
LOAN NUMBER 3193-COO

LOAN AGREEMENT
(Ordinary Operations)
(Renewable Energy Sector Project)

between

HER MAJESTY THE QUEEN
IN RIGHT OF THE GOVERNMENT
OF THE COOK ISLANDS

and

ASIAN DEVELOPMENT BANK

DATED 13/1/15

COO 46453

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 13/1/2015 between HER MAJESTY THE QUEEN IN RIGHT OF THE GOVERNMENT OF THE COOK ISLANDS ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

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

(B) Part A of the Project, as set out in Schedule 1 to this Loan Agreement, will be carried out by Te Aponga Uira ("TAU"), the government-owned power authority responsible for the generation, distribution and retailing of electricity on the main island of Rarotonga, and Parts B and C of the Project will be carried out by the Renewable Energy Development Division, Office of the Prime Minister ("REDD"), and for this purpose the Borrower will make available to each of them the respective portions of the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(C) by a grant agreement of even date herewith between the Borrower and ADB ("Grant Agreement"), ADB has agreed to make available to the Borrower a grant from the European Union in the amount of seven million two hundred sixty thousand dollars (\$7,260,000), as such amount may be adjusted from time to time, for the purpose of financing expenditures as described in the Grant Agreement; and

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

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

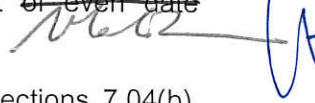
Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

- (a) Section 2.01(4) is deleted and the following is substituted therefor:
 - (4) "Banking Day" means a Wellington Banking Day;

- (b) Section 2.01(50) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement ~~of even date herewith~~ between ADB and the TAU;

dated 27 Jan 2015


- (c) The term "Project Executing Agency" appearing in Sections 7.04(b), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall, in respect of obligations in the Project Agreement, be substituted by the term "TAU";

- (d) Section 2.01(53) is deleted and the following is substituted therefor:

(53) "Reference Rate" means New Zealand BBR;

- (e) Section 2.01(54) is deleted and the following is substituted therefor:

(54) "Reference Rate Reset Date" means the first day of the relevant Interest Period, or in the case of the initial Interest Period, the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the Reference Rate Reset Date shall be the date of the Loan Agreement;

- (f) Section 2.01(55) is deleted and the following is substituted therefor:

(55) "Relevant Telerate Page" means the display page designated on the Dow Jones Telerate Service as the page for the purpose of displaying New Zealand BBR for deposits in the Loan Currency (or such other page as may be selected by ADB as the information vendor, for the purpose of displaying rates or prices comparable to New Zealand BBR);

- (g) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit. (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower.

- (h) Section 3.06 is deleted and the following is substituted therefor:

Rebate. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an

outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to the Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(i) Section 3.07 is deleted and the following is substituted therefor:

Surcharge. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to the Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the

amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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

(a) “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 Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) “Counterpart Funds” means the local currency proceeds generated from the proceeds of the Loan and referred to in paragraph 12 of Schedule 5 to this Loan Agreement;

(d) “Environmental Assessment and Review Framework” or “EARF” means the environmental assessment and review framework for the Project, including any update thereto, agreed between the Borrower through the Project Executing Agency and ADB;

(e) “Environmental Management Plan” or “EMP” means each environmental management plan for a Subproject, including any update thereto, incorporated in the IEE;

(f) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1 and Appendix 4 (as applicable) of the SPS;

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

(h) “Implementing Agencies” means TAU, in respect of Component A of the Project, and REDD, in respect of Component B of the Project, as set out in Schedule 1 to this Loan Agreement;

(i) “Indigenous Peoples Safeguards” means the principles and requirements set forth in Chapter V, Appendix 3 and Appendix 4 (as applicable) of the SPS;

(j) “Initial Environmental Examination” or “IEE” means each initial environmental examination, including any update thereto, prepared and submitted by the Borrower through the Project Executing Agency pursuant to the requirements set forth in the EARF and cleared by ADB;

(k) “Involuntary Resettlement Safeguards” means the principles and requirements set forth in Chapter V, Appendix 2 and Appendix 4 (as applicable) of the SPS;

