AGREEMENT BETWEEN

THE GOVERNMENT OF DENMARK,
REPRESENTED BY THE EMBASSY OF DENMARK IN KATHMANDU

AND

THE INTERNATIONAL LABOUR ORGANIZATION

PREAMBLE

WHEREAS, the Government of Denmark, represented by the Embassy of Denmark in Kathmandu (hereinafter referred to as "Donor") has informed the International Labour Organization, represented by the International Labour Office (ILO) of its willingness to form a donor consortium with the Government of Norway to provide the cost sharing contribution to the ILO towards the implementation of a project (Project) in Promotion of Indigenous Peoples Rights in the Constitution-Making and State-Reform Process in Nepal;

NOW THEREFORE, the parties hereby agree as follows:

Article 1: CONTRIBUTION

1.1. The Donor shall provide a contribution of USD 593,675 which shall be deposited in two equal instalments the first upon signing of the agreement and the second on the 2nd of January, 2009, upon request of the ILO. The deposits shall be made into the following account:

Union de Banques Suisses (UBS) S.A.
Case Postale 2600
CH-1211 GENEVA, SWITZERLAND
Swift Address: UBSWCHZH80A
IBAN No.: CH69 0024 0240 C080 1157 0

Reference should be made to: **NEP/08/02/MUL**

1.4. The ILO shall maintain a separate account expressed in U.S. Dollars for the contribution showing all income and expenditures. Contributions paid in currency other than U.S. Dollars shall be converted into U.S. Dollars at the market rate of exchange on the date of the transaction. Expenditures incurred in currency other than U.S. Dollars shall be converted into U.S. Dollars at the United Nations operational rate of exchange on the date of the transaction.

1.5 The ILO shall notify the Donor in writing if the contribution is insufficient to cover the Project activities described in the Project document. In this event, the Donor and the ILO shall consult for the purpose of increasing the contribution so as to cover the Project activities or modifying the Project activities to the level where the activities are covered by the Donor's contribution.

Article 2: SUPPORT COSTS

2.1. As shown on the attached budget (Annex A), the contribution shall cover project expenditures and support costs which are calculated at the rate of seven (7) percent of direct project costs.

Article 3: ADMINISTRATION OF THE CONTRIBUTION

3.1. The ILO shall administer the contribution in accordance with its regulations, rules, directives and procedures. In particular, the ILO shall keep all the vouchers and other documents for a reasonable period of time in accordance with its Financial Rules and Regulations.

3.2. The Donor acknowledges that the ILO cannot pre-finance Project activities. If the contribution, or any part of it, is not received in a timely manner, the Project activities may be reduced or suspended by the ILO with immediate effect.

3.3. The ILO shall not assume any liability in excess of the amount that it has actually received from the Donor.

3.5. Overspending of the agreed budget head is not allowed without prior written approval. If the grant/funds are used for other purposes than the initial agreement without prior written approval, the ILO shall make full refund of the amount so used to the Donor.

Article 4: PROCUREMENT AND RECRUITMENT

4.1. Goods or services will be purchased by the ILO for the Project in accordance with its regulations, rules, directives and procedures.

4.2. If any equipment is purchased by the ILO for the Project, the ILO shall prepare a report of non expendable equipment within thirty (30) days of its closure. It shall be disposed of in accordance with the ILO's regulations, rules, directives and procedures.

4.3. The personnel assigned by the ILO to the Project, shall be recruited, employed and supervised by the ILO on the basis of its regulations, rules, directives and procedures.

Article 5: FRAUD AND CORRUPTION

5.1. No offer, gift, payment, consideration or benefit of any kind, the provision of which would constitute an illegal, corrupt or fraudulent practice shall be made, promised, sought or accepted (either directly or indirectly) as an inducement or reward in relation to activities funded under this Agreement. Each party is expected to notify the other party of any such practices. Contractors engaged in the implementation of Project activities are expected to observe the highest ethical standards in performing contracts.

Article 6: REPORTS

6.1. **Financial Report:** The ILO shall provide the Donor, not later than 31 May each year, a statement related to the Project showing the funds received and expended during the previous calendar year. This statement shall consist of an extract from the ILO's accounts, as submitted for audit to the external auditor whose certificate will appear in the ILO's biennial financial report.

6.2. **Progress Report:** The ILO shall provide the Donor with a sixth-monthly report on the results obtained by the Project in the previous period.

6.3. **Final Report:** The ILO shall provide the Donor, at the end of the Project after activities are completed, with a final report covering all important aspects of the utilization of the Donor's contribution.

6.4. The ILO is obliged to immediately inform the Donor if any changes, including overspending of budget lines or irregularities in the management of funds are foreseen or have occurred.

