement;

(n) "PPMS" means a project performance management system, as described in Schedule 5 to this Financing Agreement;

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

(p) "Procurement Plan" means the procurement plan for the Project dated 4 September 2009 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;

(q) "Project City" means each of the cities of Balykchy, Cholpon-Ata, and Karakol in the territory of the Beneficiary; all three cities collectively called the "Project Cities";

(r) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations and the Grant Regulations means MOF, which is responsible for the overall implementation of the Project;

(s) "Project Facilities" means the facilities to be constructed or rehabilitated, and the equipment to be procured pursuant to this Financing Agreement;

(t) "SAEPF" means the State Agency on Environmental Protection and Forestry of the Beneficiary, and any successor thereto;

(u) "SC" means the Steering Committee to be established for the purposes of this Project by the Beneficiary, as more fully described in Schedule 5 to this Agreement;

(v) "SEE" means the State Ecological Expertise, which is an approval issued by SAEPF in relation to construction or civil works to be carried out within the territory of the Beneficiary to ensure that the requirements of relevant national legislation are met prior to the commencement of such construction or civil works;

(w) "SOE" means statement of expenditures;

(x) "*tazalyk* enterprise" means a solid waste management service provider in a city in the territory of the Beneficiary;

(y) "*vodokanal* enterprise" means a water and sewerage service provider in a city in the territory of the Beneficiary; and

(z) "Works" means construction, rehabilitation or other civil works to be financed out of the proceeds of the Loan and the Grant, 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 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 ten million five hundred sixty six thousand Special Drawing Rights (SDR 10,566,000) (hereinafter called the "Loan"); and

(b) a grant in the amount of thirteen million five hundred thousand Dollars (\$13,500,000) (hereinafter called the "Grant").

Section 2.02. (a) The Loan proceeds shall be withdrawn from the Loan Account in accordance with the provisions of Schedule 3A to this Agreement for purposes of financing the expenditures of the Project.

(b) The Grant proceeds shall be withdrawn from the Grant Account in accordance with the provisions of Schedule 3B to this Agreement for purposes of financing the expenditures of the Project.

Section 2.03. (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 the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.04. The interest charge and any other charge on the Loan shall be payable semiannually on 15 March and 15 September in each year.

Section 2.05. 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 2.06. 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 the Dollar.

ARTICLE III

Use of Proceeds of the Loan and the Grant

Section 3.01. The Beneficiary shall cause the proceeds of the Loan and the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Financing Agreement.

Section 3.02. The Goods, Works, consulting services and other items of expenditure 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, services and other items of expenditure 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, Works and consulting services to be financed out of the proceeds of the Loan and the 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, Works and consulting services shall be made only on account of expenditures relating to:

(a) Goods which are produced in and supplied, 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 and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2015 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. In the implementation of the Project and the 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. (a) The Beneficiary shall: (i) maintain, or cause to be maintained, separate accounts for the Project, including separate accounts for the Loan and the Grant; (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 six (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 the Grant proceeds and compliance with the financial covenants of this Financing Agreement as well as on the use of the imprest accounts and SOE procedures), 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 Beneficiary shall enable ADB, upon ADB's request, to discuss the Beneficiary's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Beneficiary pursuant to Section 4.02(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 Beneficiary unless the Beneficiary shall otherwise agree.

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/or the Grant, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01 A date sixty (60) 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 VI

Miscellaneous

Section 6.01. 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 6.02. 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
58, Erkindik Boulevard
Bishkek, 720040
Kyrgyz Republic

Facsimile Number:

(996) 312-661645

For ADB

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

Facsimile Numbers:

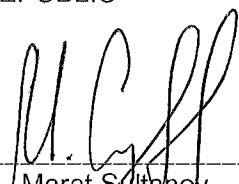
(632) 636-2444

(632) 636-2428

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Financing Agreement to be signed in two (2) duplicate originals in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

KYRGYZ REPUBLIC

By



Marat Sultanov
Minister of Finance

ASIAN DEVELOPMENT BANK

By



Lan Wu
Country Director
Kyrgyz Resident Mission

SCHEDULE 1

Description of the Project

1. The Project aims to improve the health of resident population in the Issyk-Kul *oblast* and to ensure the environmental preservation of Lake Issyk-Kul, through enhancing various urban basic service delivery, including sewerage, sanitation, solid waste management, and water supply, in the Project Cities.