(l) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(m) “New Zealand BBR” means, in respect of any Interest Period, the New Zealand bank bill rate for six-month deposits in the Loan Currency, expressed as a percentage per annum, that appears on the Relevant Telerate Page as of 11:00 a.m., Wellington time, on the Reference Rate Reset Date for said Interest Period. If such rate does not appear on the Relevant Telerate Page, ADB shall request the principal New Zealand office of each of three major banks to provide a quotation of the rate at which it offers six-month deposits in the Loan Currency to leading banks in the New Zealand interbank market at approximately 11:00 a.m., Wellington time on the Reference Rate Reset Date for said Interest Period. If at least two such quotations are provided, the rate in respect of said Interest Period shall be the arithmetic mean (as determined by ADB and rounded up, if necessary to the nearest 1/16th of one percent) of the quotations. If less than two quotations are provided as requested, the rate in respect of said Interest Period shall be the arithmetic mean (as determined by ADB and rounded up, if necessary, to the nearest 1/16th of one percent) of the rates quoted by three major banks selected by ADB in the relevant Financial Center, at approximately 11:00 a.m. in said Financial Center, on the Reference Rate Reset Date for said Interest Period for loans in the Loan Currency to leading banks for a period of six months. If less than two of the banks so selected are quoting such rates, New Zealand BBR in respect of said Interest Period shall be equal to New Zealand BBR in effect for the Interest Period immediately preceding said Interest Period;

(n) “New Zealand Dollar” or “NZ\$” each means the lawful currency of New Zealand;

(o) “O&M” means operations and maintenance in respect of Project facilities;

(p) “PAM” means the project administration manual for the Project dated April 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(q) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(r) “Procurement Plan” means the procurement plan for the Project dated April 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(s) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations means the Borrower’s Ministry of Finance and Economic Management, or any successor thereto acceptable to ADB which is responsible for the carrying out of the Project;

(t) “Resettlement Framework” or “RF” means the resettlement framework for the Project, including any update thereto, agreed between the Borrower through the Project Executing Agency and ADB;

(u) “Resettlement Plan” or “RP” means each resettlement plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the Project Executing Agency pursuant to the requirements set forth in the RF and cleared by ADB;

(v) “Safeguard Policy Statement” or “SPS” means ADB’s Safeguard Policy Statement (2009);

(w) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower through the Project Executing Agency to ADB that describes progress with implementation of, and compliance with, the EMP and the RP (as applicable), including any corrective and preventative actions;

(x) “STIs” means sexually transmitted infections;

(y) “Subproject” means a subproject that is agreed by the Borrower through the Project Executing Agency and ADB to be eligible for financing under the Project according to the selection criteria in the PAM;

(z) “Subsidiary Loan Agreement” means the agreement between the Borrower and TAU referred to in Section 3.01(a) of this Loan Agreement;

(aa) “Wellington Banking Day” means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Wellington; and

(bb) “Works” means construction or civil works to be financed out of the proceeds of the Loan, 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 Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of twelve million nine hundred eighty thousand New Zealand Dollars (NZ\$12,980,000).

(b) The Loan has a principal repayment period of 19 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term “grace period” as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) New Zealand BBR; and
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations.

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

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 June and 15 December in each year.

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

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

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

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a “Conversion”, as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall relend the portion of the proceeds of the Loan in respect of, together with any other funds required for, Part A of the Project, as set out in Schedule 1 to this Loan Agreement, to TAU under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for relending the proceeds of the Loan shall include interest at the same rate as the Loan except for an additional 0.5% on-lending charge for the Borrower's account.

(b) The Borrower shall make the portion of the proceeds of the Loan in respect of, together with any other funds required for, Parts B and C of the Project, as set out in Schedule 1 of this Loan Agreement, available to REDD upon terms and conditions satisfactory to ADB and shall cause REDD to apply such proceeds to the financing of expenditures on Parts B and C of the Project in accordance with the provisions of this Loan Agreement.

(c) The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2017 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the Project to be carried out 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 Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall make available, or cause to be made available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.05. (a) The Borrower shall (i) maintain accounts and records for Parts B and C of the Project (separate from those for Part A, which will be maintained by TAU); (ii) prepare annual financial statements for Parts B and C of 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 and use of the Loan proceeds) and a management letter (which sets out the deficiencies in the internal control of Parts B and C 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 Parts B and C 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 Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for Parts B and C of the Project and the Borrower's financial affairs where they relate to Parts B and C of 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 Borrower, unless the Borrower shall otherwise agree.

