

CONFORMED COPY

GRANT NUMBER H378-NE

Financing Agreement

(Transport Sector Program Support Project)

between

REPUBLIC OF NIGER

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 18, 2008

GRANT NUMBER H378-NE

FINANCING AGREEMENT

AGREEMENT dated June 18, 2008, entered into between the REPUBLIC OF NIGER (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association 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 this 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 eighteen million eight hundred thousand Special Drawing Rights (SDR 18,800,000) (“Financing”) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 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 April 1 and October 1 in each year.
- 2.05. The Payment Currency is the Euro.

ARTICLE III — PROJECT

- 3.01. The Recipient declares its commitment to the objectives of the Project, and the Program. To this end, the Recipient shall carry out the Project in accordance with the provisions of Article IV of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

- 4.01. The occurrence of events after the date of the Financing Agreement, further to which an extraordinary situation has arisen, which makes it improbable that the Program, or a substantial part of the Program, can be carried out, is an Additional Event of Suspension.

ARTICLE V — EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
 - (a) The Recipient has adopted the Project Implementation Manual in form and substance satisfactory to the Association.
 - (b) The Recipient has established a computerized information system for the financial management of the Project (including software customization, adoption of the Project Manual of Financial, Accounting and Administrative Procedures in form and substance satisfactory to the Association, training and short term assistance) in the CC/PST, in a manner satisfactory to the Association.
 - (c) The Recipient has recruited a coordinator for the Project, with the terms of reference, qualification and experience satisfactory to the Association.
- 5.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

- 5.03. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty (20) years after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient's Representative is the Minister of the Recipient at the time responsible for finance.

6.02. The Recipient's Address is:

Minister of Economy and Finance
Ministry of Economy and Finance
B.P. 389
Niamey
Republic of Niger

Facsimile:

(227) 20 73 59 34

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)

1-202-477-6391

AGREED at Niamey, Niger, as of the day and year first above written.

REPUBLIC OF NIGER

By /s/ Ali M. Lamine Zeine

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ousmane Diagana

Authorized Representative

SCHEDULE 1

Project Description

The objectives of the Project are to: (a) improve the physical access of rural population to markets and services on selected unpaved sections of the Recipient's national road network, and (b) strengthen the Recipient's institutional framework, management and implementation of road maintenance.

The Project consists of the following parts:

Part A: Periodic Maintenance and Spot Rehabilitation of Unpaved Roads

Support the Recipient's plan to improve access to markets and services in densely populated areas with high economic potential, through rehabilitation and periodic maintenance of selected sections of the unpaved national road network, including: (a) preparation of technical, economic and environmental studies, design and bidding documents; (b)(i) implementation and (ii) supervision of works; and (c) monitoring and evaluation of works.

Part B: Capacity Building and Institutional Strengthening Initiatives

Support the Recipient's plan to increase capacity: (i) of the Recipient's ministry responsible for equipment in the areas of management and execution of road maintenance activities, (ii) of the Recipient's ministry responsible for transport in the areas of execution of transport activities and road safety, (iii) of CAFER, and (iv) of CC/PST in the areas of preparation and implementation of a program approach, monitoring and evaluation, procurement, contracting, and supervision.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

The Recipient shall maintain the following implementation arrangements, as further described in the Project Implementation Manual, throughout the implementation of the Project:

1. Under the general supervision of the CP/PST and the CTS/PST, the CC/PST shall be responsible for the overall Project management, monitoring and evaluation, coordination and shall provide technical advice for the implementation of the Project. With the support from the BEEEL, the CC/PST shall ensure compliance with social and environmental safeguards referred to in paragraph (C) below.
2. Under the guidance and the responsibility of the Recipient's ministry in charge of equipment, the CC/PST shall be responsible for all fiduciary aspects of the implementation of the Project (including accounting, financial reporting, internal control, disbursement, control that procurement activities carried out by DGTP, DEP/MT, DEP/ME, DTTMF, CAFER and DAC respectively have been carried out in a manner consistent with the Procurement Guidelines and the Consultants' Guidelines, budget preparation, monitoring and control, and audits).
3. DGTP shall be responsible for the technical implementation of Part A of the Project. CC/PST, DGTP, DEP/MT, DEP/ME, DTTMF, CAFER and DAC, each for its respective activities, shall be responsible for the technical implementation of Part B of the Project, including procurement activities.

