Financing Agreement

(Nepal-India Regional Trade and Transport Project)

between

NEPAL

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated JULY 11, 2013
FINANCING AGREEMENT

AGREEMENT dated 11 जनै, 2013, entered into between NEPAL ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association"). The Recipient and the Association hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant and a credit (collectively, "Financing") in the following amounts to assist in financing the project described in Schedule 1 to this Agreement ("Project"): 

(a) an amount equivalent to nineteen million nine hundred thousand Special Drawing Rights (SDR 19,900,000) ("Grant"); and

(b) an amount equivalent to forty five million eight hundred thousand Special Drawing Rights (SDR 45,800,000) ("Credit").

2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.

2.05. The Payment Dates are May 15 and November 15 in each year.
2.06. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is Dollars.

ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objective of the Project. To this end, the Recipient shall carry out the Project through its agencies in accordance with the provisions of Article IV of the General Conditions.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — EFFECTIVENESS; TERMINATION

4.01. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

4.02. For purposes of Section 8.05(b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty (20) years after the date of this Agreement.

ARTICLE V — REPRESENTATIVE; ADDRESSES

5.01. The Recipient’s Representative is the Secretary, Ministry of Finance.

5.02. The Recipient’s Address is:

Ministry of Finance
Government of Nepal
Singha Durbar
Kathmandu
Nepal

Facsimile:

(977-1) 4211-164
5.03. The Association's Address is:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable: Telex: Facsimile:
INDEVAS 248423 (MCI) 1-202-477-6391
Washington, D.C.

AGREED at Kathmandu, Nepal, as of the day and year first above written.

NEPAL

By

Authorized Representative

Name: Madhu Mardini

Title: Joint Secretary

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

Authorized Representative

Name: Tahseen Sayed

Title: Country Manager
SCHEDULE 1

Project Description

The objective of the Project is to decrease transport time and logistics costs for bilateral trade between Nepal and India and transit trade along the Kathmandu-Kolkata corridor for the benefit of traders by reducing key infrastructure bottlenecks in Nepal and by supporting the adoption of modern approaches to border management.

The Project consists of the following parts:

Part A: Modernizing Transport and Transit Arrangements between Nepal and India

Improving the efficiency of the trade systems, through the provision of technical assistance to (1) introduce a modern and effective transit regime including technical assistance in enhancing the capacity to negotiate trade and transit treaties; (2) simplify and harmonize customs and border management procedures, processes and systems, especially to provide for electronic interchange of data; and (3) strengthen and modernize the regulation of international trucking services including axle load control and road safety from a transport management perspective.

Part B: Strengthening Trade-Related Institutional Capacity in Nepal

(1) Design, development and implementation of information communication technology systems and related business process improvements to enhance transparency and integrity, lower trade transaction costs, and reduce the time taken to clear goods.

(2) Improvement of the capability of trade-related laboratories; provision of change management support to agencies and stakeholders involved in testing and certification; and facilitation of arrangements for mutual recognition of certifications.

(3) Strengthening the NTTFC and strengthening the capacity of MoCS and the PCO to coordinate the implementation of the different activities under the Project, through the provision of technical advisory services, and development of skills on procurement, financial management, environmental and social safeguards, and monitoring and evaluation.

Part C: Improving Select Trade-Related Infrastructure

1. Upgrading and expanding the Narayanghat-Mugling road section to Asian Highway Standard, and carrying out of studies for environmental sustainability, road safety and corridor improvement along the Birgunj-Kathmandu Corridor.

2. Construction of a CFS or an ICD in the Kathmandu Valley.
3. Improving the infrastructure at Birgunj and Bhairahawa ICDs, including the preparation of a maintenance plan.
SCHEDULE 2

Project Execution

Section I. **Implementation Arrangements**

A. **Institutional Arrangements.**

1. The Recipient shall finalize and adopt, by no later than July 15, 2013, a Project Operations Manual, acceptable to the Association, detailing the roles and responsibilities of the PCO and of each agency implementing the different activities under the Project, and the operational modality and fund flow arrangements under the Project, and shall ensure that all agencies carry out their respective components, in accordance with the provisions of the said Project Operations Manual. In the event of any conflict between the provisions of the Operations Manual and those of this Agreement, the latter shall govern.

2. The Recipient shall vest MoCS with responsibility for overall coordination of the different activities carried out under the Project, including the review of annual work plans and budgets, inter-agency coordination, and evaluation of progress of the Project.

