Development Credit Agreement

Water Sector Improvement Project

between

KINGDOM OF LESOTHO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated December 7, 2004
DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated December 7, 2004, between THE KINGDOM OF LESOTHO (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter, dated April 15, 2004, from the Borrower describing a program of actions, objectives and policies designed to strengthen the Borrower’s water sector (the Program) and declaring the Borrower’s commitment to the execution of the Program;

(B) the Borrower, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), has requested the Association to assist in the financing of the Program through a series of credits over a period of approximately 8 years to be utilized by the Borrower in the implementation of the Program;

(C) Parts B and C of the Project will be carried out by Water and Sewerage Authority (WASA) with the Borrower’s assistance and, as part of such assistance, the Borrower will make available to WASA part of 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 Agreement of even date herewith between the Association and WASA (the Project Agreement);

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 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) Paragraph (c) of Section 9.06 of the General Conditions is modified to read as follows:
"(c) Not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, the Borrower shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution and initial operation of the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and the Association of their respective obligations under the Development Credit Agreement and the accomplishment of the purposes of the Credit.”

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) “COW” means the Commissioner of Water established within MNR (hereinafter defined) to coordinate water sector policies and activities;

(b) “EMP” means the Environmental Management Plan adopted by the Borrower and referred to in paragraph 1 of Schedule 4 to this Agreement and in Section 3.04 of the Project Agreement;

(c) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(d) “Lowlands areas” means the geographic area comprised within the basin of the Mohokare River;

(e) “MNR” means the Borrower’s Ministry of Natural Resources;

(f) “MWTP” means the Madalika Water Treatment Plant referred to in Schedule 2 to this Agreement;

(g) “PPSU” means the Policy, Planning and Strategy Unit established within MNR;

(h) “Performance Agreement” means the agreement to be entered into between the Borrower and WASA pursuant to Section 3.08 (a) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Performance Agreement;

(i) “Performance Audit” means the annual technical and financial management audit referred to in Section 6.2 of the Performance Agreement and in Section 3.08 of this Agreement;
(j) “PFLAC” means the Policy Framework for Land Acquisition and Compensation adopted by WASA and referred to in paragraph 1 of Schedule 4 to this Agreement and in Section 3.04 of the Project Agreement;

(k) “Procurement Plan” means the Borrower’s procurement plan, dated April 30, 2004 covering the initial 18 months-period (or longer) of Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 of this Agreement, to cover succeeding 18 months-period (or longer) of Project implementation;

(l) “Project Account” means the account referred to in Section 3.06 (a) of this Agreement;

(m) “Project Agreement” means the agreement between the Association and WASA 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;

(n) “PIM” means the Project Implementation Manual adopted by the Borrower pursuant to Section 7.01 (a) of this Agreement containing, inter alia, work plans, training plans and procedures to be used for the purpose of implementation of the Project, and such term includes any schedules to the PIM;

(o) “Project Preparation Advance” means the project preparation advance granted by the Association to the Borrower pursuant to the letter agreement signed on behalf of the Association on July 9, 2001 and on behalf of the Borrower on September 25, 2001;

(p) “Special Accounts” means the account, referred to in Section 2.02 (b) of this Agreement;

(q) “Subsidiary Loan Agreement” means the agreement to be entered into between the Borrower and WASA pursuant to Section 3.03 (a) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Loan Agreement; and

(r) “WASA” means the Water and Sewerage Authority established and operating under the Borrower’s Water and Sewerage Authority Order Number 29 of 1991, as amended to the date of 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 nine million six hundred thousand Special Drawing Rights (SDR 9,600,000).

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 may, for the purposes of Part A, and for purposes of Parts B and C of the Project, open and maintain in dollars separate special deposit accounts in its central bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of each respective Account shall be made in accordance with the provisions of Schedule 5 of this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be June 30, 2008 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 canceled; 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 currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.
Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on October 15 and April 15 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each October 15 and April 15 commencing April 15, 2015 and ending October 15, 2044. Each installment to and including the installment payable on October 15, 2024, 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 per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; 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 repayment of installments under paragraph (a) above by:

(A) 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; and

(B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above 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.

