

**CONFORMED COPY**

**GRANT NUMBER H296-DRC**

# **Financing Agreement**

**(Regional and Domestic Power Markets Development Project)**

**between**

**DEMOCRATIC REPUBLIC OF CONGO**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated October 4, 2007**

**CREDIT NUMBER H296-DRC**

**FINANCING AGREEMENT**

AGREEMENT dated October 4, 2007, entered into between DEMOCRATIC REPUBLIC OF CONGO (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association hereby agree as follows:

**ARTICLE I — GENERAL CONDITIONS; DEFINITIONS**

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions.

**ARTICLE II — FINANCING**

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equivalent to one hundred ninety six million one hundred thousand Special Drawing Rights (SDR 196,100,000) (“Financing”) to assist in financing Parts 1, 3 and 4 of the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Payment Dates are March 1 and September 1 in each year.
- 2.05. The Payment Currency is Dollar.

**ARTICLE III — PROJECT**

- 3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out Part 4 (b) of the Project through MOE and cause Parts 1 through 4 (a) of the Project to be carried out by the Project Implementing Entity in accordance with the provisions of Article IV of the General Conditions and the Project Agreement.
  
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

**ARTICLE IV — REMEDIES OF THE ASSOCIATION**

- 4.01. The Additional Event of Suspension consists of the following:  
  
The Project Implementing Entity’s Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Project Implementing Entity to perform any of its obligations under the Project Agreement.
  
- 4.02. The deadline for the Effectiveness of the Co-financing Agreements is June 30, 2008.

**ARTICLE V — EFFECTIVENESS; TERMINATION**

- 5.01. The Additional Conditions of Effectiveness consist of the following:
  - (a) The Subsidiary Agreement, in form and substance satisfactory to the Association, has been executed on behalf of the Recipient and the Project Implementing Entity.
  
  - (b) The Recipient has established a financial management system satisfactory to the Association including: (i) recruitment of the PFM Agent; (ii) adoption of financial management, administrative and accounting procedures manual; (iii) recruitment of an internal auditor; (iv) recruitment of external auditors; and (v) adoption of an anti-corruption plan for the Project.

- (c) The Recipient has established the PCU referred to in Section 1 A of Schedule 2 to this Agreement.
- (d) SNEL has established the ESMU with functions and responsibilities satisfactory to the Association and with staff in adequate number and with qualifications and professional experience satisfactory to the Association.

5.02. The Additional Legal Matter consists of the following:

The Subsidiary Agreement has been duly authorized or ratified by the Recipient and the Project Implementing Entity and is legally binding upon the Recipient and the Project Implementing Entity in accordance with its terms.

5.03. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

**ARTICLE VI — REPRESENTATIVE; ADDRESSES**

6.01. The Recipient's Representative is the Minister responsible for finance

6.02. The Recipient's Address is:

Ministry of Finance  
BP 12997  
Kinshasa  
Democratic Republic of Congo

Facsimile:

243 884 20 42

6.03. The Association's Address is:

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

Cable:

Telex:

Facsimile:

INDEVAS  
Washington, D.C.

248423 (MCI)

1-202-477-6391

AGREED at Kinshasa, Democratic Republic of Congo, as of the day and year first above written.

**DEMOCRATIC REPUBLIC OF CONGO**

**By /s/ Athanase Matenda Kyelu**

**Authorized Representative**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**By /s/ Jean-Michel Happi**

**Authorized Representative**

## SCHEDULE 1

### Project Description

The objectives of the Project are to improve operational efficiency in the sector and to expand generation, transmission and distribution capacity, in order to support regional power market integration and to better meet domestic power demand.

The Project consists of the following parts:

Part 1: Generation

Rehabilitation of the hydroelectric facilities at Inga to increase power output to about 1,300 megawatts, including rehabilitation of turbines and other facilities, and dredging and civil works on the intake canal.

Part 2: Transmission

Construction of a second transmission line to deliver power from the Inga hydroelectric facilities to Kinshasa.

