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LOAN NUMBER 2502 - IND

LOAN AGREEMENT  
(Ordinary Operations)

(Uttarakhand Power Sector Investment Program – Project 3)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 25 February 2009

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LAL: IND 37139

## **LOAN AGREEMENT (Ordinary Operations)**

LOAN AGREEMENT dated 25 February 2009 between India, acting by its President (hereinafter referred to as the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter referred to as 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 Project will be carried out by the State of Uttarakhand (hereinafter referred to as the State) and for this purpose the Borrower will make available to the State the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) 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 the State;

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, 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 thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

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

**Commitment Charge; Credit.** (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 amount of the credit against the interest payable by the Borrower.

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

(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.

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

(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, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2007, as amended from time to time);

(b) "EARF" means the Environmental Assessment and Review Framework prepared in accordance with ADB's Environment Policy, 2002;

(c) "EMP" means the Environment Monitoring Plan prepared accordance with the EARF for the Project;

(d) "Equipment" for the purposes of turnkey contracts under the Project shall mean Goods and Works;

(e) "FFA" means the Framework Financing Agreement dated 05 December 2005 entered into between ADB and India for the Facility;

(f) "Facility" means the Multitranche Financing Facility provided by ADB to the Borrower in accordance with ADB's policy under Pilot Financing Instruments and Modalities (R194-05) dated 4 August 2005;

(g) "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;

(h) "IEE" means the Initial Environment Examination prepared in accordance with the EARF;

(i) "Investment Program" means the Uttarakhand Power Sector Investment Program;

(j) "PFR" means the Periodic Financing Request 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 PFR dated 05 December 2008;

(k) "PIU" means the Project Implementation Unit established by PTCUL under ADB Loan 2309;

(l) "PMO" means the Project Management Office established by the UED under ADB Loan 2309;

(m) "PPMS" means Project Performance Monitoring System;

(n) "PTCUL" means the Power Transmission Corporation of Uttarakhand Limited or its legal successor;

(o) "Part" means each of the Part as listed under Schedule 1 to this Loan Agreement;

(p) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);

(q) "Procurement Plan" means the Procurement Plan for the Project attached to the PFR, and agreed between the Borrower, the State, and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(r) "Project" means as generally defined under the Loan Regulations and referred to as Project 3 under the Investment Program for this Loan Agreement;

(s) "Project Executing Agency" or "EA" for the purposes of, and within the meaning of, the Loan Regulations means the State acting through UED, which is responsible for the carrying out of the Project;

(t) "Project facilities" mean the facilities provided or to be provided under the Project;

(u) "Project Implementing Agencies" or "IAs" mean PTCUL for Part A of the Project, and PMO for Part B of the Project;

(v) "RF" means the Resettlement Framework prepared in accordance with ADB's Involuntary Resettlement Policy, 1995;

(w) "RP" means the Resettlement Plan prepared in accordance with the RF;

(x) "Scheduled Tribes" means the tribes or tribal communities or parts of or groups within tribes or tribal communities notified as such for the State by the Borrower under Article 342 of the Constitution of India;

(y) "State" means the State of Uttarakhand, a political subdivision of the Borrower, where the Project is to be implemented;

(z) "UED" means the Uttarakhand Energy Department of the State or its legal successor; and

(xx) "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 thirty million and six hundred thousand Dollars (\$30,600,000), 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 20 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (b) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this 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 LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.40% 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 sixty (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 July and 15 January 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 paragraph (a) of this Section 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 make the proceeds of the Loan available to the State upon terms and conditions mutually agreeable to ADB and the Borrower and shall cause the State to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

(b) The Borrower shall cause the State to make available (i) to PTCUL through UED an amount of twenty seven million and six hundred thousand Dollars (\$27,600,000) for Part A of the Project; and (ii) to the PMO through UED an amount of three million Dollars (\$3,000,000) for Part B of the Project, upon terms and conditions mutually agreeable to ADB and the Borrower.

Section 3.02. The Goods, Works and consulting services to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such Goods, Works and consulting services shall be 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, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting or services have 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 Goods, Works and consulting services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2012 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 State to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental and power sector 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 through the State, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall cause the State to make available, promptly as needed, the funds, facilities, services and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall cause the State to ensure that the activities of the departments and agencies of the State, 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 take all action which shall be necessary on its part to enable the State to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the financing arrangements with the Borrower for the Project, 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 financing arrangements shall be assigned, amended, abrogated or waived without the prior notice to ADB.

