
LOAN NUMBER 3203-PAK

LOAN AGREEMENT
(Ordinary Operations)

(Power Transmission Enhancement Investment Program – Project 4)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 12 DECEMBER 2014

PAK 37192

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 12 December 2014 between ISLAMIC REPUBLIC OF PAKISTAN (“Borrower”) and ASIAN DEVELOPMENT BANK (“ADB”).

WHEREAS

(A) by a framework financing agreement dated 31 October 2006 between the Borrower, the National Transmission and Despatch Company (“NTDC”) and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Power Transmission Enhancement Investment Program (“Investment Program”);

(B) by a periodic financing request dated 26 September 2014, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by NTDC and for this purpose, the Borrower will make available to NTDC the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

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

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

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

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

“Project Agreement” means the Project Agreement between ADB and NTDC.

(b) The term “Project Executing Agency” appearing in Section 7.04(b), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term “NTDC”.

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

Commitment Charge; Credit; Maturity Premium.

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

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

(c) The Borrower shall pay a maturity premium at the rate specified in the Loan Agreement, which maturity premium shall remain fixed for the term of the Loan. ADB shall add the maturity premium to the interest payable by the Borrower.

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

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

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

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

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

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

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

(a) "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

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

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

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

(e) “IEE” means each initial environmental examination for a Subproject, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the EARF and cleared by ADB;

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

(g) “LARF” means the land acquisition and resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(h) “LARP” means each land acquisition and resettlement plan for a Subproject, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the LARF and cleared by ADB;

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

(j) “PAM” means the project administration manual for the Project dated 13 November 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;

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

(l) “Procurement Plan” means the procurement plan for the Project dated 13 November 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;

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

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

(o) “Subproject” means each subproject under the Project;

(p) “Subsidiary Loan Agreement” means the subsidiary loan agreement between the Borrower and NTDC, as described in Section 3.01(a) of this Loan Agreement; and

(q) “Works” means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred and forty-eight million Dollars (\$248,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 22 years, and a grace period as defined in subsection (c) hereinafter.

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

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

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% as provided by Section 3.03 of the Loan Regulations.

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

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 1 June and 1 December in each year.

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

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

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and

outstanding from a Floating Rate to a Fixed Rate, or vice versa;
and

- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

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

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall relend the proceeds of the Loan in Rupees to NTDC under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB.

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

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

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

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

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2016 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause NTDC to carry out the Project with due diligence and efficiency and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

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

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

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

Section 4.05. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on such financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.06. The Borrower shall take all actions which shall be necessary on its part to enable NTDC to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.07. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

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

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary, Economic Affairs Division, Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary
Economic Affairs Division
Ministry of Finance, Revenue, Economic Affairs,
Statistics and Privatization
Islamabad, Pakistan

Facsimile Numbers:

(9251) 920-4086
(9251) 920-2019.

For ADB

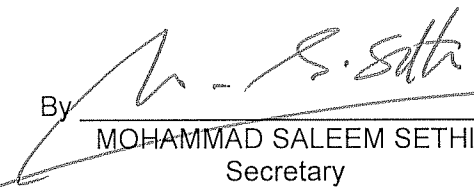
Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

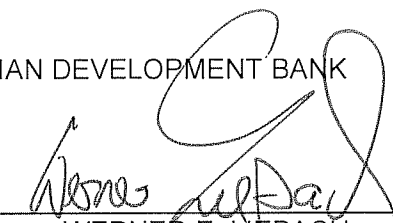
(632) 636-2444
(632) 636-2428.

