



**POWER PURCHASE AGREEMENT
BETWEEN
NATIONAL THERMAL POWER CORPORATION LIMITED
AND
UTTAR PRADESH POWER CORPORATION LTD.**

THIS POWER PURCHASE AGREEMENT hereinafter called "Agreement" entered into on the^{9th}..... day of ~~September~~ Two Thousand two (~~9.9.2002~~ 2002) between National Thermal Power Corporation Limited, a Company incorporated under the Companies Act, 1956 having its registered office at NTPC Bhawan, SCOPE Complex, 7 Institutional Area, Lodhi Road, New Delhi-110003. (hereinafter referred to as "NTPC") which expression shall unless repugnant to the context or meaning thereof include its successors and assigns as party of the first part and Uttar Pradesh Power Corporation Ltd., a company incorporated under the companies Act, 1956 and having its registered office at Shakti Bhawan, 14, Ashok Marg, Lucknow – 226 001 (hereinafter referred to as "UPPCL") which expressions shall unless repugnant to the context or meaning thereof include its successors and assigns as party of the second part.

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AND WHEREAS NTPC is a Generating Company wholly owned by the Govt. of India and has taken over the ownership, construction, operation and maintenance of Koldam Hydroelectric Power Project (800 MW) located in the district of Bilaspur in the State of Himachal Pradesh (hereinafter referred to as "Koldam HEPP" and generally be referred to as "station" to be owned and operated by NTPC) from Govt. of Himachal Pradesh/HPSEB in pursuance to Transfer Agreement (hereinafter referred to as "Transfer Agreement") signed on 26.2.2000 between Govt. of Himachal Pradesh, NTPC and HPSEB.

AND WHEREAS, the total capacity of Koldam HEPP (capacity 800 MW) is proposed to be allocated to Delhi Vidyut Board, Haryana Vidyut Prasaran Nigam Limited, Punjab State Electricity Board, Rajasthan Rajya Vidyut Prasaran Nigam Limited, Himachal Pradesh State Electricity Board, Uttar Pradesh Power Corporation Limited, Govt. of Jammu & Kashmir and Chandigarh Administration (collectively referred to as "Bulk Power Customers" and individually referred to as "DVB", "HPVN", "PSEB", "RRVPL", "HPSEB", "UPPCL", "PDD" and "UTC" respectively).

AND WHEREAS UPPCL is desirous of purchasing energy from Koldam HEPP and NTPC is willing to sell energy from Koldam HEPP to UPPCL from the date of synchronisation of first unit of Koldam HEPP on mutually agreed terms and conditions mentioned hereunder.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, NTPC and UPPCL (each individually a party and both collectively parties) hereby agree as follows:-

1.0 DEFINITIONS

The words/expressions used in this Agreement unless repugnant to the context shall have the same meaning assigned to them by Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948 and Electricity Regulatory Commissions Act, 1998 as amended from time to time and the Rules framed thereunder. The words/expressions mentioned below shall have the meanings respectively as assigned hereunder.

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- i) GOI : Shall mean Govt. of India.
- ii) CEA : Shall mean Central Electricity Authority, which is a statutory Authority.
- iii) POWERGRID : Shall mean Power Grid Corporation of India Ltd.
- iv) NREB : : Shall mean Northern Regional Electricity Board duly established by Government of India vide Resolution No.EL-II-35(2)/63 dated 13.2.1964 and subsequent amendment / resolution thereof and as defined in the amended E(S) Act.
- v) NRLDC : Shall mean Northern Regional Load Despatch Centre.
- vi) Main Import: Meter : Shall mean Meter for measurement of active energy import at Koldam HEPP 400KV bus bars for Energy Accounting.
- vii) Main Export: Meter : Shall mean Meter for measurement of active energy export at Koldam HEPP 400 KV bus bars for Energy Accounting.
- viii) Check Import/ Export Meter : Shall mean Meter for maintaining a check on performance of Main Import/Export meter.
- ix) Regional Energy Account : Shall mean Periodic Energy Account including amendments thereof, if any prepared by NREB.

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- x) Charges for Supply of Energy : Shall mean and include all charges to be paid by Bulk Power Customers in respect of supply of power to them by NTPC in accordance with the provisions of this Agreement.
- xi) LC : Shall mean Irrevocable Revolving Letter(s) of Credit.
- xii) Date of Commercial Operation : Shall mean the date of commercial operation declared by NTPC in respect of generating unit(s) as per guidelines issued by CEA/Govt. of India/CERC.
- xiii) Auxiliary Power Consumption : Shall mean energy consumed by auxiliaries of station required for generation of power (excluding the power used in NTPC colony and other construction works.)
- xiv) TOD : Shall mean Time-of-Day for the purpose of metering.
- xv) CERC : Shall mean Central Electricity Regulatory Commission established under section-3 of the Electricity Regulatory Commissions Act, 1998.
- xvi) Declared capacity: (MW) shall mean the capacity to be available from Koldam HEPP over the peaking hours of the next day, as declared by NTPC. The peaking hours shall be not less than 3 hours within a 24-hour period.

