

LOAN CONTRACT No. 2624/OC-BH

between the

WATER AND SEWERAGE CORPORATION

and the

INTER-AMERICAN DEVELOPMENT BANK

WSC Support Program - New Providence Water Supply and Sanitation Systems Upgrade

December 16, 2011

LOAN CONTRACT

SPECIAL CONDITIONS

INTRODUCTION

Parties, Objective, Constituent Elements, Executing Agency and Guarantee

1. PARTIES AND OBJECTIVE OF THE CONTRACT

CONTRACT entered into on December 16, 2011 between the WATER AND SEWERAGE CORPORATION (WSC) of THE COMMONWEALTH OF THE BAHAMAS (hereinafter referred to as the “Borrower”) and the INTER-AMERICAN DEVELOPMENT BANK (hereinafter referred to as the “Bank”) to cooperate in the execution of the WSC Support Program - New Providence Water Supply and Sanitation Systems Upgrade (hereinafter referred to as the “Program”).

The major aspects of the Program are described in detail in the Annex (hereinafter referred to as the “Annex”).

2. CONSTITUENT ELEMENTS OF THE CONTRACT AND REFERENCE TO THE GENERAL CONDITIONS

(a) This Contract consists of these Special Conditions, the General Conditions, and the Annex, which is attached hereto. If any provision of the Special Conditions, the Annex, or the Guarantee Contract should present any inconsistency or contradiction with the General Conditions, the provisions of the Special Conditions, the Annex, or the Guarantee Contract, as the case may be, shall prevail. In the case of inconsistencies or contradictions between the Special Conditions or the Annex or the Guarantee Contract, specific provisions shall prevail over general provisions.

(b) Procedural provisions relating to amortization, interest, credit fee, inspection and supervision and disbursement clauses, as well as other conditions related to Program execution, are established in detail in the General Conditions. The General Conditions also include general definitions.

3. EXECUTING AGENCY

The parties agree that the execution of the Program and the utilization of the resources of the financing granted by the Bank shall be carried out by the Borrower, which for the purposes of this Contract shall be referred to, without distinction, as either “WSC”, the “Borrower” or the “Executing Agency”.

4. **GUARANTEE**

This Contract is subject to the condition that THE COMMONWEALTH OF THE BAHAMAS, hereinafter referred to as the “Guarantor”, unconditionally and to the complete satisfaction of the Bank, provide a joint and several guarantee of the obligations contracted by the Borrower and assume those corresponding to it in accordance with the Guarantee Contract.

CHAPTER I

Costs, Financing and Additional Resources

SECTION 1.01 **Cost of the Program.** The total cost of the Program is estimated to be the equivalent of eighty-one million dollars of the United States of America (US\$81,000,000). Unless otherwise stated in this Contract, the term “dollars” hereinafter signifies the currency of legal tender in the United States of America.

SECTION 1.02 **Amount of the Financing.** In accordance with this Contract, the Bank agrees to grant to the Borrower, and the Borrower accepts, a financing, hereinafter a “Financing,” chargeable to the resources of the Single Currency Facility of the ordinary capital of the Bank, of up to the amount of eighty-one million dollars (US\$81,000,000), that form part of such resources. The amounts disbursed from the Financing shall constitute the “Loan.” The Loan shall be a Single Currency Facility Loan with a LIBOR-Based Interest Rate.

SECTION 1.03 **Currency Availability.** Notwithstanding Sections 1.02 and 3.01(a), if the Bank is unable to obtain access to the agreed upon Single Currency, the Bank may disburse in any other Single Currency of its choice, until such time as it is able to regain access to the agreed-upon Single Currency. Amortization payments shall be made in the Single Currency disbursed, and interest and other financial charges shall be those which correspond to such Single Currency.

CHAPTER II

Amortization, Interest, Inspection and Supervision and Credit Fee

SECTION 2.01 **Amortization.** The Loan shall be completely repaid by the Borrower by means of semiannual, consecutive, and, insofar as possible, equal installments. The first installment shall be paid five (5) years and six (6) months from the date of signature of this Contract, taking into account the provisions of Article 3.01 of the General Conditions, and the last installment shall be paid no later than twenty-five (25) years from the same date.

SECTION 2.02 **Interest.** (a) The Borrower shall pay interest on the daily outstanding balances of the Loan at a rate determined pursuant to the provisions of Article 3.04 of the General Conditions for a Single Currency Facility Loan with a LIBOR-Based Interest Rate. The

Bank shall notify the Borrower of the rate of interest applicable during each Quarter as soon as practicable after the determination thereof.

(b) Interest shall be payable to the Bank semiannually, beginning six months after the date of signature of this Loan Contract, taking into account the provisions of Article 3.01 of the General Conditions.

(c) Resources of the Financing shall be used to pay interest during the period of disbursement thereof, without the necessity of a request from the Borrower and on the dates established in the previous paragraph.

(d) The Borrower, with the consent of the Guarantor, may request that all or part of the outstanding balance of the Loan with a LIBOR-Based Interest Rate be converted to a Fixed Interest Rate, or that all or part of the outstanding balance of the Loan with a Fixed Interest Rate be reconverted to a LIBOR-Based Interest Rate, pursuant to Article 3.04 of the General Conditions of this Contract.

SECTION 2.03 Resources for General Inspection and Supervision. During the disbursement period, resources of the Financing shall not be allocated to cover the Bank's expenses for general inspection and supervision, unless otherwise established by the Bank during said period as a result of its periodic review of financial charges, in accordance with the applicable provisions of the Bank's policy on lending rate methodology in ordinary capital loans, and the Borrower is notified by the Bank in this regard. Under no circumstance shall there be a charge for this purpose in any semester which is greater than the amount which results from applying 1% to the amount of the Financing, divided by the number of semesters included in the original disbursement period.

SECTION 2.04 Credit Fee. The Borrower shall pay the Bank a credit fee at a percentage that will be established by the Bank on a periodic basis as a result of its review of financial charges, in accordance with the applicable provisions of the Bank's policy on lending rate methodology in ordinary capital loans, provided that under no circumstance may it exceed the percentage contemplated in Article. 3.02 of the General Conditions.

CHAPTER III

Disbursements

SECTION 3.01 Currencies of Disbursement and Use of Funds. (a) The amount of the Financing shall be disbursed in dollars from the Single Currency Facility of the ordinary capital resources of the Bank, to pay for goods and services acquired through international competition and for such other purposes as are indicated in this Contract.

(b) The resources of the Financing shall only be used for payments of goods and services originating in the member countries of the Bank.

SECTION 3.02 Special Conditions Precedent to First Disbursement. In addition to the conditions precedent stipulated in Article 4.01 of the General Conditions, the first disbursement of the Financing shall be subject to the fulfillment, to the satisfaction of the Bank, of the following requirements:

(a) The presentation of evidence that the WSC has assigned a Program Manager for the Program, in accordance with terms of reference previously approved by the Bank;

(b) The presentation of evidence that the WSC has assigned the members of its staff that will compose the Program Management Unit (PMU); and

(c) The presentation of evidence that WSC's Board has approved an Operations Manual for the Program, in accordance with terms previously agreed with the Bank.

SECTION 3.03 Condition Prior to Disbursement for Component 4. In addition to the conditions precedent stipulated in Article 4.01 of the General Conditions and in Section 3.02 of these Special Conditions, the first disbursement of the financing for Component 4 of the Program shall be subject to the presentation of evidence that the Guarantor has established a committee with representatives from WSC, the Ministry of Finance (MOF), the Utilities Regulation and Competition Authority (URCA), the Attorney General's Office, and the Ministry responsible for the Environment (MRTE).

