
LOAN NUMBER 2461-IND

LOAN AGREEMENT
(Ordinary Operations)

(Himachal Pradesh Clean Energy Development Investment Program - Tranche 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 10 NOVEMBER 2008

LAL: IND 41627

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 10 November 2008 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 MPP & Power Department of the State of Himachal Pradesh (hereinafter called the "State") together with Himachal Pradesh Power Corporation Ltd. (hereinafter called "HPPCL") and, for one component, the Himachal Pradesh State Electricity Board (hereinafter called "HPSEB"); accordingly (i) the Borrower will make the proceeds of the Loan provided for herein available to the State, and (ii) the State will make the proceeds of the Loan available to HPPCL and HPSEB, upon terms and conditions acceptable to ADB and the Borrower; 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 Agreements (as defined below) of even date herewith;

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. (aa) 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.

(bb) 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:

(aa) 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.

(bb) 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:

(aa) 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.

(bb) 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) "Component" means each and any of the components of the Project described in Schedule 1 to this Loan Agreement;

(b) "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);

(c) "Consulting Services" means consulting services to be financed out of the proceeds of the Loan, and excludes ancillary services rendered under a contract for the supply of Goods or Works;

(d) "EARF" means the Environmental Assessment and Review Framework referred to in Schedule 5 to the FFA;

(e) "EIA" means the Environmental Impact Assessment report referred to in Schedule 5 to the FFA;

(f) "EMP" means the Environmental Management Plans prepared for the Project and referred to in Schedule 5 to the FFA;

(g) "FFA" means the Framework Financing Agreement dated 10 September 2008 for the Investment Program between ADB and the Borrower;

(h) "Goods" means materials and equipment to be financed out of the proceeds of the Loan, and includes ancillary services rendered under a contract for the supply of these materials and equipment, such as transportation, insurance, installation, inspection, commissioning, training, and initial maintenance;

(i) "HPERC" means the Himachal Pradesh Electricity Regulatory Commission, or any legal successor thereto;

- (j) "HPPCL" means Himachal Pradesh Power Corporation Limited;
- (k) "HPPCL Project Agreement" means the project agreement of even date herewith between ADB, the State and HPPCL;
- (l) "HPSEB" means Himachal Pradesh State Electricity Board;
- (m) "HPSEB Project Agreement" means the project agreement of even date herewith between ADB, the State and HPSEB;
- (n) "Investment Program" means the Himachal Pradesh Clean Energy Development Investment Program, as described in Schedule 1 to the FFA;
- (o) "IPDF" means the Indigenous People Development Framework referred to in Schedule 5 to the FFA;
- (p) "KKPC" means Kinner Kailash Power Corporation Limited;
- (q) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2007, as amended from time to time);
- (r) "MPPPD" means the Multi-purpose Projects & Power Department of the State;
- (s) "Onlending Arrangements" means the onlending arrangements to be entered into between the State and HPPCL pursuant to Section 3.01 of this Loan Agreement;
- (t) "PFR" means the periodic financing request to be submitted by the Borrower for the purposes of each loan under the FFA, and for the purposes of this Loan Agreement means the periodic financing request dated 10 September 2008;
- (u) "PMU" means the project management unit referred to in paragraph 3 of Schedule 5 to this Loan Agreement;
- (v) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);
- (w) "Procurement Plan" means the procurement plan for the Project attached to the PFR and agreed between the Borrower, HPPCL, HPSEB and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed between the Borrower, the State, HPPCL and ADB;
- (x) "Project" for the purposes of, and within the meaning of, the Loan Regulations means the project described in Schedule 1 to this Loan Agreement;
- (y) "Project Agreements" means the HPPCL Project Agreement and the HPSEB Project Agreement;

(z) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MPPPD or any legal successor thereto acceptable to ADB;

(aa) "Project facilities" mean the facilities constructed or to be constructed under the Project;

(bb) "PVPC" means Pabber Valley Power Corporation Limited;

(cc) "RF" means the Resettlement Framework referred to in Schedule 5 to the FFA;

(dd) "RP" means the Resettlement Plans prepared for the Project and referred to in Schedule 5 to the FFA;

(ee) "SEIA" means the summary of the EIA referred to in Schedule 5 to the FFA;

(ff) "State" means the State of Himachal Pradesh, India; and

(gg) "Works" means construction, civil and electrical works to be financed out of the proceeds of the Loan, and includes ancillary services rendered under a contract to perform these works, such as drilling or mapping, and project-related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred fifty million Dollars (\$150,000,000) as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of twenty (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 April and 15 October 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 satisfactory to ADB.

