
LOAN NUMBER 4057-PAK

LOAN AGREEMENT
(Ordinary Operations)
(Balakot Hydropower Development Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 21 May 2021

PAK 49055

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 21 May 2021 between ISLAMIC REPUBLIC OF PAKISTAN ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(B) the Project will be carried out by (i) Khyber Pakhtunkhwa acting through EPD and (ii) PEDO, and for this purpose the Borrower will make available to PEDO the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(C) it is agreed that, by a loan agreement expected to be entered into between the Borrower and the Asian Infrastructure Investment Bank ("AIIB") (the "AIIB Loan Agreement"), AIIB will provide a loan to the Borrower in the amount of two hundred and eighty million Dollars (\$280,000,000) ("AIIB Loan") for the purposes of financing part of the expenditures of the Project, such loan to be partially administered by ADB in accordance with the terms and conditions of a cofinancing agreement between AIIB and ADB ("AIIB Cofinancing Agreement"); and

(D) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB, Khyber Pakhtunkhwa and PEDO;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations Loan Regulations, dated 1 January 2017 ("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(uu) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB, Khyber Pakhtunkhwa and PEDO, as such agreement may be amended from time to time; and such project agreement includes all schedules to the Project Agreement.

(b) The term "the Project Executing Agency" appearing in Sections 7.01(a)(i), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan

Regulations shall be substituted by the term "Province of Khyber Pakhtunkhwa (acting through its Energy and Power Department) and Pakhtunkhwa Energy Development Organization".

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) "AIB" has the meaning set forth in Recital (C) above;
- (b) "AIB Cofinancing Agreement" means the cofinancing agreement to be entered into by ADB and AIB as referred to in Recital (C) above;
- (c) "AIB Loan" means the loan to be provided by AIB to the Borrower as described in Recital (C) above;
- (d) "AIB Loan Agreement" means the loan agreement to be entered into by the Borrower and AIB as referred to in Recital (C) above;
- (e) "BAP" means the biodiversity action plan including the measures to mitigate the negative impacts of the Project on biodiversity, including any update thereto, incorporated in the EIA;
- (f) "Consulting Services" means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (g) "Environmental Impact Assessment" or "EIA" means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by PEDO and cleared by ADB;
- (h) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the EIA;
- (i) "EPD" means the Energy and Power Department of Khyber Pakhtunkhwa;
- (j) "Financial Year" means the financial year of PEDO, which runs from 1 July of each calendar year to 30 June in the following calendar year, unless otherwise notified to ADB;
- (k) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the Borrower and ADB.
- (l) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;

- (m) "IFRS" means International Financial Reporting Standards issued, from time to time, by the International Accounting Standards Board;
- (n) "Khyber Pakhtunkhwa" means the Province of Khyber Pakhtunkhwa of the Borrower, or any successor thereto acceptable to ADB;
- (o) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (p) "NEPRA" means the National Electric Power Regulatory Authority of the Borrower;
- (q) "Nonconsulting Services" means nonconsulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (r) "PAM" means the project administration manual for the Project dated 9 September 2020 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (s) "PEDO" means Pakhtunkhwa Energy Development Organization, or any successor thereto acceptable to ADB;
- (t) "Procurement Plan" means the procurement plan for the Project dated 9 September 2020 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;
- (u) "Procurement Policy" means ADB's Procurement Policy – Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (v) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers – Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (w) "Project facilities" means the 300 MW hydropower plant and related infrastructure and facilities to be installed, constructed and commissioned under the Project;
- (x) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the PEDO and cleared by ADB;
- (y) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);
- (z) "Safeguards Monitoring Report" means each report prepared and submitted by PEDO to ADB that describes progress with implementation

of and compliance with the EMP, the BAP and the RP, including any corrective and preventative actions;

- (aa) "Services" means Consulting Services and Nonconsulting Services; and
- (bb) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services, and Project related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of three hundred million Dollars (\$300,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove 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 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10 as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 1 March and 1 September in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to Khyber Pakhtunkhwa and PEDO, upon terms and conditions satisfactory to ADB, and shall cause such proceeds of the Loan to be applied exclusively 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. (a) Withdrawals from the Loan Account in respect of Goods, Works, and Services shall be made only on account of expenditures relating to:

- (i) Goods which are produced in and supplied from and Works and Services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and

- (ii) Goods, Works, and Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

(b) For purposes of subparagraph (a)(ii), Works may also be procured under the Project from non-member countries of ADB.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2027 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 4 to this Loan Agreement and the Project Agreement.

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

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable Khyber Pakhtunkhwa and PEDO, in each case, 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.

