

Public Disclosure Authorized

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**GRANT NUMBER H269-0-HA**

# **Financing Agreement**

**(Second Economic Governance Reform Development Policy Grant)**

**between**

**REPUBLIC OF HAITI**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated February 15, 2007**

Public Disclosure Authorized

**GRANT NUMBER H269-0-HA**

**FINANCING AGREEMENT**

Agreement dated February 15, 2007, entered into between REPUBLIC OF HAITI (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing financing in support of the Program (as defined in the Appendix to this Agreement). The Association has decided to provide this financing on the basis, *inter alia*, of: (a) the actions which the Recipient has already taken under the Program and which are described in Section I.A. of Schedule 1 to this Agreement; and (b) the Recipient’s maintenance of an appropriate macro-economic policy framework. The Recipient and the Association therefore 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 the Financing 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 fifteen million six hundred thousand Special Drawing Rights (SDR 15,600,000) (“Grant”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in support of the Program in accordance with Section II of Schedule 1 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 June 15 and December 15 in each year.
- 2.05. The Payment Currency is United States Dollars.

### **ARTICLE III—PROGRAM**

- 3.01. The Recipient declares its commitment to the Program and its implementation. To this end:
- (a) the Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program and the actions specified in Section I of Schedule 1 to this Agreement;
  - (b) prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request; and
  - (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Recipient shall exchange views with the Association on any proposed action to be taken after the disbursement of the Financing which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program, including any action specified in Section I of Schedule 1 to this Agreement.

### **ARTICLE IV—REMEDIES OF THE ASSOCIATION**

- 4.01. The Additional Event of Suspension consists of the following, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.

### **ARTICLE V—EFFECTIVENESS**

- 5.01. Without prejudice to the provisions of the General Conditions, the Effectiveness Deadline is the date (90) days after the date of this Agreement, but in no case later than the eighteen months after the Association's approval of the Financing which expire on July 30, 2008.

### **ARTICLE VI — REPRESENTATIVE; ADDRESSES**

- 6.01. The Recipient's Representative is its Minister of Economy and Finance.

6.02. The Recipient's Address is:

Ministère de l'Economie et des Finances  
Palais des Ministères  
Port-au-Prince  
Republic of Haiti  
Facsimile: (509) 299 17 32

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) or  
64145 (MCI)

1-202-477-6391

AGREED at the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF HAITI

By /s/ Raymond Joseph

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Caroline Anstey

Authorized Representative

## SCHEDULE 1

### Program Actions; Availability of Financing Proceeds

#### Section I. Actions under the Program

##### A. Actions Taken Under the Program

1. In order to promote efficiency, transparency and accountability in public resource use through public financial management and procurement reforms, the Recipient, in compliance with each and every required procedural step under its legal and constitutional framework, has:
  - (a) Submitted to its legislative branch, through MEF, and prior to the beginning of the fiscal year, the draft budget law for its fiscal year 2007, reflecting therein adequate financing to support the key priorities set forth in the I-PRSP.
  - (b) (i) Carried out, through CSCCA, the audit of the Recipient's treasury accounts for its fiscal year 2003; and (ii) submitted the ensuing audit report dated December 2006, for consideration by its legislative branch, and published it.
  - (c) Issued, through its Prime Minister's office, circular No. PM/JEA/AA-bdj/0119 dated June 29, 2006, to all government ministries, local governments, public administration and offices, government agencies and public entities, mandating therein compliance with the Procurement Decree, including, in and for each concerned ministry, through the establishment of a procurement commission.
2. In order to improve efficiency and transparency in public infrastructure management, the Recipient has:
  - (a) Caused to be completed by firms of international repute, competitively selected therefor, financial audits in respect of APN, EDH and TELECO's 2005 respective fiscal years.
  - (b) Established an adequate mechanism for the monthly monitoring of the Recipient's resources allocated to the electricity sector, as evidenced through the publication on the MEF website of reports presenting at least three months' data, reflecting the Recipient's spending on fuel (for IPPs and EDH) and to cover PPAs with IPPs.
3. In order to promote accountability and transparency in the use of public resources for the education sector, the Recipient, through its Ministry of National

Education and Professional Training, has submitted for consideration by its legislative branch, the draft law which would establish the Recipient's National Education Partnership Office, as evidenced by: (a) the Presidential Letter No. PN/RP/113/2006, of September 28, 2006; and (b) the Presidential convocation to the Parliament, dated September 28, 2006, instructing a parliamentary extraordinary session.