B. Project Manuals and Staff

1. The Recipient shall carry out the Project in accordance with the provisions of the Project Implementation Manual and the Project Manual of Financial, Accounting and Administrative Procedures and, unless the Recipient and the Association shall otherwise agree in writing, shall not amend or waive any provision of the Project Implementation Manual or the Project Manual of Financial, Accounting and Administrative Procedures in a manner which, in the opinion of the

Association, could have a material adverse impact on the implementation of the Project.

2. The Recipient shall, throughout the implementation of the Project, maintain sufficient staff, each with terms of reference, qualifications and experience satisfactory to the Association including, *inter alia*, in the CC/PST: a coordinator, a transport program manager, a procurement specialist, an administrative and financial officer, and an accountant.

C. Safeguards

1. The Recipient shall implement the Project in accordance with the guidelines, procedures, timetables and other specifications set forth in the Environment and Social Management Framework and the Resettlement Policy Framework and, except as the Association shall otherwise agree in writing, shall not abrogate, amend, repeal, suspend or waive any provisions of any of said Frameworks.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. (a) The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators set forth below in sub-paragraph (b) of this paragraph. Each Project Report shall cover the period of one (1) calendar semester, and shall be furnished to the Association not later than one (1) month after the end of the period covered by such report.
- (b) The performance indicators referred to above in sub-paragraph (a) are described in detail in the Project Implementation Manual, and include, *inter alia*, the following:
 - (i) As of the Closing Date, the proportion of population living within two (2) kilometers of all weather roads has increased from thirty-three (33) percent to thirty-six (36) percent in the areas where activities have been carried out under Part A (b)(i) of the Project.
 - (ii) As of the Closing Date, the transport time between Balleyara and Banibangou has decreased from nine (9) hours to seven (7) hours.

(iii) As of the Closing Date, the transport time between Maradi and Madarounfa has decreased from three (3) hours and thirty (30) minutes to three (3) hours.

2. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than March 15, 2013.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association not later than forty-five (45) days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.
3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Recipient, commencing with the fiscal year in which the first withdrawal under the Project Preparation Advance was made. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.

Section III. Procurement

A. General

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. Definitions. The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods and Works

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. Other Methods of Procurement of Goods and Works. The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

Procurement Method
(a) National Competitive Bidding (*)
(b) Shopping
(c) Direct Contracting

(*) Subject to the provisions listed in (i) to (x) below.

- (i) The provision of article 03 of the Procurement Code shall not apply.
- (ii) The obligation to provide evidence that the bidder has satisfied all its tax obligations to the Recipient as a condition to make a proposal for the procurement of works, goods and non consulting services (notwithstanding any contrary provisions of article 10 of the Procurement Code) shall only apply to national bidders.
- (iii) The obligation to provide a certificate of eligibility as a condition to make a proposal for the procurement of works shall only apply to national bidders (notwithstanding any contrary provisions of article 11 of the Procurement Code); the eligibility criteria for international bidders shall be limited to those included in the bidding documents.

- (iv) The division of expenditures in accordance with article 34 of the Procurement Code shall be subject to Prior Review by the Association.
- (v) The national preference provided for by article 36 of the Procurement Code shall not apply.
- (vi) In addition to the provision of article 40 of the Procurement Code, the short list of bidders shall be subject to Prior Review by the Association.
- (vii) Each contract procured through direct contracting in accordance with article 42 of the Procurement Code shall be subject to Prior Review by the Association.
- (viii) The amount of the bidder's guarantee provided for in article 79 of the Procurement Code shall be determined as a percentage (1 to 2%) of the estimated cost of the contract.
- (ix) No representatives of the private sector or of the donors shall be included in the Recipient's committee for bid evaluation and award despite the provisions of Articles 3, 15 and 26 of the Recipient's *arrêté* 113 dated October 10, 2006.
- (x) The conditions of application of the various methods of procurement under the National Competitive Bidding shall be determined in the Procurement Plan (notwithstanding any contrary provisions of articles 5 and 7 of Recipient's *arrêté* 270/CAB/PM/ARMP, dated October 24, 2007).

C. Particular Methods of Procurement of Consultants' Services

- 1. Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
- 2. Other Methods of Procurement of Consultants' Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

Procurement Method
(a) Least-Cost Selection
(b) Selection Based on the Consultants' Qualifications
(c) Single-Source Selection
(d) Individual Consultants

- 3. Shortlist including national consultants only.** The shortlist for the selection of consultants for each contract for consultants' services estimated to cost less than the equivalent of \$100,000 may include national consultants only, pursuant to paragraph 2.7 of the Consultants Guidelines.

