

CONFORMED COPY

GRANT NUMBER H435-ZR

Financing Agreement

(Urban Water Supply Project - PEMU)

between

DEMOCRATIC REPUBLIC OF CONGO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated January 19, 2009

GRANT NUMBER H435-ZR

FINANCING AGREEMENT

AGREEMENT dated January 19, 2009, 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 or in the Appendix to this Agreement.

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 twenty seven five hundred thousand Special Drawing Rights (SDR 127,500,000) (“Financing”) to assist in financing 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 III 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 15 and September 15 in each year.
- 2.05. The Payment Currency is the Dollar.

ARTICLE III — PROJECT

- 3.01. The Recipient declares its commitment to the objective of the Project and the Program. To this end, the Recipient shall cause 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 Events of Suspension consist of the following:
 - (a) The Project Implementing Entity's Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Project Implementing Entity to perform any of its obligations arising under or entered into, pursuant to the Project Agreement, or to achieve the objectives of the Project.
 - (b) The Recipient's legal or regulatory framework has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the objective of the Project or its ability to be carried out or the implementation of the Management Contract.
 - (c) The Parallel Financing has ceased to be available, unless the Recipient establishes to the satisfaction of the Association that adequate funds for the financing of Part B.5 of the Project are available from other sources on terms and conditions consistent with the Recipient's obligations under the Financing Agreement.
 - (d) A situation has occurred that makes it improbable that a material aspect of the Program or any obligations undertaken by the Recipient under the Program will be carried out

ARTICLE V — EFFECTIVENESS; TERMINATION

5.01. The Additional Conditions of Effectiveness consist of the following:

- (a) The Subsidiary Agreement has duly been executed on behalf of the Recipient and the Project Implementing Entity.
- (b) The prequalification stage of the procurement process for the Management Contract has been duly completed and the Management Contract Oversight Committee has been legally established, with form and functions satisfactory to the Association and its members have been duly appointed.
- (c) The Recipient has adopted the Public Water Bill *Arrêté* and has updated both the *arrêté* pertaining to the Inter-ministerial Steering Committee and the *arrêté* pertaining to IU, with a view to expanding their terms of reference for the purposes of the Project, in each case in a manner satisfactory to the Association.
- (d) The Project Implementing Entity has recruited a deputy Project coordinator with qualifications, experience, and terms of reference satisfactory to the Association.
- (e) The Recipient has duly adopted the Project Manuals.
- (f) The Recipient has submitted to the Association the Anti-Corruption Plan.

5.02. The Additional Legal Matters consist of the following:

- (a) 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 ministry at the time in charge of finance.

6.02. The Recipient's address is

Ministry of Finance
Rue Lubefu No 20, Commune de la Gombe
Kinshasa I
Democratic Republic of Congo

Facsimile:

00 243 880 23 81

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/ Marie Françoise Marie-Nelly**
Authorized Representative

SCHEDULE 1

Project Description

The objective of the Project is to increase sustainable access to water in selected urban areas and to improve the efficiency of the Project Implementing Entity.

The Project consists of the following parts:

Part A - Improvement and expansion of water supply services in Targeted Cities

1. For the city of Kinshasa

Support to the Recipient for the implementation of an investment program in the city of Kinshasa aimed at repairing distribution networks and connections so as to reduce losses and allow for the connection of poorer suburban communities through the provision of works and goods including for: (a) the rehabilitation of pumping and booster stations at Masina, Gombele, Météo and Kintambo; (b) the strengthening of the discharge pipe between the Ndjili treatment plant and the airport (18,000 ml); (c) the rehabilitation of approximately 378 km of secondary and tertiary distribution networks and the corresponding connections; (d) the provision and installation of approximately 250,000 new meters; (e) the rehabilitation of the Kinshasa meter workshop; and (f) the construction of approximately 200 stand posts.

2. For the city of Lubumbashi

Support to the Recipient for the implementation of an investment program in the city of Lubumbashi through the provision of works and goods including for: (a) the rehabilitation and strengthening of sources S1 and S2 in Kasapa; (b) spring tapping (S3, S4 and S5) at Kasapa; (c) the construction of 8 drilling sites (4 at Ruashi and 4 at Campus); (d) the rehabilitation of 2 existing drilling sites (1 at Campus and 1 at Unilu); (e) the construction of new systems for the sources and drilling sites; (e) the rehabilitation of pumping stations at Relais and Kasapa; (f) the rehabilitation of existing reservoirs at Relais and construction of 2 elevated reservoirs at Ruashi (750 m3) and at Luano (1,500 m3); (g) the construction of reservoir using reinforced concrete at Tabacongo site (6,000 m3); (h) the rehabilitation of approximately 180 km of pipes; (i) the rehabilitation of approximately 10,000 household connections; (j) provision and the installation of approximately 15,000 new meters; and (k) the construction of approximately 100 stand posts.

