

---

LOAN NUMBER 3967-CAM (COL)  
GRANT NUMBER 0736-CAM (SCF)  
GRANT NUMBER 0737-CAM (CEF)

PROJECT AGREEMENT  
(Grid Reinforcement Project)

between

ASIAN DEVELOPMENT BANK

and

ELECTRICITÉ DU CAMBODGE

DATED October 12, 2020

---

CAM 53324

*anh*

## PROJECT AGREEMENT

PROJECT AGREEMENT dated \_\_\_\_\_ between ASIAN DEVELOPMENT BANK ("ADB") and ELECTRICITÉ DU CAMBODGE ("Project Executing Agency").

### WHEREAS

(A) by a loan agreement of even date herewith between the Kingdom of Cambodia ("Borrower") and ADB ("Loan Agreement"), ADB has agreed to make to the Borrower a concessional loan of one hundred twenty seven million eight hundred thousand Dollars (\$127,800,000) ("Loan") 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 the Project Executing Agency and that the Project Executing Agency agrees to undertake certain obligations towards ADB set forth herein;

(B) by a grant agreement of even date herewith between the Borrower and ADB (the "SCF Grant Agreement"), ADB has agreed to provide a grant to the Borrower under the Scaling Up Renewable Energy Program in Low Income Countries (SREP) funded by the Strategic Climate Fund ("SCF") in an amount of four million seven hundred thousand Dollars (\$4,700,000) (the "SCF Grant Agreement");

(C) by a grant agreement of even date herewith between the Borrower and ADB (the "CEF Grant Agreement") ADB has agreed to provide a grant to the Borrower from the Clean Energy Fund ("CEF") under the Clean Energy Financing Partnership in an amount of two million Dollars (\$2,000,000) (the "CEF Grant Agreement"); and

(D) the Project Executing Agency, in consideration of ADB entering into each of the Loan Agreement, the SCF Grant Agreement and the CEF Grant Agreement with the Borrower, has 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.

*ADB*

*d*  
*pa*

**ARTICLE II****Particular Covenants**

Section 2.01. (a) The Project Executing Agency 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, the Project Executing Agency shall perform all obligations set forth in each of the Loan Agreement, the SCF Grant Agreement and CEF Grant Agreement to the extent that they are applicable to the Project Executing Agency, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. (a) The Project Executing Agency 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, the SCF Grant and the CEF Grant for the carrying out of the Project, including, without limitation, the amounts sufficient to finance land acquisition costs, on a timely basis and cover any funding shortfalls or cost overruns that may occur during Project implementation.

(b) In addition to the foregoing, the Project Executing Agency shall ensure sufficient funds to satisfy its liabilities for any Goods, Works and/or Services contract, including, without limitation, under EPC Contracts and EPC (O&M) Contract.

Section 2.03. (a) In the carrying out of the Project, the Project Executing Agency shall 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, the Project Executing Agency shall procure all items of expenditures to be financed out of the proceeds of the Loan, the SCF Grant and CEF Grant in accordance with the provisions of the Schedule to this Project Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed by the Borrower (under the Loan Agreement) and the Project Executing Agency with ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. The Project Executing Agency shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. The Project Executing Agency shall 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) The Project Executing Agency shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Project Executing Agency undertakes to insure, or cause to be insured, the Goods to be imported for the Project

*Ante*

*For n*

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. The Project Executing Agency shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the proceeds of the Loan, as well as out of the proceeds of the SCF Grant and CEF Grant 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 and the Project Executing Agency shall cooperate fully to ensure that the purposes of the Loan, the SCF Grant and CEF Grant will be accomplished.

(b) the Project Executing Agency 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 Subsidiary Loan Agreement, or the accomplishment of the purposes of the Loan, the SCF Grant and CEF Grant.

(c) ADB and the Project Executing Agency shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, the Project Executing Agency and the Loan, the SCF Grant and CEF Grant.

Section 2.08. (a) The Project Executing Agency shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loan, the SCF Grant and CEF Grant 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 the Project Executing Agency; (v) a summary financial account, including Project expenditures during the reporting period, year-to-date, and total expenditure to date; and (vi) any other matters relating to the purposes of the Loan, the SCF Grant and CEF Grant.

(b) Without limiting the generality of the foregoing, the Project Executing Agency shall 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 on a quarterly basis and in such form and in such detail as ADB shall reasonably request, and shall indicate, among other things, (i) progress made and problems encountered during the period under review, (ii) steps taken or proposed to be taken to remedy these problems, (iii) performance of the Project consultants, (iv) changes in the implementation schedule, and (v) proposed program of activities and expected progress during the following period as well as (vi) a description of implementation of the EMP and LARP including status of satisfactory completion of compensation, and rehabilitation activities.