2. The scope of the Project comprises three (3) Parts:

Part 1: Infrastructure Improvement

- (a) Replacing and expanding existing sewer network; rehabilitating pumping stations in Balykchy and Karakol; and providing vehicles, tools and equipment support to relevant *vodokanal* enterprises to assist in operating and maintaining related systems;
- (b) Re-engineering existing waste dumpsites, and procuring necessary vehicles and equipment for the collection and transportation of waste in the Project Cities;
- (c) Installing water meters in selected pilot zones of the Project Cities; constructing five (5) boreholes in each of Balykchy and Cholpon-Ata to improve water quality; constructing a new pre-sedimentation treatment tank at the main headworks in Karakol; and replacing corroded section of the existing transmission main in Balykchy; and
- (d) Upgrading in the Project Cities (i) water and sanitation facilities in schools and pre-schools, (ii) community water and sanitation facilities in distant areas, and (iii) public conveniences in market/public centers, health care organizations, as well as public institutions.

Part 2: Enterprise Resource Management

- (a) Assisting in developing the management information system of the Project Cities, relevant *vodokanal* enterprises and *tazalyk* enterprises; installing software to improve the Project Cities' accounting practices; improving the Project Cities' financial management by focusing on revenue enhancement and expenditure management measures; and enhancing existing complaint redress system;
- (b) Procuring satellite imagery for the Project Cities to develop city base maps; collecting technical information on sewerage, solid waste management, water supply, and roads and creating a related database for future planning; and developing a calibrated network model concerning water supply and sewerage to assess system performance and to plan for extensions and reinforcements;
- (c) Developing the capacity of relevant *vodokanal* enterprises through a three (3)-year twinning program with a water supply and sanitation utility entity from an ADB member country; and
- (d) Developing performance-based service contracts for water supply management, sewerage management, solid waste collection and transportation, and sanitary landfill management.

Part 3: Project Assistance Facility

- (a) Assisting PMO and PIO in: (i) strengthening their Project management and implementation capabilities; (ii) preparing detailed engineering designs for the infrastructure improvement component of each Project City, (iii) supporting construction supervision and quality control of the Works; (vi) assisting in bid process management; and (v) contributing to benefit monitoring and evaluation;
- (b) Promoting community awareness of the Project through related information, education and communication campaign; and
- (c) Assisting in Project management and administration through providing relevant Project support in relation to, among others, Project oversight and safeguard compliance.

3. The Project is expected to be completed by 31 December 2014.

SCHEDULE 2

Amortization Schedule (Issyk-Kul Sustainable Development Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 March 2018	220,125
15 September 2018	220,125
15 March 2019	220,125
15 September 2019	220,125
15 March 2020	220,125
15 September 2020	220,125
15 March 2021	220,125
15 September 2021	220,125
15 March 2022	220,125
15 September 2022	220,125
15 March 2023	220,125
15 September 2023	220,125
15 March 2024	220,125
15 September 2024	220,125
15 March 2025	220,125
15 September 2025	220,125
15 March 2026	220,125
15 September 2026	220,125
15 March 2027	220,125
15 September 2027	220,125
15 March 2028	220,125
15 September 2028	220,125
15 March 2029	220,125
15 September 2029	220,125
15 March 2030	220,125
15 September 2030	220,125
15 March 2031	220,125
15 September 2031	220,125
15 March 2032	220,125
15 September 2032	220,125
15 March 2033	220,125
15 September 2033	220,125
15 March 2034	220,125
15 September 2034	220,125
15 March 2035	220,125
15 September 2035	220,125
15 March 2036	220,125
15 September 2036	220,125
15 March 2037	220,125
15 September 2037	220,125
15 March 2038	220,125

Schedule 2

15 September 2038	220,125
15 September 2039	220,125
15 March 2040	220,125
15 September 2040	220,125
15 March 2041	220,125
15 September 2041	220,125
Total	10,566,000

* 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 (as shown in Attachment hereto) sets forth the Categories of Goods, Works, consulting services and other items of expenditure 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 3A"). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table 3A.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table 3A shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table 3A.

Interest Charge

3. The amount allocated to Category 3 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 3A,

(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. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, consulting services and other items of expenditures shall be disbursed in accordance with the Loan Disbursement Handbook.

