Financing Agreement

(Second Additional Financing for the Emergency Infrastructure Rehabilitation and Energy Project)

between

REPUBLIC OF TOGO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated October 9, 2013
FINANCING AGREEMENT

Agreement dated October 9, 2013, entered into the between Republic of Togo ("Recipient") and the INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement). 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, in the Appendix to this Agreement, or in the Appendix to the Original Financing 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 nine million four hundred thousand Special Drawing Rights (SDR 9,400,000) ("Financing") to assist in financing the project described in Schedule I 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 June 15 and December 15 in each year.

2.05. The Payment Currency is Euro.
ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out the Project through MUH 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 VI — EFFECTIVENESS; TERMINATION

4.01. The Additional Conditions of Effectiveness consist of the following:

(a) The Recipient has adopted the revised Project Implementation Manual referred to in Section D of Schedule 2 to this Agreement.

(b) The Recipient has expanded the mandate of the Delegated Contract Manager in accordance with Section 1.B of Schedule 2 to this Agreement.

4.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

4.03. 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 V — REPRESENTATIVE; ADDRESSES

5.01. The Recipient's Representative is its Minister responsible for finance.

5.02. The Recipient’s Address is:

Ministère de l'Economie et des Finances
Immeuble CASEF
B.P. 387
Lomé
Togo

Facsimile:
228-2221-09-05

5.03. 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 248423 (MCI) 1-202-477-6391
AGREED at Washington, D.C., USA as of the day, month and year first above written.

REPUBLIC OF TOGO

By: [Signature]
Authorized Representative

Name: Adji Otete Ayette
Title: Minister of Economy and Finance

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: [Signature]
Authorized Representative

Name: Madami M-Tall
Title: Country Director for Togo
SCHEDULE 1

Project Description

The objective of the Project is to increase access to infrastructure and urban services in Lomé.

The Project consists of the following parts:

1. Strengthening of the drainage system through, *inter alia*: (i) cleaning of additional six (6) kilometers of canals in Select Areas (ii) rehabilitation and extension of additional four (4) kilometers of unsound drainage structures, including resurfacing the inner walls of drains, and construction of new culverts along major roads in Select Areas, using mostly labor-intensive methods; and (iii) construction of a water retention pond including a gutter for drainage of rainwater from natural depressions in Select Areas.

2. Rehabilitation of additional five (5) kilometers of secondary roads in Select Areas to increase access to isolated areas of Lomé through, *inter alia*, reshaping and reinforcing of base structures, re-gravelling and paving of roads, and rehabilitation of drainage structures.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Incorporation of Provisions of Section I of Schedule 2 to the Original Financing Agreement

Throughout the implementation of the Project, the Recipient shall maintain all the institutional and implementation arrangements, including with respect to financial management, procurement, monitoring and evaluation, established for the Original Project set forth in Section I of Schedule 2 to the Original Financing Agreement, except as specified below, all as further described in the Project Implementation Manual.

B. Delegated Contract Manager

The Recipient shall extend the mandate of the Delegated Contract Manager referred to in the Original Financing Agreement for the purpose of the additional Project activities set forth in Schedule 1 to this Agreement.

C. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

D. Manual

1. The Recipient shall: (a) revise the Project Implementation Manual in form and substance satisfactory to the Association setting forth, *inter alia*, the detailed arrangements and procedures, in consideration of the Financing, including: (i) institutional coordination and day-to-day execution of the Project; (ii) disbursement and financial management; (iii) procurement; (iv) environmental and social safeguards management; and (v) monitoring, evaluation, reporting and communication; and (b) adopt the revised Project Implementation Manual pursuant to Section 4.01(a) of this Agreement (“Project Implementation Manual”).

2. The Recipient shall carry out the Project in accordance with the Project Implementation Manual, and except as the Association shall otherwise agree, the Recipient shall not assign, amend, abrogate, or waive the Project Implementation Manual, or any provision thereof.

3. In the event of any conflict between the provisions of the Project Implementation Manual and those of this Agreement, the provisions of this Agreement shall prevail.
E. Safeguards

1. The Recipient shall implement the Project in accordance with the relevant Safeguards Instruments, and shall, to that end:

(a) if any activity under the Project would require the adoption of any Supplemental Social and Environmental Safeguard Instrument:

(i) prepare: (A) such Supplemental Social and Environmental Safeguard Instrument in accordance with the applicable ESMF or RPF; (B) furnish such Supplemental Social and Environmental Safeguard Instrument to the Association for review and approval; and (C) thereafter adopt such Supplemental Social and Environmental Safeguard Instrument prior to implementation of the activity; and

(ii) thereafter take such measures as shall be necessary or appropriate to ensure full compliance with the requirements of such Supplemental Social and Environmental Safeguard Instrument; and

(b) if any activity under the Project would involve Affected Persons, ensure that no displacement (including restriction of access to legally designated parks and protected areas) shall occur before resettlement measures under a Supplemental Social and Environmental Safeguard Instrument prepared in accordance with the RPF including, in the case of displacement, full payment to Affected Persons of compensation and of other assistance required for relocation, have been taken.

