
LOAN NUMBER 2309 - IND

LOAN AGREEMENT
(Ordinary Operations)

(Uttarakhand Power Sector Investment Program - Project 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 22 FEBRUARY 2007

LAL: IND 37139

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 22 February 2007 between India, acting by its President (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called 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 called 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, (said Ordinary Operations Loan Regulations being hereinafter called the Loan Regulations) .

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" mean "Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers" dated April 2006, 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) “EIA” means the Environment Impact Assessment report prepared or to be prepared for Category A Subprojects in accordance with the EARF;

(d) “EMP” means the Environment Monitoring Plan prepared or to be prepared in accordance with the EARF for the Subprojects;

(e) “Facility” means that multitranches 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;

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

(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 or to be prepared for Category B and/or B-sensitive Subprojects in accordance with the EARF;

(i) “Investment Program” means the Uttarakhand Power Sector Investment Program, as more fully described in the RRP;

(j) “IPDF” means the Indigenous Peoples Development Framework prepared in accordance with ADB’s Policy on Indigenous Peoples, 1998;

(k) “IPDP” means the Indigenous Peoples Development Plan prepared or to be prepared for the Subprojects in accordance with the IPDF;

(l) “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 30 November 2006;

(m) “PIUs” means the Project Implementation Units to be established by PTCUL and UJVNL in accordance with paragraph 8 of Schedule 5 to this Loan Agreement;

(n) “PMO” means the Project Management Office to be established by the UED in accordance with paragraph 6 of Schedule 5 to this Loan Agreement;

(o) “Procurement Guidelines” means ADB’s “Procurement Guidelines” dated April 2006, as amended from time to time;

(p) “Procurement Plan” means the procurement plan for the Project, dated 30 November 2006 (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;

(q) “Project” means as generally defined under the Loan Regulations and referred to as Project 1 under the Investment Program for this Loan Agreement;

(r) "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;

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

(t) "Project Implementing Agencies" or "IAs" means UJVNL for Part A of the Project, and PTCUL for Part B of the Project;

(u) "PTCUL" means the Power Transmission Corporation of Uttaranchal Limited or any legal successor thereof;

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

(w) "RP" means the Resettlement Plan prepared or to be prepared for the Subprojects in accordance with the RF;

(x) "RRP" means the Report and Recommendation of the President of ADB to its Board of Directors (R46-06) dated 9 March 2006 for the Investment Program;

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

(z) "Subproject" means each of the subprojects under Part A of the Project, as more fully described in Schedule 1 to this Loan Agreement;

(aa) "UED" means the Uttarakhand Energy Department of the State or any legal successor thereof;

(bb) "UERC" means the Electricity Regulatory Commission for the State, existing under the Electricity Act, 2003 of the Borrower;

(cc) "UJVNL" means the Uttaranchal Jal Vidyut Nigam Limited or any legal successor thereof; and

(dd) "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 forty one million nine hundred twenty thousand dollars (\$41,920,000), 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 term of 25 years, including a grace period of 5 years, as provided 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.

Section 2.03. (a) The Borrower shall pay a commitment charge at the rate of three-fourths of one percent (0.75%) per annum. Such charge shall accrue on amounts of the Loan (less amounts withdrawn from time to time), during successive periods commencing sixty (60) days after the date of this Loan Agreement, as follows:

during the first twelve-month period, on \$6,288,000;
 during the second twelve-month period, on \$18,864,000;
 during the third twelve-month period, on \$35,632,000; and
 thereafter, on the full amount of the Loan.

(b) If any amount of the Loan is cancelled, the amount of each portion of the Loan stated in paragraph (a) of this Section shall be reduced in the same proportion as the cancellation bears to the full amount of the Loan before such cancellation.

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 as mutually agreeable to ADB and the Borrower.

(b) The Borrower shall cause the State to (i) make available to UJVNL through UED an amount of thirty nine million one hundred ten thousand dollars (\$39,110,000) from the Loan proceeds for Part A of the Project; and (ii) make available to PTCUL through UED an amount of two million eight hundred ten thousand dollars (\$2,810,000) for Part B of the Project, upon terms and conditions satisfactory to ADB.

(c) The Borrower 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.

Section 3.02. The Goods, Works and consulting services and other items of expenditure 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 and other items of expenditure 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 make available or cause the State to make available, promptly as needed and on terms and conditions acceptable to ADB, 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 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 State 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 such financing arrangements shall be assigned, amended, abrogated or waived without the prior concurrence of 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 the 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 Number:

(9111) 2309-2477
(9111) 2309-7511.

For ADB

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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

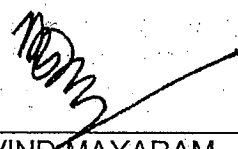
29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

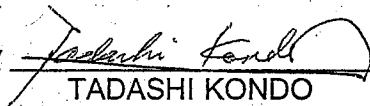
(632) 636-2444
(632) 636-2338.

