

CONFORMED COPY

CREDIT NUMBER 3209-YEM

Project Agreement

(Sana'a Water Supply and Sanitation Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

NATIONAL WATER AND SANITATION AUTHORITY

Dated June 3, 1999

CREDIT NUMBER 3209-YEM

PROJECT AGREEMENT

AGREEMENT, dated June 3, 1999 between the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and NATIONAL WATER AND SANITATION AUTHORITY (NWSA).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Republic of Yemen (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to eighteen million four hundred thousand Special Drawing Rights (SDR18,400,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that NWSA agree to undertake such obligations toward the Association as are set forth in this Agreement;

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

WHEREAS NWSA, 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 and in the General Conditions (as so defined) have

the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) NWSA 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 the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices and in accordance with the Environmental Management Plan, 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 Association and NWSA shall otherwise agree, NWSA shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 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 1 to this Agreement.

Section 2.03. (a) NWSA 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.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, NWSA shall:

(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 NWSA, a plan for the continued achievement of the objectives of the Project; and

(ii) afford the Association a reasonable opportunity to exchange views with NWSA on said plan.

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

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

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

ARTICLE III

Management and Operations of NWSA

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

Section 3.02. NWSA shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all

necessary repairs and renewals thereof, all in accordance with sound engineering, financial and engineering practices.

Section 3.03. NWSA 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) NWSA shall maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association, adequate to reflect the operations, resources and expenditures for and in connection with the carrying out of the Project.

(b) NWSA shall:

(i) have the records, accounts and financial statements referred to in paragraph (a) of this Section 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 (6) months after the end of each Fiscal Year, (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year as so audited, and (B) an opinion on such financial statements, records and accounts and a 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 and accounts and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall carry out a time-bound action plan acceptable to the Association for the strengthening of its financial management system for the Project in order to enable NWSA, not later than March 31, 2000, 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 progress in Project implementation, both cumulatively and for the period covered by said report, and (B) explains variances between 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 plan referred to in paragraph (a) of this Section, NWSA shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than forty five (45) days after the end of each calendar quarter a Project Management Report for such period.

Section 4.03. (a) Except as may otherwise be agreed with the Association, NWSA shall produce funds from internal resources equivalent (i) for Fiscal Years 1999 and 2000, to not less than the sum of its total operating expenses; and (ii) starting Fiscal Year 2001, to not less than the sum of its total operating expenses, its debt service requirements and five percent (5%) of the capital expenditures expected to be incurred during the following Fiscal Year.

(b) By December 15 of each Fiscal Year, on the basis of forecasts prepared by NWSA and satisfactory to the Association, NWSA shall review with the Association whether it would meet the requirements stated in paragraph (a) of this Section, and shall furnish to the Association the results of such review upon its completion. If any such review shows that NWSA would not meet the requirements set forth in paragraph (a) of this Section, NWSA shall promptly take all necessary measures (including, without limitation, adjustments in the structure or levels of its tariffs) in order to meet such requirements.

(c) For purposes of this Section:

(i) The term "total operating expenses" means all expenses related to operations, adequate maintenance, general and administrative costs, contributions to NWSA headquarters, and taxes and payments in lieu of taxes, but excluding interest, depreciation and other charges on debt.

(ii) The term "funds from internal sources" means the difference between:

(A) the sum of revenues from all sources related to operations, consumer deposits, net non-operating income and any reduction in working capital other than cash; and

(B) the sum of all expenses related to operations, adequate maintenance, general and administrative costs, contributions to NWSA headquarters, and taxes and payments in lieu of taxes, but excluding interest, depreciation and other charges on debt.

(iii) The term "net non-operating income" means the difference between:

(A) revenues from all sources other than those related to operations; and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.

(iv) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each Fiscal Year.

(v) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve (12) months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next Fiscal Year.

(vi) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve (12) months, including accounts payable, customer advances, debt services requirements, taxes and payments in lieu of taxes and dividends.

(vii) The term "debt" means any indebtedness of the Sana'a branch of NWSA maturing by its terms more than one (1) year after the date on which it is originally incurred.

(viii) 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.

(ix) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on debt.

(x) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.

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

ARTICLE V

Effective Date; Termination

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 NWSA 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 twenty (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 NWSA 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 addresses as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Association:

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

Cable address:

Telex:

INDEVAS
Washington, D.C.

248423 (MCI) or
64145 (MCI)

For National Water and Sanitation Authority:

P.O. Box 104
Sana'a
Republic of Yemen

Cable address:

Sana'a

Telex:

YEYE

Section 6.02. Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement on behalf of NWSA or by NWSA on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by its Director General, or by such other person or persons as NWSA shall designate in writing, and NWSA 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/ Inder K. Sud

Acting Regional Vice President
Middle East and North Africa

NATIONAL WATER AND SANITATION AUTHORITY

By /s/ Abdulwahab Al-Hajjri

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: General

1. Goods and works shall be procured in accordance with (a) the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Association in January 1995 and revised in January and August 1996, September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Guidelines), and (b) the provisions of the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the 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: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works 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 following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

Preference for domestically manufactured goods and domestic contractors

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 and works to be carried out by domestic contractors.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Goods estimated to cost less than \$500,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, and works estimated to cost less than \$1,000,000, up to an aggregate amount not to exceed \$7,000,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$100,000 equivalent, 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.

3. Direct Contracting

Goods estimated to cost less than \$5,000 equivalent per contract, and costing \$50,000 equivalent or less in the aggregate, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to pre-qualify for bidding or to bid for contracts, the proposed procurement plan for 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 Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to the first three (3) contracts for works and goods, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

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 Guidelines shall apply.

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 January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines), and (b) the provisions of the

following provisions of Parts of this Section II.

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. Quality-based Selection

Services 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 through 3.4 of the Consultant Guidelines.

2. Selection Based on Consultants Qualifications

Services 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.

3. Single Source Selection

Services which are estimated to cost less than \$100,000 equivalent per contract, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 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 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 shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for the employment of consulting firms and individual consultants, 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.

SCHEDULE 2

Implementation Program

1. In order to assist in carrying out the Project, NWSA shall maintain PMU with professional staffing in adequate numbers whose qualifications and experience shall be acceptable to the Association. The responsibilities of PMU shall include the management of the procurement, disbursement, accounting and auditing processes under the Project. NWSA, through PMU, shall coordinate the carrying out of Part A.2 of the Project with NWRA and Parts D.2, E.2 and E.3 of the Project with the Technical Secretariat.

2. NWSA shall:

(a) maintain policies and procedures adequate to enable it to monitor and

evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about December 31, 2000, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out 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 the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, by February 28, 2001, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, 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 the said report and the Association's views on the matter.