Imprest Accounts; SOE

6. (a) Except as ADB may otherwise agree, the Beneficiary shall cause the EA to establish, immediately after the Effective Date, an imprest account exclusively for the utilization of the Loan proceeds at a commercial bank acceptable to ADB. Such imprest account shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Beneficiary and ADB. The imprest account established hereunder shall be separate from the imprest account established for the utilization of the Grant proceeds, and the currency of such imprest account shall be Dollar. The maximum amount to be deposited by ADB into the imprest account for the Loan proceeds at any given time shall not exceed the lower of (i) the estimated six (6) month's expenditure to be paid out of such imprest account, or (ii) 10% of the Loan amount.

(b) The SOE procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account for the Loan proceeds in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Beneficiary and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000 per payment.

Retroactive Financing

7. 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 eligible Works and consulting services, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition of Withdrawals from the Loan Account

8. Notwithstanding any other provision of this Financing Agreement, no withdrawals shall be made from the Loan Account until the following conditions have been met:

(a) The Beneficiary shall have established the PMO and appointed the Project director and the finance manager for the PMO; and

(b) The Beneficiary shall have established the PIO and appointed the Project manager and an accountant for the PIO.

TABLE 3A

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Issyk-Kul Sustainable Development Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated SDR Category	Percentage and Basis for Withdrawal from the Loan Account
1	Civil Works	8,508.000	76 percent of total expenditure
2	Project Assistance Facility	754,000	16 percent of total expenditure
3	Financing Charge	640,000	100 percent of amount due
4	Unallocated	664,000	
	Total	10,566,000	

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

1. The table attached to this Schedule (as shown in Attachment hereto) sets forth the Categories of Goods, Works, consulting services and other items of expenditure 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 3B"). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table 3B.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table 3B shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table 3B.

Reallocation

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

(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. Except as ADB may otherwise agree, the Grant proceeds for financing Goods, Works, consulting services and other items of expenditures shall be disbursed in accordance with the Loan Disbursement Handbook.

Imprest Accounts: SOE

5. (a) Except as ADB may otherwise agree, the Beneficiary shall cause the EA to establish, immediately after the Effective Date, an imprest account exclusively for the utilization of the Grant proceeds at a commercial bank acceptable to ADB. Such imprest account shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Beneficiary and ADB. The imprest account established hereunder shall be separate from the

imprest account established for the utilization of the Loan proceeds, and the currency of such imprest account shall be Dollar. The maximum amount to be deposited by ADB into the imprest account for the Grant proceeds at any given time shall not exceed the lower of (i) the estimated six (6) month's expenditure to be paid out of such imprest account, or (ii) 10% of the Grant amount.

(b) The SOE procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account for the Grant proceeds in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Beneficiary and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000 per payment.

Retroactive Financing

6. 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 eligible Works and consulting services, subject to a maximum amount equivalent to 20% of the Grant amount.

Condition of Withdrawals from the Grant Account

7. Notwithstanding any other provision of this Financing Agreement, no withdrawals shall be made from the Grant Account until the following conditions have been met:

(a) The Beneficiary shall have established the PMO and appointed the Project director and the finance manager for the PMO; and

(b) The Beneficiary shall have established the PIO and appointed the Project manager and an accountant for the PIO.

TABLE 3B

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Issyk-Kul Sustainable Development Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated Dollar Category	Percentage and Basis for Withdrawal from the Grant Account
1	Civil Works	4,228,500	76 percent of total expenditure
2	Equipment and Material	2,022,392	76 percent of total expenditure
3	Enterprise Resource Management	1,339,287	76 percent of total expenditure
4	Project Assistance Facility	5,457,686	75 percent of total expenditure
5	Unallocated	452,135	
	Total	13,500,000	

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods, Works and consulting services to be financed out of the proceeds of the Loan and/or the Grant 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 Financing Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

B. Procurement for 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:

International Competitive Bidding
National Competitive Bidding
Shopping

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.

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

C. Selection of Consulting Services

5. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Beneficiary shall apply the Quality- and Cost-Based Selection method for selecting and engaging consulting services.
6. Subject to the prior agreement of ADB on relevant terms of reference and budget, the Beneficiary shall recruit the following individual consultants in accordance with relevant procedures acceptable to ADB to assist PMO and PIO in implementing the Project: (a) international consultants specializing in water supply and sanitation, environment, and sewerage and waste management, and (b) national consultants specializing in social and gender development, PPMS, and law.