(d) 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. The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end:

(a) shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, and environmental practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project; and

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

Section 3.02. (a) 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 3 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Borrower shall update the Procurement Plan in accordance with terms of reference acceptable to the Association, and furnish such update to the Association not later than 18 months after the date of the preceding Procurement Plan, for the Association’s approval.

Section 3.03. (a) For the purposes of Part B and C of the Project, the Borrower shall relend the proceeds of the Credit allocated from time to time to Category 1 (a) of the table in paragraph 1 of Schedule 1 to this Agreement to WASA under a Subsidiary Loan Agreement to be entered into between the Borrower and WASA (the Subsidiary Loan Agreement) under terms and conditions which shall have been approved by the Association, and which shall include that the proceeds of the Credit be on lent in the currency of the Borrower with a repayment period of 25 years including a grace period of 7 years and an interest rate of 2% per annum.
(b) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and, except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Loan Agreement or any provision thereof.

Section 3.04. For the purposes of Section 9.05 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, jointly with WASA, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and WASA and the Association, a plan for the future operation of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower and WASA on the said plan.

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 B and C of the Project shall be carried out by WASA pursuant to Section 2.03 of the Project Agreement.

Section 3.06. Without limitation to its obligations under Section 3.01 of this Agreement, the Borrower shall:

(a) (i) open and maintain an account (the MNR Project Account) in Maloti in a commercial bank on terms and conditions satisfactory to the Association, and (ii) cause WASA to open and maintain an account (the WASA Project Account);

(b) make initial deposits (i) of $100,000 equivalent into the MNR Project Account and (ii) $150,000 equivalent into the WASA Project Account;

(c) thereafter, on the first day of each calendar semester, deposit into the MNR Project Account and into the WASA Project Account amounts of $100,000 and $150,000 equivalent respectively; and

(d) use the funds deposited in the MNR Project Account and cause WASA to use the funds deposited into the WASA Project Account exclusively to finance expenditures under the Project.

Section 3.07. The Borrower shall, from time to time, upon recommendations made by WASA, take promptly any measures required on its part to ensure that water tariffs are set at levels sufficient to cover WASA’s full operating expenses, depreciation and cost of capital.
Section 3.08. The Borrower shall: (a) (i) enter into a Performance Agreement with WASA under terms and conditions acceptable to the Association; and (ii) discharge all of its obligations under the Performance Agreement with due diligence and in accordance with all time-tables and performance targets set forth therein; (b) carry out jointly with WASA the Performance Audit; (c) furnish to the Association the Performance Audit report not later than six months following the completion of its annual implementation period for review and comments by the Association; and (d) promptly thereafter implement, or cause WASA to implement the recommendations resulting from the Performance Audit as agreed upon with the Association.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part A of the Project of the departments or agencies of the Borrower responsible for carrying out Part A of the Project or any part thereof.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; 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.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

(i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;

(ii) retain, 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, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Association’s representatives to examine such records; and

(iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains 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.

Section 4.02. (a) Without limitation upon the Borrower’s progress reporting obligations set out in Section 4.01 of this Agreement, the Borrower shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which:

(i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the actual and planned uses of such funds;

(ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and

(iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Other Covenants

Section 5.01. The Borrower shall cause WASA:
(a) to take out and maintain with responsible insurers, or to make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice;

(b) to carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental, engineering and water supply practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers; and

(c) at all times to operate and to maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, to make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial, environmental and water supply practices.

ARTICLE VI

Remedies of the Association

Section 6.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

(a) a situation shall have arisen which shall make it improbable that the Program or a significant part thereof will be carried out;

(b) WASA shall have failed to perform any of its obligations under the Project Agreement;

(c) 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 WASA will be able to perform its obligations under the Project Agreement;

(d) Order No. 29 of 1991 of the Borrower shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of WASA to perform any of its obligations under the Project Agreement; and

(e) the Subsidiary Loan Agreement shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of WASA to perform any of its obligations under the Project Agreement.

Section 6.02. Pursuant to Section 7.01(h) of the General Conditions, the following additional event is specified, namely that the event specified in paragraph (d) of Section 6.01 of this Agreement shall occur and shall continue for a period of 90 days after notice thereof shall have been given by the Association to the Borrower.

