
LOAN NUMBER 4057-PAK

PROJECT AGREEMENT
(Balakot Hydropower Development Project)

between

ASIAN DEVELOPMENT BANK

and

KHYBER PAKHTUNKHWA PROVINCE
AND
PAKHTUNKHWA ENERGY DEVELOPMENT ORGANIZATION

DATED 21 May 2021

PAK 49055

PROJECT AGREEMENT

PROJECT AGREEMENT dated 21 May 2021 between ASIAN DEVELOPMENT BANK ("ADB") on the one part and KHYBER PAKHTUNKHWA PROVINCE ("Khyber Pakhtunkhwa") and PAKHTUNKHWA ENERGY DEVELOPMENT ORGANIZATION ("PEDO") on the other part.

WHEREAS

(A) by a Loan Agreement of even date herewith between ISLAMIC REPUBLIC OF PAKISTAN ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan of three hundred million Dollars (\$300,000,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that the proceeds of the loan be made available to PEDO and that Khyber Pakhtunkhwa and PEDO agree to undertake certain obligations towards ADB set forth herein; and

(B) Khyber Pakhtunkhwa and PEDO, in consideration of ADB entering into the Loan Agreement with the Borrower, have agreed to undertake the obligations set forth herein;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

ARTICLE II

Particular Covenants

Section 2.01. (a) Khyber Pakhtunkhwa and PEDO shall carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, Khyber Pakhtunkhwa and PEDO shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to Khyber Pakhtunkhwa and PEDO, and all obligations set forth in the Schedule to this Project Agreement. Khyber Pakhtunkhwa shall cause PEDO to perform all such obligations that are applicable to PEDO.

Section 2.02. Khyber Pakhtunkhwa and PEDO shall make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, procure all items of expenditures to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, PEDO undertakes, and Khyber Pakhtunkhwa shall cause PEDO to undertake, to insure, or cause to be insured, the Goods to be imported for the Project against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB, Khyber Pakhtunkhwa and PEDO shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) PEDO and Khyber Pakhtunkhwa shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement or the accomplishment of the purposes of the Loan.

(c) ADB, on the one part, and Khyber Pakhtunkhwa and PEDO, on the other part, shall from time to time, at the request of either party (or parties, as the case may be), exchange views through their representatives with regard to any matters relating to the Project, Khyber Pakhtunkhwa, PEDO and the Loan.

Section 2.08. (a) PEDO and Khyber Pakhtunkhwa shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loan and the expenditure of the proceeds thereof; (ii) the items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of PEDO and Khyber Pakhtunkhwa; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, furnish to ADB periodic reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by Khyber Pakhtunkhwa and PEDO of their respective obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds, and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the close of the fiscal year to which they relate, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) 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.

(c) In addition to annual audited financial statements referred to in subsection (a) hereinabove, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, (i) provide its annual financial statements prepared in accordance with financing reporting standards acceptable to ADB; (ii) have its financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iii) as part of each such

audit, have the auditors prepare the auditors' opinion(s) on the financial statements and compliance with the financial covenants of this Project Agreement; and (iv) furnish to ADB, no later than 1 month after approval by the relevant authority, copies of such audited financial statements and auditors' opinion(s), all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) Khyber Pakhtunkhwa and PEDO shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and Khyber Pakhtunkhwa and PEDO and, in each case, its financial affairs where they relate to the Project with the auditors appointed by Khyber Pakhtunkhwa and PEDO pursuant to subsections (a)(iii) and (c)(ii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of each of Khyber Pakhtunkhwa and PEDO, unless Khyber Pakhtunkhwa and PEDO shall otherwise agree.

Section 2.10. Khyber Pakhtunkhwa and PEDO shall enable ADB's representatives to inspect the Project, the Goods, Works and any relevant records and documents.

Section 2.11. (a) Each of Khyber Pakhtunkhwa and PEDO shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its operations.