D. Industrial or Intellectual Property Rights

7. (a) The Beneficiary 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 Beneficiary 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.

8. 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.

E. ADB's Review of Procurement Decisions

9. 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; Financial Matters; Other Implementation Covenants

A. PROJECT IMPLEMENTATION

Executing Agency, Project Management and Implementation

1. As the Project Executing Agency, MOF shall have the overall responsibility for the implementation of the Project. More specifically, the Beneficiary shall cause the EA to, among others: (a) hold monthly meetings with the PMO to review the progress of the Project implementation; (b) submit progress and other reports to the SC for decision making and ensure that all decisions of the SC concerning the Project are fully complied with; (c) ensure that prior to issuing the bidding documents for any Works, the EMMP including its updates if any as required has been approved by ADB and all technical expertise as well as SEE required by the law of the Beneficiary for such Works have been obtained; (d) ensure that relevant Project covenants are complied with; and (e) closely coordinate with ADB on all other matters related to the Project implementation.

2. SC – The Beneficiary shall cause that: (a) within one (1) month from the Effective Date, the SC is established with the PMO acting as its secretariat; (b) a representative from the Prime Minister's Office of the Beneficiary is designated as the chairperson of the SC, which shall also have representatives from relevant Ministries and other state entities, as the Beneficiary considers necessary, to serve as members of the SC; (c) the SC meets at least once every three (3) months; (d) the SC has the full power to decide on matters related to the Project throughout the Project implementation period; (e) the SC is given the mandate to oversee progress on relevant action plans concerning the Concept of Sustainable Development of the Ecological and Economic System of Issyk-Kul, adopted by the Beneficiary through a Presidential Decree in February 2009, and to be primarily responsible for guiding the development in the Issyk-Kul *oblast*; and (f) the SC uses the outcome of the Project to formulate relevant policies on water supply and sanitation, and institutional effectiveness for Beneficiary's urban sector development.

3. PMO – The Beneficiary shall cause that the PMO is led by a full-time Project director to oversee the day-to-day Project implementation at the central level, who will be supported by a team of professional staff comprising, among others, an office manager/translator, a procurement expert, a financial manager, and a domestic project performance monitoring specialist. The Beneficiary shall further cause the PMO to undertake, among others, the following responsibilities: (a) overseeing Project accounting and auditing; (b) obtaining all technical expertise and SEE required by the law of the Beneficiary for any Works prior to awarding relevant contract; (c) conducting PPMS surveys; (d) monitoring Project covenants to ensure that they are duly complied with by the Project Cities; (e) carrying out all Project related procurement work with the assistance of relevant consultants engaged under the Project; and (f) compiling and submitting Project related reports.

4. PIO – The Beneficiary shall cause that the PIO is led by a full time Project manager to oversee the day-to-day Project implementation at the *oblast* level, who will report directly to the PMO Project director and the Governor of the Issyk-Kul *oblast*, and will be

supported by three (3) international experts specializing in water supply and sanitation, environmental management, and solid waste management respectively, a domestic social and gender development specialist, an accountant, an office manager/translator, an information technology specialist as well as other supporting staff. The Beneficiary shall also cause the PMO to undertake, among others, the following responsibilities: (a) managing detailed surveys, investigations and engineering designs for all Parts of the Project; (b) providing updates on the EIA and the EMMP; (c) with support from *vodokanal* enterprises and *tazalyk* enterprises at the Project City level, administering Project related contracts and ensuring the quality control of Project implementation; (d) evaluating relevant Works carried out by contractors and certifying Project related payments; and (e) conducting public awareness campaigns and participation programs. In relation to Part 2 of the Project, the Beneficiary shall further cause the PIO to: (a) oversee the development of relevant maps for the Project Cities based on satellite imagery; (b) supervise the mapping of urban infrastructure assets of the Project Cities on related city maps; (c) roll out the management information system and accounting software in the Project Cities; and (d) finalize draft contracts for performance-based services required under the Project.

5. The Beneficiary, to ensure that the EMMP is duly implemented by IDEP and BRD, shall cause that: (a) IDEP is made directly responsible for mitigating and monitoring relevant environmental impacts during Project design, construction and operations; (b) BRD complements IDEP's aforesaid activities through a parallel monitoring function and ensures that all Project activities comply with the environmental laws and regulations of the Beneficiary within relevant biosphere reserve; and (c) both IDEP and BRD are adequately staffed and equipped to perform the functions as required above.