ARTICLE VII
Effective Date; Termination

Section 7.01. 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 Borrower has adopted the PIM, in form and substance acceptable to the Association;

(b) the Borrower has concluded with WASA an agreement satisfactory to the Association pursuant to which WASA is released from the obligation of servicing outstanding debt related to capital investments made for water supply operations prior to the year 1992;

(c) a procurement adviser with qualifications and experience acceptable to the Association, has been recruited in accordance with the provisions of Section III of Schedule 3 to this Agreement;

(d) WASA has delivered initial FMR satisfactory to the Association;

(e) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and WASA; and

(f) the initial deposits in the amounts of $100,000 and $150,000 referred to in Section 3.06 of this Agreement have been made into the MNR Project Account and the WASA Project Account respectively.

Section 7.02. 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 WASA, and is legally binding upon WASA in accordance with its terms; and

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

Section 7.03. 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.

ARTICLE VIII

Representative of the Borrower; Addresses
Section 8.01. The Minister responsible for Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Development Planning
P.O. Box 395
Maseru, 100
Lesotho

Cable address: FINMIN
Facsimile: 266 22 310 157

For the Association:

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

Cable address: INDEVAS
Telex: 248423 (MCI) or 64145 (MCI)
Facsimile: (202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Maseru, the Kingdom of Lesotho, as of the day and year first above written.

KINGDOM OF LESOTHO
By /s/ Timothy Thahane
Authorised Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ritva Reinikka
Authorised Representative
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:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (Expressed in SDR Equivalent)</th>
<th>% of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Civil works</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) For Part B</td>
<td>3,470,000</td>
<td>100% of foreign expenditures</td>
</tr>
<tr>
<td>(b) For Part C</td>
<td>1,090,000</td>
<td>and 90% of local expenditures</td>
</tr>
<tr>
<td>(2) Consultants’ services,</td>
<td></td>
<td>90%</td>
</tr>
<tr>
<td>(a) For Part A</td>
<td>1,300,000</td>
<td></td>
</tr>
<tr>
<td>(b) For Parts B and C</td>
<td>1,090,000</td>
<td></td>
</tr>
<tr>
<td>(3) Goods</td>
<td></td>
<td>100% of foreign expenditures</td>
</tr>
<tr>
<td>(a) For Part A</td>
<td>180,000</td>
<td>and 90% of local expenditures</td>
</tr>
<tr>
<td>(b) For Parts B and C</td>
<td>550,000</td>
<td></td>
</tr>
<tr>
<td>(4) Training</td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>(a) For Part A</td>
<td>210,000</td>
<td></td>
</tr>
<tr>
<td>(b) For Parts B and C</td>
<td>170,000</td>
<td></td>
</tr>
<tr>
<td>(5) Refunding of Project Preparation Advance</td>
<td>410,000</td>
<td>Amount due pursuant to Section 2.02 (c) of this Agreement</td>
</tr>
<tr>
<td>(6) Unallocated</td>
<td>1,130,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>9,600,000</td>
<td></td>
</tr>
</tbody>
</table>
2. For the purposes of this Schedule, the term:

(a) “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;

(b) “local expenditures” means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower; and

(c) “training” means expenditure incurred on scholarships, purchase of training materials, rental of training facilities, health insurance for travel abroad, per diem and travel costs related to the Project.

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 960,000, may be made in respect of Categories 1 (a) and 2 (b) on account of payments made for expenditures before that date but after March 30, 2004.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods costing less than $150,000 equivalent per contract; (b) works costing less than $200,000 equivalent per contract; (c) for services of individual consultants costing less than $50,000 equivalent per contract; and (d) for services of consulting firms under contracts costing less than $100,000 equivalent per contract, and (e) training, all under such terms and conditions as the Association shall specify by notice to the Borrower.
SCHEDULE 2

Description of the Project

The objective of the Project is to secure the supply of adequate clean water and sanitation services to the population of the Borrower living in the Lowlands areas.

The Project, which constitutes the first phase of the Water Sector Improvement 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: Strengthening Capacity for Policy Formulation and Implementation in MNR

1. Enhancing the skills of MNR’s staff to formulate adequate policy for the water sector and to supervise implementation of the said policy.

2. Carrying out a series of studies aimed at establishing policies required to improve the performance of the Borrower’s water sector, including the following: (i) formulation of an adequate communication strategy aimed at reaching out to water users to provide them with relevant information in an effective manner; (ii) upgrading the legal and regulatory framework governing water sector operations; (iii) formulation of an adequate water tariffs structure and an appropriate tariffs setting mechanism; and (iv) preparation of a water resources management plan.