3. For the city of Matadi

Support to the Recipient for the implementation of an investment program in the city of Matadi, through the provision of works and goods including for: (a) the rehabilitation of production facilities at Soyo; (b) the rehabilitation of approximately 91 km of pipes; (c) the rehabilitation of the pumping station R2; (d) the rehabilitation of approximately 5,000 household connections; (e) the installation of approximately 10,000 new meters; and (f) the construction of approximately 100 stand posts.

Part B - Support to sector reform, capacity building and improved governance

1. Management Contract

Financing of the Management Contract and related audits.

2. Repair, Replacement and Rehabilitation Fund

Support to the financing of such expenditures as minor works, replacement and repair of connections, meters and data processing tools as deemed necessary by the Private Operator.

3. Staff Restructuring Plan

Support to the Recipient for the design and implementation of the Staff Restructuring Plan, including the financing of Retrenchment Payments and related services.

4. Communication program

Support to the Recipient in the design and implementation of a communication program to ensure a full understanding by civil society and main stakeholders of the objectives and improvements targeted by the reform of the Recipient's water sector, through the provision of goods, technical assistance and Training including for the preparation and implementation of: (a) a specific communication plan oriented towards customers satisfaction in the Targeted Cities; (b) a communication strategy on key messages to improve the water sector management; and (c) a specific communication strategy addressing hygiene, sanitation and HIV AIDS in selected cities.

5. Capacity building within ME, MP, COPIREP and the Project Implementing Entity

Support to the Recipient in the strengthening of capacities within ME, MP, COPIREP and the Project Implementing Entity, including: (a) the provision of technical assistance and Training to ME in the fields of planning and regulation; (b) the provision of goods, technical assistance and Operating Costs to IU for the implementation of the Project ; (c) the organization of Project launch and mid-term review workshops; (d) the provision of Training to staff of the Project Implementing Entity and the provision of works and goods for the rehabilitation of training centers in Kinshasa and Lubumbashi; (e) Training and legal assistance to MP and COPIREP for the negotiation and implementation of the Management Contract; (f) carrying out of studies in connection with the organization of the water sector including the implementation of a decentralization strategy; and (g) the financing of COPIREP's costs incurred by the management of procurement activities and supervision of Parts B.1 and B.3 of the Project.

6. Improved governance in the water sector

Support to the Recipient in improving the governance in the water sector, through the provision of goods, Training and technical assistance including for: (a) carrying out public information campaigns, workshops and consultations to improve governance in the water sector; and (b) the set up of a website to, among others, publicize the award of contracts financed under the Project.

7. Reduction and control of water consumption by public institutions and related personnel

Support to the Recipient in the preparation and implementation of an action plan to reduce and control water consumption by public institutions and related personnel, through the provision of works, goods, technical assistance and Training including to: (a) ensure rigorous metering of water use, billing, and payment, in a timely manner; and (b) support the rehabilitation and upgrading of facilities serving large public entities.

8. Sanitation strategies and programs in Matadi and Lubumbashi

Provision of technical assistance to the Recipient to carry out studies to develop urban sanitation strategies and programs in Matadi and Lubumbashi.

9. Monitoring and evaluation, supervision of works and audits

Support to the Recipient in carrying out monitoring and evaluation activities under the Project through the provision of technical assistance including to: (a) carry out environmental and social impact studies required under the Project, as well as overall monitoring of Project indicators; (b) carry out technical and financial audits of the Project; (c) carry out a financial audit of the Project Implementing Entity; (d) carry out supervision of works funded under the Project; and e) engineering studies and bidding documents in Lubumbashi and Matadi.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Subsidiary Agreement

