South Asia Water Initiative Phase-2 Multi-Donor Trust Fund Grant Agreement

(Power Sector Reform and Sustainable Hydropower Development Project)

Between

NEPAL

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT and INTERNATIONAL DEVELOPMENT ASSOCIATION acting as administrator of the South Asia Water Initiative Phase-2 Multi-Donor Trust Fund

Dated FEBRUARY 4, 2016
SOUTH ASIA WATER INITIATIVE PHASE-2 MULTI-DONOR TRUST FUND
GRANT AGREEMENT

AGREEMENT dated February 4, 2016, entered into between: NEPAL ("Recipient"); and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT and INTERNATIONAL DEVELOPMENT ASSOCIATION (collectively, "World Bank"), both acting as administrator of the South Asia Water Initiative Phase-2 Multi-Donor Trust Fund.

The Recipient and the World Bank hereby agree as follows:

Article I
Standard Conditions; Definitions

1.01. The Standard 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 Standard Conditions, this Agreement, or in the Appendix to this Agreement.

Article II
The Project

2.01. The Recipient declares its commitment to the objectives of the project described in Schedule 1 to this Agreement ("Project"). To this end, the Recipient shall carry out Parts 2(a), 2(b) and 3 of the Project through WECS in accordance with the provisions of Article II of the Standard Conditions and shall cause NEA to carry out NEA's Respective Parts of the Project in accordance with the Financing Agreement and the Project Agreement.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Recipient and the World Bank shall otherwise agree, the Recipient shall ensure that Parts 2(a), 2(b) and 3 of the Project are carried out in accordance with the provisions of Schedule 2 to this Agreement.

Article III
The Grant

3.01. The World Bank agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equal to two million
five hundred thousand United States Dollars (U.S.$ 2,500,000) ("Grant") to assist in financing of Parts 2(a), 2(b) and 3 of the Project.

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

3.03. The Grant is funded out of the abovementioned trust fund for which the World Bank receives periodic contributions from the donors to the trust fund. In accordance with Section 3.02 of the Standard Conditions, the World Bank’s payment obligations in connection with this Agreement are limited to the amount of funds made available to it by the donors under the abovementioned trust fund, and the Recipient’s right to withdraw the Grant proceeds is subject to the availability of such funds.

Article IV
Additional Remedies

4.01. The Additional Events of Suspension referred to in Section 4.02(k) of the Standard Conditions consist of the following, namely, that, the Financing Agreement has failed to become effective by the date ninety (90) days after the date of its signing, or such later date as the World Bank shall have established by notice to the Recipient.

Article V
Effectiveness; Termination

5.01. This Agreement shall not become effective until evidence satisfactory to the World Bank has been furnished to the World Bank that the conditions specified below have been satisfied:

(a) The execution and delivery of this Agreement on behalf of the Recipient have been duly authorized by all necessary governmental action.

(b) The Financing Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Recipient to make withdrawals under it (other than the effectiveness of this Agreement) have been fulfilled.

5.02. As part of the evidence to be furnished pursuant to Section 5.01(a), there shall be furnished to the World Bank an opinion or opinions satisfactory to the World Bank of counsel acceptable to the World Bank or, if the World Bank so requests, a certificate satisfactory to the World Bank of a competent official of the Member Country, showing the following matter, namely, that on behalf of the Recipient, that this Agreement has been duly authorized by, and executed and delivered on its behalf and is legally binding upon it in accordance with its terms.
5.03. Except as the Recipient and the World Bank shall otherwise agree, this Agreement shall enter into effect on the date upon which the World Bank dispatches to the Recipient notice of its acceptance of the evidence required pursuant to Section 5.01 ("Effective Date"). If, before the Effective Date, any event has occurred which would have entitled the World Bank to suspend the right of the Recipient to make withdrawals from the Grant Account if this Agreement had been effective, the World Bank may postpone the dispatch of the notice referred to in this Section until such event (or events) has (or have) ceased to exist.

5.04. Termination for Failure to Become Effective. This Agreement and all obligations of the parties under it shall terminate if it has not entered into effect by the date 90 days after the date of this Agreement, unless the World Bank, after consideration of the reasons for the delay, establishes a later date for the purpose of this Section. The World Bank shall promptly notify the Recipient of such later date.

