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LOAN NUMBER 3139-NEP (SF)

LOAN AGREEMENT  
(Special Operations)

(South Asia Subregional Economic Cooperation Power System Expansion Project)

between

NEPAL

and

ASIAN DEVELOPMENT BANK

DATED 11 JULY 2014

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NEP 44219

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 11 July 2014 between NEPAL ("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) by an agreement dated \_\_\_\_\_ ("Norway Grant Agreement"), ADB has agreed to make the proceeds of a grant from the Government of Norway ("Norway Grant") available to the Borrower in an amount equivalent to approximately sixty million Dollars (\$60,000,000) for the purposes of financing a portion of Parts 1 and 4 of the Project;

(C) by an agreement of even date herewith ("SCF Grant Agreement"), ADB has agreed to make the proceeds of a grant from the Strategic Climate Fund ("SCF Grant") available to the Borrower in an amount of eleven million two hundred thousand Dollars (\$11,200,000) for the purposes of financing a portion of Parts 3 and 4 of the Project;

(D) the Project shall be carried out by (i) the Nepal Electricity Authority ("NEA") for Parts 1, 2 and 4 of the Project, and (ii) the Alternative Energy Promotion Centre ("AEPC") for Parts 3 and 4 of the Project, and for this purpose the Borrower will make available to NEA and AEPC the proceeds of the loan provided for herein, as well as the proceeds of the Norway Grant and SCF Grant upon terms and conditions satisfactory to ADB; and

(E) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreements of even date herewith between ADB on the one part and NEA and AEPC on the other part;

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("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) the term "Project Agreement", wherever it appears in the Loan Regulations, shall mean (i) the NEA Project Agreement (as hereinafter

defined), and/or (ii) the AEPC Project Agreement (as hereinafter defined), as the context requires; and

- (b) The term “Project Executing Agency” appearing in Sections 6.01(a), 8.01(d), 8.01(f), 8.01(k), 9.01(c) and 9.02(c) of the Loan Regulations shall be substituted by the term: (i) “NEA” or any successor thereto acceptable to ADB which is responsible for carrying out Parts 1, 2 and 4 of the Project, or (ii) “AEPC” or any successor thereto acceptable to ADB which is responsible for carrying out Parts 3 and 4 of the Project.

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) “AEPC” means the Borrower’s Alternative Energy Promotion Centre;
- (b) “AEPC Financing Arrangement” means the arrangement between the Borrower and AEPC described in Section 3.01(b) of this Loan Agreement;
- (c) “AEPC Project Agreement” means the Project Agreement of even date herewith between ADB and AEPC;
- (d) “Consulting Guidelines” means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (e) “Consulting Services” means the services to be financed out of the proceeds of the Norway Grant and the SCF Grant as referred to in paragraph 3 of Schedule 1 to this Loan Agreement;
- (f) “Environmental Assessment Review Framework” or “EARF” means the environmental assessment and review framework for Part 3 of the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (g) “Environmental Management Plan” or “EMP” means each and any of the environmental management plans for the Project, including any update thereto, incorporated in the IEE;
- (h) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (i) “Gender Equality and Social Inclusion Plan” or “GESIP” means the gender action plan prepared for the Project in consultation with the Borrower and approved by ADB;
- (j) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, the Norway Grant and the SCF Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(k) “Indigenous Peoples Planning Framework” or “IPPF” means the indigenous peoples planning framework for Part 3 of the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

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

(m) “Initial Environmental Examination” or “IEE” means each and any initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower through NEA or AEPC, as applicable, and cleared by ADB;

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

(o) “km” means kilometer;

(p) “kV” means kilovolt;

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

(r) “MVA” means megavolt-ampere;

(s) “MW” means megawatt;

(t) “NEA” means the Nepal Electricity Authority, established pursuant to the Nepal Electricity Authority Act, 2041 (1984) of the Borrower;

(u) “NEA Financing Agreement” means the agreement between the Borrower and NEA described in Section 3.01(a) of this Loan Agreement;