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 
ARVIND MAYARAM
Joint Secretary
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By 
TADASHI KONDO
Country Director
India Resident Mission

SCHEDULE 1

Description of the Project

1. The overall objective of the Investment Program is to: (a) raise output and efficiency of the Uttarakhand power sector; and (b) ensure fully inclusive power services for all type of consumers in Uttarakhand: residential; industrial; commercial; and public administrations.

2. As part of the Investment Program, the Project consists of the following parts:

Part A - Subprojects:

- (a) Madhyamaheswar Hydropower Plant: This Subproject includes designing, construction, and commissioning of a 10 megawatt (MW) hydropower plant;
- (b) Kalidigad Hydropower Plant: This Subproject includes designing, construction, and commissioning of a 9 MW hydropower plant;
- (c) Kaliganga-I Hydropower Plant: This Subproject includes designing, construction, and commissioning of a 4 MW hydropower plant;
- (d) Kaliganga-II Hydropower Plant: This Subproject includes designing, construction, and commissioning of a 6 MW hydropower plant; and
- (e) Hydrological Information System: This Subproject includes designing of a hydro-meteorological monitoring system to support state-wide hydro power system operations and planning and design of future hydropower expansion.

Part B – Capacity Building (Consulting Services):

- (a) Provision of consulting services in the areas of designing and construction management. Consultants scope of work includes: preparation of technical specifications and bid packages; review of technical and financial proposals; preparation of bid evaluation reports; review of detailed design documents; assistance in quality assurance and quality control, including field supervision; implementation of environmental and social safeguards as defined in the RRP and FFA, as more fully described in the detailed terms of reference of the consultants.
- (b) Acquisition of hardware and software to support transmission system planning, design, construction management, and system operations.

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

SCHEDULE 2

Amortization Schedule

(Uttarakhand Power Sector Investment Program - Project 1)

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

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15-Jul-2012	0.83
15-Jan-2013	0.87
15-Jul-2013	0.91
15-Jan-2014	0.96
15-Jul-2014	1.01
15-Jan-2015	1.06
15-Jul-2015	1.11
15-Jan-2016	1.16
15-Jul-2016	1.22
15-Jan-2017	1.28
15-Jul-2017	1.35
15-Jan-2018	1.42
15-Jul-2018	1.49
15-Jan-2019	1.56
15-Jul-2019	1.64
15-Jan-2020	1.72
15-Jul-2020	1.81
15-Jan-2021	1.90
15-Jul-2021	1.99
15-Jan-2022	2.09
15-Jul-2022	2.20
15-Jan-2023	2.31
15-Jul-2023	2.42
15-Jan-2024	2.54
15-Jul-2024	2.67
15-Jan-2025	2.80
15-Jul-2025	2.94
15-Jan-2026	3.09
15-Jul-2026	3.25
15-Jan-2027	3.41
15-Jul-2027	3.58

Schedule 2

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15-Jan-2028	3.76
15-Jul-2028	3.94
15-Jan-2029	4.14
15-Jul-2029	4.35
15-Jan-2030	4.57
15-Jul-2030	4.79
15-Jan-2031	5.03
15-Jul-2031	5.29
15-Jan-2032	5.54
TOTAL	100.00

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

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

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

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

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

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

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. This Schedule sets forth the allocation of amounts of the Loan.

Withdrawals

2. Subject to the provisions of section 3.01 of the Loan Agreement, and except as the Borrower and ADB may otherwise agree, the Loan proceeds shall be disbursed on the basis of following percentages:

- (a) Goods and Works – 70% of total expenditures; and
- (b) consulting services – 100% of eligible expenditures.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and subject to paragraph 2 of this Schedule,

(a) if the amount of the Loan allocated to any Subproject within a Part appears to be insufficient to finance all agreed expenditures in that Subproject in such Part, ADB may in consultation with the Borrower and the State, (i) reallocate to such Subproject within the same Part, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Subproject in the same Part 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 Subproject in such Part may continue until all expenditures there under shall have been made; and

(b) if the amount of the Loan then allocated to any Subproject in a Part appears to exceed all agreed expenditures in that Subproject in such Part, ADB may, in consultation with the Borrower and the State, reallocate such excess amount to any other Subproject in the same Part.

Disbursement Procedures; Statement of Expenditures

4. Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the Loan proceeds shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2001 (ADB's Loan Disbursement Handbook), as amended from time to time, using direct payment procedures and reimbursement procedures. The statement of expenditures (SOE) procedures may be used for reimbursement of eligible expenditures; any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000.

Retroactive Financing

5. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project towards civil works and consulting services, 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.