2. Without limitation upon its other reporting obligations under this Agreement, the Recipient shall, for each Supplemental Social and Environmental Safeguard Instrument, regularly collect, compile and furnish to the Association reports in form and substance satisfactory to the Association, on the status of compliance with each Supplemental Social and Environmental Safeguard Instrument, as part of the Project Reports, giving details of:

(a) measures taken in furtherance of such Supplemental Social and Environmental Safeguard Instrument;

(b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of such Supplemental Social and Environmental Safeguard Instrument; and

(c) remedial measures taken or required to be taken to address such conditions.

3. In the event that any provision of the Safeguards Instruments shall conflict with any provision under this Agreement, the provisions of this Agreement shall prevail.
Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. 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 acceptable to the Association. Each Project Report shall cover the period of one (1) calendar semester, and shall be furnished to the Association not later than forty-five (45) days after the end of the period covered by such report.

2. The Recipient shall prepare the Completion Report in accordance with the provisions of Section 4.08 of the General Conditions. The Completion Report shall be furnished to the association not later than six (6) months after the Closing Date.

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. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

4. Not later than six (6) months after the Effective Date, the Recipient shall amend the terms of references of the independent auditors referred to in Section II.B.4 of Schedule 2 to the Original Financing Agreement, in form and substance satisfactory to the Association.

Section III. Procurement

A. General

1. Goods, Works and Non-consulting Services. All goods, works and non-consulting 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 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 Sections II and III of the Procurement Guidelines, or Sections II, III, IV and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works and Non-consulting Services

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, Goods, works and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding:

2. Other Methods of Procurement of Goods, Works and Non-consulting Services. The following methods, other than International Competitive Bidding, may be used for procurement of goods, works and non-consulting services for those contracts specified in the Procurement Plan:

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) National Competitive Bidding, subject to the additional procedures set forth in paragraph 3 below</td>
</tr>
<tr>
<td>(b) Shopping</td>
</tr>
<tr>
<td>(c) Direct Contracting</td>
</tr>
</tbody>
</table>

3. Requirements for National Competitive Bidding. The procedures to be followed for National Competitive Bidding shall be those set forth in the Recipient’s public procurement law No. 2009-013 dated June 30, 2009, as revised from time to time in a manner deemed acceptable to the Association, subject, however, to the modifications described in the following paragraphs required for compliance with the Procurement Guidelines:

(a) No restriction based on nationality of bidders and/or origin of goods shall apply. Foreign bidders shall be allowed to participate in National Competitive Bidding without restriction and shall not be subject to any unjustified requirement which will affect their ability to participate in the bidding process such as, but not limited to, the proof that they are not under bankruptcy proceedings in the Recipient’s territory; have a local representative; form a joint venture with a local firm. Recipient’s government-owned enterprises or institutions shall be eligible to participate in the bidding process only if they can establish that they are legally and financially autonomous, operate under commercial law, and are not dependent agencies of the Recipient;
(b) Invitation to bids shall be advertised in a national newspaper of wide circulation;

(c) Standard bidding documents acceptable to the Association shall be used for any procurement process under National Competitive Bidding;

(d) No domestic preference shall be given for domestic bidders and/or for domestically manufactured goods;

(e) Bidders shall be given at least four (4) weeks from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, to prepare and submit bids;

(f) Bids shall be opened in public, immediately after the deadline for their submission in accordance with the procedures stated in the bidding documents;

(g) Qualification criteria shall be clearly specified in the bidding documents, and all criteria so specified, and only such criteria so specified shall be used to determine whether a bidder is qualified: (i) a contract shall be awarded to the qualified bidder offering the lowest-evaluated and substantially responsive bid; and (ii) bidders shall not be eliminated on the basis of minor, non-substantial deviations;

(h) In accordance with paragraph 1.16(e) of the Procurement Guidelines, each bidding document and contract financed from the proceeds of the Financing shall provide that: (i) the bidders, suppliers, and contractors and their subcontractors, agents, personnel, consultants, service providers or suppliers, shall permit the Association, at its request, to inspect their accounts, records and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Association; and (ii) the deliberate and material violation by the bidder, supplier, contractor or subcontractor of such provision may amount to obstructive practice as defined in paragraph 1.16(a)(v) of the Procurement Guidelines; and

(i) Each bidding document and contract financed from the proceeds of the Financing shall include provisions on matters pertaining to fraud and corruption as defined in paragraph 1.16(a) of the Procurement Guidelines. The Association may sanction a firm or individual, at any time, in accordance with prevailing Association sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded an Association-financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier or service provider of an otherwise eligible firm being awarded an Association-financed contract.
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 methods, other than Quality and Cost-based Selection, may be used for procurement of consultants’ services for those contracts which are specified in the Procurement Plan:

