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GRANT NUMBER 0640- TON(SF)

GRANT AGREEMENT  
(Special Operations)  
(Renewable Energy Project)

between

KINGDOM OF TONGA

and

ASIAN DEVELOPMENT BANK

DATED 13 SEPTEMBER 2019

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TON 49450

**GRANT AGREEMENT  
(Special Operations)**

GRANT AGREEMENT dated 13 September 2019 between KINGDOM OF TONGA ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to the Green Climate Fund ("GCF") for a grant in an amount not exceeding twenty-nine million nine hundred thousand Dollars (\$29,900,000) ("GCF Grant") to be administered by ADB for the purposes of cofinancing expenditures under the Project described in Schedule 1 to this Grant Agreement;

(B) by a funded activity agreement dated 6 September 2019 between ADB and GCF ("GCF Funded Activity Agreement"), GCF has agreed to provide, and ADB has agreed to administer, the grant provided for herein upon the terms and conditions set out in the GCF Funded Activity Agreement;

(C) by a grant agreement of even date herewith entered between the Recipient and ADB ("GCF Grant Agreement"), ADB has agreed to make the proceeds of the GCF Grant available to the Recipient for the purposes of cofinancing expenditures under the Project;

(D) the Recipient has applied to the Government of Australia, represented by the Department of Foreign Affairs and Trade ("DFAT"), for a grant equivalent to two million five hundred thousand Dollars (\$2,500,000) ("DFAT Grant") to be administered by ADB for the purposes of cofinancing expenditures under the Project;

(E) by a cofinancing agreement dated 2 April 2019 between ADB and the Government of Australia represented by DFAT ("DFAT Cofinancing Agreement"), the Government of Australia has agreed to provide the DFAT Grant and ADB has agreed to administer the DFAT Grant upon terms and conditions set forth in the DFAT Cofinancing Agreement;

(F) by a grant agreement of even date herewith entered between the Recipient and ADB ("DFAT Grant Agreement"), ADB has agreed to make the proceeds of the DFAT Grant available to the Recipient for the purposes of cofinancing expenditures under the Project;

(G) the Recipient has applied to ADB for a grant ("Grant", and together with the GCF Grant and the DFAT Grant, "Grants") for the purposes of the Project;

(H) the Project will be carried out by the Recipient's Ministry of Finance and National Planning through the Ministry of Energy, Information, Disaster Management, Climate Change, and Communications and Tonga Power Limited ("TPL"); and

(l) ADB has agreed to make a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and TPL;

NOW THEREFORE the parties agree as follows:

## ARTICLE I

### Grant Regulations; Definitions

Section 1.01. All the provisions of ADB's Special Operations Grant Regulations, dated 1 January 2017 ("Grant Regulations"), are hereby made applicable to this Grant 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(m) is deleted and the following is substituted therefor:  
  
"Project Agreement" means the project agreement of even date herewith between ADB and TPL, as such agreement may be amended from time to time; and
- (b) The term "Project Executing Agency" appearing in Sections 6.01(a), 8.01(c), 8.01(e), 8.01(i), 9.01(b) and 9.02(b) of the Grant Regulations shall be substituted by the term "TPL".

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

- (a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (b) "Consulting Services" means the services to be financed out of the proceeds of the Grants as described in paragraph 3 of Schedule 1 to this Grant Agreement;
- (c) "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 chargeable to operating expenses within the next financial year, and cash;
- (d) "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, taxes and payments in lieu of taxes, and dividends;

- (e) "Current Ratio" means the ratio of Current Assets to Current Liabilities;
- (f) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in each IEE;
- (g) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (h) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the Recipient and ADB;
- (i) "Goods" means equipment and materials to be financed out of the proceeds of the Grants, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (j) "IEE" means each initial environmental examination for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (k) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (l) "MEIDECC" means the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change, and Communications of the Recipient or any successor thereto acceptable to ADB;
- (m) "MFNP" means the Ministry of Finance and National Planning of the Recipient or any successor thereto acceptable to ADB;
- (n) "PAM" means the project administration manual for the Project dated 7 February 2019 and agreed between the Recipient and ADB, as updated from time to time in accordance with the respective administrative procedures of the Recipient and ADB;
- (o) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (p) "Procurement Plan" means the procurement plan for the Project dated 7 February 2019 and agreed between the Recipient and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