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- xvii) Maximum available : capacity (MW) : shall mean the maximum capacity the Koldam HEPP could generate with all units running, under the prevailing conditions of water levels, flows and with 100% gate openings. The peaking hours shall not be less than 3 hours within a 24 hours period.
- xviii) Capacity Index(CI): Shall mean the average of the daily capacity indices over one year.
- Daily capacity Index – means percentage of the declared capacity to the maximum available capacity for the day.
- xix) Design Energy : Shall mean the quantum of energy which could be generated in a 90 percentage dependable year with 95 percentage installed capacity of Koldam HEPP.
- xx) Primary Energy : Shall mean the quantum of energy generated up to design energy on an annual basis at Koldam HEPP.
- xxi) Saleable Primary : Energy : Shall mean the quantum of primary energy available for sale after allowing for free energy to the home state.
- xxii) Saleable Secondary : Energy : Shall mean the quantum of Secondary energy available for sale after allowing for free energy to the home state.

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xxiii) Infirm Power : Shall mean the sale of electricity prior to commercial operation of the generating unit. Any revenue from sale of infirm power shall be taken as reduction in capital expenditure and not as net revenue.

xxiv) Actual Energy : Shall mean the quantum of energy actually generated by the plant over a specified period (day, year etc.). The measurement of Actual energy shall be 'ex-bus" and shall reflect the energy sent out at the station bus bars.

xxv) Secondary Energy: Shall mean the quantum of energy generated in excess of the design energy on an annual basis at Koldam HEPP.

xxvi) Scheduled Energy: Shall mean the quantum of energy generated at Koldam HEPP over the next 24-hour period, as scheduled by NRLDC.

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2.0 INSTALLED CAPACITY

The existing approved capacity of Koldam HEPP is 800 MW (4 x 200 MW) subject to change after placement of order for the main plant equipment. The installed capacity is, however, subject to derating / rerating of the generating units as determined from time to time, after following the prescribed procedure as laid down by CEA. Technical parameters of Koldam HEPP as per Detailed Project Report which are subject to techno- economic clearance by CEA are attached at Annexure-I.

2.1 Allocation of Power

- 2.1.1 Twelve percent (12%) of the net energy generated from the project after excluding auxiliary consumption and transformation losses (net energy) shall be given to Govt. of HP/HPSEB, free of cost, at bus bar located in the switchyard of the station, which will be take off point for power evacuation.
- 2.1.2 Fifteen percent(15%) of net energy generated from the project after excluding auxiliary consumption and transformation losses (net energy) will be provided on daily basis by NTPC to HPSEB at the bus bar tariff.
- 2.1.3 The station will be operated as a Regional Power Station and the power generated from the station excluding 12% free power as per clause 2.1.1 and 15% power as per clause 2.1.2 above will be shared by the Bulk Power Customers in the Northern Region as per allocation decided/notified by GOI from time to time.
- 2.1.4 UPPCL shall have the right to indicate their actual requirement of power out of their entitled share from Koldam HEPP up to one year prior to the scheduled date of commissioning of the first unit of the station.

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2.2 Commercial Operation of Generating Units

The dates of commercial operation of generating units of Koldam HEPP shall be as defined under clause 1.0 (xii) above.

2.3 Drawal of Power

The power from Koldam HEPP shall be drawn by UPPCL directly and/or by method of displacement. UPPCL shall draw its share of power from Koldam HEPP through transmission system of Power Grid Corporation of India Ltd., and transmission system of its own on the basis of availability of capacity of power station as declared by NTPC on daily basis one day in advance.

3.0 WHEELING OF POWER

Bulk Power Customers will permit wheeling of power from Koldam HEPP through their transmission system subject to system constraints. Bulk Power Customers shall extend their full co-operation in transmission of power from Koldam HEPP to other Bulk Power Customers through their transmission system. For wheeling of Koldam HEPP power beyond Koldam HEPP bus bars, the charges for utilisation of transmission system(s) owned by Power Grid Corporation of India Ltd., and/or Bulk Power Customer(s) and/or other agency (ies) shall be mutually settled and paid for directly between Power Grid Corporation of India Ltd. and/or such agency (ies) and the concerned Bulk Power Customer(s). NTPC shall not be responsible for the payment of such charges.

