

हिमाचल प्रदेश HIMACHAL PRADESH

06AA 050740

**IMPLEMENTATION AGREEMENT**  
**FOR**  
**BANU HYDRO ELECTRIC PROJECT (5.00 MW)**  
**DISTRICT KANGRA, HIMACHAL PRADESH**

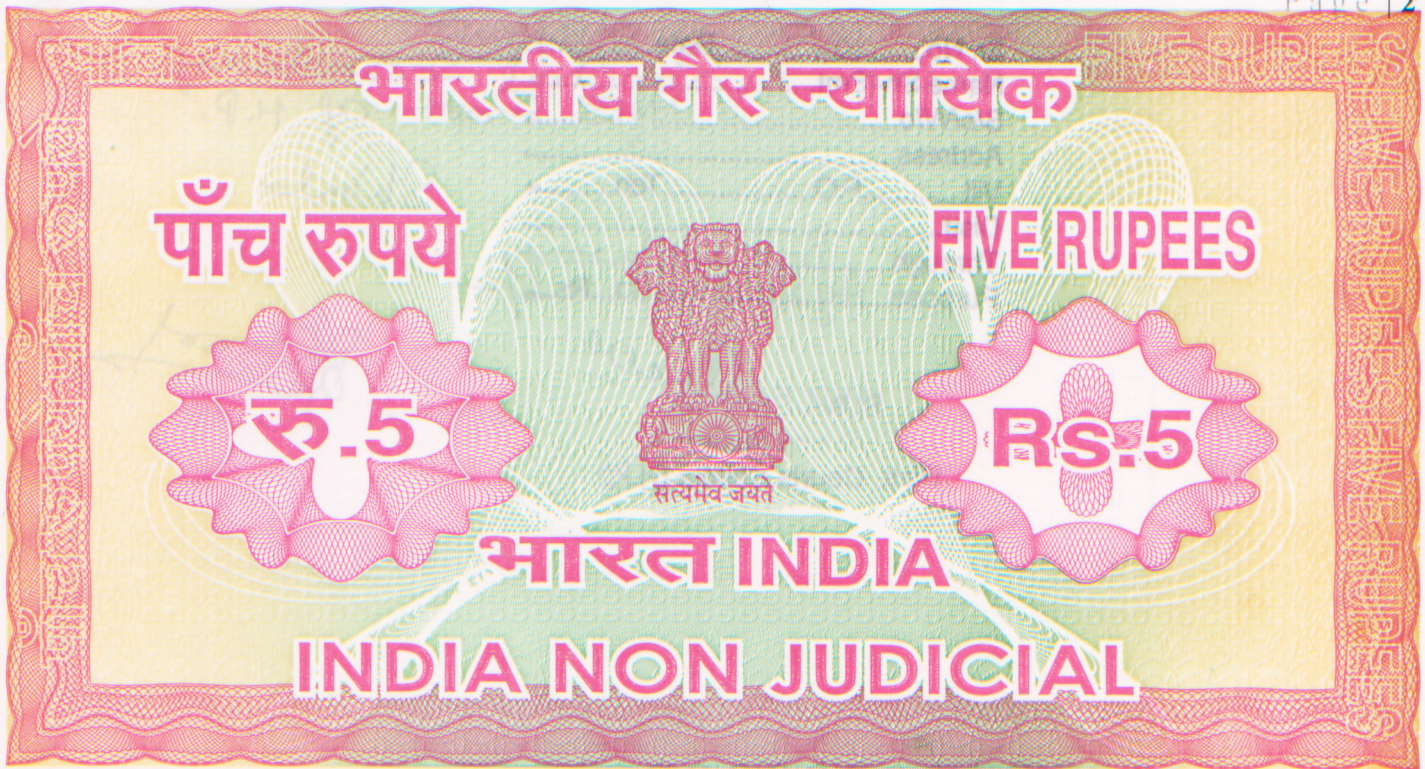
THIS IMPLEMENTATION AGREEMENT executed on the 15<sup>th</sup> day of the month of **February, 2012** (**Two Thousand Eleven**) BETWEEN THE GOVERNMENT OF HIMACHAL PRADESH through the Special Secretary (NES), to the Government of Himachal Pradesh-cum-Chief Executive Officer, HIMURJA, having its office at Block 8-A, URJA Bhawan, SDA Complex, Kasumpti, Shimla (H.P.)-171009, (hereinafter referred to as the "First Party") which expression shall unless repugnant to the context or meaning thereof include its successors, assigns and legal representatives of the FIRST PART;