3. Carrying out training activities, including workshops and seminars aimed at enhancing technical expertise within MNR and WASA.

4. Acquisition of equipment, computers, and related software, materials and supplies.

Part B: Water Supply Works and Operations

Improvement of WASA’s production and distribution capacity for water supply in the Lowlands areas through:

1. construction of a new water intake scheme (comprising the intake structure, desilting pumps and a power supply unit) on the Mohokare River so as to increase the water abstraction rate to about 2 m3 per second;

2. construction of an additional water treatment plant capable of discharging 20 mega liters per day (in Maseru);

3. construction of an additional pumping station and an additional pipeline to deliver water from MWTP to the Low and Medium North Reservoirs in Maseru;
4. construction of new water facilities including a small pump station, a reservoir and a pipeline as needed to supply water to Mazenod and to the Moshoesho I International Airport area; and

5. acquisition of required technical advisory services, equipment, computers and related software, materials and supplies.

Part C: Maseru Community Water and Sanitation Program

1. Formulation and implementation of pilot schemes designed to facilitate access to clean water by underserved populations in selected villages.

2. Monitoring and evaluation of results achieved under the pilot schemes referred to under paragraph 1 above.

* * *

The Project is expected to be completed by December 31, 2007.
SCHEDULE 3

Procurement

Section I. General

A. All goods, works and services (other than consultants’ services) shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule. If the Borrower employs any procurement or inspection agents, it shall ensure that the requirements of Section 3.10 and 3.11 of the Procurement Guidelines are met.

B. All consultants’ services shall be procured in accordance with Section I, paragraphs 3.15 through 3.20, and Section IV of, and Appendix 2 to, the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants’ Services)

A. International Competitive Bidding. Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of international competitive bidding in accordance with the provisions of Section II and paragraphs 3.14 and 3.15 of the Procurement Guidelines, and the following additional procedures:

1. Domestic Preference. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines and Appendix 2 thereto, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

B. Other Procurement Procedures

1. Limited International Bidding. Goods which the Association agrees can only be purchased from a limited number of suppliers, regardless of the cost thereof, may be procured under contracts awarded on the basis of limited international bidding in accordance with the provisions of paragraphs 3.1 and 3.2 of the Procurement Guidelines.

2. National Competitive Bidding. Goods estimated to cost less than $200,000 equivalent per contract and works estimated to cost less than $500,000 equivalent per contract, may be procured under contracts awarded on the basis of national competitive bidding in accordance with the provisions of paragraphs 3.1, 3.3, 3.4, 3.14 and 3.15 of the Procurement Guidelines.
3. **Shopping.** Goods estimated to cost less than $30,000 equivalent per contract and works estimated to cost less than $50,000 equivalent per contract, may be procured under contracts awarded on the basis of shopping procedures in accordance with the provisions of paragraphs 3.1 and 3.5 of the Guidelines.

4. **Direct Contracting.** Goods and works which meet the requirements for direct contracting referred to in paragraphs 3.1, 3.6 and 3.7 of the Procurement Guidelines may, with the Bank’s prior agreement, be procured in accordance with the provisions of said paragraphs.

**Section III. Particular Methods of Procurement of Consultants’ Services**

A. **Quality- and Cost-based Selection.** Except as otherwise provided in Part B of this Section, consultants’ services shall be procured under contracts awarded on the basis of quality and cost in accordance with the provisions of Section II of the Consultant Guidelines and the following provision: for purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than $100,000 equivalent per contract may comprise entirely national consultants.

B: **Other Procedures**

1. **Quality-based Selection.** Services for assignments, which meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines, may be procured under contracts awarded on the basis of quality in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. **Selection Under a Fixed Budget.** Services for assignments, which meet the requirements set forth in paragraph 3.1 and 3.5 of the Consultant Guidelines, may be procured under contracts awarded on the basis of a fixed budget in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

3. **Least-cost Selection.** Services for assignments, which meet the requirements set forth in paragraph 3.1 and 3.6 of the Consultant Guidelines, may be procured under contracts awarded on the basis of lowest cost in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

4. **Selection Based on Consultants’ Qualifications.** Services estimated to cost less than $100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

5. **Single Source Selection.** Services for tasks in circumstances, which meet the requirements of paragraph 3.10 of the Consultant Guidelines for single source selection, may, with the Association’s prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.
6. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis in accordance with the provisions of said paragraph 5.4, subject to prior approval of the Association.