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4.0 ENERGY ACCOUNTING

- a) Regional Energy Accounts issued by Member-Secretary, NREB shall be binding on all the parties to these presents for billing and payment purposes.
- b) Regional Energy Accounts shall be prepared latest by 6th day of every month (if 6th day is a holiday for the Secretariat of NREB, the next working day will be applicable) based on the monthly joint energy meter readings furnished to the NREB by the 2nd day of the month by NTPC, Bulk Power Customers and other agencies.
- c) Regional Energy Accounts, whether they are final or provisional, shall ensure accounting of total net energy sent out at 400KV bus bars of Koldam HEPP and shall indicate monthly drawal by each of Bulk Power Customers from Koldam HEPP for billing purposes. NTPC shall not be responsible for any loss (es) of energy beyond 400KV bus bars of Koldam HEPP.
- d) The total energy sent out at 400KV bus bars of Koldam HEPP shall be the net energy measured at all metering points/locations.
- e) The export and import of energy at the metering points/locations shall be computed on net basis i.e. by difference between export and import meter readings.
- f) Any change in the methodology for Regional Energy Accounts shall be done only as per decisions taken in the NREB forum and no unilateral deductions by any of or all Bulk Power Customers shall be made from bills of NTPC on this account.

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- g) NTPC shall prepare bills for the energy supplied to each of the Bulk Power Customers on the basis of Regional Energy Accounts and Bulk Power Customers shall accept these bills for payment.
- h) In the event of delay in receiving meter readings, Member-Secretary, NREB shall issue Regional Energy Accounts on provisional basis by the 6th day of every month (if 6th day is a holiday for the Secretariat of NREB, the next working day will be applicable), which shall be binding on NTPC and Bulk Power Customers for billing and payment purposes and shall be subject to adjustments, if any, as and when final Regional Energy Accounts are issued.
- i) For provisional/revised/amended Regional Energy Accounts necessary adjustments, if any, would be made by NTPC by issuing Supplementary Bill(s)/Credit Note(s), as soon as possible.
- j) Notwithstanding the obligations of Bulk Power Customer(s) to pay as per this Agreement NTPC shall be entitled to divert the share(s) of any Bulk Power Customer(s) to other Bulk Power Customers viz. other State Electricity Boards/Utilities in Northern Region or other regions of the country as per guidelines of GOI issued from time to time, in the event of their inability to utilise their full share of power which could be generated by NTPC at Koldam HEPP or in the event of their failure to comply with payment obligations to NTPC as per this Agreement. SEBs of Northern Region will have first preference in case of diversion of power as above.

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4.1 Points for Metering

The main and check meters at all outgoing feeders at the 400KV bus bars of Koldam HEPP to be installed by NTPC shall be maintained by NTPC. Installation and maintenance of main and check meters at locations other than the meters installed and maintained by NTPC shall be the responsibility of the concerned Bulk Power Customer(s) or Power Grid Corporation of India Ltd., or other agencies as the case may be. The meters shall be sealed after calibration by the concerned parties jointly.

4.2 Metering System

4.2.1 A set of Main and Check Energy Meters of 0.2 accuracy class shall be installed by NTPC on all outgoing feeders at 400KV bus bars of Koldam HEPP. Each of the Main and Check meters will be a pair of Export and Import meters.

4.2.2 All the meters shall be jointly calibrated, inspected and sealed on behalf of the parties and shall not be interfered with except in the presence of other party or for joint testing and calibration and/or replacement and/or any other purposes for which due notice of 7 (seven) days will be given by NTPC so that this is done in the presence of the authorised representatives of the Bulk Power Customers.

4.2.3 All the meters shall be checked for accuracy annually at site by NTPC and Bulk Power Customers with the meter of same accuracy class and shall be treated as working satisfactorily so long as the errors are within the limits prescribed in relevant Indian Standard (or British Standard where Indian Standard is not existing) for meters of the said class. The meter readings of main meters shall form the basis of the Energy Accounts so long as the annual check results thereof are within prescribed limits. If the check meters are found to be defective

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during the annual checks, these shall be immediately calibrated. Where the annual checks indicate errors in the main meter(s) beyond limits but no error is noticed in check meter(s) during annual checking, computation of total net energy sent out at 400KV bus bars of Koldam HEPP for the month shall be done on the basis of check meter(s) and main meter(s) shall be calibrated immediately. If during the annual test check both the main meter(s) and the corresponding check meter(s) are found to be beyond the permissible limits of error both the meter(s) shall be immediately calibrated and the correction applicable to main meter shall be applied to the consumption registered by the main meter(s) to arrive at the correct consumption of energy for the purpose of Energy Accounts for the month from the date of last meter reading upto the time of replacement of correct main meter. Billing for the period thereafter till the next monthly meter reading shall be as per calibrated main meter. During this period of calibration of main and check meter(s), another set of main and check meters duly calibrated and sealed will be installed by NTPC at Koldam HEPP in the presence of Bulk Power Customers and jointly sealed. The energy accounting during the period of calibration of original meters shall be as per the readings of the substituted main meters. In case spare meters are not available with NTPC, the main/check meters shall be calibrated by rotation. During the period of removal of main meter, the energy accounting will be done based on check meter readings applied with correction factor of the check meter obtained during testing/calibration of check meter.

