

**CONFORMED COPY**

**CREDIT NUMBER 3592-SLU**

# **Development Credit Agreement**

**(Technical Assistance Water Sector Reform Project)**

**between**

**SAINT LUCIA**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated February 14, 2002**

**CREDIT NUMBER 3592-SLU**

**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated February 14, 2002, between SAINT LUCIA (the Borrower) and the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter from the Borrower, dated June 22, 2001 which: (i) describes a program of objectives, actions and policies designed to achieve reform of the water and sanitation sector of Saint Lucia in terms satisfactory to the Association (hereinafter called the Program); (ii) declares the Borrower's commitment to the execution of the Program; and (iii) requests assistance from the Association in support of the Program during the execution thereof;

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

(C) by an agreement of even date herewith between the Borrower and the International Bank for Reconstruction and Development (the Bank) (the Loan Agreement), the Bank has agreed to make a loan to the Borrower in the principal amount of one million three hundred thousand dollars (\$1,300,000) (the Loan) to assist also in financing Parts A, C and E of the Project on the terms and conditions set forth in the Loan Agreement;

(D) the Borrower and the Association intend, to the extent practicable, that the proceeds of the credit provided for in this Agreement (the Credit) be disbursed on account of expenditures in respect of the Project before disbursements of the proceeds of the loan provided for in the Loan Agreement (the Loan) are made;

(E) by an agreement to be entered into between the Borrower and the Caribbean Development Bank (CDB) (the CDB Loan Agreement), CDB has agreed to make a loan to the Borrower in the principal amount equivalent to four million five hundred and forty-one thousand dollars (\$4,541,000) (the CDB Loan) to assist in financing Parts B and D of the Project on the terms and conditions set forth in the CDB Loan 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 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) and (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries."; and

(b) The second sentence of Section 5.01 is modified to read:

“Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.”

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 and the following additional terms have the following meanings:

(a) “Eligible Categories” means categories (1) and (2) set forth in the table in Part A. 1 of Schedule 1 to this Agreement;

(b) “Eligible Expenditures” means the expenditures for services referred to in Section 2.02 of this Agreement;

(c) “MOU” means the memorandum of understanding to be entered into by the Borrower pursuant to the provisions of Section 3.02 (a) of this Agreement;

(d) “Ministry” means the Ministry of Planning, Development, Environment and Housing of the Borrower and any successor to this Ministry;

(e) “NWSC” means the National Water and Sewerage Commission of Saint Lucia established pursuant to the Water and Sewerage Act 1999 (i.e. Act No. 13 dated March 25, 1999);

(f) “Operations Manual” means the Borrower’s manual referred to in Section 3.01(b) of this Agreement which details, *inter alia*, the auditing, accounting and financial reporting arrangements for the Project, as well as the Borrower’s plans for Project implementation and procurement;

(g) “Output Indicators” means the Project’s progress and performance targets and indicators to be used in evaluating progress toward achievement of the objectives of the Project, as set forth in the letter of even date herewith from the Borrower to the Association;

(h) “PMU” means the Project’s management unit referred to in Section 3.03 of this Agreement, as established in October 2001 within the Ministry;

(i) “Project Agency” means either NWSC or WASCO and “Project Agencies” means collectively NWSC and WASCO;

(j) “Project Management Report” means each report prepared in accordance with Section 4.02 of this Agreement;

(k) “Special Account” means the account referred to in Part B of Schedule 1 to this

Agreement;

(l) "WASCO" means the Water and Sewerage Company, Inc, incorporated on August 9, 1999 as Company No. 136 of 1999 under the Companies Act 1996 of Saint Lucia; and

(m) "Water Supply Legislation" means the Borrower's: (i) Water and Sewerage Act, 1999 and the Companies Act No. 19, 1996 both as amended; (ii) any regulations and by-laws, as amended, made under the texts set forth in subparagraph (i) herein; (iii) all subordinate legislation, orders, notices and loan approval resolutions made under the Water and Sewerage Act 1984, No. 18, and in force immediately before the coming into force of the Water and Sewerage Act, 1999; and (iv) such other legislation which enables the Borrower, with the assistance of NWSC and WASCO, to carry out the Project.

