LOAN NUMBER 3374-VIE

LOAN AGREEMENT
(Ordinary Operations)

(Power Transmission Investment Program – Loan 3)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 06 October 2016

LOAN AGREEMENT
(Ordinary Operations)

LOAN AGREEMENT dated 06 October 2016 between SOCIALIST REPUBLIC OF VIET NAM ("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) the Borrower has also applied to KfW, Frankfurt am Main ("KfW") for a loan ("KfW Loan") in an amount of sixty-five million Euros (€65,000,000) to finance the construction of six additional transmission network subprojects;

(C) the Project will be carried out by the National Power Transmission Corporation ("NPT") wholly owned by the Viet Nam Electricity ("EVN") and for this purpose the Borrower will make available to NPT the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB;

(D) Component 2 (as defined in the FAM) has been deferred to tranche 4 of the Facility; and

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

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 of even date herewith between ADB and the National Power Transmission Corporation.

(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 "National Power Transmission Corporation".

(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) "Affected Persons" means displaced persons, as defined in the SPS, who are physically and/or economically displaced as a result of involuntary acquisition of land or involuntary restrictions on land use or on access to legally designated parks and protected areas under the Project;

(b) "CAP" means each corrective action plan developed for the Project, including any update thereto, incorporated in the IEE, and "CAPs" means all of them;

(c) "Component" means a component which is implemented under the Project, as more fully described in Schedule 1 to this Loan Agreement;

(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 Loan necessary to carry out Component 3 of the Project;

(f) "DDR" means each due diligence report developed for the Project, including any update thereto, prepared and submitted by NPT and cleared by ADB, and "DDRs" means all of them;

(g) "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;

(h) "Environmental Management Plan" or "EMP" means each environmental management plan for the Project, including any update thereto, incorporated in the IEE, and "EMPs" means all of them;

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

(j) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(k) "FAM" means the facility administration manual for the Investment Program dated 8 November 2011 and agreed between NPT and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower, NPT and ADB;

(l) "FFA" means the framework financing agreement dated 20 November 2011 between ADB and the Borrower with respect to the Facility;

(m) "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;

(n) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;

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

(p) "International Financial Reporting Standards" means the principles-based set of standards adopted by the International Accounting Standards Board established on 1 April 2001;

(q) "International Standards on Auditing" means professional standards for the performance of financial audit of financial information, issued by International Federation of Accountants through the International Auditing and Assurance Standards Board;

(r) "Initial Environmental Examination" or "IEE" means each initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB, and "IEEs" means all of them;

(s) "Investment Program" means the Power Transmission Investment Program;

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

(u) "Loan 3" means the third tranche of the Investment Program, namely the Power Transmission Investment Project 3;

(v) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(w) "MOF" means the Borrower's Ministry of Finance, or any successor thereto;

(x) "MOIT" means the Borrower's Ministry of Industry and Trade, or any successor thereto;

(y) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 9 October 2015;

(z) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(aa) "Procurement Plan" means the procurement plan for the Project dated 6 November 2015 and agreed between NPT and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(bb) "Project facilities" means facilities developed, constructed, updated and/or maintained under the Project;

(cc) "REMDF" means a resettlement and ethnic minority development framework developed for the Investment Program;

(dd) "REMDP" means each resettlement and ethnic minority development plan developed for the Project, including any update thereto, prepared and submitted by NPT and cleared by ADB, and "REMDPs" means all of them;

(ee) "Resettlement Plan" or "RP" means each resettlement plan for the Project, including any update thereto, prepared and submitted by NPT and cleared by ADB, and "RPs" means all of them;

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

(gg) "Safeguards Monitoring Report" means each report prepared and submitted by NPT to ADB that describes progress with implementation of and compliance with the EMPs, the CAPs, the RPs, the REMDPs and the DDRs, including any corrective and preventative actions;

(hh) "Subsidiary Loan Agreement" means a subsidiary loan agreement between the Borrower and NPT, as described in Section 3.01(a) of this Loan Agreement;

(ii) "UXO" means unexploded ordnances which are explosive weapons that did not explode when they were employed and still pose a risk of detonation; and

(jj) "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 thirty-one million three hundred and ten thousand Dollars ($231,310,000), 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 23 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 0.20% as provided by Section 3.03 of the Loan Regulations.

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

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 May and 15 November 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 to NPT 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 30 June 2020 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

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

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

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

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

Section 4.05. The Borrower shall take all actions which shall be necessary on its part to enable NPT 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 4.06. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

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

ARTICLE V

Suspension; Acceleration of Maturity

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

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

ARTICLE VI

Effectiveness

Section 6.01. 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 VII

Delegation of Authority

Section 7.01. The Borrower hereby designates NPT 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.