4.2.4 All the main and check energy meter(s) shall be calibrated once in every 2-3 years jointly by the parties, i.e. irrespective of the calibrations that might have been done, where necessary, during the annual check. It shall be endeavour of the parties that errors are adjusted as close to zero as possible. If the error found at the time of calibration once in 2-3 years are beyond permissible limits the same procedures applicable to the annual test checks shall be followed.

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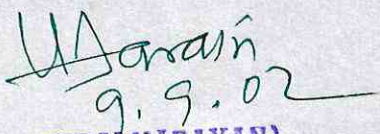
4.2.5 If in any month the readings of the main energy meter(s) differs from the readings of corresponding check energy meter(s) by more than 0.4% (Zero point four per cent) the main and check energy meter(s) shall be tested in turn and the errors at various levels as per standard procedures would be determined. If on such testing main energy meter error is found to exceed $\pm 0.2\%$ (plus/minus zero point two per cent) the energy figures recorded by the main energy meter(s) for the above month concerned shall be revised accordingly and the main energy meter(s) shall be recalibrated or replaced by the correct energy meter(s). Pending the results of such testing, billing and payment shall continue to be based on the energy recorded by the check energy meter(s).

4.2.6 All the tests during annual checks and calibration on the main and check energy meter(s) shall be conducted in the presence of authorised representatives of NTPC and Bulk Power Customers and the results/correction so arrived at shall be applicable and binding on NTPC and Bulk Power Customers.

4.2.7 Corrections in billing, whenever necessary, shall be applicable for the period between the previous meter reading and the date and time of the replacement of recalibrated correct meter and this correction shall be for the full value of the absolute error. For the purpose of the correction to be applied, the meter shall be tested as per Indian Standard (British Standard where Indian Standard is not existing). The error at the load and power factor nearest to the average monthly load served at the point during the period shall be taken as the error to be applied for correction.

4.2.8 During the period of calibration of the defective meter(s) another export and import meter(s) duly calibrated would be installed by NTPC at NTPC Station's bus bars in the presence of the other parties and jointly sealed. In case spare meter(s) are not available with NTPC the main and check meter(s) shall be calibrated by rotation.

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During the period of removal of main meter, the energy accounting will be done based on check meter readings applied with correction factor of the check meter obtained during testing/calibration of check meter.

- 4.2.9 If both the main and check meter(s) fail to record or if any of the PT fuses are blown out, then the energy will be computed on a mutually agreeable basis between NTPC and concerned Bulk Power Customer(s) for that period of defect. In case there is no mutual agreement, the decision of Member Secretary of NREB would be final and binding.
- 4.2.10 For the purpose of test and calibration, the Substandard (SS) meter of better than 0.2 accuracy class duly calibrated and sealed by Government Authorised Meter Testing House/Laboratory shall be utilised. This Substandard meter shall be got calibrated once in every 2-3 years at the Government Authorised Meter Testing House/Laboratory.
- 4.2.11 The readings of the meters shall be taken jointly by the concerned parties. The parties installing meters shall also be responsible for maintaining properly their respective meters.

Joint meter readings of the main as well as check meters at various Regional Energy Accounting points as identified by NREB shall be taken by the concerned parties as mentioned above at 00:00 hours on the 1st day of each calendar month. The readings taken at Koldam HEPP shall be submitted by NTPC to NREB so as to reach NREB on or before 2nd day of the month. The meter readings at other metering points would be submitted by concerned Bulk Power Customer(s) and/or other concerned agency(ies) so as to reach NREB on or before 2nd day of the month. In case any of the concerned party(ies) is/are not available for joint meter readings at the specified time, the meter reading taken by the other party(ies) shall be binding on all the Bulk Power Customers and shall be taken into account for preparation of Regional Energy Accounts.

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4.2.12 If at any time any party to the Agreement feels that a meter is not recording correctly it shall give notice to the other party. NTPC shall then undertake testing and calibration of the meters owned by NTPC and located at NTPC Station in co-ordination with the other party. If error on such testing is found to exceed the error limits specified in the relevant Indian Standard (British Standard where Indian Standard is not existing), for this class of meters, necessary adjustments in the bills shall be made from the date of notice or from such other date as can be satisfactorily established to be proper for such adjustment.

5.0 TARIFF

5.1 The Tariff and Terms and Conditions for the energy to be supplied by NTPC from Koldam HEPP shall be as per the notification(s) issued/to be issued with the approval of CERC from time to time , including the provisions of Availability Based Tariff (ABT) as and when applicable to this project , under Electricity Regulatory Commissions Act, 1998 and / or under any other Act / Regulations related to hydro power development as may be enacted by Govt. of India in place of these provisions. The following guidelines are presently applicable for working out tariff for Koldam HEPP as per CERC (terms and conditions of tariff Regulation 2001 which has come into force w.e.f. 1.4.2001 and applicable for a period of three years unless reviewed earlier or extended by CERC):

- (i) The actual approved capital expenditure incurred on completion of the project shall form the basis for fixation of tariff. Where the actual expenditure exceeds the approved project cost, the excess expenditure as allowed by the Authority or appropriate independent agency shall be considered for the purpose of fixation of tariff.