1. To facilitate the carrying out by the Project Implementing Entity of the Project, the Recipient shall make the entire proceeds of the Financing available to the Project Implementing Entity under a subsidiary agreement between the Recipient and the Project Implementing Entity, under terms and conditions approved by the Association, which shall include the following:
 - a. The obligation of the Recipient to transfer the entire proceeds of the Financing to the Project Implementing Entity on a non-reimbursable grant basis, and otherwise to take all action necessary to permit the Project Implementing Entity to carry out the Project and ensure the achievement of the objectives thereof.
 - b. The obligation of the Project Implementing Entity to promptly inform the Recipient of any condition which interferes or threatens to interfere with the implementation of the Project and the achievement of the objectives thereof.
 - c. The obligation of the Project Implementing Entity, at the request of the Recipient, to exchange views with the Recipient with regard to the progress of the Project and the achievement of the objectives thereof, and the Project Implementing Entity's performance of its obligations under the Subsidiary Agreement, the Project Agreement and the Project Manuals.
 - d. The obligation of the Project Implementing Entity to carry out the Project in accordance with this Agreement, the Project Agreement, the Subsidiary Agreement and Project Manuals, and at all times to ensure that only Eligible Expenditures that comply with the Subsidiary Agreement and Project Manuals will be financed from the proceeds of the Financing.
 - e. The mutual obligation of the Recipient and the Project Implementing Entity to comply with the ESD and the Project Manuals and to take all necessary steps to ensure that the ESD shall be carried out in a manner satisfactory to the Association.

- f. The obligation of the Project Implementing Entity to promptly refund to the Recipient any proceeds from the Financing not used to finance Eligible Expenditures.
 - g. A provision stipulating that, in case of conflict between any of the provisions contained in the Subsidiary Agreement or Project Manuals, on the one hand, and those set forth in this Agreement and the Project Agreement, on the other, the provisions of this Agreement and the Project Agreement shall at all times prevail.
- 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 of any of its provisions.

B. Institutional Arrangements

- 1. The Recipient shall, at all times during Project implementation take all actions necessary or appropriate to enable the Project Implementing Entity to carry out its obligations as set forth or referred to in this Agreement and the Project Agreement, including, without limitation, the provision of facilities, site access, services and other resources required for that purpose; and cause any governmental body and public agencies and institutions at the central or local level to take all actions necessary or appropriate to facilitate the smooth execution of the Project by the Project Implementing Entity.

Manuals

- 2. Except as the Association shall otherwise agree in writing, the Recipient shall:
 - (i) apply the criteria, policies, procedures and arrangements set out in the Project Manuals; and
 - (ii) not amend or waive, or permit to be amended or waived, any of the Project Manuals, or any provision thereof.

Inter Ministerial Steering Committee

- 3. The Recipient shall, at all times during the execution of the Project:
 - (a) maintain the Inter-Ministerial Steering Committee, in form and with functions satisfactory to the Association, in charge of: (i) providing overall guidance to evaluate and ascertain the Project's results;

(ii) ensuring the coordination of the Project with the country's overall water service improvement program; and (iii) review and, as the case may be, approve any strategic plans or policy reforms in connection with the urban water sector.

- (b) cause the Inter-Ministerial Steering Committee to meet at least twice a year.

LSC

4. The Recipient shall:

- (a) no later than six months from the Effective Date establish LSC in form and with functions satisfactory to the Association, in charge of overseeing Project implementation at the local level in each Targeted City; and
- (b) thereafter maintain at all times during the execution of the Project, LSC with staff having qualifications and experience and terms of reference satisfactory to the Association.

ME

5. The Recipient shall ensure that ME allocates proper resources and assigns staff in number and with qualifications satisfactory to the Association to allow for: (a) proper coordination of reforms supported under the Project within overall sector policies; and (b) adequate inputs in connection with the adoption of required sectoral policies.

MP

6. The Recipient shall ensure that MP allocates proper resources and assigns staff in number and with qualifications satisfactory to the Association to allow for: (a) proper coordination of reforms supported under the Project within overall state owned enterprises reforms; and (b) adequate inputs in connection with the adoption of required sectoral policies.

C. Management Contract

1. No later than eight months from the Effective Date, the Recipient shall: (a) with support of COPIREP carry out the recruitment of the Private Operator in accordance with the provisions of Section III of the Schedule to the Project Agreement; and (b) enter into and cause the Project Implementing Entity to enter into, and thereafter maintain at all times during the implementation of the Project, the Management Contract under terms and conditions satisfactory to the Association, including, *inter alia*:
 - (a) a detailed description of the services to be rendered by the Private Operator, including the proposed schedule for carrying out its mission, as well as technical standards to be complied with;
 - (b) a detailed description of the financing mechanisms made available to the Project Implementing Entity, including this Financing, and the resulting fiduciary or other requirements and obligations undertaken by the Project Implementing Entity;
 - (c) a detailed list of objectives to be attained, along with expected achievement dates and performance indicators;
 - (d) a detailed description of personnel to be provided by the Private Operator, together with the required qualifications and experience, and to include the following: the general manager, the technical director, the financial director, the commercial director and the human resources director;
 - (e) in order to permit the Private Operator to perform its functions under the Management Contract, a detailed description of: (i) the current corporate structure within the Project Implementing Entity, including the composition of the board of directors; (ii) the corporate powers granted to, and the authorities and responsibilities to be exercised by, the Private Operator; and (iii) the decision process, and the implementation arrangements including communication channels with the Management Contract Oversight Committee;
 - (f) a list of deliverables and report or strategies to be delivered by the Project Implementing Entity, including: (i) the submission, no later than six months after the signing of the Management Contract, of an assessment of all key indicators (baseline and target values) to which the Private Operator shall be accountable for and to be audited by the

