

CONFORMED COPY

CREDIT NUMBER 1944 YDR

(Al Mukalla Water Supply Project)

between

PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated October 17, 1988

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated October 17, 1988, between PEOPLE'S DEMOCRATIC 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) in order to assist the Borrower in financing the Project, the Borrower intends to contract: (1) from the Arab Fund for Economic and Social Development (the Arab Fund) a loan (the Arab Fund Loan) in an amount equivalent to nine million seven hundred thousand dollars (\$9,700,000), on the terms and conditions set forth in a loan agreement (the Arab Fund Loan Agreement) to be entered into between the Borrower and the Arab Fund; and (2) from the Kuwait Fund for Arab Economic Development (the Kuwait Fund) a loan (the Kuwait Fund Loan) in an amount equivalent to nine million seven hundred thousand dollars (\$9,700,000) on the terms

and conditions set forth in a loan agreement (the Kuwait Fund Loan Agreement) to be entered into between the Borrower and the Kuwait Fund;

(C) 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 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) "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;

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

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

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

(e) "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 eight million seven hundred thousand Special Drawing Rights (SDR 8,700,000).<sup>1</sup>

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

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1/ Equivalent at time of negotiations to US\$12 million. 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 National 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 3 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1995, 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 as of the next payment date in that year specified in Section 2.06 of this Agreement, except that the rate set as of June 30, 1988 shall be applied as of July 1, 1988.

(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 March 15 and September 15 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 March 15 and September 15 commencing September 15, 1998 and ending March 15, 2028. Each installment to and including the installment payable on March 15, 2008 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, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, 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.

(b) Without any limitation or restriction upon any of its other obligations under this Agreement, the Borrower shall:

- (i) make an equity contribution of \$19,400,000 equivalent from the Borrower's own resources, to PWC; and
- (ii) relend 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: (a) repay the equivalent in terms of Yemeni Dinars of the proceeds of the Credit so relent (such equivalent to be determined as of the respective date, of withdrawal of the proceeds of the Credit from the Credit Account) over a period of twenty five (25) years, inclusive of a grace period of five (5) years; and (b) pay interest on the principal amount so relent and withdrawn and outstanding from time to time at the rate of eight per cent (8%) per annum.

(c) 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 the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of the Schedule 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.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) 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; and
- (iii) enable the Association's representatives to examine such records.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account 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 Association shall have reasonably requested, including 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; 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.

Section 4.02. 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.

#### 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.

(e) PWC shall have become unable to pay its debts as they mature or any action or proceeding shall have been undertaken whereby any of the property of PWC shall or may be distributed among its creditors.

(f) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower to withdraw the proceeds of the Arab Fund Loan or the Kuwait Fund Loan, for the financing of the Project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the Arab Fund Loan Agreement or the Kuwait Fund Loan Agreement; or

(B) the Arab Fund Loan or the Kuwait Fund Loan shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower or PWC establishes to the satisfaction of the Association that: (A) such suspension, cancellation, termination or premature is not caused by the failure of the Borrower to perform any of its obligations under the Arab Fund Loan Agreement or the Kuwait Fund Loan Agreement; and (B) adequate funds for the Project are available to the Borrower or PWC from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement and of PWC under the Project Agreement.

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;

(b) the events specified in paragraphs (c), (d) and (e) of Section 5.01 of this Agreement shall occur; and

(c) the event specified in paragraph (f) (i) (B) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (f) (ii) of that Section.

#### 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:

(a) that the Subsidiary Loan Agreement has been executed on

behalf of the Borrower and PWC; and

(b) that the Arab Fund Loan Agreement and the Kuwait Fund Loan Agreement have been executed on behalf of the Borrower and the Arab Fund and the Kuwait Fund, respectively; and

(c) that the consultants referred to in paragraph 1 (a) of Section II of the Schedule to the Project Agreement have been selected.

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 and 4.02 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 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  
P.O. Box 1193  
Aden  
People's Democratic Republic of Yemen

Cable address:

TAKHTEET  
Aden

Telex:

2289 TAKHTEET AD

For the Association:

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

Cable address:

INDEVAS  
Washington, D.C.

Telex:

440098 (ITT),  
248423 (RCA) or  
64145 (WUI)

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.

PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN

By /s/ Abdalla S. Al-Ashtal  
 Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ A. J. Stoutjesdijk  
 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 and associated works, supply of operational equipment, bore casings and screens, distribution pipes and fittings under Parts A.1, 3, 5 and B.2 of the Project	6,600,000	100% of foreign expenditures
(2) Consultants' services and training under Part B.1 (except Part B.1 (f) of the Project	800,000	100% of foreign expenditures
Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(3) Consultants' services for supervision of the Project under Part A of the Project	430,000	50% of foreign expenditures



(4) Unallocated	870,000
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TOTAL	8,700,000

2. For the purposes of this Schedule, 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.

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 water production to meet the demand for potable water beyond the year 2000 in Al Mukalla; (ii) strengthening and expanding the existing primary and secondary water distribution systems; and (iii) strengthening the operational and maintenance capacities of PWC.

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 at An Nagaah and carrying out of the associated works.
2. Construction of a transmission pipeline of about 50 km between the borefield and Al Mukalla.
3. Re-equipping and upgrading of the existing borefield at Wadi Buwaysh.
4. Improvement and extension of the primary and secondary water distribution networks in Al Mukalla.
5. Construction and rehabilitation of reservoirs to meet the daily peak demand.

#### Part B:

1. Strengthening the technical and management capacities of PWC through:
  - (a) the development and execution of a program designed to improve system analysis and operation;
  - (b) the development and execution of a program designed to detect and control water losses;
  - (c) the development of a program designed to improve the water distribution system;
  - (d) the provision of on-the-job training and of fellowships for PWC staff;
  - (e) the development of a computerized accounting system;
  - (f) the carrying out of a study to determine the training needs of PWC and the development of a five-year training program; and
  - (g) the carrying out of a financial study of PWC.

2. Provision of water meters and operational and office equipment to PWC.

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The Project is expected to be completed by June 30, 1995.

### SCHEDULE 3

#### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) to (3) 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 SDR 375,000 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.