(v) “NEA Project Agreement” means the Project Agreement of even date herewith between ADB and NEA;

(w) “Norway Grant Agreement” means the grant agreement of even date herewith between the Borrower and ADB for provision of the Norway Grant to the Borrower for the purposes of the Project;

(x) “O&M” means operation and maintenance;

(y) “PAM” means the project administration manual for the Project dated 19 May 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;

(z) “Part” means a sub-component of the Project, as described in Schedule 1 to this Loan Agreement;

(aa) “Participating Banks” means commercial banks acceptable to ADB selected to participate in providing credit lines to Participating Communities for Part 3 of the Project;

(bb) “Participating Communities” means rural communities acceptable to ADB selected to participate in developing Subprojects under Part 3 of the Project;

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

(dd) “Procurement Plan” means the procurement plan for the Project dated 19 May 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;

(ee) “Project Executing Agency” means (i) NEA or any successor thereto acceptable to ADB which is responsible for carrying out Parts 1, 2 and 4 of the Project, or (ii) “AEPC” or any successor thereto acceptable to ADB which is responsible for carrying out Parts 3 and 4 of the Project;

(ff) “Project facilities” means the facilities to be improved, rehabilitated, modernized, constructed, operated and/or maintained, and the equipment to be installed and maintained under the Project;

(gg) “Project Management Directorate” or “PMD” means the project management directorate to be established in NEA;

(hh) “Resettlement Framework” or “RF” means the resettlement framework for Part 3 of the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(ii) “Resettlement and Indigenous Peoples Plan” or “RIPP” means each and any resettlement and indigenous peoples plan for Parts 1 and 2 of Project, including any update thereto, prepared and submitted by the Borrower through NEA, and cleared by ADB;

(jj) “Resettlement Plan” or “RP” means each and any resettlement plan prepared for Part 3 of the Project, including any update thereto, prepared and submitted by the Borrower through AEPC, and cleared by ADB;

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

(ll) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower through NEA or AEPC, as applicable, to ADB that describes progress with implementation of and compliance with the EMP and the RIPP, including any corrective and preventative actions;

(mm) “SCF Grant Agreement” means the grant agreement to be entered into by and between the Borrower and ADB for provision of the SCF Grant to the Borrower for the purposes of the Project;

(nn) "Subproject" means a subproject under Part 3 of the Project that (i) is found eligible for financing during Project processing, and/or (ii) meets the eligibility criteria referred to in paragraph 8 of Schedule 5 to this Loan Agreement; and

(oo) "Works" means construction or civil works to be financed out of the proceeds of the Loan, the Norway Grant and the SCF 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**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to one hundred sixteen million four hundred ninety three thousand Special Drawing Rights (SDR116,493,000).

Section 2.02. (a) The Borrower 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 subsection (a) 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 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 June and 15 December in each year.

Section 2.04. The Borrower 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 Loan 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**

Section 3.01. (a) The Borrower shall relend the proceeds of the Loan as allocated towards Parts 1, 2, and 4 to NEA as a loan under a Financing Agreement upon terms and conditions satisfactory to ADB.

(b) The Borrower shall relend the proceeds of the Loan as allocated towards Parts 3 and 4 to AEPC as a loan under a Financing Arrangement upon terms and conditions satisfactory to ADB.

(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, the NEA Project Agreement and the AEPC 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.

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 8.02 of the Loan Regulations shall be 30 June 2022 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. 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, the NEA Project Agreement, and the AEPC Project Agreement.

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable NEA and AEPC to perform their obligations under the NEA Project Agreement and AEPC Project Agreement, respectively, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the NEA Financing Agreement and AEPC Financing Arrangement 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 NEA Financing Agreement or APEC Financing Arrangement 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 suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations:

- (a) the Norway Grant shall have become liable for suspension or cancellation; and
- (b) the SCF Grant shall have become liable for suspension or cancellation.