Section 7.02. Any action taken or any agreement entered into by NPT 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 NPT 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 Governor of the State Bank of Viet Nam is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

State Bank of Viet Nam
47 – 49 Ly Thai To
Hanoi, Viet Nam

Facsimile Number:

(84-4) 38250-612
(84-4) 38258-385

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2015.

The monitoring reports shall include resettlement audit statements and shall be verified by such independent resettlement monitoring body or person.

6. Without limiting the application of the involuntary Resettlement Safeguards or the RPs, the REMDPs and the DDRs, the Borrower shall cause NPT 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 the Affected Persons in accordance with the RPs, REMDPs and DDRs; and

(b) a comprehensive income and livelihood restoration program has been established in accordance with the RPs, REMDPs and DDRs.

Indigenous Peoples

7. The Borrower shall cause NPT to ensure that the preparation, design, construction, implementation and operation of the Project 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) all measures and requirements set forth in the REMDPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

8. The Borrower shall cause NPT to make available necessary budgetary and human resources to fully implement the EMPs, the CAPs, RPs, REMDPs and DDRs.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

9. The Borrower shall cause NPT to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

(a) comply with the measure relevant to the contractor set forth in the IEEs, the EMPs, the CAPs, RPs, REMDPs and DDRs and any corrective or preventative actions set forth in a Safeguards Monitoring Report;

(b) make available a budget for all such environmental and social measures; and

(c) provide NPT 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, the CAPs, the RPs, the REMDPs or the DDRs.

Schedule 5

Safeguards Monitoring and Reporting

10. The Borrower shall cause NPT to do the following:

(a) submit Safeguards Monitoring Reports to ADB quarterly during construction and semi-annually during Project operation until the Project completion and disclose relevant information from such reports to the 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, the CAPs, the RPs, the REMDPs, the DDRs and the REMDF, as applicable, 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, the CAPs, RPs, REMDPs and DDRs promptly after becoming aware of the breach.

Prohibited List of Investments

11. The Borrower shall cause NPT 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.

Gender

12. The Borrower shall cause NPT to implement the Project in accordance with ADB's Policy on Gender and Development (1988). In particular, the Borrower shall cause NPT to ensure that women will have equal access to Project information and benefits, including the opportunities to participate in Project planning and implementation.

13. The Borrower shall cause NPT to ensure that the REMDPs are prepared and implemented taking into consideration that (a) 100% of female headed and ethnic minority affected households are consulted; (b) the respective women's union participates actively in consultations and compensation committees; and (c) fair compensation of all households irrespective of income level, ethnic group or headed by female/male is provided.

Works Contract

14. The Borrower shall cause NPT to ensure that all Works contracts incorporate provisions and budgets to the effect that contractors will: (a) comply with applicable core labor standards, labor laws and incorporate applicable workplace occupational safety norms; (b) disseminate, or engage appropriate service providers to disseminate information on the risks of sexually transmittable infections, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project facilities, particularly to females; (c) not differentiate between men and women for work of equal value; (d) not employ child labor; (e) eliminate any form of discrimination in respect of

employment; and (f) to the extent possible, maximize employment of women, local poor and disadvantaged persons for construction purposes, provided that the requirements for efficiency are adequately met.

Power Sector and Tariff Reform

15. The Borrower shall take necessary measures to restructure its power sector into a competitive market. Such measures shall include, but are not limited to, appropriate amendments to the existing 2005 Electricity Law of the Government.

16. The Borrower shall continue to implement effective electricity tariff reforms which set the transmission charges at a level to cover costs and help finance part of the planned transmission expansion, and ensure long-term financial sustainability of power sector entities.

17. Notwithstanding paragraph 15 above, the Borrower shall continue to implement appropriate tariff schemes and social safety nets to ensure continued affordability of electricity to the poor.

Counterpart Funding

18. The Borrower shall ensure that necessary arrangements continue to be in place so that NPT can finance its portion of the Project, either through its own resources, or foreign and/or domestic financial institutions.

Financial Matters

19. Except as otherwise agreed by ADB, the Borrower shall ensure that a transmission charge is set and implemented so that NPT can achieve the financial ratio as provided in paragraph 20 below.

20. For the purposes of this paragraph, all financial calculations, ratios and financial covenants shall be applied in respect of NPT's operations only.

(a) Except as ADB shall otherwise agree, the Borrower shall ensure that for each of its fiscal years after its fiscal year ending 31 December 2015 NPT meets the following requirements:

(i) NPT will generate funds from internal sources equivalent to not less than 25% in its fiscal year 2015, and thereafter of annual average of NPT's capital expenditures incurred, or expected to be incurred, for that fiscal year.

(ii) The net revenues of NPT will be at least the following relative to the debt service requirements of NPT: 1.5 times in its fiscal year 2015, and thereafter.