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 9.01(m) of the Loan Regulations:

- (a) the AIIB Cofinancing Agreement shall have been suspended or cancelled; and

- (b) the AIIB 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 9.07(a)(iv) of the Loan Regulations: any of the events specified in Section 5.01 shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Delegation of Authority

Section 7.01. The Borrower hereby designates PEDO as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Loan Agreement and under Sections 6.01, 6.02, 6.03 and 6.04 of the Loan Regulations.

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

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

ARTICLE VIII

Miscellaneous

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

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

For the Borrower

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

Facsimile Number:

(92-51) 910-4016.

For ADB

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

Facsimile Numbers:

(632) 8636-2444
(632) 8636-2301.

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.

ISLAMIC REPUBLIC OF PAKISTAN

By 

NOOR AHMED

Secretary, Economic Affairs Division
Ministry of Economic Affairs

ASIAN DEVELOPMENT BANK

By 

F. CLEO KAWAWAKI
Authorized Representative

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to enhance energy security in the territory of the Borrower.
2. The Project shall comprise:
 - (a) detailed design, supply, construction, installation and commissioning of a run-of-river 300 MW hydropower plant, and related infrastructure, located on the Kunhar river in Mansehra District, Khyber Pakhtunkhwa; and
 - (b) support for project management, community development and external environmental and resettlement monitoring.
3. The Project is expected to be completed by 30 June 2027.

SCHEDULE 2

Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 March 2028	1.900000
1 September 2028	1.900000
1 March 2029	2.200000
1 September 2029	2.400000
1 March 2030	2.600000
1 September 2030	2.500000
1 March 2031	2.600000
1 September 2031	2.500000
1 March 2032	2.800000
1 September 2032	2.900000
1 March 2033	3.250000
1 September 2033	3.450000
1 March 2034	3.600000
1 September 2034	3.800000
1 March 2035	3.900000
1 September 2035	3.900000
1 March 2036	3.900000
1 September 2036	4.000000
1 March 2037	3.800000
1 September 2037	3.750000
1 March 2038	3.650000
1 September 2038	3.500000
1 March 2039	3.500000
1 September 2039	3.300000
1 March 2040	2.800000
1 September 2040	2.500000
1 March 2041	2.200000
1 September 2041	1.800000
1 March 2042	1.600000
1 September 2042	1.500000
1 March 2043	1.400000
1 September 2043	1.200000
1 March 2044	1.300000
1 September 2044	1.300000

Schedule 2

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 March 2045	1.100000
1 September 2045	1.100000
1 March 2046	1.000000
1 September 2046	1.200000
1 March 2047	1.200000
1 September 2047	1.200000
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

- (a) to the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule; and
- (b) any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall

Schedule 2

apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**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 Subcategory of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest and Commitment Charges

3. The amount allocated to Category "Interest and Commitment Charges" is for financing interest and commitment charges on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charges.

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, in consultation with 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, in consultation with 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.

Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance eligible expenditures for Works and Consulting Services incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Loan Account
		Category	
1	Turnkey Contract ^a	233,700,000	85% of total expenditure claimed *
2	Consulting Services	17,900,000	85% of total expenditure claimed *
3	Unallocated	22,800,000	
4	Interest and Commitment Charges	25,600,000	100% of amounts due
	TOTAL	300,000,000	

^a Category 1 (Turnkey Contract), will be jointly financed by ADB and AIIB. As both loans will not be made effective at the same time, ADB will finance 85% (exclusive of taxes and duties) of this category. Once the AIIB loan has been declared effective, the respective percentages for ADB and AIIB financing will be revised, based on the remaining amounts to be financed for these categories 1 and 2 at the date of effectiveness of the AIIB loan (the final estimated financing percentage is 43% for ADB and 42% for AIIB).

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

SCHEDULE 4

Execution of Project; Procurement; Financial Matters

Implementation Arrangements

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

Procurement

2. The Borrower, Khyber Pakhtunkhwa and PEDO shall ensure that:
 - (a) the procurement of Goods, Works and Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;
 - (b) Goods, Works and Services shall be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Borrower may modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan; and
 - (c) (i) all Goods and Works procured and Services obtained (including 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; and (ii) all contracts for the procurement of Goods, Works and Services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.

3. The Borrower shall not, and shall ensure that PEDO shall not, award any Works contracts which involves environmental impacts until:
 - (a) Khyber Pakhtunkhwa Environmental Protection Agency has granted the final approval of the EIA; and
 - (b) the Borrower has, or has ensured that PEDO has, incorporated the relevant provisions from the EMP and BAP into the Works contract.

