

CONFORMED COPY

CREDIT NUMBER 2170 YEM

(Tarim Water Supply Project)

between

REPUBLIC OF YEMEN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 6, 1991

CREDIT NUMBER 2170 YEM

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated February 6, 1991, between REPUBLIC OF YEMEN (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

(B) Part A of the Project will be carried out by the Public Water Corporation of the Borrower (PWC) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to PWC a part of the proceeds of the Credit as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project

Agreement of even date herewith between the Association and PWC;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "PWC" means the Borrower's Public Water Corporation established under Law No. 19 of 1970 of the Borrower;

(b) "Project Agreement" means the agreement between the Association and PWC of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(c) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and PWC pursuant to Section 3.01 (d) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Loan Agreement, and the term "Subsidiary Loan" means the loan provided to PWC under the Subsidiary Loan Agreement;

(d) "MLA" means the Ministry of Local Administration;

(e) "MEW" means the Ministry of Electricity and Water;

(f) "COCA" means the Central Organization for Control and Auditing established under Law No. 11 of 1982 of the Borrower;

(g) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(h) "Yemeni Dinars" means dinars in the currency of the Borrower.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to nine million two hundred thousand Special Drawing Rights (SDR 9,200,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account in the Central Bank of Yemen on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1997, or such later date as the Association shall establish. The Association

shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

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

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 1 and December 1 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each June 1 and December 1 commencing December 1, 2000, and ending June 1, 2030. Each installment to and including the installment payable on June 1, 2010 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States is hereby specified for the purposes of Section 4.02 of the General Conditions.

Section 2.09. The General Manager of PWC or such other person or persons as the said General Manager shall designate in writing are designated as representatives of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end shall carry out Part B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for said Part B of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out Part B of the Project in accordance with the Implementation Program for such Part B of the Project set forth in Schedule 3 to this Agreement.

(c) Without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, the Borrower shall cause PWC to perform in accordance with the provisions of the Project Agreement all the obligations of PWC therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable PWC to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(d) The Borrower shall relend \$11,200,000 equivalent of the proceeds of the Credit to PWC under a subsidiary loan agreement to be entered into between the Borrower and PWC under terms and conditions which shall have been approved by the Association, including terms pursuant to which PWC shall be required to: (i) repay the equivalent in terms of Yemeni Dinars of the proceeds of the Credit so relend (such equivalent to be determined as of the respective date of withdrawal of the proceeds of the Credit from the Credit Account or payment out of the Special Account) in approximately equal semiannual installments over a period of twenty-five (25) years, including a grace period of seven (7) years; and (ii) pay interest on the principal amount of the Subsidiary Loan outstanding from time to time at the rate of eight percent (8%) per annum.

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

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part B of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 2 to the Project Agreement.

Section 3.03. The Borrower and the Association hereby agree that 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) shall be carried out by PWC pursuant to Section 2.03 of the Project Agreement.

Section 3.04. The Borrower shall bear any losses incurred by

the Public Corporation for Electric Power and PWC from the sale and purchase, respectively, of desalinated water produced at the Hiswa Power and Desalination Plant.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part B of the Project of the departments or agencies of the Borrower responsible for carrying out said Part B of the Project or any part thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than nine months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditures, the Borrower shall:

- (i) maintain or cause to be maintained in accordance with sound accounting practices, records and accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditures submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) The Borrower shall take all measures necessary, including measures permitting PWC to utilize depreciation funds, to enable PWC to meet its debt service requirements.

(b) For the purpose of this Section:

- (i) the term "depreciation funds" means the funds in PWC's balance sheet account to which the cash

equivalent of the annual provision of depreciation of fixed assets is appropriated;

- (ii) 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; and
- (iii) the term "debt" means any indebtedness of PWC maturing by its terms more than one year after the date on which it is originally incurred.

Section 4.03. The Borrower shall take all action necessary on its part to enable PWC to take the measures referred to in Section 4.03 (c) of the Project Agreement.

Section 4.04. The Borrower shall take all measures necessary on its part to ensure that, by December 31, 1994, the Tarim Water Supply Company, of which the Borrower is a majority shareholder, enters into an agreement with PWC, on terms and conditions satisfactory to the Borrower and the Association, for the transfer by the Tarim Water Supply Company to PWC of a reservoir and related assets before the new water system constructed under Part A of this Project becomes operational.

ARTICLE V

Remedies of the Association

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

- (a) PWC shall have failed to perform any of its obligations under the Project Agreement.
- (b) As a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that PWC will be able to perform its obligations under the Project Agreement.
- (c) Law No. 19 of 1970 of the Borrower shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of PWC to perform any of its obligations under the Project Agreement.
- (d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of PWC or for the suspension of its operations.