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Provided that such excess expenditure is not attributable to the generating company or its suppliers or contractors.

The capital cost for tariff purpose shall include transfer value, (including stamp duties, if any, on registration of sale deed) and all capital expenditure incurred/to be incurred on the station including but not limited to afforestation, resettlement and rehabilitation, catchment area treatment and other costs in accordance with the Transfer Agreements signed by NTPC with Govt. of Himachal Pradesh.

(ii) The debt: equity shall be in the ratio of 70:30. All capital expenditure towards the station shall stand allocated in the same proportion for tariff purpose.

(iii) Computation of Annual Charges :-

The capacity charge shall be computed on the following basis:

Capacity Charge : (Annual Fixed Costs- Primary Energy Charge)

Where,

Annual Fixed Costs (AFC) shall be as follows:

$AFC = IOL + DEP + ROE + O\&M + IWC$

Where,

IOL = Interest on Loan
DEP = Depreciation and Advance against depreciation.
ROE = Return on Equity.
O&M = Operation & Maintenance
IWC = Interest on working capital.

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a) Interest on Loan: The rate of interest on loan capital shall be computed on the outstanding loans duly taking into account the schedule of repayment as per the financial package approved by the Authority or an independent agency as the case may be.

b) Depreciation:

i) Depreciation shall be calculated annually as per straight line method at the rates of depreciation as decided by CERC/Govt. of India and applicable from time to time.

Provided that the total depreciation during the life of project shall not exceed 90% of the approved cost. The approved cost shall include additional capitalisation on account of foreign exchange rate variation also.

ii) Advance Against Depreciation (AAD) in addition to allowable depreciation shall be permitted where ever originally scheduled loan repayment exceeds the depreciation allowable as per schedule and shall be computed as follows.

AAD – Originally scheduled loan repayment amount subject to a ceiling of $1/12^{\text{th}}$ of original loan amount minus Depreciation as per schedule.

iii) On repayment of entire loan the remaining depreciable value shall be spread over the balance useful life of the asset.

iv) Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year Depreciation shall be charges on prorata basis.

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- c) Return on Equity : Return on equity shall be computed on the paid up and subscribed capital and shall be 16% of such capital.

Explanation :

Premium raised by NTPC while issuing share capital and investment of internal resources created out of free reserve of the existing utility, if any, for the funding of the projects, shall also be reckoned as paid up capital for the purpose of computing the return on equity, provided such premium amount and internal resources are actually utilised for meeting the capital expenditure of the power generation project and forms part of the approved financial package as set out in the techno-economic clearance accorded by the authority or approved by an appropriate independent agency, as the case may be.

- d) Operation & Maintenance Expenses : The base O&M expenses shall be fixed at 1.5 percent of the actual capital cost as approved by Authority or an appropriate agency, as the case may be in the year of commissioning and shall be escalated at rates decided by CERC.
- e) Interest on Working Capital: Interest on working capital shall cover

- Operation & maintenance expenses for one month.
- Maintenance spares at actual but not exceeding one year's requirements less value of one fifth of initial spares already capitalised for the first five years.
- Receivables equivalent to two months of average billing for sale of electricity.
- The interest rate for this purpose shall be the cash credit rates prevailing at the time of tariff filing.

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Full capacity charges shall be recoverable if the station achieves capacity index of 85%. The capacity charges shall be calculated on monthly basis and denominated in Rs./Kw/Month.

iv) Primary Energy Charges

Rate of primary energy of Koldam HEPP shall be taken as 90% of the lowest variable charges of NTPC's thermal power station in the Northern Region. The primary energy charges shall be computed based on the primary energy rate and saleable primary energy of Koldam HEPP. This rate shall also be used in merit order despatch of the plants in Northern Region.

a) Primary Energy Charge = { Primary Saleable Energy (Ex-Bus) X
Primary Energy Rate } / (1-r)

b) Secondary Energy Charge = { Secondary Saleable Energy (Ex-Bus) X
Secondary Energy Rate } / (1-r)

Where, r = 0.12 and represents 12% free power to home state.

v) Rate of Secondary Energy shall be equal to Primary Energy Rate.

vi) Incentive/Disincentive

In addition to the 'Capacity Charge' and 'Primary Energy Charge' NTPC shall be paid incentive when the Capacity Index (CI) exceeds normative Capacity Index target of 85%. Incentive shall accrue upto a maximum Capacity Index of 100%. When Capacity Index is less than 85%, disincentive shall be deducted from Capacity Charges paid to NTPC on pro-rata basis of the Capacity Index value. No disincentive will be applicable to NTPC on account of force majeure events.