D. Review by the Association of Procurement Decisions

1. Except as the Association shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Association:
 - (a) each contract for goods estimated to cost the equivalent of \$200,000 or more procured on the basis of International Competitive Bidding;
 - (b) each contract for works estimated to cost the equivalent of \$500,000 or more procured on the basis of International Competitive Bidding;
 - (c) each contract for non consulting services estimated to cost the equivalent of \$50,000 or more procured on the basis of International Competitive Bidding;
 - (d) each contract for goods, works and non consulting services procured on the basis of Direct Contracting;
 - (e) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$100,000 or more;
 - (f) each contract for consultants' services provided by an individual estimated to cost the equivalent of \$50,000 or more; and
 - (g) each contract for consultants' services procured on the basis of Single-Source Selection.

2. All terms of reference for consultants' services shall be subject to the Association's Prior Review.
3. All Training activities will be carried out on the basis of annual programs submitted annually for the prior approval of the Association. Said annual programs shall identify the general framework of the Training and similar activities for the year, and shall include: (a) the type of Training; (b) the personnel to be trained; (c) the institution which will conduct the Training; (d) the duration of the proposed Training; and (e) the outcome and impact of the Training.
4. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), (a) to prepay the Project Preparation Advance in accordance with Section 2.07 of the General Conditions, and (b) to finance Eligible Expenditures as set forth in the table in paragraph 2 below.
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing ("Category"), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

Category	Amount of the Financing Allocated (expressed in SDR)	Percentage of Expenditures to be Financed (all taxes included)
(1) Goods, works and consultants' services for Part A of the Project	13,250,000	100%
(2) Goods and consultants' services, including for Training, audits and Operating Costs for Part B of the Project	2,600,000	100%
(3) Refund of Project Preparation Advance	400,000	Amount payable pursuant to Section 2.07 of the General Conditions
(4) Unallocated	2,550,000	
TOTAL AMOUNT	18,800,000	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement.
2. The Closing Date is December 15, 2012.

Section V. Other Undertakings

- A.** No later than three (3) months after the Effective Date, or such later date as may be agreed in writing by the Association, the Recipient shall have recruited an external auditor for the Project, with terms of reference, qualifications and experience satisfactory to the Association.

- B.** No later than twenty-four (24) months after the Effective Date, or such later date as may be agreed upon by the Recipient and the Association, the Recipient and the Association shall carry out a mid term review of the Project, covering the progress achieved in the implementation of the Project. The Recipient shall prepare under terms of reference satisfactory to the Association, and furnish to the Association three (3) months prior to the beginning of such mid term review of the Project, or on such other date agreed upon with the Association in writing, a report integrating the results of the monitoring and evaluation activities performed pursuant to this Agreement, on the progress achieved in the carrying out of the Project during the period preceding the date of such report, and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives of the Project during the period following such date.
- C.** No later than October 1st, 2008 and October 1st of each year thereafter, or such later date as agreed in writing by the Association, the Recipient shall provide to the Association evidence, in form and substance satisfactory to the Association, that the draft budget law, including the Recipient's annual budget for the next fiscal year submitted to the Recipient's parliament for enactment, reflects a proposal to increase the annual resources for road maintenance in an amount satisfactory to the Association.

APPENDIX

Definitions

1. “BEEEI” means the Recipient’s Bureau for environmental assessment and impact (*Bureau de l’Evaluation Environnementale et des Etudes d’Impact*) within the Recipient’s ministry in charge of environment.
2. “CAFER” means the Recipient’s Autonomous Road Maintenance Fund entitled *Caisse Autonome de Financement de l’Entretien Routier*, established by the Recipient by Law n° 2005-22 of June 28, 2005 which replaced *Ordonnance* n° 99-55 of November 22, 1999.
3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
4. “CC/PST” means the coordination unit (“*Cellule de Coordination du Programme Sectoriel des Transports*”), established by the Recipient by *arrêté* 143/PM dated December 30, 2005, for the purpose of coordinating the implementation of the projects carried out under the Program, in accordance with terms and conditions further described in said *arrêté*, as complemented by *arrêté* 007/PM dated January 23, 2007.
5. “CP/PST” means the Program’s steering committee (“*Comité de Pilotage du Programme Sectoriel des Transports*”) established by the Recipient by *arrêté* 145/PM dated December 30, 2005, for the purpose of providing general guidance and monitoring of the implementation of the Program, in accordance with terms and conditions further described in said *arrêté*.
6. “CTS/PST” means the technical committee (“*Comité Technique de Suivi du Programme Sectoriel des Transports*”) established by the Recipient by *arrêté* 144/PM dated December 30, 2005, for the monitoring of the technical implementation of the Program, in accordance with terms and conditions further described in said *arrêté*, as complemented by *arrêté* 008/PM dated January 23, 2007.
7. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.