Article VI
Recipient's Representative; Addresses

6.01. The Recipient's Representative referred to in Section 7.02 of the Standard Conditions is the Secretary, Ministry of Finance of the Recipient.
6.02. The Recipient’s Address referred to in Section 7.01 of the Standard Conditions is:

Ministry of Finance  
Government of Nepal  
Singha Durbar  
Kathmandu  
Nepal

Facsimile:  
(977-1) 4211-164

6.03. The World Bank’s Address referred to in Section 7.01 of the Standard Conditions is:

International Bank for Reconstruction and Development and  
International Development Association, acting  
as administrator of the Multi-Donor Trust Fund  
for the South Asia Water Initiative Phase-2  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable: INTBAFRAD or INDEVAS  
Telex: 248423 (MCI) or 64145 (MCI)  
Facsimile: 1-202-477-6391
AGREED at Kathmandu, Nepal, as of the day and year first above written.

NEPAL

By

Authorized Representative

Name: Balkumal Aryal
Title: Joint Secretary

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
and INTERNATIONAL DEVELOPMENT ASSOCIATION
acting as administrator of the South Asia Water Initiative
Phase-2 Multi-Donor Trust Fund

By

Authorized Representative

Name: Takuya Komato
Title: Country Manager
SCHEDULE 1

Project Description

The objectives of the Project are to: (a) strengthen the capacity of the Recipient’s power sector agencies to plan and prepare hydropower and transmission line projects following international standards and best practices; and (b) improve the readiness of the power sector agencies for regulatory and institutional reforms.

The Project consists of the following parts:

Part 1: Preparation of Hydropower and Transmission Line Investment Projects

(a) The preparation of detailed engineering design and bid documents for the Upper Arun Hydropower Project and the Ikuwa Khola Hydropower Project with a planned installed capacity of approximately 335 and 30 megawatts respectively, including: (i) preparation of detailed engineering design and bid documents; (ii) conducting environmental and social impact assessments, including a cumulative impact assessment, and mitigation studies; and (iii) hiring the dam safety panel of experts and the environmental and social panel of experts; and

(b) The undertaking of feasibility studies and the preparation of basic design, route survey, environmental and social impact assessment, and bid documents for the Transmission Line Projects.

Part 2: Studies and Preparation for Policy Recommendations and Sector Reform

Provision of support for:

(a) The implementation by WECS of integrated water resource planning and management to guide sustainable hydropower development in selected river basins, using a basin-wide approach;

(b) The improvement of the regulatory and institutional framework for water resources management and hydropower development, including updating the Water Resource Act and capacity building of WECS;

(c) The preparation of NEA’s power system expansion plan, including updating the generation master plan;

(d) The establishment and operationalization of a power trading company; and

(e) The restructuring of NEA for improved distribution business management and efficiency, including asset evaluation and installation of smart meters at consumer premises.
Part 3: Capacity Building for Safeguard Management and Hydropower Development

Provision of support to WECS for:

(a) Conducting an strategic environmental and social assessment to support basin-wide approach for hydropower development planning;

(b) Preparing recommendations for environmental and social regulations and procedures for conducting strategic environmental and social assessments for water resource and hydropower development;

(c) Building capacity in the management of social and environmental issues related to transmission lines’ right-of-way; and

(d) Carrying out Project management activities.
SCHEDULE 2

Project Execution

Section I. Institutional and Other Arrangements

A. Implementation Arrangements

1. The Recipient shall establish, no later than one (1) month after the Effective Date, and thereafter maintain throughout the period of implementation of the Project, the Project Steering Committee ("PSC") with functions, composition, and resources satisfactory to the World Bank, to provide direction to, oversight, and coordination of the PMUs in the implementation of Parts 2 and 3 of the Project.

2. The Recipient shall establish not later than one (1) month after the Effective Date, and prior to commencing any procurement activities under the Project, and thereafter maintain, throughout the period of Project implementation, the WECS Project Management Unit ("WECS PMU"):

   (a) headed by a Project manager, and staffed with key professionals with experience, qualifications, functions, terms of reference and resources satisfactory at all times to the Recipient and the World Bank; and

   (b) responsible for: (i) the effective implementation of all aspects of the management and coordination of Parts 2(a), 2(b) and 3 of the Project, including environmental and social management issues in relation thereto; and (ii) the fiduciary aspects of Parts 2(a), 2(b) and 3 of the Project, notably the overall procurement, financial management, audit, monitoring and evaluation and reporting in respect thereof.