Part 3: Distribution

Rehabilitation and expansion of power distribution system in Kinshasa, including: (a) acquisition of low voltage cables and transformers; (b) extension of the power grid into un-electrified areas of Kinshasa; (c) connection of about 50,000 new users to the power grid; and (d) installation of about 50,000 meters and 10,000 prepayment meters.

Part 4: Capacity Building and Governance

- (a) Enhancing SNEL's governance and strengthening its operational and managerial capacity to increase efficiency inter alia in the areas of:
  - (i) billing and collection of revenues;
  - (ii) financial management and control systems and practices;
  - (iii) procurement systems;
  - (iv) management information and control systems;
  - (v) personnel functions;
  - (vi) communication operations;
  - (vii) public/private partnerships development;
  - (viii) works programming and execution (including maintenance and dam safety);
  - (ix) staff training;
  - (x) black flies vector control at the Inga site;
  - (xi) development of an expansion

plan to expand electrification across the Recipient's territory; and  
(xii) strengthening of environmental and social management capacity.

- (b) Enhancing MOE's capacity to foster the development of the Inga site and to develop adequate strategies for the power sector.



**SCHEDULE 2****Project Execution****Section I. Implementation Arrangements****A. Institutional Arrangements**

1. The Recipient shall maintain throughout Project implementation the PCU and entrust it with the responsibility to coordinate the execution of the Project, and with staff in adequate number whose qualifications and experience shall be satisfactory to the Recipient and to the Association.

2. The PCU shall be headed by the Project Coordinator from MOE, assisted by a deputy Project Coordinator from MDP and shall further comprise *inter alia*: the Chief Executive Officer of SNEL, the PFM Agent, the CATE, the PMU, and the Internal Auditor. The PCU's membership may be amended from time to time as agreed upon between the Recipient and the Association.

**B. Subsidiary Agreement**

1. To facilitate the carrying out of Parts 1, 2, 3 and 4 (a) of the Project by the Project Implementing Entity, the Recipient shall make the proceeds of the Financing allocated to Categories (1), (2), (3), (4), (5)(a) and (6)(a) available to the Project Implementing Entity under a subsidiary agreement between the Recipient and the Project Implementing Entity ("Subsidiary Agreement") under terms and conditions approved by the Association, which shall include: (a) interest at the rate of 5 percent per annum; and (b) repayment of principal over a maturity period of 20 years including a grace period of 5 years.

2. The Recipient shall exercise its rights under the Subsidiary Agreement in such manner as to protect the interests of the Recipient and the Association and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree, the Recipient shall not assign, amend, abrogate or waive the Subsidiary Agreement or any of its provisions.

**C. Anti-Corruption**

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

**D. Safeguards**

In order to ensure that the rights of the displaced persons from land are safeguarded and the environment protected, the Recipient shall implement the Project in accordance with the ESRP, the EPP, and the relevant national legal and policy requirements.

**E. Other Arrangements**

1. To enhance governance at SNEL and in the electricity sector, the Recipient shall promptly implement a program of measures, acceptable to the Association, aimed at enhancing transparency in the conduct of SNEL's operation and in the sector; said measures shall include *inter alia*: (a) adoption of a process for public/private partnerships that provides for sound and equitable financial and technical partnerships, ensures transparency and favors competition; (b) strengthening the efficacy of SNEL's Board of Directors by entrusting responsibility to designated directors with respect to monitoring of audit activities, procurement and access by directors to relevant management information; (c) publishing regularly and in timely manner all partnership or joint-venture contracts entered into by SNEL, or by the Recipient with regard to the power sector, on or after March 1, 2007; and (d) implementation by members of the Board of Directors and members of the management committee of the requirement for disclosure of assets and avoidance of financial conflicts in accordance with MDP Circular No. 007/MINPF/WK/CMU/JML/2007 of July 16, 2007.

2. The Recipient shall:

- (a) no later than March 31, 2009, or any later date agreed upon with the Association, carry out jointly with the Association, a Mid-Term Review of the progress made in carrying out the Project;
- (b) no later than thirty days after the completion of the Mid-Term Review, start to implement the recommendations of the Mid-Term Review as agreed with the Association; and
- (c) the Mid-Term Review shall assess, *inter alia*: (i) the overall progress made during the implementation of the Project; and (ii) the results of the monitoring and evaluation activities.