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

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. The following are specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Norway Grant Agreement shall have been duly executed and delivered, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) shall have been fulfilled or arrangements satisfactory to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB.

Section 6.02. The following are specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Norway Grant Agreement has been duly authorized by, and executed and delivered on behalf of, the Borrower, and is legally binding upon the Borrower in accordance with its term.



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

## **ARTICLE VII**

### **Delegation of Authority**

Section 7.01. The Borrower hereby designates the Project Executing Agency as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Loan Agreement and under Sections 5.01, 5.02, 5.03 and 5.04 of the Loan Regulations.

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

Section 7.03. The authority conferred on the Project Executing Agency under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

## **ARTICLE VIII**

### **Miscellaneous**

Section 8.01. The Secretary, Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

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

#### For the Borrower

Secretary  
Ministry of Finance  
Singha Durbar  
Kathmandu, Nepal

Facsimile Number:

+977 1 421-1665.

For ADB

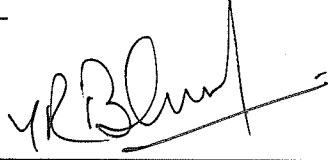
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines

Facsimile Numbers:

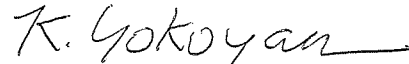
+63 2 636-2444  
+63 2 636-2338.

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.

NEPAL

By   
\_\_\_\_\_  
YUBA RAJ BHUSAL  
Secretary  
Ministry of Finance

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
KENICHI YOKOYAMA  
Country Director  
Nepal Resident Mission

## SCHEDULE 1

### Description of the Project

1. The objective of the Project is to increase capacity of the national grid and to enhance renewable energy development.

2. The Project shall comprise:

**Part 1: Increasing power transmission capacity.**

- (a) Construction and/or augmentation of approximately 45 km of 400 kV and 192 km of 220 kV transmission lines along Kali Gandaki corridor and Marsyangdi-Kathmandu route;
- (b) Construction and/or augmentation of approximately 500 MVA of 400 kV/220 kV/132 kV, 500 MVA of 220 kV/132 kV/33 kV, and 120 MVA of 33 kV/11 kV grid substations along Kali Gandaki corridor and Marsyangdi-Kathmandu route; and
- (c) Construction and/or replacement of grid service substations, with an aggregated capacity of approximately 394 MVA, in Gandak, Middle Marsyangdi, Butwal, Bharatpur, Dhalkebar, Lahan, Banepa and Attaria.

**Part 2: Improving power distribution network in selected rural areas.**

- (a) Construction and/or upgrading of approximately 410 km of 33 kV, 545 km of 11 kV, and 725 km of 400 V distribution lines in East, Central and West regions;
- (b) Construction and/or upgrading of substations, with approximately 216 MVA of aggregated capacity, in East, Central and West regions; and
- (c) Construction and/or upgrading of distribution substations, with an aggregated capacity of approximately 20 MVA, in East, Central and West regions.

**Part 3: Increasing mini-grid based renewable energy systems in off-grid areas.**

- (a) Provision of credit-lines for installation of mini hydro-electric power plants of up to 4.3 MW of aggregated capacity under Part 3(b) below;
- (b) Installation of mini hydro-electric power plants of up to 4.3 MW of aggregated capacity; and
- (c) Installation of mini-grid based solar or solar/wind hybrid systems of up to 0.5 MW of aggregated capacity.

**Part 4: Project management and administration.**

Provision of capacity development supports to NEA and AEPC.

3. Consulting Services shall be provided to support the above activities.
4. The Project is expected to be completed by 31 December 2021.