(b) Each of Khyber Pakhtunkhwa and PEDO shall at all times conduct its operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(c) Each of Khyber Pakhtunkhwa and PEDO shall at all times operate and maintain its plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

Section 2.12. Except as ADB may otherwise agree, neither of Khyber Pakhtunkhwa or PEDO shall sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, PEDO shall, and Khyber Pakhtunkhwa shall cause PEDO to, apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement and this Project Agreement, and shall ensure that all items of expenditures financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Each of Khyber Pakhtunkhwa and PEDO shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of, in the case of Khyber Pakhtunkhwa, its policy documents and, in the case of PEDO, its establishment documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of

the Project facilities. Each of Khyber Pakhtunkhwa and PEDO shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

ARTICLE III

Effective Date; Termination

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreement comes into force and effect. ADB shall promptly notify Khyber Pakhtunkhwa and PEDO of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms.

Section 3.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreement.

ARTICLE IV

Miscellaneous

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand, mail or facsimile to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

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

Facsimile Numbers:

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

For Khyber Pakhtunkhwa

Secretary to Government of Khyber Pakhtunkhwa
 Energy and Power Department
 Civil Secretariat, Khyber Road Peshawar

Facsimile Number:

(92-91) 910-3624.

For PEDO

38-B/2, Phase-V
 Hayatabad
 Peshawar
 Pakistan

Facsimile Number:

(92-91) 921-7464.


Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 6.01 of the Loan Agreement (i) by or on behalf of Khyber Pakhtunkhwa may be taken or executed by the Secretary to the Government of Khyber Pakhtunkhwa, Energy and Power Department or by such other person or persons as he or she shall so designate in writing notified to ADB; or (ii) by PEDO may be taken or executed by its Chief Executive Officer or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) Khyber Pakhtunkhwa or PEDO, as the case may be, shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

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

ASIAN DEVELOPMENT BANK

By 

F. CLEO KAWAWAKI
Authorized Representative

KHYBER PAKHTUNKHWA PROVINCE

By 

MUHAMMAD ZUBAIR
Secretary
Energy and Power Department

PAKHTUNKHWA ENERGY
DEVELOPMENT ORGANIZATION

By  21/05/2021

MUHAMMAD NAEEM
Chief Executive Officer

SCHEDULE

Execution of Project; Procurement; Financial Matters

Implementation Arrangements

1. 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 Project Agreement, the provisions of this Project Agreement shall prevail.

Procurement

2. 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. 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. 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. Khyber Pakhtunkhwa and PEDO shall 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. Khyber Pakhtunkhwa and PEDO shall 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, Khyber Pakhtunkhwa and PEDO shall 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. Khyber Pakhtunkhwa and PEDO shall 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, Khyber Pakhtunkhwa and PEDO shall 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. Khyber Pakhtunkhwa and PEDO shall 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. PEDO shall 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. PEDO shall:

- (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. 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. Khyber Pakhtunkhwa and PEDO shall 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. Khyber Pakhtunkhwa and PEDO shall ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. Khyber Pakhtunkhwa and PEDO shall 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.

Gender and Development

16. Khyber Pakhtunkhwa and PEDO shall 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

17. 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

18. PEDO shall 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.

19. PEDO shall 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.

20. PEDO shall ensure that (a) it has adequate staffing responsible for financial management; (b) it 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, it prepares its financial statements in accordance with IFRS.

21. PEDO shall ensure that audit and risk committees under the board of directors of PEDO gather semi-annually in each calendar year in relation to the Project.

22. PEDO shall promptly submit tariff petitions 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, PEDO acknowledges that the Borrower shall promptly issue a public notice regarding the tariff determination and, in any case, by the dates prescribed by applicable law.

23. PEDO shall 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.

24. PEDO shall comply with the time-bound financial management action plan set out in the PAM.

Operational/ Sector Performance Covenants

25. PEDO shall adequately staff and equip the project management unit in accordance with the PAM and to ensure that it is fully functional until project completion.

26. Khyber Pakhtunkhwa and PEDO shall 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.

27. Khyber Pakhtunkhwa and PEDO shall 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.

28. Khyber Pakhtunkhwa and PEDO shall 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

29. Khyber Pakhtunkhwa and PEDO 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. Khyber Pakhtunkhwa and PEDO 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

30. 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.

31. 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.