## **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 this Agreement, an amount in various currencies equivalent to one million one hundred thousand Special Drawing Rights (SDR 1,100,000).

Section 2.02. 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 services required for the Project and to be financed out of the proceeds of the Credit.

Section 2.03. The Closing Date shall be December 31, 2005 or such later date as the Association may 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: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(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 March 15 and September 15 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each March 15 and September 15 commencing March 15, 2012 and ending March 15, 2036. Each installment to and including the installment payable on September 15, 2021 shall be one and one-fourth percent (1-1/4%) of such principal amount, and each installment thereafter shall be two and one-half percent (2-1/2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; 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 repayment of installments under paragraph (a) above by:

- (i) 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; and
- (ii) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above 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.

(d) 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.

Section 2.09. The Permanent Secretary of the Ministry of Planning and any person or persons who he or she shall designate in writing is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

## **ARTICLE III**

### **Execution of the Project**

Section 3.01. (a) 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 carry out the Project through the Ministry, with the assistance of NWSC for Part A of the Project and WASCO for Parts B, C and D of the Project, all with due diligence and efficiency and in conformity with appropriate administrative, financial, technical, environmental and privatization practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Operations Manual.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall include in its annual budget proposals, during each year of the execution of the Project, and make available promptly as needed, the necessary funding of its share of goods, works and services as provided in the Operations Manual.

(d) The Borrower shall not amend, modify, waive, or alter in any way provision of the Operations Manual without the prior written consent of the Association. In case of any conflict between the terms of the Operations Manual and those of this Agreement, the terms of this Agreement shall prevail.

Section 3.02. (a) The Borrower shall, through the Ministry, enter into a Memorandum of Understanding (MOU) with both NWSC and WASCO under terms and conditions acceptable to the Association, including, *inter alia*, those set forth in Schedule 4 to this Agreement.

(b) The Borrower shall exercise its rights under the MOU in such manner as to protect the interests of the Borrower and the Association and to achieve the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the MOU or any provision thereof.

Section 3.03. Without limitation upon the provisions of Section 3.01 (a) of this Agreement, the Borrower shall, throughout the course of Project implementation maintain within the Ministry a Project Management Unit to coordinate Project implementation, such unit to be staffed by adequate numbers of professionals with qualifications, experience, functions and responsibilities satisfactory to the Association.

Section 3.04. Except as the Association may otherwise agree, procurement of the consultants' services required for Parts A, C and E 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 3.05. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the Output Indicators, the carrying out of the Project and

the achievement of the objectives thereof;

(b) prepare, under terms of reference acceptable to the Association and furnish to the Association, reports, the first not later than March 31, 2003, the second not later than March 31, 2004, and the third not later than March 31, 2005, integrating the results of the monitoring and evaluation activities carried out by it pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the calendar year preceding the dates of such reports, setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such dates, and including a list of persons and entities benefiting from the Project; and

(c) review with the Association, no later than June 30, 2003, June 30, 2004, and June 30, 2005 or such later date or dates as the Association may request, the reports referred to in paragraph (b) of this Section, respectively, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of such reports and the Association's views in these respects. The Borrower shall invite to participate in such reviews with the Association the persons and entities listed in the respective reports referred to in paragraph (b) of this Section.

Section 3.06. If, as a result of any of the reviews referred to in Section 3.05 of this Agreement, the Association determines that the progress in the execution of the Project or in the achievement of its objectives is not satisfactory, the Borrower shall, through the Ministry, promptly take, and shall ensure that the Project Agencies promptly take, all such action, satisfactory to the Association, as shall be necessary for the efficient execution of the Project or the general achievement of its objectives.

Section 3.07. Subject to the outcome of the study to be prepared under Part A.1 of the Project, and not later than June 30, 2003 or such later date as the Association may agree, the Borrower shall take or shall cause to be taken the following measures so as to set the stage and facilitate the participation of the private sector in the delivery of water and sanitation services in St. Lucia:

(a) submit to Parliament for enactment amendments to its Water Supply Legislation satisfactory to the Association;

(b) formulate regulations satisfactory to the Association to be applied by NWSC;

(c) commence the implementation of institutional capacity-building measures satisfactory to the Association in respect of NWSC;

(d) formulate operating licenses, in terms satisfactory to the Association, for issuance by NWSC; and

(e) commence the implementation of a NWSC training program satisfactory to the Association.