**SCHEDULE 2****Amortization Schedule****(South Asia Subregional Economic Cooperation Power System Expansion Project)**

| <u>Date Payment Due</u> | <u>Payment of Principal</u><br>(expressed in Special Drawing Rights)* |
|-------------------------|---|
| 15 December 2022        | 2,426,938   |
| 15 June 2023            | 2,426,938   |
| 15 December 2023        | 2,426,938   |
| 15 June 2024            | 2,426,938   |
| 15 December 2024        | 2,426,938   |
| 15 June 2025            | 2,426,938   |
| 15 December 2025        | 2,426,938   |
| 15 June 2026            | 2,426,938   |
| 15 December 2026        | 2,426,938   |
| 15 June 2027            | 2,426,938   |
| 15 December 2027        | 2,426,938   |
| 15 June 2028            | 2,426,938   |
| 15 December 2028        | 2,426,938   |
| 15 June 2029            | 2,426,938   |
| 15 December 2029        | 2,426,938   |
| 15 June 2030            | 2,426,938   |
| 15 December 2030        | 2,426,938   |
| 15 June 2031            | 2,426,938   |
| 15 December 2031        | 2,426,938   |
| 15 June 2032            | 2,426,938   |
| 15 December 2032        | 2,426,938   |
| 15 June 2033            | 2,426,938   |
| 15 December 2033        | 2,426,938   |
| 15 June 2034            | 2,426,938   |
| 15 December 2034        | 2,426,938   |
| 15 June 2035            | 2,426,938   |
| 15 December 2035        | 2,426,938   |
| 15 June 2036            | 2,426,938   |
| 15 December 2036        | 2,426,938   |
| 15 June 2037            | 2,426,938   |
| 15 December 2037        | 2,426,938   |
| 15 June 2038            | 2,426,938   |
| 15 December 2038        | 2,426,938   |
| 15 June 2039            | 2,426,938   |
| 15 December 2039        | 2,426,938   |
| 15 June 2040            | 2,426,938   |
| 15 December 2040        | 2,426,938   |
| 15 June 2041            | 2,426,938   |
| 15 December 2041        | 2,426,938   |
| 15 June 2042            | 2,426,938   |

|                  |                    |
|------------------|--------------------|
| 15 December 2042 | 2,426,938          |
| 15 June 2043     | 2,426,938          |
| 15 December 2043 | 2,426,938          |
| 15 June 2044     | 2,426,938          |
| 15 December 2044 | 2,426,938          |
| 15 June 2045     | 2,426,938          |
| 15 December 2045 | 2,426,938          |
| 15 June 2046     | <u>2,426,914</u>   |
| <b>TOTAL</b>     | <b>116,493,000</b> |

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

### 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 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 Charge

3. The amount allocated to Category 5 is for financing the interest charge on the Loan during the implementation period of the Project.

##### 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 the Loan Disbursement Handbook.

##### Condition for Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for expenditures for Category 1 and Category 2 until the NEA Financing Agreement, in form and substance satisfactory to ADB, shall have been

duly executed and delivered on behalf of the Borrower and NEA, and shall have become legally binding upon the parties in accordance with its terms.

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for expenditures for Category 3 until the AEPC Financing Arrangement, in form and substance satisfactory to ADB, shall have been agreed on by the Borrower and AEPC.



TABLE

| <b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS<br/>(South Asia Subregional Economic Cooperation Power System Expansion Project)</b> |  |  |   |
|--|--|--|---|
| <b>Number</b>  | <b>Item</b>  | <b>Total Amount Allocated<br/>for ADB Financing (ADF)<br/>(SDR)<br/>Category</b> | <b>Basis for Withdrawal<br/>from the Loan<br/>Account</b> |
| 1  | Turnkey Contract – New Butwal-Bardaghat 400 kV Transmission Line and Marsyangdi-Kathmandu 220 kV Transmission Line (NEA)** | 23,111,000   | 41% of total expenditure claimed*                         |
| 2  | Turnkey Contract – Kali Gandaki 220 kV Transmission Line, Grid Substations, and Distribution Lines (NEA)**                 | 82,548,000   | 100% of total expenditure claimed*                        |
| 3  | Credit Line to AEPC***   | 2,971,000  | 100% of total expenditure claimed*                        |
| 4  | Unallocated for NEA  | 5,656,000  |   |
| 5  | Interest During Implementation   | 2,207,000  | 100% of total amount due                                  |
|  | <b>Total</b>   | <b>116,493,000</b>   |   |

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

\*\*Subject to the condition for withdrawal as described in paragraph 6 of Schedule 3.

