

CONFORMED COPY

CREDIT NUMBER 1902 NEP

(Third Technical Assistance (Pancheswar) Project)

between

KINGDOM OF NEPAL

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated November 28, 1988

CREDIT NUMBER 1902 NEP

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated November 28, 1988, between THE KINGDOM OF NEPAL (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) on December 10, 1977, the Borrower and India reached an understanding to analyze the Pancheswar Multipurpose Project and conduct the required field investigation on their respective territories;

(C) on July 20, 1987, the Borrower has entered into an agreement with the Federal Republic of Germany (hereinafter called the Financial Cooperation Agreement) for purposes of contracting a grant in an amount of Deutsche Marks twenty-five

million (DM 25,000,000) to assist in the financing of various development projects in Nepal, and pursuant to the provisions of the Financial Cooperation Agreement the Borrower intends to enter into an agreement with Kreditanstalt für Wiederaufbau (hereinafter called the KfW Grant Agreement) for contracting a grant in an amount up to Deutsche Marks nineteen million three hundred thousand (DM 19,300,000) to assist in the financing of Part B of the Project, on the terms and conditions to be set forth in the KfW Grant Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

#### ARTICLE I

##### General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth:

(a) "Project Agreement" means the agreement between the Association and Nepal Electricity Authority of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(b) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement;

(c) "Joint Group of Experts" and the acronym "JGE" mean the committee established on December 1977, by the Borrower and India to determine, inter alia, the technical feasibility of the Pancheswar Multipurpose Project;

(d) "Pancheswar Multipurpose Project" means the Project to be located at the Mahakali river whose future execution is expected to be carried out on the basis of the: (i) results and recommendations of the studies under Part A of the Project; and (ii) agreement(s) to be reached by the Borrower and India on the implementation of such project, including feasibility, design and detailed engineering studies;

(e) "Arun-3 Hydroelectric Power Project" means the project to be located in the Arun river whose future execution is expected to be carried out on the basis of the results and recommendations of the studies under Parts B and C (i) of the Project;

(f) "Nepal Rastra Bank" means the Borrower's central bank, established and operating pursuant to the Borrower's Nepal Rastra Bank Act, 2012 (1955), as amended to the date of this Agreement;

(g) "Nepal Electricity Authority" and the acronym "NEA" mean an autonomous corporation wholly owned by the Borrower, established and operating since August 17, 1985 under the Borrower's Nepal Electricity Authority Act 2041 (1984); and

(h) "Sub-project" means a particular study or technical assistance project of high priority, inter alia, in the agriculture, irrigation, power and other infrastructure subsectors, to meet the economic and social development objectives of the Borrower, and to be financed out of the proceeds of the Credit.

## ARTICLE II

### The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to ten million six hundred thousand Special Drawing Rights (SDR 10,600,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account in the Nepal Rastra Bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1992 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent ( $1/2$  of 1%) per annum.

(b) The commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled at the rates set from time to time pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied as of the next payment date in that year specified in Section 2.06 of this Agreement, except that the rate set as of June 30, 1988 shall be applied as of July 1, 1988.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent ( $3/4$  of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on May 15 and November 15 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each May 15 and November 15 commencing May 15, 1998 and ending November 15, 2027. Each installment to and including the installment payable on November 15, 2007 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790

in constant 1985 dollars for five consecutive years, and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

### ARTICLE III

#### Execution of the Project

Section 3.01. The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall, through its Ministry of Water Resources, carry out Part A of the Project, through NEA, carry out Parts B and C of the Project, and through its Ministry of Finance, Part D of the Project, all with due diligence and efficiency and in conformity with appropriate engineering, agriculture, irrigation, power and other infrastructure, administrative and financial practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project, including, without limitation, the facilities, resources and counterpart staff required for the studies under the Project.

Section 3.02. Without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, the Borrower shall cause NEA to perform in accordance with the provisions of the Project Agreement all the obligations of NEA therein set forth, shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable NEA to perform such obligations and shall not take or permit to be taken any action which could prevent or interfere with such performance.

Section 3.03. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A and D of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.04. The Borrower shall, out of the proceeds of the Credit, make available to NEA as a grant an amount equivalent to SDR 3,080,000.

Section 3.05. The Borrower shall keep the JGE regularly informed on the progress of Part A of the Project, inter alia, to ensure that the studies under such Part of the Project are carried out consistent in nature and scope with those already been done by India for the Pancheswar Multipurpose Project.

Section 3.06. The Borrower undertakes that each of the Sub-projects to be carried out under Part D of the Project shall be selected in accordance with the following criteria:

(a) be of high priority for implementing the Borrower's overall development strategy; and

(b) be found acceptable by the Association. For such purposes, the Borrower shall, by December 31, 1989 or such later date as the Borrower and the Association may otherwise agree, furnish to the Association, for its approval, each proposed Sub-project together with the information and data that the Association may reasonably require.

Section 3.07. The Association and the Borrower hereby agree that the obligations set forth in Section 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of Parts B and C of the Project shall be carried out by NEA pursuant to Section 2.03 of the Project Agreement.

Section 3.08. The Borrower shall:

(a) within its Ministry of Water Resources, maintain the position of Project Chief with such powers, functions and responsibilities as shall be required to enable the said Chief to administer and coordinate the various activities under Part A of the Project; and

(b) maintain in such position, an officer whose qualifications, experience and terms of reference shall be satisfactory to the Association, and who shall report directly to the Secretary of the Borrower's Ministry of Water Resources.

Section 3.09. The Borrower shall:

(a) within its Ministry of Finance, or its relevant Ministries, maintain the position of Project Chief with such powers, functions and responsibilities as shall be required to enable the said Chief(s) to administer and coordinate the various activities under Part D of the Project; and

(b) maintain in such position, an officer(s) whose qualifications, experience and terms of reference shall be satisfactory to the Association, and who shall report directly to the Secretary of the Borrower's Ministry of Finance.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Parts A and D of the Project of the departments or agencies of the Borrower responsible for carrying out such Parts of the Project or any part thereof.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(ii) furnish to the Association, as soon as available, but in any case not later than twelve months after the end of each such year, a certified copy of the

report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

- (iii) furnish to the Association such other information concerning said records, accounts and the audit thereof as the Association shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

#### ARTICLE V

##### Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) that the consultants for carrying out Parts B, C (i), (C) (ii) and (C) (iii) of the Project, have been employed pursuant to the provisions of Section II of the Schedule to the Project Agreement; and

(b) that all conditions of effectiveness of the KfW Grant Agreement, other than the effectiveness of this Agreement, if that be the case, have been met.

Section 5.02. The following is specified as an additional matter within the meaning of Section 12.02 (c) of the General Condition, to be included in the opinion or opinions to be furnished to the Association, namely, that the Project Agreement has been duly authorized or ratified by NEA and is legally binding upon NEA in accordance with its terms.

Section 5.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

#### ARTICLE VI

##### Representative of the Borrower; Addresses

Section 6.01. The Secretary, Ministry of Finance of the Borrower is designated as representative of the Borrower for the

purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance  
His Majesty's Government  
Kathmandu  
Nepal

Cable address:

ARTMA  
Kathmandu, Nepal

Telex:

2249-NP

For the Association:

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

Cable address:

INDEVAS  
Washington, D.C.

Telex:

440098 (ITT)  
248423 (RCA) or  
64145 (WUI)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

KINGDOM OF NEPAL

By /s/ Mohan Man Sainju  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Attila Karaosmanoglu  
Regional Vice President  
Asia

#### SCHEDULE 1

##### Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Works under	1,100,000	81%

	Part A of the Project		
(2)	Equipment, vehicles and materials:		100% of foreign expenditures; 100% of local expenditures (ex-factory cost); and 65% of local expend- itures for other items procured locally
	(a) under Part A of the Project	1,390,000	
	(b) under Part C of the Project	150,000	
(3)	Consultants' services:		100%
	(a) under Part A of the Project	770,000	
	(b) under Part C of the Project	2,930,000	
	Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(4)	Sub-projects under Part D of the Project	3,660,000	100%
(5)	Unallocated	600,000	
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	TOTAL	10,600,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

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

(b) expenditures under Category 4 of the table in paragraph 1 of this Schedule with regard to each Sub-project until the Borrower has complied with the provisions of Section 3.06 of this Agreement in respect of each such Sub-project.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in implementing its policies on securing the least-cost supply of electricity for domestic use and exports; and to support its economic and social development through high priority studies.

The Project consists of the following parts, subject to such



modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A:

The carrying out within Nepal of field investigations for the Pancheswar Multipurpose Project, including aspects related to the engineering, socio-economic, environmental impact and resettlement and rehabilitation of people.

Part B:

The carrying out of detailed engineering studies for the Arun-3 Hydroelectric Power Project, including the headworks, waterways and powerhouse.

Part C:

The carrying out of the following studies:

- (i) evacuation of bulk power from the Arun-3 Hydroelectric Power Project into: (1) the Nepal interconnected power system, and (2) external power grids interconnected with Nepal's power grid, including the preparation of detailed engineering studies for the resulting facilities;
- (ii) a 10-year master plan for transmission and distribution of electricity in Nepal;
- (iii) a long-run marginal cost study of electricity tariffs, including a plan to gradually adjust electricity tariffs to reflect the economic cost of supply, meet the social objectives of the Borrower and satisfy the financial requirements of the Borrower's Nepal Electricity Authority;
- (iv) a plan for strengthening the Borrower's Nepal Electricity Authority; and
- (v) a 10-year strategy plan for rural electrification in Nepal.

Part D:

The carrying out of Sub-projects.

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The Project is expected to be completed by December 31, 1991.

SCHEDULE 3

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: Procurement Procedures

(a) All civil works and vehicles, including spare parts therefor, shall be procured under contracts awarded on the basis of competitive bidding advertised locally, in accordance with local procedures satisfactory to the Association.

(b) Materials, equipment (except vehicles) and spare parts therefor shall be procured under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three qualified suppliers eligible under the "Guidelines for Procurement under World Bank Loans and IDA Credits" published by the Bank in May 1985 (hereinafter called the Guidelines) and,

where appropriate, from at least three different countries.

Part B: Review by the Association of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods estimated to cost the equivalent of \$100,000 or more and with respect to each contract for civil works estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to said paragraph 2 (d) shall be furnished to the Association prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Association pursuant to said paragraph 3 shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 4 to this Agreement.

(c) The provisions of the preceding subparagraphs (a) and (b) shall not apply to contracts on account of which the Association has authorized withdrawals from the Credit Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c) (ii) of this Agreement.

3. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

In order to assist the Borrower in carrying out Parts A and D of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means the Categories set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to SDR 1,000,000 to be withdrawn from the Credit Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Association shall otherwise agree, payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account may be made as follows:

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit in the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Association requests for replenishment of the Special Account at such intervals as the Association shall specify. On the basis of such requests, the Association shall withdraw from the Credit Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of the Special Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Association, prior to or at the time of such request, such documents and other evidence as the Association shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Association when either of the following situations first arises:

(i) the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(ii) the total unwithdrawn amount of the Credit allocated to the eligible Categories, minus the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall be equal to the equivalent of twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence

furnished pursuant to paragraph 4 of this Schedule, the Borrower shall, promptly upon notice from the Association deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. No further deposit by the Association into the Special Account shall be made until the Borrower has made such deposit or refund.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount for crediting to the Credit Account.