Section 3.08. By December 31, 2003 or such later date as the Association may agree, the Borrower shall establish guidelines, satisfactory to the Association, for environmental licensing and environmental impact assessments of all water supply and sewerage investment projects in St. Lucia.

Section 3.09. Provided the measures described in Section 3.07 of this Agreement have been executed by December 31, 2003 or such later date as the Association may agree, the Borrower shall, in accordance with terms of reference satisfactory to the Association, carry out a study of the feasibility of private sector participation in the management and operation of WASCO.

Section 3.10. Provided the study referred to in Section 3.09 of this Agreement concludes that a long-term concession contract or any other privatization model is feasible for WASCO, by December 31, 2004 or such later date as the Association may agree, the Borrower shall, and/or cause WASCO, as appropriate, to publicly invite bids for entering into a contract by the Borrower and/or WASCO, satisfactory to the Association, with one or more private sector entities.

Section 3.11. The terms of reference for all services funded by the Credit shall be satisfactory to the Borrower and the Association, including those in respect of the environmental audit of WASCO's assets and operations as part of the feasibility study referred to under Section 3.09 hereof, as well as those for the bid package under Section 3.10 hereof. The Borrower shall ensure or shall cause WASCO to ensure that the results of the environmental audit of WASCO's assets and operations shall be included as part of such bid package and that the contract referred to in said Section 3.09, if entered into, shall require that the private sector operator(s) undertake the environmental remedial actions identified by such audit.

Section 3.12. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Completion Date or such later date as may be agreed for this purpose between the Borrower and the Association, a final Project report, including a plan designed to ensure the continued achievement of the Project's objectives; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on the plan referred above.

Section 3.13. The Borrower shall create not later than three months after the Effective Date, and maintain throughout the course of Project implementation, a Project steering committee with membership acceptable to the Association, to oversee Project implementation. Such committee to include, *inter alia*, representatives of the Ministry, Ministry of Communications, WASCO and civil society.

## **ARTICLE IV**

### **Financial Covenants**

Section 4.01. (a) In respect of all Parts of the Project, the Borrower shall maintain a financial management system, including records and accounts, and shall prepare financial statements in a format acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.



(b) In respect of Parts B, C and D of the Project, and as part of the Borrower's obligation under Section 4.01(a) of this Agreement, the Borrower shall cause WASCO to maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Association, consistently applied, adequate to register separately the operations and financial condition and to reflect its operations, resources and expenditures related to Parts B, C and D of the Project.

(c) In respect of Parts B, C and D of the Project, the Borrower shall cause WASCO to:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with auditing standards acceptable to the Association, 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 three months after the end of each such year: (A) certified copies of the financial statements referred to in paragraph (b) of this Section, for such year as so audited; and (B) an opinion on such statements and 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 such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

(d) For all expenditures in respect of Parts B, C and D of the Project, with respect to which withdrawals from the Credit Account were made on the basis of Project Management Reports or statements of expenditure, the Borrower shall cause WASCO to:

- (i) maintain or cause to be maintained, in accordance with sound accounting practices, records and separate accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made; and
- (iii) enable the Association's representatives to examine such records.

(e) In respect of Parts B, C and D of the Project, the Borrower shall cause WASCO to:

- (i) have the records and accounts referred to in paragraph (d) (i) of this Section 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 six months after the end of each such year the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including a separate opinion by said auditors as to whether the Project Management Reports or 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; and
- (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

(f) The Borrower shall:

- (i) have the records, accounts and financial statements referred to in paragraph (a) of this Section in respect of Parts A and E of the Project, and the records and accounts for the Special Account, for each fiscal year audited, in accordance with auditing standards acceptable to the Association, 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 six months after the end of each such year: (A) certified copies of the financial statements referred to in paragraph (f) (i) of this Section for such year as so audited; and (B) (I) an opinion on such statements; (II) an opinion on all records and accounts referred to in paragraph (f) (i) of this Section; and (III) a report of such audit, all 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 such records and accounts, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

