
LOAN NUMBER 3212-KGZ(SF)

GRANT NUMBER 0419-KGZ(SF)

FINANCING AGREEMENT
(Special Operations)
(Toktogul Rehabilitation Phase 2 Project)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 26 December 2014

KGZ 46348

**FINANCING AGREEMENT
(Special Operations)**

FINANCING AGREEMENT dated 26 December 2014 between
KYRGYZ REPUBLIC ("Beneficiary") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Beneficiary has applied to ADB for a loan and a grant for the purposes of the Project described in Schedule 1 to this Financing Agreement;

(B) the Project will be carried out by the Ministry of Energy and Industry of the Kyrgyz Republic ("MOEI"), the State Property Fund of the Government of the Kyrgyz Republic ("SPF") and the Open Joint-Stock Company Electric Power Plants ("EPP"), and for this purpose the Beneficiary will make available to MOEI, SPF and EPP the proceeds of the loan and the grant provided for herein upon terms and conditions satisfactory to ADB;

(C) by a loan agreement to be entered into between the Beneficiary and Eurasian Development Bank ("EDB") ("EDB Loan Agreement"), it is expected that EDB will provide a loan to the Beneficiary from its Anti-Crisis Fund in the amount of one hundred million Dollars (\$100,000,000) ("EDB Loan") for the purposes of financing part of the expenditures under the Project; and

(D) ADB has agreed to provide financing by making a loan and a grant to the Beneficiary 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 EPP;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations and Grant Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations") are hereby made applicable to the Loan made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) The term "Loan Agreement", wherever it appears in the Loan Regulations, shall be substituted by the term "Financing Agreement".

(b) The term "Borrower", wherever it appears in the Loan Regulations, shall be substituted by the term "Beneficiary" as defined in the opening paragraph of this Financing Agreement.

(c) Section 2.01(25) is deleted and the following is substituted therefor:

“Project Agreement” means the Project Agreement of even date herewith between ADB and EPP.

Section 1.02. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 (“Grant Regulations”) are hereby made applicable to the Grant made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein subject, however, to the following modifications:

(a) The term “Grant Agreement”, wherever it appears in the Grant Regulations, shall be substituted by the term “Financing Agreement”.

(b) The term “Recipient”, wherever it appears in the Grant Regulations, shall be substituted by the term “Beneficiary” as defined in the opening paragraph of this Financing Agreement.

(c) 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 EPP.

Section 1.03 Wherever used in this Financing Agreement, the several terms defined in the Loan Regulations and the Grant Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Financing Agreement have the following meanings:

(a) “Bishkekteploset” means Open Joint-Stock Company “Bishkekteploset”, the heat and hot water distribution company established under the laws and regulations of the Beneficiary, with registered address at 2/1 Jukeev-Pudovkin Street, Bishkek, 720031, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

(b) “Chakan GES” means Open Joint-Stock Company “Chakan GES” established under the laws and regulations of the Beneficiary, being a power generation company with registered address at 113 Suvorov Street, GES-3 Village, Chui Oblast, 724330, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

(c) “Consulting Guidelines” means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(d) “Consulting Services” means the services to be financed out of the proceeds of the Loan or the Grant as described under Part 1 (b) and (c), Part 2 and Part 3 of Schedule 1 to this Financing Agreement;

(e) “EMP” means the environmental management plan prepared for the Project including any update thereto, incorporated in the IEE;

(f) “EPP” means Open Joint-Stock Company Electric Power Plants established under the laws and regulations of the Beneficiary, being a power generation

company with registered address at 326, Jibek Jolu Street, Bishkek 720070, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

(g) “Financial Year” means the period of 12 months commencing on 1 January and ending on 31 December;

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

(i) “HEPP” means hydroelectric power plant;

(j) “IEE” means the initial environmental examination prepared for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

(k) “IFRS” means the International Financial Reporting Standards issued by the International Accounting Standards Board from time to time;

(l) “Jalalabatelectro” means Open Joint-Stock Company “Jalalabatelectro”, an electricity distribution company established under the laws and regulations of the Beneficiary, with registered address at 159 Lenin Street, Jalalabat, 715600 Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

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

(n) “Medium Term Tariff Plan” means the Medium Term Tariff Plan for Electricity and Thermal Energy for 2014-2017, as approved by Ordinance #660 on 20 November 2014 by the Government of the Kyrgyz Republic;

