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**CREDIT NUMBER 3700-YEM**

# **Development Credit Agreement**

**(Urban Water Supply and Sanitation Project)**

**between**

**REPUBLIC OF YEMEN**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated September 30, 2002**

Public Disclosure Authorized



**CREDIT NUMBER 3700-YEM**

**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated September 30, 2002, between REPUBLIC OF YEMEN (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter dated February 11, 2002, from the Borrower describing a program of objectives, policies and actions designated to address the Borrower's water and sanitation sector reform strategy;

(B) the Borrower has requested the Association's support in the execution of the Program through a series of credits over a period of approximately eight (8) years to be utilized by the Borrower for, and assisting the appropriate entities in implementing the Program; and

(C) the Borrower, having satisfied itself as to the feasibility and priority of the first phase of the Program (the "Project") described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project; and

(D) 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;

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 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) through (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of

the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries."; and

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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) "Financial Monitoring Report" means each report prepared in accordance with Section 4.02 of this Agreement;

(b) "Fiscal Year" means the fiscal year of the Borrower, commencing on January 1 and ending on December 31;

(c) "MEW" means the Ministry of Electricity and Water of the Borrower or any successor thereof;

(d) "PIP" means the implementation plan for the Project, dated March 2002 setting forth the procedures, eligibility, appraisal and allocation criteria and guidelines for identifying, selecting, planning, and monitoring Project implementation, as the same may be amended from time to time by agreement between the Borrower and the Association;

(e) "Pro-Forma Environmental Assessment Terms of Reference" means the Borrower's pro-forma, as set forth in the environmental assessment report dated January 24, 2002, as such pro-forma may be updated from time to time by agreement between the Borrower and the Association, for the implementation of the Project in accordance with certain institutional, mitigation and monitoring measures to offset or reduce adverse environmental impacts to acceptable levels. The said pro-forma includes an environmental mitigation plan, environmental monitoring plan and related institutional strengthening measures.

(f) "Project City" means the eligible urban centers and/or local corporations selected in accordance with the criteria and procedures set forth in the PIP and the provisions of paragraph 5 of Schedule 4 to this Agreement;

(g) “PMU” means the Project management unit established and maintained within MEW, in accordance with the provisions of paragraph 1 of Schedule 4 to this Agreement;

(h) “Project Specific Environmental Assessment” or “PSEA” means the environmental assessment, acceptable to the Association, to be prepared by the Borrower in accordance with the Pro-Forma Environmental Assessment Terms of Reference agreed upon between the Borrower and the Association. The said PSEA identifies and assesses the potential environment impacts of the proposed project, evaluates alternatives and designs appropriate mitigation, management and monitoring measures in the form of an environmental management plan;

(i) “Resettlement Policy Framework” means the Borrower’s resettlement policy framework for carrying out the Project, satisfactory to the Association, furnished to the Association on January 24, 2002, as such framework may be amended from time to time by agreement of the Borrower and the Association, which sets out, *inter alia*, the principles and objectives of the Resettlement Policy Framework, the institutional and implementation arrangements, the requirements of a resettlement action plan including, the eligibility criteria for compensation, assistance and rehabilitation entitlements, as well as the monitoring and reporting arrangements to ensure compliance with the provisions of the Resettlement Policy Framework;

(j) “SEA” or “Sector Environment Assessment” means an instrument that: (i) examines environmental issues and impacts associated with particular sector strategy, policy, plan and program or with a series of projects in a particular sector and the potential cumulative impacts of multiple activities; (ii) evaluates and compares the impacts against the alternative options; (iii) assesses the legal and institutional aspects relevant to the issues and impacts; and (iv) recommends broad measures to strengthen environmental management in that sector;

(k) “Special Account” means the account referred to in Section 2.02(b) of this Agreement;

(l) “TC” means the technical committee to be established and maintained in accordance with the provisions of paragraph 3 of Schedule 4 to this Agreement; and

(m) “Urban City” means the eligible urban centers selected in accordance with the criteria and procedures set forth in the PIP and the provisions of paragraph 6 of Schedule 4 to this Agreement.

## **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 one hundred four million two hundred thousand Special Drawing Rights (SDR 104,200,000).

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, works and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower may, for the purposes of the Project, open and maintain in United States dollars a special deposit account in its Central Bank 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 5 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 2007, 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 the 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 canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and 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 April 1 and October 1 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each April 1 and October 1 commencing October 1, 2012 and ending April 1, 2042. Each installment to and including the installment payable on April 1, 2022 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 per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; 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 repayment of installments under paragraph (a) above by:

- (A) 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; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six (6) months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five (5) years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above 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.