Section IV. Review by the Association of Procurement Decisions

A. Prior Review

Except as the Association shall otherwise determine by notice to the Borrower, the following prior review procedures shall apply:

1. Goods, Works and Services (other than Consultants’ Services).

   (a) The prior review procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Procurement Guidelines shall apply to: the first three contracts procured under the Project for each contract for goods, and services (other than consultants’ services) estimated to cost $150,000 and for works estimated to cost the equivalent of $200,000 or more procured on the basis of international competitive bidding, limited international bidding or national competitive bidding.

   (b) The following prior review procedures shall apply to each contract to be procured on the basis of direct contracting: (i) prior to the execution of the contract, the Borrower shall provide to the Association a copy of the specifications and the draft contract for its approval; (ii) the contract shall be awarded only after the Association’s approval shall have been given; and (iii) the procedures set forth in paragraphs 2(h) and 3 of Appendix 1 to the Guidelines shall apply.

2. Consultants’ Services Provided by Firms.

   (a) The prior review procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply to each contract for consultants’ services provided by a firm estimated to cost the equivalent of $100,000 or more.

   (b) The following prior review procedures shall apply to each contract for consultants’ services provided by a firm to be procured on the basis of single source selection: (i) the qualifications, experience, terms of reference and conditions of employment of the consultants shall be furnished to the Association for its prior review and approval; (ii) the contract shall be awarded only after the Association’s approval shall have been given; and (iii) the provisions of paragraphs 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply to the contract.
3. **Consultants’ Services Provided by Individual Consultants.**

   (a) The following prior review procedures shall apply to each contract for the employment of individual consultants (other than consultants to be selected on a sole source basis) estimated to cost the equivalent of $50,000 or more: (i) the report on the comparison of the qualifications and experience of candidates, terms of reference and conditions of employment of the consultant shall be furnished to the Association for its prior review and approval; (ii) the contract shall be awarded only after the Association’s approval shall have been given; and (iii) the provisions of paragraph 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply to the contract.

   (b) The following prior review procedures shall apply to each contract for the employment of individual consultants to be selected on a sole source basis: (i) the qualifications, experience, terms of reference and conditions of employment of the consultants shall be furnished to the Association for its prior review and approval; (ii) the contract shall be awarded only after the Association’s approval shall have been given; and (iii) the provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall apply to the contract.

B. **Post Review**

1. With respect to each contract for goods, works or services (other than consultants’ services) not governed by Part A of this Section, the post review procedures set forth in paragraph 5 of Appendix 1 to the Procurement Guidelines shall apply.

2. With respect to each contract for consultants’ services not governed by Part A of this Section, the post review procedures set forth in paragraph 5 of Appendix 1 to the Consultant Guidelines shall apply.
SCHEDULE 4

Implementation Program

I. General Provisions

1. The Borrower shall carry out the Project in accordance with the provisions of this Schedule 4 and procedures, guidelines, timetables and criteria set forth in the PIM, the Administrative, Financial and Accounting Manual, the EMP, and the PFLAC and, except as the Association shall otherwise agree, the Borrower shall not amend, or waive any provision thereof if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the implementation of the Project.

2. By September 30, 2004, the Borrower shall adopt a mechanism satisfactory to the Association aimed at securing the release of waters from the Lesotho Highlands dams into the Mohokare River so as to ensure adequate supply of water to the Lowlands areas as dictated by prevailing meteorological circumstances.

II: Supervision, Coordination and Advisory

3. The Borrower shall maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in Schedule 5 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof.

4. The Borrower shall recruit and maintain through the duration of the Project, a Water Sector Advisor with qualifications and experience satisfactory to the Association.

III: MNR Responsibilities

5. The Borrower shall establish and thereafter maintain at all times during the implementation of the Project, a Project Management Unit (PMU) which shall have primary responsibility for implementation of Part A of the Project; the PMU shall be endowed with staff in adequate numbers whose qualifications and experience shall be at all times satisfactory to the Association.