(b) The Borrower shall cause the State to make available, from the proceeds of the Loan, (i) an amount of one hundred forty seven million Dollars (\$147,000,000) to HPPCL under arm's length onlending arrangements acceptable to ADB (hereinafter called the "Onlending Arrangements"), and (ii) an amount of three million Dollars (\$3,000,000) to HPSEB upon terms and conditions acceptable to ADB.

(c) The Borrower shall cause the State, HPPCL and HPSEB to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreements.

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 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 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 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 31 March 2014 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, HPPCL and HPSEB to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental and hydropower generation and development practices.

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

Section 4.02. The Borrower shall cause the State to make available to HPPCL and HPSEB, promptly as needed and on terms and conditions acceptable to ADB, the funds, facilities, services, land 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 HPPCL, HPSEB and any other departments and agencies of the Borrower and 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, HPPCL and HPSEB to perform their obligations under the Project Agreements, 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 and shall ensure that the State exercises its rights under the Onlending Arrangements, in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) Any rights or obligations under the Borrower's financing arrangements with the State shall only be assigned, amended, abrogated or waived with prior notification to ADB. Rights or obligations under the Onlending Arrangements shall only be assigned, amended, abrogated or waived, if satisfactory 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. Any of 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) 2309-4075.

For ADB

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

Cable Address:

ASIANBANK
MANILA

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
Authorized Representative

ASIAN DEVELOPMENT BANK

By



TADASHI KONDO
Country Director
India Resident Mission

SCHEDULE 1**Description of the Project**

1. The Project comprises the following components:
 - (i) construction of the 111 MW Sawra Kuddu Hydroelectric project (including civil works, underground powerhouse, and river diversion, electrical works, and power evacuation systems, but excluding the barrage intake and desilting);
 - (ii) civil works for the 65 MW Kashang I Hydroelectric project and the common powerhouse for the Kashang I, II and III Hydroelectric projects;
 - (iii) design and implementation of a capacity development program to strengthen HPPCL's capabilities in the areas of (a) project preparation, implementation and management; (b) information management, especially financial management and accountability; and (c) project engineering and construction, with a particular focus on harnessing benefits from the Clean Development Mechanism and any similar mechanisms, and public-private sector cooperation; and
 - (iv) acquisition of an enterprise resource solution for HPSEB to cover its future computer, accounting and management information system requirements, together with related software, hardware, training and initial system maintenance;

all as more fully described in the PFR.
2. The Project is expected to be completed by 30 September 2013.

SCHEDULE 2

Amortization Schedule (Himachal Pradesh Clean Energy Development Investment Program - Tranche 2)

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 ¹ (Expressed as a % based on 10% annuity)
1	15 Oct 2013	0.827816
2	15 Apr 2014	0.869207
3	15 Oct 2014	0.912667
4	15 Apr 2015	0.958301
5	15 Oct 2015	1.006216
6	15 Apr 2016	1.056526
7	15 Oct 2016	1.109353
8	15 Apr 2017	1.164820
9	15 Oct 2017	1.223061
10	15 Apr 2018	1.284214
11	15 Oct 2018	1.348425
12	15 Apr 2019	1.415846
13	15 Oct 2019	1.486639
14	15 Apr 2020	1.560971
15	15 Oct 2020	1.639019
16	15 Apr 2021	1.720970
17	15 Oct 2021	1.807019
18	15 Apr 2022	1.897369
19	15 Oct 2022	1.992238
20	15 Apr 2023	2.091850
21	15 Oct 2023	2.196442
22	15 Apr 2024	2.306264
23	15 Oct 2024	2.421578
24	15 Apr 2025	2.542657
25	15 Oct 2025	2.669789
26	15 Apr 2026	2.803279

Sequence	Date Payment Due	Installment Share ¹ (Expressed as a % based on 10% annuity)
27	15 Oct 2026	2.943443
28	15 Apr 2027	3.090615
29	15 Oct 2027	3.245146
30	15 Apr 2028	3.407403
31	15 Oct 2028	3.577773
32	15 Apr 2029	3.756662
33	15 Oct 2029	3.944495
34	15 Apr 2030	4.141720
35	15 Oct 2030	4.348806
36	15 Apr 2031	4.566246
37	15 Oct 2031	4.794558
38	15 Apr 2032	5.034286
39	15 Oct 2032	5.286000
40	15 Apr 2033	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.