3. The Recipient shall, by no later than July 15, 2013, mandate the NTTFC, with terms of reference acceptable to the Association, and endorsed by the Minister of MoCS, to be responsible for providing overall leadership and policy guidance on key policies and implementation decisions regarding the Project.

4. The Recipient shall maintain a PCO, headed by a Joint Secretary of MoCS, for coordinating and organizing the day-to-day implementation of the Project, coordinating the preparation of the annual work plans and budgets, ensuring quality control, submission and clearance of proposals and feasibility studies in liaison with the functional departments and ministries of the Recipient.

5. The Recipient shall ensure that each of its agencies responsible for carrying out the components or subcomponents, as specified in paragraph 7 below, shall assign, by no later than July 15, 2013, a dedicated Project Coordinator, and maintain such Project Coordinators for a period of at least two (2) years, as per the laws of the Recipient.

6. The Recipient shall: (i) furnish to the Association, for its review, an annual work program and budget for FY2013/14 which includes this Project in the Red Book, and (ii) assign two (2) separate budget codes for the Project, one for the PCO and the other for the DoR.

7. The Recipient shall ensure that, under the general oversight of the MoCS: (i) Parts A1, B2 and B3 of the Project shall be carried out through MoCS; (ii) Part
A3 shall be carried out by DoTM; (iii) Parts A2 and B1 of the Project shall be carried out through the DoC; (iv) Part C1 of the Project shall be carried out through the DoR; and (v) Parts C2 and C3 of the Project shall be carried out through the NITDB.

8. The Recipient shall formalize, by no later than July 15, 2013: (i) the terms of reference for the Technical Committee for the National Single Window and Trade Portal; (ii) the terms of reference for the Project Coordinator for the National Single Window; and (iii) the terms of reference for the Project Coordinator for the National Trade Portal, all to be implemented under Part B1 of the Project.

B. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

C. Safeguards

1. The Recipient shall:

   (a) implement the Safeguards Instruments in a manner and substance satisfactory to the Association;

   (b) ensure that each contract for works under the Project shall include the obligations of the work contractors and any sub-contractor to comply with the relevant provision of the ESMF, EMP, RAP and VCDP; and

   (c) not amend, suspend, or waive any of the Safeguards Instruments, or any provision thereof, without the prior written concurrence of the Association.

2. Without limitation on the foregoing, whenever an additional EMP, RAP and/or VCDP shall be required for any proposed Project activity in accordance with the ESMF, the Recipient shall:

   (a) prior to the commencement of such activity, proceed to have each such plan: (i) prepared in accordance with the provisions of the ESMF; (ii) furnished to the Association for review and approval; and (iii) thereafter adopted and disclosed, in a manner acceptable to the Association; (b) thereafter take such measures as shall be necessary or appropriate to ensure compliance with the requirements of such plan; and

   (c) in the case of any resettlement activity under the Project involving Displaced Persons, ensure that no displacement shall occur before
necessary resettlement measures consistent with the resettlement action plan applicable to such activity have been executed.

3. The Recipient shall maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of the Safeguards Instruments.

4. Without limitation to the provisions of paragraphs 1 and 2 of this Part C or the provisions of paragraph 1 of Part A of Section II below, the Recipient shall take all measures necessary on its part to regularly collect, compile, and submit to the Association, as part of the Project Reports, information on the status of compliance with the Safeguards Instruments, giving details of:

   (a) measures taken in furtherance thereof;
   (b) conditions, if any, which interfere or threaten to interfere with the smooth implementation thereof; and
   (c) remedial measures taken or required to be taken to address such conditions.

5. In the event of any inconsistency between the provisions of the Safeguards Instruments and the provisions of this Agreement, the provisions of this Agreement shall prevail.

6. Without limitation to the provisions of paragraph A.7. of this Section I, the Recipient shall cause DoF to coordinate the planning and execution of all matters pertaining to regulatory clearances, plantation works, biodiversity conservation, including engineering and non-engineering interventions such as habitat improvement works, and other construction management measures as required under the Environmental Management Plan for activities related to the Barandabhar Forest Corridor, under Part C.1. of the Project.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. (a) The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators set forth below in sub-paragraph (b) of this paragraph. Each Project Report shall cover the period of one (1) fiscal year trimester, and shall be furnished to the Association not later than forty-five (45) days after the end of the period covered by such report.
(b) The performance indicators referred to above in sub-paragraph (a) consist of the following:

(i) Time associated with meeting regulatory requirements for import, export and transit activities.