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

ISLAMIC REPUBLIC OF PAKISTAN

By 
MOHAMMAD SALEEM SETHI
Secretary
Economic Affairs Division

ASIAN DEVELOPMENT BANK

By 
WERNER E. LIEPACH
Country Director
Pakistan Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Investment Program is to enhance the efficiency of the overall power transmission system and provide an adequate and reliable power supply to a greater number of commercial, industrial and residential consumers.
2. As part of the Investment Program, the Project shall comprise the following Subprojects:
 - (a) construction of line bay extension and 281 km of 500-kV transmission lines at the existing 500-kV grid station at Muzaffargarh (for evacuation of electricity from the 747-MW power plant at Guddu);
 - (b) construction of 4 new 220-kV grid stations and associated transmission lines at Chakdara, D.I. Khan, Lalian and Nowshehra;
 - (c) installation of the static var system at the 220-kV/132-kV industrial grid station at Quetta;
 - (d) extension of 500-kV grid stations at Jamshoro and Gujranwala;
 - (e) augmentation of 500-kV grid station at Rewat; and
 - (f) procurement of construction and operation equipment for grid station operations.
3. The Project is expected to be completed by 31 December 2016.

SCHEDULE 2**Amortization Schedule****(Power Transmission Enhancement Investment Program – Project 4)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 June 2019	1.650000
1 December 2019	1.650000
1 June 2020	1.750000
1 December 2020	1.750000
1 June 2021	1.750000
1 December 2021	1.750000
1 June 2022	2.100000
1 December 2022	2.100000
1 June 2023	2.200000
1 December 2023	2.200000
1 June 2024	2.200000
1 December 2024	2.200000
1 June 2025	2.300000
1 December 2025	2.300000
1 June 2026	2.250000
1 December 2026	2.250000
1 June 2027	2.250000
1 December 2027	2.250000
1 June 2028	2.250000
1 December 2028	2.250000
1 June 2029	2.200000
1 December 2029	2.200000
1 June 2030	2.200000
1 December 2030	2.200000
1 June 2031	2.200000
1 December 2031	2.200000
1 June 2032	2.200000
1 December 2032	2.200000
1 June 2033	2.200000

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 December 2033	2.400000
1 June 2034	2.400000
1 December 2034	2.400000
1 June 2035	2.400000
1 December 2035	2.500000
1 June 2036	2.500000
1 December 2036	2.600000
1 June 2037	2.600000
1 December 2037	2.600000
1 June 2038	2.600000
1 December 2038	2.700000
1 June 2039	2.700000
1 December 2039	2.800000
1 June 2040	2.800000
1 December 2040	<u>2.800000</u>
TOTAL	100.000000

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

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

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

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

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be

repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

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

Interest and Commitment Charges

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

Reallocation

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

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

Disbursement Procedures

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

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with Goods and Works, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition for Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals (other than in relation to interest and commitment charges in accordance with paragraph 3 above) shall be made from the Loan Account until the Borrower has furnished a legal opinion satisfactory to ADB: (a) specifying that the Subsidiary Loan Agreement has been duly authorized by, and executed and delivered, on behalf of the parties thereto and is legally binding upon the parties in accordance with its terms, subject only to the effectiveness of this Loan Agreement; and (b) enclosing a copy of such Subsidiary Loan Agreement.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Power Transmission Enhancement Investment Program – Project 4)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Works**	55,830,000		
1A	Works (Civil Works)**		34,730,000	100% of total expenditure claimed*
1B	Works (Turnkey)**		21,100,000	100% of total expenditure claimed*
2	Equipment**	152,540,000		100% of total expenditure claimed*
3	Interest and Commitment Charges	4,890,000		100% of amounts due
4	Unallocated	34,740,000		
	Total	248,000,000		

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

** Subject to the condition for withdrawal 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 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 Borrower 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.
5. The Borrower 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.

Conditions for Award of Contract

6. The Borrower shall not award any Works contracts for a Subproject which involves environmental impacts until NTDC has incorporated the relevant provisions from the EMP into the Works contract.
7. (a) With the exception of Works contracts that are turnkey contracts, the Borrower shall not award any Works contract for a Subproject which involves involuntary resettlement impacts until the Borrower has prepared and submitted to ADB the final LARP for the Subproject and obtained ADB clearance of such LARP.

(b) For Works contracts that are turnkey contracts, the Borrower shall cause NTDC to ensure that, subsequent to the award of any such Works contract, no notice to commence Works is issued to a contractor unless (i) the relevant LARP has been finalized based on detailed design for the Subproject and submitted to, and cleared by, ADB; and (ii) the applicable provisions of such LARP have been implemented and the Safeguards Monitoring Report on the implementation of the LARP has been submitted to, and cleared by, ADB.