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, Consulting Services and other items 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 and reference to "Subcategory" or "Subcategories" in this Schedule is to a subcategory or subcategories of a Category.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories 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.

Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower 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, by notice to the Borrower and the State, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, and Consulting Services and other items shall be disbursed in accordance with the Loan Disbursement Handbook.

Statement of Expenditures

5. The statement of expenditures (SOE) procedure may be used to reimburse eligible expenditures for individual payments of \$100,000 or less, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures for Works, Equipment and Consulting Services incurred before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement, subject to a maximum amount equivalent to 20 percent of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Himachal Pradesh Clean Energy Development Investment Program - Tranche 1)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing [\$] Category	Percentage of ADB Financing from the Loan Account
1	Civil Works ¹ (Part A)	93,345,000	100 percent of total expenditure *
2	Equipment (Part A)	24,170,000	100 percent of total expenditure *
3	Consulting Services (Part A)	6,240,000	100 percent of total expenditure *
4	Institutional Development and Strengthening		
4a	Part A	1,760,000	100 percent of total expenditure *
4b	Part B	3,000,000	100 percent of total expenditure *
5	Unallocated	21,485,000	
	Grand Total	150,000,000	

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

NOTE: Part A refers to loan funds directed to HPPCL
Part B refers to loan funds directed to HPSEB

¹ Note: ADB is to finance all civil works packages, except the head race tunnel at Sawra Kuddu. The contract package for the barrage, intake and desilting basin for Sawra Kuddu will be financed under a separate loan tranche.

SCHEDULE 4

Procurement of Goods, Works, and Consulting Services

General

1. All Goods, Works and Consulting Services 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.

Procurement of 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
Shopping

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

4. The State may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.
5. Prior to the commencement of any procurement activity under national competitive bidding, ADB and the State shall review the Borrower's and the State's public procurement laws and regulations to ensure consistency with the Procurement Guidelines. Any modifications or clarifications required to such procedures and agreed between the Borrower, the State and ADB to ensure consistency with the Procurement Guidelines, shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after written approval of such change by the Borrower, the State and ADB.

Selection of Consulting Services

6. Except as set forth in the Procurement Plan, the State shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

7. (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.

8. The Borrower 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.

ADB's Review of Procurement Decisions

9. 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 and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of the Project and Operation of Project Facilities; Financial Matters

Implementation arrangements

1. If and to the extent the provisions of this Loan Agreement and the Project Agreements assign duties and obligations to any other party than the Borrower (including, without limitation, the State, HPPCL or HPSEB), the Borrower shall ensure that such party observes those duties and performs those obligations in accordance with the relevant provisions of the Loan Agreement and/or Project Agreements.

2. The State shall designate MPPPD as the Project Executing Agency (EA) with overall responsibility for the execution of the Investment Program and the Project. The State shall designate HPPCL as the Implementing Agency (IA) with responsibility for the day-to-day coordination, implementation and administration of all Components of the Project other than Component (iv). The State shall designate HPSEB as the Implementing Agency for Component (iv).

Project Management Unit

3. HPPCL shall maintain a project management unit ("PMU") that has the capacity to undertake the day-to-day coordination, implementation and administration of the Project Components for which HPPCL is responsible. The activities shall include, without limitation, (i) selection and engagement of the Consulting Services and support of the relevant consultants; (ii) procurement of the Goods and Works; (iii) detailed design and construction supervision; (iv) maintenance of separate accounts for the Project and its Components; (v) monitoring and reporting on Project implementation, and (vi) provision of any supervision, coordination, support, and liaison activities as may be required. To enhance its effectiveness, the PMU will maintain a separate field office at each of the Project facilities. The State and HPPCL shall equip the PMU and its field offices (a) with sufficient personnel that have relevant skills in engineering, financial management, procurement, and project administration; and (b) with the necessary office space, equipment, facilities and management information systems.

