NOVATION AND ASSUMPTION AGREEMENT

(Kathmandu Valley Water Services Sector Development Project)

between

ASIAN DEVELOPMENT BANK

and

KATHMANDU UPATYAKA KHANEPANI LIMITED

DATED 27 OCTOBER 2008

NOVATION AND ASSUMPTION AGREEMENT

THIS NOVATION AND ASSUMPTION AGREEMENT is made and entered into at Kathmandu on this twenty-seventh day of October 2008 (hereinafter called the "KUKL Novation Agreement") by and between ASIAN DEVELOPMENT BANK (hereinafter called "ADB") and Kathmandu Upatyaka Khanepani Limited (hereinafter called "KUKL").

WHEREAS:

(A) by a Loan Agreement (Special Operations) -Loan Number 2059-NEP(SF) - dated 8 April 2004 entered into by and between Nepal (hereinafter called the "Borrower") and ADB as amended by the Amended and Restated Loan Agreement between the Borrower and ADB dated 6 April 2008 (hereinafter called the "Project Loan Agreement"), ADB has agreed to make available to the Borrower from its Special Fund resources an amount in various currencies equivalent to Six Million Nine Hundred Forty-five Thousand Special Drawing Rights (SDR 6,945,000) for the purposes of implementation of the Kathmandu Valley Water Services Sector Development Project (hereinafter called the "Project"), on the terms and conditions set forth in the Project Loan Agreement;

(B) to implement the Project, ADB, the Melamchi Water Supply Development Board (hereinafter called "MWSDB") and Nepal Water Supply Corporation (hereinafter called "NWSC") have entered into a Project Agreement (hereinafter called the "Project Agreement") dated 8 April 2004 pursuant whereto upon establishment of the Water Utility Operator, now known as the KUKL, shall take over the implementation of the Project from the MWSDB and NWSC, as it relates to KUKL and shall assume its rights and obligations under the Project Agreement as if originally named therein as a party thereto; and

(C) to take over implementation of the Project from the MWSDB and NWSC, to the extent that it relates to KUKL, and in consideration of ADB continuing with the Project Agreement, KUKL has agreed to enter into this KUKL Novation Agreement with ADB and to assume all rights and obligations of the MWSDB and NWSC under the Project Agreement, to the extent that they are applicable to the KUKL; and

(D) this KUKL Novation Agreement is the agreement referred to in the Project Agreement as the "WUO Novation Agreement";

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I
Definitions

Section 1.01. Wherever used in this KUKL Novation Agreement, unless the context otherwise requires, the several terms defined in the Project Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

ARTICLE II

Replacement by Kathmandu Upatyaka Khanepani Limited

Section 2.01. ADB and the KUKL hereby acknowledge and agree that with effect from the date hereof, MWSDB and NWSC shall be discharged from any further obligations under the Project Agreement to the extent that the obligations relate to the KUKL, (but without prejudice to any accrued liabilities and outstanding obligations of MWSDB and/or NWSC under the Project Agreement) and KUKL shall accede to all the rights and obligations of MWSDB and NWSC under the Project Agreement, to the extent that these rights and obligations relate to the KUKL as the Water Utility Operator.

ARTICLE III
Rights and Obligations of the Kathmandu Upatyaka Khanepani Limited

Section 3.01. The KUKL acknowledges and agrees that with effect from the date hereof, it is a party to the Project Agreement and the parties hereto agree that the KUKL shall be entitled to the rights and benefits, and be bound by the obligations of the MWSDB and NWSC under the Project Agreement, to the extent that they are applicable to the KUKL or the Water Utility Operator.

ARTICLE IV
Representations

Section 4.01. KUKL represents to ADB on the date hereof that:

(a) it has full power and authority to execute and deliver and to perform its obligations under this KUKL Novation Agreement and all necessary actions have been taken to authorize the execution, delivery and performance by it of this KUKL Novation Agreement;

(b) it has taken all necessary actions to authorize the person who executes and delivers this KUKL Novation Agreement to execute and deliver the same and thereby bind it to all the terms and conditions hereof and to act for it as contemplated hereby; and

(c) this KUKL Novation Agreement has been duly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE V
Miscellaneous

Section 5.01. Any notice or request required or permitted to be given or made under this KUKL Novation Agreement and any agreement between the parties contemplated by this KUKL Novation Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or radiogram to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Facsimile Numbers:
(632) 636-2444
(632) 636-2293.

For KUKL

Tripureswor Marg
Kathmandu
Nepal

Facsimile Number:
(977) 1 426 2229

Section 5.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this KUKL Novation Agreement by or on behalf of the KUKL may be taken or executed by its general manager or by such other person or persons as he shall so designate in writing notified to ADB.

(b) KUKL shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

Section 5.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this KUKL Novation Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this KUKL Novation Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

ASIAN DEVELOPMENT BANK

By _____

Authorized Representative

KATHMANDU UPATYAKA KHANEPANI LIMITED

By _____

Authorized Representative