- (q) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means MFNP or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (r) "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (s) "Safeguards Monitoring Report" means each report prepared and submitted by the Recipient to ADB that describes progress with implementation of and compliance with the EMP, including any corrective and preventative actions;
- (t) "SPS" means ADB's Safeguard Policy Statement (2009);
- (u) "Subsidiary Grant Agreement" means the agreement between the Recipient and TPL referred to in Section 3.01 of this Grant Agreement, the GCF Grant Agreement and the DFAT Grant Agreement;
- (v) "TPL" means Tonga Power Limited or any successor thereto acceptable to ADB; and
- (w) "Works" means construction or civil works to be financed out of the proceeds of the Grants, 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 Grant**

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources an amount of twelve million two hundred thousand Dollars (\$12,200,000).

## **ARTICLE III**

### **Use of Proceeds of the Grant**

Section 3.01. The Recipient shall make part of the proceeds of the Grant available to TPL as a grant under a Subsidiary Grant Agreement upon terms and conditions satisfactory to ADB and shall cause the proceeds of the Grant to be applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement and the Project Agreement.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 3 to this Grant Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 April 2023 or such other date as may from time to time be agreed between the Recipient and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Grant Agreement and the Project Agreement.

Section 4.02. The Recipient shall enable ADB's representatives to inspect the Project, the Goods and Works, 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 Recipient shall take all actions which shall be necessary on its part to enable the TPL 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**

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the Recipient shall have failed to perform one or more of its obligations under the GCF Grant Agreement and DFAT Grant Agreement.

## ARTICLE VI

### Effectiveness

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

- (a) the GCF Grant Agreement shall have been duly authorized or ratified by, and executed and delivered on behalf of, the Recipient, and all conditions precedent to its effectiveness, other than a condition requiring effectiveness of this Grant Agreement and the DFAT Grant Agreement, shall have been fulfilled; and
- (b) the DFAT Grant Agreement shall have been duly authorized or ratified by, and executed and delivered on behalf of, the Recipient, and all conditions precedent to its effectiveness, other than a condition requiring effectiveness of this Grant Agreement and the GCF Grant Agreement, shall have been fulfilled.

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

- (a) that the GCF Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Recipient, and is legally binding upon the Recipient in accordance with its terms, subject only to the effectiveness of this Grant Agreement and the DFAT Grant Agreement; and
- (b) that the DFAT Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Recipient, and is legally binding upon the Recipient in accordance with its terms, subject only to the effectiveness of this Grant Agreement and the GCF Grant Agreement.

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

## ARTICLE VII

### Termination

Section 7.01. The Grant Agreement and all obligations of the parties thereunder shall terminate on a date 25 years after the date of this Agreement.

**ARTICLE VIII**

**Miscellaneous**

Section 8.01. The Minister of Finance and National Planning of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance and National Planning  
Vuna Road  
Nuku'alofa  
Kingdom of Tonga

Facsimile Number:

(676) 24040

For ADB

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

Facsimile Numbers:

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




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

KINGDOM OF TONGA

By   
\_\_\_\_\_  
SYURKANI ISHAK KASIM  
Authorized Representative

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
MA. CARMELA D. LOCSIN  
Director General  
Pacific Department

**SCHEDULE 1****Description of the Project**

1. The objective of the Project is to expand access to clean, resilient and affordable energy for the population in Tonga at a lower cost.
2. The Project shall comprise:
  - (i) installation of multiple units of battery energy storage system ("BESS") with total installed capacity of approximately 10.1 MW/19.9MWh on Tongatapu, consisting of (i) grid stability BESS of approximately 5.1MW/2.5 MWh ("BESS I") and (ii) load-shifting BESS of approximately 5.0 MW/17.4 MWh ("BESS II");
  - (ii) installation of on-grid solar PV plants with total capacity of approximately 650 kW, coupled with small BESS with total capacity of approximately 1.3 MW /1.4 MWh on 'Eua and Vava'u;
  - (iii) installation of mini-grids and renewable-based hybrid systems consisting of approximately 501 kW solar PV coupled with approximately 4.3 MWh BESS in total in five outer islands which includes installation of the mini-grid (O'ua, Tungua, Kotu, Mo'unga'one and Niuafu'ou); and
  - (iv) capacity building support.
3. Consulting Services shall be provided to support activities mentioned in item (iv) of paragraph 2 above.
4. The Project is expected to be completed by 31 October 2022.