(o) “National Electrical Grid of Kyrgyzstan” means Open Joint Stock Company National Electric Grid of Kyrgyzstan, the electricity transmission company established under the laws and regulations of the Beneficiary and has its registered address at 326, Jibek Jolu Str., 720070 Bishkek, Kyrgyz Republic;

(p) “Oshelectro” means Open Joint-Stock Company “Oshelectro”, an electricity distribution company established under the laws and regulations of the Beneficiary, with registered address at 19 A Razzakov Street, Osh, 723500, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

(q) “PAM” means the project administration manual for the Project dated 17 September 2014 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the respective administrative procedures of the Beneficiary and ADB;

(r) “Part” means each of Part 1, Part 2, and Part 3 of the Project as further described in paragraph 2 of Schedule 1 to this Financing Agreement;

(s) “Power Sector Rehabilitation Project” means the project financed by a loan (Loan 2869-KGZ(SF)) and a grant (Grant 0294-KGZ(SF)) from ADB to the Beneficiary;

(t) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(u) “Procurement Plan” means the procurement plan for the Project dated 17 September 2014 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(v) “Project Executing Agency” means EPP for Part 1 of the Project, SPF for Part 2 of the Project and MOEI for Part 3 of the Project;

(w) “Project facilities” means the plant, equipment, material, supplies and facilities provided or rehabilitated, or to be provided or rehabilitated, under the Project;

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

(y) “Safeguards Monitoring Report” means each report prepared and submitted by the Beneficiary to ADB that describes progress with implementation of, and compliance with, the EMP, including any corrective and preventative actions;

(z) “Severelectro” Open Joint-Stock Company “Severelectro”, an electricity distribution company established under the laws and regulations of the Beneficiary, with registered address at 3 Chkalov Street, Lebedinovka Village, Alamudun Rayon, Chui Oblast, 722160, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB;

(aa) “Subsidiary Financing Agreement” means a subsidiary financing agreement to be entered into between the Beneficiary and EPP pursuant to Section 3.01 (a) of this Financing Agreement;

(bb) “Vostokelectro” means Open Joint-Stock Company “Vostokelectro”, an electricity distribution company established under the laws and regulations of the Beneficiary, with registered address at 24 Fuchik Street, Karakol, 722360, Kyrgyz Republic, or any successor thereto acceptable to both the Beneficiary and ADB; and

(cc) “Works” means construction or civil works to be financed out of the proceeds of the Loan or the 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 Loan and the Grant

Section 2.01. ADB agrees to provide to the Beneficiary from ADB's Special Funds resources, on terms and conditions set forth in this Financing Agreement:

- (a) a loan in various currencies equivalent to forty three million six hundred eighty thousand Special Drawing Rights (SDR43,680,000) ("Loan"); and
- (b) a grant in the amount of forty four million five hundred thousand Dollars (\$44,500,000) ("Grant").

Section 2.02. (a) The Beneficiary shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 April and 15 October in each year.

Section 2.04. The Beneficiary shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

ARTICLE III

Use of Proceeds of the Loan and the Grant

Section 3.01. (a) The Beneficiary shall make available to EPP (i) the proceeds of the Loan; and (ii) a portion of the proceeds of the Grant in the amount of forty million Dollars (\$40,000,000), by way of relending and equity contribution in equal shares upon terms and conditions satisfactory to ADB under the Subsidiary Financing Agreement. Except as ADB shall otherwise agree, the terms for relending a portion of the proceeds of the Loan and the Grant shall include interest at the rate of 1.5 % per annum, a repayment period of 25 years including a grace period of 8 years, and EPP bearing the foreign exchange risk. The Beneficiary shall cause EPP to apply such proceeds of the Loan

and the Grant to the financing of expenditures for Part 1 of the Project in accordance with the provisions of this Financing Agreement and the Project Agreement.

(b) The Beneficiary shall make available to SPF a portion of the proceeds of the Grant in the amount of two million four hundred thousand Dollars (\$2,400,000) upon terms and conditions satisfactory to ADB and shall cause SPF to apply such proceeds to the financing of expenditures for Part 2 of the Project in accordance with the provisions of this Financing Agreement.