Performance Auditors; (ii) the production of financial statements; and (iii) the production of regular progress reports;

- (g) the main respective rights and obligations of the Recipient and of the Project Implementing Entity in connection with the management of the urban water sector in the Recipient's territory;
 - (h) the *Cahier des Charges* attached as an annex;
 - (i) provisions with respect to any change of laws or regulations and its effects over the Management Contract, including in connection with the transformation of the Project Implementing Entity into a private sector corporation operating on a commercial basis, and the obligation for the Recipient, in consultation with the Private Operator and the Association, to promptly take and, as the case may be, cause to be taken by the Project Implementing Entity, all necessary governmental and corporate actions to allow for the attainment of the objectives of the Project and of the Management Contract; and
 - (j) provisions with respect to the recruitment of the Performance Auditors and provisions with respect to periodic review of the performance of Private Operator.
2. Within eight weeks from the date of signing of the Management Contract, the Recipient shall have: (i) designated any representatives within the Project Implementing Entity as prescribed by the applicable laws and the Management Contract; (ii) proceeded with any corporate nominations prescribed by the applicable laws, including, any representative from the Private Operator pursuant to the Management Contract; and (iii) submitted to the Association an opinion or opinions satisfactory to the Association of counsel acceptable to the Association showing on behalf of the Recipient and the Project Implementing Entity, that the Management Contract has been duly authorized or ratified by, and executed and delivered on behalf of, such party and that all corporate nominations required under the Management Contract are legally valid.
3. The Recipient shall at all times during the implementation of the Project maintain the Management Contract Oversight Committee and cause the Management Contract Oversight Committee to promptly take any action needed for the due implementation of the Management Contract.
4. Within three months from the date of signing of the Management Contract, COPIREP shall have signed the Performance Auditors Contract.

5. COPIREP shall have a semi-annual technical and financial review of the implementation of the Management Contract carried out by the Performance Auditors and submit its report no later than two months after the end of the relevant semester to the Management Contract Oversight Committee and to the Association.
6. Unless otherwise agreed in writing with the Association, the Beneficiary shall not, at any time during the Implementation of the Project, amend, suspend, abrogate, repeal or waive or transfer the Management Contract.

D. Staff Restructuring Plan

1. The Recipient shall cause COPIREP, no later than two months from the Effective Date, to recruit, in accordance with the provisions of Section III of the Schedule to the Project Agreement: (a) the Retrenchment and Reinsertion Technical Advisor; (b) the Retrenchment Financial Intermediary; and (c) the Retrenchment Payments Certification Auditors.
2. The Recipient shall cause COPIREP to, no later than four months from the Effective Date, submit the Staff Restructuring Plan to the Association for its review and approval.
3. The Recipient shall cause COPIREP to: (a) no later than five months from the Effective Date, carry out the payment of the Retrenchment Payments through the Retrenchment Financial Intermediary; and (b) no later than one month thereafter, have an audit of payments made carried out by the Retrenchment Payments Auditors under terms and conditions satisfactory to the Association and submit a report of the results of that audit.
4. The Staff Restructuring Plan will focus initially on employees eligible for retirement. Once all such Project Implementing Entity employees eligible for retirement have been paid in accordance with the terms of the Staff Restructuring Plan and their employment with Project Implementing Entity terminated, remaining funds available under Category (4) in the table in paragraph 2 of Section III.A below will be used to finance additional Retrenchment Payments under the Project.
5. The Recipient shall cause COPIREP to, no later than two years from the Effective Date, have a survey of the outcomes of the Staff Restructuring Plan, including the effectiveness of reinsertion measures carried out, under terms and conditions satisfactory to the Association.

E. Sanitation Strategies

1. The Recipient shall cause the Ministry of Environment (PNA), the Ministry of public Works and Infrastructure (OVD) and the Ministry of Plan (CNAEA) to prepare, in collaboration with the Project Implementing Entity and relevant provincial and municipal authorities and to submit no later than thirty months from the Effective Date to the Inter-Ministerial Steering Committee and the Association for their respective review and approval, a strategic plan for the carrying out of sanitation strategies in Lubumbashi and Matadi.