## **ARTICLE V Effectiveness**

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

## **ARTICLE VI Miscellaneous**

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director or Deputy Secretary in the Department of Economic Affairs, Ministry of Finance 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 to the Government of India  
Department of Economic Affairs  
Ministry of Finance  
North Block  
New Delhi – 110001  
India

Facsimile Numbers:  
(91-11) 2309-2477  
(91-11) 2309-7511.


For ADB

Asian Development Bank  
P.O. Box 789  
0980 Manila  
Philippines

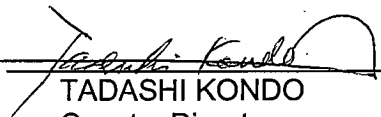
Facsimile Numbers:  
(632) 636-2444  
(632) 636-2338.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

INDIA

By   
\_\_\_\_\_  
GOVIND MOHAN  
Joint Secretary (Infra)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
TADASHI KONDO  
Country Director  
India Resident Mission

**SCHEDULE 1**  
**Description of the Project**

1. The Project comprises the following Parts:

Part A – Substation

This part will assist in construction of the 400 KV Srinagar Substation.

Part B - Capacity Building

This part will assist through consulting services in (i) human resources development and corporate management; and (ii) Project implementation.

2. The Project is expected to be completed by 31 December 2011.

**SCHEDULE 2**  
**Amortization Schedule**  
**(Uttarakhand Power Sector Investment Program – Project 3)**

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.

Sequence	Date Payment Due	Installment Share (Expressed as a % based on 10% annuity)
1	15 Jul 2014	0.827816
2	15 Jan 2015	0.869207
3	15 Jul 2015	0.912667
4	15 Jan 2016	0.958301
5	15 Jul 2016	1.006216
6	15 Jan 2017	1.056526
7	15 Jul 2017	1.109353
8	15 Jan 2018	1.164820
9	15 Jul 2018	1.223061
10	15 Jan 2019	1.284214
11	15 Jul 2019	1.348425
12	15 Jan 2020	1.415846
13	15 Jul 2020	1.486639
14	15 Jan 2021	1.560971
15	15 Jul 2021	1.639019
16	15 Jan 2022	1.720970
17	15 Jul 2022	1.807019
18	15 Jan 2023	1.897369
19	15 Jul 2023	1.992238
20	15 Jan 2024	2.091850
21	15 Jul 2024	2.196442
22	15 Jan 2025	2.306264
23	15 Jul 2025	2.421578
24	15 Jan 2026	2.542657
25	15 Jun 2026	2.669789
26	15 Jan 2027	2.803279
27	15 Jul 2027	2.943443
28	15 Jan 2028	3.090615

## Schedule 2

Sequence	Date Payment Due	Installment Share (Expressed as a % based on 10% annuity)
29	15 Jul 2028	3.245146
30	15 Jan 2029	3.407403
31	15 Jul 2029	3.577773
32	15 Jan 2030	3.756662
33	15 Jul 2030	3.944495
34	15 Jan 2031	4.141720
35	15 Jul 2031	4.348806
36	15 Jan 2032	4.566246
37	15 Jul 2032	4.794558
38	15 Jan 2033	5.034286
39	15 Jul 2033	5.286000
40	15 Jan 2034	5.550311
	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.

Schedule 2

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 Goods, Works, and consulting services to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table).

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Taxes and Duties

3. No withdrawals from the Loan Account shall be made in respect of taxes and duties imposed within the territory of the Borrower.

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, in consultation with and by notice to the Borrower and the State, (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 then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with and by notice to the Borrower and the State, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, and consulting services, shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2007 (ADB's Loan Disbursement Handbook), as amended from time to time.

Imprest Account; Second Generation Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an Imprest Account at the Reserve Bank of India. The Imprest Account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited into the Imprest Account shall not exceed the lower of the estimated expenditure for the first six months of Project implementation, or the equivalent of 10 percent of the Loan amount.