(iii) NPT's ratio of debt to equity will be at least 75:25 in its fiscal year 2015, and thereafter.

(iv) Before December 31 in each of its fiscal years, NPT will, on the basis of forecasts satisfactory to ADB, review whether it would meet the requirements set forth in paragraphs 20(a) to (c) above in respect of such year and the next following fiscal year and will furnish to ADB a copy of such review upon its completion.

(v) If any such review shows that NPT would not meet the requirements set forth in paragraphs 20(a) to (c) above for NPT's fiscal years covered by such review, the Borrower, through EVN, will promptly take all necessary measures to enable NPT to meet its requirements, including but not limited to, adjustments of transmission charges, financial and institutional restructuring including the provision of financial assistance.

(b) For the purposes of paragraph 20(a)(i) above:

(i) The term "funds 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 (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 "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.

(vii) The terms "operations" or "operating" refer to all operations of NPT.

(c) For the purposes of paragraphs 20(a)(ii) and (iii) above:

(i) The term "debt" means any indebtedness of NPT maturing by its terms more than one year after the date on 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. Financial liabilities incurred by a borrower who is a lessee under finance leasing agreements may also be included as debt.

(iii) The term "net revenues" means the difference between: (A) the sum of revenues from all sources related to operations, after making adequate provisions for uncollectible debts, adjusted to take account of NPT's rates in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; 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.

(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 (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, interest charges which are incurred in financing capital expenditures during development should be excluded, if such charges are capitalized. However, if NPT's policy is to meet the cost from operating income, such interest charges should be included in "debt service requirements". Lease payments under finance leases should also be included.

(vi) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of NPT not allocated to cover specific liabilities.

(vii) Whenever for the purposes of this paragraph it shall be necessary to value, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such currency is, at the time of 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.

(viii) The terms "operations" or "operating" refer to all operations of NPT.

21. The Borrower shall cause NPT to strengthen its financial sustainability throughout the implementation of the Investment Program through, but not limited to: (a) the undertaking of asset revaluation, (b) management and staff training in financial management, planning, control, accounting, and budgeting; and (c) the application of up to date accounting and financial management and planning tools and procedures.

Reporting and Auditing

22. The Borrower shall cause NPT to prepare regular progress reports for submission to ADB on a quarterly basis. Such reports shall include: (a) a narrative description of the Project's physical progress during the period: (b) changes in the implementation schedule; (c) implementation progress of financial improvement measures including management and staff training; (d) performance of the Project implementation consultants; (e) a description of problems encountered and anticipated with suggested corrective action; (f) a description of implementation of the EMPs, the CAPs, the RPs, the REMDPs and DDRs including status of satisfactory completion of compensation, resettlement and rehabilitation activities; and (g) a summary financial account, including Project expenditures during the reporting period, year-to-date, and total expenditure to date.

23. The Borrower shall ensure the following:

(a) Within 6 months after the end of the fiscal year, NPT submits audited (i) Annual Project Accounts (APA) and (ii) Annual Financial Statements (AFS). The APA will contain detailed descriptions of the sources of receipts and expenditures. The AFS will consist of an income statement, balance sheet, statement of cash flows and related notes to financial statement. The AFS will be consolidated for all of NPT's operations.

(b) The accounts will be prepared using International Financial Reporting Standards and the audit will be carried out using International Standards on Auditing;

(c) The auditors will be required to provide an opinion on NPT's compliance with the financial covenants in this Loan Agreement and

indicate the details of the actual calculations for all ratios. in conformity with the definitions contained in this Loan Agreement;

(d) Except as otherwise agreed by ADB, NPT will continue its practice of retaining external auditors satisfactory to ADB to audit its AFS and APA. The memorandum of issues identified during the audit process (i.e., management letter) will be attached to the respective reports; and

(e) For future contracts or contract revisions with external auditors, the terms of reference of the external auditors will be provided to ADB.

UXO Clearance

24. For any Works supported under the Project, the Borrower shall ensure that NPT will not issue a notice to proceed with such Works, until it has confirmed that the related construction site is free from any UXOs.

Governance and Anticorruption

25. The Borrower and NPT 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 Investment Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

26. The Borrower and NPT 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.

27. The Borrower shall cause NPT to publicly disclose on its website information on how the Loan proceeds are being used, presenting (a) award of Goods and/or Works contracts including (i) the list of participating bidders, (ii) name of the winning bidder, (iii) basic details on bidding procedures adopted, (iv) amount of the contract awarded, (v) list of Goods and/or Works, and (vi) intended and actual utilization of Loan proceeds under each contract, and (b) internal and external resettlement reports. The website will be updated within 2 weeks after: (a) each award of contract, (b) each submission of the external monitoring agency's semi-annual resettlement reports and each submission of Safeguards Monitoring Reports, and (c) each submission of NPT's internal quarterly resettlement reports.