Financing Agreement

(Additional Financing for Energy Emergency Assistance Project)

between

KYRGYZ REPUBLIC

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 1, 2010
FINANCING AGREEMENT

Agreement dated February 1, 2010, entered into between KYRGYZ REPUBLIC ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement). The Recipient and the Association hereby agree as follows:

ARTICLE I - GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions, the Original Financing Agreement, or this Agreement.

1.03. The Original Financing Agreement is amended as set out in Section II of the Appendix to this Agreement.

ARTICLE II - FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant and a credit (collectively, “Financing”) in the following amounts to assist in financing the project described in Schedule 1 to this Agreement (“Project”):

(a) an amount equivalent to one million three hundred thousand Special Drawing Rights (SDR 1,300,000) (“Grant”); and

(b) an amount equivalent to one million three hundred thousand Special Drawing Rights (SDR 1,300,000) (“Credit”).

2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.
2.05. The Payment Dates are May 15 and November 15 in each year.

2.06. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is US Dollars.

ARTICLE III - PROJECT

3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall cause the Project to be carried out by the Project Implementing Entity in accordance with the provisions of Article IV of the General Conditions and the Project Agreement.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project are carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV - REMEDIES OF THE ASSOCIATION

4.01. The Additional Event of Suspension consists of the following, namely, that the Project Implementing Entity’s Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Project Implementing Entity to perform any of its obligations under the Project Agreement.

4.02. The Additional Events of Acceleration consist of the following, namely, that an event specified in Section 4.01 of this Agreement occurs.

ARTICLE V - EFFECTIVENESS; TERMINATION

5.01. The Additional Conditions of Effectiveness consist of the following:

(a) The Subsidiary Agreement has been executed on behalf of the Recipient and the Project Implementing Entity.

(b) The Project Operational Manual, satisfactory to the Association, has been adopted by the Project Implementing Entity.
5.02. The Additional Legal Matter consists of the following:

The Subsidiary Agreement has been duly authorized or ratified by the Recipient and the Project Implementing Entity and is legally binding upon the Recipient and the Project Implementing Entity in accordance with its terms.

5.03. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

5.04. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty years after the date of this Agreement.

ARTICLE VI - REPRESENTATIVE; ADDRESSES

6.01. The Recipient’s Representative is the Minister of Finance.

6.02. The Recipient’s Address is:

Ministry of Finance
58 Erkindik Blvd.
Bishkek City, 720040
Kyrgyz Republic

Telex:  Facsimile:
245-156 NUR KH   (996-312) 661645

6.03. The Association’s Address is:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable:  Telex:  Facsimile:
INDEVAS  248423 (MCI)  1-202-477-6391
AGREED at Bishkek, Kyrgyz Republic, as of the day and year first above written.

KYRGYZ REPUBLIC

By /s/ Marat Sultanov

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Roger J. Robinson

Authorized Representative
SCHEDULE 1

Project Description

The objective of the Project is to assist the Recipient, in accordance with the Recipient’s Energy Emergency Mitigation Action Plan (EEMAP), to increase the Recipient’s volume of energy supply, especially, the supply of thermal power in the winter season, within the Kyrgyz Republic, and to improve the sustainability of such energy supply.

The Project consists of the Original Project.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall cause the Project to be implemented by the Project Implementing Entity in accordance with the provisions of the Project Operational Manual. Except as the Association shall otherwise agree, the Recipient shall not, and shall cause the Project Implementing Entity not to, amend or waive any provision of the Project Operational Manual, if, in the opinion of the Association, such amendment or waiver may materially or adversely affect the carrying out of the Project or the achievement of the Project objectives.

2. The Recipient shall at all times ensure that the Project Implementing Entity has adequate functions, staffing and resources satisfactory to the Association.

B. Subsidiary Agreement

1. To facilitate the carrying out of the Project, the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity under a subsidiary agreement between the Recipient and the Project Implementing Entity, under terms and conditions approved by the Association (“Subsidiary Agreement”).

2. The Recipient shall exercise its rights under the Subsidiary Agreement in such manner as to protect the interests of the Recipient and the Association and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree, the Recipient shall not assign, amend, abrogate or waive the Subsidiary Agreement or any of its provisions.

C. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

D. Safeguards.

The Recipient shall: (i) take all action, including the preparation and submission of an Environmental Management Plan acceptable to the Association, as well as ensuring the provision of funds, facilities, services, and other resources, necessary or appropriate for the carrying out of the Project; (ii) cause the Project to be carried out by the Project Implementing Entity in accordance with the provisions of the Environmental
Management Plan; and (iii) not take or permit to be taken any action which would prevent or interfere with the carrying out of the Project.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

The Recipient shall cause the Project Implementing Entity to monitor and evaluate the progress of the Project and to prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators agreed with the Association. Each Project Report shall cover the period of one calendar quarter, and shall be furnished by the Project Implementing Entity to the Association not later than forty-five (45) days after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall cause the Project Implementing Entity to maintain a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. Without limitation on the provisions of Part A of this Section, the Recipient shall cause the Project Implementing Entity to prepare and furnish to the Association not later than forty-five (45) days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall cause the Project Implementing Entity to have the Financial Statements of the Project audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. The Recipient shall cause the Project Implementing Entity to furnish the audited financial statements to the Association not later than six (6) months after the reporting period agreed with the Association.

Section III. Procurement

A. General

1. Goods and Works. All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants’ Services. All consultants’ services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

**B. Particular Methods of Procurement of Goods and Works**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used.

<table>
<thead>
<tr>
<th>Procurement Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) National Competitive Bidding subject to the modifications set forth in paragraph 3 below.</td>
</tr>
<tr>
<td>(b) Shopping</td>
</tr>
<tr>
<td>(c) Direct Contracting</td>
</tr>
</tbody>
</table>

3. Procedures for National Competitive Bidding shall be carried out by using standard bidding documents acceptable to the Association, subject to the following provisions:

<table>
<thead>
<tr>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The eligibility of bidders shall be as defined under Section I of the Procurement Guidelines; accordingly, no bidder or potential bidder shall be declared ineligible for contracts financed by the Association for reasons other than those provided in Section I of the Procurement Guidelines. Exclusion from participation as a result of debarment should result from violation of clearly identified grounds of misconduct and in accordance with a fair and transparent process.</td>
</tr>
<tr>
<td>2. Procuring entities shall use the appropriate standard bidding documents acceptable to the Association.</td>
</tr>
<tr>
<td>3. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date and for a minimum period required to complete the evaluation or award contract.</td>
</tr>
</tbody>
</table>
4. No national preferences may be applied on the basis of the origin of products or labor.

5. Entities in which the State owns a majority shareholding shall not be invited to participate in tenders for the Government unless they are and can be shown to be legally and financially autonomous and they operate under commercial law.

6. Pre-qualification shall be conducted for large works contracts and shall be applied upon the Association’s agreement;

7. The pre- and post- qualification criteria shall only pertain to past contract performance, financial, managerial and technical capabilities of bidders.

8. Joint venture partners shall be jointly and severally liable for their obligations.

9. State unit costs shall not be used for contract budgeting and evaluation for civil works contracts.

10. Bids shall be opened in public, immediately after the deadline for their submission. No bids can be rejected at bid opening and under the circumstances referred to Article 6 of the Recipient’s Public Procurement Law.

11. No bids shall be rejected solely because they exceed the estimated price. Bids can be cancelled and new bids invited, only if the conditions of paragraph 2.62 of the Procurement Guidelines, are met.

12. All bid evaluation criteria shall be quantifiable in monetary terms.

13. Qualification criteria for bid evaluation shall be applied on a pass or fail basis.

14. Contracts shall be awarded to qualified bidder having submitted the lowest evaluated substantially responsive bid and no negotiations shall take place prior to the contract award.

15. There should be an effective and independent protest mechanism allowing bidders and interested parties to protest and to have their protest handled in a timely manner.

16. Advance no objection of the Association is required for any modifications in the contract scope/conditions during contract implementation.
C. Particular Methods of Procurement of Consultants’ Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants’ services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. Other Methods of Procurement of Consultants’ Services. The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Least Cost Selection</td>
</tr>
<tr>
<td>(b) Selection Based on the Consultants’ Qualifications</td>
</tr>
<tr>
<td>(c) Selection of Individual Consultants</td>
</tr>
<tr>
<td>(d) Single-Source Selection</td>
</tr>
</tbody>
</table>

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Credit and of the Grant to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category. To the extent
practicable and relevant for Category (1), the proceeds of the Grant shall be disbursed before disbursement of the proceeds of the Credit:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (expressed in SDR)</th>
<th>Amount of the Grant Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods and works</td>
<td>1,300,000</td>
<td>1,162,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Consultants’ Services, including audit</td>
<td></td>
<td>138,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>1,300,000</td>
<td>1,300,000</td>
<td></td>
</tr>
</tbody>
</table>

For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Recipient for consultants’ services supplied from the territory of any country other than that of the Recipient; and

(b) the term “local expenditures” means expenditures in the currency of the Recipient for consultants’ services supplied from the territory of the Recipient.

