
GRANT NUMBER 0389-TON (SF)

GRANT AGREEMENT
(Special Operations)
(Cyclone Ian Recovery Project)

between

KINGDOM OF TONGA

and

ASIAN DEVELOPMENT BANK

DATED 25 JUNE 2014

TON 48192

GRANT AGREEMENT (Special Operations)

GRANT AGREEMENT dated 25 June 2014 between KINGDOM OF TONGA ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement;

(B) the Recipient has also applied to the Government of New Zealand ("NZ Government") for a grant of \$4,266,000 ("NZ Grant") to be administered by ADB, for the purposes of cofinancing expenditures under Part 2 of the Project;

(C) by a cofinancing agreement dated 10 June 2014 between ADB and the NZ Government ("Cofinancing Agreement"), the NZ Government has agreed to provide the NZ Grant for the purpose of cofinancing expenditures under the Project, and ADB has agreed to administer the NZ Grant upon terms and conditions set forth in the Cofinancing Agreement;

(D) by a grant agreement of even date herewith between the Recipient and ADB ("NZ Grant Agreement"), ADB has agreed to make the proceeds of the NZ Grant available to the Recipient upon the terms and conditions set forth therein;

(E) the Project will be carried out by the Recipient's Ministry of Finance and National Planning ("MFNP") through the Recipient's Ministry of Infrastructure ("MOI") and Tonga Power Limited ("TPL"), and for this purpose MFNP will make available to TPL a portion of the proceeds of the grant provided for herein upon terms and conditions satisfactory to ADB; and

(F) 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 the Special Operations Grant Regulations of ADB, dated 7 February 2005 ("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(16) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and TPL.

- (b) The term "Project Executing Agency" appearing in Section 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 Grant;

(c) "Cyclone" means the category 5 tropical cyclone Ian that passed over the northern islands of Ha'apai, Kingdom of Tonga on 11 January 2014;

(d) "EARF" means the environmental assessment and review framework for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;

(e) "EMP" means an environmental management plan for a Subproject, including any update thereto, incorporated in the IEE;

(f) "IEE" means an initial environmental examination for a Subproject, including any update thereto, prepared and submitted by the Recipient pursuant to the requirements set forth in the EARF and cleared by ADB;

(g) "Goods" means equipment and materials to be financed out of the proceeds of the Grant and the NZ Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(h) "km" means kilometers;

(i) "kV" means kilovolt;

(j) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);

(k) "MOI" means the Recipient's Ministry of Infrastructure, or any successor thereto acceptable to ADB;

(l) "PAM" means the project administration manual for the Project dated 25 April 2014 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;

(m) "Part" means a component of the Project, as described in paragraph 2 of Schedule 1 to this Grant Agreement;

(n) "Primary Schools" means the following 10 government-owned primary schools which were damaged during the Cyclone: (i) Ha'ano Primary School; (ii) Fakakai Primary School; (iii) Mo'unga'one Primary School ; (iv) Mata'aho Primary School; (v) Lofanga Primary School; (vi) Faleloa Primary School; (vii) Fotua Primary School; (viii); Koulo Primary School; (ix) Pangai Primary School; and (x) Tongoleleka Primary School;

(o) "Procurement Guidelines" means ADB's Procurement Guidelines (2013, as amended from time to time);

(p) "Procurement Plan" means the procurement plan for the Project dated 25 April 2014 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 the MFNP or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(r) "Resettlement Framework" or "RF" means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;

(s) "Resettlement Plan" or "RP" means a resettlement plan for a Subproject, including any update thereto, prepared and submitted by the Recipient pursuant to the requirements set forth in the RF and cleared by ADB;

(t) "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 and the RP (as applicable), including any corrective and preventative actions;

(u) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(v) "Secondary Schools" means the following 6 secondary schools which were damaged during the Cyclone: (i) Ha'apai High School; (ii) Taufa'ahau Pilolevu College; (iii) St. Joseph's Community College; (iv) Tailulu College; (v) Ofamo'oni School; and (vi) Petani Bilingual School;