(d) 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 of America is hereby specified for the purposes of Section 4.02 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 the Project, with due diligence and efficiency and in conformity with appropriate administrative, engineering, environmental and financial practices, and shall provide, 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 Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement and the provisions of the Pro-Forma Environmental Assessment Terms of Reference, the PIP and the Resettlement Policy Framework.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) 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 Borrower and the Association, a plan for the future operation of the Project; and

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

## ARTICLE IV

### Financial Covenants

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements, in a format acceptable to the Association, adequate to reflect its operations and financial condition and to register separately the operations related to the Project.

(b) The Borrower 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 four (4) months after the end of each such year, (A) certified copies of its financial statements referred to in paragraph (a) above for such year as so audited, and (B) an opinion on such 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, accounts and financial statements, and the audit thereof, and concerning said auditors, 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 expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;
- (ii) retain, 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, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (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 expenditure 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) Without limitation upon the Borrower's progress reporting obligations set out in Schedule 4 to this Agreement, the Borrower shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Association not later than forty five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each Financial Monitoring Report shall be furnished to the Association not later than forty five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

## **ARTICLE V**

### **Remedies of the Association**

Section 5.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional event is specified, namely, that a situation shall have arisen which shall make it improbable that the Program or a significant part thereof will be carried out.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional event is specified, namely, that the event specified in Section 5.01 of this Agreement shall occur.

## **ARTICLE VI**

### **Termination**

Section 6.01. The date one hundred and twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

## **ARTICLE VII**

### **Representative of the Borrower; Addresses**

Section 7.01. 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:

Facsimile:

CENPLAN  
Sana'a

2266  
CENPLAN YE

967 1 250 665

For the Association:

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

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

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/ Ahmed Mohammed Sofan  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Jean-Louis Sarbib  
Regional Vice President  
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:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Works under:		85%
(a) Parts A.1, A.2, and A.3 of the Project	66,550,000	
(b) Part A.4 of the Project	17,100,000	
(c) Part C of the Project	4,000,000	
(2) Goods	4,450,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 85% of local expenditures for other items procured locally
(3) Consultants' services and training	10,500,000	100% of foreign expenditures and 85% of local expenditures
(4) Project Management Costs	300,000	90% until December 31, 2003; 85% until December 31, 2004 and 80% thereafter
(5) Unallocated	1,300,000	
	<hr/>	
<b>TOTAL</b>	104,200,000	
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2. For the purposes of this Schedule:

(a) the term “foreign expenditures” 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; and

(b) the term “local expenditures” means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

(c) “Project Management Costs” means expenditures incurred by PMU on account of Project activities, including utility charges, rent for office space, maintenance of vehicles, fuel, office supplies, communication services, audit costs and travel costs.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) payments made for expenditures prior to the date of this Agreement; and

(b) payments made for expenditures under: (i) Category (1)(a), unless the Borrower shall have submitted to the Association evidence, satisfactory to the Association that the selected Project city has met the criteria set forth under paragraph 5 of Schedule 4 to this Agreement; (ii) Category (1)(b), unless the Borrower shall have submitted to the Association evidence, satisfactory to the Association that the selected urban center has met the criteria set forth under paragraph 6 of Schedule 4 to this Agreement; and (iii) Category (1)(c), unless the Borrower shall have submitted to the Association evidence, satisfactory to the Association that the selected Project City has met the criteria set forth under paragraph 7 of Schedule 4 to this Agreement.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (a) goods under contracts costing less than \$200,000 equivalent each; (b) works under contracts costing less than \$500,000 equivalent each; (c) services under contracts for consulting firms costing less than \$100,000 equivalent each; (d) services under contracts for individual consultants costing less than \$50,000 equivalent; (e) training; and (f) Project Management Costs, each under such terms and conditions as the Association shall specify by notice to the Borrower.

## SCHEDULE 2

### Description of the Project

The objectives of the Project are to assist the Borrower in providing efficient and sustainable urban water and sanitation services.

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: Rehabilitation and Improvement of Water and Wastewater Facilities

1. Carrying out a program for the rehabilitation and expansion of the water supply networks and related facilities in the Project City, including, *inter alia*, pumping stations and reservoirs, through the provision of technical assistance and the carrying out of civil works.

2. Carrying out a program for the rehabilitation and drilling of the new boreholes in the Project City, through the provision of technical assistance and the carrying out of civil works.

3. Carrying out a program for the rehabilitation and expansion of the wastewater collection, treatment and related facilities in the Project City, through the provision of technical assistance and the carrying out of civil works.

4. The development of water resources and water supply and sanitation services in other urban centers, such as Ad Dhalea, Al Hawta (Lahej), Al Ghaidah, Attaq, Dahmar, Hazem Al Jawf, Khamir and Mareb through the provision of technical assistance and the carrying out of civil works.