(b) Except as ADB may otherwise agree, the Borrower may cause the State to establish immediately after the Effective Date, a Second Generation Imprest Account (SGIA) in a non-interest bearing commercial bank account. The Borrower shall pass on the Rupee equivalent of ADB's imprest advance as provided in clause (a) of this paragraph. The SGIA shall also be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited in the SGIA shall not exceed lower of the estimated expenditure for the first six months of Project implementation, or the equivalent of 10 percent of the Loan amount.

(c) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for the Project and to liquidate advances provided into the Imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000.

Retroactive Financing

7. Withdrawals from the Loan Account may be made for reimbursement of reasonable 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 items to be retroactively financed, subject to a maximum amount equivalent to 20 percent of the Loan amount.

**TABLE**

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b> (Uttarakhand Power Sector Investment Program – Project 3)			
<b>CATEGORY</b>			<b>ADB FINANCING BASIS</b>
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Percentage of ADB Financing from the Loan Account
1	Equipment	27,600,000	70 percent of total expenditure claimed
2	Consulting Services	3,000,000	100 percent of total expenditure claimed*
	Total	30,600,000	

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

**SCHEDULE 4**  
**Procurement of Goods and Works, and Consulting Services**

**A. General**

1. All Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

**B. Procurement for Goods and Works**

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:

International Competitive Bidding

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 methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

4. Domestic Preference. The Borrower may allow the State to 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.

**C. Selection of Consulting Services**

5. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall cause the State to apply quality- and cost-based selection for selecting and engaging consulting services.
6. The Borrower shall recruit the individual consultants for Project implementation support under Capacity Building component as indicated under Schedule 1 to this Loan Agreement in accordance with procedures acceptable to ADB for recruiting individual consultants.

**D. Conditions for award of and commencement of Civil Works**

7. The Borrower shall cause the State to ensure through PTCUL that civil works
  - (a) shall not be awarded under the Project until the requirements of paragraph 10(b) of Schedule 5 to this Loan Agreement have been complied with; and
  - (b) shall not commence under the Project until the requirements of paragraphs 10(b), 11(b), and 12(c) of Schedule 5 to this Loan Agreement have been complied with.

**E. Industrial or Intellectual Property Rights**

8. (a) The Borrower shall cause the State to 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 cause the State to 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.

9. The Borrower shall cause the State to ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

**F. ADB's Review of Procurement Decisions**

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

**SCHEDULE 5**  
**Execution of Project and Operation**  
**of Project Facilities; Financial Matters**

Project Execution and Implementation Arrangements

EA and IA

1. (a) The State acting through UED shall be the EA that shall be responsible for the execution of the Project.  
  
(b) PTCUL and PMO shall be the IAs for the Project, for Part A, and Part B respectively.
2. Towards compliance with the requirements of this Loan Agreement, the Borrower shall cause that (i) the State, and (ii) through the State the UED, PTCUL, PMO, and all departments, committees and agencies set up herein, undertake activities and respective responsibilities as set out in this Loan Agreement and related documents in a timely manner to achieve the objectives of the Project and the Facility.
3. The State shall ensure timely implementation of the Project and ensure that the EA and IAs regularly liaise with ADB for effective implementation of the Project.
4. The State shall (i) ensure timely and adequate provision of counterpart funds by UED and PTCUL; and (ii) cause UED to ensure that the PMO is fully staffed for smooth and effective Project implementation.
5. The PMO and PTCUL shall undertake detailed design, procurement, construction supervision, commissioning, maintenance and operation of the transmission line.
6. The PMO shall continue to maintain expertise in planning, design, construction management, financial management, accounting, auditing, procurement, contract management, and environmental and social safeguards management.
7. The UED acting through the PMO shall have the primary responsibility for the Project coordination. PMO through the IAs shall be responsible for processing and implementation of the Project. The PMO shall continue to be assisted by technical experts who shall evaluate technical reports, feasibility studies, preliminary design reports, IEE (including EMP with budget), resettlement, and detailed design report to ensure compliance with the requirements of ADB and the Borrower.
8. The PIU shall be responsible for field operations, including, without limitation, construction supervision, quality assurance and quality control, and environmental and social safeguards implementation for Part A of the Project.

Financial Management

9. The EA shall ensure and cause PTCUL to ensure that the current capacity development program that covers financial management and human resource development is implemented on a timely basis from 2008-2012.