SECTION 3.04 Reimbursement of Expenditures Chargeable to the Financing. With the consent of the Bank, up to the equivalent of three hundred sixty-three thousand dollars (US\$363,000) of the resources of the Financing may be used to reimburse expenditures incurred in the Program for the preparation of the organizational restructuring strategy of the WSC, referred to in paragraph 2.03 of the Annex. Said expenditures shall have been incurred before November 16, 2011, but after August 3, 2011, provided that requirements substantially similar to those set forth in this Contract have been fulfilled. It is understood that, with the consent of the Bank, the resources of the Financing also may be used to reimburse expenditures incurred or to finance those that may be incurred in the Program on or November 16, 2011 and up to the effective date of this Contract, provided that the requirements set forth above have been substantially fulfilled.

SECTION 3.05 Disbursement Period. The period for final disbursement of the resources of the Financing shall expire five (5) years from the effective date of this Contract.

SECTION 3.06 Exchange Rate. For the purposes of the provisions set forth in Article 3.06(b) of the General Conditions of this Contract, the parties agree that the applicable exchange rate shall be that which is indicated in subsection (b) (ii) of said Article. For this purpose, the exchange rate to be applied will be that in effect on the day on which the Borrower or any natural or juridical person in whom the power to incur expenditures has been vested makes the related payments to the contractor or supplier.

CHAPTER IV

Execution of the Program

SECTION 4.01 Procurement of Good and Works. Goods, works and non-consulting services shall be procured in accordance with the provisions set forth in Document GN-2349-9 (“Policies for the procurement of goods and works financed by the IDB”), dated March 2011 (hereinafter called “the Procurement Policies”) of which the Borrower confirms its knowledge, and with the following provisions of this Section:

(a) International Competitive Bidding: Except as otherwise provided in subsection (b) of this Section, goods, works and non-consulting services shall be procured under contracts awarded in accordance with the provisions of Section II of the Procurement Policies. The provisions of paragraphs 2.55 and 2.56, and of Appendix 2 of said Policies, regarding the domestic margin of preference when comparing bids, shall apply to goods manufactured in the country of the Borrower.

(b) Other Procurement Procedures: The following procurement methods may be used for the procurement of works, goods and non-consulting services that the Bank agrees meets the requirements established in the provisions of Section III of the Procurement Policies:

- (i) National Competitive Bidding: for works with an estimated cost of less than the equivalent of US\$3,000,000 per contract, and for goods and non-consulting services estimated to cost less than the equivalent of US\$150,000 per contract, in accordance with the provisions of paragraphs 3.3 and 3.4 of the Procurement Policies, as long as using said method is not contrary to the basic protections that must be met in bidding procedures, nor contrary to the Procurement Policies; and
- (ii) Shopping, for works estimated to cost less than the equivalent of US\$150,000 per contract, and for goods and non-consulting services estimated to cost less than the equivalent of US\$50,000 per contract, in accordance with the provisions of paragraph 3.5 of the Procurement Policies.

(c) Additional Procurement Conditions

- (i) The Borrower shall carry out the procurement of works, goods and non-consulting services in accordance with the general plans, technical, social and environmental specifications, budgets and other documents required for the acquisition or the construction, and, as the case may be, the specific terms and other documents necessary for the call for prequalification or bids; and in the case of works, shall have with respect to the real property where the works will be constructed, the right of legal possession, easements or other rights necessary to initiate the construction, as well as the riparian rights required for the respective works.

- (ii) Every contract for works, goods, and non-consulting services subject to International Competitive Bidding will be executed through the use of the Standard Bidding Documents (SBD) issued by the Bank. The processes subject to National Competitive Bidding (NCB) will be executed through the use of National Bidding Documents satisfactory to the Bank.
 - (iii) Prior to the award of the Non-Revenue Water contract, referred to in paragraph 2.02 of the Annex, the Borrower shall present evidence that the draft legislation for the establishment of the economic and environmental regulators, referenced in paragraph 2.05 of the Annex, has been submitted to Cabinet.
- (d) Review by the Bank of Procurement Decisions
- (i) Procurement Planning: Prior to the issuance of any invitations to prequalify or to bid for contracts, as the case may be, the Borrower shall present the proposed procurement plan for the Program to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Procurement Policies. This plan shall be updated every twelve (12) months or as needed during Program execution, and each updated version shall be submitted to the Bank for its review and approval. Procurement of all goods and works shall be undertaken in accordance with the procurement plan that has been approved by the Bank, and with the provisions of said paragraph 1.
 - (ii) Prior Review: Unless the Bank agrees otherwise in writing, the following contracts shall be subject to prior review, in accordance with the procedures established in paragraphs 2 and 3 of Appendix 1 to the Procurement Policies:
 - (A) With respect to each contract for works estimated to cost the equivalent of US\$3,000,000 or more, and with respect to each contract for goods estimated to cost the equivalent of US\$1,000,000 or more. The Borrower shall present to the satisfaction of the Bank evidence that it has complied with the requirements set out in subparagraph (c) of this Section.
 - (iii) Ex Post Review. With respect to each contract not governed by subsection (d)(ii) of this Section, the procedures set forth in paragraph 4 of Appendix 1 to the Procurement Policies shall apply. The Borrower shall retain and make available to the Bank, evidence that it has complied with the requirements set out in subparagraph (c) of this Section.
 - (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, at any time during Program execution, the thresholds established for ex ante and

ex post review may vary according to the implementation capacity of the Executing Agency, pursuant to a prior written opinion of the Bank.

SECTION 4.02 Sustainability. The Borrower and the Guarantor shall take appropriate measures acceptable to the Bank to ensure that the rates for the potable water and sewerage services in the particular systems related to the loan produce revenues at least sufficient to cover all operating expenses of the respective systems, including those related to administration, operation, maintenance, and, to the extent possible, depreciation. If the application of the foregoing does not generate sufficient resources to cover the timely service of the loan, the Borrower and the Guarantor shall take the necessary measures, which may include rate increases, to obtain the additional resources to achieve that purpose.

SECTION 4.03 Maintenance of Works and Equipment. The Borrower undertakes to: (a) ensure that the works and equipment included in the Program shall be adequately maintained according to generally accepted technical standards; and (b) present to the Bank an annual maintenance report, during the ten (10) years following the completion of the first of the works of the Program and within the first quarter of each calendar year. If, from the inspections conducted by the Bank or from the reports it receives, it is determined that maintenance does not meet the levels agreed upon, the Borrower shall undertake the necessary measures to correct these shortcomings.

SECTION 4.04 Selection and Contracting of Consultants. The selection and contracting of Consultants shall be carried out in accordance with the provisions of Document GN-2350-9 ("Policies for selection and contracting of consultants financed by the IDB"), dated March 2011 (hereinafter called "the Consultant Policies"), of which the Borrower confirms its knowledge, and with the following provisions of this Section:

(a) Quality- and Cost-Based Selection: Except as otherwise provided in subsection (b) of this Section, consultants' services shall be carried out in accordance with the provisions of Section II of the Consultant Policies, and the provisions of paragraphs 3.16 through 3.20 thereof applicable to quality- and cost-based selection of consultants. For the purposes of the provisions of paragraph 2.7 of the Consultant Policies, the short list of consultant services for services estimated to cost less than the equivalent of US\$200,000 per contract, may comprise entirely national consultants.