**B. Actions to be Taken Under the Program.** The actions to be taken by the Recipient under the Program include the following:

1. With respect to promoting efficiency, transparency and accountability in public resource use through public financial management and procurement reforms, the Recipient shall have:
  - (a) Executed the budget for its fiscal year 2007 (and subsequent fiscal years to conclude no less than six months prior to the Second Tranche Release Date), in accordance with its objectives and the allocations of the approved budget.
  - (b) Submitted to its legislative branch, through MEF and prior to the beginning of the relevant fiscal year, a draft budget law for its fiscal year 2008 (and subsequent fiscal years up to and including such years which would begin before the Second Tranche Release Date), that in the opinion of IDA, is in conformity with the Program objectives, reflects adequate financing to support key priorities set forth in the I-PRSP (and, when completed, the PRSP) and includes a budget annex for FER.
  - (c) (i) Submitted to its legislative branch through MEF, the budget execution law (*Loi de Règlement*) for its fiscal year 2006; and (ii) submitted, through CSCCA, to its legislative branch, and published, the audit reports of the Recipient's treasury accounts with respect to its fiscal years 2004 and 2005.
  - (d) Caused to be adopted by key sector ministries and public enterprises, among which the ministries responsible for education, health, public works and justice, EDH and APN, the use of standard bidding documents and the CNMP Procedure Manual, as evidenced by an independent review of the procedures of these ministries and public enterprises by an audit firm of international repute competitively selected.
2. With respect to strengthening its public sector's human resource management and employees' accountability, the Recipient shall have:
  - (a) (i) Completed through its Office of Management and Human Resources, and thereafter maintained, the update of the registry of state employees;

- and (ii) defined a system, the applicability and the procedures for new merit-based appointments and promotions.
- (b) Adopted, and thereafter widely disseminated, an anti-corruption strategy, including a definition of institutional arrangements for the implementation of said strategy, that in the opinion of IDA, is in conformity with the Program objectives.
3. With respect to improving efficiency and transparency in public infrastructure management, the Recipient shall have:
- (a) From January 1, 2007 onwards, competitively procured any further contractual arrangements for the purchase of power (whether through new contracts or the modification or extension of existing contracts) for the supply of electricity to Port-au-Prince and the main provincial towns of the Recipient's territory, with due regard for environmental recommendations of the Association in the matter.
- (b) Completed, for a period of at least one year and ending no more than 12 months before the Second Tranche Release Date, the Auditing Requirements in respect of public sector road maintenance activities and operations.
4. With respect to fostering greater civil society participation in monitoring of economic governance reforms, the Recipient shall have regularly published on the MEF website, circulated to the media, and transmitted to its legislative branch, the summaries of independent quarterly monitoring reports following their adoption by CC and discussion with MEF on the progress achieved.

## **Section II. Availability of Financing Proceeds**

- A. General.** The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Association may specify by notice to the Recipient.
- B. Allocation of Financing Amounts.** The Financing shall be withdrawn in two tranches. The allocation of the amounts of the Financing to this end is set out in the table below:

<u>Allocations</u>	<u>Amount of the Tranche Allocated (expressed in SDR)</u>
First Tranche	6,800,000
Second Tranche	8,800,000
<b>TOTAL AMOUNT</b>	<u>15,600,000</u>

**C. Tranche Release Conditions.** No withdrawal shall be made of the Second Tranche unless the Association is satisfied, after an exchange of views as described in Sections 3.01 (a) and (b) of this Agreement based on evidence satisfactory to the Association:

1. with the progress achieved by the Recipient in carrying out the Program;
2. that the macroeconomic policy framework of the Recipient is satisfactory; and
3. that the actions described in Part B of Section I of this Schedule have been taken.

If, after this exchange of views, the Association is not so satisfied, it may give notice to the Recipient to that effect and, if within 90 days after the notice, the Recipient has not taken steps satisfactory to the Association with respect to paragraphs 1, 2 and 3 above, then the Association may, by notice to the Recipient, cancel all or any part of the Unwithdrawn Financing Balance.

**D. Deposits of Financing Amounts.** Except as the Association may otherwise agree:

1. all withdrawals from the Financing Account shall be deposited by the Association into an account designated by the Recipient and acceptable to the Association; and
2. the Recipient shall ensure that upon each deposit of an amount of the Financing into this account, an equivalent amount is accounted for in the Recipient's budget management system, in a manner acceptable to the Association.

**E. Audits.**

1. Not later than four months after the First Tranche Release Date or after an amount equal to at least seventy five percent (75%) of the First

Tranche has been disbursed from the Designated Account (whichever occurs earlier), the Recipient shall: (a) have the Deposit Account audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association; and (b) furnish to the Association as soon as available, but in any case not later than four months after the audit referred to herein has been made, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request.

2. The Recipient shall, when requested by the Association at any time after the Second Tranche Release Date: (a) have the Deposit Account audited by independent auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank; and (b) furnish to the Association as soon as available, but in any case not later than four months after the Association shall have requested the audit referred to in (a) above, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request.
3. The Recipient shall, at any time, furnish to the Association such other information concerning the Deposit Account and its audits as the Association shall reasonably request.

**F. Excluded Expenditures.** The Recipient undertakes that the proceeds of the Financing shall not be used to finance Excluded Expenditures. If the Association determines at any time that an amount of the Financing was used to make a payment for an Excluded Expenditure, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of such payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.