(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, the Project Executing Agency shall 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 the Project Executing Agency of its obligations under this Project

anh  
↓  
p o n

Agreement and the accomplishment of the purposes of the Loan, the SCF Grant and CEF Grant.

Section 2.09. (a) The Project Executing Agency shall (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 proceeds of the Loan, the SCF Grant and CEF Grant, and a management letter (which sets out the deficiencies in the internal control of the Project and other issues 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, the Project Executing Agency shall (i) provide its annual financial statements prepared in accordance with the financial 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 set out in the Loan Agreement and 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) The Project Executing Agency shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Project Executing Agency and its financial affairs where they relate to the Project with the auditors appointed by the Project Executing Agency 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 the Project Executing Agency, unless the Project Executing Agency shall otherwise agree.

Section 2.10. The Project Executing Agency shall enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents.

Section 2.11. (a) The Project Executing Agency 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

*adh*

*fan*

franchises which are necessary in the carrying out of the Project or in the conduct of its operations.

(b) The Project Executing Agency 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) The Project Executing Agency 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.

(d) Without limiting the generality of the foregoing, the Project Executing Agency shall ensure the operation and maintenance of the Project facilities in sound and functional order at all times after completion of the Project.

Section 2.12. Except as ADB may otherwise agree, the Project Executing Agency shall not 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, the Project Executing Agency shall apply the proceeds of the Loan, the SCF Grant and CEF Grant to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement, the SCF Grant Agreement and CEF Grant 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. Except as ADB may otherwise agree, the Project Executing Agency shall duly perform all its obligations under the Subsidiary Loan Agreement, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Subsidiary Loan Agreement.

Section 2.15. The Project Executing Agency shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its constitutional documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. The Project Executing Agency shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

*Auth*

*for*

**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 the Project Executing Agency 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

For Project Executing Agency

ELECTRICITÉ DU CAMBODGE  
No. 2, Street Preah Yukunthor  
Khan Daun Penh  
Phnom Penh, Cambodia

*ADB*

*Jan*

Facsimile Number:

(855) 23 426 018.

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 by or on behalf of the Project Executing Agency may be taken or executed by its Managing Director or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) The Project Executing Agency 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.

*Auth*  
*fo*


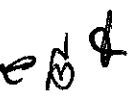


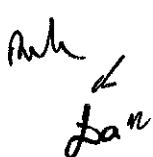
IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project Agreement to be signed in their respective names as of the day and year first above written, and to be delivered at the principal office of ADB.

ASIAN DEVELOPMENT BANK

By For:   
SUNNIYA DURRANI-JAMAL  
Country Director  
Cambodia Resident Mission

ELECTRICITÉ DU CAMBODGE

By   
H.E. KEO ROTTANAK  
Minister Attached to the Prime Minister  
Managing Director 



**SCHEDULE****Execution of Project; Financial Matters**Implementation Arrangements

1. The Project Executing Agency 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. The Project Executing Agency 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 proceeds of the Loan, the SCF Grant and CEF Grant may be used to procure Goods, Works and Services under the Project from non-member countries of ADB; 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.

Conditions for Commencement of Works

3. The Project Executing Agency shall ensure that with the exception of the detailed engineering design, no other Works shall commence on any Subproject which involves environmental impacts until:

- (a) the Project Executing Agency has obtained for that Subproject the final clearance of the updated IEE and/ or EMP (as applicable) from ADB;
- (b) the appropriate authority of the Borrower has granted the final approval of the national environmental impact assessment and any other requisite environment, health and safety permits;

*Amh*

*fan*

- (c) the Project Executing Agency has secured a budget for all the environmental and social measures (if, and to the extent necessary); and
- (d) following undertaking of the detailed engineering design by the EPC contractor, the Project Executing Agency shall update the EMP based on the results of such detailed engineering design and incorporate the requirements under the respective EPC Contract or EPC (O&M) Contract, as applicable.

4. For Subprojects where the Project Executing Agency acquires privately owned land through negotiated settlement and a DDR has been prepared, the Project Executing Agency shall ensure that except for the detailed engineering design, no Works shall commence on a particular Subproject or Subprojects until an independent third party verified and documented the negotiated settlement process for that particular Subproject or Subprojects, and the Project Executing Agency obtained ADB's clearance for such a verification report.

5. For Subprojects that involve land acquisition and involuntary resettlement impacts, the Project Executing Agency shall ensure that except for the detailed engineering design, no Works shall commence until the Project Executing Agency obtained ADB's clearance on the LARP and the LARP implementation compliance report for a particular Subproject or section of a particular Subproject.

6. For Subprojects involving construction on public land (and require no land acquisition nor have any resettlement impact) and in relation to which a RDDR has been prepared, the Project Executing Agency shall ensure that except for the detailed engineering design, no Works shall commence on a particular Subproject or Subprojects until the updated RDDR based on the detailed design is submitted to ADB, and ADB cleared the updated RDDR for a particular Subproject.

