

N<sup>o</sup> 23002992  
0  
1  
1**Himachal Government Judicial Paper**

If allotted capacity is 5.00 MW or less and on capacity addition upto 20% by way of optimization it gets shifted to the category of above 5.00 MW capacity the royalty rates of free power applicable to the projects above 5.00 MW shall be levied on the entire capacity of the project.

If allotted capacity is upto 5.00 MW and after capacity addition of more than 20% by way of optimization it gets shifted to the category of above 5.00 MW capacity, 3% extra royalty will be charged over and above the rates of royalty as per the policy applicable to the Projects of above 5.00 MW capacity.

- 12.3 Free energy shall be made available by the Second Party at the interconnection point to the HPSEB Ltd. and the metering shall be done at this point.

No wheeling/transmission charges shall be payable for free energy from the generating station to the interconnection point.

Wheeling charges required to be paid for power to be transmitted within and outside the State shall be determined as per the policy of HPSEB Ltd./SERC/HPPTCL at that time.

- 12.4 The balance energy, after adjustment of free energy, may be used/sold by the Second Party in the following manner:-

- (a) Sale to the HPSEB Ltd., for which the Second Party and HPSEB Ltd. shall enter into a mutual agreement.
- (b) Make captive use outside the State or make third party sale for which the Second Party shall enter into suitable agreement for transmission of power with concerned entities.

### 13 OBLIGATIONS OF THE PARTIES

#### Obligations of the Second Party.

- 13.1 Subject to availability, security, and operational factors being met, the Second Party shall permit free use by the First Party and the general public of all service roads constructed and maintained by it for the project. The Second Party shall bear the cost of any of the existing roads required to be improved/ widened for the construction of the project and also bear the incremental maintenance cost.

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

- 13.2 The Second Party shall undertake the implementation of the Project, keeping in view all stipulated quality control and as well as safety standards and the physical as well as financial parameters of the approved DPR. The Private investor shall allow access to the authorized representative(s) of the Himachal Pradesh Government/HPSEB Ltd./HIMURJA/any other Agency authorized by Himachal Pradesh Government to all location of the Project to ensure compliance in this regard.

- 13.3 The Second Party shall ensure that the execution, operation and maintenance of the Project is generally in accordance with the DPR approved by the HPSEB Ltd./First Party. The First Party shall ensure that the Planning/Design/Construction of any other Hydro-electric Project upstream/downstream of the Project shall not affect the annual energy generation at the Project adversely. The Second Party shall also have no claim on account of development of any upstream and downstream Project in future, which may be constructed with the approval of the First Party unless such development adversely affects the scope of the Project.

- 13.4 The Second Party shall be fully responsible for any damage or loss arising out of the construction, operation or maintenance of the Project to any property or person and also undertake to indemnify the First Party on such account subject to force majeure. The First Party shall then hold the Second Party accountable for any such damage or loss.

FOR LEAD HYDRO POWER LTD.  
*Varun Pandey*

Director

Nº 2300300

2  
0  
1  
1**Himachal Government Judicial Paper**

- 13.5 The Second Party shall pay all taxes and duties or other levies etc. to the Government of India/Himachal Pradesh Government as per statutory rules in force from time to time.
- 13.6 The Second Party shall abide by the provisions contained in the Hydro Power Policy of the Government of Himachal Pradesh.

**Obligations of the First Party:-**

- 13.7 If any approval is required under the laws of India for the Second Party, the lenders, or any Contractor with respect to the Project, upon due and timely application therefore being made by the Second Party, First Party shall take all reasonable and appropriate steps within its administrative power, as permissible by law, to ensure that such approval is granted expeditiously, if such grant is permissible under the law.

**14. POWER EVACUATION**

- 14.1 Evacuation of power from the Project upto the HPSEB Ltd./HPPTCL/ Regional Grid Sub-station, as provided in the TEC shall be the responsibility of the Second Party and shall be a part of the Project.
- 14.2 The transmission system covered under this Project may be used for evacuation of power from other projects on the directions of the State Transmission Utility. In such situation the wheeling charges for common transmission system shall be as decided by HPERC.
- 14.3 The Second Party shall follow the directives of State Load Dispatch Centre (SLDC) in the interest of the integrated grid operation. Any dispute with reference to the integrated operation will be referred to the competent authority whose decision shall be final. Pending the decision of the competent authority the SLDC's directions shall prevail in the interest of smooth operation of the grid.

**15. FORCE MAJEURE**

- 15.1 Notwithstanding the provisions of the **Clauses 3, 7.1 and 7.2** above, the Second Party shall not be liable for the forfeiture of its Performance Guarantee or termination for default, if the non-performance or the delay in the discharge of its obligations under this agreement is the result of an event of force majeure.

