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LOAN NUMBER 2553-PAK(SF)

LOAN AGREEMENT  
(Special Operations)

(Energy Efficiency Investment Program – Tranche 1, Program Support Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 29 APRIL 2010

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LAS:PAK 42051

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

LOAN AGREEMENT dated 29 April 2010 between ISLAMIC REPUBLIC OF PAKISTAN (hereinafter called the "Borrower") and ASIAN DEVELOPMENT BANK (hereinafter called "ADB").

### **WHEREAS**

(A) the Borrower and ADB have entered into a Framework Financing Agreement, dated 13 August 2009, (hereinafter called the "FFA") for the purpose of helping the Borrower finance projects under an Energy Efficiency Investment Program (hereinafter called the "Investment Program") through a multitranche financing facility to be provided by ADB;

(B) by a periodic financing request dated 13 August 2009 (hereinafter called the "PFR") submitted by the Borrower pursuant to the FFA, the Borrower has applied to ADB for, among other things, a loan for the purpose of financing the project as described in Schedule 1 to this Loan Agreement (hereinafter called the "Project");

(C) by a loan agreement of even date herewith between the Borrower and ADB (hereinafter called the "Investment Project Loan Agreement"), ADB has agreed to lend to the Borrower from ADB's ordinary capital resources an amount equivalent to forty million Dollars (\$40,000,000) to assist in financing the Investment Project (as defined below);

(D) the Borrower has also applied to the Government of France through the Agence Française de Développement (hereinafter called "AFD") for a loan (hereinafter called the "AFD Loan") to jointly finance the Investment Project, and the AFD Loan when approved will be partially administered by ADB in accordance with the terms and conditions agreed between the Government of France through AFD and ADB; and

(E) ADB, on the basis of inter alia of the foregoing, has agreed to make a loan to the Borrower 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; 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 this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Loan Regulations are applicable to this Loan Agreement unless the context requires otherwise. In addition, the following terms shall have the meanings respectively defined below:

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

(b) "EARF" means the Environmental Assessment and Review Framework as agreed between the Borrower and ADB and attached as Annex 3 to the PFR;

(c) "EMP" means an environmental management plan;

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

(e) "IEE" means the Initial Environmental Examination prepared in accordance with the EARF;

(f) "Investment Project" means the National Compact Fluorescent Lamp Project, which is also a project requested by the Borrower through the PFR to be financed under the Investment Program;

(g) "Investment Project Loan Agreement" means the loan agreement of even date herewith between the Borrower and ADB, referred to in Recital (D) of this Loan Agreement;

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

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

(j) "PCP" means the Planning Commission of Pakistan, and any successor thereto;

(k) "PMO" means the Program Management Office to be established by PCP, as more fully described in Schedule 5 to this Loan Agreement;

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

(m) "Procurement Plan" means the procurement plan for the Project dated 13 August 2009 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(n) "Project Executing Agency" for the purposes, and within the meaning, of the Loan Regulations means PCP or any legal successor thereto acceptable to ADB, which is responsible for the implementation of the Project;

(o) "Project Facilities" means the facilities to be constructed and the equipment to be procured pursuant to this Loan Agreement;

(p) "SOE" means statement of expenditures; and

(q) "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 twelve million seven hundred seventy six thousand Special Drawing Rights (SDR 12,776,000).

Section 2.02. (a) The Borrower 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 Loan Agreement.

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

Section 2.04. 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 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 Dollar.

### **ARTICLE III**

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

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

Section 3.02. The Goods, Works, and 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 among different categories of such Goods, Works, and consulting services and other items of expenditure shall be in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Goods, Works, and consulting services to be financed out of the proceeds of the Loan shall be procured 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 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 31 March 2017 or such other date as may from time to time be agreed between the Borrower and ADB.

### **ARTICLE IV**

#### **Particular Covenants**

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

Section 4.02. (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 as well as on the use of the imprest account 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 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 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 Borrower unless the Borrower shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, and any relevant records and documents.