#### Environment

7. The Project Executing Agency shall ensure, that the detailed engineering design, construction, implementation, operation and decommissioning of each Subproject and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; (c) and all measures and requirements set forth in the respective IEE, EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

#### Land Acquisition and Involuntary Resettlement

8. The Project Executing Agency shall ensure, that all land and all rights-of-way, if any, required for each Subproject 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 relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the LARF; and (d) all measures and requirements set forth in the LARP and conditions specified in Paragraph 10 below (Land Acquired through

*Ante*  
*San*

Negotiated Settlement), and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

9. Without limiting the application of the Involuntary Resettlement Safeguards or the LARP, the Project Executing Agency shall ensure, that no physical or economic displacement takes place in connection with any of the Subprojects until:

- (a) compensation and other entitlements have been provided to the affected persons in accordance with the LARP; as shall be confirmed in a LARP compliance report to be provided by the Project implementation consultant engaged under the Project; and
- (b) a comprehensive income and livelihood restoration program have been established in accordance with the LARP.

#### Land Acquired through Negotiated Settlement

10. Where the Project Executing Agency acquires land through negotiated settlement, the Project Executing Agency shall ensure to comply with the requirement for (a) meaningful consultation with affected persons; (b) ensuring mechanisms for calculating the replacement costs of land and any other assets affected; (c) engaging an independent third party to validate and document the negotiation and settlement process; and (d) submission of the third-party validation report on such negotiated land acquisition. In the event that negotiation fails, and expropriation applies, the Project Executing Agency shall comply with the principles and requirements as stipulated in the LARF.

#### Indigenous Peoples

11. The Project Executing Agency shall ensure that no Subprojects have any indigenous peoples impact, as per SPS. In the event that a Subproject does have any such impact, the Project Executing Agency shall take all steps required to ensure that such Subproject complies with (a) all applicable laws and regulations of the Borrower related to indigenous peoples; and (b) the SPS.

#### Human and Financial Resources to Implement Safeguard Requirements

12. The Project Executing Agency shall make available necessary budgetary and human resources to fully implement the EMP, LARF and LARP.

#### Safeguards – Related Provisions in Bidding Documents and Works Contracts

13. The Project Executing Agency 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 IEE, the EMP, the LARF, and the LARP (to the extent they concern impacts on the affected people during construction), and any corrective or preventive actions set forth in a Safeguards Monitoring Report;

Am  
d  
pan

- (b) make available a budget for all such environmental and social measures if necessary;
- (c) provide the Project Executing Agency 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, the LARF and the LARP;
- (d) adequately record 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

14. The Project Executing Agency shall:
- (a) submit semi-annual Safeguards Monitoring Reports to ADB until the Project completion 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 IEE, the EMP, the LARF and the LARP as applicable, 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, and the LARP promptly after becoming aware of the breach.

#### Labor Standards, Health and Safety

15. The Project Executing Agency shall ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Project Executing Agency shall ensure that all bidding documents and contracts incorporate provisions and budgets to the effect that contractors shall (a) comply with the Borrower's applicable core labor standards, labor laws and regulations and incorporate applicable workplace occupational safety norms; (b) do not employ child labor; (c) eliminate any form of discrimination in respect of employment; (d) do not employ forced labor; (e) do not differentiate payment between men and women for work of equal value; (e) do not restrict the workers from developing a legally permissible means of expressing their grievances and protecting their rights regarding working conditions and terms of employment; and (f) disseminate, or engage appropriate service providers to disseminate information on the

*Amh*  
*d*  
*fan*

risks of sexually-transmittable infections, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project facilities, particularly to women.

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

#### Grievance Redress Mechanism

17. The Project Executing Agency shall ensure that as soon as possible and in any event by the earlier of: (i) the date on which the notice to proceed is issued to the EPC contractor; and (ii) within 60 days of effectiveness of the Loan Agreement, (a) efficient grievance redress mechanisms are in place and functional to assist the affected persons resolve queries and complaints, if any, in a timely manner; (b) all complaints are registered, investigated and resolved in a manner consistent with the provisions of the grievance redress mechanism detailed in the IEE/EMP, LARF and LARP; (c) the complainants or aggrieved persons are kept informed about the status of their grievances and remedies available to them; and (d) adequate staff and resources are available for supervising and monitoring the mechanism.

#### Prohibited List of Investments

18. The Project Executing Agency shall ensure that no proceeds of the Loan, SCF Grant or CEF Grant are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS. Notwithstanding the foregoing, the Project Executing Agency shall further ensure that no proceeds of the Loan, the SCF Grant or CEF Grant are used to finance any activity involving use of asbestos containing materials.