6. The Borrower shall report quarterly to the Association on progress of the annual work program for the Project, in particular: (i) the preparation of consolidated annual work programs and budgets for the Project; (ii) the preparation of FMRs in accordance with Section 4 of this Agreement; and (iii) the preparation of reports on the status of Project implementation.
IV: WASA Responsibilities

7. The Borrower shall cause WASA to establish and thereafter maintain at all times during the implementation of the Project, a WASA Project Management Unit (WPMU), with primary responsibility for carrying out the day-to-day activities for Parts B and C of the Project, including reporting on a quarterly basis to the Borrower on progress achieved in carrying out Parts B and C of the Project.

V. Mid-term Review

8. The Borrower shall: (a) no later than two years after Effectiveness Date or such other date as the Borrower and the Association shall agree upon, carry out jointly with WASA and the Association, a midterm review (Midterm Review). The Midterm Review shall cover, among other things, an assessment of: (i) work programs prepared as of the date of the Midterm Review and the progress made in carrying out the said programs; (ii) training provided under the Project; (iii) procurement under the Project; (iv) the extent to which actions described in the agreed indicators have been carried out; and (v) plans made or proposed for updating said indicators.

(b) No later than one month prior to the Midterm Review, the Borrower and WASA shall furnish to the Association, for its review and comments, a report, in such detail, as the Association shall reasonably request, on the implementation of the Project in preparation of said Midterm Review.

(c) Following such Midterm Review, the Borrower and WASA shall act promptly and diligently in order to take any corrective action deemed necessary by the Association to remedy any shortcomings noted in the implementation of the Project, or to implement such other measures as may have been agreed upon between the Borrower, WASA and the Association.
SCHEDULE 5

Special Accounts

1. For the purposes of this Schedule:

   (a) the term “eligible Categories” means Categories 2 (a), 3 (a) and 4 (a) set forth in the table in paragraph 1 of Schedule 1 to this Agreement in respect of Part A of the Project and Categories 1, 2 (b), 3 (b) and 4 (b) set forth in the said table in respect of Parts B and C of the Project.

   (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 $200,000 in respect of the Special Account for Part A of the Project and an amount equivalent to $800,000 in respect of the Special Account for Parts B and C thereof, to be withdrawn from the Credit Account and deposited into the Special Accounts pursuant to paragraph 3(a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to $100,000 in respect of the Special Account for Part A of the Project and an amount equivalent to $400,000 in respect of the Special Account for Parts B and C thereof, until:

   (i) in respect of the Special Account for Part A of the Project, the aggregate amount of withdrawals from the Credit Account allocated to Categories 2 (a), 3 (a) and 4 (a) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part A of the Project shall be equal to or exceed the equivalent of SDR 400,000; and

   (ii) in respect of the Special Account for Parts B and C of the Project, the aggregate amount of withdrawals from the Credit Account allocated to Categories 1, 2 (b), 3 (b) and 4 (b) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Parts B and C of the Project shall be equal to or exceed the equivalent of SDR 1,600,000.

2. Payments out of the respective 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 respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:
(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts, 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 respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective 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 respective 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 respective 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 respective 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 any 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;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b)(ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;
(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account, minus the total amount of all outstanding special commitments 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 respective 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 Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (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 respective 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 any 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 any 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 Accounts.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.
### SCHEDULE 6

**Performance Indicators**

For the purpose of this Agreement, the performance indicators to be used for the Project implementation are as follows:

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Mid-term</th>
<th>End of Phase I</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water and Sanitation Services Act</td>
<td>Draft ready for public consultation</td>
<td>Act passed through Parliament</td>
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<tr>
<td>Water Resources Act</td>
<td>Revision of the Water Resources Act completed</td>
<td>Act passed through Parliament</td>
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<tr>
<td>Number of new connections</td>
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<td>3200</td>
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<tr>
<td>No. of customers with less than 18 hour supply</td>
<td>84,000</td>
<td>76,000</td>
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<td>Unaccounted for water reduction -percentage</td>
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<td>Percentage of biological samples failing</td>
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<tr>
<td>Percentage of effluent samples failing</td>
<td>5.5</td>
<td>3.0</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>Cash Collection - percentage</td>
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<tr>
<td>Debts covered - percentage</td>
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