(ii) Border crossing time at Raxaul-Birgunj border post.

(iii) Total time between cargo offloading at Kolkata to arrival at Birgunj by road and rail and Birgunj to Kathmandu for trucks.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association, not later than forty-five (45) days after the end of each fiscal year trimester, interim unaudited financial reports for the Project covering the trimester, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.

Section III. Procurement

A. General

1. Goods, Works and Non-consulting Services. All goods, works and non-consulting services required for the Project and to be financed out of the proceeds of the Credit and the Grant shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants' Services. All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. Definitions. The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in Sections II
and III of the Procurement Guidelines, or Sections II, III, IV, and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works and Non-consulting Services

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, goods, works and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. Other Methods of Procurement of Goods, Works and Non-consulting Services. The following methods, other than International Competitive Bidding, may be used for procurement of goods, works and non-consulting services for those contracts specified in the Procurement Plan: (a) National Competitive Bidding, subject to the additional provisions set out in the Attachment to this Schedule 2; (b) Shopping; (c) Direct Contracting; and (d) Force Account.

C. Particular Methods of Procurement of Consultants' Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. Other Methods of Procurement of Consultants' Services. The following methods, other than Quality and Cost-based Selection, may be used for procurement of consultants' services for those contracts which are specified in the Procurement Plan: (a) Quality-based Selection; (b) Selection under a Fixed Budget; (c) Least Cost Selection; (d) Selection based on Consultants' Qualifications; (e) Single-source Selection of consulting firms; (f) Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the Selection of Individual Consultants; and (g) Single-source procedures for the Selection of Individual Consultants.

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.
Section IV. **Withdrawal of the Proceeds of the Financing**

A. **General**

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Credit and of the Grant to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (expressed in SDR)</th>
<th>Amount of the Grant Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, works, non-consulting services, and consultants’ services,</td>
<td></td>
<td>4,600,000</td>
<td>100%</td>
</tr>
<tr>
<td>including Training and Workshops for Part A of the Project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Goods, works, non-consulting services, and consultants’ services,</td>
<td></td>
<td>15,300,000</td>
<td>100%</td>
</tr>
<tr>
<td>including Training and Workshops, and Incremental Operating Costs for</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Part B of the Project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Goods, works, non-consulting services, and consultants’ services,</td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>including Training and Workshops:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) for Part C.1 of the Project</td>
<td>31,800,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) for Part C.2 of the Project</td>
<td>10,300,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) for Part C.3 of the Project</td>
<td>3,700,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>45,800,000</td>
<td>19,900,000</td>
<td></td>
</tr>
</tbody>
</table>
B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:

(a) for payments made prior to the date of this Agreement; and

(b) under Category 3(b), unless the Recipient has allocated the necessary land required for works for the CFS or ICD in Kathmandu under Part C.2 of the Project, in form, substance and in a manner acceptable to the Association, and in compliance with the provision of the ESMF.

2. The Closing Date is December 31, 2019.
Attachment

National Competitive Bidding

The following additional procedures shall apply to goods and works procured on the basis of National Competitive Bidding:

1. Bid documents shall be made available, by mail or in person, to all who are willing to pay the required fee.

2. Bids shall be opened in public in one place, immediately after the deadline for submission of bids.

3. Evaluation of bids shall be made in strict adherence to the criteria disclosed in the bidding documents, in a format and specified period agreed with the Association and contracts shall be awarded to the lowest evaluated bidders.

4. Extension of bid validity shall not be allowed without the prior concurrence of the Association (a) for the first request for extension if it is longer than four (4) weeks and (b) for all subsequent requests for extension irrespective of the period.

5. Foreign bidders shall not be precluded from bidding and no preference of any kind shall be given to national bidders.

6. Qualification criteria (in case pre-qualifications were not carried out) shall be stated in the bidding documents, and if a registration process is required, a foreign firm declared as the lowest evaluated bidder shall be given a reasonable opportunity of registering, without let or hindrance.

