

CONFORMED COPY

CREDIT NUMBER 3041 KH

Project Agreement

(Urban Water Supply Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

PHNOM PENH WATER SUPPLY AUTHORITY

Dated March 20, 1998

CREDIT NUMBER 3041 KH

PROJECT AGREEMENT

AGREEMENT, dated March 20 998, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the "Association") and PHNOM PENH WATER SUPPLY AUTHORITY ("PPWSA").

WHEREAS: (A) By the Development Credit Agreement of even date herewith between the Kingdom of Cambodia (the "Borrower") and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to twenty-two million seven hundred thousand Special Drawing Rights (SDR 22,700,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that PPWSA agree to undertake such obligations toward the Association as are set forth in this Agreement;

WHEREAS: (B) By a Subsidiary Loan Agreement to be entered into between the Borrower and PPWSA, part of the proceeds of the Credit provided for under the Development Credit Agreement will be made available to PPWSA on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS: (C) PPWSA, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement.

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) PPWSA declares its commitment to the objectives of the Project, as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, environmental and public water supply utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and PPWSA shall otherwise agree, PPWSA shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. 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 1 to this Agreement.

Section 2.03. (a) PPWSA shall carry out 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) in respect of the Project Agreement and Part A of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, PPWSA shall:

(i) 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 Association and PPWSA, a plan for the future operation of Part A of the Project; and

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

Section 2.04. (a) For the purposes of carrying out Part A of the Project, PPWSA shall enter into a Subsidiary Loan Agreement with the Borrower, under terms and conditions acceptable to the Association and which shall include, inter alia, the terms and conditions set forth in Schedule 5 of the Development Credit Agreement.

(b) PPWSA shall duly perform all its obligations under the Subsidiary Loan Agreement, and it shall exercise its rights under the Subsidiary Loan Agreement in such a manner so as to protect its interests and those of the Association, and to accomplish the purposes of the Credit. Except as the Association shall otherwise agree, PPWSA shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) PPWSA shall, at the request of the Association, exchange views with the Association with regard to the progress of Part A of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) PPWSA shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Part A of the Project, the accomplishment of the purposes of the Credit, or the performance by PPWSA of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of PPWSA

Section 3.01. PPWSA shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental and water supply utility practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. PPWSA shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound

engineering, financial, environmental and public water supply utility practices.

Section 3.03. PPWSA shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

Section 3.04. Except in the ordinary course of business, PPWSA shall not, unless mutually agreed in advance between the Association and PPWSA, sell, lease, transfer or otherwise dispose of any of its property or assets which are required for the efficient conduct of its operations or the carrying out of Part A of the Project.

Section 3.05. PPWSA shall maintain its existence and right to carry on its operations, and it shall promptly take all measures necessary to acquire, maintain, renew and otherwise exercise any and all rights (including, without limitation, land rights), powers, privileges and franchises required for the proper conduct of its operations and the prompt carrying out of its obligations under this Agreement and the Subsidiary Loan Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) PPWSA shall maintain records and separate accounts adequate to reflect, in accordance with sound accounting practices, its operations and financial condition, and to register separately the operations, resources and expenditures related to the Project.

(b) PPWSA shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) 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 (9) months after the end of each such year, (A) certified copies of the financial statements referred to in paragraph (i) above for such year as so audited and (B) the 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 said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) Except as the Association and PPWSA shall otherwise agree, PPWSA shall maintain, for each of its Fiscal Years, after its Fiscal Year ending on December 31, 1997, a ratio of total operating expenses to total operating revenues not higher than fifty percent (50%).

(b) Before November 30 in each of its Fiscal Years, PPWSA shall, on the basis of forecasts prepared by PPWSA and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) above in respect of such Fiscal Year and the next following Fiscal Year, and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that PPWSA would not meet the requirements set forth in paragraph (a) above for PPWSA's Fiscal Years covered by such review, PPWSA shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its tariffs) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding depreciation, interest and other charges on debt.
- (ii) The term "total operating revenues" means revenues from all sources related to operations.

(iii) The average current gross value of PPWSA's fixed assets in operation shall be calculated as one half of the sum of the gross value of PPWSA's fixed assets in operation at the beginning and at the end of the Fiscal Year, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

Section 4.03. (a) Except as the Association shall otherwise agree, PPWSA shall not incur any debt, unless the net revenues of PPWSA for the Fiscal Year immediately preceding the date of such incurrence or for a later twelve (12)-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.3 times the estimated maximum debt service requirements of PPWSA for any succeeding Fiscal Year on all debt of PPWSA, including the debt to be incurred.

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of PPWSA maturing by its terms more than one (1) year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred: (A) under a loan, contract, or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues" means the difference between: (A) the sum of revenues from all sources related to operations adjusted to take account of PPWSA's tariff rates in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; and (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.

(iv) The term "net non-operating income" means the difference between: (A) revenues from all sources other than those related to operations; and (B) expenses, including rates and payments in lieu of taxes, incurred in the generation of revenues in (A) above.