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed one million ten thousand Special Drawing Rights (SDR 1,010,000) equivalent may be made for payments made prior to this date but on or after September 1, 2009, for Eligible Expenditures.

2. The Closing Date is May 31, 2011.
SCHEDULE 3

Repayment Schedule

<table>
<thead>
<tr>
<th>Date Payment Due</th>
<th>Principal Amount of the Credit repayable (expressed as a percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>On each May 15 and November 15:</td>
<td></td>
</tr>
<tr>
<td>commencing May 15, 2020 to and including November 15, 2029</td>
<td>1%</td>
</tr>
<tr>
<td>commencing May 15, 2030 to and including November 15, 2049</td>
<td>2%</td>
</tr>
</tbody>
</table>
APPENDIX

Section I. Definitions


2. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.


4. “Environmental Management Plan” means the Recipient’s environmental management plan for the Project, furnished to the Association on September 14, 2008, in accordance with criteria and procedures acceptable to the Association, as such plan may be updated from time to time in agreement with the Association, setting forth the mitigating, monitoring and institutional measures to be taken during the implementation and operation of the Project to offset or reduce adverse environmental, natural habitats and cultural property impacts to levels acceptable to the Association.

5. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).

6. “Original Financing Agreement” means the Financing Agreement for the Energy Emergency Assistance Project between the Recipient and the Association, dated December 22, 2008 (Credit Number 4524 KG; Grant Number H429 KG).

7. “Original Project” means the Project described in the Original Financing Agreement.

8. “Original Project Agreement” means the Project Agreement for the Energy Emergency Assistance Project of even date with the Original Financing Agreement, and entered into between the Association and the Power Plants Company of the Kyrgyz Republic.


10. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated November 3, 2009, and referred to in paragraph 1.16 of the Procurement
Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

11. “Project Implementing Entity” means the Recipient’s Power Plants Company, or any successor thereto.

12. “Project Implementing Entity’s Legislation” means the Edict of the President of the Kyrgyz Republic, No. 38, dated January, 21, 2000, including any amendments thereto or any succeeding legislation.

13. “Project Operational Manual” means the project operational manual for the Project, referred to in Section 5.01(b) of this Agreement, setting forth the principles and procedures governing the implementation of said Project.


15. “Subsidiary Agreement” means the agreement referred to in Section I.B of Schedule 2 to this Agreement pursuant to which the Recipient shall make part of the proceeds of the Financing available to the Project Implementing Entity.

Section II. Amendment to Original Financing Agreement

The Original Financing Agreement is amended as set forth below.

Paragraph B.4 of Section IV in Schedule 2 of the Original Financing Agreement is amended to read as follows:

“4. The Closing Date is May 31, 2011.”

Section III. Modifications to the General Conditions

The modifications to the General Conditions for Credits and Grants of the Association, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

1. Section 2.07 is modified to read as follows:

“Section 2.07. Refinancing Preparation Advance

If the Financing Agreement provides for the repayment out of the proceeds of the Financing of an advance made by the Association or the Bank (“Preparation Advance”), the Association shall, on behalf of the Recipient, withdraw from the Financing Account on or after the Effective Date the amount
required to repay the withdrawn and outstanding balance of the advance as at the
date of such withdrawal from the Financing Account and to pay all accrued and
unpaid charges, if any, on the advance as at such date. The Association shall pay
the amount so withdrawn to itself or the Bank, as the case may be, and shall
cancel the remaining unwithdrawn amount of the advance.”

2. Paragraph (i) of Section 6.02 is modified to read as follows:

“Section 6.02. Suspension by the Association

... (i) Ineligibility. The Association or the Bank has declared the Project
Implementing Entity ineligible to receive proceeds of any financing made by the
Association or the Bank or otherwise to participate in the preparation or
implementation of any project financed in whole or in part by the Association or
the Bank, as a result of a determination by the Association or the Bank that the
Project Implementing Entity has engaged in fraudulent, corrupt, coercive or
collusive practices in connection with the use of the proceeds of any financing
made by the Association or the Bank.”

3. The following terms and definitions set forth in the Appendix are modified or
deleted as follows, and the following new terms and definitions are added in
alphabetical order to the Appendix as follows, with the terms being renumbered
accordingly:

(a) The term “Project Preparation Advance” is modified to read “Preparation
Advance” and its definition is modified to read as follows:

“‘Preparation Advance’ means the advance referred to in the Financing
Agreement and repayable in accordance with Section 2.07.”