AND

*Sanjiv Kumar*  
 Special Secretary (NES)  
 to the Govt. of H.P.  
 cum - CEO HIMURJA  
 Shimla - 171009

Ms Leond Hydro Power Private Limited, a generating Company within the meaning of Section 2 (28) of the Electricity Act, 2003; having its Registered/Head Office at **SKIPTON VILLA, Ridge, Near Ritz, Shimla (H.P.)-171001** and site office in Himachal Pradesh at \_\_\_\_\_ (hereinafter referred to as the "**Second Party**") which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns, through **Mr. Varun Pandit, Director**, who is duly authorized by the competent authority of the Company vide resolution No. Nil, dated 15<sup>th</sup> February, 2012, to execute this Agreement, of the OTHER PART.

*Varun Pandit.*  
 Director



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WHEREAS the First Party in accordance with the policy guidelines of the Government of Himachal Pradesh (hereinafter referred to as "GOHP") had entered into Memorandum of Understanding (MOU) on **07/02/2008** (APPENDIX "A") with the Second Party to carry out detailed investigations of the **BANU** Hydro-electric Project of **2.00 MW** capacity and located in District **Kangra**, Himachal Pradesh (hereinafter referred to as "Project") and Second Party has submitted, within the stipulated period from the date of signing of MOU, a Detailed Project Report (DPR); and

WHEREAS the Second Party has carried out necessary detailed investigations for the Project and submitted a DPR for **5.00 MW** project capacity to the First Party and both the parties have satisfied themselves about the techno economic feasibility of the Project; and

WHEREAS the competent authority has accorded Techno Economic Clearance (TEC) to the project for **5.00 MW** capacity vide their letter No. **DOE/CE(Energy)/TEC-Banu/2011-5625-33**, dated **05/10/2011**; and

WHEREAS the First Party has approved the capacity enhancement from **2.00 MW to 5.00 MW** and change in elevations from **± 2000 M to 1600 M to ± 1998 M to 1600 M** on dated **19/11/2011**; and

WHEREAS it is deemed necessary and expedient to enter into a detailed agreement between the parties hereto incorporating the terms and conditions of this agreement arrived at for the implementation of the Project; and

*Vaun Pandit.*

For LEOND HYDRO POWER (P) LTD.

Director

*Hanshu*  
Special Secretary (NES)  
to the Govt. of H.P. -  
cu CEO HIMURJA  
Shimla - 171009

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1**Himachal Government Judicial Paper****NOW THEREFORE THE PARTIES DO HEREBY AGREE AND AFFIRM HEREUNDER AS FOLLOWS:-****1 STATEMENT OF IMPLEMENTATION OF PROJECT**

Both the parties agree that the Project shall be implemented, subject to the terms and conditions mentioned in this Agreement.

**2. DEFINITIONS. -**

2.1 In this Agreement, the various terms shall have the following meanings, except where the context otherwise requires, definitions and other terms expressed in the singular shall also include the plural and vice versa, namely:-