**SCHEDULE 2****Allocation and Withdrawal of Grant 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 Grant and the allocation of amounts of the Grant to each such Category ("Table").

Basis for Withdrawal from the Grant Account

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

Reallocation

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

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

Disbursement Procedures

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

Condition for Withdrawals from Grant Account

5. Notwithstanding any other provision of this Grant Agreement, no withdrawals shall be made from the Grant Account until the Subsidiary Grant Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Recipient and TPL and shall have become legally binding upon the Recipient and TPL in accordance with its terms.

Retroactive Financing

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

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Grant Account
1	Works (BESS I)**	5,060,000	100% of total expenditure claimed*
2	Works (renewable-based hybrid systems and mini- grids)**	3,430,000	31.4% of total expenditure claimed*
3	Consulting Services**	780,000	24.8% of total expenditure claimed*
4	Unallocated	2,930,000	
	<b>TOTAL</b>	<b>12,200,000</b>	

\* Exclusive of taxes and duties imposed within the territory of the Recipient.

\*\* Subject to the condition for withdrawal described in paragraph 5 of Schedule 2.

**SCHEDULE 3****Procurement of Goods, Works and Consulting Services**General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. All terms used in this Schedule and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Eligible Source of Procurement of Goods, Works and Consulting Services

4. Goods, Works and Consulting Services may also be procured under the Project from non-member countries of ADB.

Goods and Works

5. Goods and Works shall be procured on the basis of the International Competitive Bidding.

Conditions for Award of Contract

6. The Recipient and TPL shall not award any Works contract which involves environmental impacts until:
  - (a) the Recipient has granted the final approval of the relevant IEE; and
  - (b) MEIDECC or TPL, as applicable, has incorporated the relevant provisions from the EMP into the Works contract.
7. The Recipient shall not award any Works contract which involves involuntary resettlement impacts, until the Recipient has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

8. Except as set forth in the paragraph below, the Recipient shall apply Quality- and Cost-Based Selection for Consulting Services.

9. The Recipient shall recruit the individual consultants for project management, transaction advisory and grid operation services in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

10. (a) The Recipient 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 Recipient shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

11. The Recipient shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

12. 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 Recipient and ADB and set forth in the Procurement Plan.

## SCHEDULE 4

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Recipient, MFNP, MEIDECC and TPL 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 Recipient and ADB. In the event of any discrepancy between the PAM and this Grant Agreement, the provisions of this Grant Agreement shall prevail.

#### Counterpart Support

2. The Recipient shall make available through budgetary allocations or other means, all counterpart funds required for the timely and effective implementation of the Project including any funds required to (a) mitigate unforeseen environmental and social impacts; and (b) meet any additional costs arising from design changes, price escalations in construction or installation costs; foreign exchange fluctuation or other unforeseen circumstances. In addition to the foregoing, the Recipient shall ensure that TPL has sufficient funds to satisfy its liabilities arising from any Works, Goods and/or Consulting Services contract.

#### Environment

3. The Recipient, through MFNP, MEIDECC and TPL, 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 Recipient relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Land Acquisition and Involuntary Resettlement

4. The Recipient, through MFNP, MEIDECC and TPL, 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 Recipient 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.

5. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Recipient, through MFNP, MEIDECC and TPL, 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

6. The Recipient, through MFNP, MEIDECC and TPL, shall ensure that the Project does not have any indigenous peoples impacts within the meaning of the SPS. In the event that the Project has such impacts, the Recipient and TPL shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Recipient and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

7. The Recipient, MEIDECC and TPL shall make available necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

8. The Recipient, through MFNP, MEIDECC and TPL, shall ensure that all bidding documents and contracts for civil works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP and the RP, 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; and
- (c) provide the Recipient, MEIDECC or TPL 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 IEE, the EMP and the RP.

Safeguards Monitoring and Reporting

9. The Recipient, through MFNP, MEIDECC and TPL, shall do the following:

- (a) submit semiannual safeguards monitoring reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP 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; and
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach.