For the purpose of this agreement, "Force Majeure" shall mean an event which is unforeseeable, beyond the control of the Second Party and not involving the Second Party's fault or negligence. Such events may include war, civil war, insurrection, riots, revolutions, fire, floods, epidemics, quarantine restrictions, freight embargoes, radioactivity, earthquakes, cloudbursts, landslides and excessive snow.

- 15.3 If a Force Majeure situation arises, the Second Party shall promptly intimate the same to the First Party in writing. The Second Party shall continue to perform its obligations under the agreement, as far as is reasonably practical, and shall seek all reasonable alternative means for performance, not prevented by the force majeure event.

**16. ARBITRATION:-**

Any difference and/or disputes arising at any time between the parties out of this IA or interpretation thereof shall be endeavored to be resolved by the parties hereto by mutual negotiations, failing which the matter shall be referred to the Arbitrator to be appointed as per the provisions of the Arbitration & Conciliation Act, 1996. However, all disputes shall be settled within the jurisdiction of Courts of Himachal Pradesh.

For **LEONID HYDRO POWER PVT. LTD.**  
*Vaun Kachit*  
 Director

N<sup>o</sup> 23003012  
0  
1  
1**Himachal Government Judicial Paper****17. TRANSFER OF PROJECT TO SUBSIDIARY GENERATING COMPANY**

- 17.1 In case of bonafide Himachalis to whom Projects upto 5.00 MW capacity is allotted, the First Party may consider the request of promoters to sell equity shares to the bonafide Himachalis who have been living in Himachal Pradesh from generation to generation. The Promoter(s) shall be allowed to sublet/transfer its right by way of merger, by way of change of management, by way of Power of Attorney, by transfer, lease, mortgage or any other such possible means accrued under the Memorandum of Understanding (MOU)/Implementation Agreement (IA) to any other Himachalis living in Himachal Pradesh from generation to generation or cooperative societies comprising of such Himachalis at any stage i.e. before and after commissioning of the Project so as to facilitate the execution of the project by taking technical or financial support from Cooperatives, Associations, NGOs, Companies, Individuals, Himachalis who have technical or financial means available to support the project(s).
- 17.2 In case of bonafide Himachalis to whom Projects above 2.00 MW upto 5.00 MW capacity are allotted, the First Party may consider the request of promoters to sell 49% equity shares to Non-Himachalis at any stage after allotment of a project. However, transfer/dilution of shares by Himachali allottee to Non-Himachali will be subject to the condition that the original allottee shall retain the controlling interest i.e. 51% equity in the new entity upto two years after actual commissioning of project. In the event of any contravention, the First Party shall terminate the IA forthwith at any stage.
- 17.3 Second Party is allowed to freely sell/divest the project after two years of commissioning.

**18. MISCELLANEOUS**

- 18.1 Save as provided aforesaid none of the parties hereto shall assign their respective rights and obligations under this agreement without the prior consent in writing of the other party to the agreement.
- 18.2 Each party agrees that it shall not divulge any trade, commercial or technical secrets or confidential matters of one another to any third party save for the purpose of Implementation of the Project.

- 18.3 The Second Party agrees to have its corporate/business office within the State of Himachal Pradesh.

19. **COMPOSITION OF LADF:-** The LADF shall comprise of contribution by project based on project cost and free power after commissioning as envisaged in the State and National Hydro Power Policies. The hydro project developer's in the State shall contribute towards LADF in two stages.

**19.1 Prior Commissioning of the Project**

- 19.1.1 The Second Party shall contribute a minimum of 1.5% of final cost of the Project for projects of more than 5.00 MW capacity and a minimum of 1% for projects of capacity upto 5.00 MW. While the project authorities have to contribute minimum of 1.5% or 1% (as the case may be) of the project cost to LADF, they may contribute more, if they so desire. Initially, the LADF will be worked out on the basis of the Project cost as per DPR for depositing with the concerned Deputy Commissioner (DC). After completion of the Project, the LADF will be worked out on the final completion cost.

- 19.1.2 The Project cost will be as approved by CEA/State Govt. and include IDC, CAT, R&R expenses etc.. Escalation will be included when the revised TEC is given. As the entire cost is included in calculating tariff for PPAs as per regulatory guidelines, it would be appropriate to follow the same guidelines for calculating the LADF contribution. Therefore, the total cost as per TEC will be taken as basis for calculating LADF contribution. It would be adjusted as and when TEC is revised in the course of project construction/completion.