- (a) "agreement" shall mean this agreement together with all its appendices and annexures and any amendments thereto made in accordance with the provisions herein contained;
- (b) "concession period" shall mean the duration for which the First Party allows the Second Party to build, own and operate the Project;
- (c) "commercial operation date" (COD) shall mean the date on which Second Party synchronizes the First unit of the Project with the grid;
- (d) "construction schedule" means the schedule of construction attached as "APPENDIX-B";
- (e) "contractor" means any person, firm or body corporate engaged by the Second Party for the implementation of the Project;
- (f) "deliverable energy" shall mean the electrical energy generated by the project, as measured at the interconnection point;
- (g) "effective date" means the date on which this agreement is signed by the parties hereto;
- (h) "energy/power" shall mean the electrical energy/power in Kwh/MW;
- (i) "force majeure" shall have the meaning as described thereto in **Clause 15.2** hereunder;
- (j) "Implementation of project" shall mean an act to establish, own, operate and maintain the Project;
- (k) "HIMURJA" means the Himachal Pradesh Energy Development Agency;
- (l) "Inter-connection Point" shall mean the physical touch point(s) where the Project shall be interface with 33 kV Sub-Station at **BINWA** Power House to the condition that the developer shall have to bear the expenditure of one number terminal bay to accommodate equipment required for evacuation of their power cutting hill adjoining to 33 kV yard of BINWA PH; subject to the approval of HPERC, as per **Clauses-XVI & XVII of TEC**.
- (m) "month" shall mean the English Calendar month;
- (n) "permanent works" means the permanent works forming part of the Project and shall include housing facilities for staff to be engaged for operation and maintenance of the Project;
- (o) "plant" shall mean imported and indigenous machinery, equipment, spares and other items required for and which form part of the permanent works of the Project;

*Naisthina*  
Special Secretary (NES)  
to the Govt. of H.P. -  
in - CEO HIMURJA  
Shimla - 171009

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1**Himachal Government Judicial Paper**

- (p) "Power Purchase/Wheeling Agreement(s)" shall mean the agreement(s) to be signed between the Second Party and HPPTCL/concerned party (ies) as per **Clauses 12.3 & 12.4** hereunder;
- (q) "Project Affected Areas" shall mean areas/ villages surrounding/ falling in the catchment/ watershed areas extending from the Reservoir/Diversion Weir to the Tail Race of the Project;
- (r) "project cost" shall mean the actual capital expenditure on the Project incurred upto the completion of the Project including all costs incurred by the Second Party in complying with the terms of this Agreement, unless mentioned otherwise, but not exceeding the approved Project cost in the DPR as per techno economic clearance accorded by the competent authority, as the case may be. Where the actual expenditure exceeds the approved Project cost, the excess expenditure as approved by the Competent Authority shall be deemed to be part of the actual capital expenditure;
- (s) "scheduled commercial operation date" shall mean the date by which the Second Party shall have synchronized the first unit of the Project with the Grid as per the Construction Schedule;
- (t) "site" shall mean the site of Project appurtenances, generating Plants including land, waterways, roads and any rights acquired or to be acquired by Second Party for the purposes of the Project;
- (u) "State" shall mean the State of Himachal Pradesh;
- (v) "temporary works" means all temporary works of any kind required in connection with the execution of the works of the Project and not forming part of permanent works; and
- (w) "works" means all works inclusive of the temporary works and permanent works including design, engineering services, supplies and other work activities required and necessary for the completion of the Project;
- (x) "competent authority" will be the Director Energy, the Government of Himachal Pradesh or such entity as may be notified in this behalf by the Government of HP from time to time.

2.2 Any term used in this agreement but not defined under this Clause shall have the same meaning as assigned to it under the Electricity Act, 2003.

### 3. SECURITY CHARGES

And whereas the Second Party has furnished security charges (EMD), by way of Demand Draft bearing No. **002366**, dated **09/12/2011**; amounting to ₹ **2.50 Lac (Rupees Two Lac Fifty Thousand Only)** @ ₹ 50,000/- per MW (refundable) in favour of Director, HIMURJA, payable at Shimla, based on capacity in MW as per approved TEC. The amount of Security Deposit shall be treated as Performance Guarantee after the commissioning of the Project, which shall be refunded to the Second Party only after successful operation of the project for 6 (six) months from COD of project.

For LEOND HYDRO POWER (P) LTD.