B. Donor Visit

For the purposes of Section 2.09 of the Standard Conditions, the Recipient shall, upon the World Bank’s request, enable the representatives of the Donor(s) to visit any Project site for purposes related to the Project.

C. Anti-Corruption

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

1. The Recipient, through WECS, shall implement the Environmental and Social Management Framework in a manner and substance satisfactory to the World Bank. Without limitation on the foregoing, the Recipient, through WECS, shall:

   (a) carry out Parts 2(a), 2(b) and 3 of the Project in accordance with the Environmental and Social Management Framework, and any Safeguard Documents prepared thereunder;

   (b) not assign, amend, abrogate or waive, nor permit to be assigned, amended, abrogated or waived, in whole or in part any provision of the Environmental and Social Management Framework, or any Safeguard Documents prepared thereunder, without the prior written concurrence of the World Bank; and

   (c) ensure, wherever required pursuant to the Environmental and Social Management Framework, that each contract required for the implementation of the Project and to be financed out of the proceeds of the Grant shall include the obligation of the respective contractor and any sub-contractors to implement, and monitor and evaluate, the Environmental and Social Management Framework, and any Safeguard Documents prepared thereunder.

2. In the event of a conflict between the provisions of any of the Environmental and Social Management Framework and those of this Agreement, the latter shall govern.

3. Without limitation on the provisions of Section II.A.1 of this Schedule 2, the Recipient, through WECS, shall take all measures necessary on its part to regularly collect, compile, and provide to the World Bank, as part of the Project Reports, information on the status of compliance with the Environmental and Social Management Framework and Safeguard Documents prepared thereunder, providing details of:

   (a) measures taken in furtherance of such instruments;

   (b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of such instruments; and

   (c) remedial measures taken or required to be taken to address any conditions referred to in the preceding sub-paragraph (b).
4. The Recipient shall:

(a) carry out the Strategic Environmental and Social Assessment under Part 3(b) of the Project to inform the integrated planning processes at basins’ national level in accordance with the Environmental and Social Management Framework; and

(b) ensure that: (i) the screening, assessment, mitigation, monitoring and evaluation measures and all other actions set forth in the ESMF (including the SESA) relating to the environmental and social impacts of Project implementation are implemented in accordance with the objectives, policies, procedures, time schedules and other provisions set forth therein; and (ii) no action is taken which would prevent or interfere with such implementation.

5. The Recipient, through WECS, shall ensure that the terms of reference for all consultancies related to studies, technical assistance and/or capacity building under this Agreement shall be satisfactory to the World Bank following its review thereof and prepared in accordance with the Environmental and Social Management Framework and, to that end, such terms of reference shall duly incorporate the requirements of the World Bank’s Safeguard Policies then in force, as applied to the advice conveyed through such studies, technical assistance and/or capacity building activities.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports; Completion Report

1. The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 2.06 of the Standard Conditions and on the basis of the indicators set forth in the Results Framework. Each Project Report shall cover the period of one fiscal trimester, and shall be furnished to the World Bank not later than forty-five (45) days after the end of the period covered by such report.

2. The Recipient shall prepare the Completion Report in accordance with the provisions of Section 2.06 of the Standard Conditions. The Completion Report shall be furnished to the World Bank not later than six months after the Closing Date.
B. **Mid-term Review**

Without limitation to the provisions of paragraph A.1 above, the Recipient shall prepare, under terms of reference satisfactory to the World Bank, and furnish to the World Bank no later than September 30, 2017, a mid-term review report for the Project, summarizing the result of the monitoring and evaluation activities carried out from the inception of the Project, and setting out the measures recommended to ensure the efficient completion of the Project and the achievement of the objectives thereof during the period following such date.

C. **Financial Management; Financial Reports; Audits**

1. The Recipient shall ensure that a financial management system is maintained in accordance with the provisions of Section 2.07 of the Standard Conditions.