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Incentive shall be payable in accordance with the following formula:

$$\text{Incentive} = (\text{Annual Fixed Costs-Primary Energy Charge}) \times (CI_A - CI_N)$$

Where, CI_A is the Capacity Index achieved and CI_N is the normative value of Capacity Index in percentage.

For the purpose of incentive, the primary energy rate determined for the first year of tariff period shall remain constant through out the tariff period.

The incentive on account of higher Capacity Index and secondary energy shall be payable on monthly basis, subject to cumulative adjustment in each month of the financial year. Final adjustment shall be made at the end of the financial year.

The total incentive payment calculated on an monthly basis shall be shared by the various beneficiaries as per their individual allocated capacity.

- vii) Any water charges/cess, royalty on water payable for the power station will additionally be a pass through in the tariff.
- viii) Infirm power i.e. sale of energy prior to commercial operation of the unit(s) of Koldam HEPP shall be billed by NTPC at an overall per unit rate to be mutually agreed between NTPC and Bulk Power Customers at least 3 months prior to the scheduled synchronisation date of 1st unit at Koldam HEPP. Any revenue from sale of infirm power shall be taken as reduction in capital expenditure and not as net revenue .

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5.2 LEVIES, TAXES, DUTIES, CESS ETC.

The above tariff is exclusive of any statutory taxes, levy, duties, cess, royalty or any other kind of imposition(s) whatsoever imposed/ charged by any Government (Central/State) Regulatory Agencies and/or any other local bodies/authorities in relation to generation of electricity including auxiliary consumption or any other type of consumption including water, transmission, environment protection, sale or on supply of power/energy and/or in respect of any of its installations associated with Koldam HEPP and/or on Transmission System.

The total amount of such levies/taxes/duties/cess/royalty etc. payable by NTPC to the authorities concerned in any month on account of the said levies/taxes/duties/Cess /royalty etc. as referred to above shall be borne and additionally paid by Bulk Power Customers to NTPC and the same shall be charged in the monthly bills raised by NTPC on the Bulk Power Customers.

Incidence of tax liability on NTPC as per the provisions of the Income Tax Act applicable from time to time shall be recovered from Bulk Power Customers duly certified by Statutory Auditors of NTPC in accordance with Govt. of India/CERC tariff notification for this project.

Tax Payment Account:

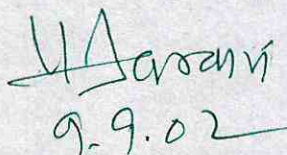
NTPC shall estimate the tax liability two months before the commencement of each year and intimate UPPCL.

UPPCL shall open a separate Income Tax Payment Account for discharging its liability for payment of Income Tax as under.

UPPCL shall pay each month an amount equal to the monthly installment corresponding to the estimated tax liability intimated by NTPC. NTPC shall withdraw the amounts for setting the advance/final

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tax liability on presentation to the Bank a certificate from the Company's Statutory Auditors stating that such amounts are immediately due and payable to the Tax Authority. Similarly, NTPC shall pay into the tax payment account the UPPCL's share of any refund received from the Tax Authority.

6.0 BILLING AND PAYMENT

All charges under this Agreement shall be billed by NTPC and shall be paid by Bulk Power Customers in accordance with the following provisions:

- a) NTPC shall present bills after the end of each calendar month for energy supplied to Bulk Power Customers from Koldam HEPP.
- b) Billing Centre of NTPC shall carry out billing and associated functions. The authority of Bulk Power Customers to whom the bills have to be submitted would be informed by Bulk Power Customers to NTPC within a month of signing of the Agreement failing which NTPC would submit the bills to the Chief of Finance and Accounts wing of Bulk Power Customers.
- c) The monthly bill for Koldam HEPP shall be aggregate of charges in accordance with the provisions of the Agreement. If for certain reasons some of the charges cannot be included in the monthly main bills, such charges shall be billed as soon as possible through supplementary bill(s).

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d) The bill(s) of NTPC shall be paid in full subject to the condition that-

- i) there is no apparent arithmetical error in the bill(s),
- ii) the bill(s) is/are claimed as per the agreed tariff referred to in clause 5.0, and is/are as per energy accounts referred to in clause 4.0.

In disputed cases Bulk Power Customers shall file a written objection with NTPC within 45 (forty five) days of presentation of the bill, giving following particulars:

- i) Item disputed, with full details/data and reasons of dispute, and
- ii) Amount disputed against each item.

NTPC shall resolve the above dispute(s) with Bulk Power Customers as soon as possible.

e) Establishment of Letter of Credit (LC) and Payment of Bills

Payment of bills for supply of power from Koldam HEPP shall be made by Bulk Power Customer(s) through irrevocable revolving Letters of Credit (LC) established in favour of National Thermal Power Corporation Ltd. with a public sector bank at least one month prior to commencement of power supply from Koldam HEPP.