Project Monitoring, Review and Evaluation

6. Within six (6) months from the Effective Date, the Beneficiary shall cause PMO to: (a) establish a PPMS acceptable to ADB, based upon the PPMS indicators agreed by and between the Beneficiary and ADB; (b) conduct initial baseline physical and socioeconomic surveys relating to the Project; and (c) submit to ABD for approval a detailed implementation plan for benchmarking Project information and monitoring related performance.

7. Throughout the Project implementation period, the Beneficiary shall cause that: (a) a monthly Project review is carried out by MOF based on monthly performance reports prepared and submitted by the PMO for each Project City, and copies of such monthly performance reports are sent to the Issyk-Kul *oblast* administration office, SC, and ADB; and (b) a quarterly Project review is carried out by SC, during which relevant monthly reports submitted by the PMO, major policy issues, and actions required or taken by relevant authorities are examined and discussed, and the results are circulated to MOF, SAEPP, the Issyk-Kul *oblast* administration office, as well as the Project Cities. In addition to monthly and quarterly reviews, a semi-annual Project review shall be carried out by ADB, and a comprehensive midterm review shall be carried out jointly by the Beneficiary and ADB twenty-four (24) months after the Effective Date to identify problems or weaknesses in Project implementation arrangements, and to agree on any corrective measures.

Auditing and Reporting

8. Without any prejudice to the provisions of (a) Section 4.02 of the Financing Agreement, (b) the Loan Regulations, and (c) the Grant Regulations, the Beneficiary shall ensure that all entities involved in Project implementation maintain separate records and accounts for the utilization of the respective proceeds of the Loan and the Grant. In addition to the requirements set forth in Section 6.05 of the Loan Regulations and Section 6.04 of the Grant Regulations, the Beneficiary shall cause MOF to prepare, and submit to ADB (a) within twenty (20) days after each quarter, a quarterly report, and (b) within thirty (30) days after each year, an annual report, each on the implementation status and progress of the Project. Each of such reports shall be submitted in such form and in such details as ADB shall reasonably require.

B. FINANCIAL MATTERSFund Flow and Counterpart Funding

9. The Beneficiary shall cause and ensure smooth Project fund flow in accordance with the mechanism agreed with ADB. The Beneficiary shall further cause and ensure that all funds and other resources required for implementing the Project are provided on a timely basis in accordance with the financing plan agreed for the Project.

Financial Improvement Action Plans

10. The Beneficiary shall cause and ensure that: (a) by January 2011, each of the Project Cities prepares a financial improvement action plan to revise the water, sewerage and solid waste management fees in order to meet at least the operations and maintenance cost for relevant services provided; and (b) each of the aforesaid action plans is properly implemented.

Availability of Viability Gap Funding

11. The Beneficiary shall cause and ensure that relevant viability gap funding to be provided by the Beneficiary for the purposes of this Project is timely made available to each of *vodokanal* enterprises and *tazalyk* enterprises in the Project Cities to bridge the revenue shortfall in their respective operations; provided, however, that the relevant *vodokanal* enterprises or *tazalyk* enterprises concerned, before being given any relevant viability gap funding, shall have met the relevant performance standards set out in its annual operating plan approved by the council of the Project City in question. To ensure future sustainability of *vodokanal* enterprises and *tazalyk* enterprises, the Beneficiary shall progressively implement tariff increases with the goal of achieving full cost recovery, subject to the affordability of consumers in the territory of the Beneficiary.

C. OTHER IMPLEMENTATION COVENANTSAnti-corruption

12. The Beneficiary shall comply with, and shall cause MOF, any and all other government offices, organizations and entities involved in implementing the Project to comply with, ADB's *Anticorruption Policy* (1998, as amended to date) and ADB's policy relating to

Enhancing the Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism (2003). The Beneficiary: (a) acknowledges ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; (b) agrees to cooperate, and to cause MOF, any and all other government offices, organizations and entities involving in implementing the Project to cooperate, fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation; (c) agrees to refrain, and cause MOF, any and all other government offices, organizations and entities involving in implementing the Project to refrain, from engaging in money laundering activities or financing of terrorism; and (d) shall allow, and cause MOF, any and all other government offices, organizations and entities involving in implementing the Project to allow, ADB to investigate any violation or potential violation of the aforesaid undertakings concerning combating money laundering and financing of terrorism.

