

CONFORMED COPY

CREDIT NUMBER 3386-ZA

Project Agreement

(Mine Township Services Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

AHC MINING MUNICIPAL SERVICES LIMITED

Dated July 27, 2000

CREDIT NUMBER 3386-ZA

PROJECT AGREEMENT

AGREEMENT, dated July 27, 2000, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and AHC MINING MUNICIPAL SERVICES LIMITED (AHC-MMS).

WHEREAS (A) by the Development Credit Agreement of even date herewith between the Republic of Zambia (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to twenty-eight million two hundred thousand Special Drawing Rights (SDR 28,200,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that AHC-MMS agrees 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 AHC-MMS, part of the proceeds of the credit provided for under the Development Credit Agreement will be made available to AHC-MMS on the terms and conditions set forth in the Subsidiary Loan Agreement; and

WHEREAS AHC-MMS, 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 and the following additional terms have the following meanings:

(a) "fiscal year" means the fiscal year of AHC-MMS, commencing on April 1 and ending on March 31 of the next following year; and

(b) "key management personnel" means (i) the General Manager; (ii) the Finance Manager/Company Secretary; (iii) the Manager (Human Resources); (iv) the Technical Manager; (v) the Management Accountant; and (vi) the Head of Supply/Head of Procurement Office.

## ARTICLE II

### Execution of Parts A and B of the Project

Section 2.01. (a) AHC-MMS 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 Parts A and B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, sanitation and environmental practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services, and other resources required for Parts A and B of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and, except as the Association and AHC-MMS shall otherwise agree, AHC-MMS shall carry out Parts A and B of the Project in accordance with the Implementation Program set forth in the Schedule to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to the Development Credit Agreement.

Section 2.03. (a) AHC-MMS 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 Parts A and B of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, AHC-MMS shall, jointly with the Borrower:

(i) prepare, on the basis of guidelines acceptable to the Association and furnish \_\_\_\_\_ to the Association not later than six (6) months after the Closing Date or \_\_\_\_\_ such later date as may be agreed for this purpose between the Association and \_\_\_\_\_ AHC-MMS, a plan for the future operation of Parts A and B of the Project; and

(ii) afford the Association a reasonable opportunity to exchange views with AHC-MMS \_\_\_\_\_ on said plan.

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

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

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

### ARTICLE III

#### Management and Operations of AHC-MMS

Section 3.01. AHC-MMS shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering, sanitation and environmental practices, under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. AHC-MMS shall at all times operate and maintain its buildings, office space, plant, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, sanitation and environmental practices.

Section 3.03. AHC-MMS 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) AHC-MMS shall maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Association, consistently adequate to reflect in accordance with sound accounting practices its operations and financial condition and to register separately the operations, resources and expenditures related to Parts A and B of the Project.

(b) AHC-MMS shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses, and related statements) for each fiscal year, including those for the Project Account, 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 its financial statements referred to in paragraph (a) 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 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) Without limitation upon the provisions of Section 4.01 of this Agreement, AHC-MMS shall carry out a time-bound action plan acceptable to the Association for the strengthening of its financial system for Parts A and B of the Project in order to enable AHC-MMS, not later than 18 months after the Effective Date, or such later date as the Association shall agree, to prepare quarterly Project Management Reports, acceptable to the Association. Each such report shall:

(i) set forth actual sources and application of funds for Parts A and B of the \_\_\_\_\_ Project, both cumulatively and for the period covered by said report, and \_\_\_\_\_ projected sources and application of funds for the said Parts of the Project \_\_\_\_\_ for the six-month period following the period covered by said report, and show \_\_\_\_\_ separately 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) describe physical progress in Project implementation, both cumulatively and \_\_\_\_\_ for the period covered by said report, and explain variances between the \_\_\_\_\_ actual and previously forecast implementation targets; and

(iii) set forth the status of procurement under the said Parts of 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 completion of the action plan referred to in paragraph (a) of this Section, AHC-MMS shall prepare in accordance with guidelines acceptable to the Association, and furnish to the Association, not later than 45 days after the end of each calendar quarter, a Project Management Report for such period.

Section 4.03 (a) Except as the Association shall otherwise agree, AHC-MMS shall produce for its fiscal year ending on March 31, 2005 and each fiscal year thereafter, a positive net income excluding depreciation and amortization charges.

(b) Before September 1, in each of its fiscal years commencing in fiscal year ending on March 31, 2001 and up to and including the fiscal year ending on March 31, 2004, AHC-MMS shall, on the basis of forecasts prepared by AHC-MMS and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of the fiscal year ending on March 31, 2005 and shall furnish to the Association a copy of the results of such review upon its completion.

(c) Before September 1, in each of its fiscal years commencing in fiscal year ending on March 31, 2005 and each fiscal year thereafter, AHC-MMS shall, on the basis of forecasts prepared by AHC-MMS 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 the results of such review upon its completion.

(d) If any such reviews in paragraphs (b) and (c) show that AHC-MMS would not meet the requirements set forth in paragraph (a) for AHC-MMS's fiscal years covered by such review, AHC-MMS shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its tariff), to the satisfaction of the Association to enable AHC-MMS to meet the requirements set forth in paragraph (a) of this Section.

(e) For the purposes of this Section, the term "net income" means the total revenue of AHC-MMS in the relevant calculation period after deduction of all expenses, costs and charges, as further reduced by further reserves for payment of all taxes on that income; provided that the net income forecast for any fiscal year has been calculated to include a provision for doubtful debt which is equal to the actual percentage of billings made in the two quarters preceding the review and which remains unpaid at the end of those two quarters.