*Varun Pandit*

Director

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1**Himachal Government Judicial Paper****4. GRANT OF PROJECT CONCESSION BY STATE GOVERNMENT**

4.1 The First Party agrees to permit the Second Party, for the project **BANU (5.00 MW)** capacity, to establish, own, operate and maintain the Project for a period of 40 (forty) years and the date shall be reckoned after 30 months from the date of the signing of the Implementation Agreement or from the date till which extension in SCOD is granted by the First Party. After the expiry of the Implementation Agreement period of 40 (forty) years, the project shall revert to the First Party free of cost and free from all encumbrances. However, the First Party would have the option to grant a further extension for a period mutually agreed upon between the First Party and the Second Party after re-negotiations of terms and conditions of the already signed Agreement.

4.2 The Project assets would be maintained by the Second Party in a condition that would ensure a residual life of the project at the rated capacity for at least concession period. During the 10<sup>th</sup>, 20<sup>th</sup>, 30<sup>th</sup> & 35<sup>th</sup> years of operations, the First Party or one of its appointed agencies would carry out a mandatory inspection of the Project site to ensure that the Project assets are maintained to the required standards to ensure the specified generation capability and residual life of the plant.

If such inspections find that the project capacity and/or life are being undermined by inadequate maintenance, the First Party shall be entitled to seek remedial measures from the Second Party. If the Second Party fails to comply with the requirement, the First Party would have the right to take over the commercial operation of the project and shall have full right upon the sale of power including Second Party share. The cost on account of suggestive remedial measures shall be deducted from the sale of Second Party's share of metered power including the operation & maintenance cost for such a period till the project's assets are restored to the requisite standards to ensure the specified generation capability and residual life of the Project as specified above. Thereafter, the Project shall be handed over to the Second Party.

**5. STARTING DATE OF PROJECT.-**

5.1 Within six months from the effective date of signing of this agreement, the Second Party shall start the construction of the Project after meeting the following major requirements, namely:-

Obtaining statutory/non-statutory clearances listed below:-

- i) PWD
- ii) I&PH
- iii) Wild Life
- iv) Fisheries
- v) Revenue Department to the effect that project does not interfere any irrigation or traditional water mills rights
- vi) Forest Land Clearance
- vii) Private Land Transfer (Permission under Section 118)
- viii) PCB

- b) Obtaining the resolution of 'No Objection' from concerned Gram Panchayat(s)
- c) Finalize Power Purchase/wheeling Agreement(s) ;
- d) Such other clearances as may be specified by the First Party subsequent to the signing of this Agreement.

Extension in this period, which is not due to force majeure reasons, can be allowed on payment of an extension fee of ₹ 10,000/- per MW per month. However, maximum extension in this case shall be upto 36 (thirty six) months only.

For LEOND HYDRO POWER (P) LTD.

*Vaun Kandi*

Director

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1**Himachal Government Judicial Paper**

- 5.2 HIMURJA shall monitor the progress of the Project periodically and shall also monitor the progress of steps taken/being taken by the Second Party for obtaining the statutory/non-statutory clearances mentioned in **Clause 5.1** above. The Second Party shall be required to obtain these statutory/non-statutory clearances from the concerned department & Gram Panchayat(s) after paying the prescribed fee fixed by these departments and commence the construction work within the time frame specified in **Clause 5.1** above. At the end of each quarter, the Second Party shall be required to submit quarterly progress report to the First Party. The first party will be at liberty to cancel the Implementation Agreement (IA), after affording due opportunity to the Second Party, in case the First Party is not satisfied about the progress made by the Second Party.

**6. CAPACITY ADDITION**

- 6.1 If the Second Party enhances the capacity of the project at any stage then prior approval of the First Party will be mandatory for enhanced capacity and the Second Party shall be required to furnish the capacity addition charges or up-front premium as applicable at the rates notified by the H.P. Government from time to time.

The Second Party has furnished capacity addition charges (non-refundable) in the shape of **Demand Draft No. 002366, dated 09/12/2011**, amounting to **₹ 13.00 Lac (Rupees Thirteen Lac Only)**, in favour of Director, HIMURJA, payable at Shimla, H.P..