\*\*\*Subject to the condition for withdrawal as described in paragraph 7 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;
  - (b) national competitive bidding; and
  - (c) 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 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, NEC and AEPC may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.

#### National Competitive Bidding

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

#### Conditions for Award of Contract

7. The Borrower shall ensure that no Works contract for Parts 1 and 2, which involves environmental impacts, is awarded until:
  - (a) the Ministry of Energy or the Ministry of Science, Technology and Environment, as appropriate, has granted the final approval of the IEE,

or environmental impact assessment, as applicable, for Parts 1 and 2; and

- (b) NEA has incorporated the relevant provisions from the EMP into the Works contract.

8. The Borrower shall ensure that no Works contract for Part 3, which involves environmental impacts, is awarded until:

- (a) the Ministry of Science, Technology and Environment has granted the final approval of the IEE, or environmental impact assessment, as applicable, for Part 3; and
- (b) AEPC has incorporated the relevant provisions from the EMP into the Works contract.

9. The Borrower shall ensure that no Works contract which involves involuntary resettlement impacts is awarded, until the Borrower and NEA have prepared and submitted to ADB the final RIPP based on the Project's detailed design, and obtained ADB's clearance of such RIPP.

10. The Borrower shall ensure that no Works contract which involves impacts on indigenous peoples is awarded until the Borrower and NEA have prepared and submitted to ADB the final RIPP, and obtained ADB's clearance of such RIPP.

11. Notwithstanding any other provision of this Loan Agreement and except as ADB may otherwise agree, the Borrower shall not award the Design, Supply and Install New Butwal-Bardaghat 400 kV Transmission Line and Associated Bardaghat Substation on Turnkey Basis Contract under Parts 1(a) and 1(b) of the Project, unless NEA has approved, in principle, access by third parties to NEA's transmission grid for the purposes of exporting power and energy, to the extent of transfer capacity available.

#### Consulting Services

12. Except as ADB may otherwise agree, the Borrower, NEA and AEPC shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

13. The Borrower and AEPC shall recruit the individual consultants for project implementation support in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

14. (a) The Borrower, NEA, and AEPC 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 Borrower, NEA, and AEPC 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.

15. The Borrower, NEA, and AEPC 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

16. 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 Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Borrower, NEA and AEPC 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.
2. The Borrower through NEA shall ensure that the PMD is established and fully operationalized within one month of the date of approval of the Loan by ADB's Board of Directors, and managed and operated by a full-time Deputy Managing Director reporting to the Managing Director of NEA, for subprojects to be executed by NEA under Parts 1 and 2.

#### Coordination among the Borrower's Agencies

3. The Borrower is fully committed to the Project and shall ensure that all its ministries, agencies and divisions involved in the implementation of the Project, including local bodies, give their full cooperation to ensure smooth implementation of the Project. Specifically, the Borrower shall cause the NEA, AEPC and any other relevant authority to give full, timely and efficient cooperation in issuing any licenses, permits or approvals required in connection with construction, upgrade, and/or improvement of Project facilities within the Project areas.

#### Counterpart Funds

4. The Borrower shall provide, or cause NEA and AEPC to provide, as necessary, respective counterpart staff, land, facilities, and funding required for timely and effective implementation of the Project, including, without limitation, any funds required (i) to meet any shortfall between cost and revenues for the O&M of Project facilities, (ii) to mitigate unforeseen environmental or social impacts, and (iii) to meet any additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances. The Borrower shall cause NEA and AEPC to make the resources thus required available on an annual basis for each fiscal year.
5. The Borrower shall exempt NEA from all taxes and duties on project-related procurement, except for 1% customs duty on imported equipment and prevailing value added tax on construction.