(w) "Subproject" means a subproject under the Project;

(x) "Subsidiary Grant Agreement" means the Agreement between the Recipient and TPL referred to in Section 3.01 of this Grant Agreement;

(y) "TPL" means Tonga Power Limited, or any successor thereto acceptable to ADB; and

(z) "Works" means construction or civil works to be financed out of the proceeds of the Grant and the NZ Grant, 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 four million five hundred twenty thousand Dollars (\$4,520,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. (a) The Recipient shall grant to TPL a portion of the Grant in an amount equivalent to \$2,349,868 for the purposes of Part 1 of the Project under a Subsidiary Grant Agreement upon terms and conditions satisfactory to ADB.

(b) The Recipient shall cause the proceeds of the Grant to be applied 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. Except as ADB may otherwise agree, the Recipient shall cause all items of expenditure financed out of the proceeds of the Grant to be used exclusively in the carrying out of the Project.

Section 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2018 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. (a) The Recipient shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles 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 international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest fund(s) and statement of expenditures) 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 end of each related fiscal year, 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 30 days of the date of their receipt by posting them on ADB's website.

(c) The Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) 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 Recipient, unless the Recipient shall otherwise agree.

Section 4.04. The Recipient shall take all actions which shall be necessary on its part to enable 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.

Section 4.05. (a) The Recipient shall exercise its rights under the Subsidiary Grant Agreement in such a manner as to protect the interests of the Recipient and ADB and to accomplish the purposes of the Grant.

(b) No rights or obligations under the Subsidiary Grant Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension

Section 5.01. The following are specified as additional events 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:

(a) the Recipient shall have failed to perform one or more of its obligations under the NZ Grant Agreement;

(a) the Recipient or TPL shall have failed to perform one or more of their obligations under the Subsidiary Grant Agreement;

(b) the NZ Grant shall have become liable for suspension or cancellation for any reason whatsoever; and

(d) the Cofinancing Agreement shall have been suspended or cancelled.

ARTICLE VI

Effectiveness

Section 6.01. 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**Delegation of Authority**

Section 7.01. In respect of Part 1 of the Project, the Recipient hereby designates TPL as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Grant Agreement and under Sections 5.01, 5.02, 5.03 and 5.04 of the Grant Regulations.

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

Section 7.03. The authority conferred on TPL under Section 7.01 of this Grant Agreement may be revoked or modified by agreement between the Recipient and ADB.

ARTICLE VIII**Miscellaneous**

Section 8.01. The Recipient's Minister responsible for Finance and National Planning 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 

AISAKE EKE
Minister of Finance and National Planning

ASIAN DEVELOPMENT BANK

By 

XIANBIN YAO
Director General
Pacific Department

SCHEDULE 1

Description of the Project

1. The objective of the Project is to facilitate the resumption of normal education services and restoration of electricity supply on Ha'apai to pre Cyclone levels.

2. The Project shall comprise of the following:

(a) Part 1: Reconstruction and Climate Proofing of Electricity Network

The procurement, construction, reconstruction, restoration, up-grading, installation, commissioning and completion of the electricity distribution network including:

- (i) the upgrading of the Ha'apai electricity distribution network capacity from 6.6kV to 11kV;
- (ii) the reconstruction of around 15.2km of high voltage overhead bundle lines;
- (iii) the construction and installation of around 32km of low voltage lines overhead and the underground reconnection of around 1000 households and around 30 commercial and governmental buildings to the electricity network using these low voltage lines;
- (iv) the construction, installation and climate proofing of around 2 km underground cables;
- (v) the restoration and climate proofing of around 161 street lights in Ha'apai; and
- (vi) the provision of temporary solar lanterns and community solar chargers to around 100 households in the outer islands of Ha'apai.