Industrial or Intellectual Property Rights

8. (a) The Borrower 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 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.

ADB's Review of Procurement Decisions

9. Contracts procured under international competitive bidding procedures shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

10. In the case of a contract for Works, which is subject to ADB's prior review, the Borrower 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 applicable Loan 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).

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

12. The Borrower 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.

SCHEDULE 5

Execution of Project; Financial Matters

Implementation Arrangements

1. The Borrower and NTDC 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 or the Project Agreement, the provisions of this Loan Agreement or the Project Agreement shall prevail. Without limiting the generality of Section 4.01(b) of this Loan Agreement, in the event that the Loan Closing Date is not extended beyond 31 December 2016, the Borrower and NTDC shall continue to comply with their obligations under Schedule 5 of the Loan Agreement and the Schedule to the Project Agreement (with detailed arrangements in the PAM) until the Project is completed while ADB shall continue to oversee Project implementation until such time.

Financial Performance

2. The Borrower shall take all actions necessary to ensure the financial viability of NTDC. This includes the operationalization of the Central Power Purchasing Agency as an independent entity that is separate from NTDC by 1 January 2016, and the Borrower shall ensure that:

- (a) CPPA signs power purchase agreements, or equivalent, with WAPDA Hydel and all public sector thermal generation companies by 31 December 2015;
- (b) the Water and Power Development Agency of the Borrower enters into an agreement with CPPA for administration of all power purchase agreements of the interdependent power producers under the Policy Framework and Package of Incentives for Private Sector Power Generation Projects in Pakistan dated March 1994 by 31 December 2015; and
- (c) NTDC enters into an agreement with CPPA for administration or transfers of all power purchase agreements of independent power producers under the Policy for Power Generation Projects, 2002 by 31 December 2015.

3. (a) Except as ADB shall otherwise agree, the Borrower shall cause NTDC to ensure that it shall not incur any debt unless a reasonable forecast of the revenues and expenditures of NTDC shows that the estimated net revenues of NTDC for each fiscal year shall be, commencing from 2015, at least 1.2 times the maximum estimated debt service requirements of NTDC in such year on all debt of NTDC, including the debt to be incurred.

- (b) For the purpose of this paragraph 3:
- (i) The term “debt” means any indebtedness of NTDC maturing by its terms more than 1 year after the date of which it is originally incurred.
 - (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
 - (iii) The term “net revenues” means the difference between:
 - (A) the sum of revenues from all sources related to operations and net non-operating income, after making adequate provisions for uncollectible debts; and
 - (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt. Lease payments under finance leases must also be included.
 - (iv) The term “net non-operating income” means the difference between:
 - (A) revenues from all sources other than those related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (iv)(A) above.
 - (v) The term “debt service requirements” means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on debt.
 - (vi) The term “reasonable forecast” means a forecast prepared by NTDC not earlier than 9 months prior to the incurrence of the debt in question, which both ADB and NTDC accept as reasonable and as to which ADB has notified NTDC of its acceptability.
 - (vii) The terms “operations” or “operating” refer to the operations of NTDC.

- (viii) Whenever for the purposes of this paragraph 3 it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is at the time of such valuation obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

4. (a) Except as ADB shall otherwise agree, the Borrower shall cause NTDC to ensure that it shall maintain a self-financing ratio of at least 20%.

(b) Except as ADB shall otherwise agree, the Borrower shall cause NTDC to ensure that it shall produce, for each of its fiscal years after its fiscal year ending on 30 June 2015, cash from internal sources equivalent to not less than 20% of the annual average of NTDC's capital expenditures incurred, or expected to be incurred, for that year, the previous fiscal year and the next 2 fiscal years.

(c) Before 31 March in each of its fiscal years, the Borrower shall cause NTDC to ensure that it shall, on the basis of forecasts prepared by NTDC and satisfactory to ADB, review whether it would meet the requirements set forth in paragraph (a) above in respect of such year and the next fiscal year and shall furnish to ADB a copy of such review, upon its completion.