F. Tariffs Structure and Costs Recovery Plan

1. The Recipient shall: (a) no later than thirty months from the Effective Date, submit to the Association the Tariffs Structure and Costs Recovery Plan; and (b) promptly thereafter take all necessary governmental actions required for its due implementation, including all actions to be taken within public administrations and public enterprises at the central or local level, including its publication and the carrying out of a communication strategy.

G. Financial Restructuring Plan

1. The Recipient shall: (a) no later than six months from the Effective Date, carry out an inventory of the Project Implementing Entity's assets and liabilities, and prepare and submit to the Association for its review and approval the Financial Restructuring Plan; and (b) within twelve months from its review by the Association, adopt the Financial Restructuring Plan and take and, as the case may be, cause to be taken by the Project Implementing Entity or any other entity concerned by the Financial Restructuring Plan, all necessary governmental and corporate actions required for the implementation thereof, including the debts clearance mechanism.

H. Coordination

1. The Recipient shall ensure proper consultation with and dissemination of information to all stakeholders involved in the water sector reform supported under the Project and shall ensure and take all necessary actions for the due cooperation of all concerned parties at the central and at the local level to allow for the smooth and prompt implementation of the Project.

I. Urban Water Sector Reform Plan

1. No later than one year before the Closing Date, the Recipient shall prepare and submit to the Association for its review, the Urban Water Sector Reform Plan and following an exchange of views with the Association, adopt said plan thereafter within 6 months.

J. Anti-Corruption

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

K. Safeguards

1. The Recipient shall ensure that the Project is implemented in accordance with the provisions of the ESDs, and except as the Association shall otherwise agree in writing, shall not amend or waive, or permit to be amended or waived, any provision of any of the ESDs.

L. Change of legislation

1. The Recipient shall, with sufficient prior notice, consult with the Association and the Private Operator on any proposed change of legislation or regulations that may affect the objective of the Project or its ability to be carried out or the implementation of the Management Contract. and, based on such consultations with the Association and the Private Operator take all appropriate actions to allow for the prompt and due implementation of the Project and the Management Contract under such new legal or regulatory framework.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Recipient shall monitor and evaluate the progress of the Project and cause the Project Implementing Entity to 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 in Appendix 2 to this Agreement. The Project Report shall include a review of the extent and quality of compliance with the implementation procedures, including the Anti-Corruption Plan. Each Project Report shall cover the period of one calendar quarter, and shall be furnished to the Association not later than forty five days after the end of the period covered by such report.

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. The Recipient shall prepare and furnish to the Association as part of the Project Report not later than forty five 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.

Section III. 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:

Category	Amount of the Financing Allocated (expressed in SDR)	Percentage of Expenditures to be Financed (inclusive of Taxes)
(1) Goods and works for the Part A of the Project - Improvement and expansion of water supply services in Targeted Cities.		100%
(a) Kinshasa	30,900,000	
(b) Lubumbashi	13,400,000	

Category	Amount of the Financing Allocated (expressed in SDR)	Percentage of Expenditures to be Financed (inclusive of Taxes)
(c) Matadi	13,400,000	
(2) Management Contract and related audits	11,100,000	100%
(3) Goods and works under Part B.2 of the Project – Repair, Replacement and Rehabilitation Fund	4,700,000	100%
(4) Retrenchment Payments and related services under Part B.3 of the Project - Staff Restructuring Plan	21,000,000	100%
(5) Goods, works, consultants' services, Training, and Operating Costs under Part B.4 through B.9 of the Project	17,500,000	100%
(6) Refund of Preparation Advance	900,000	Amount payable pursuant to Section 2.07 of the General Conditions
(7) Unallocated	14,600,000	
TOTAL AMOUNT	127,500,000	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:
 - (a) for payments made prior to the date of this Agreement;
 - (b) under Category 1 (a) until an ESIA has been carried out and an EMP and/or a RAP, as the case may be, have been prepared in compliance with the provisions of the ESD and found acceptable to the Association.

- (c) under Category 1 (b) until an ESIA has been carried out and an EMP and/or a RAP, as the case may be, have been prepared in compliance with the provisions of the ESD and found acceptable to the Association.
- (d) under Category 1 (c) until an ESIA has been carried out and an EMP and/or a RAP, as the case may be, have been prepared in compliance with the provisions of the ESD and found acceptable to the Association.
- (e) under Category 2 until actions set forth in Section I.C (1) of Schedule 2 of this Agreement have been met; and
- (f) under Category 4 until actions set forth in Section I.D (1) and (2) of Schedule 2 of this Agreement have been met.

