

CREDIT NUMBER 2124 UG

Development Credit Agreement

(Second Water Supply Project)

between

THE REPUBLIC OF UGANDA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated April 24, 1990

CREDIT NUMBER 2124 UG

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated April 24, 1990, between THE REPUBLIC OF UGANDA (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) the Borrower intends to obtain from the Gesellschaft Fuer Technische Zusammenarbeit of the Federal Republic of Germany (GTZ), a grant (the GTZ Grant) in an amount approximately equivalent to two million nine hundred thousand dollars (\$2,900,000) to assist in financing part of the Project on the terms and conditions set forth in an agreement (the GTZ Grant Agreement) to be entered into between the Borrower and GTZ;

(C) the Borrower intends to obtain from the European Development Fund (EDF), a grant (the EDF Grant) in an amount approximately equivalent to twenty-three million eight hundred thousand dollars (\$23,800,000) to assist in financing part of the Project on the terms and conditions set forth in an agreement (the EDF Grant Agreement) to be entered into between the Borrower and EDF;

(D) the Borrower intends to obtain from the Republic of Austria (Austria), a loan (the Austrian Loan) in an amount approximately equivalent to four million seven hundred thousand dollars (\$4,700,000) to assist in financing part of the Project on the terms and conditions set forth in an agreement (the Austrian Loan Agreement) to be entered into between the Borrower and Austria;

(E) part of the Project will be carried out by the National Water and Sewerage Corporation (NWSC) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to NWSC 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 NWSC;

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

(d) "PCU" means the Project Coordination Unit referred to in Section 3.06 of this Agreement;

(e) "MPED" means the Borrower's Ministry of Planning and Economic Development;

(f) "MWMD" means the Borrower's Ministry of Water and Mineral Development; and

(g) "Cofinanciers" means, collectively GTZ, EDF and Austria, as defined in the Preamble to this Agreement.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to forty-five million one hundred thousand Special Drawing Rights (SDR 45,100,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods 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, through the Bank of Uganda, a special deposit account in a commercial bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1996 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible expenditures.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent (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 February 1 and August 1 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 February 1 and August 1 commencing August 1, 2000 and ending February 1, 2030. Each installment to and including the installment payable on February 1, 2010 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 of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end: (i) shall carry out Parts B.2 and B.3 of the Project through MPED and MWMD respectively, with due diligence and efficiency and in conformity with appropriate administrative and financial practices, and shall provide, promptly as needed, the funds, facilities, services and other

resources required for the Project; and (ii) without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause NWSC to perform in accordance with the provisions of ' the Project Agreement all the obligations of NWSC 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 NWSC to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall: (i) make available to NWSC the equivalent of 50% of SDR 43,900,000 from the proceeds of the Credit in the form of an equity contribution to NWSC's capital; and (ii) relend the equivalent of 50% of SDR 43,900,000 from the proceeds of the Credit to NWSC under a subsidiary loan agreement to be entered into between the Borrower and NWSC, under terms and conditions which shall have been approved by the Association which shall include repayment of principal in 25 years, including five years of grace, and interest at a rate equal to the prevailing minimum rate charged by commercial banks in Uganda for commercial loans to companies, plus 3%, as such rate may be adjusted from time to time by the Borrower.

(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.

(d) The Borrower shall cause NWSC to open and maintain in a commercial bank, until the completion of the Project, a Project Account, and shall deposit therein an initial amount of the Uganda Shillings equivalent of one hundred thousand dollars (\$100,000). Thereafter, the Borrower shall at the beginning of each quarter, deposit the amount estimated to be required to cover 50% of the expenditures for Parts A and B.1 of the Project during such quarter which are not covered by withdrawals from the Credit Account, grants or loans from the Cofinanciers and which may not have been covered by the initial deposit referred to above.

Section 3.02. Except as the Association shall otherwise agree: (a) procurement of the goods, works and consultants' services required for Parts A and B.1 of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Project Agreement; and (b) works, vehicles and office equipment required for Part B.2 of the Project may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures, satisfactory to the Association, and consistent with Part E, Section I of Schedule 1 to the Project Agreement.

Section 3.03. The Borrower shall take all measures necessary to ensure that the Borrower's ministries and parastatal bodies pay NWSC for water charges promptly after the billing date and in any event to settle any arrears by the end of each fiscal year.

Section 3.04. The Borrower shall take all measures necessary to carry out Part B.3 of the Project, and revise its water legislation by July 1, 1992. To this end, the Borrower shall promptly appoint a consultant, with qualifications and terms of reference satisfactory to the Association, who shall review existing water legislation, and prepare a comprehensive report including proposed revisions, by not later than July 31, 1991. The Borrower shall afford the Association an opportunity to review and comment on the consultant's report and proposed revision of legislation, prior to promulgation.