(b) Other Procedures for the Selection and Contracting of Consultants: Each of the following selection methods may be used to contract consultants that the Bank agrees meet the requirements established in the Consultant Policies:

- (i) Quality-Based Selection, for Non-Revenue Water contracts to address water losses in New Providence, in accordance with the provisions set forth in paragraphs 3.1 through 3.4 of the Consultant Policies.
- (ii) Single Source Selection: for the services of Castalia Strategic Advisors for a contract estimated to cost the equivalent of US\$700,000, in accordance

with the provisions of paragraphs 3.9 through 3.13 of the Consultant Policies.

- (iii) Individual Consultants: Services of individual consultants that meet the requirements set forth in paragraph 5.1 of the Consultant Policies pursuant to the provisions of paragraphs 5.2 through 5.3 of the Consultant Policies.

(c) Review by the Bank of the Selection of Consultants

- (i) Planning of Selection and Contracting: Prior to the issuance of any request for proposal to the consultants, the Borrower shall present to the Bank, for its review and approval, a procurement plan for the Program, which shall include cost estimates for each contract, contract grouping and applicable selection methods and procedures, in accordance with the provisions set forth in paragraph 1 of Appendix 1 to the Consultant Policies. Such plan shall be updated every twelve (12) months or as needed during Program execution and each updated version shall be submitted to the Bank for its review and approval. Selection of all consultants' services shall be undertaken in accordance with the procurement plan that has been approved by the Bank.
- (ii) Prior Review: Unless the Bank agrees otherwise in writing, the selection and contracting procedure regarding the following contracts shall be subject to the Bank's prior review, in accordance with the procedures established in paragraphs 2 and 3 of Appendix I of the Consultant Policies:
 - (A) Each contract for the contracting of consulting services estimated to cost the equivalent of US\$500,000 or more.
- (iii) Ex Post Review: Ex post review shall apply with respect to each contract not governed by subsection (b)(ii) of this Section, in accordance with the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Policies.
- (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, at any time during Program execution, the thresholds established for ex ante and ex post review may vary according to the implementation capacity of the Executing Agency, pursuant to a prior written opinion of the Bank.

SECTION. 4.05 Evaluation. (a) The Borrower shall hire, with resources from the Financing, an independent external consultant to conduct a mid-term and a final evaluation of the Program: (i) the mid-term evaluation will be carried out at the end of the thirty (30) months from the date of this Contract or when the resources committed achieved 50% of the Financing, whichever occurs first; and (ii) the final evaluation will be carried out when the resources committed achieved 90% of the Financing.

(b) The mid-term evaluation shall review, among other aspects, the following: (i) level of progress in attaining the program's objectives stated in the Results Matrix; (ii) level of acceptance of procedures developed under the Program; and (iii) degree of effectiveness of the internal (controls) and the Bank's monitoring and supervision system. The final evaluation will assess: (i) degree of attainment of Program objectives in relation to plans and reasons for any variances; (ii) the organizational arrangements established for Program execution; (iii) implementation and acceptance of procedures and systems developed through the Program; (iv) sustainability of the activities funded under the Program; (v) impact of the Program based on a comparison ex ante and ex post indicators and economic evaluation; and (vi) lessons learned from the execution of the institutional components that could be applied to future public sector reform projects. The result of this final evaluation will be used as input for the Program completion report to be prepared by the Bank.

CHAPTER V

Supervision

SECTION 5.01 Records, Inspections and Reports. The Borrower agrees to: maintain records; permit inspections; submit reports; maintain a management, accounting and financial administration system acceptable to the Bank; and submit financial statements and financial reports to the Bank in accordance with the provisions established in this Chapter and in Chapter VII of the General Conditions.

SECTION 5.02 Supervision of Program Execution. (a) The Bank shall use the Program implementation plan referred to in Article 4.01(d)(i) of the General Conditions as an instrument to supervise the Program execution. The Program implementation plan shall be based on the procurement plan referred to in Sections 4.01(d)(i) and 4.04(c)(i) of these Special Conditions, and shall include a complete planning of the Program, with the critical path of actions to be implemented in order to disburse the resources of the Financing before the expiration of the disbursement period set forth in Section 3.05 of these Special Conditions.

(b) The Program implementation plan shall be updated as needed, particularly upon the occurrence of a significant change that causes or may cause a delay in Program execution. The Borrower shall inform the Bank of any change in the Program implementation plan no later than upon presentation of the respective semiannual Program execution report.

SECTION 5.03 Financial Statements and other Reports. The Borrower agrees to submit the following reports:

(a) within one hundred twenty (120) days following the closing of each fiscal year of the Executing Agency and within the disbursement period of the Financing, the Program's audited financial statements, duly audited by a firm of independent public accountants acceptable to the Bank. The last of these reports shall be submitted within one hundred twenty (120) days following the date stipulated for the final disbursement of the Financing;

(b) during the disbursement period of the Financing, within ninety (90) days after the end of each Semester, non-audited financial reports regarding activities financed during the previous Semester; and

(c) during the disbursement period of the Financing and within ninety (90) days after the end of each Semester, semiannual progress reports.

CHAPTER VI

Miscellaneous Provisions

SECTION 6.01 **Entry into Effect.** The parties agree that this Contract shall enter into effect on the date of its signature.

SECTION 6.02 **Termination.** Payment in full of the Loan and of all interest and fees shall terminate this Contract and all obligations arising thereunder.

SECTION 6.03 **Validity.** The rights and obligations established in this Contract are valid and enforceable in accordance with its terms, regardless of the laws of any given country.

SECTION 6.04 **Communications.** Any notice, request, or communication from one party to another by virtue of this Contract shall be made in writing and shall be considered to have been made when the relevant document is delivered to the addressee at the respective address given below, unless the parties agree otherwise in writing:

For the Borrower:

Mailing address:

Water and Sewerage Corporation
#87 Thompson Boulevard
P.O. Box N-3905
Nassau, The Bahamas

Facsimile: (242) 302-5687

For matters related to execution of the Program

Mailing address:

Water and Sewerage Corporation
#87 Thompson Boulevard
P. O. Box N-3905
Nassau, The Bahamas

Facsimile: (242) 302-5687

For the Bank:

Mailing address:

Inter-American Development Bank
1300 New York Avenue, N.W.
Washington, D.C. 20577
U.S.A.

Facsimile: (202) 623-3096

CHAPTER VII

Arbitration

SECTION 7.01 **Commitment to Arbitrate.** For the solution of any controversy which may arise out of this Contract and which is not resolved by agreement between the parties, they unconditionally and irrevocably submit themselves to the procedure and ruling of the Arbitration Tribunal referred to in Chapter IX of the General Conditions.

IN WITNESS WHEREOF, the Borrower and the Bank, each acting through its authorized representative, have signed this Contract, in three (3) equally authentic copies in Nassau, The Bahamas, on the date above written.

WATER AND SEWERAGE
CORPORATION

INTER-AMERICAN DEVELOPMENT
BANK

/s/ Anton A. Saunders

/s/ Roberto Vellutini

Anton A. Saunders
Chairman

Roberto Vellutini
Vice President for Countries

/s/ Pauline Nairn

Pauline Nairn
Deputy Chairperson

Witness of Honor

/s/ Phenton O. Neymour

The Honourable Phenton O. Neymour
Minister of State for the Environment
Ministry of the Environment

PART TWO

GENERAL CONDITIONS

CHAPTER I

Application of the General Conditions

ARTICLE 1.01. **Application of the General Conditions.** These General Conditions apply to the Loan Contracts entered into by the Inter-American Development Bank with its Borrowers, and accordingly the provisions hereof form an integral part of this Contract.