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Least Cost Selection</td>
</tr>
<tr>
<td>(b) Selection based on Consultants’ Qualifications</td>
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<tr>
<td>(c) Single Source Selection</td>
</tr>
<tr>
<td>(d) Selection of Individual Consultants set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines</td>
</tr>
</tbody>
</table>

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review. 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), 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:
### Percentage of Amount of the Grant Expenditures to be Allocated (expressed in SDR) (inclusive of Taxes)

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Grant Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods, works, non-consulting services, consultants' services, Training and Operating Costs for the Project</td>
<td>9,400,000</td>
<td>100%</td>
</tr>
<tr>
<td><strong>TOTAL AMOUNT</strong></td>
<td><strong>9,400,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

**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 31, 2015.

**Section V. Other Undertakings**

**A.** Not later than January 15 of each calendar year, the Recipient shall: (1) recruit an independent technical auditor in accordance with the provisions of Section III of this Schedule, with qualifications, experience and terms of reference acceptable to the Association, to carry out, throughout the implementation of the Project, an annual technical audit of the Project activities, implemented for the preceding year; and (2) thereafter submit, no later than April 30 of the same calendar year, the audits report prepared by said consultant, in form and substance acceptable to the Association.

**B.** The Recipient shall ensure that the Financing shall be used exclusively for the financing of activities detailed in Schedule 1 of this Agreement and no portion of the Financing shall be used for any applicable expenditure under the Project if such expenditure was reimbursed by the Original Financing or the First Additional Financing.
APPENDIX

Definitions

1. “Affected Person” means a person who as a result of: (i) the involuntary taking of land under the Project is affected in any of the following ways: (A) relocation or loss of shelter; (B) loss of assets or access to assets; or (C) loss of income sources or means of livelihood, whether or not the affected person must move to another location; or (ii) the involuntary restriction of access to legally designated parks and protected areas suffers adverse impacts on his or her livelihood; and “Affected Person” means any of the Affected Persons.


3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.


5. “Environmental and Social Management Framework” and “ESMF” mean the framework disclosed in the Recipient’s territory on August 13, 2009 and at the Association’s Infoshop on August 23, 2009 in form and substance satisfactory to the Association, outlining environmental and social implementation procedures, mitigation measures and monitoring procedures for the Project, as said framework may be amended from time to time with the Association’s prior written approval.

6. “Environmental and Social Management Plan” and “ESMP” mean a plan, approved by the Association for the Project, to be prepared by the Recipient, if as required by the ESMF, proposing appropriate mitigation, monitoring and institutional measures designed to mitigate potential adverse environmental and resettlement impacts, offset them, reduce them to acceptable levels or enhance positive impacts, as the same may be amended from time to time with the agreement of the Association.

7. “First Additional Financing” means the additional financing provided under the First Additional Financing Agreement.


10. “MUH” means the Recipient’s ministry responsible for urban development and housing, and any successor thereto.

11. “Original Financing” means the financing provided under the Original Financing Agreement.

12. “Original Financing Agreement” means the financing agreement between the Recipient and the International Development Association for the Emergency Infrastructure Rehabilitation and Energy Project, dated June 29, 2009 (Grant number H489-TG).

13. “Original Project” means the Project described in the Original Financing Agreement.


15. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated March 4, 2013 and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

16. “Resettlement Action Plan” and “RAP” mean the plans approved by the Association for the Project, prepared by the Recipient on the basis of the RPF (as hereinafter defined) as the said document may be amended and/or supplemented from time to time with the prior written concurrence of the Association and subject to the initial consultation and disclosure requirements carried out on the RAP.

17. “Resettlement Policy Framework” and “RPF” mean the document disclosed for the purposes of the Project, in the Recipient’s territory on August 13, 2009, and at the Association’s Infoshop on August 23, 2009, outlining the policies and procedures to be implemented in the event that specific activities implemented under the Project have potentially negative impacts on the livelihoods, assets and land of the affected population, as the said framework may be amended and/or supplemented from time to time with the prior written consent of the Association, and such term includes any schedules to such document.

18. “Safeguards Instruments” means the ESMF and the RPF and any Supplemental Social and Environmental Safeguard Instruments.

19. “Select Areas” means the areas in the Recipient’s city of Lome, identified for additional activities under this Financing, including Aflao Gakli, Totsi, Agbalépédogan, Tokoin, Békpotà and Anfamé.

20. “Supplemental Social and Environmental Safeguard Instruments” mean any EMP, RAP or other supplemental social and environmental safeguard instruments as required under the terms of any of the ESMF or RPF.