2. The Recipient shall ensure that interim unaudited financial reports for the Project are prepared and furnished to the World Bank not later than forty-five (45) days after the end of each fiscal trimester, covering the trimester, in form and substance satisfactory to the World Bank.

3. The Recipient shall have its Financial Statements for the Project audited in accordance with the provisions of Section 2.07 (b) of the Standard Conditions. Each audit of the Financial Statements shall cover the period of one Fiscal Year. The audited Financial Statements for each such period shall be furnished to the World Bank not later than six months after the end of such period.

4. Without limitation on the provisions of paragraphs 1 to 3 above, the Recipient shall conduct trimester internal audits of operations, resources and expenditures related to the Project, in accordance with consistently applied auditing standard acceptable to the World Bank, and shall prepare and furnish to the World Bank not later than three (3) months after the end of each fiscal trimester the internal audit reports covering the fiscal trimester, in form and substance satisfactory to the World Bank.

**Section III. Procurement**

A. **General**

1. **Goods.** All goods required for the Project and to be financed out of the proceeds of 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 Grant 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 World Bank 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**

1. **International Competitive Bidding.** Except as otherwise provided in paragraphs 2 and 3 below, goods shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. **Other Methods of Procurement of Goods.** The following methods, other than International Competitive Bidding, may be used for procurement of goods for those contracts specified in the Procurement Plan: (a) National Competitive Bidding in accordance with the provisions of the Public Procurement Act (and regulations made thereunder), subject to the additional provisions set out in paragraph 3 below; (b) Shopping; and (c) Direct Contracting.

3. **National Competitive Bidding.** The following additional procedures shall apply to goods procured on the basis of National Competitive Bidding:

   (a) Only the model bidding documents for National Competitive Bidding agreed with the World Bank (as amended from time to time), including qualification criteria shall be used;

   (b) Bid documents shall be made available, by mail or in person, to all who are willing to pay the required fee;

   (c) Foreign bidders shall not be precluded from bidding and no preference of any kind shall be given to national bidders;

   (d) Bids shall be opened in public in one place, immediately after the deadline for submission of bids;

   (e) 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;

   (f) 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 World Bank and contracts shall be awarded to the lowest evaluated bidders;
(g) Rebidding shall not be carried out without the prior concurrence of the World Bank;

(h) Extension of bid validity shall not be allowed without the prior concurrence of the World Bank (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; and

(i) There shall not be any restrictions on the means of delivery of the bids.

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 World Bank of Procurement Decisions**

The Procurement Plan shall set forth those contracts which shall be subject to the World Bank’s Prior Review. All other contracts shall be subject to Post Review by the World Bank.
Section IV. **Withdrawal of Grant Proceeds**

**A. General**

1. The Recipient may withdraw the proceeds of the Grant in accordance with the provisions of: (a) the Standard Conditions; (b) this Section; and (c) such additional instructions as the World Bank may 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 World Bank and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the following table. The table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Grant (“Category”), the allocations of the amounts 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 Grant Allocated (expressed in USD)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, consultants’ services, Training and Workshops under Parts 2 (a), 2 (b), and 3 of the Project</td>
<td>2,450,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Incremental Operating Costs under Parts 2(a), 2(b) and 3 of the Project</td>
<td>50,000</td>
<td>100%</td>
</tr>
<tr>
<td><strong>TOTAL AMOUNT</strong></td>
<td><strong>2,500,000</strong></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 for: (i) Eligible Expenditures under a contract financed or agreed to be financed by any other international institution or agency, or the World Bank, under any other agreement; or (ii) payments made prior to the date of this Agreement.

2. The Closing Date referred to in Section 3.06 (c) of the Standard Conditions is June 30, 2017.
APPENDIX

Definitions


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


4. “Environmental and Social Management Framework” or the acronym “ESMF” means the framework satisfactory to the World Bank, dated January 2015, as updated in April 2015, and referred to in Section 1.C of the Schedule to the Project Agreement, which sets forth the principles and procedures, governing, inter alia: (i) the preparation of Safeguard Documents; (ii) the requirements, activities, processes, and institutional responsibilities for ensuring that all activities under the project are carried out in compliance with World Bank’s Safeguard Policies; and (iii) the environmental and social protection measures, if any, required to be undertaken in order to avoid or mitigate potential adverse environmental and social impacts; as said framework may be revised from time to time with the prior written concurrence of the World Bank, and such term includes any annexes or schedules to such framework.