**Section II. Project Monitoring, Reporting and Evaluation****A. Project Reports**

1. (a) The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators set forth below in sub-paragraph (b) of this paragraph. Each Project Report shall cover the period of one calendar year, and shall be furnished to the Association not later than one month after the end of the period covered by such report.
- (b) The performance indicators referred to above in sub-paragraph (a) consist of the following:
  - (i) Power generated at Inga 1 and 2 plants has increased from 700 megawatts to 1300 megawatts.
  - (ii) Transmission:
    - bidding documents completed and contracts signed by September 30, 2008;
    - power line erection completed and commissioned to deliver power by August 31, 2010;
    - GWhs delivered to the Kinshasa distribution network from Inga increased from about 3,000 to 3,650 by December 31, 2010; to 4,625 by December 31, 2011, and to 4,950 by December 31, 2012; and
    - GWhs delivered from Inga to industrial consumers in the Katanga region and for export to the SAPP increased from 715 to 975 by December 31, 2010, to 1,500 by December 2011 and to 2,650 by December 31, 2012.
  - (iii) Revenues per KWh delivered to the Kinshasa distribution network have increased from 1.4 US cents to 2 US cents by December 31, 2010 and to 2.5 US cents by December 31, 2012.

(iv) Number of additional households connected in Kinshasa has increased by 40,000 by December 31, 2011 and by 50,000 by December 31, 2012.

(v) SNEL's annual reports, financial statements, and the public/private partnership agreements concluded by SNEL have been published for each SNEL fiscal year in a timely manner.

2. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than March 31, 2014.

**B. Financial Management, Financial Reports and Audits**

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association not later than 45 days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.
3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient, commencing with the fiscal year in which the first withdrawal under the Project Preparation Advance was made. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

**Section III. Procurement**

**A. General**

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

- 2. **Consultants’ Services.** All consultants’ services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.
- 3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

**B. Particular Methods of Procurement of Goods and Works**

- 1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.
- 2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<b>Procurement Method</b>
(a) National Competitive Bidding
(b) Limited International Bidding
(c) Shopping
(d) Direct Contracting

**C. Particular Methods of Procurement of Consultants’ Services**

- 1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants’ services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
- 2. **Other Methods of Procurement of Consultants’ Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>
(a) Quality Based Selection
(b) Selection Based on Consultants' Qualifications
(c) Single Source Selection
(d) Individual Consultants

**D. Review by the Association of Procurement Decisions**

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.

**Section IV. Withdrawal of the Proceeds of the Financing**

**A. General**

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing ("Category"), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<b>Category</b>	<b>Amount of the Grant Allocated (expressed in SDR)</b>	<b>Percentage of Expenditures to be Financed</b>
(1) Works under Part 1 of the Project  (Inga 1 and Inga 2(a))	110,000,000	100%
(2) Works under Part 3 of the Project	15,000,000	100%
(3) Goods	130,000	100%
(4) Pesticides	800,000	100%
(5) Consultants' services under:  (a) Part 4 (a) of the Project  (b) Part 4 (b) of the Project	18,200,000  3,000,000	100%

Category	Amount of the Grant Allocated (expressed in SDR)	Percentage of Expenditures to be Financed
(6) Consultants services:  (a) for Project management under Parts 1, 2, 3, and (4) (a)  (b) for PFM	17,000,000    4,000,000	100%
(7) Operating Costs	2,700,000	100%
(8) Refund of Project Preparation Advance	2,000,000	Amount payable pursuant to Section 2.07 of the General Conditions
(9) Unallocated	23,270,000	
<b>TOTAL AMOUNT</b>	196,100,000	



**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed \$20 million equivalent may be made for payments made prior to this date but on or after April 1, 2007, for Eligible Expenditures;
2. The Closing Date is June 30, 2013.