(g) For all expenditures under Parts A and E of the Project with respect to which withdrawals from the Credit Account were made on the basis of Project Management Reports or statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report 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 (f) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the Project Management Reports or 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.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower and WASCO shall each carry out a separate time-bound action plan acceptable to the Association for the strengthening of the financial management system referred to in paragraphs (a) and (b), respectively, of said Section 4.01 in order to enable the Borrower and WASCO, not later than June 30, 2003, or such later date as the Association shall agree, to prepare quarterly Project management reports, acceptable to the Association, each of which:

- (i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the six-month period following the period covered by said report; and
- (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the six-month period following the period covered by said report;
- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report; and
- (B) explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plans referred to in paragraph (a) of this Section, the Borrower shall prepare, in accordance with guidelines acceptable to the Association and using, in part, information provided by WASCO, and furnish to the Association not later than 45 days after the end of each calendar quarter a Project Management Report for such period for all Parts of the Project.

## **ARTICLE V**

### **Remedies of the Association**

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

(a) Any part of the Water Supply Legislation shall have been amended, suspended, abrogated, repealed, waived or not enforced so as, in the opinion of the Association, to materially and adversely affect the ability of the Borrower, with the assistance of NWSC and WASCO, to carry out the Project.

(b) The Borrower or any other authority having jurisdiction shall have taken any action with a view to, or resulting in, the suspension, in the Association's opinion, of the Program or part thereof.

(c) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower to withdraw the proceeds of the CDB Loan made to the Borrower for the financing of the Project shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the CDB Loan Agreement; or

(B) the CDB Loan shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Association that: (A) such suspension, cancellation, termination or pre-maturing is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (B) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) any event specified in paragraphs (a) and (b) of Section 5.01 of this Agreement shall have occurred; and

(b) the event specified in paragraph (c) (i) (B) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (c) (ii) of that Section.

## **ARTICLE VI**

### **Effective Date; Termination**

Section 6.01. 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, namely that all conditions precedent to the effectiveness of the Loan Agreement, other than the effectiveness of this Development Credit Agreement, have been fulfilled.

Section 6.02. The date May 15, 2002 is hereby specified for the purposes of Section 12.04 of the General Conditions.

**ARTICLE VII**

**Representative of the Borrower; Addresses**

Section 7.01. Except as provided in Section 2.09 of this Agreement, the Permanent Secretary of the Minister of Finance and Economic Affairs of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Economic Affairs  
Financial Center,  
Bridge Street  
3rd Floor  
CASTRIES  
St. Lucia

Facsimile:

(758) 4519706

For the Association:

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

Cable address:

Telex:

Facsimile:

INDEVAS  
Washington, D.C.

248423 (MCI) or  
64145 (MCI)

1 202 477-6391

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.

SAINT LUCIA

By /s/ Sonia Johnny

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Orsalia Kalantzopoulos

Acting Regional Vice President  
Latin America and the Caribbean

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Credit and the Loan**

A. General

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

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR)</u>	<u>Amount of the Loan Allocated (Expressed in Dollars)</u>	<u>% of Expenditures to be Financed</u>
(1) Consultants' studies and services in respect of Parts A and E. 1 and E. 2 of the Project	340,000	435,000	100%
(2) (a) Consultants' studies and services in respect of Parts C and E. 3 of the Project	530,000	665,000	100%
(b) External audits	30,000	50,000	100%
(3) Goods	20,000	25,000	100% foreign expenditures, 80% of local expenditures
(4) Unallocated	180,000	112,000	
(5) Fee		13,000	Amount due under Section 2.04 of the Loan

Agreement

TOTAL	<u>1,100,000</u>	<u>1,300,000</u>
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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 payments made for expenditures:

(a) prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding SDR 100,000, may be made in respect of Categories 1 and 2 set forth in the table in paragraph 1 of Part A of this Schedule on account of payments made for expenditures incurred within nine months prior to the date of this Agreement but after October 15, 2001;

(b) under Category 1 set forth in the table in paragraph 1 of Part A of this Schedule in respect of Part A of the Project until: (i) the Association has received notice from the Borrower that external auditors acceptable to the Association have been appointed by the Borrower; and (ii) the MOU referred to in Section 3.02 of this Agreement has been signed on behalf of the parties thereof; and

(c) under Category 2 (a) set forth in the table in paragraph 1 of Part A of this Schedule in respect of Part C of the Project until implementation of Parts A. 1 and A. 2 of the Project has been completed to the satisfaction of the Association.