#### Project Website

6. Within 12 months after the Effective Date, the Borrower shall ensure that a Project website is created to disclose information about various matters in regards to the Project, including procurement. With regard to procurement, the website shall include information on the list of participating bidders, name of the winning bidder, basic details on

bidding procedures adopted, amount of contract awarded, and the list of goods/services procured. The Project website need not be separate from an existing website of the Borrower, as long as it is comprehensive and easily accessible by the public.

Grievance Redress Mechanism

7. The Borrower shall establish and maintain, or cause NEA and AEPC to establish and maintain, a grievance redress mechanism acceptable to ADB for the purpose of addressing any grievances arising out of the Project, including those from affected peoples concerning land acquisition, environment and any other social issues in a timely manner.

Part 3: Increased Mini-Grid Based Renewable Energy Systems in Off-Grid Areas

8. Except as ADB may otherwise agree, Participating Communities shall be rural communities that are expected to be without grid connection for at least 5 years after the Effective Date. The Borrower shall ensure that AEPC selects such Participating Communities in accordance with the eligibility criteria and approval procedures as set out in the PAM.

9. The Borrower shall ensure that AEPC (i) selects Participating Banks in accordance with the eligibility criteria and approval procedures set out in the PAM, (ii) onlends the Loan proceeds allocated to Part 3(a) of the Project to such Participating Banks for the development of Subprojects, on terms and conditions acceptable to ADB, and (iii) causes Participating Banks to further onlend such Loan proceeds to Participating Communities on terms and conditions acceptable to AEPC and ADB.

10. The Borrower shall cause AEPC to ensure that each Subproject meets the eligibility criteria, and is developed and maintained in accordance with the Subproject development procedures, set forth in the PAM. Except as ADB may otherwise agree, each Subproject shall:

- (a) not be classified as Category A in terms of environmental impacts within the meaning of the SPS;
- (b) not involve any involuntary resettlement or indigenous peoples impacts within the meaning of the SPS;
- (c) adhere to the safeguards requirements set forth in paragraphs 10 to 17 of this Schedule;
- (d) have obtained all relevant licenses, clearances, and/or permits for its development and operation;
- (e) be found to be technically, commercially, economically and financially sustainable based on due diligence conducted by AEPC in accordance with indicators, policies and procedures acceptable to ADB; and
- (f) have at least 10% of its costs met by a cash and/or in-kind contribution from the relevant Participating Community and deposited with the community energy fund, jointly managed by AEPC and the Participating Community, prior to Subproject approval.

Environment

11. The Borrower shall ensure, or cause NEA and AEPC, as applicable, to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project, each Subproject and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; (c) the EARF (for Subprojects); and (d) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Resettlement and Indigenous Peoples

12. The Borrower shall ensure, or cause NEA and AEPC, as applicable, to ensure, that all land and all rights-of-way required for the Project, each Subproject and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF (for Subprojects); and (d) all measures and requirements set forth in the RIPP, as appropriate, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

13. Without limiting the application of the Involuntary Resettlement Safeguards or the RIPP, the Borrower shall ensure, or cause NEA to ensure, that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RIPP, as appropriate; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RIPP, as appropriate.

14. The Borrower shall ensure, or cause NEA and AEPC to ensure, as applicable, that the preparation, design, construction, implementation and operation of the Project, each Subproject and all project facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) the IPPF (for Subprojects); and (d) all measures and requirements set forth in the RIPP, as appropriate, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

15. The Borrower shall ensure that Part 3 of the Project does not have any indigenous peoples or involuntary resettlement impacts, all within the meaning of SPS. In the event that Part 3 of the Project does have any such impact, the Borrower shall take all steps to ensure that the Project complies with (a) the applicable laws and regulations of the Borrower; (b) the SPS; and (c) the IPPF and the RF, as applicable.