8. “DAC” means the Directorate of Civil Aviation (“*Direction de l’Aviation Civile*”) established in the Recipient’s ministry in charge of transport.
9. “DEP/ME” means the Directorate of Studies and Programs (“*Direction des Etudes et de la Programmation*”) established in the Recipient’s ministry in charge of equipment.
10. “DEP/MT” means the Directorate of Studies and Programs (“*Direction des Etudes et de la Programmation*”) established in the Recipient’s ministry in charge of transport.
11. “DGTP” means General Directorate of Public Works (“*Direction Générale des Travaux Publics*”) established in the Recipient’s ministry in charge of equipment.
12. “DTTMF” means the Directorate of Ground, Maritime and River Transport (“*Direction des Transports Terrestres, Maritimes et Fluviaux*”) established in the Recipient’s ministry in charge of transport.
13. “Environment and Social Management Framework” means the document entitled “*Etude d’Impact Environnemental des Travaux de Réhabilitation des Routes en Terre Totalisant 1056 Kilomètres*” prepared by Dr. Hassane Kimba at the request of the Recipient and dated December 2007.
14. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005.
15. “Operating Costs” means the incremental operating expenses, based on annual budgets approved by the Association, incurred by the Recipient’s ministry in charge of equipment, the Recipient’s ministry in charge of transport, CAFER, CC/PST and BEEI, on account of the Project implementation, management and monitoring, including operation and maintenance costs of office, vehicles and office equipment ; water and electricity utilities, telephone, office supplies, bank charges, additional staff costs, travel and supervision costs, per diem, but excluding the salaries of officials and public servants of the Recipient’s civil service.
16. “Procurement Code” means the Recipient’s procurement law entitled “*Code National des Marchés Publics*” adopted by Ordinance no. 2002-007 dated September 18, 2002.

17. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October 2006.
18. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated March 11, 2008 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
19. “Program” means the Recipient’s action plan for the implementation of its national transport strategy, entitled Transport Sector Program (“*Programme Sectoriel des Transports*”), approved by decree no. 2004-337/PRN/ME/AT dated October 28, 2004.
20. “Project Implementation Manual” means the Recipient’s guidelines and procedures, in form and substance satisfactory to the Association, to be adopted by the Recipient and used for the purpose of implementing the Project, including in the areas of monitoring and evaluation, coordination, social and environmental safeguards, and other provisions related to the institutional organization, as such guidelines and procedures may be amended from time to time in prior written agreement with the Association, and such term includes any schedule to the Project Implementation Manual.
21. “Project Manual of Financial, Accounting and Administrative Procedures” means the Recipient’s manual, in form and substance satisfactory to the Association, containing financial, administrative and accounting procedures applicable to the Project, as such manual may be amended from time to time in prior written agreement with the Association, and such term includes any schedule to the Project Manual of Financial, Accounting and Administrative Procedures.
22. “Project Preparation Advance” means the advance referred to in Section 2.07 of the General Conditions, granted by the Association to the Recipient pursuant to the letter agreement signed on behalf of the Association on October 17, 2006 and on behalf of the Recipient on October 25, 2006.
23. “Resettlement Policy Framework” means the document entitled “*Cadre de Politique de Réinstallation des Populations (CPRP)*” prepared by Madame Mamosso Alzouma at the request of the Recipient and dated December 2007.

24. “Training” means the training of persons involved in Project-supported activities, based on annual budgets approved by the Association, such term including seminars, workshops, conference and study tours, and costs associated with such activity include travel and subsistence costs for training participants, costs of securing the services of trainers, rental of training facilities, preparation and reproduction of training materials and other costs directly related to course preparation and implementation.