7. Rebidding shall not be carried out without the prior concurrence of the Association.

8. There shall not be any restrictions on the means of delivery of the bids.
SCHEDULE 3
Repayment Schedule

<table>
<thead>
<tr>
<th>Date Payment Due</th>
<th>Principal Amount of the Credit repayable (expressed as a percentage)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>On each May 15 and November 15:</td>
<td></td>
</tr>
<tr>
<td>commencing November 15, 2023 to and including May 15, 2033</td>
<td>1%</td>
</tr>
<tr>
<td>commencing November 15, 2033 to and including May 15, 2053</td>
<td>2%</td>
</tr>
</tbody>
</table>

* The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03(b) of the General Conditions.
APPENDIX

Definitions


2. "Asian Highway Standard" means the Asian Highway classification and design standards developed by the Economic and Social Commission for Asia and the Pacific, which provide the minimum standards and guidelines for the construction, improvement and maintenance of Asian Highway routes.

3. "Barandabhar Forest Corridor" means a 29 km long forest patch covering an area of 104.66 sq.km in Chitwan District of Nepal, which has been gazetted, in February 2012, as a Protected Forest by the Government of Nepal pursuant to Article 23 of the Recipient’s Forest Law.

4. Birgunj-Kathmandu Corridor means the road corridor linking Birgunj to Kathmandu, both within Nepal.

5. "Category" means a category set forth in the table in Section IV of Schedule 2 to this Agreement.


7. "CFS" means Container Freight Station.

8. "Displaced Persons" means persons who, on account of the execution of the Project, have experienced or would experience direct economic and social impacts caused by: (a) the involuntary taking of land, resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not such persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas, resulting in adverse impacts on the livelihood of such persons; and a "Displaced Person" means any of such Displaced Persons.

9. "DoC" means the Recipient’s Department of Customs, within the MoF (as hereinafter defined), or any successor thereto.

10. "DoF" means the Recipient’s Department of Forest within the Ministry of Forest and Soil Conservation, or any successor thereto.
19. "Kathmandu-Kolkata corridor" means the road corridor linking Kathmandu to Kolkata via Birgunj, and the rail line linking Kolkata via Birgunj, which for the purposes of this Project includes the portion of such transport corridor within Nepal.

20. "MoCS" means the Recipient’s Ministry of Commerce and Supplies, or any successor thereto.

21. "MoF" means the Recipient’s Ministry of Finance, or any successor thereto.

22. "MoPIT" means the Recipient’s Ministry of Physical Infrastructure and Transport, or any successor thereto.

23. "NITDB" means the Recipient’s Nepal Intermodal Transport Development Board, or any successor thereto.

24. "NTTFC" means National Trade and Transport Facilitation Committee, referred to in A.3 of Section I of the Schedule 2 to this Agreement, or any successor thereto.


26. "Procurement Plan" means the Recipient’s procurement plan for the Project, dated May 16, 2013, and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

27. "PCO" means Project Coordination Office, referred to in A.4 of Section I to Schedule 2 to this Agreement.

28. "Project Operations Manual" or "POM" means the Project Operational Manual to be prepared by the Recipient, pursuant to Section I A.1 of Schedule 2 to this Agreement.


30. "Resettlement Action Plan" or the acronym “RAP” means the Resettlement Action Plan dated January 2013, prepared by the Recipient, for purposes of carrying out Part C.1 of the Project, which sets out, inter alia: (a) the principles and procedures governing the acquisition of land required for the Project and related facilities, including access roads, construction camps, resettlement sites and quarries; (b) actions and measures for the payment of compensation to Displaced Persons and for their resettlement and rehabilitation; (c) the criteria
and procedures for developing and implementing actions and measures, satisfactory to the Association, for mitigating the adverse social impacts resulting from the implementation of activities in locations that are not directly identified in the RAP; and (d) reporting and monitoring arrangements to ensure compliance with said plan, as the same may be revised from time to time with the prior written agreement of the Association; and such term includes all attachments and annexes supplemental to said plan.

31. "Safeguards Instruments" means, collectively, the ESMF, the EMP, the RAP and the VCDP (as hereinafter defined), and such term includes any annexes or schedules to such instruments.


33. "Training and Workshops" means reasonable and necessary costs of training related to Project implementation and the Recipient’s capacity building, including the fees of educational or other institutions that provide training, costs related to attendance or organization of conferences, seminars, workshops, and study tours, and the trainees' cost of travel, boarding, lodging and per diem allowances.

34. "VCDP" means the Vulnerable Community Development Plan dated January 2013, prepared by the Recipient for purposes of carrying out Part C.1 of the Project, setting out actions and measures to protect the indigenous population, as said plan may be revised from time to time with the prior agreement of the Association.