Counterpart funding

4. The Borrower shall cause the State and/or HPPCL to make available, all counterpart funds required for timely and effective implementation of the Project, including any funds required to meet additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances, and shall cause the State and/or HPPCL to make the resources thus required available on an annual basis for each fiscal year.

Completion of legal merger

5. The State shall ensure that no later than 31 December 2009, the legal merger of HPPCL, KKPC and PVPC has been completed. Unless ADB agrees otherwise, the merger must be completed in such manner (i) that the operations of KKPC and PVPC have been for

the risk and account of HPPCL as per 31 July 2007, (ii) that the assets and liabilities of KKPC and PVPC have been transferred to HPPCL at historical cost, and (iii) that these assets and liabilities comprise all KKPC's and PVPC's assets, contracts, approvals, instruments and other arrangements pertaining to the Project facilities. The State shall ensure that the actual and contingent liabilities acquired by HPPCL under the merger comprise solely 'arm's length' obligations incurred by KKPC and PVPC in the normal course of business. Until such time that the merger has been completed in accordance with the foregoing, HPPCL, KKPC and PVPC shall continue to operate as if the merger was completed already.

Implementation of capacity development recommendations

6. HPPCL shall analyze the recommendations made by consultants under Component (iii) for adoption of suitable management information systems, and agree with ADB on the extent and manner of implementation. HPSEB shall analyze the recommendations made by consultants under Component (iv), and agree with ADB on the extent and manner of implementation.

7. By 31 March 2010, HPPCL shall have taken the following measures to strengthen its internal audit functions: (i) adoption of internal audit guidelines in line with best practices; and (ii) appointment of internal controllers that report to the Chairman and Managing Director of HPPCL on a regular basis.

Recruitment

8. No later than 31 December 2008, HPPCL shall have recruited key finance staff, including an assistant general manager, a senior manager, and such other managers as required by the positions sanctioned in its Organization Structure and Manpower Plan dated 12 June 2008. The State will recruit a finance director for HPPCL as soon as possible, and no later than 30 September 2009. No later than 31 December 2010, HPPCL will have recruited staff to meet all its other manpower requirements as laid down in the Organization Structure and Manpower Plan.

Tariff

9. HPPCL shall submit to HPERC tariff applications for the Project facilities in a timely manner prior to commercial operations of each facility. The State shall ensure that the rate at which HPPCL sells the power it generates is established in accordance with, and meets the requirements of, the relevant provisions of the Electricity Act 2003. HPPCL will promptly cause to be delivered all documentation reasonably requested by HPERC, including – as applicable - transmission service agreements or power purchase agreements.

10. MPPPD and HPSEB shall ensure that all additional transmission facilities (including substations and power transmission lines) required to evacuate power from the Project facilities, are completed in a timely manner.

Change of ownership

11. The State shall immediately notify ADB of any plans for (a) a change in the ownership of Project facilities or HPPCL, and/or (b) a material change in the organizational structure of HPPCL that may affect the ability of HPPCL to perform its obligations under the HPPCL Project Agreement. The Borrower shall ensure that any such change is carried out in a lawful and transparent manner. Without prejudice to any other rights that ADB may have under this Loan Agreement, including - without limitation – its rights under Article IX of the Loan Regulations, ADB shall have the right to require changes to the terms of this Loan Agreement and/or the Onlending Arrangements in order to accommodate for the proposed change.

Transparency

12. The Borrower and the State shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project. HPPCL shall announce the Project and business opportunities associated with the Project on its corporate website.

Land acquisition and resettlement

13. HPPCL shall, subject to compliance with the relevant provisions of the RF/RPs and EARF/EMPs and in accordance with all applicable laws and regulations of the Borrower and the State, acquire or make available the land and rights to land required for commencement of construction activities of the Project facilities in accordance with the schedule agreed under the related civil works contract, and will have cleared the utilities, trees and any other obstruction from such land.

14. HPPCL shall ensure that the RPs, including compensation and entitlements for affected households and persons, are implemented in conformity with all applicable laws and regulations of the Borrower, as amended from time to time, and the entitlement benefits as listed in the Borrower's applicable laws, ADB's Involuntary Resettlement Policy (1995), and the RF.