13. Without limiting the generality of the preceding paragraph, the Beneficiary shall cause MOF to 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 as they relate to the Project.

Transparency and Good Governance

14. The Beneficiary shall cause MOF to disclose on its website, and update annually, information on the status of the Project and how the proceeds of the Loan and the Grant are used respectively. For each contract financed under the Project, the Beneficiary shall also cause MOF to disclose on its website information concerning, among others: (a) the list of participating bidders; (b) name of the winning bidder; (c) basic details on bidding procedures and procurement methods adopted; (d) the amount of contract awarded; (e) the list of Goods/services, including consulting services, procured; and (f) the intended and actual utilization of the proceeds of the Loan and/or the Grant, as the case may be, under each contract.

Environment

15. The Beneficiary shall ensure that: (a) the Project is designed and implemented in compliance with the Beneficiary's relevant laws and regulations, and the requirements of ADB's *Environment Policy* (2002); (b) relevant environmental mitigation measures specified in the EMMP as updated during detailed engineering design are incorporated into relevant bidding documents and Works contracts; (c) prior to issuing the bidding documents for any Works, the EMMP including its updates if any as required has been approved by ADB and all technical expertise as well as SEE required by the law of the Beneficiary for such Works have been obtained; (d) all mitigation measures and monitoring requirements set forth in the EMMP are fully carried out throughout the Project implementation; and (e) the environmental performance concerning the Project is rigorously monitored, and a report describing the progress of EMMP implementation including related issues and recommendations is submitted to ADB on a semi-annually basis. If there is any discrepancy between the Beneficiary's relevant laws and regulations, and the requirements of ADB's *Environment Policy* (2002), ADB's requirements shall apply.

Land Acquisition and Resettlement

16. Land acquisition and resettlement related activities are not envisioned by the Beneficiary under the Project. However, where a need for land acquisition and resettlement occurs during the implementation of the Project, the Beneficiary prior to commencing relevant Project activities shall: (a) promptly inform ADB of such a need; (b) prepare relevant safeguard documents in accordance with all applicable laws and regulations of the Beneficiary, and ADB's *Policy on Involuntary Resettlement* (1995) for the approval of ADB; (c) cause and ensure that all relevant Works commence and contractors are mobilized only after that the related land acquisition and resettlement plan as approved by ADB has been disclosed to the affected people and properly carried out; (d) cause and ensure that all land and rights-of-way required for carrying out the relevant Project activities are made available by the Beneficiary in a timely manner; and (e) cause and ensure that the activities of all relevant contractors are in compliance with the requirements of the related land acquisition and resettlement plan approved by ADB. If there is any discrepancy between the Beneficiary's relevant laws and regulations, and the requirements of ADB's *Policy on Involuntary Resettlement* (1995), ADB's policy shall apply.

17. The Beneficiary shall ensure that all recommendations in the land acquisition and resettlement due diligence report prepared for the Project are fully implemented and the relevant results are reported to ADB.

Indigenous Peoples

18. Indigenous peoples are not envisioned by the Beneficiary to be negatively affected under the Project. If a negative impact occurs during the implementation of the Project, the Beneficiary shall cause MOF to ensure that the Project is carried out in accordance with the requirements of ADB's *Policy on Indigenous Peoples* (1998).

Labor

19. The Beneficiary shall ensure that each of the Works contractors of the Project complies with all applicable labor, health, and safety laws and regulations of the Beneficiary. In particular, the Beneficiary shall cause MOF to ensure that each of the Works contracts financed under the Project: (a) contains provisions prohibiting use of child labor and differentiation in wages between male and female workers for work of equal value; (b) includes mandatory provisions requiring contractors and consultants to provide healthy, safe and secure working conditions as well as adequate medical, life and disability insurance for employees; and (c) has a requirement to carry out periodic HIV/AIDs awareness and prevention programs for labor, and disseminates information concerning the risks of sexually transmitted diseases and HIV/AIDs as part of health and safety measures for employees. The Beneficiary shall further ensure that all contractors and their employees observe local protocols concerning acceptable behavior toward the local population.