Resettlement and Social Matters

10. The EA shall cause PTCUL to:

(a) make available all land and rights-of way required for the Project in a timely manner and that the provisions of RP, including compensation and entitlements for affected households and persons, shall be implemented in conformity with all applicable laws and regulations of the Borrower and the State, including as amended from time to time, the entitlement benefits as listed in the Borrower's applicable laws, and ADB's Involuntary Resettlement Policy, 1995, and the RP;

(b) ensure that the RP (including as may be updated based on detailed designs) is submitted to ADB for approval as a condition for award of civil works contract under the Project;

(c) ensure that prior to the commencement of civil works under the Project, people affected by the Project are consulted and fairly compensated in a timely manner in accordance with ADB's Policy on Involuntary Resettlement (1995), the RP, and laws and regulations of the Borrower and the State;

(d) submit progress and completion reports on land acquisition and resettlement under the quarterly progress reports for the Project;

(e) ensure that prior to land acquisition and any resettlement thereunder, the RP including its update based on consensus of affected people, is disclosed with all necessary information made available to affected people, and confirm that these be uploaded on ADB website;

(f) ensure that essential public infrastructure that may be affected under land acquisition and resettlement is replaced as appropriate in an expeditious manner in accordance with the RP; and

(g) ensure that, to the extent any Scheduled Tribes are likely to be affected by the Project, the measures set forth as indigenous peoples specific actions in the RP are carried out in accordance with such actions, Borrower's and State's applicable laws, and ADB Policy on Indigenous People (1998).

11. (a) The EA shall cause PTCUL to ensure that contracts under the Project follow all applicable labor laws of the Borrower and the State and that these further include provisions to the effect that contractors: (i) do not use children as labor; and (ii) follow legally mandated provisions of labor (including equal pay for equal work), health, safety, sanitation, welfare and working conditions. Such contracts shall also include clauses for termination in case of any breach of these provisions by the contractors.

(b) The EA shall cause PTCUL to ensure that construction contracts contain binding requirements for the contractors to fully reinstate pathways, other local infrastructures, and agricultural land to at least their pre-Project condition upon construction completion; and that provision shall also be made for adequate recording of the condition of roads, agricultural land and other infrastructure prior to transport of material and construction commencement.

### Environment

12. The EA shall cause PTCUL to ensure that:

(a) the Project is undertaken and the Project facilities are designed, implemented, operated and maintained, in accordance with all applicable laws, rules and regulations of the Borrower and the State, and ADB's Environment Policy, 2002;

(b) all monitoring and mitigation measures indicated in the IEE and specified in the EMP shall be included into site specific EMPs and incorporated into civil works contracts;

(c) all environmental permits, licenses and clearances are obtained in a timely manner prior to commencement of civil works;

(d) the necessary IEE and EMP (with budget) are implemented in a timely manner; and

(e) the implementation of the EMP is monitored, audited, and reported to ADB, on six monthly basis.

13. The EA shall ensure that all associated hydropower projects in the State (not financed by ADB) that are intended to be connected to the ADB supported transmission network under the Project and/or the Facility, shall be constructed and commissioned in compliance with the laws and regulations of the Borrower, prior to connecting such projects to the ADB supported transmission network under this Project and/or the Facility.

### PPMS

14. (a) The EA shall ensure that within 3 months of the Effective Date, the IAs shall establish a PPMS, in form and substance acceptable to ADB, in accordance with the performance indicators agreed with ADB.

(b) The IA shall undertake periodic performance review of the Project and the Facility in accordance with the PPMS to evaluate the scope, implementation arrangements, progress and achievement of the objectives of the Project and the Facility.

15. Notwithstanding the generality of Section 2.08 of the Project Agreement, the EA shall also include in the quarterly progress reports on Project implementation, information on overall progress of the Facility; and benefit monitoring for the Project undertaken pursuant to the PPMS.

Review

16. (a) ADB, the Borrower, and the State shall meet regularly as required to discuss the progress of the Project and any changes in the implementation arrangements or remedial measures required to be taken to achieve the objectives of the Project and the Facility.

(b) ADB, the Borrower, and the State shall undertake a mid-term review of the Project, around 2 years from the Effective Date which shall include review of issues and any problems and/or weaknesses in implementation arrangements and shall agree on any changes needed to achieve the objectives of the Project.