(v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(vi) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

Section 4.04. PPWSA shall maintain the structure and level of its water supply tariffs, in accordance with a sound and consistently applied methodology acceptable to the Association, so that under conditions of efficient operation at reasonable levels of capacity utilization PPWSA shall cover its operating costs (including taxes), earn an adequate return on funds invested, meet its financial obligations (including, but without limitation, those provided in Sections 4.02 and 4.03 above), and otherwise make a reasonable contribution to future investment for expansion of capacity. The Association and SWSA shall, from time to time at the request of either party, exchange views with respect to the adequacy of said tariffs, and PPWSA shall promptly thereafter take any and all action required consistent with the Association's recommendations pursuant to any of said exchange of views.

Section 4.05. PPWSA shall carry out, not later than December 31, 1998, a revaluation of its fixed assets in operation as of December 31, 1997, all in accordance with sound and consistently applied method of valuation acceptable to the Association.

Section 4.06. PPWSA shall ensure that, as of December 31, 1998, its average water billing collection period shall not exceed one hundred twenty (120) days, and that thereafter it shall not exceed eighty (80) days, all in accordance with a sound and consistently applied methodology acceptable to the Association.

Section 4.07. Not later than December 31, 1998, PPWSA shall revise the structure and level of its water supply connection fees on the basis of actual cost and in accordance with a sound and consistently applied methodology acceptable to the Association.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of PPWSA thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date twenty (20) years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify PPWSA of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

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:

248423 (MCI) or
64145 (MCI)

For PPWSA:

Phnom Penh Water Supply Authority
North of Cambodia Railway Station
Phnom Penh
Kingdom of Cambodia

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of PPWSA, may be taken or executed by the Director General of PPWSA, or such other person or persons as

said Director General shall designate in writing, and PPWSA shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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 City of Phnom Penh, Kingdom of Cambodia, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ngozi Okonjo-Iweala

Authorized Representative

PHNOM PENH WATER SUPPLY AUTHORITY

By /s/ Ek Sonn Chann

Authorized Representative

SCHEDULE 1

Procurement

Section I. Procurement of Goods and Works

Part A: General

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 (the "Guidelines") and the following provisions of Section I of this Schedule.

Part B: International Competitive Bidding

1. 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.

2. The following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Prequalification

Bidders for the Turnkey Contract shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) Preference for domestically manufactured goods and domestic contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

(c) Dispute Review Board

Each contract for works estimated to cost the equivalent of twenty million dollars (\$20,000,000) or more shall include the provisions for a dispute review board set forth in the standard bidding documents for works referred to in paragraph 2.12 of the Guidelines.

(d) Notification and Advertising

The invitation to prequalify or bid for each contract estimated to cost the equivalent of ten million dollars (\$10,000,000) or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. International Shopping

Goods estimated to cost less than the equivalent of fifty thousand dollars (\$50,000) per contract, up to an aggregate amount not to exceed the equivalent of two hundred thousand dollars (\$200,000), may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

2. National Shopping

Goods estimated to cost less than the equivalent of fifty thousand dollars (\$50,000) per contract, up to an aggregate amount not to exceed the equivalent of two hundred thousand dollars (\$200,000), may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Part D: Review by the Bank 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

With respect to each contract estimated to cost the equivalent of two hundred thousand dollars (\$200,000) or more, the procedures set forth in paragraphs 2 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

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 (the "Consultant Guidelines") and the following provisions of Section II of this Schedule.

Part B: Quality- and Cost-based Selection

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. Quality-based Selection

Services for construction supervision under Part A of the Project shall be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.01 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 Bank 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 each contract for the employment of consulting firms estimated to cost the equivalent of one hundred thousand dollars (\$100,000) or more, 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.

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

3. Post Review

With respect to each contract not governed by paragraph 1 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

* * * * *

SCHEDULE 2

Implementation Program For Part A of the Project

The provisions of this Schedule shall apply for the purposes of Section 2.01 (b) of this Agreement.

Section 1. PPWSA 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 Part A of the Project and the achievement of the objectives thereof;

(b) Prepare, in accordance with terms of reference acceptable to the Association, and furnish to the Association: (i) an annual report, not later than November 30 in each Fiscal Year, summarizing the monitoring and evaluation activities carried out pursuant to sub-paragraph (a) above in respect of the preceding Fiscal Year, and setting forth proposed measures, as indicated by said monitoring and evaluation activities, to further the objectives of the Project; and (ii) a mid-term report, not later than November 30, 2000, setting forth any proposed measures, as indicated by said monitoring and evaluation activities, to further the objectives of the Project.

(c) Exchange views with the Association on each report furnished pursuant to sub-paragraphs (a) and (b) above, and thereafter take all measures in relation thereto as shall have been agreed between the Borrower and the Association.

Section 2. (a) Not later than June 30, 1998, PPWSA shall furnish to the Association for its review its proposed Business Plan for the period 1998-2001.

(b) Promptly thereafter, PPWSA shall formally adopt and carry out said Business Plan with due diligence and efficiency, incorporating the Association's comments and recommendations thereon.

(c) The Association and PPWSA shall, from time to time at the request of either party, exchange views with respect to the progress achieved by PPWSA in implementing the Business Plan.

(d) PPWSA shall not amend the Business Plan, or otherwise abrogate, waive or suspend any part thereof, without the prior approval of the Association.