CHAPTER II

Definitions

ARTICLE 2.01. **Definitions.** For the purposes of the obligations contracted between the parties, the following definitions are adopted:

(a) “Advance of Funds” means the amount of resources advanced by the Bank to the Borrower, chargeable to the resources of the Financing, to cover eligible expenditures of the Project, as provided in Article 4.08 of these General Conditions.

(b) “Bank” means the Inter-American Development Bank.

(c) “Board” means the Board of Executive Directors of the Bank.

(d) “Borrower” means the party to which the Financing is made available.

(e) “Closing Period” means a ninety (90)-day period from the date stipulated for the final disbursement of the Financing, in order to finalize pending payments to third parties, to present the final justification of expenditures made, to reconcile the books and records, and to reimburse to the Bank the resources disbursed from the Financing but not used and/or justified, as provided in Article 4.09 of these General Conditions.

(f) “Contract” means the entirety of the Special Conditions, the General Conditions and the Annexes.

(g) “Contracting Agency” means the entity with the legal capacity to sign the Contract for the Procurement of Works and Goods and the Selection and Contracting of Consultants with the Contractor, Supplier, Consulting Firm or Individual Consultant, as the case may be.

(h) “Convertible currency” or “currency of a country other than that of the Borrower” means any currency which is legal tender in a country other than that of the Borrower, the Special Drawing Rights of the International Monetary Fund, and any other unit which represents the debt service obligation of a borrowing by the Bank.

(i) “Cost of Single Currency Qualified Borrowings with a LIBOR Interest Rate” means the cost to the Bank of the Single Currency Qualified Borrowings with a LIBOR Interest Rate in the Single Currency of the Financing, expressed as a percentage per annum, as determined by the Bank.

(j) “Executing Agency/Agencies” means the entity/entities responsible for executing all or part of the Project.

(k) “Fixed Base Rate” means the market swap rate on the effective date of the conversion.

(l) “Fixed Interest Rate” means the sum of: (i) the Fixed Base Rate as defined in Article 2.01(k) of these General Conditions, plus (ii) the prevailing ordinary capital lending spread expressed in basis points (bps) which shall be determined by the Bank periodically.

(m) “Financing” means the funds which the Bank has agreed to make available to the Borrower to assist in carrying out the Project.

(n) “General Conditions” means the entirety of articles which comprise Part Two of this Contract and reflect the basic policies of the Bank uniformly applicable to its Loan Contracts.

(o) “Guarantor” means the party which guarantees the fulfillment of the obligations contracted by the Borrower and which assumes other obligations for which it is liable in accordance with the Guarantee Contract.

(p) “Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter” means the 15th day of the months of January, April, July and October of each calendar year. The LIBOR-Based Interest Rate determined by the Bank on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter shall apply retroactively to the first fifteen (15) days of the respective Quarter, and shall continue to apply through and including the last day of the Quarter.

(q) “LIBOR Interest Rate” means any of the following definitions, in accordance with the currency of the Loan:¹

(i) In the case of Single Currency Facility Loans in Dollars:

(A) The LIBOR Interest Rate on an Interest Rate Determination Date of

¹ Any capitalized terms used in paragraph (q) of Article 2.01 and not otherwise defined herein shall have the meaning assigned to them in the 2000 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc., as amended and supplemented from time to time, which are hereby incorporated by reference.

the LIBOR-Based Interest Rate for each Quarter will be “USD-LIBOR-BBA,” which is the rate for deposits in Dollars for a period of three (3) months that appears on the Reuters page <LIBOR01> as of 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter. If such rate does not appear on the Reuters page <LIBOR01>, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined as if the parties had specified “USD-LIBOR-Reference Banks” as the applicable LIBOR Interest Rate.

- (B) “USD-LIBOR-Reference Banks” means that the rate for an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined on the basis of the rates at which deposits in Dollars are offered by the Reference Banks at approximately 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter to prime banks in the London interbank market for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. The Calculation Agent or Agents utilized by the Bank will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two (2) quotations are provided, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the quotations. If fewer than two (2) quotations are provided as requested, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the rates quoted by major banks in New York City, selected by the Calculation Agent or Agents utilized by the Bank, at approximately 11:00 a.m., New York City time, on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter for loans in Dollars to leading European banks for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. If more than one Calculation Agent provides an interest rate to the Bank as a result of the procedure described above, the Bank will determine, in its own discretion, the applicable LIBOR Interest Rate for each Quarter for the Interest Rate Determination Date, based on the interest rates received from the Calculation Agents. For purposes of the foregoing provision, if the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter is not a Banking Day in New York City, the rates quoted on the first day immediately thereafter which is a Banking Day in New York City shall be utilized.

(ii) In the case of Single Currency Facility Loans in Euros:

- (A) The LIBOR Interest Rate on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be “EUR-EURIBOR-Telerate,” which is the rate for deposits in euros for a period of three (3) months that appears on the Reuters page <LIBOR01> as of 11:00 a.m., Brussels time, on the day that is two (2) TARGET Settlement Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter. If such rate does not appear on the Reuters page <LIBOR01>, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined as if the parties had specified “EUR-EURIBOR-Reference Banks” as the applicable LIBOR Interest Rate.
- (B) “EUR-EURIBOR-Reference Banks” means that the rate for an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined on the basis of the rates at which deposits in euros are offered by the Reference Banks at approximately 11:00 a.m., Brussels time, on the day that is two (2) TARGET Settlement Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter to prime banks in the Euro-zone interbank market for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount assuming an Actual/360 day count basis. The Calculation Agent or Agents utilized by the Bank, will request the principal Euro-zone office of each of the Reference Banks to provide a quotation of its rate. If at least two (2) quotations are provided, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the quotations. If fewer than two (2) quotations are provided as requested, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the rates quoted by major banks in the Euro-zone, selected by the Calculation Agent or Agents utilized by the Bank, at approximately 11:00 a.m., Brussels time, on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter for loans in euros to leading European banks for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. If more than one Calculation Agent provides an interest rate to the Bank as a result of the procedure described above, the Bank will determine, in its own discretion, the applicable LIBOR Interest Rate for each Quarter for

the Interest Rate Determination Date, based on the interest rates received from the Calculation Agents. For purposes of the foregoing provision, if the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter is not a Banking Day in Brussels and in the Euro-zone, the rates quoted on the first day immediately thereafter which is a Banking Day in Brussels and in the Euro-zone shall be utilized.

(iii) In the case of Single Currency Facility Loans in Yen:

- (A) The LIBOR Interest Rate on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be “JPY-LIBOR-BBA,” which is the rate for deposits in Yen for a period of three (3) months that appears on the Reuters page <LIBOR01> as of 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter. If such rate does not appear on the Reuters page <LIBOR01>, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined as if the parties had specified “JPY-LIBOR-Reference Banks” as the applicable LIBOR Interest Rate.
- (B) “JPY-LIBOR-Reference Banks” means that the rate for an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined on the basis of the rates at which deposits in Yen are offered by the Reference Banks at approximately 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter to prime banks in the London interbank market for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. The Calculation Agent or Agents utilized by the Bank will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two (2) quotations are provided, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the quotations. If fewer than two (2) quotations are provided as requested, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the rates quoted by major banks in Tokyo, selected by the Calculation Agent or Agents utilized by the Bank, at approximately 11:00 a.m., Tokyo time, on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter for loans in Yen to leading European banks for a period of three (3) months commencing on that Interest Rate

Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. If more than one Calculation Agent provides an interest rate to the Bank as a result of the procedure described above, the Bank will determine, in its own discretion, the applicable LIBOR Interest Rate for each Quarter for the Interest Rate Determination Date, based on the interest rates received from the Calculation Agents. For purposes of the foregoing provision, if the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter is not a Banking Day in Tokyo, the rates quoted on the first day immediately thereafter which is a Banking Day in Tokyo shall be utilized.