(c) The Beneficiary shall make available to MOEI a portion of the Grant in the amount of two million one hundred thousand Dollars (\$2,100,000) upon terms and conditions satisfactory to ADB and shall cause MOEI to apply such proceeds to the financing of expenditures for Part 3 of the Project in accordance with the provisions of this Financing Agreement.

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

Section 3.03. Except as ADB may otherwise agree, the Beneficiary shall procure, or cause to be procured, the items of expenditure to be financed out of proceeds of the Loan and the Grant in accordance with the provisions of Schedule 4 to this Financing Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2022, and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2022 or, in each case, such other date as may from time to time be agreed between the Beneficiary and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Beneficiary shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Financing Agreement.

Section 4.02. (a) The Beneficiary shall cause SPF and MOEI to each (i) maintain separate accounts and records for the Project, including separate accounts and records for the Loan and Grant; (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 Loan and Grant proceeds and compliance with the financial covenants of this Financing Agreement 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 Beneficiary shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Beneficiary's financial affairs where they relate to the Project with the auditors engaged 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 Beneficiary, unless the Beneficiary shall otherwise agree.

Section 4.03. The Beneficiary shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.04. The Beneficiary shall take all action which shall be necessary on its part to enable EPP 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 Beneficiary shall exercise its rights under the Subsidiary Financing Agreement in such a manner as to protect the interests of the Beneficiary and ADB and to accomplish the purposes of the Loan and the Grant.

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

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for the suspension of the right of the Beneficiary to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations and the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations, respectively:

- (a) the EDB Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date; or
- (b) the Beneficiary or EPP shall have failed to perform any of their respective obligations under the Subsidiary Financing Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity of the loan for the purposes of Section 8.07(d) of the Loan Regulations: any of the events specified in Section 5.01 of this Financing Agreement shall have occurred.

ARTICLE VI

Effectiveness

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

- (a) the EDB Loan Agreement in the form and substance satisfactory to ADB shall have been duly executed and delivered, and shall have become legally binding upon the parties thereto in accordance with its terms subject only to the effectiveness of this Financing Agreement and the Subsidiary Financing Agreement; and
- (b) the Subsidiary Financing Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of each of the Beneficiary and EPP and shall have become legally binding upon the parties thereto in accordance with its terms, subject only to the effectiveness of this Financing Agreement and the EDB Loan Agreement.

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

- (a) that the EDB Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Beneficiary, and is legally binding upon the Beneficiary in accordance with its terms, subject only to the effectiveness of this Financing Agreement; and
- (b) that the Subsidiary Financing Agreement has been duly executed and delivered on behalf of each of the Beneficiary and EPP, and is legally binding upon the parties thereto in accordance with its terms, subject only to the effectiveness of this Financing Agreement and the EDB Loan Agreement.

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

ARTICLE VII**Miscellaneous**

Section 7.01. The Minister of Finance of the Beneficiary is designated as representative of the Beneficiary for the purposes of Section 11.02 of the Loan Regulations and Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations and Section 11.01 of the Grant Regulations:

For the Beneficiary

58, Erkindik Boulevard
Bishkek, 720040
Kyrgyz Republic

Facsimile Number:

(996) 312 661645.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2428.

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

KYRGYZ REPUBLIC

By 

OLGA LAVROVA
Minister of Finance

ASIAN DEVELOPMENT BANK

By 

RIE HIRAOKA
Country Director
Kyrgyz Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is improved operational performance of the power sector of the Beneficiary.

2. The Project shall comprise:

Part 1 - Toktogul rehabilitation and business process improvement

- (a) rehabilitation of two generator/turbine units (Unit 2 and Unit 4) of Toktogul HEPP;
- (b) implementation of a business process improvement plan for EPP to (i) assess current business processes and propose a modernization plan; and (ii) design and implement an enterprise resource planning system; and
- (c) Project management support to EPP, including construction supervision, procurement and safeguard support and external audits of Project expenditures;

Part 2 - Asset inventory and revaluation

- (a) preparation of an asset inventory and revaluation of assets of all power sector companies in the Beneficiary's territory, being two power generation companies (EPP and Chakan GES), one electricity transmission company (National Electrical Grid of Kyrgyzstan), four electricity distribution companies (Vostokelectro, Oshelectro, Jalalabatelectro, Severelectro) and one heat and hot water distribution company (Bishkekteploset); and
- (b) Project management support to SPF, including procurement support and external audits of Project expenditures;

Part 3 - Power Sector Master Plan

- (a) preparation of a power sector master plan covering (i) a 20-year demand projection; (ii) investment plan for construction and rehabilitation of power generation and transmission facilities; (iii) current data and future opportunities for export and import trade; (iv) a 10-year capital expenditure plan; and (v) a feasibility study for Uch Kurgan hydroelectric power plant; and
- (b) Project management support to MOEI, including procurement support and external audits of Project expenditures.