Section 4.06. The Borrower shall take all actions which shall be necessary on its part to enable TAU 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 4.07. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

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

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Grant Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: the event specified in Section 5.01 of the Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the execution and delivery of the Grant Agreement on behalf of the Borrower shall have been duly authorized or ratified by all necessary governmental action.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower, and is legally binding on the Borrower in accordance with its terms.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance and Economic Management of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance and Economic Management
P.O. Box 120
Rarotonga
Cook Islands

Facsimile Number:

+682 23877.

For ADB

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

Facsimile Numbers:

+63 2 636-2444

+63 2 636-2388.

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

HER MAJESTY THE QUEEN IN RIGHT
OF THE GOVERNMENT OF THE COOK
ISLANDS

By 
MARK BROWN
Minister of Finance

ASIAN DEVELOPMENT BANK

By 
XIANBIN YAO
Director General
Pacific Department

SCHEDULE 1

Description of the Project

1. The objective of the Project is increased access to a higher share of electricity generated by renewable energy sources.
2. The Project shall comprise:
 - Part A:** Solar photovoltaic power system for the non-core subproject developed on Rarotonga.
 - Part B:** Solar photovoltaic power system for the non-core subprojects on Aitutaki and Atiu.
 - Part C:** Institutional and project management capacity strengthened.
3. All components, as well as the activities described in the Grant Agreement, shall be assisted through the provision of Consulting Services as applicable.
4. The Project is expected to be completed by 30 June 2017.

SCHEDULE 2**Amortization Schedule****(Renewable Energy Sector Project)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date.

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 December 2017	2.631579
15 June 2018	2.631579
15 December 2018	2.631579
15 June 2019	2.631579
15 December 2019	2.631579
15 June 2020	2.631579
15 December 2020	2.631579
15 June 2021	2.631579
15 December 2021	2.631579
15 June 2022	2.631579
15 December 2022	2.631579
15 June 2023	2.631579
15 December 2023	2.631579
15 June 2024	2.631579
15 December 2024	2.631579
15 June 2025	2.631579
15 December 2025	2.631579
15 June 2026	2.631579
15 December 2026	2.631579
15 June 2027	2.631579
15 December 2027	2.631579
15 June 2028	2.631579
15 December 2028	2.631579
15 June 2029	2.631579
15 December 2029	2.631579
15 June 2030	2.631579
15 December 2030	2.631579
15 June 2031	2.631579
15 December 2031	2.631579
15 June 2032	2.631579
15 December 2032	2.631579
15 June 2033	2.631579

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 December 2033	2.631579
15 June 2034	2.631579
15 December 2034	2.631579
15 June 2035	2.631579
15 December 2035	2.631579
15 June 2036	<u>2.631577</u>
TOTAL	100.000000

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

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date.

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table).

Basis for Withdrawal from the Loan Account

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

Interest and Commitment Charges

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

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

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

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with ADB's Loan Disbursement Handbook (2012).

Condition for Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account in respect of Component A of the Project as set out in Schedule 1 to this Loan Agreement until the Subsidiary Loan Agreement shall have been executed on behalf of the Borrower and TAU and declared effective.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Renewable Energy Sector Project)			
Number	Item	Total Amount Allocated for ADB Financing (NZ\$) Category	Basis for Withdrawal from the Loan Account
1	Turnkey Contract – Solar PV System Development (non-core)**	9,164,000	100% of total expenditure claimed*
2	Consulting Services – Institutional Strengthening and Project Management	1,462,000	100% of total expenditure claimed*
3	Interest and Commitment Charge	742,000	100% of amounts due
4	Unallocated	1,612,000	
	Total	12,980,000	

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

** The portion of this item relating to the solar photovoltaic power system development for the non-core subproject on Rarotonga is subject to the condition for withdrawal described in paragraph 6 of Schedule 3.

SCHEDULE 4

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 Loan 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; and
 - (b) Shopping
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower shall ensure that the Implementing Agencies 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.

Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55 and 2.56 of the Procurement Guidelines for domestically manufactured Goods and Works and domestic contractors, provided that for the margin of preference for Works, the Borrower's gross national product falls below the threshold as defined annually by ADB.

Conditions for Award of Contract

6. The Borrower shall ensure that the Implementing Agencies shall not award any Works contracts until all land and related rights for the construction of the Project facilities, to be handed over to the contractor before construction commences, have been acquired or rights to access and use the land for the purposes of constructing and operating the Project facilities on an ongoing basis have been secured by the Borrower.

Consulting Services

7. Except as ADB may otherwise agree, the Borrower shall ensure that the Implementing Agencies apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

8. (a) The Borrower shall cause the Implementing Agencies to 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 Borrower shall cause the Implementing Agencies to 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.

9. The Borrower shall cause the Implementing Agencies to 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

10. Contracts for Goods, Works and Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project; Financial Matters

Implementation Arrangements

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

Environment

2. The Borrower shall ensure, and shall cause the Implementing Agencies and other involved agencies to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project, and that all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment; (b) the Environmental Safeguards as set out in the SPS; and (c) all measures and requirements set forth in the IEE, the EMP, the EARF, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report, or (ii) as subsequently agreed among ADB, the Borrower, and the Implementing Agencies.

Land Acquisition

3. The Borrower shall ensure and cause the Implementing Agencies to ensure that all land and all rights-of-way required for the Project are made available to the Works contractors in a manner and within timeframes compliant with the RP, the RF 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; and (c) all measures and requirements set forth in the RP and the RF, and any corrective or preventative actions (i) set forth in the Safeguards Monitoring Report, or (ii) as subsequently agreed among ADB, the Borrower, and the Implementing Agencies.

4. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall ensure, or cause the Implementing Agencies to ensure, that no physical or economic displacement takes place until:

- (a) compensation and other entitlements have been provided to the displaced persons under Involuntary Resettlement Safeguards as described in and in accordance with the RP and the RF, and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP and the RF.

Applicability of ADB's Safeguard Policy

5. The Borrower shall ensure and cause the Implementing Agencies to ensure that the provisions of the IEE, EMP and RP as well as any requirements under the SPS also apply to the portion of the Project to be financed by the Borrower.

Human and Financial Resources to Implement Safeguards Requirements

6. The Borrower shall make available, and cause the Implementing Agencies to make available, necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

7. The Borrower shall ensure, and cause the Implementing Agencies to ensure, that all bidding documents and Works contracts 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 (to the extent they concern impacts on respective affected people under Environmental Safeguards, Involuntary Resettlement Safeguards, and Indigenous Peoples Safeguards during construction), and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report, or (ii) as subsequently agreed among ADB or the Borrower, and the Implementing Agencies;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Implementing Agencies with a written notice of any unanticipated environmental, resettlement or social 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; and
- (d) reinstate pathways and other local infrastructure to at least their pre-project condition as soon as possible and no later than the completion of construction.

Safeguards Monitoring and Reporting

8. The Borrower shall do, or cause the Implementing Agencies to do, the following:

- (a) submit Safeguards Monitoring Reports to ADB:
 - (i) in respect of implementation of and compliance with Environmental Safeguards and the EMP, annually during construction and the implementation of the Project and the

EMP until the issuance of ADB's project completion report unless a longer period is agreed in the EMP; and

- (ii) in respect of implementation of and compliance with Involuntary Resettlement Safeguards and of the RP, semiannually during the implementation of the Project, and the RP until the issuance of ADB's project completion report unless a longer period is agreed in the RP;

and disclose relevant information from such reports to respective affected people under Environmental Safeguards, Involuntary Resettlement Safeguards, and Indigenous Peoples Safeguards 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 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.

Safeguards - Prohibited List of Investments

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

Works Contracts

10. The Borrower shall cause the Implementing Agencies to ensure that Works contracts include provisions to require the contractors (a) not to discriminate against people seeking work on the basis of age, provided they are capable of doing such work; (b) to provide equal pay for equal work, regardless of gender or ethnicity; (c) to comply with core labor standards and the applicable labor laws and regulations, including stipulations related to employment, such as health, safety, welfare, the workers' rights and anti-trafficking laws; (d) not to force the labor to work against their will; and (e) not to employ child labor.