## **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 Investment Project Loan Agreement.

(b) The AFD Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following is specified as an additional event 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 Investment Project Loan Agreement shall have been duly executed and delivered on behalf of, and shall have become legally binding upon, the Borrower, and all conditions precedent to its effectiveness, other than a condition requiring the effectiveness of this Loan Agreement, shall have been fulfilled; and

(b) the AFD Loan Agreement shall have been duly executed and delivered on behalf of, and shall have become legally binding upon, the Borrower, and all conditions precedent to its effectiveness, other than, if applicable, a condition requiring the effectiveness of this Loan Agreement, shall have been fulfilled.

Section 6.02. A date thirty (30) 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 Secretary, Economic Affairs Division, Ministry of Economic Affairs and Statistics of the Borrower is designated as representative of the Borrower for the purposes of Section 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  
Economic Affairs Division  
Ministry of Economic Affairs and Statistics  
Islamabad, Pakistan

Facsimile Numbers:  
(92-51) 920-4086  
(92-51) 921-0734


#### For ADB

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

Facsimile Numbers:  
(632) 636-2444  
(632) 636-2428

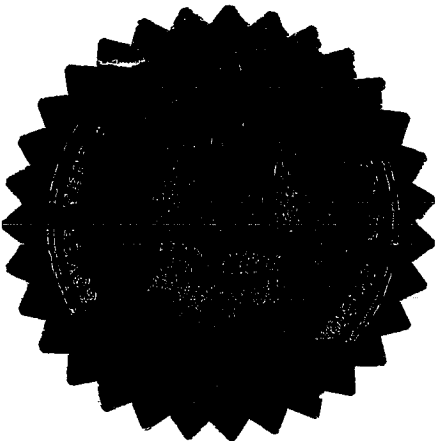
IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

ISLAMIC REPUBLIC OF PAKISTAN

By   
Sibtain Fazal Halim  
Secretary  
Economic Affairs Division  
Ministry of Economic Affairs and  
Statistics

ASIAN DEVELOPMENT BANK

By   
Rune Stroem  
Country Director  
Pakistan Resident Mission





## SCHEDULE 1

### Description of the Project

1. The objective of the Investment Program is to, through a series of projects to improve energy efficiency, provide the Borrower with a low-cost, low-carbon and quick solution to help balance the energy demand and supply in the territory of the Borrower, thereby enhancing the Borrower's energy security and economic competitiveness.

2. As part of the Investment Program, the Project is to assist the Borrower with implementing the Investment Program.

3. The scope of the Project comprises:

Part 1: Provision of Investment Program Implementation and Management Support

- (a) Assisting the PMO and concerned government or non-government entities in identifying and preparing future investment projects and, if necessary, subprojects to be financed under the Investment Program; and
- (b) Supporting the PMO in monitoring and evaluating (i) the progress and performance of the Investment Program, including projects and, if any, subprojects financed thereunder, and the overall compliance with relevant safeguards required by ADB under the Investment Program.

Part 2: Strengthening of Energy Efficiency Standards and Related Testing Facilities

- (a) Providing the Pakistan Standards and Quality Control Authority resources to introduce and adopt international energy performance standards for products and subcomponents that are predominantly imported in the territory of the Borrower; and
- (b) Assisting the Pakistan Council of Scientific and Industrial Research to expand existing national equipment testing and certification facilities in the territory of the Borrower.

Part 3: Enhancement of Institutional Capacity

- (a) Strengthening the project-specific management and planning capacity of PCP;
- (b) Providing assistance to the Energy Wing, which is organizationally located in the Planning and Development Division reporting to the Member (Energy) of the PCP, in the areas including procurement of necessary equipment, development of energy databases, office upgrades, and hiring of consultants to assist with internal restructuring and expansion; and
- (c) Providing support to the restructuring of the Borrower's National Energy Conservation Centre, which includes procurement of

Schedule 1

necessary equipment, enhancement of staff requirement, and strengthening its capacity in (i) planning, (ii) design, (iii) project management, (iv) operations, and (v) maintenance activities.