(b) Part 2: Reconstruction and Climate Proofing of School Buildings and Facilities

- (i) The reconstruction, restoration and climate proofing of 10 Primary Schools and upto 6 Secondary Schools and associated facilities including:

- (ii) improving building structures (including class rooms and staff quarters);
 - (iii) providing appropriate water and sanitation facilities; and
 - (iv) providing necessary fixtures and furniture such as blackboards, desks and chairs.
- (c) Part 3: Removal of Asbestos from Damaged Buildings

Removal of materials containing asbestos from Niu'ui Hospital, damaged schools, and governmental and residential buildings.

3. The Project is expected to be completed by 31 December 2017.

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"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Basis for Withdrawal from the Grant Account

2. Except as ADB may otherwise agree, the proceeds of the Grant shall be disbursed on the basis of the withdrawal percentage for each item of expenditure 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.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Cyclone Ian Recovery Project)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	1,764,700		
1A	Part 1		415,000	100 percent of total expenditure claimed*
1B	Part 2		1,349,700	31.9 percent of total expenditure claimed*
2	Mechanical and Equipment	1,892,068		100 percent of total expenditure claimed*
3	Environment and Social Mitigation	205,000		
3A	Part 1		10,000	100 percent of total expenditure claimed*
3B	Part 2		10,000	100 percent of total expenditure claimed*
3C	Part 3		185,000	100 percent of total expenditure claimed*
4	Consulting Services	82,800		
4A	Part 1		32,800	100 percent of total expenditure claimed*
4B	Part 2		50,000	28.9 percent of total expenditure claimed*
5	Unallocated	575,432		
	Total	4,520,000		

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

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. 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.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) International Competitive Bidding;
 - (b) National Competitive Bidding;
 - (c) Shopping;
 - (d) Direct Contracting; and
 - (e) Force Account.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

National Competitive Bidding

5. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Recipient and ADB.

Conditions for Award of Contract

6. The Recipient and TPL shall not award any Works contract for a Subproject:
 - (a) which involves environmental impacts until the Recipient or TPL, as the case may be, has (i) obtained the final approval of the IEE from the Recipient's Ministry of Lands, Environment, Climate Change and Natural Resources; and (ii) incorporated the relevant provisions from the EMP into the Works contract; and
 - (b) which involves involuntary resettlement impacts for a Subproject until the Recipient or TPL has prepared and submitted to ADB the final RP

for such Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP.

7. The Recipient shall not award any Works contract for the rehabilitation of:
- (a) any Secondary School until a rationalization study for the Secondary Schools has been finalized and the Secondary Schools which shall be rehabilitated under this Project have been selected in accordance with paragraph 4 of Schedule 4 to this Grant Agreement and ADB has approved the award of such Works contract; and
 - (b) any private school until such private school has entered into an agreement with the Recipient in accordance with paragraph 5 of Schedule 4 of this Grant Agreement.

Consulting Services

8. The Recipient shall recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

9. 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.

10. 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 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 Funds

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 make land available for the Project, to mitigate unforeseen environmental, resettlement and other social impacts, and to meet additional costs arising from design changes, price escalation in construction costs or other unforeseen circumstances.

Subsidiary Grant Agreement

3. Within 14 days of the Effective Date, the Recipient and TPL shall execute and deliver the Subsidiary Grant Agreement with terms and conditions acceptable to ADB.

Selection of Secondary Schools

4. Within 90 days of the Effective Date, the Recipient shall, in consultation with ADB and the NZ Government (a) undertake a rationalization study of the Secondary Schools to determine the optimal number of Secondary Schools which should operate in Ha'apai; and (b) following completion of the rationalization study, determine which Secondary Schools shall be reconstructed, restored and climate proofed under this Project.

Use of Rehabilitated Schools

5. The Recipient shall ensure that all schools rehabilitated under Part 2 of the Project continue to be used as schools during and following completion of the Project and that no part of the schools or any facilities provided under the Project are used for any other purposes. The Recipient shall further ensure that in the case of any privately owned or run schools rehabilitated under the Project, the owners of such private school or the owners of the land (where the land is not owned by the school itself) have provided a legally enforceable undertaking that the land and each school building shall primarily be used as a school.