(iv) In the case of Single Currency Facility Loans in Swiss Francs:

- (A) The LIBOR Interest Rate on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be “CHF-LIBOR-BBA,” which is the rate for deposits in Swiss Francs for a period of three (3) months that appears on the Reuters page <LIBOR02> as of 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter. If such rate does not appear on the Reuters page <LIBOR02>, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined as if the parties had specified “CHF-LIBOR-Reference Banks” as the applicable LIBOR Interest Rate.
- (B) “CHF-LIBOR-Reference Banks” means that the rate for an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined on the basis of the rates at which deposits in Swiss Francs are offered by the Reference Banks at approximately 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter to prime banks in the London interbank market for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. The Calculation Agent or Agents utilized by the Bank will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two (2) quotations are provided, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the quotations. If fewer than two (2) quotations are provided as requested, the rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be the arithmetic mean of the rates quoted

by major banks in Zurich, selected by the Calculation Agent or Agents utilized by the Bank, at approximately 11:00 a.m., Zurich time, on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter for loans in Swiss Francs to leading European banks for a period of three (3) months commencing on that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter and in a Representative Amount. If more than one Calculation Agent provides an interest rate to the Bank as a result of the procedure described above, the Bank will determine, in its own discretion, the applicable LIBOR Interest Rate for each Quarter for the Interest Rate Determination Date, based on the interest rates received from the Calculation Agents. For purposes of the foregoing provision, if the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter is not a Banking Day in Zurich, the rates quoted on the first day immediately thereafter which is a Banking Day in Zurich shall be utilized.

- (r) “Loan” means the funds disbursed from the Financing.
- (s) “Prohibited Practices” means the act(s) defined in Article 5.02(c) of these General Conditions.
- (t) “Project” means the Program or Project for which the Financing has been extended.
- (u) “Quarter” means each of the following three-month (3-month) periods of the calendar year: the period beginning on January 1 and ending on March 31; the period beginning on April 1 and ending on June 30; the period beginning on July 1 and ending on September 30; and the period beginning on October 1 and ending on December 31.
- (v) “Semester” means the first or second six months of a calendar year.
- (w) “Single Currency” means any convertible currency which the Bank has selected for lending under the Single Currency Facility.
- (x) “Single Currency Facility” means the facility the Bank has established to lend in certain convertible currencies which the Bank selects from time to time.
- (y) “Single Currency Facility Loan with a LIBOR-Based Interest Rate” means any Loan or portion of a Loan made by the Bank to be disbursed, accounted for, and repaid in a Single Currency under the Single Currency Facility and which, in accordance with the Special Conditions of this Loan Contract, will bear a LIBOR-Based Interest Rate as determined pursuant to Article 3.04(a) of these General Conditions.
- (z) “Single Currency Qualified Borrowings” for Loans denominated in any Single Currency means either: (i) from the date that the first Loan in such Single Currency is approved by

the Bank's Board, resources of such Single Currency's transitional stabilization mechanism and borrowings of the Bank in such Single Currency that are assigned to fund loans in such Single Currency under the Single Currency Facility; or (ii) beginning on the first day of the seventh Semester following the above-mentioned date, borrowings of the Bank that are assigned to fund loans in such Single Currency under the Single Currency Facility.

(aa) "Special Conditions" means the entirety of the provisions which comprise Part One of this Contract and contain the particular terms of the operation.

CHAPTER III

Amortization, Interest and Credit Fee

ARTICLE 3.01. Dates of Payment of Amortization and Interest. The Borrower shall amortize the Loan in semiannual installments on the same dates as those determined in accordance with Section 2.02 of the Special Conditions for payment of interest. If the date of signature of the Loan Contract falls between June 15 and 30 or between December 15 and 31, the dates for the payment of interest and for the payment of the first and subsequent amortization installments shall be June 15 and December 15, as the case may be.

ARTICLE 3.02. Credit Fee. (a) The Borrower shall pay on the undisbursed balance of the Financing which is not in the currency of the Borrower's country a credit fee, which shall begin to accrue sixty (60) days after the date of the Contract. The amount of said fee shall be as indicated in the Special Conditions and under no circumstance may exceed 0.75% per annum.

(b) For Single Currency Facility Loans in dollars of the United States of America, this fee shall be paid in dollars of the United States of America. For Single Currency Facility Loans in currencies other than U.S. dollar Single Currency Facility Loans, this fee shall be paid in the currency of the particular Loan. This fee shall be paid on the same dates as those specified for the payment of interest pursuant to the provisions of the Special Conditions.

(c) This fee shall cease to accrue in full or in part, as the case may be, to the extent that: (i) the respective disbursements have been made; or (ii) the Financing has been cancelled totally or partially pursuant to Articles 3.15, 3.16 and 4.02 of these General Conditions and the relevant provisions of the Special Conditions.

ARTICLE 3.03. Computation of Interest and Credit Fee. The interest and credit fee shall be calculated according to the exact number of days in the respective Semester.

ARTICLE 3.04. Interest. (a) Interest shall be charged on the daily outstanding balances of the Loan at an annual rate for each Quarter as determined by the Bank on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter, calculated as follows: (i) the respective LIBOR Interest Rate as defined in Article 2.01(q) of these General Conditions; (ii) plus or minus a cost margin computed quarterly as the weighted average of all the cost margins to the Bank related to

the borrowings assigned to the pool of Bank borrowings which funds the Single Currency Facility Loans with a LIBOR-Based Interest Rate; and (iii) plus the ordinary capital lending spread prevailing on the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter, expressed as a percentage per annum.

(b) The Borrower and Guarantor of any Single Currency Facility Loan with a LIBOR-Based Interest Rate expressly acknowledge and agree that: (i) the LIBOR Interest Rate referred to in Article 3.04(a)(i) above, and the cost margin of the Bank borrowings referred to in Article 3.04(a)(ii) above, may be subject to significant fluctuations during the life of the Loan and, therefore, the LIBOR-Based Interest Rate for Single Currency Facility loans may involve significant financial risks to the Borrower and the Guarantor; and (ii) any risk of fluctuations in the LIBOR-Based Interest Rate for Single Currency Facility loans is assumed entirely by the Borrower and the Guarantor, if applicable.

(c) Whenever, in light of changes in market practice affecting the determination of the LIBOR-Based Interest Rate for Single Currency Facility loans, the Bank determines that it is in the interest of its borrowers as a whole and of the Bank to apply a basis for determining the interest rate applicable to the Loan other than as provided in Article 3.04(a)(i) above, the Bank may modify the basis for determining the interest rate applicable to the Loan upon not less than three (3) months' notice to the Borrower and the Guarantor of the new basis. The new basis shall become effective on the expiration of the notice period unless the Borrower or the Guarantor notifies the Bank during said period of its objection thereto, in which case said modification shall not apply to the Loan.