3. The Project is expected to be completed by 31 December 2021.

SCHEDULE 2**Amortization Schedule****(Toktogul Rehabilitation Phase 2 Project)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 April 2023	910,000
15 October 2023	910,000
15 April 2024	910,000
15 Oct 2024	910,000
15 Apr 2025	910,000
15 October 2025	910,000
15 April 2026	910,000
15 October 2026	910,000
15 April 2027	910,000
15 October 2027	910,000
15 April 2028	910,000
15 October 2028	910,000
15 April 2029	910,000
15 October 2029	910,000
15 April 2030	910,000
15 October 2030	910,000
15 April 2031	910,000
15 October 2031	910,000
15 April 2032	910,000
15 October 2032	910,000
15 April 2033	910,000
15 October 2033	910,000
15 April 2034	910,000
15 October 2034	910,000
15 April 2035	910,000
15 October 2035	910,000
15 April 2036	910,000
15 October 2036	910,000
15 April 2037	910,000
15 October 2037	910,000
15 April 2038	910,000
15 October 2038	910,000
15 April 2039	910,000
15 October 2039	910,000
15 April 2040	910,000
15 October 2040	910,000
15 April 2041	910,000
15 October 2041	910,000
15 April 2042	910,000
15 October 2042	910,000

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 April 2043	910,000
15 October 2043	910,000
15 April 2044	910,000
15 October 2044	910,000
15 April 2045	910,000
15 October 2045	910,000
15 April 2046	910,000
15 October 2046	910,000
Total	43,680,000

* The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3

Allocation and Withdrawal of Loan and Grant Proceeds

General

1. The tables attached to this Schedule set forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the Grant. Table 1 sets forth the allocation of the Loan proceeds to each such Category. Table 2 sets out the allocation of the Grant proceeds to each such Category. (Reference to "Category" in this Schedule is to a Category or Subcategory of Table 1 and Table 2, respectively.)

Basis for Withdrawal from the Loan and Grant Account

2. Except as ADB may otherwise agree, the proceeds of the Loan and the Grant shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in Table 1 and Table 2, respectively.

Interest Charge

3. The amount allocated to Category 3 of Table 1 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

4. Notwithstanding the allocation of the Loan proceeds and the Grant proceeds and the withdrawal percentages set forth in Table 1 and Table 2, respectively,

(a) if the amount of the Loan or the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan or 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 Loan or the Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, reallocate such excess amount to any other Category.

Disbursement Procedures

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

TABLE 1

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Toktogul Rehabilitation Phase 2 Project)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Basis for Withdrawal from the Loan Account
1	Turnkey contracts for Toktogul HEPP rehabilitation	30,643,000	33.05 % of total expenditure claimed*
2	Turnkey contract for business process improvement	1,167,000	50% of total expenditure claimed*
3	Interest charges during implementation	1,667,000	100% of amount due
4	Contingency	10,203,000	
	Total	43,680,000	

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

TABLE 2

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Toktogul Rehabilitation Phase 2 Project)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Turnkey contracts for Toktogul HEPP rehabilitation	18,340,000		13.20% of total expenditure claimed*
2	Turnkey contract for business process improvement	1,750,000		50% of total expenditure claimed*
3	Consulting Services	16,540,000		
3A	Toktogul HEPP rehabilitation, business process improvement and Project management support to EPP		12,040,000	100% of total expenditure claimed*
3B	Power sector master plan and Project management support to MOEI		2,100,000	100% of total expenditure claimed*
3C	Asset inventory and revaluation and Project management support to SPF		2,400,000	100% of total expenditure claimed*
4	Contingency (for Categories 1, 2 and 3A)	7,870,000		
	Total	44,500,000		

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

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 Financing 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 International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Beneficiary may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Conditions for Award of Contract

5. The Beneficiary shall ensure, or cause EPP to ensure, that no Works contract will be awarded until:
 - (a) the State Agency of Environmental Protection and Forestry has granted the final approval of the IEE; and
 - (b) EPP has incorporated the relevant provisions from the EMP into the Works contract.