4. The Association may require withdrawals from the Credit Account and the Loan Account to be made on the basis of statements of expenditure for expenditures for services in respect of which prior review is not required in accordance with the provisions of Schedule 3, Part D. 2 of this Agreement under such terms and conditions as the Association may specify by notice to the Borrower.

B. Special Account

1. The Borrower shall open and maintain in Dollars a special deposit account in a commercial bank acceptable to the Association, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment.

2. After the Association has received evidence satisfactory to it that the Special Account has been opened, withdrawals from the Credit Account or the Loan Account (as such term is defined in the Loan Agreement’s General Conditions) of amounts to be deposited into the Special Account shall be made as follows:

(a) until the Association shall have received: (i) the first Project Management Report referred to in Section 4.02 (b) of this Agreement; and (ii) a request from the Borrower for

withdrawal on the basis of Project Management Reports, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) upon receipt by the Association of a Project Management Report pursuant to Section 4.02(b) of this Agreement, accompanied by a request from the Borrower for withdrawal on the basis of Project Management Reports, all further withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if the Association determines at any time that any Project Management Report does not adequately provide the information required pursuant to Section 4.02 (a) of this Agreement;

(b) if the Association determines at any time that all further withdrawals should be made by the Borrower directly from the Credit Account or Loan Account; or

(c) if the Borrower or WASCO shall have failed to furnish to the Association within the period of time specified in Section 4.01 of this Agreement any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of: (A) the records and accounts for the Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were made on the basis of a Project Management Report.

5. The Association shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account or Loan Account pursuant to Section 6.02 of the relevant General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or 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. Unless the Association shall otherwise agree, no further deposit by the Association or the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the



six-month period following such determination, the Borrower shall, promptly upon notice from the Association, refund to the Association or the bank such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association or the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association or the Bank made pursuant to subparagraph (a), (b) or (c) of this paragraph shall be credited to the Credit Account or the Loan Account, respectively, for subsequent withdrawal or for cancellation in accordance with the provisions of the Credit Agreement.

**Annex A**  
**to**  
**SCHEDULE 1**  
**Operation of Special Account**  
**When Withdrawals Are Not Made**  
**On the Basis of Project Management Reports**

1. For the purposes of this Annex, the term “Authorized Allocation” means an amount equivalent to \$200,000 to be withdrawn from the Credit Account or the Loan Account and deposited into the Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$100,000 until the aggregate amount of withdrawals from the Credit Account or Loan Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the relevant General Conditions shall equal or exceed the equivalent of SDRs 500,000.

2. Withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which in the aggregate do not exceed the Authorized Allocation. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account or Loan Account and deposit into the Special Account such amount as the Borrower shall have requested.

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to Part B.3 of Schedule 1 to this Agreement for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account or Loan Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for Eligible Expenditures. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account or Loan Account under one or more of the Eligible Categories.

3. The Association shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit and Loan minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the relevant General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Credit Account or Loan Account of the remaining unwithdrawn amount of the Credit or Loan 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.

**Annex B**  
**to**  
**SCHEDULE 1**

**Operation of Special Account**  
**When Withdrawals Are Made**  
**On the Basis of Project Management Reports**

1. Except as the Association may otherwise specify by notice to the Borrower, all withdrawals from the Credit Account or Loan Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account or Loan Account under one or more of the Special Account's Eligible Categories.

2. Each application for withdrawal from the Credit Account or Loan Account for deposit into the Special Account shall be supported by a Project Management Report.

3. Upon receipt of each application for withdrawal of an amount of the Credit or Loan, the Association shall, on behalf of the Borrower, withdraw from the Credit Account or Loan Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the Project Management Report accompanying said application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the date of such report; provided, however, that the amount so deposited, when added to the amount indicated by said Project Management Report to be remaining in the Special Account, shall not exceed the equivalent of \$100,000.