5. “Financing Agreement” means the agreement between the Recipient on the one hand and the International Development Association on the other, of the same date as this Agreement, providing for a Credit in support of Parts 1, 2(c), 2(d) and 2(e) of the Project, as such agreement may be amended from time to time; and such term includes all appendices, schedules and agreements supplemental to said agreement.

6. “Fiscal Year” or “FY” means the fiscal year of the Recipient beginning on 16 July in one calendar year and ending on 15 July in the following calendar year.

7. “Incremental Operating Costs” means Project-related incremental operating costs incurred on account of implementation, management and monitoring, dissemination of Project-related information, including office equipment, equipment maintenance and repair, consumables, operation, maintenance and repair of vehicles, vehicle rental/leasing, travel, including travel to Project sites, communication, commercial bank charges, and advertising, but excluding the salaries and benefits of the Recipient’s civil servants and WECS’s employees.
8. "NEA" means Nepal Electricity Authority, a government-owned utility established under the Nepal Electricity Authority Act, 2041 (1984) and responsible for, among other things, generation, transmission and distribution of electricity in Nepal.

9. "NEA Project Management Unit" or "NEA PMU" means the management unit to be established by NEA to manage NEA's Respective Parts of the Project, and referred to in Section I.A.1 of the Schedule to the Project Agreement.

10. "NEA's Respective Parts of the Project" means all activities under Part 1, 2 (c), 2 (d), and 2 (e) of the Project.

11. "PMUs" means, collectively, the NEA PMU and the WECS PMU.


13. "Procurement Plan" means the Recipient's procurement plan for the Project, dated August 28, 2015 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.

14. "Project Agreement" means the agreement between the International Development Association on the one hand and the NEA on the other, of the same date as this Agreement, providing for the implementation by NEA of the Credit in support of Parts 1, 2(c), 2(d) and 2(e) of the Project, as such agreement may be amended from time to time; and such term includes all appendices, schedules and agreements supplemental to said agreement.


16. "Respective Parts of the Project" means, with respect to NEA, the "NEA Respective Parts of the Project", and with respect to the Recipient, Parts 2(a), 2(b) and 3 of the Project.

17. "Results Framework" means the Recipient's framework dated August 28, 2015, and agreed with the World Bank, setting forth the indicators and targets for purposes of monitoring and evaluation of the progress of the Project, as the same may be modified from time to time with the prior written agreement of the World Bank, and such term includes any annexes, appendices, or schedules to such framework.

18. "Safeguard Documents" means the assessments, frameworks, plans, sub-plans, and studies, including, inter alia, environmental and social impact assessments and
plans, cumulative impact assessment, resettlement policy framework, resettlement action plans, vulnerable and indigenous peoples development plans, downstream impacts management plans, gender assessment and action plans, benefit-sharing action plans, and dam safety plans, to be developed in accordance with the Environment and Social Management Framework and agreed with the World Bank, and setting out mitigation measures, environmental and social management and supervision structures, and institutional capacity building through training, to eliminate any adverse environmental and social impacts of activities to be implemented under the Project, offset them, or reduce them to acceptable levels, or enhance positive impacts, as the same may be modified from time to time with the prior written concurrence of the World Bank; and such term includes any annexes or schedules.


20. “Strategic Environmental and Social Assessment” or the acronym “SESA” means the assessment to be carried out by the Recipient, through WECS, under Part 3(b) of the Project to inform the integrated planning processes at basins’ national level.

21. “Training and Workshops” means reasonable and necessary costs of training related to the implementation of Parts 2(a), 2(b), and 3 of the Project, including the fees owed to educational and other institutions that provide training, costs related to attendance and organization of conferences, seminars, study tours and workshops, and the trainees’ cost of travel, boarding, lodging and per diem allowances.


24. “WECS Project Management Unit” or “WECS PMU” means the management unit to be established by the Recipient, through WECS, to specifically manage the Parts 2(a), 2(b) and 3 of the Project, and referred to in Section I.A.2 of Schedule 2 of this Agreement.