Part 4: Establishment of a Lamp Waste Management Facility

Establishing and developing a modern lamp waste management facility with the required handling capacity in order to recover glass, metal, mercury, and chloride salt from waste lamps in order to recycle and reuse these elements.

4. The Project is expected to be completed by 30 September 2016.

**SCHEDULE 2**

**Amortization Schedule**  
**(Energy Efficiency Investment Program – Tranche 1, Program Support Project)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 March 2018	266,167
15 September 2018	266,167
15 March 2019	266,167
15 September 2019	266,167
15 March 2020	266,167
15 September 2020	266,167
15 March 2021	266,167
15 September 2021	266,167
15 March 2022	266,167
15 September 2022	266,167
15 March 2023	266,167
15 September 2023	266,167
15 March 2024	266,167
15 September 2024	266,167
15 March 2025	266,167
15 September 2025	266,167
15 March 2026	266,167
15 September 2026	266,167
15 March 2027	266,167
15 September 2027	266,167
15 March 2028	266,167
15 September 2028	266,167
15 March 2029	266,167
15 September 2029	266,167
15 March 2030	266,167
15 September 2030	266,167
15 March 2031	266,167
15 September 2031	266,167
15 March 2032	266,167
15 September 2032	266,167
15 March 2033	266,167
15 September 2033	266,167
15 March 2034	266,167
15 September 2034	266,167
15 March 2035	266,167

Schedule 2

15 September 2035	266,167
15 March 2036	266,167
15 September 2036	266,167
15 March 2037	266,167
15 September 2037	266,167
15 March 2038	266,167
15 September 2038	266,167
15 March 2039	266,167
15 September 2039	266,167
15 March 2040	266,167
15 September 2040	266,167
15 March 2041	266,167
15 September 2041	265,151
<b>Total</b>	<b>12,776,000</b>

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\* 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 3**

#### **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"). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

##### Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories 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. The amount allocated to Category 5 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 then 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 for financing Goods, consulting services and other items of expenditure hereunder shall be disbursed in accordance with the Loan Disbursement Handbook.

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower immediately after the Effective Date shall cause PCP to establish an imprest account at a commercial bank acceptable to ADB. The imprest account shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest account shall be Dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure to be financed from the imprest account for the first 6 months of Project implementation, or (ii) the equivalent of 10 percent of the Loan amount.

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

Retroactive Financing

7. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred in connection with the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with procurement of eligible Goods, Works, and consulting services in connection with the Project, subject to a maximum amount equivalent to 20 percent of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b> <b>(Energy Efficiency Investment Program – Tranche 1, Program Support Project)</b>				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated SDR		Percentage and Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Consulting Services	5,302,000		
1A	Project Preparation		2,875,000	100 percent of total expenditure
1B	Standards and Testing		511,000	100 percent of total expenditure
1C	Institutional Capacity Development		1,916,000	100 percent of total expenditure
2	Equipment	2,683,000		
2A	Project Preparation		128,000	100 percent of total expenditure
2B	Standards and Testing		2,555,000	100 percent of total expenditure
3	Lamp Waste Management Facility – Turnkey	1,278,000		100 percent of total expenditure
4	Incremental PMO Staff Support	1,916,000		100 percent of total expenditure
5	Interest Charge	319,000		100 percent of amount due
6	Unallocated	1,278,000		
	Total	12,776,000		

## 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 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 shall 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 method of procurement is 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.

4. National Competitive Bidding. The Borrower 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 written approval of such change by the Borrower and ADB.

#### D. Selection of Consulting Services

5. Except as ADB may otherwise agree, the Borrower shall apply the Quality- and Cost-Based Selection method for selecting and engaging consulting services.
6. Subject to the prior approval by ADB of relevant terms of reference, the Borrower may recruit the individual consultants to undertake certain Project activities as agreed by ADB in accordance with relevant procedures acceptable to ADB.

#### D. Industrial or Intellectual Property Rights

7. (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 Sub-paragraph (a) above.

8. 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.

**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 Borrower and ADB and set forth in the Procurement Plan. All other contracts will be reviewed by ADB post award of contract.