Section 4.04. Except as the Association shall otherwise agree, AHC-MMS shall not, for each of its fiscal years following next after its fiscal year ending on March 31, incur any debt unless a reasonable forecast of the revenues and expenditures of AHC-MMS for each fiscal year during the term of the debt to be incurred shall be at least 1.5 times the estimated debt service requirements of AHC-MMS in such year on all debt of AHC-MMS including the debt to be incurred.

Section 4.05. For the purposes of Sections 4.03 and 4.04 of this Agreement:

(i) the term "debt" means any indebtedness of AHC-MMS 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 "debt service" means the aggregate of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt; and

(iv) the term "reasonable forecast" means a forecast prepared by AHC-MMS not earlier than twelve months prior to the incurrence of the debt in question, which both the Association and AHC-MMS accept as reasonable and as to which the Association has notified AHC-MMS of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of AHC-MMS.

Section 4.06. Whenever for the purposes of Sections 4.03, 4.04, and

4.05 of this Agreement, 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.

#### 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 AHC-MMS 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 20 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 AHC-MMS 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

Facsimile

Cable address:

Telex:

202-477-6391

INDEVAS

248423 (MCI) or

Washington, D.C.

64145 (MCI)

For AHC-MMS:

AFD Building  
P.O. Box 22494  
Kitwe  
Zambia

Facsimile:

260-2-245-199

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 AHC-MMS, or by AHC-MMS on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the General Manager of AHC-MMS or such other person or persons as AHC-MMS shall designate in writing, and AHC-MMS 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/ Callisto Madavo

Regional Vice President  
Africa

AHC MINING MUNICIPAL SERVICES LIMITED

By /s/ Atan Shansonga

Authorized Representative

SCHEDULE

Implementation Program for Parts A and B of the Project

1. (a) AHC-MMS shall prepare and furnish to the Association a Project Implementation Manual in form and substance satisfactory to the Association setting out details of all procedures, guidelines, timetables and criteria required for Parts A and B of the Project.

(b) AHC-MMS shall carry out Parts A and B of the Project in accordance with the Project Implementation Manual and, except as the Association shall otherwise agree, AHC-MMS shall not amend or waive any provision of the Project Implementation Manual (or concur in the amendment or waiver of any such provision) if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the carrying out of the said Parts of the Project or the achievement of the objectives thereof.

2. AHC-MMS shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in paragraphs A and B (a) and (b) of Schedule 6 to

the Development Credit Agreement (i) the carrying out by AHC-MMS of Parts A and B of the Project; and (ii) the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about March 31 and September 30 of each year, a report integrating the results of the monitoring and evaluation activities performed pursuant to subparagraph (a) of this paragraph, on (i) the progress achieved in the carrying out by AHC-MMS of Parts A and B of the Project, during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of Parts A and B of the Project; and (ii) the achievement of the objectives thereof during the period following such date; and

(c) review with the Association by May 31 and November 30 of each year, or such later date as the Association shall request, the report referred to in subparagraph (b) of this paragraph, and, thereafter, take all measures required to ensure the efficient completion of Parts A and B of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

3. (a) AHC-MMS shall, no later than December 31, 2003, carry out jointly with the Association and the Borrower, a mid-term review of the progress made in carrying out Parts A and B of the Project. The mid-term review shall include (i) the progress made in meeting the objectives of the said Parts of the Project; (ii) an assessment of the overall performance by AHC-MMS of Parts A and B of the Project; (iii) an assessment of the overall performance by the Private Operator of its obligations under the management contract; and (iv) a determination as to whether or not, having regard to all the relevant circumstances, the mid-term review should recommend an extension of the Management Contract beyond the fourth Project Year.

(b) AHC-MMS shall carry out, no later than one month after the completion of the mid-term review the recommendations of the mid-term review as agreed with the Association and set out in an action plan for Parts A and B of the Project satisfactory to the Association.

4. (a) AHC-MMS shall enter into a management contract with a Private Operator satisfactory to the Association. The Management Contract shall, inter alia, provide for the assignment to the Private Operator of responsibility for (i) the full operation and maintenance and repair works of the systems, plant, equipment and other facilities of AHC-MMS; (ii) the planning of a rehabilitation program, within general guidelines established by AHC-MMS, for the approval of AHC-MMS; (iii) the preparation of annual budgets and plans for the approval of AHC-MMS; (iv) the management, including supervision on behalf of AHC-MMS (but not the execution) of the rehabilitation works included in Parts A and B of the Project; (v) the issuance, on behalf of AHC-MMS, of bills for water, wastewater and solid waste; (vi) payment to AHC-MMS of moneys collected by the Private Operator in respect of the said bills; (vii) compensation of the Private Operator consisting of (A) a competitively bid fixed fee, with time bound performance targets that increase over the duration of the Management Contract, and (B) an incentive payment based on performance targets; and (viii) the overseeing and contracting out of the solid waste management services provided by AHC-MMS for the Mine Townships.

(b) The said rehabilitation works may be contracted out by the AHC-MMS. AHC-MMS shall be responsible for all operations and maintenance costs, as well as the management fee payable to the Private Operator. The Private Operator shall not be responsible for any financial risk relating to the operations and maintenance costs or revenues undertaken by it



under the Management Contract.

(c) AHC-MMS shall be responsible for the procurement of goods, works and services required for Parts A and B of the Project. AHC-MMS may however delegate said procurement responsibilities to the Private Operator. The Private Operator shall have suitably qualified staff in adequate numbers to carry out the procurement responsibilities delegated to it by AHC-MMS.

5. AHC-MMS shall furnish to the Association no later than December 31, 2000, the terms and conditions of employment of (a) all key management personnel of AHC- MMS; and (b) all operational staff of AHC-MMS. The said terms and conditions shall be satisfactory to the Association.