4. The Borrower shall not, and shall ensure that PEDO shall not, award a contract for Works involving involuntary resettlement impacts prior to the final RP having been

submitted and cleared by ADB unless the contract:

- (a) is of a "design and build" or "turnkey" type under which the design must be completed for the Project before the RP is finalized; and
- (b) expressly provides that the installation and construction phase (and commencement thereof) is strictly conditional upon: (i) the final RP based on the Project's detailed design having been submitted to, and cleared by, ADB; and (ii) PEDO having notified the contractor and ADB in writing that due consultation, compensation payments and other entitlements have been provided to affected people fully in accordance with the RP.

Environment

5. The Borrower shall ensure, or cause Khyber Pakhtunkhwa and PEDO to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower and Khyber Pakhtunkhwa relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the EIA, the EMP, the BAP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

6. The Borrower shall ensure, or cause Khyber Pakhtunkhwa and PEDO to ensure, that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and Khyber Pakhtunkhwa relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report. The Borrower shall ensure, and cause Khyber Pakhtunkhwa and PEDO to ensure, that no land shall be acquired for the purposes of the Project under the emergency acquisition provisions of the Borrower's Land Acquisition Act (1894), as amended from time to time.

7. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall ensure, or cause Khyber Pakhtunkhwa and PEDO to ensure, that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

8. The Borrower shall ensure, or cause Khyber Pakhtunkhwa and PEDO to ensure, that the preparation, design, construction, implementation and operation of the Project

and all Project facilities does not have any indigenous peoples impacts within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower shall, and shall cause Khyber Pakhtunkhwa and PEDO to, take all steps required to ensure that the Project complies with applicable laws and regulations of the Borrower and Khyber Pakhtunkhwa and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

9. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to make available necessary budgetary and human resources to fully implement the EMP, the BAP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. The Borrower shall cause PEDO to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the EIA, the EMP, the BAP and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower, Khyber Pakhtunkhwa and PEDO with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIA, the BAP, the EMP and the RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

11. The Borrower shall cause PEDO to do the following:

- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP, the BAP and the RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;

- (c) no later than the commencement of works by the Works contractor, engage qualified and experienced external experts under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts;
- (d) no later than the commencement of works by the Works contractor, engage external experts to monitor and report upon Project implementation, and facilitate the carrying out of any monitoring activities by such external experts; and
- (e) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the BAP or the RP promptly after becoming aware of the breach.

Prohibited List of Investments

12. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Grievance Redress Mechanism

13. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure that a joint safeguards grievance redress mechanism acceptable to ADB is established and functional in accordance with the provisions of the EIA, the EMP, and the RP no later than the date of award of the Works contract to consider safeguards complaints.

14. The safeguards grievance redress mechanism referred to in paragraph 13 above will function to (a) review and document eligible complaints of project stakeholders; (b) proactively address grievances; (c) provide the complainants with notice of the chosen mechanism and/or action; and (d) prepare and make available to ADB upon request periodic reports to summarize (i) the number of complaints received and resolved; (ii) chosen actions; and (iii) final outcomes of the grievances.

Labor Standards, Health and Safety

15. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure, that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

16. The Borrower shall strictly monitor compliance with the requirements set forth in paragraph 15 above and provide ADB with regular reports.

Gender and Development

17. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure, that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Counterpart Support

18. The Borrower and Khyber Pakhtunkhwa shall ensure that all counterpart funding required for purposes of timely and successful project implementation is promptly provided, including, without limitation, ensuring that PEDO has sufficient funds to satisfy its liabilities arising from any Works, Goods and/or Services contract.

Financial Covenants

19. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO will achieve (a) a debt service coverage ratio of not less than 1.2:1 (b) a ratio of long-term debt to equity ratio of not more than 3:1 (c) a current ratio of at least 1:1 and (d) an operating ratio of less than 1, in each case, in each Financial Year during the term of the Loan Agreement commencing with the Financial Year ending 30 June 2021. For the purposes of this paragraph:

- (a) the term "current assets" means all assets which could in the ordinary course of business be converted into cash within 12 months, including accounts receivable, marketable securities, inventories, prepaid expenses properly charged to operating expenses within the next Financial Year and cash;
- (b) the term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within 12 months, including accounts payable, customer advances, debt service requirements, dividends and taxes and payments in lieu of taxes;
- (c) the term "current ratio" means the ratio of current assets to current liabilities;
- (d) the term "debt service coverage ratio" means free cash flow from operations divided by annual debt service obligations including interest and principal payments;
- (e) the term "debt service obligations" means interest, principal and other charges on debt except to the extent they are capitalized;

- (f) the term "free cash flow from operations" means the amount of free cash flow derived from the cash flow statement for the relevant Financial Year;
- (g) the term "long- term debt" means any outstanding indebtedness, but excluding any amount due for payment within 1 year of the date as of which the ratio is calculated; and the term equity means the sum of total unimpaired paid up capital, retained earnings, and reserves not allocated to cover specific liabilities;
- (h) the term "operating ratio" means total operating expenses divided by total operating revenue;
- (i) the term "total operating expenses" means all expenses related to operations including administration, maintenance and taxes but excluding non-cash charges such as depreciation (and excluding non-operating costs such as interest) paid in cash; and
- (j) the term "total operating revenue" means the sum of revenues from all sources related to operations collected in cash after provisions for non-collectible debts, and including subsidies received in cash;

20. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO will provide to ADB, with each set of audited financial statements, a compliance certificate setting out computations as to compliance with the financial covenants described above, which shall be reviewed by the PEDO's statutory auditors and signed by the PEDO's finance director.

21. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO (a) has adequate staffing (including audit and risk committees) responsible for financial management; (b) provides sufficient training to the accounting staff in relation to IFRS reporting in preparation of financial accounts in compliance with IFRS; and (c) in each of its Financial Years, commencing in the Financial Year ending 30 June 2021, prepares its financial statements in accordance with IFRS.

22. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO will ensure that audit and risk committees under the board of directors of PEDO gather semi-annually in each year in relation to the Project.

23. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO will promptly submit tariff petitions as per the requirements of NEPRA in order to maintain PEDO's viability, recover costs and maintain the regulated return on assets at all times. Following any tariff determination by NEPRA, the Borrower shall promptly issue a public notice regarding the tariff determination and, in any case, by the dates prescribed by applicable law. The Borrower shall ensure that any and all tariffs formulated for PEDO are adequate to recover capital expenses, operating costs, maintenance, depreciation and financing costs of PEDO with respect to the Project and Project facilities and allow an acceptable return on its equity.

24. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO will submit to ADB no later than 1 July 2021, and thereafter within 270 days after the end of each of PEDO's Financial Years until the Loan Agreement has been terminated, the investment plans of PEDO, as required under the NEPRA Investment Standards and Procedures

(Hydropower Generation) Rules, 2015, including, but not limited to, in each case (i) the periods of one year, up to three years and up to ten years (ii) historic data for the previous five years and (iii) forecasts as to load growth for the next five years.

25. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO receives payment for the electricity sold, in a timely manner.

26. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO complies with the time-bound financial management action plan set out in the PAM.

Operational/ Sector Performance Covenants

27. The Borrower shall cause Khyber Pakhtunkhwa to ensure that PEDO adequately staff and equip the project management unit in accordance with the PAM and to ensure that it is fully functional until project completion.

28. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure that (a) the Project facilities are installed in accordance with design specifications and construction norms; and (b) construction supervision, quality control and contract management are performed in accordance with best international industry practices. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to install, equip, operate, maintain and manage the Project facilities in compliance with applicable standards and best international practices.

29. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure that an independent panel of experts is appointed by PEDO to (i) review of the detailed design of the dam and other Project facilities being constructed under the Project and ensure the design is approved by PEDO only after the panel of experts has been consulted to ensure that all risks identified during the feasibility studies and the EPC contractor's detailed designs have been addressed in the design of the dam and other Project facilities and (ii) witness the commission activities for the dam and other Project facilities and provide expert view on quality of construction and stability of the dam and other Project facilities. The Borrower shall cause PEDO to ensure that it binds the EPC contractor to ensure that international standards all followed on safety and stability of the dam while designing and during construction phases.

30. The Borrower shall cause Khyber Pakhtunkhwa and PEDO to ensure that adequate staffing will be planned and allocated for the operation and maintenance of the Project facilities, and that relevant staff members shall attend training provided under the Project in relation to such operation and maintenance.

Change in Ownership

31. The Borrower shall ensure that ADB's written consent is obtained at least 6 months prior to the implementation of any of the following: (a) any direct or indirect change in the ownership of any asset, facility or structure financed under the Project; (b) any direct or indirect sale, transfer, or assignment of interest or control in any asset, facility or structure financed under the Project; or (c) any direct or indirect lease or other contract or modification of the functions and authority of Khyber Pakhtunkhwa or PEDO over operation and maintenance of any such asset, facility or structure financed under the Project. The Borrower shall ensure that ADB is promptly notified of any proposal to implement any such changes and that the notification includes sufficient details regarding the change to be implemented. The Borrower shall further ensure that any such changes shall be carried out in a legal and

transparent manner.

Governance and Anticorruption

32. The Borrower, Khyber Pakhtunkhwa and PEDO 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; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

33. The Borrower, Khyber Pakhtunkhwa and PEDO shall 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.

AIIB Loan Agreement

34. The Borrower shall ensure that on or before 30 June 2021, the AIIB Loan Agreement shall have been executed by the parties thereto and all conditions precedent to its effectiveness (other than, if applicable, a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled.