

CONFORMED COPY

CREDIT NUMBER 2033 MOZ

(Urban Household Energy Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

EMPRESA NACIONAL PETROLEOS DE MOZAMBIQUE E.E.

Dated September 28, 1989

CREDIT NUMBER 2033 MOZ

PROJECT AGREEMENT

AGREEMENT, dated September 28, 1989 between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and EMPRESA NACIONAL PETROLEOS DE MOZAMBIQUE E.E. (PETROMOC).

WHEREAS (A) by the Development Credit Agreement of even date herewith between People's Republic of Mozambique (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to one million five hundred and fifty thousand Special Drawing Rights (SDR 1,550,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that PETROMOC agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and PETROMOC, part of the proceeds of the Credit provided for under the Development Credit Agreement will be made available to PETROMOC on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS PETROMOC, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

#### ARTICLE I

##### Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

#### ARTICLE II

##### Execution of the Project

Section 2.01. PETROMOC declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out Part B of the Project with due diligence and efficiency, and in conformity with appropriate administrative, financial, engineering and petroleum industry practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part B of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of the Schedule to this Agreement.

Section 2.03. PETROMOC shall carry out the obligations set forth in Sections 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 the Project Agreement and Part B of the Project.

Section 2.04. PETROMOC shall duly perform all its obligations under the PETROMOC Subsidiary Loan Agreement. Except as the Association shall otherwise agree, PETROMOC shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the PETROMOC Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) PETROMOC shall, at the request of the Association, exchange views with the Association with regard to the progress of Part B of the Project, the performance of its obligations under this Agreement and under the PETROMOC Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) PETROMOC shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Part B of the Project, the accomplishment of the purposes of the Credit, or the performance by PETROMOC of its obligations under this Agreement and under the Subsidiary Loan Agreement.

Section 2.06. PETROMOC shall, not later than September 30, 1991, conduct jointly with the Association, a review of PETROMOC's financial position and an assessment of its most immediate financial and technical needs to achieve financial viability.

Section 2.07. In order to facilitate the carrying out of Part B of the Project PETROMOC shall assign qualified local counterpart staff to work closely with the consultants employed under the Project and to receive training from them.

Section 2.08. PETROMOC shall take all the necessary measures to maintain accurate and complete records related to the implementation of Part B of the Project.

### ARTICLE III

#### Management and Operations of PETROMOC

Section 3.01. PETROMOC shall carry out its operations and conduct its affairs in accordance with sound administrative, financial, and petroleum industry practices, under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. PETROMOC shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and petroleum industry practices.

Section 3.03. PETROMOC shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

### ARTICLE IV

#### Financial Covenants

Section 4.01. (a) PETROMOC shall maintain records and accounts adequate to reflect in accordance with sound accounting practices, its operations and financial condition.

(b) PETROMOC shall, starting in fiscal year 1990:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses, and related statements) and Special Account B 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 nine months after the end of each such year: (A) certified copies of its financial statements for such year as so audited, and (B) 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 financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) Except as the Association shall otherwise agree, PETROMOC shall produce:

- (i) for its fiscal year 1989, funds from internal sources equivalent to not less than twenty percent (20%) of PETROMOC's capital expenditures incurred for that year; and
- (ii) for the fiscal years 1990 and thereafter, funds from internal sources equivalent to not less than thirty percent (30%) of the annual average of PETROMOC's capital expenditures incurred, or expected to be incurred, for that year and the next two following fiscal years.

(b) Before September 30, in each of its fiscal years, PETROMOC shall, on the basis of forecasts prepared by PETROMOC and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year, and shall furnish to the Association a copy of such review upon its completion.

(c) If any such review shows that PETROMOC would not meet the requirements set forth in paragraph (a) for PETROMOC's fiscal years covered by such review, PETROMOC shall promptly take all necessary measures (including, but not limited to, adjustments of the structure or levels of its rates) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "funds from internal sources" means the difference between:
  - (A) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other than cash; and
  - (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and cash outflows other than capital expenditures.
- (ii) The term "net non-operating income" means the difference between:
  - (A) revenues from all sources other than those related to operations; and
  - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (iii) The term "working capital other than cash" means the difference between current assets, excluding cash, and current liabilities at the end of each fiscal year.
- (iv) The term "current assets excluding cash" means all assets other than cash which could, in the ordinary course of business, be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (v) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
- (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

- (vii) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.
- (viii) Whenever, for the purposes of this Section, it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

Section 4.03. (a) Except as the Association shall otherwise agree, PETROMOC shall not incur any debt, unless the net revenues of PETROMOC for the fiscal year immediately preceding the date of such incurrence or for a later twelve-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.5 times the estimated maximum debt service requirements of PETROMOC for any succeeding fiscal year on all debt of PETROMOC, including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of PETROMOC maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "net revenues" means the difference between:
  - (A) the sum of revenues from all sources related to operations adjusted to take account of PETROMOC's prices in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate, and net non-operating income; and
  - (B) the sum of all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) The term "net non-operating income" means the difference between:
  - (A) revenues from all sources other than those related to operations; and
  - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

- (vi) Whenever, for the purposes of this Section, it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of exchange acceptable to the Association.

Section 4.04. PETROMOC shall take all necessary measures to implement the action plan for recovering its arrears of account receivable in accordance with the timetable agreed between the Borrower and the Association, the action plan to resolve its arrears of accounts receivable.

#### ARTICLE V

##### Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of PETROMOC thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date ten (10) years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify PETROMOC of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

#### ARTICLE VI

##### Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this 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 or radiogram to the party to which it is required or permitted to be given or made at such party's 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 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)

For PETROMOC:

Empresa Nacional Petróleos de  
Moambique E.E.  
Pra a dos Trabalhadores, Nr. 9  
P.O. Box 417 or 1866  
Maputo  
People's Republic of Mozambique

Telex:

6-591 PETRO MO

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of PETROMOC may be taken or executed by the General Manager or such other person or persons as PETROMOC shall designate in writing, and PETROMOC shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Sven Sandstrom  
Acting Regional Vice President  
Africa

EMPRESA NACIONAL PETROLEOS DE MOUAMBIQUE E.E.

By /s/ Abdul Magid Osman  
Authorized Representative

#### SCHEDULE

##### Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

Except as provided in Part D hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A hereof, goods manufactured in Mozambique may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A hereof, PETROMOC may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

#### Part D: Other Procurement Procedures

##### 1. Local competitive bidding

Goods under Part B of the Project estimated to cost less than the equivalent of \$200,000 up to an aggregate amount not to exceed the equivalent of \$500,000 may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.

##### 2. International Shopping

Items or groups of items estimated to cost less than the equivalent of \$250,000 per contract, up to an aggregate amount not to exceed the equivalent of \$300,000, may be procured under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three suppliers from at least two different countries eligible under the Guidelines, in accordance with procedures acceptable to the Association.

#### Part E: 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 estimated to cost the equivalent of \$250,000 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 Special Account B, 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 Special Account B 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 Special Account B, 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 the Development Credit 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 the Development Credit Agreement.

2. The figure of fifteen percent (15%) is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

#### Section II: Employment of Consultants

In order to assist PETROMOC in carrying out Part B of the Project, PETROMOC 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.