Imprest Account, Second Generation Imprest Account, and 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 dated January 2001, and the Interim Guidelines for Disbursement Operations for LIBOR-Based Loan Products dated July 2002, both as amended from time to time, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited and thereafter to be maintained in the imprest account shall not exceed the equivalent of \$4,192,000 (i.e., 10% of the Loan) or the estimated expenditures for the next six months, whichever is lower.

(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 dated January 2001, and the Interim Guidelines for Disbursement Operations for LIBOR-Based Loan Products dated July 2002, both as amended from time to time, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited and thereafter to be maintained in the SGIA shall not exceed the equivalent of \$4,192,000 (i.e., 10% of the Loan) or the estimated expenditures for the next six months, whichever is lower.

(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" dated January 2001, as amended from time to time 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.

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods and 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
National Competitive Bidding
Limited International Bidding
Shopping

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

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.

5. National Competitive Bidding. The bidding documents and procurement procedures as agreed between EA and ADB for use under advance contracting, as also set out in the Procurement Plan, will be followed. Any modifications to these will be agreed between EA and ADB and further set out in the Procurement Plan.

C. Conditions for Award of Contract

6. The Borrower shall ensure that the State shall not award any Works contracts financed under the Loan until the RP(s) (as may be amended, revised and/or updated based on detailed design(s)) shall have been submitted to ADB for approval.

D. Selection of Consulting Services

7. 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.

8. The Borrower shall cause the State to apply the following methods for selecting and engaging the specified consulting services, in accordance with, among other things, the procedures set forth in the Procurement Plan:

Quality Cost Based Selection
Least-Cost Selection
Consultants' Qualifications Selection

E. Industrial or Intellectual Property Rights

9. (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.

10. 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

11. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower, 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

Project Executing Agency

1. The State acting through UED shall be the Project Executing Agency and shall be responsible for the execution of the Project.

Project Implementing Agencies

2. UJVNL shall be the Project Implementing Agency for Part A of the Project and PTCUL shall be the Project Implementing Agency for Part B of the Project.

3. The State acting through UED shall ensure timely implementation by UJVNL of Part A of the Project and by PTCUL of Part B of the Project. EA and IAs shall liaise, on a regular basis, with ADB.

4. The State shall ensure timely and adequate provision of counterpart funds by UED, PTCUL and UJVNL.

5. PMO, PTCUL, and UJVNL shall undertake detailed design, procurement, construction supervision, commissioning, maintenance and operation of the Subprojects.

6. UED shall establish PMO on or before 1 January 2007 at Dehradun, Uttarakhand. PMO shall be headed by the head of the UED or such other officer as nominated by the State, and shall include representatives of: (i) UED; (ii) UJVNL; (iii) PTCUL and (iv) other State departments, if necessary. PMO shall have and maintain expertise in planning, design, construction management, financial management, accounting, auditing, procurement, contract management, and environmental and social safeguards management.

7. UED through PMO shall have the primary responsibility for the Project coordination. PMO through the related IAs shall be responsible for processing and implementation of the Subprojects. PMO shall be assisted by technical experts who shall evaluate technical reports, feasibility studies, preliminary design reports, environmental assessment reports (including environmental management plans (EMPs) with budget), resettlement and indigenous peoples development plans, and detailed design reports to ensure compliance with the requirements of ADB and the Borrower.

8. PTCUL and UJVNL each shall establish one PIU on or before 1 January 2007 at their respective offices in Dehradun, Uttarakhand. PIUs shall be responsible for field operations, including, without limitation, construction supervision, quality assurance and quality control, and environmental and social safeguards implementation.

Performance Monitoring and Reporting

9. The State through UED shall ensure that within three (3) months of the Effective Date, the respective IAs shall establish a Performance Monitoring System, in form and substance acceptable to ADB, in accordance with the performance indicators specified in Appendix 1 (Design and Monitoring Framework) to the RRP.

10. The IAs shall undertake periodic performance reviews of each related Subproject and the Facility in accordance with the above-mentioned Performance Monitoring System to evaluate the scope, implementation arrangements, progress and achievement of the objectives of the Project and the Facility.

11. Notwithstanding the generality of Section 2.08 of the Project Agreement,

(a) The State through UED shall prepare and provide ADB, within 45 days from close of each quarter, with quarterly progress reports on Subprojects' implementation. Such reports shall include information on: (i) overall progress of the Facility; (ii) progress made in the implementation of the Project during the period of review; (iii) changes, if any, in the implementation schedule; (iv) problems or difficulties encountered and remedial actions taken; and (v) work to be undertaken in the coming quarter. The quarterly progress report shall also include: (i) summary financial account(s) for each Subproject, (vi) expenditures to-date for each Subproject; and (vii) a report on benefit monitoring undertaken pursuant to the preceding paragraph of this Schedule.