2. The Closing Date is March 31, 2014.

APPENDIX 1

Section I. 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. “Anti-Corruption Plan” means the Recipient’s anti-corruption action plan, satisfactory to the Association, to be adopted prior to the Effective Date, which sets forth the measures and actions to be taken during implementation of the Project with respect to disclosure, civil society oversight, collusion mitigation, mitigation of forgery and fraud, complaints handling and sanctions and remedies.
3. “*Cahier des Charges*” means the technical annex setting forth the technical specifications for the purpose of the Management Contract, as set forth in Section I.C.1 of Schedule 2 to this Agreement.
4. “Category” means a category set forth in the table in Section III of Schedule 2 to this Agreement.
5. “CNAEA” means the Recipient’s National Water and Sanitation Committee (*Comité National d’Action de l’Eau et de l’Assainissement*), a service under the authority of the Ministry of Planning.
6. “COPIREP” means *Comité de Pilotage de la Réforme des Entreprises Publiques*, the Recipient’s agency in charge of implementing the Recipient’s program for reforming state owned enterprises.
7. “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.
8. “Displaced Person” means a person, a group of people or entities who, on account of the execution of the Project, has experienced direct economic and social impacts caused by the involuntary taking of land resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets, totally or partially; or (iii) loss of income or means of livelihood, whether or not such person must move to another location.

9. “EMP” means an environmental and social management plan in form and substance satisfactory to the Association, to be adopted by the Recipient on the basis of the ESIA, describing measures for the mitigation, reduction and or offset of the environmental and social impacts of activities identified under the Project.
10. “ESD” and “Environmental and Social Documents” means, collectively, the ESIA, ESMF, EMP, RPF and RAP.
11. “ESIA” means an environmental and social impact assessment of the potential environmental risks and impacts of activities under the Project, satisfactory to the Association, to be prepared and disclosed by the Recipient in accordance with the ESMF prior to the start of any works, as the same may be amended from time to time with the prior written approval of the Association.
12. “ESMF” and “Environmental and Social Management Framework” means the document, prepared and adopted by the Recipient on November 3, 2008, consisting of a framework outlining the modalities for environmental and social screening of activities to be carried out under the Project and rules and procedures for the preparation and implementation of environmental and social impact assessments of such activities, in every case each such assessment to be completed and disclosed in a manner satisfactory to the Association prior to carrying out any of said activities.
13. “Financial Restructuring Plan” means the plan satisfactory to the Association to be adopted by the Recipient pursuant to Section I.G of Schedule 2 to this Agreement setting forth measures and dated actions for to the improvement of the financial situation of the Project Implementing Entity and to include specific measures for the clearance of its debts.
14. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).
15. “Implementing Unit” and “IU” mean the unit established within the Project Implementing Entity and operating pursuant to *arrêté interministériel* Nr. 14 of November 27, 2007.
16. “Inter-Ministerial Steering Committee” means the inter-ministerial committee established and operating pursuant to *arrêté interministériel* Nr. 120 dated November 27, 2007.

17. “Local Steering Committees” and “LSC” mean the committees with form and functions satisfactory to the Association, comprising representatives of the provincial and municipal authorities in Targeted Cities, the Project Implementing Entity and representatives from ME, MP, and the ministries in charge of finance and budget, as well as representatives of local representative groups, to be established pursuant to Section I.B of Schedule 2 to this Agreement.
18. “Management Contract” means the contract satisfactory to the Association to be entered into between the Recipient, the Project Implementing Entity and the Private Operator, as set forth in Section I.C of Schedule 2 to this Agreement.
19. “Management Contract Oversight Committee” means the committee with form and functions satisfactory to the Association to be established pursuant to Section 5.01 (b) of this Agreement and to include representatives from MP, ME, the Ministry in charge of finance, of budget, of planning, and COPIREP, which shall act as secretariat of said committee, in charge of overseeing the implementation of the Management Contract, the evaluation of the Private Operator’s performance, and, more generally, the resolution of any question that may arise in connection with the Management Contract.
20. “ME” means the Recipient’s Ministry of Energy.
21. “MP” means the Recipient’s Ministry of Portfolio.
22. “Operating Costs” means the incremental expenses, based in each case on annual budgets acceptable to the Association, incurred by IU, on account of Project implementation, management and monitoring, including office supplies, vehicles operation and maintenance, communication costs, rental expenses, utilities expenses, consumables, transport, travel and accommodation, supervision costs and salaries of locally contracted staff other than officials or civil servants of the Recipient.
23. “OVD” means *Office des Voiries et Drainage*, the Recipient’s agency in charge of urban roads.
24. “PAFAM” and “Project Administrative, Financial and Accounting Manual” mean the manual, satisfactory to the Association, outlining the administrative, financial management and accounting and auditing arrangements for the implementation of the Project, to be adopted by the Recipient pursuant to Section 5.01 (e) of this Agreement, as the same may be amended with the prior written agreement of the Association, and such term includes any schedules to the PAFAM.