(d) If any such review shows that NTDC would not meet the requirements set forth in paragraph (b) for its fiscal years covered by such review, NTDC shall promptly take all necessary measures including without limitation, filing applications with the National Electric Power Regulatory Authority seeking a tariff/rate increase to meet such requirements.

(e) For the purposes of this paragraph 4:

- (i) The term "cash from internal sources" means the difference between:
 - (A) the sum of cash flows from all sources related to operations, plus cash generated from consumer deposits and consumer advances of any kind, sale of assets, cash yield of interest on investments, and net non-operating income; and
 - (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends paid and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.

- (ii) The term “net non-operating income” means the difference between:
 - (A) revenues from all sources other than those related to operations, after making adequate provisions for uncollectible debts; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (ii)(A) above.
- (iii) The term “working capital other than cash” means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (iv) The term “current assets excluding cash” means all assets other than cash which could in the ordinary course of business be converted into cash within 12 months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next fiscal year.
- (v) The term “current liabilities” means all liabilities which will become due and payable or could under circumstances then existing be called for payment within 12 months, including accounts payable, customer advances, debt service requirements taxes and payments in lieu of taxes, and dividends.
- (vi) The term “debt service requirements” means the aggregate amount of repayments (including sinking fund payments if any) of, and interest and other charges on, debt, excluding interest charged to construction and financed from loans.
- (vii) The term “capital expenditures” means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.
- (viii) The terms “operations” or “operating” refer to the operations of NTDC.
- (ix) Whenever for the purposes of this paragraph 4 it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

Tariff

5. The Borrower shall cause NTDC to fully implement the tariff determined in accordance with the National Electric Power Regulatory Authority (Tariff Standards and Procedure Rules) 1998 or its equivalent (as amended from time to time).

Environment

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

Land Acquisition and Involuntary Resettlement

7. The Borrower shall ensure, or cause NTDC to ensure, that all land and all rights-of-way required for each Subproject are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with: (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the LARF; and (d) all measures and requirements set forth in the respective LARP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report. For the avoidance of doubt, the Borrower shall ensure, or cause NTDC to ensure, that no land is acquired for the purpose of any Subproject under the emergency acquisition provisions of the Borrower's Land Acquisition Act 1894, as amended from time to time.

8. Without limiting the application of the Involuntary Resettlement Safeguards, the LARF or the LARPs, the Borrower shall ensure, or cause NTDC to ensure, that no physical or economic displacement takes place in connection with any Subproject until:

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

Indigenous Peoples

9. No impact on indigenous people is expected for the Project. However, if there is any such impact, the Borrower shall cause NTDC to ensure that it shall adhere to applicable laws and regulations of the Borrower and the SPS.

Human and Financial Resources to Implement Safeguards Requirements

10. The Borrower shall make available, or cause NTDC to make available, necessary budgetary and human resources to fully implement the EMPs and the LARPs.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

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

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

Safeguards Monitoring and Reporting

12. The Borrower shall do the following, or shall cause NTDC 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 IEEs, the EMPs or the LARPs, 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 EMPs or the LARPs promptly after becoming aware of the breach.

Prohibited List of Investments

13. The Borrower shall ensure, or cause NTDC to ensure, that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards and Health

14. The Borrower shall cause NTDC to ensure that all civil works contractors: (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 projects financed under the Facility; (c) disseminate information at worksites on health safety for those employed during construction; (d) provide equal pay to men and women for work of equal type; (e) provide safe working conditions and separate culturally appropriate facilities for male and female workers; and (f) abstain from child labor.

Counterpart Support

15. The Borrower and NTDC shall ensure the availability and timely release of counterpart funding for the timely implementation of the subprojects financed under the Investment Program, and the financing of subprojects from 31 December 2016 onwards until the completion of the Project, recognizing that ADB disbursement on the Loan cannot continue beyond 31 December 2016. For this purpose, the Borrower and NTDC shall provide a financing plan satisfactory to ADB on the projected financing needs and their financial commitments to cover such needs within 6 months of the Effective Date and provide an updated financing plan satisfactory to ADB by 30 June 2016.

Governance and Anticorruption

16. The Borrower and NTDC 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.

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