11. The Borrower shall cause the Implementing Agencies to ensure that the Works contractors (a) implement HIV/AIDS and STIs awareness and prevention training for all employees; (b) provide necessary measures to ensure the safety and health of their employees; and (c) together with the local centers of disease control, disseminate information on the risks, hazards, impacts and prevention know-how on HIV/AIDS and STIs among the staff, workers on the construction sites and the local community by means of information disclosure, education and consultation.

Counterpart Funding

12. The Borrower shall ensure to provide Counterpart Funds in a timely manner, including any additional Counterpart Funds required for any shortfall of funds or cost overruns. The Borrower shall also ensure to ensure that O&M of all Project facilities is fully funded without any delay.

Financial Management

13. The Borrower shall, and shall cause the Implementing Agencies to, establish and maintain sound financial management systems in accordance with ADB's Financial Management and Analysis of Projects (July 2005), including the establishment of separate Project accounts.

Governance and Anticorruption

14. The Borrower shall, and shall cause the Implementing Agencies to, (a) comply with ADB's Anticorruption Policy (1998, as amended to date); (b) acknowledge ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; and (c) agree to cooperate, and shall cause the Implementing Agencies and all other government offices, organizations and entities involved in implementing the Project to cooperate, fully with any such investigation, and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation. In particular, the Borrower shall ensure, or cause to be ensured, that (i) periodic inspections of the Project contractors' activities related to fund withdrawals and settlements are carried out; (ii) relevant provisions of ADB's Anticorruption Policy (1998, as amended to date) are included in all bidding documents for the Project; and (iii) contracts, financed under the Project, include provisions specifying the right of ADB to audit and examine the records and accounts of the Implementing Agencies, contractors, suppliers, consultants, and other service providers as they relate to the Project.

Change in Ownership

15. In the event of (a) any change in ownership of the Project facilities, or (b) any sale, transfer or assignment of shares or interest or other change of control in the Implementing Agencies is anticipated, the Borrower shall consult with ADB at least 6 months prior to the implementation of such change. The Borrower shall ensure that such change be carried out in a lawful and transparent matter. The Borrower shall further ensure that the new controlling management of Implementing Agencies complies with (a) all Project-related agreements executed between ADB or the Borrower and the Implementing Agencies; and (b) the policies of ADB relevant to the Project.

Public Disclosure

16. Within 90 days following effectiveness of the Loan Agreement and Grant Agreement, the Borrower shall establish and maintain a Project website which will be regularly updated to include information on the following general matters: (a) bidding procedures, bidders and contract awards for Works, Goods, and Consulting Services; (b) physical progress of the Works and procurement of Goods; and (c) audited Project

financial accounts, Project review reports (e.g. mid-term review), and quarterly progress reports, consolidated annual reports and post-completion report, in each case promptly after submission to ADB (unless, in the case of Project review reports and quarterly progress reports, ADB considers these to be exempt from disclosure under ADB's Public Communications Policy (2011)).

Operational Covenants

17. The Borrower shall cause the Implementing Agencies to ensure that (a) the Project facilities are installed in accordance with design specifications and construction norms; and (b) construction supervision, quality control and contract management are performed in accordance with best international industry practices. The Borrower shall cause the Implementing Agencies to install, equip, operate, maintain and manage the project facilities in compliance with applicable standards and best international practices. The Borrower shall cause the Implementing Agencies to operate and maintain, and continue to operate and maintain, the Project facilities in accordance with an O&M framework that is satisfactory to ADB.

18. The Borrower shall cause the Implementing Agencies to do the following:

- (a) acquire all rights necessary to use the parcels of land constituting the Project site at least 30 days prior to the award of the turnkey contract; and
- (b) install or otherwise secure road access sufficient for the purposes of the Project at least 30 days prior to the award of the turnkey contract.

19. The Borrower shall ensure ongoing operational financial sustainability of the Project, either through adjustment of electricity tariffs, or budgetary allocations.

20. The Borrower shall cause the Implementing Agencies to ensure that adequate staffing will be planned and allocated for the implementation and O&M of the Project facilities, and that relevant staff members will attend training provided under the Project in relation to O&M.