Consulting Services

6. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Beneficiary shall apply quality- and cost-based selection for selecting and engaging Consulting Services.
7. The Beneficiary shall apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Consultants' Qualifications Selection for external audit of the Project.
8. The Beneficiary shall recruit the individual consultants for procurement, financial and safeguards support in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

9. (a) The Beneficiary shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Beneficiary 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.

10. The Beneficiary 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

11. In the case of a contract for Goods or Works, which is subject to ADB's prior review, the Beneficiary shall seek ADB's prior approval of any modification or waiver of the terms and conditions of the contract, including:

- (a) granting an extension of the stipulated time for completion of a contract for a period of 1 month or more, or which is likely to require an extension of the Loan Closing Date or the Grant Closing Date; and
- (b) increases in aggregate of the original price by more than 5% (for the avoidance of doubt, such increase shall take into account any previous change under such contract).

12. In the case of a contract for Goods or Works, which is subject to ADB's post review, ADB shall review the required contract modification or waiver and respond to the Beneficiary as soon as practicable, but not later than 1 month after the receipt of the required document.

13. The Beneficiary shall provide to ADB copies of all time extensions, modifications or waivers to the contracts (including change orders) within 1 month following amendment of the contract.

14. 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 Beneficiary and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Implementation Arrangements

1. The Beneficiary shall, through MOEI, SPF and EPP as the Project Executing Agency for the relevant Part of the Project, 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 Beneficiary and ADB. In the event of any discrepancy between the PAM and this Financing Agreement, the provisions of this Financing Agreement shall prevail.
2. The Beneficiary shall cause:
 - (a) EPP to adequately staff and equip the Project implementation unit for Part 1 of the Project and to ensure that the Project implementation unit will function until such components are completed; and
 - (b) each of SPF and MOEI to ensure that a qualified and experienced staff will act as the focal point for implementing Part 2 and Part 3 of the Project, respectively, and to notify ADB promptly upon any replacement of such focal point until such Project components are completed.

Counterpart Funding and Budgetary Process

3. The Beneficiary shall:
 - (a) make available and release all counterpart funding in the form of tax exemption promptly as required for purposes of timely and successful Project implementation; and
 - (b) ensure that EPP will make available and release all counterpart funding promptly as required for purposes of timely and successful Project implementation.
4. The Beneficiary shall ensure that the Project is included in the state budget as necessary to ensure timely disbursement of Project expenditures.
5. The Beneficiary shall ensure that no value added taxes, sales taxes, duties or other mandatory payments are levied on the Project expenditure within its territory.

Operations

6. The Beneficiary shall ensure, or shall cause MOEI and EPP to ensure, that qualified and experienced staffs are made available for the effective operation and maintenance of the Project facilities.

7. The Beneficiary shall cause EPP to install, equip, operate, maintain and manage the Project facilities in compliance with applicable standards and best international practices.

8. The Beneficiary shall ensure, or shall cause EPP to ensure, that ADB's consent is obtained at least 6 months prior to the implementation of any of the following: (a) any change in ownership of any asset, facility or structure financed under the Project; (b) any sale, transfer, or assignment of interest or control in any asset, facility or structure financed under the Project; or (c) any lease or other contract or modification of the functions and authority of EPP over operation and maintenance of any such asset, facility or structure financed under the Project. The Beneficiary shall ensure, or shall cause EPP to ensure, that any such changes will be carried out in a legal and transparent manner.

Financial and Financial Management

9. The Beneficiary shall cause EPP to (a) establish its internal audit unit within 6 months from the Effective Date; and (b) review the reports produced by such internal audit unit by its Board of Directors and promptly address recommendations made in such internal audit reports.