The LCs shall be established to cover 105 % of one month average billing of last twelve months for power supply from Koldam HEPP. In case of first LC, the LC amount shall be as mutually agreed between UPPCL & NTPC.

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The LC shall be established for a minimum period of one year and would be renewed/enhanced by Bulk Power Customer(s) for the subsequent period ensuring that LC remains valid at all times during the entire/extended validity of this Agreement.

LC shall be without any limitation or restriction with regard to the manner and dates when bill(s) can be presented to bank by NTPC. The bills so presented by NTPC to the bank shall be promptly paid on their presentation. The amount of LC shall be reviewed six monthly i.e. April, and, October in each financial year and its amount shall be enhanced/reduced accordingly. The LC charges shall be borne by Bulk Power Customer(s).

- f) UPPCL assures that it shall regularly recoup and periodically renew / enhance LC to ensure full payment of NTPC bills and that there will be no default in LC payments to NTPC in respect of supply of power.

UPPCL does not, however, intend to provide Escrow cover to any generator / supplier of power.

- g) Rebate on payment through LC

Rebate on payments, if any, shall be as per the provisions of tariff approved by CERC or as mutually agreed from time to time and applicable in respect of Koldam HEPP and other concerned power stations of NTPC.

- h) Surcharge Due on Late Payment

In case payment is made after the last day of the month following the month in which the bill is raised by NTPC the surcharge as notified by CERC shall be charged on the amounts remained unpaid after the said date in proportion to the number

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of days of delay after the said date. The surcharge amount shall also be payable along with the next bill.

i) Tripartite Agreement:

The provisions of the Tripartite Agreement as per the Scheme of One-Time Settlement of SEB Dues circulated by GOI vide letter dated 20.05.2002 and signed by Govt. of UP (copy enclosed at Annexure-II) shall be applicable to Koldam HEPP also. This PPA shall take effect upon the Tripartite Agreement coming into force.

j) Non-payment of bills and non-establishment of LC/Tripartite Agreement :

UPOPCL shall open/enhance and maintain LC covering the monthly payments towards power supplied from Koldam HEPP and various other stations of NTPC and furnish Tripartite Agreement as detailed above. In the event of failure to establish LC and/or furnish Tripartite Agreement as detailed above and/or enhance LC within the specified period, NTPC shall inform NREB to reduce supply of power from Koldam HEPP and enforce other penal provisions as given below.

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- i. In case LC of required amount is not opened by the first day of the month in which bill is raised, NTPC shall inform REB/RLDC under intimation to PSEB regarding reduction in entitlements from power station(s) of NTPC to the extent of 2.5% of average daily supply to the defaulting beneficiary for the preceding 90 days or the average of all the days, if supply has been so for less than 90 days. REB/RLDC shall correspondingly effect reduction in power supply by reducing the drawal schedule of the defaulting beneficiary.
- ii. In case payments are not made within 60 days from the date of billing, NTPC shall advise REB/RLDC that the entitlement from power stations of NTPC shall be reduced by 5% (inclusive of reduction in supply of electricity as provided in preceding para) of the average daily supply to the defaulting beneficiary of the preceding 90 days. In case payments are not made within 75 and 90 days of the billing, reduction in entitlement shall be further increased to 10% and 15% respectively. REB/RLDC shall correspondingly reduce the drawal schedule of the defaulting SEB(s)/ beneficiary (ies).
- iii. In the event that payment default by the Beneficiary continues for 90 days from the date of billing, NTPC shall approach the Ministry of Finance under the provisions of the Tripartite Agreement and the Ministry of Finance, on behalf of NTPC, shall recover such amounts through adjustment against releases to the State Government on account of plan assistance, State's share of central taxes and any other grant or loan, and pay the same to NTPC.
- iv. Notwithstanding the above, if any bills remain unpaid for a period exceeding two months from the date of issue of the bill for the power supplies from various NTPC power stations to Bulk Power Customer(s), NTPC shall have the

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authority to discontinue/reduce supply of power from Koldam HEPP and various other power stations of NTPC to Bulk Power Customer(s) and inform NREB accordingly.

- v. No disincentive will be applicable on account of NTPC resorting to restriction of generation or stopping generation altogether as a result of regulation measures on account of non-payment of dues by UPPCL. However, for the purpose of calculating the availability, the machine will be considered as available to the extent of regulation if any on this account and recovery of capacity charges will be made accordingly.

7.0 ARBITRATION

- 7.1 All differences or disputes between the parties arising out of or in connection with this Agreement shall be settled through arbitration as provided herein.
- 7.2 In the event of such differences or disputes between the parties, any party may by a written notice of 30 days to the other party request for appointment of a Sole Arbitrator to be decided mutually by the parties and, in case of disagreement, to be decided by Chairman, Central Electricity Authority. The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications thereto. The Arbitrator shall give a speaking and reasoned award. The decision of the Arbitrator shall be final and binding on the parties. The venue of the arbitration shall be as decided by the Arbitrator. The Court of Delhi shall have exclusive jurisdiction in all matters arising under this Agreement.
- 7.3 The Arbitrator shall reasonably decide in what proportion his fee and cost of arbitration proceedings shall be borne by the parties. The Arbitrator with the consent of the parties may extend the time to make and publish the award.