25. “Parallel Financier” means the African Development Bank.
26. “Parallel Financing” means an amount of about \$100,000,000 provided by the Parallel Financier to assist in financing by the Project Implementing Entity of the semi-urban drinking water supply and sanitation project.
27. “Parallel Financing Agreement” means the agreement dated July 31, 2007 between the Recipient and the Parallel Financier providing for the Parallel Financing.
28. “Performance Auditors” means the auditors satisfactory to the Association, to be recruited pursuant to Section I.C.4 of Schedule 2 to this Agreement for the purpose of auditing the performance of the Private Operator under the Management Contract carried out under the supervision of the Private Operator.
29. “Performance Auditors Contract” means the contract satisfactory to the Association to be entered into between COPIREP and the Performance Auditors, as set forth in Section I.C.4 of Schedule 2 to this Agreement
30. “PIM” and “Project Implementation Manual” mean the manual satisfactory to the Association outlining, *inter alia*, (a) the institutional, disbursement, procurement and monitoring arrangements for the implementation of the Project, including performance indicators; (b) environmental and social safeguards requirements and procedures for the Project included in the ESD; (c) the Anti-Corruption Plan; and (d) the Management Contract, to be adopted by the Recipient pursuant to Section 5.01 (e) of this Agreement, as the same may be amended with the prior written agreement of the Association, and such term includes any schedules to the PIM.
31. “PNA” means *Programme National d’Assainissement*, a division within the Beneficiary’s Ministry of Environment.
32. “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 letter agreement signed on behalf of the Association on May 7, 2007 and on behalf of the Recipient on May 24, 2007.
33. “Private Operator” means the private sector firm satisfactory to the Association to be recruited in accordance with the provisions of Section III of the Schedule to the Project Agreement for the purpose of the Management Contract, as set forth in Section I.C of Schedule 2 to this Agreement.

34. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October, 2006.
35. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated November 5, 2008, 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.
36. “Program” means the program designed to improve the supply of urban water and the management of the Project Implementing Entity, including the adoption of an action plan to control and pay on time the water bills of public entities, carry out retrenchment of redundant personnel in the Project Implementing Entity and contract a professional private sector operator to manage the Project Implementing Entity for five years under a management contract and set forth or referred to in the letter dated November 3, 2008, from the Recipient to the Association.
37. “Project Implementing Entity” means *Régie de Distribution d’Eau* (REGIDESO).
38. “Project Implementing Entity’s Legislation” means, collectively, Royal Decree dated March 28, 1933, law Nr. 73-026 of 1973, Ordinance Nr. 78-197 of May 5, 1978, as the same may have been amended as of the date of this Agreement.
39. “Project Manuals” means, collectively, the PAFAM and the PIM.
40. “Public Water Bill *Arrêté*” means the *arrêté* to be adopted by the Recipient prior to the Effective Date, setting forth the revised and mechanisms and procedures, regarding budgeting, advance payments, billing, certification and reconciliation of accounts and payments of water consumption by public entities.
41. “RAP” and “Resettlement Action Plan” mean an action plan, in form and substance satisfactory to the Association, to be prepared and published by the Recipient, as the case may be, in connection with Displaced Persons, in accordance with the provisions of the RPF.
42. “RPF” and “Resettlement Policy Framework” mean the policy framework for land acquisition, compensation, resettlement and rehabilitation of Project Displaced Persons adopted by the Recipient on November 3, 2008, as said policy

framework may be amended from time to time with the prior written agreement of the Association.