**APPENDIX****Definitions**

1. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
2. “CATE” means *Cellule d’appui technique à l’électricité*, the unit within MDE responsible for providing guidance on sectoral strategies.
3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
4. “Co-financiers” means, collectively the African Development Bank (AfDB) and any other Co-financier who may enter into a Co-financing Agreement with the Recipient for purposes of carrying out Parts 2 and 3 of the Project; and “Co-financier” means any of them individually.
5. “Co-financing Agreements” means, collectively, the AfDB Co-financing Agreement and any Co-financing Agreement entered into with any Co-financier for purposes of carrying out Parts 2 and 3 of the Project
6. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.
7. “EPP” means the Emergency Preparedness Plan referred to in Section 1 A. 7 of the Schedule to the Project Agreement.
8. “ESMU” means the Environment and Social Management Unit referred to in Section 5.01 (d) of this Agreement established by SNEL to handle environmental and social activities related to the Project.
9. “ESRP” (the “Environmental, Social and Resettlement Plan”) means the environmental and social impact assessment documents, dated December 2006 prepared by the Recipient for the implementation of the construction activities under the Project and which describe the actual and potential environmental and social impact of the said activities, a management planning setting forth the mitigation measures and systems required to monitor the implementation of the said activities and to ensure compliance of such activities with said measures

with a view to limiting any actual or potential adverse environmental and/or social impact, and which includes the environmental and social impact assessment and the pest management plan.

10. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).
11. “Inga 1” means the first phase of hydroelectric scheme established at the Inga Dam.
12. “Inga 2 A” means the power unit built during the second phase of hydroelectric scheme established at the Inga Dam and comprised of turbines G21, G22, G23 and G24.
13. “MDE” means *Ministère de l’Energie*, the Recipient’s Ministry of Energy.
14. “MDF” means *Ministère des Finances*, the Recipient’s Ministry of Finance.
15. “MDP” means *Ministère du Portefeuille*, the Recipient’s Ministry in charge of public enterprises.
16. “Operating Costs” means expenditures incurred for activities pertaining to implementation of the Project including *inter alia* expenses for acquisition of office equipment, materials and supplies, rental of offices, fuel, maintenance and repair of vehicles used for Project implementation, tickets and travel expenses and subsistence costs for travel related to the Project and salaries for contractual staff recruited for the Project except for the Recipient’s civil servants and SNEL’s regular staff.
17. “PCU” means the Project Coordination Unit established by the Recipient to coordinate activities pertaining to the execution of the Project and further referred to in Section 5.01 (c) of this Agreement.
18. “PMU” means the Project Management Unit established by SNEL to coordinate the execution of Parts 1, 2, 3, and 4(a) of the Project and referred to in Section I.A.2 of Schedule 2 to this Agreement.
19. “Procurement and Financial Management Agent” or “PFM Agent” means the firm recruited by the Recipient in accordance with the provisions of Section 5.01 (b) of this Agreement.

20. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October, 2006.
21. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated April 10, 2007 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
22. “Project Coordinator” means the person appointed by MDE to serve as head of the PCU.
23. “Project Implementing Entity” means SNEL (as hereinafter defined).
24. “Project Implementing Entity’s Legislation” means the Recipient’s Ordonnance-Loi No.70-033 of May 16, 1970 establishing and governing the Project Implementing Entity;
25. “Project Preparation Advance” means the advance referred to in Section 2.07 of the General Conditions, granted by the Association to the Recipient pursuant to the letters agreement signed on behalf of the Association on January 1, 2006 and on behalf of the Recipient on February 23, 2006, and on behalf of the Association on April 3, 2007 and on behalf of the Recipient on April 23, 2007.
26. “Resettlement Action Plan” means the plan acceptable to the Association, adopted by the Recipient and SNEL (as hereinafter defined) in December, 2006, describing the actual or potential resettlement that may be required for the construction activities under Part 2 of the Project including a resettlement and compensation plan.
27. “SNEL” means *Société Nationale d’Electricité*, the Recipient’s National Society of Electricity referred to here-above as the Project Implementing Entity.
28. “Subsidiary Agreement” means the agreement referred to in Section I.B of Schedule 2 to this Agreement pursuant to which the Recipient shall make part of the proceeds of the Financing available to the Project Implementing Entity.