(d) The Borrower, with the written consent of the Guarantor, if any, may request that all or part of the outstanding balance of the Loan with a LIBOR-Based Interest Rate be converted to a Fixed Interest Rate as defined in Article 2.01(l) of these General Conditions, which will be determined by the Bank and communicated by written notice to the Borrower. For purposes of the application of the Fixed Interest Rate to the outstanding balance, each conversion shall only be executed subject to a minimum amount of 25% of the net approved amount of the Financing (amount of the Financing minus cancellations) or three million dollars (US\$3,000,000), whichever is greater. The models of the letters to proceed with the conversion, as determined hereby, will be submitted to the Borrower, as soon as the Borrower manifests its interest in proceeding with such conversion.

(e) The Borrower, with the written consent of the Guarantor, if any, may request that all or part of the outstanding balance of the Loan with a Fixed Interest Rate be reconverted to a LIBOR-Based Interest Rate as determined pursuant to Article 3.04(a) of these General Conditions, through written notice to the Bank. Each reconversion of the Loan to a LIBOR-Based Interest Rate shall only be made on the remaining balance of the respective conversion or for an amount of at least three million dollars (US\$3,000,000), whichever is greater. Any gain or loss resulting from the cancellation or change of the Bank's funding associated with the reconversion, will be either credited or charged by the Bank to the Borrower, as the case may be, within thirty (30) days from the date of reconversion. In the event of any gain, it will be credited in the first place to any amounts due and payable by the Borrower to the Bank.

ARTICLE 3.05. Disbursements and Payments of Amortization and Interest in National Currencies. (a) Amounts which are disbursed in the currency of the Borrower's country shall be applied against the Financing and owed in accordance with the equivalency in dollars of the United States of America as determined in accordance with the rate of exchange in effect on the date of the respective disbursement.

(b) Payments of amortization and interest shall be made in the currency disbursed, in an equivalent amount of dollars of the United States of America, as determined in accordance with the rate of exchange in effect on the payment date.

(c) For the purpose of determining the equivalencies stipulated in paragraphs (a) and (b) above, the relevant rate of exchange, in accordance with Article 3.06, shall be used.

ARTICLE 3.06. Rate of Exchange. (a) The rate of exchange to be used to determine the equivalency of the currency of the Borrower's country, in relation to dollars of the United States of America, shall be as follows:

- (i) The rate of exchange pursuant to the understanding in force between the Bank and the respective member country for the purposes of maintaining the value of the currency in conformity with the provisions of Article V, Section 3 of the Agreement Establishing the Bank.
- (ii) Should there be no agreement in force between the Bank and the respective member country with regard to the rate of exchange to be applied for the purpose of maintaining the value of its currency held by the Bank, the latter shall have the right to require that the rate of exchange to be applied for the purposes of payment of amortization and interest shall be that which on the due date is utilized by the Central Bank of the member country or by the corresponding monetary authority to sell dollars of the United States of America to residents of such country, other than government agencies, for the following transactions: (a) payment of principal and interest due; (b) remittance of dividends or other income from capital investments in the respective country; and (c) remittance of investment capital. In the event that there is no uniform rate of exchange for these three types of operations, the highest rate shall be applied, i.e., the rate representing the highest number of units of the currency of such country per dollar of the United States of America.
- (iii) If, on the date on which the payment is due, the foregoing rule cannot be applied because the operations referred to do not exist, payment shall be made on the basis of the most recent rate of exchange used for such operations within the thirty (30) days preceding the respective due date.
- (iv) If, notwithstanding the application of the foregoing rules, the effective rate of exchange for the purpose of determining payment cannot be ascertained, or if

discrepancies arise in the determination thereof, the determination of the Bank shall prevail, taking into consideration the realities of the foreign exchange market of the member country concerned.

- (v) If, due to non-compliance with the foregoing rules, the Bank considers that any payment made in the respective currency has been insufficient, it shall so notify the Borrower immediately in order that the latter shall pay the difference within a period not greater than thirty (30) business days from receipt of the notification. If, on the other hand, the sum received by the Bank is higher than that due, it shall return the excess amount within the same time period.

(b) For the purpose of determining the equivalency in dollars of the United States of America of an expenditure incurred in the currency of the Borrower's country, one of the following rates of exchange shall be used, in accordance with the provisions set forth in the Special Conditions of this Contract and pursuant to paragraph (a) of this Article: (i) the same exchange rate used in the conversion of the resources disbursed in dollars of the United States of America to the currency of the Borrower's country. In this case, for purposes of the reimbursement of expenditures chargeable to the Financing and the recognition of expenditures chargeable to the local counterpart, the applicable exchange rate shall be the prevailing exchange rate on the date on which the request is presented to the Bank; or (ii) the prevailing exchange rate in force in the Borrower's country on the effective date of the payment of the expenditure in the currency of the Borrower's country.

ARTICLE 3.07. Disbursements and Payments of Amortization and Interest in Single Currencies. For Single Currency Facility Loans, disbursements and payments of amortization and interest shall be in the Single Currency of the particular Loan.

ARTICLE 3.08. Valuation of Convertible Currencies. Whenever it shall be necessary pursuant to this Contract to determine the value of a currency of a country other than that of the Borrower in terms of another currency, such value shall be as reasonably determined by the Bank.

ARTICLE 3.09. Participations. (a) The Bank may cede to other public or private institutions, in the form of participations, the rights corresponding to the Borrower's pecuniary obligations under this Contract. The Bank shall promptly notify the Borrower of each assignment.

(b) Participations may be granted in respect of either of the following: (i) amounts of the Loan disbursed prior to execution of the participation agreement; or (ii) amounts of the Financing which are still undisbursed at the time of the participation agreement's execution.

(c) With the prior consent of the Borrower, the Bank may cede all or part of the undisbursed amount of the Financing to other public or private institutions. To that end, the portion subject to participation shall be denominated in terms of a fixed number of units of one or more convertible currencies. Likewise, with the Borrower's prior consent, the Bank may set, for the portion subject to participation, an interest rate other than that established in the present Contract. Interest payments and amortization installments shall be made in the specified currency in which the

participation was granted and on the dates specified in Article 3.01 of these General Conditions. After the final disbursement has been made, the Bank shall give the Borrower and the Participant a schedule of amortization.

ARTICLE 3.10. Application of Payments. All payments shall be applied first to returns of unjustified advances of funds, then to fees and interest due on the payment date, and if a balance exists, to the amortization of installments of principal due.

ARTICLE 3.11. Advance Payments. Pursuant to an irrevocable request in writing to the Bank, accompanied by the written consent of the Guarantor, if any, at least thirty (30) days in advance, the Borrower may prepay, on one of the amortization payment dates, all or part of the outstanding balance of the Loan, provided that on the payment date no sum is due and outstanding in respect of fees or interest. In the event that the prepayment does not cover the entire outstanding balance of the Loan, the prepayment will be applied proportionately to the remaining amortization installments. The Borrower may not prepay the outstanding balance of a Loan with a Fixed Interest Rate in an amount lower than three million dollars (US\$3,000,000), unless the remaining outstanding balance of the Loan is lower than that amount. Notwithstanding the foregoing, if there is any gain or loss resulting from the cancellation or change of the Bank's funding associated with the corresponding prepayment, it will be either credited or charged by the Bank to the Borrower, as the case may be. In the event of any gain, it will be credited in the first place to any amounts due and payable by the Borrower to the Bank.

ARTICLE 3.12. Receipts. At the request of the Bank, the Borrower shall sign and deliver to the Bank, upon the completion of disbursements, a receipt or receipts for the amounts disbursed.

ARTICLE 3.13. Transactions Falling Due on Public Holidays. Any payment or other transaction which, pursuant to this Contract, should be effected on a Saturday, Sunday or a day which is a banking holiday according to the law of the place where it is required to be made, shall be considered validly effected if carried out on the first business day immediately thereafter, and in such case no penalty whatsoever shall apply.