#### Gender and Development

19. The Project Executing Agency shall ensure that the principles of gender equality aimed at increasing Project benefits and impact on women in the Project area are followed during implementation of the Project. These include (a) equal pay to men and women for work of equal value, (b) enabling working conditions for women workers, and (c) taking necessary actions to encourage women living in the Project area to participate in the design and implementation of Project activities.

#### Material Change

20. The Project Executing Agency shall ensure that no material organizational changes (either financial, operational or structural) to it that may have an adverse impact on the Project shall be approved or implemented without a prior approval of ADB. Material organizational change means a change in the organizational structure or governance of EDC or a merger, amalgamation, acquisition, winding-up or dissolution of EDC, changes in key management officers, or charter changes that may have a significant impact on EDC's organization, management, policies, procedures and operations, which could hinder or prevent it from performing its obligations under the Project.

And  
/ pan

Financial Matters

21. For the purposes of this paragraph, all financial calculations, ratios and financial covenants shall be calculated based on the Project Executing Agency's audited financial statements.

- (a) Except as ADB shall otherwise agree, the Project Executing Agency shall ensure that for each of its fiscal years after its fiscal year ending 31 December 2020, the Project Executing Agency meets the following requirements:
- (i) the Project Executing Agency shall generate funds from internal sources equivalent to not less than 25% of the annual average of the Project Executing Agency's capital expenditures incurred, or expected to be incurred, for that fiscal year.
  - (ii) The net revenues of the Project Executing Agency shall be at least 1.3 times the debt service requirements of the Project Executing Agency.
  - (iii) The Project Executing Agency's ratio of debt to equity shall not exceed 70:30.
  - (iv) Total accounts receivable shall be maintained at a level that does not exceed the equivalent of three (3) months' average sales revenue.
  - (v) Before December 31 in each of its fiscal years, the Project Executing Agency shall, on the basis of forecasts satisfactory to ADB, review whether it would meet the requirements set forth in paragraphs 21(a)(i) to (iv) above in respect of such year and the next following fiscal year and shall furnish to ADB a copy of such review upon its completion.
  - (vi) If any such review shows that the Project Executing Agency would not meet the requirements set forth in paragraphs 21(a)(i) to (iv) above for the Project Executing Agency's fiscal years covered by such review, the Borrower shall promptly take all necessary measures to enable the Project Executing Agency to meet its requirements, including but not limited to, adjustments of electricity tariffs.
- (b) For the purposes of paragraph 21(a)(i) above:
- (i) The term "funds from internal sources" means the difference between: (A) the sum of cash flows from all sources related to operations, plus cash generated from consumer deposits and

And  
d  
Jan

consumer advances of any kind, sale of assets, cash yield of interest on investments, and net non-operating income; and (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends paid and other cash distributions of surplus, increase in working capital other than cash, and other cash outflows other than capital expenditures.

- (ii) The term "net non-operating income" means the difference between: (A) revenues from all sources other than those related to operations, after making adequate provisions for uncollectible debts; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
  - (iii) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
  - (iv) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within 12 months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next fiscal year.
  - (v) 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, taxes and payments in lieu of taxes, and dividends.
  - (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments if any) of, and interest and other charges on, debt, excluding interest charged to construction and financed from loans.
  - (vii) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.
  - (viii) The terms "operations" or "operating" refer to all operations of the Project Executing Agency.
- (c) For purposes of paragraphs 21 (a)(ii) and (iii) above:

*ARK*  
*d*  
*pa*



- (i) The term "debt" means any indebtedness of the Project Executing Agency maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement, or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into. Financial liabilities incurred by a borrower who is a lessee under finance leasing agreements may also be included as debt.
- (iii) The term "net revenues" means the difference between: (A) the sum of revenues from all sources related to operations, after making adequate provisions for uncollectible debts, adjusted to take account of the Project Executing Agency's rates in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; and (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) The term "net non-operating income" means the difference between:
  - (A) revenues from all sources other than those related to operations; and
  - (B) expenses including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on debt. Interest charges which are incurred in financing capital expenditures during development should be excluded, if such charges are capitalized. However, if the Project Executing Agency's policy is to meet the cost from operating income, such interest charges should be included in "debt service requirements". Lease payments under finance leases should also be included.
- (vi) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the Project Executing Agency not allocated to cover specific liabilities.
- (vii) Whenever for purposes of this paragraph it shall be necessary to value, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange

*Per  
de  
San*

at which such currency is, at the time of valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

- (viii) The terms "operations" or "operating" refer to all operations of the Project Executing Agency.

#### Governance and Corruption

22. The Project Executing Agency 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.

23. The Project Executing Agency shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts financed and co-financed by ADB, including provisions specifying the right of ADB to audit and examine the records and accounts of the Project Executing Agency and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

*Amh*  
*f*  
*ja*