Human and Financial Resources to Implement Safeguards Requirements

16. The Borrower shall make available, or cause NEA and AEPC to make available, necessary budgetary and human resources to fully implement the EMP and the RIPP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

17. The Borrower shall ensure, or cause NEA and AEPC to ensure, that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP and the RIPP (to the extent they concern impacts on affected people during construction), 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;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the RIPP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

18. The Borrower shall do the following or cause NEA and AEPC to do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental 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 RIPP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP and the RIPP promptly after becoming aware of the breach.



Prohibited List of Investments

19. The Borrower shall ensure that no proceeds of the Loan, SCF Grant and the Norway Grant are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Gender

20. The Borrower shall ensure that (a) the GESIP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GESIP; (c) adequate resources are allocated for implementation of the GESIP; and (d) progress on implementation of the GESIP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Labor, Health and Anti Human Trafficking

21. The Borrower, NEA and AEPC shall ensure that contractors, comply with all applicable labor, health, and safety laws and regulations of the Borrower and, in particular, (a) do not employ child labor for construction and maintenance activities, and (b) provide appropriate facilities (latrines, etc.) for workers at construction sites. The Borrower shall require contractors not to differentiate wages between men and women for work of equal value. The Borrower, NEA and AEPC shall ensure that specific clauses shall be included in bidding documents to ensure adherence to these provisions, and that compliance shall be strictly monitored during Project implementation.

22. The Borrower, NEA and AEPC shall ensure that contractors shall disseminate information on the risk of transmission of sexually- transmitted diseases, including HIV/AIDS, in health and safety programs to all construction workers employed under the Project. Specific provisions to this effect shall be included in bidding documents and civil works contracts, and compliance shall be monitored by NEA and AEPC and reported to ADB.

23. The Borrower, NEA and AEPC shall ensure that awareness campaign on anti-human trafficking shall be conducted and that information and print material on anti-human trafficking shall be developed and distributed to all construction workers and the community in the Project areas throughout the Project implementation period. Compliance shall be monitored by NEA and AEPC, and reported to ADB.

O&M

24. During Project implementation and thereafter, the Borrower shall ensure that NEA and AEPC maintain the Project facilities and that proper technical supervision and adequate routine funds for this purpose are provided. The funds required for the O&M of the Project facilities shall be allocated annually and released in a timely basis. Furthermore, the Borrower shall cause NEA and AEPC to ensure that all equipment and spare parts financed under the Project shall exclusively be used for the O&M of the Project.

Workshop

25. The Borrower shall ensure that during the mid-term review, NEA and AEPC shall conduct a one-day workshop to share information with stakeholders on the progress of the Project, issues, lessons learned and performance improvement measures as part of the stakeholders communication strategy.

Power Sector Reforms

26. The Borrower shall make a budgetary provision for a material cash recapitalization of NEA for the fiscal year 2014-2015.

27. By 2019, NEA shall develop and adopt a rural electrification plan with the aim of achieving 100% rural electrification in the territory of the Borrower by 2027.

28. By 2019, NEA shall establish a pricing mechanism acceptable to ADB for the use of NEA's power grid by third parties for the purposes of exporting power and energy. Such mechanism may include, among other things, market-based wheeling, interconnection, and other charges.

Development Coordination

29. The Borrower, NEA, and AEPC shall keep ADB informed of discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Project. The Borrower, NEA, and AEPC shall provide ADB with an opportunity to comment on any resulting policy reforms which could affect the Project, and shall take into account ADB's views before finalizing and implementing any such proposals.

Governance and Corruption

30. The Borrower, NEA, AEPC, Participating Banks, and Participating Communities shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

31. The Borrower, NEA, and AEPC shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to review and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

32. The Borrower shall ensure that (a) NEA and AEPC comply with applicable laws and regulations of the Borrower on combating money laundering and financing of terrorism; and (b) the Loan, Norway Grant and SCF Grant proceeds are not used, directly or indirectly, in money laundering or financing of terrorism, including payment to persons and entities that are subject to financial sanctions of United Nations Security Council resolutions on combating the financing of terrorism.