The Second Party has furnished up-front premium charges (non-refundable) in the shape of **Demand Draft No. 002367, dated 09/12/2011**, amounting to **₹ 0.18 Lac (Rupees Eighteen Thousand Only)**, in favour of Director, HIMURJA, payable at Shimla, H.P..

- 6.2 Second Party shall have to deposit processing fee afresh and deposit security charges for signing of Supplementary Implementation Agreement (SIA) on account of enhanced capacity at the rates applicable at the time of signing of SIA.

**7. TERMINATION OF AGREEMENT**

- 7.1 In the event of stoppage of construction on the main Project components by the Second Party for a period of more than three months for reasons not covered under force majeure and for reasons attributable to the Second Party, the First Party shall, after giving due opportunity to the Second Party, have the right to terminate this Agreement. In such event, the Performance Guarantee, furnished by the Second Party in the shape of Demand Draft as per **Clause 3** of the agreement, shall stand forfeited and the Site shall revert to and shall vest in the First Party without any compensation. Notwithstanding any vestment in the First Party under this clause, the Second Party shall be liable to pay all the dues owed to the First Party by the Second Party in pursuance to this agreement.

- 7.2 During the operation of the Project, the Second Party shall ensure free energy to the First Party as per **Clauses 12.1 & 19.2** hereafter. In the event of the First Party (i) not being able to provide free power as per **Clauses 12.1 & 19.2** to the First Party for reasons other than transmission failure, or (ii) abandons the Project, the First Party shall have the right to terminate this agreement after serving a notice to the Second Party.

**8. LAND**

- 8.1 The First Party shall acquire, at the request and expense of the Second Party within the provisions of Land Acquisition Act., 1894, such private lands within the State of Himachal Pradesh as may be required by the Second Party and as considered appropriate by the First Party for the implementation of the Project. The Second Party shall also be allowed to acquire such land through direct negotiations with the owners in accordance with the prevailing laws, rules and regulations in the State.

FOR LEONARD HYDRO POWER (P) LTD.

*Varnu Pandit*  
Director

*Manshukh*  
Special Secretary (NES)  
to the Govt. of H.P. -  
cum - CEO HIMURJA  
Shimla - 171009

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- 8.2 Land whether private or Government except for permanent structures relating to the Project such as water conductor system, power houses building, switchyard area etc. shall be taken only on lease basis at the rates approved by the Government for the agreement period. The First Party shall acquire the land for the permanent structures by invoking the compulsory provisions under the Land Acquisition Act, 1894 in order to expedite the execution of Projects.
- 8.3 The First Party shall arrange for the short term lease for a period as per the actual requirement not exceeding five years, of Government land required by the Second Party for temporary works for the construction of the Project as considered appropriate by the First Party on such terms, conditions and rates as may be prescribed/fixed by the Government from time to time.

**9. PROTECTION OF ENVIRONMENT**

- 9.1 The Second Party shall make suitable financial provisions in the Project Cost for the Catchment Area Treatment Plans, if required and as may be determined by the GOI, MOEF/State Government. The cost involved on this account shall be paid by the Second Party to the First Party.
- 9.2 The Second Party shall be responsible to maintain ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of works area. The Second Party shall take all reasonable measures to prevent any unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the Project.
- 9.3 The Second Party shall give an undertaking to the Fisheries Department of the of the local area that wherever feasible, rearing of fish shall be promoted by the Second Party in consultation with Fisheries Department in the project area at the time of final implementation of the Project. The Fisheries Department will charge compensation @ ₹ 0.50 Lac per KM from Tail Race to Weir of the project. In addition, the IPPs will pay ₹ 0.50 Lac per MW to the Fisheries Department. It will be mandatory to utilize this amount on the same stream/nallah or elsewhere and formulate schemes accordingly.
- 9.4 The Second Party shall ensure that the material excavated from the site shall be dumped in the area duly approved by the Ministry of Environment & Forests, the Government of India/State Pollution Control Board.
- 9.6 The Second Party, 'if ROR Project, shall ensure minimum flow of 15% water immediately downstream of the diversion structure of the Project throughout the year. For the purpose of determination of minimum discharge, the threshold value of not less than 15% of the minimum inflow observed in the lean seasons shall be considered. This minimum discharge is required keeping in mind the serious concerns of the State Government on account of its fragile ecology & environment and also to address issues concerning riparian rights drinking water, health aquatic life, wild life, fisheries, silt and even to honour the sensitive religious issues like cremation and other religious rites etc. on the river banks".
- 9.7 The Second Party shall ensure that the water requirement for construction of the Project including domestic needs for its residential colonies be arranged and harnessed by them from the river sources only and the local sources of water supply shall not be disturbed.