Environment

6. The Recipient and TPL shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project, each Subproject 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; (c) the EARF; and (d) all measures and requirements set forth in the respective IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

7. The Recipient and TPL shall ensure that the Project and any Subproject does not involve any land acquisition and resettlement risks or impacts within the meaning of the Safeguard Policy Statement. If due to unforeseen circumstances, the Project or any Subproject involves any such impacts, the Recipient and TPL shall:

- (a) take all steps necessary or desirable to ensure that the Project or Subproject complies with all applicable laws and regulations of the Recipient and with the Safeguard Policy Statement;
- (b) prepare a resettlement plan in accordance with the RF; and
- (c) ensure that no physical or economic displacement takes place in connection with the Project or any Subproject until:
 - (i) compensation and other entitlements have been provided to affected people in accordance with the RP; and
 - (ii) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

8. The Recipient and TPL shall ensure that the Project does not involve any indigenous peoples risks or impacts within the meaning of the Safeguard Policy Statement. If due to unforeseen circumstances, the Project involves any such impacts, the Recipient and TPL shall take all steps necessary or desirable to ensure that the Project complies with all applicable laws and regulations of the Recipient and with the Safeguard Policy Statement.

Human and Financial Resources to Implement Safeguards Requirements

9. The Recipient shall make available or cause TPL to make available necessary budgetary and human resources to fully implement the EMP, and the RP in the event that an RP is prepared in connection with the Project or any Subproject.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

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

- (a) comply with the measures and requirements relevant to the contractor set forth in an IEE, EMP, and RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Recipient 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 an IEE, EMP, or RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

11. The Recipient shall do the following or shall cause TPL to do the following:
- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
 - (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in an IEE, EMP or 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 an EMP or RP promptly after becoming aware of the breach.

Prohibited List of Investments

12. The Recipient and TPL shall ensure that no proceeds of the Grant are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards

13. The Recipient and TPL shall ensure that all civil works contracts and bidding documents for the Project include specific provisions requiring contractors to (a) comply with all applicable labor laws of the Recipient on the prohibition of child and forced labor; (b) give

equal pay for equal work regardless of gender, ethnicity or caste; and (c) disseminate information on sexually transmitted diseases (including HIV/AIDS) and human trafficking to employees and local communities surrounding the Project construction sites.

Grievance Redress Mechanism

14. Within 90 days of the Effective Date, the Recipient shall establish a grievance redress mechanism, acceptable to ADB, to receive and facilitate resolution of affected people's concerns, complaints and grievances relating to the Project's land acquisition, resettlement and environmental impacts. Such Grievance Redress Mechanism shall provide a time-bound and transparent mechanism to resolve environmental, land acquisition and resettlement and other social concerns related to the Project. The Recipient shall (a) make the existence of this grievance redress mechanism publically known; and (b) proactively and constructively review and redress grievances of affected people in relation to the Project.

Governance and Corruption

15. The Recipient 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.

16. The Recipient 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.

Combating Money Laundering and Financing of Terrorism

17. The Recipient and TPL shall ensure:

- (a) comply with applicable laws and regulations of the Recipient on combating money laundering and financing of terrorism and that Grant proceeds are not used, directly or indirectly, in money laundering or financing of terrorism;
- (b) formulate and implement internal control procedures, including customer due diligence procedures, to prevent violation of subparagraph (a) hereinabove; and
- (c) promptly inform ADB if there is any violation or potential violation of subparagraph (a) hereinabove. In the event that ADB informs the Recipient of its concern that there has been such an alleged violation, the Recipient and TPL shall (i) cooperate in good faith with ADB and its representatives so that ADB can determine whether such a violation has occurred; (ii) respond promptly and in reasonable detail to any query from ADB; and (iii) furnish documentary support for such response upon ADB's request.

Project Website

18. Within 90 days of the Effective Date, the Recipient and TPL shall collectively establish and 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.