#### Part B: Institutional Support

1. Support, through the provision of goods, equipment, technical assistance, training and workshops for: (i) the institutional restructuring and improvement of managerial capacities of Project Cities, Urban Cities and other urban centers as well as establishing the financial viability and accountability thereof; (ii) carrying out the preparatory activities for the establishment of a sector regulator for urban water and sanitation; and (iii) strengthening the Project implementation capabilities of the PMU.

2. (i) Carrying out a Sector Environment Assessment for the wastewater management and treatment in Sana'a; and

(ii) Preparation of a feasibility study for new wastewater treatment capacity in Sana'a.

Part C: Maintenance Works in Sana'a

Carrying out maintenance works and the provision of materials and equipment for the existing water and wastewater facilities in the city of Sana'a, including, *inter alia*, the water supply and sewage systems.

\* \* \*

The Project is expected to be completed by June 30, 2007.

### **SCHEDULE 3**

#### **Procurement and Consultants' Services**

##### Section I. Procurement of Goods and Works

###### Part A: General

1. Goods and works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and 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

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.

###### Part C: Other Procurement Procedures

###### 1. National Competitive Bidding

Goods estimated to cost less than \$200,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, and works estimated to cost less than \$2,000,000 equivalent per contract, up to an aggregate amount not to exceed \$10,000,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

###### 2. International or National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$500,000 equivalent, may be procured under contracts awarded on the basis of international or national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

###### 3. Direct Contracting

Works required for major electrical connections under Part A of the Project, which must be carried out by the established public utility company to be compatible

with the public electricity grid, and estimated to cost less than \$100,000 equivalent per contract up to an aggregate amount not to exceed \$1,000,000 equivalent, and that meet any of the requirements set forth in paragraph 3.7 of the Guidelines, 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 prequalify 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

(a) With respect to: (i) the first two contracts for goods; (ii) the first two contracts for works; (iii) each contract for works estimated to cost the equivalent of \$500,000 or more; and (iv) each contract for goods estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

(b) With respect to each contract for works to be procured under the procedures described under paragraph 3 of Part C of this Section, the following procedures shall apply:

- (i) prior to the execution of any contract procured under direct contracting procedures, the Borrower shall provide to the Association a copy of the specifications and the draft contract; and
- (ii) the procedures set forth in paragraphs 2(f), 2(g) 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: (a) the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association 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 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

1. 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. 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.

#### 2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 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

(a) With respect to: (i) the first two contracts for consultant services; and (ii) each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, 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.

(b) With respect to each contract estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

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 Consultant Guidelines shall apply.

## SCHEDULE 4

### Implementation Program

1. The Borrower shall vest responsibility for Project management and implementation in MEW. MEW shall be assisted in discharging its responsibilities by the PMU which the Borrower shall maintain within MEW, with professional staff in adequate numbers whose qualifications, experience and terms of reference shall be acceptable to the Association.

2. The functions of the PMU shall include, *inter alia*, responsibility for: (i) the procurement process and the preparation of withdrawal applications under the Project; (ii) monitoring, in accordance with indicators agreed upon with the Association, progress in the implementation of the Project; (iii) preparation, for submission to the Association, of annual work programs and updated procurement plans relating to the Project; and (iv) budgeting, financial management and accounting.

3. The Borrower shall establish not later than December 31, 2002, and maintain thereafter within MEW, a TC whose membership shall include the Borrower's Minister of Electricity and Water (Chair), the chairman of the Technical Secretariat for Water Sector Reform within MEW, the director of the PMU and representatives of the Ministry of Finance and the Ministry of Planning and Development. The TC shall: (a) ensure the proper implementation of the Project in accordance with the provisions of this Agreement and the PIP; and (b) supervise the monitoring and evaluation activities and the implementation of the Pro-Forma Environmental Assessment Terms of Reference and the Resettlement Policy Framework.

4. The Borrower shall carry out the Project in accordance with the PIP, and except as the Association shall otherwise agree, shall not amend or waive any provision thereof, if such amendment or waiver may, in the opinion of the Association materially and adversely affect the implementation of the Project.

5. Except as the Association shall otherwise agree, the Borrower shall select the Project City in accordance with criteria, procedures and under terms and conditions acceptable to the Association, as set forth in the PIP. Such criteria shall include the following:

(a) Completion of a Project Specific Environmental Assessment acceptable to the Association;

(b) A resettlement action plan which is in conformity with the Resettlement Policy Framework and satisfactory to the Association in form and substance, has been prepared and submitted, whenever land is being acquired;

(c) The existence of an autonomous regional or local corporation, having defined criteria for tariff setting satisfactory to the Association;

(d) Maintaining a billing and collection system acceptable to the Association;

(e) Full coverage of operations and maintenance expenses on a cash basis; and

(f) The existence of an investment program endorsed by the Ministry of Planning and Development of the Borrower.