(b) The State shall provide ADB with periodic overall progress reports on the Project, in form and substance, mutually agreed between the Borrower, the State, and ADB.

12. Without limiting the generality of Section 2.08(c) of the Project Agreement and Section 7.04(d) of the Loan Regulations, the State through the Borrower shall submit to ADB: (i) a Project Completion Report within three (3) months of physical completion of the Subprojects; and (ii) a Facility Completion Report within three (3) months of physical completion of the subprojects under the Facility. These reports shall contain a detailed evaluation of the Project and the Facility, covering the design, costs, contractors' and consultants' performance, social and economic impact, economic rate of return, and such other details, as may be requested by ADB.

13. UJVNL through UED shall submit, on six-monthly basis, reports on implementation of EMP(s).

Review

14. 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.

15. ADB, the Borrower and the State shall undertake a mid-term review of the Project, 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.

16. ADB, the Borrower and the State shall undertake a mid-term review of the Facility in the fourth year from date of approval of the Facility by ADB.

Sector Reforms

17. The State acting through UED shall cause PTCUL and UJVNL to:

- (i) conform to the tariff orders issued from time to time by UERC to ensure reduced transmission and distribution losses, rational power pricing, and graduated rationalization in tariffs as determined by UERC;
- (ii) file tariff applications with UERC in a timely manner.

18. The Borrower and the State shall continue to emphasize and support the autonomy of PTCUL and UJVNL with respect to commercial, administrative and operational activities.

Financial Governance

19. In accordance with tariff orders issued by UERC, the State acting through UED shall ensure that PTCUL and UJVNL maintain the following financial management objectives from FY 2006-2007 until FY 2011-2012:

- (i) debt-service coverage ratio of not less than 1.2, and
- (ii) accounts receivable of no more than 2 months of billing.

Financial Management

20. The State shall ensure that internal controls shall be strengthened to be consistent with international standards by setting up and maintaining independent and autonomous internal audit departments in IAs.

21. The State shall cause IAs to adopt, by end of 2007, computerized accounting and management information systems, including online billing and collection systems, where appropriate and practical.

Subprojects Selection Criteria

22. EA and IAs shall be jointly responsible for selection and preparation of the Subprojects and shall follow the criteria set out herein below for selecting each Subproject:

- (i) Subprojects shall be consistent with overall least-cost generation and transmission expansion plan of Uttarakhand, and shall be formulated on a least-cost basis.
- (ii) Subprojects shall be technically feasible and shall utilize advanced but proven technologies, with performance-based design consistent with international benchmarks for system efficiency and operational risks.

Schedule 5

- (iii) Subprojects shall be economically viable and financially sustainable.
- (iv) Hydropower Subprojects shall be part of UJVNL expansion plans, and their scheduling shall be coordinated with PTCUL for connection to the transmission system.
- (v) Subprojects shall have met all environmental and social safeguard obligations of the Borrower, the State and ADB.
- (vi) All necessary approvals of the Borrower and the State shall have been obtained for the Subprojects.

Resettlement and Social Matters

23. The State acting through UED shall cause PTCUL and UJVNL to:

- (i) make available all land and rights-of way required for the Subprojects in a timely manner and that the provisions of RF and any necessary 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 National Policy on Resettlement & Rehabilitation, notified in February 2004, and ADB's Involuntary Resettlement Policy, 1995, and the agreed RF and RP;
- (ii) ensure that people affected by each Subproject are consulted and fairly compensated in a timely manner on replacement values in accordance with the related RPs and RF, such that their living standards are not adversely affected;
- (iii) submit progress and completion reports on land acquisition and resettlement under the quarterly progress reports for each Subproject;
- (iv) prepare and implement for the Subprojects IPDP in accordance with the IPDF; and
- (v) engage within 3 months of the Effective Date independent external experts for monitoring and grievance redress mechanisms to address any grievances of affected people on resettlement, environment and other social issues.

24. The State acting through UED shall 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.

Environment

25. The State acting through UED shall cause PTCUL and UJVNL to ensure that:
- (i) each Subproject is undertaken and the Project facilities are operated and maintained, in accordance with all applicable laws, rules and regulations of the Borrower and the State and ADB's Environment Policy, 2002, as amended from time to time;
 - (ii) prepare and implement for each Subproject, the necessary IEE, EIA, and EMP (with budget) in accordance with EARF;
 - (iii) for any Category A or B-sensitive Subprojects, summary EIA or IEE shall be prepared ADB's Environment Policy, 2002, as amended from time to time, and made available to the public 120 days in advance of the approval of the Subproject.
26. The State acting through UED shall cause PTCUL and UJVNL to monitor, audit, and report to ADB, on six monthly basis, the implementation of EMP for each Subproject.