Project Agreement

(Kabeli-A Hydroelectric Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

KABELI ENERGY LIMITED

Dated November 24, 2014
PROJECT AGREEMENT

AGREEMENT dated November 24, 2014, entered into between INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") and KABELI ENERGY LIMITED ("KEL" or "Project Implementing Entity") ("Project Agreement") in connection with the Financing Agreement ("Financing Agreement") of same date between Nepal ("Recipient") and the Association. The Association and KEL hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Financing 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 Financing Agreement or the General Conditions.

ARTICLE II — PROJECT

2.01. KEL declares its commitment to the objectives of the Project. To this end, KEL shall carry out Part I of the Project in accordance with the provisions of Article IV of the General Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for Part I of the Project.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Association and KEL shall otherwise agree, KEL shall carry out Part I of the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III — TERMINATION

3.01. For purposes of Section 8.05(c) of the General Conditions, the date on which the provisions of this Agreement shall terminate is twenty (20) years after the date of this Agreement.
ARTICLE IV — REPRESENTATIVE; ADDRESSES

4.01. KEL’s Representative is its Project Director.

4.02. The Association’s Address is:

International Development Association
1818 H Street, NW
Washington, DC 20433
United States of America

Cable: INDEVAS
Telex: 248423(MCI)
Facsimile: 1-202-477-6391

4.03. KEL’s Address is:

Ganga Devi Marg 313,
Buddhanagar, Kathmandu, Nepal

Facsimile:

+977 1 478 0994
AGREED at Kathmandu, Nepal, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

Authorized Representative

Name: Takuya Kamam

Title: Country Manager

KABELI ENERGY LIMITED

By

Authorized Representative

Name: Uttam Kumar Shrestha

Title: Alt. Director
SCHEDULE

Execution of Part 1 of the Project

Section I. Implementation Arrangements

A. Institutional Arrangements

Throughout Project implementation, KEL shall maintain units and departments with functions, powers, staff and resources necessary and appropriate to fulfill its responsibilities under Part 1 of the Project.

B. Anti-Corruption

KEL shall ensure that Part 1 of the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

C. Governance and Accountability Action Plan

KEL shall ensure that Part 1 of the Project is carried out in accordance with the provisions of the Governance and Accountability Action Plan.

D. Safeguards and Dam Safety

1. KEL shall:

   (a) carry out Part 1 of the Project in accordance with the provisions of the Environmental Impact Assessment (including the Environmental Management Plan), the Social Action Plan (including the Indigenous People and Vulnerable Community Development Plan and the Resettlement Compensation Plan and Livelihood Assistance Plan) and the Dam Safety Plan, and all other plans prepared in respect thereof, and shall ensure that no action is taken which have material adverse effect with such implementation;

   (b) not amend, revise or waive, nor allow to be amended, revised or waived, the provisions of the said plans without the prior written agreement of the Association;

   (c) before taking possession of any land, or commencing involuntary resettlement or works which would result in involuntary resettlement as defined in the Social Action Plan, ensure that all Affected Persons have been compensated and provided with applicable resettlement and rehabilitation benefits in accordance with the provisions of the Resettlement Plan;
(d) ensure that each contract for civil works required for the Project and to be financed out of the proceeds of the Financing shall include the obligation of the respective contractor to implement and monitor and evaluate the Environmental Management Plan, the Social Action Plan (including the Indigenous People and Vulnerable Community Development Plan and the Resettlement Compensation Plan and Livelihood Assistance Plan) and the Dam Safety Plan, and all other plans prepared in respect thereof; and

(e) maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of the said plans.

2. KEL shall:

(a) maintain at all times, throughout the duration of Project implementation, or such earlier date as the Association may notify the Recipient in writing, the Panel of Experts comprising of at least one dam safety expert, one tunneling expert, one environmental expert and one social expert, all with expertise and under terms of reference acceptable to the Association, which shall be responsible for advising KEL on all environmental and social aspects of Part I of the Project;

(b) provide all support and cooperation necessary for the above-mentioned experts to carry out their functions in accordance with their terms of reference; and

(c) (i) arrange periodic meetings and reviews for the said experts, including site visits, which shall continue throughout the duration of Project implementation; (ii) provide the Association with sufficient advance notice of each such meeting, such that the Association may participate in such meeting as an observer; (iii) furnish to the Association for review, no later than fifteen (15) days after each meeting with said experts, a copy of said experts’ written report with their conclusions and recommendations, signed by each participating member following each such meeting; and (iv) implement the recommendations of said experts in a timely manner taking into account the Association’s comments thereon.

3. Without limitation to the provisions of Section II, Part A of this Schedule, KEL shall take all measures necessary on its part to regularly collect, compile, and submit to the Bank, as part of the Project Reports, information on the status of compliance with the Safeguards Instruments, giving details of:

(a) the measures taken in furtherance of the Safeguards Instruments;
(b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of the Safeguards Instruments; and

(c) remedial measures taken or required to be taken to address such conditions.

4. In the event of any conflict between the provisions of any of the Safeguards Instruments or the GAAP and those of this Agreement or the Financing Agreement, the latter shall prevail.

E. Other Undertakings

1. KEL shall:

(a) prior to commencing civil works under Part 1 of the Project, obtain a power generation license from the Recipient;

(b) by no later than May 31, 2014, enter with NEA into a PPA in form and substance satisfactory to the Association with NEA;

(c) not assign, amend, revise or waive, nor allow to be assigned, amended, revised or waived, the provisions of the PPA or any part thereof, without the prior written agreement of the Association; and

(d) by no later than April 30, 2014, engage consultants having qualifications and terms of reference acceptable to the Association to work in the capacity of Owner's Engineer to assist it in the implementation of Part 1 of the Project (including with coordination between the contractors and helping to resolve interface issues) and to provide construction management training to its staff.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

KEL shall monitor and evaluate the progress of Part 1 of the Project and prepare Project Reports for said Part of the Project in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators acceptable to the Association. Each such Project Report shall cover the period of one (1) trimester of the Fiscal Year, and shall be furnished to the Recipient not later than two (2) weeks after the end of the period covered by such report for incorporation and forwarding by the Recipient to the Association of the overall Project Report.
B. Financial Management, Financial Reports and Audits

1. KEL shall maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, both in a manner adequate to reflect the operations and financial condition of KEL, including the operations, resources and expenditures related to Part 1 of the Project.

2. KEL shall have its financial statements referred to above audited by independent auditors, as recommended by KEL, acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association. Each audit of these financial statements shall cover the period of each Fiscal Year. KEL shall ensure that the audited financial statements for each Fiscal Year shall be: (a) furnished to the Recipient and the Association not later than six (6) months after the end of the period; and (b) made publicly available in a timely fashion and in a manner acceptable to the Association.

Section III. Procurement

All goods, works, non-consulting and consultants’ services required for Part 1 of the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the provisions of Section III of Schedule 2 to the Financing Agreement as applicable.