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

- (a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower; and
- (b) the events specified in paragraphs (c), (d) and (e) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that the Subsidiary Loan Agreement has been executed on behalf of the Borrower and PWC.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General

Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by PWC and is legally binding upon PWC in accordance with its terms; and

(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and PWC and is legally binding upon the Borrower and PWC in accordance with its terms.

Section 6.03. The date one hundred twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.04. The obligations of the Borrower under Sections 4.01 of this Agreement shall cease and determine on the date on which the Development Credit Agreement shall terminate or on the date 20 years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. Except as provided in Section 2.09 of this Agreement, the Minister of Planning and Development of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

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

For the Borrower:

Ministry of Planning and Development
P.O. Box 175
Sana'a
Republic of Yemen

Cable address:

Telex:

CENPLAN
Sana'a

2266 CENPLAN YE

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.

64145 (WUI),
82987 (FTCC),
197688 (TRT) or
248423 (RCA)

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.

REPUBLIC OF YEMEN

By /s/ Mohsin A. Alaini
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ R. K. Chopra
Acting Regional Vice President
Europe, Middle East and North Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

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

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Construction of boreholes, pipelines and reservoirs, supply and installation of mechanical and electrical equipment under Parts A (1) and (2) of the Project	4,800,000	100% of foreign expenditures
(2) Operational equipment, water meters, distribution pipes and fittings, construction material and plant under Parts A (1) and (2) of the Project	2,300,000	100% of foreign expenditures
(3) Consultants' services, training and construction supervision under Part A of the Project	700,000	100% of foreign expenditures

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(4) Consultants' services and training under Part B of the Project	500,000	100% of foreign expenditures
(5) Unallocated	900,000	
TOTAL	<u>9,200,000</u>	

2. For the purposes of this Schedule, the term "foreign expendi-

tures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in: (i) increasing the quantity and improving the quality of the water supply service in Tarim and adjacent villages; (ii) strengthening the operational, accounting and managerial capacities of PWC; (iii) enhancing environmental and public health conditions by improving wastewater management; (iv) improving the organizational arrangements and assessing the financial options of the sewerage sector; and (v) strengthening the Borrower's accounting and auditing procedures.

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

Part A:

- (1) Construction and equipping of a borefield near Tarim and carrying out of associated works.
- (2) Construction of water storage reservoirs and distribution systems in Tarim and adjacent villages and provision of operational equipment (including provision for water supply to the new housing development being undertaken for about 4,800 inhabitants made homeless by the floods of early 1989).
- (3) Strengthening the management and technical capacities of PWC through the development and execution of management and inventory control systems, including the design of a manpower development program and the provision of training.

Part B:

- (1) Carrying out of a wastewater disposal demonstration project.
- (2) Carrying out of a financial and cost recovery study for sewerage services.
- (3) Updating of sewerage designs, including the carrying out of an environmental assessment of such sewerage designs.
- (4) Strengthening the management and technical capacities of MLA, MEW and COCA through the provision of training.

* * *

The Project is expected to be completed by June 30, 1997.

SCHEDULE 3

Implementation Program for Part B of the Project

1. The Borrower shall, through MLA and MEW, by December 31, 1990, appoint a qualified and experienced project officer to be responsible for overseeing the activities under Part B of the Project (except training for the staff of COCA).
2. The Borrower shall, by December 31, 1991, commence a training program, on the basis of terms of reference satisfactory to the Association, for the staff of MLA, MEW and COCA.

3. The Borrower shall, through MLA and MEW, by June 30, 1991, assign qualified and experienced staff to supervise the wastewater disposal demonstration project under Part B (1) of the Project.

4. The Borrower shall, through MLA and MEW, by June 30, 1991, employ the consultants referred to in Section II of the Schedule to the Project Agreement.

5. The Borrower shall, through MLA and MEW: (a) by June 30, 1993, furnish to the Bank for review and comment, the conclusions and recommendations of the financial and cost recovery study for sewerage services under Part B (2) of the Project; and (b) thereafter put into effect the recommended measures as shall have been agreed by the Association and the Borrower.

6. The Borrower shall, through MLA and MEW, by December 31, 1994, furnish to IDA for review and comment, the report on the conclusions of the wastewater disposal demonstration project under Part B (1) of the Project.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$550,000 to be withdrawn from the Credit Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Association shall otherwise agree, payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account may be made as follows:

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit in the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Association requests for replenishment of the Special Account at such intervals as the Association shall specify. On the basis of such requests, the Association shall withdraw from the Credit Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of the Special

Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Association, prior to or at the time of such request, such evidence as the Association shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Association when either of the following situations first arises:

- (i) the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or
- (ii) the total unwithdrawn amount of the Credit allocated to the eligible Categories, minus the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall be equal to the equivalent of twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence furnished pursuant to paragraph 4 of this Schedule, the Borrower shall, promptly upon notice from the Association, deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. No further deposit by the Association into the Special Account shall be made until the Borrower has made such deposit or refund.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount for crediting to the Credit Account.