10. Except as ADB may otherwise agree, the Beneficiary shall cause EPP to ensure that from the Financial Year ending on (i) 31 December 2017 and for each Financial Year thereafter, the free cash flows of EPP for the current Financial Year shall be no less than the debt service requirements for the same period on all debt; and (ii) 31 December 2019 and for each Financial Year thereafter, the free cash flows of EPP for the current Financial Year shall be at least 1.3 times the debt service requirements for the same period on all debt, in each case based on EPP's entity financial statements prepared in accordance with IFRS. For purposes of this paragraph:

- (a) the term "debt" means any indebtedness of EPP maturing by its term more than 1 year from the date on which it was originally incurred;
- (b) the term "debt service requirements" means the aggregate amount of all repayments (including sinking fund payments and lease payments under finance leases), whether or not actually paid, and interest and other charges on debt, provided that interest and other charges on debt that are incurred in financing capital expenditure that will be capitalized are excluded; and
- (c) the term "free cash flows" means the difference between (i) the sum of cash flows from all sources related to operations, sale of assets, miscellaneous income, decrease in working capital other than cash; and (ii) the sum of all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes (excluding the provision for depreciation, other non-operating charges, and taxes), all cash dividends paid, increase in working capital other than cash, other than capital expenditures.

11. Except as ADB may otherwise agree, the Beneficiary shall cause EPP to ensure that from the Financial Year ending on 31 December 2019 and for each Financial

Year thereafter, the free cash flows of EPP from operations after debt service is at least 20% of the average capital expenditure for the previous Financial Year, current Financial Year and (based on projections) the following Financial Year based on EPP's entity financial statements prepared in accordance with IFRS. For purposes of this paragraph:

- (a) the term "free cash flows" means the difference between (i) the sum of cash flows from all sources related to operations, sale of assets, miscellaneous income, decrease in working capital other than cash and cash equivalents; and (ii) the sum of all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes (excluding the provision for depreciation, other non-operating charges, and taxes), all cash dividends paid, increase in working capital other than cash and cash equivalents, other than capital expenditures;
- (b) the term "working capital other than cash and cash equivalents" means the difference between current assets excluding cash and cash equivalents, and current liabilities, at the end of each Financial Year;
- (c) the term "current assets excluding cash and cash equivalents" means all those assets other than cash and cash equivalents, that would be converted to cash in the ordinary course of business within 12 months, and includes accounts receivable, inventory, marketable securities held for sale, prepaid expenses properly chargeable to operating expenses within the next Financial Year; and
- (d) the term "capital expenditures" means all expenses incurred on fixed assets, including interest charged to construction, related to operations;

12. Except as ADB may otherwise agree, the Beneficiary shall cause EPP to ensure that from the Financial Year ending on (i) 31 December 2017 and for each Financial Year thereafter, its debt does not exceed 75% of debt and equity; and (ii) 31 December 2019 and for each Financial Year thereafter, its debt does not exceed 70% of debt and equity, in each case based on EPP's entity financial statements prepared in accordance with IFRS. For purposes of this paragraph:

- (a) the term "debt" means any indebtedness of EPP maturing by its term more than 1 year from the date on which it was originally incurred; and
- (b) the term "equity" means equity and reserves, net of any accumulated losses of EPP.

13. Except as ADB may otherwise agree, the Beneficiary shall cause EPP to ensure that from the Financial Year ending on 31 December 2019 and for each Financial Year thereafter, its current ratio (being the ratio of current assets to current liabilities) is maintained at no less than 1 based on EPP's entity financial statements prepared in accordance with IFRS. For purposes of this paragraph:

- (a) the term “current assets” means cash and all those assets other than cash, that would be converted to cash in the ordinary course of business within 12 months, and includes accounts receivable, inventory, marketable securities held for sale, prepaid expenses properly chargeable to operating expenses within the next Financial Year; and
- (b) the term “current liabilities” means all liabilities that will become due and payable, or could under circumstances existing be called for payment within 12 months, including accounts payable, consumers advances, the current portion of long-term debt, taxes and payments in lieu of taxes and dividends.