Prohibited List of Investments

10. The Recipient, through MFNP, MEIDECC and TPL, shall ensure that no proceeds of the Grants are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards, Health and Safety

11. The Recipient, through MFNP, MEIDECC and TPL, shall ensure that the core labor standards and the applicable laws and regulations of the Recipient are complied with during Project implementation. The Recipient 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 applicable labor law and regulations of the Recipient 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.

12. The Recipient, through MFNP, MEIDECC and TPL, shall strictly monitor compliance with the requirements set forth in paragraph 11 above and provide ADB with regular reports.

Gender and Development

13. The Recipient, through MFNP, MEIDECC and TPL, 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.

Governance and Anticorruption

14. The Recipient, MFNP, MEIDECC and TPL 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.

15. The Recipient, MFNP, MEIDECC and TPL 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.

Project Website

16. The Recipient, through MFNP, MEIDECC and TPL, shall maintain a Project website which shall be regularly updated. The Project website shall include information on (a) bidding procedures, bidders, and contract awards; (b) use of the funds disbursed under the Project; and (c) physical progress of the Project.

Operational Covenants

17. The Recipient, through TPL, shall ensure that at least 4.0 MW-peak solar photovoltaic and 3.8 MW wind power equivalent renewable energy and carbon-free generation systems start commercial operation in Tongatapu, within 6 months from the commissioning date of BESS I.

18. The Recipient shall ensure that physical assets financed under the Grant are: (a) transferred to TPL and recorded as assets owned by TPL; (b) treated as an increase in the Recipient's equity in TPL for accounting purposes; and (c) depreciated on TPL's balance sheet according to an appropriate depreciation schedule for the relevant asset classes as part of TPL's regulated asset base for determination of TPL's costs and revenue requirements, in accordance with its national laws.

19. The Recipient shall ensure that all assets previously financed by ADB (under Grant 0347, Grant 0389, Grant 0444, Grant 0528, Grant 0575 and Loan 3509) or through co-financing arrangements with other financiers and administered by ADB (under Grant 0348 and Grant 0445) and are being operated by TPL, are transferred to TPL as assets owned by TPL and accounted for in the manner described in subparagraphs 18 (b) and (c) of this Schedule.

Financial Covenants

20. The Recipient shall ensure that TPL shall, based on its audited annual financial statements prepared in accordance with accounting standards acceptable to ADB, achieve and maintain a Current Ratio of at least 0.9 for the financial year ending 30 June 2021, and at least 1 for the financial year ending 30 June 2022 and for each succeeding financial year.

Operation and Maintenance

21. Prior to commencement of commercial operations of the solar PV generation facilities on each of the islands of O'ua, Tungua, Kotu, Mo'unga'one and Niuafu'ou, the Recipient shall enter into an agreement with TPL or other service providers acceptable to the Recipient and ADB, upon terms and conditions satisfactory to ADB, which requires TPL or such other service providers to carry out the routine and periodic maintenance of the facilities built under this Project.

22. The Recipient shall ensure that sufficient funds will be earmarked in the operation and maintenance budget, allocated and released on an annual basis, for the routine and periodic maintenance of the Project facilities to be carried out under the agreement mentioned in paragraph 22 above.

Adjustment of Cost of Electricity

23. Within 6 months of commencement of commercial operations of the solar PV generation facilities on the islands of 'Eua and Vava'u, the Recipient shall revise the electricity tariff levied on consumers on the islands of 'Eua and Vava'u to appropriately reflect the adjustment in electricity generation costs following installation of the solar PV generation facilities.

24. Within 6 months of commencement of commercial operations of the solar PV generation facilities on each of the islands of O'ua, Tungua, Kotu, Mo'unga'one and Niuafou'ou, the Recipient shall enact an appropriate fee for electricity services for each of the islands of O'ua, Tungua, Kotu, Mo'unga'one and Niuafou'ou in accordance with the methodology described in the PAM.

25. Notwithstanding the foregoing, the Recipient shall implement and enforce measures, with the intent, among other things, to provide for a tariff policy and rate structure that establishes TPL's authorized revenue based on verifiable, prudent and reasonable costs, while providing TPL an opportunity to recover its costs associated with providing electricity service and incentivizing TPL to control and minimize its costs.