## SCHEDULE 5

### Execution of Project; Financial Matters; Other Implementation Covenants

#### A. PROJECT IMPLEMENTATION

##### Executing Agency, Implementing Agency, and Project Management

1. As the Project Executing Agency, PCP shall have the overall responsibility for the implementation of the Project.
2. The Borrower shall cause that a PMO is: (a) established as a separate office within PCP, which will report directly to the Member (Energy) of PCP; (b) staffed and equipped with sufficient capacity to undertake the responsibilities stipulated herein; (c) managed by a suitably qualified full-time PMO Director, who will be assisted by a full-time PMO Deputy Director, both to be appointed by PCP with the prior endorsement of ADB; and (d) supported by the consultants to be engaged under this Project.
3. The PMO shall be responsible for: (a) the overall implementation, management, as well as monitoring and evaluation of the Investment Program; (b) coordinating with ADB, co-financiers of the Investment Program, other development partners, all Ministries, government offices and agencies, and non-government organizations and entities, which are relevant to the Investment Program; (c) overseeing projects and, if any, subprojects financed under the Investment Program, including monitoring their compliance with performance milestones as well as environmental, social and other applicable safeguard requirements; (d) working with relevant agencies to coordinate and facilitate the execution of various Parts of the Project and the development of future investment projects and, if necessary, subprojects to be financed under the Investment Program; and (e) keeping the Energy Efficiency and Conservation Consultative Group of the Borrower informed of the implementation progress of the Investment Program, and helping facilitate the meetings of such Energy Efficiency and Conservation Consultative Group.
4. The Borrower shall cause that (a) all personnel involved in implementing the Investment Program are fully aware of, and comply with, the Borrower's and ADB's relevant procedures, including, but not limited to, procedures for implementation, procurement, use of consultants, disbursement, reporting, monitoring, and prevention of fraud and corruption; (b) coordination and consultation among all government agencies concerned during Project implementation are effectively carried out; and (c) stringent oversight is maintained on all the contractors, suppliers and consultants engaged under the Investment Program so as to cause that the Goods and Works procured and services supplied under the relevant contracts conform to the standards and specifications required by the relevant projects and/or subprojects in question.

##### Project Monitoring, Review and Evaluation

5. The Borrower shall cause PCP to establish, within 6 months from the Effective Date, a project performance project performance and monitoring system as required by ADB in accordance with the relevant performance indicators and targets stipulated in the

respective design and monitoring frameworks for the Investment Program and for the projects and, if any, subprojects financed under the Investment Program.

6. Within the first 2 years after the Effective Date, review meetings shall be held between the Borrower and ADB twice a year to (a) assess the effectiveness of the implementation arrangements of the Investment Program and propose adjustments to improve their effectiveness; (b) monitor implementation progress relative to the agreed implementation schedule, identify constraints to progress and, define an action plan to improve the pace of critical activities; (c) ensure that ADB safeguards and other conditions set forth in this Loan Agreement and in the FFA are complied with; and (d) assess the ongoing preparation work for subsequent projects and, if any, subproject to avoid delays in submittal of subsequent periodic financing requests. After 2 years from the Effective Date, a comprehensive mid-term review shall be carried out to assess the over performance of the Investment Program, identify problems affecting the said performance, and reach formal agreement on changes in the scope of work or to implementation arrangements required to address any shortcomings so identified.

#### Project Reporting

7. Without any prejudice to Section 4.02 of this Loan Agreement and the requirements set forth in the Loan Regulations, the Borrower shall cause the PMO to submit to ADB (a) within 30 days after each quarter, a quarterly report, and (b) within 30 days after each year, an annual report, on the implementation status and progress of the Investment Program, including the information regarding this Project and other ongoing projects and, if any, subprojects financed thereunder. Each of such reports shall be submitted in such form and in such details as ADB shall reasonably require.

#### Policy Dialogue

8. The Borrower shall ensure that the ADB is kept informed about its policies and programs related to the energy sector that are likely to affect the performance and financial viability of any project or, if any, subprojects financed under the Investment Program and, in particular, policies and regulations relevant to energy supply, pricing, use, and efficiency. The Borrower shall ensure that as and when necessary during the implementation of the Investment Program, there will be an exclusive on-lending policy for projects to be financed under the Investment Program.