For LEOND HYDROPOWER (P) LTD.

*Vaun Kandi*

Director

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9.8 The First Party shall have the right for withdrawal of water from the river course for consumptive use by pumping or by gravity for the purpose of potable water supply and irrigation to the affected villagers.

**10. REHABILITATION/ RESETTLEMENT:-**

The Second Party shall prepare Rehabilitation and Resettlement Plan as per model R&R plan annexed to this agreement for people residing at site as on the effective date and likely to be adversely affected or displaced due to construction of the Project.

**11. EMPLOYMENT TO HIMACHALIS**

The Second Party shall ensure to employ at least seventy percent of its total manpower, employed whether on regular /contractual/ Sub contractual/ daily basis or employment through any other mode from amongst the bonafide Himachalis at all levels in 'A' 'B, & 'C, category of Blocks respectively. The employment condition shall not be applicable to Projects employing only one employee, located anywhere in the State and in the self employed ventures where the owner is running the unit without employing any manpower. In case of violation of this condition at any point of time during the period of construction of the project and during operation & maintenance of the project, the Second Party shall be penalized and the Second Party shall be liable for further stringent action, including refusal of accepting supply by HPSEB Ltd./any other licensee from the commissioned projects.

Labour Department will monitor the employment position at site as per the provision of Industrial Act. Any violation noticed by Labour Department or HIMURJA will be communicated to the Second Party for rectification. If the Second Party fails to rectify the same within three months, penalty @ ₹ 1000/- per MW for each percentage of shortfalls of violation shall have to be paid by the Second Party. If the violation is repeated for 6 months the penalty amount shall be doubled.

The Second Party shall be required to provide mandatory employment related information to the Labour Department of the Himachal Pradesh Government as well as concerned HIMURJA's Project Officer on the lines of instructions issued by the First Party in this regard within one month of signing of the IA and thereafter on monthly basis.

**FREE POWER TO GOVERNMENT**

- i) Royalty on water usage in respect of sale of power within the State (captive use or sale to HPSEB Ltd.), will be @ 9% in the shape of free power (energy) to the State from **BANU (5.00 MW) SHEP** for a period of 12 years reckoned after 30 months from the date of signing of IA of the Project or from the date till which extension in SCOD is granted by the First Party. Beyond 12 years, royalty shall be @ 18% for next 18 years and beyond that @ 27% upto the date of taking over of the project by First Party referred to in **Clause 4.1** of this agreement.
- ii) If Second Party makes captive use of Power outside the State or make third party sale, the above rates of royalty shall be 15%, 18% and 27% respectively reckoned after 30 months from the date of signing of IA of the Project or from the date till which extension in SCOD is granted by the First Party.

**12.2 Royalty rates for capacity addition**

If capacity addition is more than 20% over and above the allotted capacity but overall capacity remains upto 5.00 MW, 3% extra royalty/free power over and above the normal royalty/free power agreed to in the IA signed immediately prior to the capacity enhancement/or as per prevailing Hydro Power Policy at the time of signing of IA, in case IA/SIA not signed earlier, shall be payable to the Government on the total capacity.

Director  
Vaman Kardit.

*Nandlana*  
Special Secretary (NES)  
to the Govt of H.P.12.  
Buz - CEO HIMURJA  
Shimla - 171009 -12.1