**G. Closing Date.** The Closing Date is December 31, 2008.

**APPENDIX****Section I. Definitions**

1. “APN” means *Autorité Portuaire Nationale*, the Recipient’s national port authority.
2. “Auditing Requirements” means the completion, approval by the Board of Directors of FER and publication of annual financial audits as required by the FER Law (as published on July 24, 2003) and the completion of a Road Maintenance and Financial Audit.
3. “CC” means *Comité Consultatif* the Recipient’s Consultative Committee for the civil society monitoring of economic governance reforms.
4. “CNMP” means *Commission Nationale des Marchés Publics*, the Recipient’s national procurement commission.
5. “CNMP Procedure Manual” means the manual prepared by CNMP for the improvement of the Recipient’s public procurement procedures.
6. “CSCCA” means *Cour Supérieure des Comptes et du Contentieux Administratif*, the Recipient’s Superior Court of Accounts and Administrative Disputes.
7. “EDH” means *Electricité d’ Haiti*, the Recipient’s national electricity company.
8. “Excluded Expenditure” means any expenditure:
  - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another Financing, credit, grant or loan;
  - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

<b>Group</b>	<b>Sub-group</b>	<b>Description of Item</b>
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;
  - (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party, and any other goods designated as environmentally hazardous by agreement between the Recipient and the Association;
  - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
  - (f) under a contract with respect to which the Association determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds during the procurement or execution of such contract, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to remedy the situation.
9. "FER" means *Fonds d'Entretien Routier*, the Recipient's road maintenance fund.

10. “FER Law” means the Recipient’s legislation creating the FER, as published in the official gazette on July 24, 2003.
11. “First Tranche” means the amount of the Financing allocated to the category entitled “First Tranche” in the table set forth in Part B of Section II of Schedule 1 to this Agreement.
12. “First Tranche Release Date” means the date on which the Association sends the Recipient a notice to the effect that the actions set forth in Section I.A. of Schedule 1 to this Agreement have been satisfactorily taken.
13. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 with the modifications set forth in Section II of this Appendix.
14. “IPP” means an independent power producer.
15. “I-PRSP” means the Interim Poverty Reduction Strategy Paper, adopted by the Recipient in September 2006.
16. “MEF” means, depending on the context, the Recipient’s Ministry of Economy and Finance or the Minister in charge thereof.
17. “MTPTC” means *Ministère des Travaux Publics, Transports et Communications*, the Recipient’s Ministry of Public Works, Transports and Communications.
18. “PPA” means a power purchasing agreement.
19. “Procurement Decree” means *Decret Fixant la Reglementation des Marches Publics de Services, de Fournitures et de Travaux*, the Presidential Decree dated December 3, 2004, and published in the official gazette on February 14, 2005.
20. “Program” means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated December 8, 2006 from the Recipient to the Association, declaring the Recipient’s commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during its execution.
21. “PRSP” means Poverty Reduction Strategy Paper.
22. “Road Maintenance Technical and Financial Audit” means an audit by external auditors of the performance of the FER, MTPTC and MEF in implementing the Recipient’s road maintenance activities, in accordance with the roles ascribed to them and the processes established in the FER Law.

23. “Second Tranche” means the amount of the Financing allocated to the category entitled “Second Tranche” in the table set forth in Part B of Section II of Schedule 1 to this Agreement.
24. “Second Tranche Release Date” means the date on which the Association sends the Recipient a notice to the effect that the actions set forth in Section I.B. of Schedule 1 to this Agreement have been satisfactorily taken.
25. “TELECO” means *Telecommunications d’Haiti, S.A.M.*, the Recipient’s public telecommunications company.

## **Section II. Modifications to the General Conditions**

The modifications to the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 are as follows:

1. The last sentence of paragraph (a) of Section 2.03 (relating to Applications for Withdrawal) is deleted in its entirety.
2. Sections 2.04 (*Designated Accounts*) and 2.05 (*Eligible Expenditures*) are deleted in their entirety, and the remaining Sections in Article II are renumbered accordingly.
3. Sections 4.01 (*Project Execution Generally*), and 4.09 (*Financial Management; Financial Statements; Audits*) are deleted in their entirety, and the remaining Sections in Article IV are renumbered accordingly.
4. Paragraph (a) of Section 4.05 (renumbered as such pursuant to paragraph 3 above and relating to *Use of Goods, Works and Services*) is deleted in its entirety.
5. Paragraph (c) of Section 4.06 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.06. *Plans; Documents; Records*

... (c) The Recipient shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Financing until two years after the Closing Date. The Recipient shall enable the Association’s representatives to examine such records.”

6. Section 4.07 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

*Section 4.07. Program Monitoring and Evaluation*

... (c) The Recipient shall prepare, or cause to be prepared, and furnish to the Association not later than six months after the Closing Date, a report of such scope and in such detail as the Association shall reasonably request, on the execution of the Program, the performance by the Recipient and the Association of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Financing.

7. 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 definition of the term “Eligible Expenditure” is modified to read as follows:

“‘Eligible Expenditure’ means any use to which the Financing is put in support of the Program, other than to finance expenditures excluded pursuant to the Financing Agreement.”

(b) The term “Financial Statements” and its definition as set forth in the Appendix are deleted in their entirety.

(c) The term “Project” is modified to read “Program” and its definition is modified to read as follows:

“‘Program’ means the program referred to in the Financing Agreement in support of which the Financing is made.” All references to “Project” throughout these General Conditions are deemed to be references to “Program”.