Section 3.05. 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) in respect of Parts A and B.1 of the Project shall be carried out by NWSC pursuant to Section 2.03 of the Project Agreement.

Section 3.06. The Borrower shall: (a) continue to maintain the Project Coordination Unit under MPED with duly qualified and experienced staff, including a Coordinator, as head of the Unit, two water engineers, two urban planners, an accountant and appropriate support staff; and (b) cause PCU to,

inter alia, assist NWSC in the implementation of Parts A and B.1 of the Project.

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) 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, promptly as required, take all action necessary on its part to enable NWSC to make water tariff increases on a quarterly or more frequent basis, if required, pursuant to Section 4.04 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) NWSC 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 NWSC will be able to perform its obligations under the Project Agreement.
- (c) The law establishing NWSC shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of NWSC 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 NWSC or for the suspension of its operations; and

- (e) (i) subject to subparagraph (ii) of this paragraph:
 - (A) the right of the Borrower to withdraw the proceeds of any grant or loan made to the Borrower for the financing of the Project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor; or
 - (B) any such 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 establishes to the satisfaction of the Association that:
 - (A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and
 - (B) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this 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; and
- (b) the events specified in paragraphs (c) and (d) of Section 5.01 of this Agreement shall occur.

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) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and NWSC;
- (b) the Project Account has been opened and the Uganda Shillings equivalent to \$200,000 has been deposited therein;
- (c) the Borrower has approved and published in the Official Gazette a water and sewerage tariff increase of 60 percent, on average, to take effect by June 1, 1990;
- (d) NWSC has obtained evidence, satisfactory to the Association, that land and rights in respect of land are available for purposes related to the Project for the sites at Gaba, Port Bell, Bugolobi, Rubaga, Mutungo, Mbarara and Masaka;
- (e) NWSC has adopted resettlement appropriate agencies, pursuant to paragraph 5 of Schedule 2 to the Project Agreement; and
- (f) all conditions precedent to the effectiveness of the GTZ Grant Agreement, the EDF Grant Agreement and the Austrian Loan Agreement have been fulfilled.

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 NWSC, and is legally binding upon NWSC in accordance with its terms; and

(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and NWSC and is legally binding upon the Borrower and NWSC in accordance with its terms.

Section 6.03. The date ninety (90) 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 3.06 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 25 years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of Finance 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 Finance
P.O. Box 8147
Kampala
Uganda

Cable address:

FINSEC
Kampala

Telex:

61170

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.

THE REPUBLIC OF UGANDA

By /s/ Stephen K. Katenta-Apuli
Authorize Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Edward V.K. Jaycox

Regional Vice President
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) Civil works	29,760,000	100% of foreign expenditures
(2) Equipment, materials and vehicles	5,410,000	100% of foreign expenditures
(3) Consultants' services	5,340,000	100% of foreign
(4) Unallocated	4,510,000	
TOTAL	45,100,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower; provided, however, that if the currency of the Borrower is also that of another country from the territory of which goods or services are supplied, expenditures in such currency for such goods or services shall be deemed to be "foreign expenditures".

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, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 230,000, may be made on account of payments made for expenditures before that date but after February 1, 1990.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) expand the water supply systems and service capacity and waste water treatment facilities in five major towns; (ii) strengthen the financial viability and technical capacity of NWSC; and (iii) revise the Borrower's water legislation.

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: Expansion and Improvement of Facilities

Expansion and improvement of existing water supply and sewerage and sanitation systems in Kampala, Jinja, Masaka, Mbarara and Mbale, including the installation of water meters, the carrying out of leak detection and repair works, the construction of waste stabilization ponds

and the acquisition of vehicles, spare parts and chemicals.

Part B: Strengthening of NWSC and PCU: and Studies

1. Strengthening of NWSC's financial, operational and maintenance capability, including computerization of billing and the carrying out of a block mapping survey in Kampala, through training, technical assistance and the acquisition of training equipment, vehicles and office equipment.
2. Strengthening of PCU through technical assistance, acquisition of vehicles, office equipment, and repair of office buildings, including roofing.
3. A study to review existing water legislation and introduce a streamlined and updated legal and institutional framework for the proper management of the Borrower's water resources, including pollution control.

* * * * *

The Project is expected to be completed by December 31, 1995.

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:

(a) the term "Eligible Categories" means Categories (1) through (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods 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 \$1,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule:

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account furnish to the Association a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Association from the Credit Account under the respective Eligible Categories, and in the respective

equivalent amounts, as shall have been justified by said documents and other evidence.

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

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

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) once the total unwithdrawn amount of the Credit allocated to the Eligible Categories, less 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 equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the Eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

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

(d) Refunds to the withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

[Redacted]