LEOND HYDRO POWER (PLT)  
Varun Khandelwal

N<sup>o</sup> 23003022  
0  
1  
1**Himachal Government Judicial Paper**

19.1.3 The balance amount of LADF worked out on final cost shall be deposited by the Second Party within one year of Commercial Operation Date (COD) of the Project.

**19.2 After Commissioning of the Project**

Second Party shall contribute 1% free power for LADF over and above the rates of royalty agreed to be paid to the State Government in the Implementation Agreement/ Supplementary Implementation Agreement, as the case may be. This additional 1% (one percent) free power, over and above the royalty component provided to the host State will be a pass through in tariff. The revenue collected by the Nodal Agency (Directorate of Energy from sale of such 1% free power (contribution from the Second Party) will be transferred to the Local Area Development Fund for such project.

**20 REALIZATION OF LADF CONTRIBUTION****20.1 Prior Commissioning of the Project**

20.1.1 Contribution to be made prior to commissioning of the Project shall be released by Second Party in the following manners:-

- a) 10% amount within three months of signing of Implementation Agreement (IA).
- b) 15% amount within 18 months of signing of IA.
- c) Balance 75% amount in three equal annual installments during construction period of the project. The first installment will be paid within three months of Zero date as given in the IA or 31<sup>st</sup> December, whichever is later and thereafter by 31<sup>st</sup> December on annual basis.

20.1.2 If Second Party wishes to make a contribution in advance of this schedule, it will be accepted.

20.1.3 In case of failure to adhere to the time lines as prescribed under a), b) and c) above, the Second Party shall be liable to pay interest on the due amount of LADF @ 12% per annum.

**20.2 After Commissioning of the Project**

The 1% free power contribution to LADF shall be sold by the State Government alongwith its share of free power. The amount equivalent to average net realization per unit multiplied by the number of units for which 1% is to be paid will be placed at the disposal of LADC annually. The average price per unit will be worked out on the basis of net proceeds of total free power sale by GOHP divided by the total number of units involved, after allowing 1 paisa per unit to be retained by the State government as the expenses of Directorate of Energy.

21. **NOTICE.** - Any notice required to be given to either party under this agreement shall be deemed to be served if sent by Cable, Fax or Telex followed by a confirmation letter delivered by hand or sent by registered post to their respective addresses.

**ADDRESSES**

For First Party/HIMURJA

Pr. Secretary (NES),  
Himachal Pradesh Secretariat,  
Shimla (H.P.)-171002

Special Secretary (NES), to the GOHP-cum-  
Chief Executive Officer, HIMURJA,  
Block 8A, SDA Complex,  
Kasumpti, Shimla (H.P.)-171009

For Second Party

M/s Leond Hydro Power Private Ltd.,  
SKIPTON VILLA, Ridge, Near Ritz,  
Shimla (H.P.)-171001

For LEOND HYDRO POWER (P) LTD.

Director

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

Nº 2300303

2  
0  
1  
1

# Himachal Government Judicial Paper

FAX NO. 0177-2622635

Either Party may change the address at which notice is to be delivered by duly informing the other party in writing.

## 22 GOVERNING LAWS

The rights and obligations of the parties under or pursuant to this agreement shall be governed by and constituted according to Indian Law. This agreement shall be subject to the jurisdiction of the Himachal Pradesh High Court at Shimla.

23. Any violations of the above-mentioned issues concerning policy parameters, IA may results into monetary penalty including cancellation of the project

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THESE PRESENTS TO BE SIGNED, SEALED AND DELIVERED BY THEIR DULY AUTHORISED REPRESENTATIVES ON THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

For and on behalf of

For and on behalf of

Government of Himachal Pradesh

M/s Leond Hydro Power Private Ltd.,  
SKIPTON VILLA, Ridge, Near Ritz,  
Shimla (H.P.)-171001

*Harsh Mitter*  
15.2.12

For LEOND HYDRO POWER (P) LTD.

*Varun Pandit*  
15-2-12.  
Director  
(VARUN PANDIT)  
Director

(HARSH MITTER),  
Special Secretary (NES),  
to the Govt of H.P.  
cum - CEO HIMURJA  
Shimla - 171009  
Special Secretary (NES),  
to the Government of  
Himachal Pradesh.

WITNESSED BY:

WITNESSED BY:

1. *Arjun*  
of Himurja  
Shimla - 9

1. *Arjun Kumar*  
(ARUN KUMAR)  
SKIPTON VILLA  
SHIMLA - 171001

2. *Ramesh*  
of HIMURJA,  
Shimla 9

2. *Mohd Ilyas*  
id No - 201,  
SRILAKSHI  
HIMACHAL NAGAR  
M.P.  
(MOHD ILYAS)