Sector

14. The Beneficiary shall ensure that:
- (a) tariffs in the electricity and heating sector will be revised in accordance with the Medium Term Tariff Plan; and
 - (b) at least 60% of the aggregate incremental tariff that accrues to the electricity and heat sectors due to implementation of the Medium Term Tariff Plan will be transferred in to EPP until such time to ensure that EPP is in a position to meet the covenants set out in paragraphs 9 to 13 above.
15. The Beneficiary shall:
- (a) by 31 January 2015, establish an independent regulator for the energy sector to determine cost-reflective tariffs for power and heat and hot water distribution companies and ensure that cost-reflective tariffs for power and heat and hot water distribution companies effective from 1 January 2018 and onwards will be set by such regulator in accordance with the Medium Term Tariff Plan; and
 - (b) by 31 January 2017, establish and operationalize an independent settlement center under the Power Sector Rehabilitation Project to monitor energy flows and ensure appropriate accounting and payment.
16. The Beneficiary, through MOEI and the independent regulator for the energy sector established pursuant to paragraph 15(a) above, shall ensure that ADB is informed of key power sector policy and restructuring reforms including any proposed changes to the Medium Term Tariff Policy and any other reforms pertaining to the tariff policy.

Safeguards

17. The Beneficiary shall ensure, or cause MOEI, SPF and EPP to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the

Beneficiary relating to environment, health and safety; (b) the environmental safeguards requirement as set out in the SPS; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

18. The Beneficiary shall ensure, and cause EPP to ensure, that (a) released oils and scrap metal will be safely kept at the onsite storage area; and (b) recycling and disposing of oils and scrap metals will be performed by companies licensed to perform such activities.

19. The Beneficiary shall make available, or shall cause EPP to make available, necessary budgetary and human resources to fully implement the EMP.

20. The Beneficiary shall, through EPP, 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 and the EMP and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures; and
- (c) provide the Beneficiary 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 and the EMP.

21. The Beneficiary shall cause EPP 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 the IEE, 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 promptly after becoming aware of the breach.

22. The Beneficiary shall cause EPP to ensure that Project implementation will not involve any land acquisition and/or resettlement impacts within the meaning of the SPS. In the event that any land acquisition and/or resettlement impacts are identified during Project implementation, the Beneficiary shall cause EPP to ensure that such impacts are addressed in accordance with SPS, including the preparation of a land acquisition and resettlement plan in consultation with the affected people in accordance with the SPS.

Prohibited List of Investments

23. The Beneficiary shall ensure that no proceeds of the Loan or the Grant are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Reporting and Monitoring

24. The Beneficiary shall, and shall cause EPP to, carry out performance monitoring and reviews during implementation, to evaluate the scope, implementation arrangements, benefit monitoring, progress, and achievement of the objectives of the Project in accordance with ADB's project performance management system guidelines.

25. The Beneficiary shall cause EPP to ensure that contractors engaged under the Project (a) comply with all applicable labor laws; (b) use their best efforts to employ women and local people, including disadvantaged people, living in the vicinity of the Project; (c) provide equal pay to men and women for work of equal type; (d) provide and adequately equip first-aid, health and sanitation, and personal hygiene facilities for male and female workers at the Project site; (e) carry out HIV/AIDS awareness programs for laborer and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS for construction workers, as part of the health and safety program at campsites during the construction period; (f) maximize female training and employment; and (g) abstain from child labor. Relevant contracts financed under the Project must include specific clauses on these undertakings.

Gender and Development

26. The Beneficiary shall ensure that the principles of gender equity aimed at increasing Project benefits and impacts on women in the Project area consistent with ADB's Policy on Gender and Development (1998) are followed during implementation of the Project, including (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.

Governance and Anticorruption

27. The Beneficiary shall cause MOEI, SPF and EPP to ensure that updated information on the Project, reflecting the performance of the Project, business opportunities, bidding process and guidelines, outcome of biddings and summary progress reports of the Project, will be disclosed on the websites of MOEI, SPF and EPP, respectively, in a timely manner.

28. The Beneficiary shall, and shall ensure that MOEI, SPF and EPP will, comply with ADB's Anticorruption Policy (1998, as amended to date). The Beneficiary acknowledges, and shall ensure that MOEI, SPF and EPP shall acknowledge, that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project. The Beneficiary agrees, and shall ensure that EPP shall agree, to cooperate fully with any such investigation and to extend all necessary assistance.

29. The Beneficiary shall cause MOEI, SPF and EPP to ensure that all contracts financed by ADB under the Project include provisions specifying ADB's right to audit and examine the records and accounts of MOEI, SPF and EPP and all contractors, suppliers, consultants and other service providers as they relate to the Project.