15. HPPCL shall ensure that people affected by the Project are fairly compensated in a timely manner based on replacement values in accordance with the related RPs and RF, such that their living standards are not adversely affected, and that payments will be made in a timely manner, prior to dispossession from land and other assets. HPPCL shall submit progress and completion reports on land acquisition and resettlement under the quarterly progress reports.

16. HPPCL shall ensure that prior to land acquisition and any resettlement for the Project, the relevant RP, including its update based on consensus of the affected persons, is disclosed with all necessary information made available to persons affected by the Project and confirm that it be uploaded onto the ADB website.

17. The EA shall ensure that essential public infrastructure that may be affected by land acquisition and resettlement is replaced, as appropriate, in an expeditious manner in accordance with the RPs.

18. HPPCL shall ensure that construction contracts contain binding requirements for construction contractors to fully reinstate pathways, other local infrastructures, and agricultural land to at least their pre-project condition upon construction completion. HPPCL shall adequately record the condition of roads, agricultural land and other infrastructure prior to transport of material and construction commencement.

19. To the extent required under the RF and to the extent reasonably possible HPPCL shall engage an independent external expert/agency acceptable to ADB to assist with implementation of the RPs.

20. The Borrower will cause the State to ensure that within 3 months of the Effective Date, the EA will establish a grievance redress committee or committees with representation from all stakeholders in the Project Facilities for addressing any grievances from affected peoples concerning resettlement, environment and any other social issues in a timely manner.

Environmental safeguards

21. HPPCL shall implement the Project and operate and maintain all Project facilities in accordance with the EARF, EIA, ADB's Environment Policy (2002) and the Borrower's and the State's applicable laws, rules, and regulations. HPPCL shall ensure that the provisions of the EIA, SEIA and are adhered to during design, construction and operation of the Project facilities.

22. HPPCL shall monitor and report to ADB twice a year on the implementation of the EMPs.

23. Any changes to the location, land alignment, or environmental impacts on account of detailed designs of the Project facilities shall be mutually agreed between the Borrower and ADB, and must be consistent with the eligibility criteria set forth in Schedule 4 to the FFA.

Labor Law and Social Projection

24. HPPCL will include a specific provision in bidding documents to ensure that Works contractors (a) comply with applicable core labor standards, labor laws and incorporate applicable workplace occupational safety norms; (b) do not differentiate payment between men and women for work of equal value; (c) do not employ child labor; (d) eliminate forced or compulsory labor; (e) eliminate discrimination in respect of employment; (f) allow for freedom of association; and (g) to the extent possible, maximize employment of local poor and disadvantaged persons for construction purposes, provided that the requirements for efficiency are adequately met.

25. HPPCL shall ensure that Works contractors disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmittable infections, including HIV/AIDS, to the employees of Works contractors engaged under the Project and to members of the local communities surrounding the Project facilities, particularly to females.

Project Monitoring and Reporting

26. Within three months from the Effective Date, HPPCL shall finalize and adopt a comprehensive project performance monitoring system (PPMS) for the Project acceptable to ADB, based upon the PPMS indicators agreed upon between the MPPPD, HPPCL and ADB.

27. MPPPD and HPPCL will prepare quarterly progress reports and submit these to ADB within 30 days of the end of each quarter. These reports will provide a narrative description of (i) progress made during the period; (ii) changes in the implementation schedule; (iii) problems or difficulties encountered, and remedial actions suggested; (iv) work to be carried out in the next period; (v) compliance with environmental and social safeguards requirements, and (vi) compliance with any other covenants of this Loan Agreement or the Project Agreements. The progress reports will also include a summary financial account for the Components, consisting of project expenditures during the period and total expenditures to date. HPPCL shall collect base line data for performance monitoring. HPPCL shall submit to ADB quarterly progress reports in form and substance satisfactory to ADB.

Project review

28. ADB, the Borrower, MPPPD and HPPCL shall meet regularly as required to discuss the progress of the Project and any changes to implementation arrangements or remedial measures required to be undertaken towards achieving the objectives of the Project and the Investment Program.

29. A mid-term review of the Project shall be undertaken by ADB, the Borrower, MPPPD and HPPCL. The mid-term review shall include a review of issues and any problems or weaknesses in implementation arrangements, and agree on any changes needed to achieve the objectives of the Project and the Investment Program.