ARTICLE 3.14. Place of Payments. All payments shall be made at the principal office of the Bank in Washington, District of Columbia, United States of America, unless the Bank designates another place or places for this purpose by written notification to the Borrower.

ARTICLE 3.15. Renunciation of Part of the Financing. The Borrower, with the concurrence of the Guarantor, if any, may renounce, by written notice to the Bank, its right to utilize any part of the Financing which has not been disbursed before the receipt of the notice, provided that the amounts foreseen in Article 5.03 of these General Conditions are not involved.

ARTICLE 3.16. Automatic Cancellation of Part of the Financing. Unless the Bank and the Borrower and the Guarantor, if any, expressly agree in writing to extend the term for making disbursements, that portion of the Financing not committed or disbursed, as the case may be, within the corresponding term, shall automatically be canceled.

CHAPTER IV

Conditions Relating to Disbursements

ARTICLE 4.01. **Conditions Precedent to First Disbursement.** The first disbursement of the Financing shall be subject to the fulfillment of the following requirements to the satisfaction of the Bank:

(a) The Bank shall have received one or more well-founded legal opinions which establish, with citations of the pertinent constitutional, legal, and regulatory provisions, that the obligations undertaken by the Borrower in this Contract, and those of the Guarantor, if any, in the Guarantee Contract, are valid and enforceable. Such opinions shall also refer to any other legal question that the Bank may reasonably deem relevant.

(b) The Borrower, directly or through the Executing Agency, if any, shall have designated one or more officials to represent it in all acts relating to the implementation of this Contract and shall have furnished the Bank with authentic copies of the signatures of said representatives. Should two or more officials be designated, the designation shall indicate whether such officials may act separately or must act jointly.

(c) The Borrower, either directly or through the Executing Agency, if any, shall have demonstrated to the Bank that sufficient resources have been allocated to cover, at least during the first calendar year, the execution of the Project in accordance with the investment schedule referred to in the following paragraph. If this Financing constitutes a continuation of the same lending operation, the earlier stage or stages of which the Bank is financing, the obligation set forth in this paragraph shall not be applicable.

(d) The Borrower, either directly or through the Executing Agency, as the case may be, shall have presented to the Bank an initial report prepared in the form indicated by the Bank which, in addition to such other information as the Bank may reasonably request pursuant to the provisions of this Contract, shall set forth: (i) a plan for implementation of the Project including the plans and specifications deemed necessary by the Bank, except with respect to a program for the granting of credits; (ii) a calendar or schedule of work or granting of credits, as the case may be; (iii) a table of the source and use of funds setting forth a detailed schedule of investments in accordance with the categories of investment established in this Contract and an indication of the annual contributions needed from the various sources of funds from which the Project will be financed; and (iv) the content that the progress reports referred to in Article 7.03 of these General Conditions shall have. If this Contract permits the recognition of expenditures made prior to its entry into effect, the initial report shall include a statement of the investments and, in accordance with the objectives of the Financing, a description of works carried out under the Project or a statement as to credits granted, as the case may be, up to a date immediately preceding the report.

(e) The Borrower or Executing Agency shall have demonstrated to the Bank that it has an adequate financial information system and internal control structure for the purposes indicated in this Contract.

ARTICLE 4.02. Period for Fulfilling the Conditions Precedent to First Disbursement. If within one hundred eighty (180) days from the effective date of this Contract, or within such longer period as the parties may agree in writing, the conditions precedent to the first disbursement established in Article 4.01 of these General Conditions and in the Special Conditions have not been fulfilled, the Bank may terminate this Contract by giving notice to the Borrower.

ARTICLE 4.03. Requisites for All Disbursements. For the Bank to make any disbursement, it shall be necessary that: (a) the Borrower or the Executing Agency, as the case may be, shall have submitted in writing, or by electronic means in such form and conditions as may be specified by the Bank, a disbursement request and, in support thereof, shall have supplied to the Bank such pertinent documents and other background materials as the Bank may have required; provided, however, that for Loans in which the Borrower has opted to receive financing in a combination of Single Currencies, or in one or more Single Currencies, the request must indicate the specific amounts of the particular Single Currency(ies) requested for disbursement; (b) the Borrower or the Executing Agency, as the case may be, shall have opened and maintains one or more bank accounts in a financial institution to which the Bank shall make the disbursements of the Financing; (c) unless the Bank otherwise agrees, disbursement requests must be presented no later than thirty (30) calendar days in advance of the date of expiration of the term for disbursement or of any extension thereof which the Borrower and the Bank may have agreed to in writing; (d) none of the circumstances described in Article 5.01 of these General Conditions shall have occurred; and (e) the Guarantor, if any, shall not be in non-compliance for more than one hundred twenty (120) days with any obligation to make payments to the Bank on any Loan or Guarantee.

ARTICLE 4.04. Disbursements for Technical Cooperation. If the Special Conditions contemplate the Financing of expenses for technical cooperation, the disbursements therefore may be made once the conditions established in Article 4.01(a) and (b) and in Article 4.03 of these General Conditions have been fulfilled.

ARTICLE 4.05. Charges for the Inspection and Supervision Fee. If the Bank determines that an amount shall be charged to cover its expenses for general inspection and supervision in accordance with the Special Conditions, the Bank will notify the Borrower and the latter will indicate whether it will pay the corresponding amount directly to the Bank or whether such amount should be withdrawn and retained by the Bank from the resources of the Financing. Both the payment by the Borrower and the retention by the Bank of any fee allocated to general inspection and supervision will be carried out in the currency of the Loan.

ARTICLE 4.06. Disbursement Procedures. The Bank may make disbursements against the Financing: (a) by transferring to the Borrower the sums to which it is entitled under this Contract, under the modality of reimbursement of expenses and/or Advance of Funds; (b) by making payments on behalf of and in agreement with the Borrower to third parties; (c) by utilizing such other modality as the parties may agree upon in writing. Any banking expenses that may be charged by a third party in connection with disbursements shall be borne by the Borrower. Unless the parties agree otherwise, disbursements shall be made only in amounts of not less than the equivalent of one hundred thousand dollars of the United States of America (US\$100,000) each.

ARTICLE 4.07. Reimbursement of Expenditures. (a) With resources of the Financing and upon fulfillment of the requirements set forth in Articles 4.01 and 4.03 of these General Conditions and the pertinent requirements established in the Special Conditions, the Bank may disburse resources of the Financing to reimburse the Borrower and/or the Executing Agency, as the case may be for expenditures related to the execution of the Project that are eligible to be financed with resources of the Financing, pursuant to the provisions of this Contract.

(b) Except by express agreement between the parties, the disbursement requests for reimbursing expenditures financed by the Borrower and/or Executing Agency, as the case may be, in accordance with paragraph (a) above, shall be made promptly following the incurrence of such expenses, or not later than sixty (60) days following the conclusion of each Semester or within such other term as the parties may agree.

ARTICLE 4.08. Advance of Funds. (a) Provided that the requirements of Articles 4.01 and 4.03 of these General Conditions and those which may be established in the Special Conditions have been fulfilled, the Bank may disburse resources from the Financing as an Advance of Funds to the Borrower or the Executing Agency, as the case may be, to cover eligible expenditures related to the execution of the Project, in accordance with the provisions of this Contract.