Article 7: EVALUATION

7.1. The ILO shall carry out the evaluation of the project in accordance with its regulations, rules, directives and procedures.

Article 8: AUDITING

8.1. The contribution and associated activities and expenditures shall be subject exclusively to the internal and external auditing procedures provided for in the regulations, rules, directives and procedures of the ILO.

8.2. The Donor may request, at its expense, an audit of the Project activities, contribution and expenditures by the external auditor of the ILO. If an audit is requested, both parties will agree on the Terms of Reference for the work to be undertaken.

8.3. The ILO shall ensure that Donor's representatives will be permitted to visit, upon a timely request, any part of the Project for purposes related to this Agreement.

Article 9: PRIVILEGES AND IMMUNITIES

9.1. Nothing in this Agreement or relating thereto shall be construed as constituting a waiver of the privileges and immunities enjoyed by the ILO.

9.2. In all matters connecting with performance under this Agreement, the Government of Denmark and the Government of Norway shall apply to the ILO, its property, officials and any person designated by the ILO to perform services under this Agreement, the provisions of the Convention of the Privileges and Immunities of Specialized Agencies (1947) and Annex I thereof relating to the ILO.

Article 10: RELATIONSHIP OF PARTIES

10.1. Nothing contained herein shall be construed as establishing a relationship of principal and agent as between the Donor and the ILO.

Article 11: INTELLECTUAL PROPERTY RIGHTS

11.1. All Intellectual Property Rights including title, copyright and patent rights resulting from the Project activities shall be vested in the International Labour Organization including, without any limitation, the rights to use, publish, sell, or distribute, privately or publicly, any item or part thereof.

Article 12: DISPUTE SETTLEMENT

12.1. The Parties shall use their best efforts to settle amicably all disputes, controversies or claims arising out of or in connection with this Agreement or the interpretation thereof.

12.2. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof - which cannot be settled amicably within sixty (60) days - shall be settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules (UNCITRAL). The Parties agree to be bound by any arbitration award rendered in accordance with this provision as the final adjudication of any dispute.

Article 13: ANNEXES

13.1. Annex A: Project document forms an integral part of this Agreement. In the event that the terms contained in Annex A are incompatible with those contained in this Agreement, then the latter shall govern and prevail.

Article 14: AMENDMENTS

14.1. The Parties may by their written mutual consent amend any of the provisions of this Agreement.

Article 15: VALIDITY

15.1. This Agreement shall remain in force for the duration of the Project activities, unless terminated earlier by either Party in accordance with article 16.

15.2. The parties may decide to extend the validity of this Agreement by mutual written consent signed by their authorized representatives.

Article 16: TERMINATION

16.1. After consultations have taken place between the Parties, either Party may give the other Party written notice of termination of this Agreement. Termination shall take effect 90 (ninety) days after receipt of the notice.

16.2. In the case of termination by the Donor the ILO shall not be obliged to repay any funds irrevocably committed in good faith by the ILO to third parties before the date of notice of such termination.

16.3. The obligations assumed by the ILO and the Donor under this Agreement shall survive its termination to the extent necessary to permit the orderly conclusion of activities, the withdrawal of personnel, funds, and property, as well as, the settlement of accounts between the Parties and the settlement or termination of contractual liabilities that are required in respect to any personnel, subcontractors, consultants, or suppliers.

Article 17: INTERESTS AND UNUTILIZED FUNDS

17.1. Any interest derived from the contribution shall be accounted for separately. After completion of the Project and after all commitments and liabilities incurred in the implementation of the Project have been satisfied, any interest or any balance remaining unspent shall be returned to the Donor, in proportion to their contribution to the project.

Article 18: APPLICATION OF ILO'S LEGAL PROVISIONS

18.1. For any matters not specifically covered by this Agreement, the appropriate provisions of the regulations, rules, directives and procedures of the ILO shall apply.

Article 19: LANGUAGE

19.1. The original of this Agreement has been written and signed in English. If this Agreement is translated into a language other than English, the English version shall govern and prevail.

Article 20: ENTRY INTO FORCE

20.1.1. This Agreement, superseding all communications between the Parties, shall enter into force upon its signature by the authorized representatives of the Parties.

On behalf of the Government of Denmark	On behalf of the International Labour Office
H.E. Ambassador Kathmandu On	Its Authorized Representative In Kathmandu On

INTERNATIONAL LABOUR ORGANIZATION

Annex A.

Total Budget (USD):

Management Coordination and Technical Support	304,350
Programme Costs	780,000
Support Costs (7%) and contingencies (5%)	103,000
Grand Total	1,187,350