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7.4 Notwithstanding the existence of any question, disputes and differences referred to arbitration, the parties hereto shall continue to perform their respective obligations under this Agreement.

8.0 FORCE MAJEURE

The parties shall ensure due compliance with the terms of this Agreement. However, no party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the Agreement to the extent that such a failure is due to force Majeure events such as war, rebellion, mutiny, civil commotion, riot, strike, lock-out, forces of nature, accident, Act of God and any other reason beyond the control of concerned party. But any party claiming the benefit of this clause shall reasonably satisfy the other party of the existence of such an event and give written notice within a reasonable time to the other party to this effect. Generation/drawl of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

9.0 IMPLEMENTATION OF THE AGREEMENT

All discretions to be exercised and directions, approvals, consents and notices to be given and actions to be taken under these presents unless otherwise expressly provided herein, shall be exercised and given by the signatories to this Agreement or by the authorised representative(s) that each party may nominate in this behalf and notify in writing to the other party by Registered Post. Any other nomination of authorised representative(s) shall be informed likewise in writing to/by Bulk Power Customer(s) within one month of signing of the Agreement. Notwithstanding any nomination, the Executive Director (NCR), NTPC, NCR HQ., Engineering Office Complex, Sector-24, Noida - 201 301 (U.P.), Executive Director (NR), NTPC, NR HQ., 1st Floor, B-1 Block, Picup Bhawan, Vibhuti Khand Gomati Nagar, Lucknow-226010 as well as Executive Director (Commercial),

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U.P. Power Corporation Ltd.
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NTPC, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi-110 003 or their authorised representatives at its Registered Office first above mentioned, shall be authorised to act for and on behalf of NTPC.

10.0 NOTICE

All notices required or referred to under this Agreement shall be in writing and signed by the respective authorised signatories of the parties mentioned herein above, unless otherwise notified. Each such notice shall be deemed to have been duly given if delivered or served by registered mail/speed post of Department of Posts with an acknowledgement due to the other parties in terms of Clause 9.0 above.

11.0 EFFECTIVE DATE AND DURATION OF AGREEMENT

The Agreement shall come into force from the date of signing of the Agreement for all purposes and intent and shall remain operative upto completion of thirty five (35) years provided that this Agreement may be mutually extended, renewed or replaced by another Agreement on such terms and for such further period of time as the parties may mutually agree. In case Bulk Power Customer(s) continue to get power from Koldam HEPP even after expiry of this Agreement without further renewal or formal extension thereof then all the provisions of this Agreement shall continue to operate till this Agreement is formally renewed, extended or replaced.

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12.0 SUCCESSORS AND ASSIGNS

In case any of the parties to this Agreement is restructured and/or its generation, transmission and distribution activities are taken over by other organisation(s)/agency(ies), partly or wholly, the Agreement shall be binding mutatis mutandis upon the successor organisation(s)/agency(ies), and guarantee by the concerned State Government, shall continue to remain valid with respect to the obligations of the successor organisation(s)/agency(ies). In such an event, the LC arrangement and Tripartite Agreement referred to in para 6.0(e&i) and 6.0(f) above shall also be binding in respect of the successor organisation(s)/agency(ies) with such modifications and changes as may be considered necessary.

13.0 Notwithstanding the terms and conditions contained in this Agreement. NTPC agrees that in case more favourable terms and conditions for power supply from Koldam Hydro Electric Power Project are settled with any other Bulk Power Customer(s) in Northern Region unfavourable to UPPCL, the same shall be made at par forthwith on a reference from UPPCL.

14.0 This agreement is being signed subject to the approval of Board of Directors of UPPCL and the Management of NTPC.

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Director (Commercial)
U.P. Power Corporation Ltd
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IN WITNESS WHEREOF the parties have executed these presents through their Authorised Representatives at

WITNESS

1. 
A.A. Sr
GM (EAD)



For and on behalf of
Uttar Pradesh Power Corporation Ltd.

(UDAI NARAYAN)
Director (Commercial)
U.P. Power Corporation Ltd.
Shakti Bhawan, 14, Ashok Marg
LUCKNOW

2. 


K.K. GARG
General Manager (Commercial)
National Thermal Power Corporation Ltd.
Core-6, 4th Floor, Scope Complex
Lodhi Road, New Delhi-110003

For and on behalf of
National Thermal Power Corporation Ltd.


For and on behalf of
SHYAM WADHERA
Executive Director (Commercial)
National Thermal Power Corpn. Ltd.
Scope Complex, Core-7, Lodhi Road
New Delhi - 110003