**SCHEDULE 2**

**Description of the Project**

The objectives of the Project are to prepare:

(a) an adequate legal and regulatory framework for the private delivery of water and sanitation services throughout St. Lucia; and

(b) WASCO for the transition from a publicly-managed utility to a privately managed and operated company.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon in writing from time to time, in order to achieve the above objectives.

Part A: Technical Assistance for the Strengthening of the Regulatory and Environmental Framework

1. (a) The design and implementation of institutional structures and arrangements which provide appropriate roles, responsibilities, staffing needs, funding sources, and legal, statutory or licensing requirements of: (i) NWSC; (ii) a secretariat and possibly an advisory council to support NWSC; and (iii) WASCO and any future water operator.

(b) The formulation of appropriate recommendations regarding the repeal, amendment, expansion, clarification and/or modification of existing primary and enabling legislation, regulations, statutes and licenses, including the Water Supply Legislation, as amended.

(c) The drafting of all relevant laws, regulations, statutes and licenses.

(d) The design and implementation of a training program for regulators and NWSC staff that will allow them to fulfill their responsibilities (including environmental regulatory responsibilities).

2. The formulation of an appropriate environmental framework, including guidelines for environmental licensing, environmental impact assessments and water resource management to be applied to all future water supply and sanitation operations.

Part B: Technical Assistance for the Strengthening of WASCO's Internal Systems

1. The carrying out of diagnostic analyses of WASCO's management information systems, financial management and accounting, customer service and operations and other functional areas and internal systems.

2. The implementation of proposed internal procedures and systems so as to improve customer service, increase revenues, identify training programs and implement a public relations program for consensus-building within WASCO for private sector participation.

Part C: Technical Assistance for the Privatization of WASCO

1. The carrying out of a feasibility study for the privatization of WASCO covering: (a) estimates of the long-term demand for water; (b) assessment of expansion and rehabilitation investment needs; (c) financial modeling; (d) the privatized structure (including debt treatment, tariff levels and structure, and ownership issues); and (e) an investor survey.

2. The implementation of steps required to carry out a potential transaction for the concessioning of WASCO assets and operations, including preparation of legal documents and supervision of the transaction for said concession.

Part D: Equipping and Rehabilitation

1. The provision to WASCO of water meters and leak detection equipment and the installation of same.
2. The upgrading of the intake and the construction of a new water treatment plant at Woodlands/Grace (Vieux Fort system).
3. The replacement of the raw water supply pipeline and ancillary works for the WASCO water treatment plant known as Hill 20.
4. The replacement of the WASCO sewage pumps within the territorial limits of the city of Castries.

Part E: Project Management and Public Information Campaign

1. The provision of technical assistance/experts for the strengthening of the PMU.
2. The provision of external auditing services for the purpose of carrying out the audits referred to in Section 4.01 of this Agreement.
3. The provision of services for the purpose of carrying out a public information campaign to disseminate and foster consensus on the private sector participation process for the water and sanitation sector, such campaign to include newspaper and other media announcements, focus groups, and public meetings and workshops.

\* \* \*

The Project is expected to be completed by June 30, 2005.

**SCHEDULE 3**

**Procurement**

Section I. Procurement of Goods

Part A: General

Goods shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines), and the following provisions of Section I of this Schedule.

Part B: International Competitive Bidding

1. Except as provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.
2. The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto, shall apply to goods manufactured in the territory of the Borrower.

## Part C: Other Procurement Procedures

### Shopping

Goods estimated to cost \$20,000 equivalent per contract or less may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

## Part D: Review by the Bank of Procurement Decisions

### 1. Procurement Planning

Prior to the issuance of any invitation to bid for contracts during any calendar year of Project implementation, the proposed procurement plan for the Project for such year shall be included in the Annual Operating Plan and furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works during any such year shall be undertaken in accordance with the corresponding procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

### 2. Prior Review

(a) The procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply to the contracts for goods to be awarded pursuant to the provisions of Part B of this Section I.

(b) With respect to the first contract to be procured in accordance with the procedures referred to in Part C above, the following procedures shall apply:

- (i) prior of the selection of the supplier, the Borrower shall provide to the Bank a report on the comparison and evaluation of quotations received;
- (ii) prior to the execution of the contract, the Borrower shall provide to the Bank a copy of the specifications and the draft contract; and
- (iii) the procedures set forth in paragraphs 2 (f), 2 (g) and 3 of Appendix 1 to the Guidelines shall apply.