### **B. FINANCIAL MATTERS**

#### Counterpart Funding

9. The Borrower shall ensure, and cause each of the project-specific executing and implementing agencies to ensure, the availability and timely release of counterpart funding for the implementation of the relevant projects and, if any, subprojects financed under the Investment Program.

#### Financial Management and Performance Indicators

10. Auditing and Accounting – The Borrower shall cause each of the project-specific executing and implementing agencies to ensure that proper accounts and records

are maintained in a timely manner to adequately identify the use of relevant loan proceeds provided under the Investment Program in such a manner and details as may be specified in the relevant legal agreements.

11. Financial Governance – The Borrower shall, where applicable and appropriate, cause each of the relevant project-specific executing and implementing agencies to ensure that its internal controls are in accordance with national accounting standards and an independent and autonomous internal audit department is set up within such executing or implementing agency.

## **C. OTHER IMPLEMENTATION COVENANTS**

### Land Acquisition and Resettlement

12. Land acquisition and resettlement is not envisioned for the Project. Should a need for land acquisition and resettlement occurs during the implementation of the Project, the Borrower prior to commencing relevant Project activities shall promptly inform ADB of such a need and prepare relevant safeguard documents in accordance with all applicable laws and regulations of the Borrower, and ADB's *Policy on Involuntary Resettlement* (1995) for the approval of ADB. If there is any discrepancy between the Borrower's relevant laws and regulations, and the requirements of ADB's *Policy on Involuntary Resettlement* (1995), ADB's policy shall apply.

### Indigenous Peoples

13. Indigenous peoples are not envisioned to be negatively affected under the Project. Should a negative impact occur during the implementation of the Project, the Borrower shall cause the Project Executing Agency to ensure that the Project is carried out in accordance with the requirements of ADB's *Policy on Indigenous Peoples* (1998).

### Environment

14. The Borrower shall cause the Project Executing Agency to ensure that: (a) the Project is designed and implemented in accordance with all applicable laws and regulations of the Borrower and ADB's *Environment Policy* (2002); (b) the Project shall strictly follow the mitigation measures set forth in the IEE for the Project, including the EMP and the EARF; (c) mitigation measures identified in the EMP shall be incorporated in bidding documents and related contracts; (d) bidding documents shall include a reference to the EMP to ensure environmental issues are covered comprehensively; (e) the EMP shall include an item on environmentally friendly procurement; and (f) environmental monitoring reports shall be submitted to ADB in the manner and format as required by ADB. If there is any discrepancy between the Borrower's relevant laws and regulations, and the requirements of ADB's *Environment Policy* (2002), ADB's policy shall apply.

### Anti-corruption

15. The Borrower shall comply with, and shall cause each of the project-specific executing and implementing agencies, any and all other organizations and entities involved in implementing the Investment Program to comply with, ADB's *Anticorruption Policy* (1998, as amended) and ADB's policy relating to *Enhancing the Asian Development Bank's Role in*

*Combating Money Laundering and the Financing of Terrorism* (2003). The Borrower (a) acknowledges ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Investment Program; (b) agrees to cooperate, and to cause each of the project-specific executing and implementing agencies, any and all other organizations and entities involved in implementing the Investment Program 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 each of the project-specific executing and implementing agencies, any and all other organizations and entities involved in implementing the Investment Program to refrain, from engaging in money laundering activities or financing of terrorism; and (d) shall allow, and cause each of the project-specific executing and implementing agencies, any and all other organizations and entities involved in implementing the Investment Program to allow, ADB to investigate any violation or potential violation of the aforesaid undertakings concerning combating money laundering and the financing of terrorism.

16. Without limiting the generality of the preceding paragraph, the Borrower shall: ensure, and cause each of the project-specific executing and implementing agencies to ensure, that all contracts financed by ADB in connection with the relevant projects and, if any, subprojects under the Investment Program 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 relevant projects and, if any, subprojects.