43. “Repair, Replacement and Rehabilitation Fund” means the amount allocated from time to time under Category (3) of the table in Section III of Schedule 2 to this Agreement and to be used for expenditures related to minor rehabilitation and repairs by the Project Implementing Entity to be disbursed on an annual budget.
44. “Retrenchment Financial Intermediary” means the commercial bank acceptable to the Association to be recruited in accordance with the provisions of Section III of the Schedule of the Project Agreement to carry out the Retrenchment Payments, as set forth in Section I.D.1 of Schedule 2 to the Agreement.
45. “Retrenchment Payments” means cash payments to be financed under the Project and paid to eligible employees of the Project Implementing Entity in accordance with the terms and conditions of the Staff Restructuring Plan.
46. “Retrenchment Payments Certification Auditors” means the auditor satisfactory to the Association to be recruited in accordance with the provisions of Section III of the Schedule of the Project Agreement for the purpose of certifying Retrenchment Payments prior to the payment thereof, as set forth in Section I.D.1 of Schedule 2 to this Agreement.
47. “Retrenchment Payments Auditor” means the auditor satisfactory to the Association to be recruited in accordance with the provisions of Section III of the Schedule of the Project Agreement for the purpose of carrying out an audit of the Retrenchment Payments after the payment thereof and of compliance with agreed procedures, as set forth in Section I.D.3 of Schedule 2 to this Agreement.
48. “Staff Restructuring Plan” means the plan, in form and substance satisfactory to the Association, to be established by the Recipient pursuant to Section I.D.2 of Schedule 2 to this Agreement, setting forth modalities for the retrenchment of some of the Project Implementing Entity’s employees, including the payment of Retrenchment Payments to eligible employees and the measures to be carried out for reinsertion purposes.
49. “Retrenchment and Reinsertion Technical Advisor” means the specialized firm recruited pursuant to Section I.D.1 of Schedule 2 to this Agreement in accordance with the provisions of Section III of the Schedule of the Project Agreement to: (i) review local legislation, including collective bargaining agreements; (ii) to carry out necessary consultations, determine criteria for

eligibility for retrenchment; (iii) determine the Retrenchment Payments; (iv) determine measures for the reinsertion of retrenched employees; and (v) more generally assist in the implementation of the Staff Restructuring Plan.

- 50. “Subsidiary Agreement” means the agreement referred to in Section I.A of Schedule 2 to this Agreement pursuant to which the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity.
- 51. “Targeted Cities” means the cities of Kinshasa, Lubumbashi and Matadi.
- 52. “Tariffs Structure and Costs Recovery Plan” means the plan satisfactory to the Association to be prepared by the Project Implementing Entity and adopted by the Recipient setting forth the necessary urban water tariffs adjustments to allow for the economically sustainable management and distribution of urban water and measures aimed at reducing financial and technical network losses as well as to improve billing and recovery, such plan to be prepared on the basis of the study to be carried out by the Private Operator, pursuant to Section I.F.1 of Schedule 2 to this Agreement.
- 53. “Training” means the expenses based on annual budgets acceptable to the Association, in respect of travel, accommodation, purchase of training materials, rental of facilities and per diem, and includes workshops and seminars.
- 54. “Urban Water Sector Reform Plan” means the plan satisfactory to the Association to be prepared by the Recipient pursuant to Section I.I.1 of Schedule 2 to this Agreement, setting forth strategic orientations and an action plan for the continuation of reforms started under the Project in the medium-term, including proposed measures for the participation of the private sector and decentralized authorities.

Section II. Modifications to the General Conditions

The modifications to the General Conditions for Credits and Grants of the Association, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

- 1. Section 2.07 is modified to read as follows:

“Section 2.07. *Refinancing Preparation Advance*”

If the Financing Agreement provides for the repayment out of the proceeds of the Financing of an advance made by the Association or the Bank

(“Preparation Advance”), the Association shall, on behalf of the Recipient, withdraw from the Financing Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Financing Account and to pay all accrued and unpaid charges, if any, on the advance as at such date. The Association shall pay the amount so withdrawn to itself or the Bank, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance.”

2. Paragraph (i) of Section 6.02 is modified to read as follows:

“Section 6.02. *Suspension by the Association*

... (1) *Ineligibility.* The Association or the Bank has declared the Project Implementing Entity ineligible to receive proceeds of any financing made by the Association or the Bank or otherwise to participate in the preparation or implementation of any project financed in whole or in part by the Association or the Bank, as a result of a determination by the Association or the Bank that the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of any financing made by the Association or the Bank.”

3. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

- (a) The term “Project Preparation Advance” is modified to read “Preparation Advance” and its definition is modified to read as follows:

“‘Preparation Advance’ means the advance referred to in the Financing Agreement and repayable in accordance with Section 2.07.”

APPENDIX 2

Performance indicators

By the Closing Date, at least 651 km of secondary and tertiary water network have been constructed.

By the Closing Date, at least 1.2 million additional people have gained access to water.

By the Closing Date, at least 400 additional standposts have been constructed and are functioning.

By the Closing Date, at least 41,000 additional households have piped-water connections.

By the Closing Date, the percentage of non revenue water is less than 29%.

By the Closing Date, the index of network losses is less than 25%.

By the Closing Date, the proportion of bills owed by public institutions (*Instances Officielles*) is less than 20%.

By the Closing Date, the rate of labor costs vs operational costs is less than 27%.