### 3. Post Review

The procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply to the review by the Bank of any contract not governed by the provisions of paragraph 2 above.

## Section II. Employment of Consultants

### Part A: General

1. Consultants' services shall be procured in accordance with the provisions of the

Introduction and Section IV of the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in January 1997, and revised in September 1997 and in January 1999, subject to the modifications thereto set forth in paragraph 2 of this part A (the Consultant Guidelines), and the provisions of the following Parts of this Schedule.

2. In paragraph 1.10 of the Consultant Guidelines, the references to “Bank member countries” and “member country” shall be deemed to be references, respectively, to “Participating Countries” and “Participating Country”.

#### Part B: Quality- and Cost-based Selection

Except as otherwise provided in Part C of this Section, consultants’ services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

#### Part C: Other Procedures for the Selection of Consultants

##### 1. Firms

###### (a) Selection Based on Consultants’ Qualifications

Services under Parts A, C and E of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

###### (b) Selection Under a Fixed Budget

Regulatory framework services for under Part A of the Project may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

###### (c) Least-cost Selection

External auditing services under Part E of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

##### 2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

#### Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under Parts A, C and E of the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services under Parts A, C and E of the Project shall be undertaken in accordance with: (a) such selection plan as shall have been approved by the Association; and (b) the provisions of said paragraph 1.

2. Prior Review

(a) With respect to any contract fixed, or estimated, to cost the equivalent of \$25,000 or more for the employment of one or more consulting firms procured under Part B above, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2 (a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of consulting firms procured under Part C.1 above estimated to cost the equivalent of \$25,000 or more, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2 (a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$25,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after such approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

## **SCHEDULE 4**

### **Terms and Conditions of the Memorandum of Understanding (MOU)**

1. The MOU shall provide that the Borrower, through the Ministry, shall obtain rights adequate to protect the interests of the Association and the Borrower, including the right to:

(a) require the Project Agencies: (i) to carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering, public health, sanitation, environmental, regulatory and privatization practices, as the case may be; (ii) to assist in the carrying out of the Parts of the Project relevant to it with due diligence and efficiency and in accordance with sound technical, financial, administrative, public health, sanitation, environmental, regulatory and privatization practices, as the case may be; and (iii) to maintain adequate records in each of these respects;

(b) require that:

(i) all services to be financed out of the proceeds of the Credit shall be

procured in  
Agreement; and

accordance with the provisions of Schedule 3 to this

(ii) such services shall be used exclusively in carrying out of the respective  
Parts of the Project;

(c) inspect, by itself or jointly with representatives of the Association, if the Association shall so request, the goods, sites, works and plants included in the Project, the operation thereof and any relevant records and documents;

(d) obtain all such information as the Association shall reasonably request relating to the foregoing and, if applicable, to the administration, operations and financial condition of the Project Agencies and to the benefits derived from the Project; and

(e) suspend or terminate the right of a Project Agency to the use of the proceeds of the Credit upon failure by such Project Agency to perform any of its respective obligations under the MOU.

2. The MOU shall provide that the Project Agencies shall:

(a) appoint or designate an officer with qualifications, experience, functions and responsibilities satisfactory to the Association for purposes of helping to coordinate the implementation of the Parts of the Project relevant to them;

(b) prepare and furnish to the PMU the information required for the reports referred to in Section 3.05 of this Agreement; and

(c) coordinate with the PMU the selection of consultants to be financed out of the proceeds of the Credit.

3. The MOU shall require that the Project Agencies take all such action as shall be required to enable the Borrower to comply with the provisions of this Agreement related to the Parts of the Project relevant to them.

4. In addition, the MOU in respect of WASCO shall provide that, until completion of the Project, WASCO shall: (a) maintain its operational and financial performance at levels not less than those prevailing as of December 15, 2001; (b) maintain a Managing Director, a General Manager and a Finance Manager, assisted by competent staff in adequate numbers, all with experience and qualifications which shall be at all times acceptable to the Association; and (c) ensure the Association ready access to WASCO staff at all levels and to its records.