6. In carrying out Part A.4 of the Project the following eligibility criteria shall be required for any other urban city:

(a) Completion of Project Specific Environmental Assessment acceptable to the Association;

(b) A resettlement action plan which is in conformity with the Resettlement Policy Framework and satisfactory to the Association in form and substance, has been prepared and submitted, whenever land is being acquired;

(c) An investment program has been developed and approved by the Borrower; and

(d) The water and wastewater service level is poor or water resources are not available and require immediate actions.

7. In carrying out Part C of the Project and any civil works in Sana'a under Parts A.1, A.2 and A.3 of the Project, the following eligibility criteria shall be required for any Project City:

(a) A resettlement action plan which is in conformity with the Resettlement Policy Framework and satisfactory to the Association in form and substance, has been prepared and submitted, whenever land is being acquired; and

(b) A lease contract, satisfactory to the Association, with a private operator has been entered into, in accordance with the laws of the Borrower, to provide services relating to Part of the Project.

8. The Borrower shall not later than eighteen (18) months as of the Effectiveness Date carry out a Sector Environment Assessment, under terms of reference acceptable to the Association. The said Sector Environment Assessment shall include: (i) an explicit policy for the Borrower on wastewater issues; and (ii) a priority environmental investment action plan for the short term 2002-2005, medium term 2005-2010 and long

term 2010-2015, to ensure that all environmental mitigation, monitoring and institutional strengthening measures shall be implemented in a manner satisfactory to the Association.

9. Without limitation to the provisions of this Schedule, the Borrower shall:

(a) establish and maintain a separate account in chart of accounts of the books of MEW, for the purpose of financing the activities to be carried out under Part C of the Project;

(b) ensure that, except as the Association shall otherwise agree, activities financed under Part C of the Project shall be promoted, identified, appraised, approved, carried out and monitored in accordance with the procedures and other provisions set forth or referred to in the PIP;

(c) require that the private operator (i) carries out the activities financed under Part C of the Project, with due diligence and efficiency and in accordance with sound technical, financial, environmental and managerial standards; and (ii) maintains adequate records to reflect, in accordance with sound accounting practices, the operations, resources and expenditures relating to Part C of the Project;

(d) require that the goods, works and services to be financed under Part C of the Project shall: (i) be procured in accordance with procedures ensuring efficiency and economy and in accordance with the provisions of Schedule 3 to this Agreement; and (ii) be used exclusively in the carrying out of the activities under Part C of the Project; and

(e) reserve for itself the right to: (i) inspect by itself, or jointly with the Association, if the Association shall so request, the goods, works, sites, and construction included under Part C of the Project, the operations thereof and any relevant records and documents; (ii) obtain all information as the Borrower or the Association shall reasonably request regarding the administration, operation and financial conditions of the private operator; and (iii) suspend or terminate the right of the private operator to use the proceeds of the Credit allocated for Part C of the Project upon the failure by the private operator to perform any of its obligations under the lease agreement.

10. The Borrower shall not later than twenty four (24) months as of the Effectiveness Date, prepare a feasibility study for new wastewater treatment capacity in Sana'a, acceptable to the Association.

11. The Borrower shall prepare and carry out the implementation of a resettlement action plan in conformity with the Resettlement Policy Framework whenever land is being acquired.

12. The Borrower 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: (i) on a quarterly basis, commencing January 31, 2003, a report on the progress achieved in the implementation of the Project and the achievement of the objectives thereof; (ii) on or about January 31, 2005, a report, to constitute the basis upon which the mid-term review shall take place, integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section and consolidating the results of the reports referred to under sub-paragraph (b)(i) 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 (iii) on or about January 31, 2005, or such later date as the Association shall request, a financial plan, acceptable to the Association, for the investment of the expansion of the wastewater treatment system in Sana'a on the basis of the Sector Environment Assessment; and

(c) review with the Association, by March 31, 2005, or such later date as the Association shall request, the report referred to in sub-paragraph (b)(ii) 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.

13. The Borrower shall:

(a) prepare and furnish to the Association, not later than June 30, 2005, or such later date as the Association shall request, a report describing progress in the fulfillment of the actions referred to in the Program, including the attainment of the milestones agreed to between the Borrower and the Association and required to be met as a pre-requisite to prepare a follow-on operation; and

(b) review with the Association, not later than October 31, 2005, or such later date as the Association shall request, the report referred to in subparagraph (a) of this paragraph, and, thereafter, take all measures which the Association shall deem appropriate to prepare a follow-on operation.

## **SCHEDULE 5**

### **Special Account**

1. For the purposes of this Schedule:
  - (a) the term “eligible Categories” means Categories (1), (2), (3) and (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, works 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 \$4,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3(a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$1,500,000, until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR8,000,000.
2. 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 shall be made as follows:
  - (a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.
    - (b)
      - (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.
      - (ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this

Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid 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 said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if, at any time, 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;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b)(ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

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 an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) 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. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(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.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.