(b) The maximum amount of each Advance of Funds shall be set by the Bank on the basis of the liquidity needs of the Project to cover periodic projected expenditures, in accordance with paragraph (a) above. At no time may the maximum amount of an Advance of Funds exceed the amount required to finance such expenditures, during a period of up to six (6) months, in accordance with the investment schedule and the cash flow required to meet such purpose and the capacity demonstrated by the Borrower or the Executing Agency, as the case may be, to use the resources of the Financing.

(c) The Bank may: (i) increase the maximum amount of an Advance of Funds when immediate cash flow needs that merit such increase arise, upon presentation of a request duly justified and accompanied by a statement of projected expenditures for the execution of the Project during the corresponding Advance of Funds period in effect; or (ii) make a new Advance of Funds on the basis of the provisions contained in paragraph (b) above, provided that at least eighty percent (80%) of the total amount of resources disbursed as an Advance of Funds has been justified. The Bank may take any of the above-mentioned actions, provided that the requirements of Articles 4.01 and 4.03 of these General Conditions and those which may be established in the Special Conditions have been fulfilled.

(d) The Bank may also reduce or cancel the total aggregate balance of any Advance or Advances of Funds should the Bank determine that the disbursed resources of the Financing have not been used and/or have not been justified to the Bank sufficiently and on a timely basis, in accordance with the provisions of this Contract.

ARTICLE 4.09. Closing Period. The Borrower or the Executing Agency, as the case may be, shall: (a) present to the Bank's satisfaction, within a period of ninety (90) days from the date stipulated for the final disbursement of the Financing, the supporting documentation relating to

expenditures made for the execution of the Project, and any other information that the Bank may have requested; and (b) return to the Bank, at the latest on the day of expiration of the Closing Period, the balance of disbursed resources of the Financing that has not been duly justified. If audit services are to be financed with resources of the Financing, and such services will not be concluded or billed prior to the expiration of the Closing Period referred to in section (a) above, the Borrower or the Executing Agency, as the case may be, shall inform and reach agreement with the Bank as to the way in which payment for such services will take place, and shall return to the Bank the resources of the Financing allotted for such purpose, should the Bank not receive the audited financial statements and/or audited financial reports within the periods stipulated in this Contract.

ARTICLE 4.10. Availability of Local Currency. The Bank shall be obliged to make disbursements to the Borrower in local currency only to the extent that the respective depository of the Bank has placed such currency at its effective disposition.

CHAPTER V

Suspension of Disbursements and Accelerated Maturity

ARTICLE 5.01. Suspension of Disbursements. The Bank, by written notice to the Borrower, may suspend disbursements if any of the following circumstances occurs and so long as it continues:

(a) Delay in the payment of any sums owed by the Borrower to the Bank for principal, fees, interest, return of Advances of Funds or for any other reason, under this Contract or any other Loan Contract entered into between the Bank and the Borrower.

(b) Nonfulfillment by the Borrower of any other obligation set forth in this Contract or in any other Contract entered into with the Bank for the Financing of the Project.

(c) Withdrawal or suspension from membership in the Bank of the country in which the Project is to be executed.

(d) The Project or the purposes of the Financing may be affected by: (i) any restriction, modification or alteration of the legal capacity, functions or assets of the Borrower or the Executing Agency; or (ii) any modification or change made without the written concurrence of the Bank of the basic conditions fulfilled before the approval of the Resolution authorizing the Financing or the signature of the Contract. In such cases, the Bank will have the right to require the Borrower and the Executing Agency to provide reasoned and detailed information. Only after hearing the Borrower or the Executing Agency and weighing the information or clarification received, or if the Borrower and the Executing Agency fail to respond, may the Bank suspend disbursements if it considers that the modifications made affect the Project substantially and unfavorably or make its execution impossible.

(e) The non-compliance on the part of the Guarantor, if any, of any obligation set forth in the Guarantee Contract.

(f) When the Borrower is not a member country, any extraordinary circumstance which, in the opinion of the Bank, makes it unlikely that the Borrower will be able to comply with the obligations established in this Contract or to fulfill the purposes for which it was entered into.

(g) If it is determined at any stage that evidence is sufficient to support a finding that an employee, agent, or representative of the Borrower, Executing Agency or Contracting Agency, has engaged in a Prohibited Practice during a bidding process, negotiation of a contract, or the execution of a contract.

ARTICLE 5.02. Termination, Accelerated Maturity, or Partial Cancellation of Undisbursed Balances and other Measures. (a) The Bank may terminate this Contract with respect to the part of the Financing not yet disbursed or may declare the entire loan or a portion thereof immediately due and payable, together with interest and fees accrued up to the date of payment if: (i) any of the circumstances set forth in paragraphs (a), (b), (c) and (e) of the preceding article continues for more than sixty (60) days; or (ii) the information referred to in paragraph (d) of the preceding article, or the clarifications or additional information presented by the Borrower or the Executing Agency or the Contracting Agency, if any, are not satisfactory to the Bank.

(b) The Bank may cancel the part of the Financing pertaining to the procurement of certain goods, works or related services, or consulting services, or may declare the portion of the Loan pertaining to such items immediately due and payable, if it determines at any time that: (i) the procurement was carried out without following the procedures set forth in this Contract; or (ii) representatives of the Borrower, Executing Agency or Contracting Agency have committed any Prohibited Practice, either in the process of selecting the contractor, supplier or consultant, or in the negotiation or execution of the respective contract, and the Borrower has not taken timely and remedial measures, observing the due process guarantees of the Borrowing country's legislation, and acceptable to the Bank.

(c) For the purposes of the General Conditions, a "Prohibited Practice" shall be understood to include the following practices: (i) a "corrupt practice", is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; (ii) a "fraudulent practice", is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; (iii) a "coercive practice", is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of a party; (iv) a "collusive practice", is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; and (v) an "obstructive practice", is (a) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intended to materially impede the exercise of the Bank's contractual rights of audit or access to information.

(d) If, in accordance with the administrative procedures of the Bank and/or the procedures agreed by the Bank and other international financial institutions for the mutual recognition of sanctions including debarment decisions, it is demonstrated that any firm, entity or individual bidding for or participating in a Bank-financed project including, *inter alia*, the Borrower, bidders, suppliers, contractors, sub-contractors, concessionaires, applicants, consultants, Executing Agency or Contracting Agency (including their respective officers, employees and agents) has engaged in a Prohibited Practice, the Bank may:

- (i) decide not to finance any proposal to award a contract or a contract awarded for works, goods, related services and consultant services financed by the Bank;
- (ii) suspend disbursement of the Financing as described in Article 5.01 (g) above of these General Conditions, if it is determined at any stage that evidence is sufficient to support a finding that an employee, agent or representative of the Borrower, Executing Agency or Contracting Agency has engaged in a Prohibited Practice;
- (iii) cancel, and/or accelerate repayment of, the portion of a loan or grant allotted for a contract as described in Article 5.02 (b) above of these General Conditions, when there is evidence that the representative of the Borrower has not taken the adequate remedial measures within a time period which the Bank considers reasonable, and in accordance with the due process guarantees of the Borrowing country's legislation;
- (iv) issue a reprimand in the form of a formal letter of censure of the firm, entity or individual's behavior;
- (v) issue a declaration that an individual, entity or firm is ineligible, either permanently or for a stated period of time, to be awarded or participate in contracts under Bank-financed projects except under such conditions as the Bank deems to be appropriate;
- (vi) refer the matter to appropriate law enforcement authorities; and/or
- (vii) impose other sanctions that it deems to be appropriate under the circumstances, including the imposition of fines representing reimbursement to the Bank for costs associated with investigations and proceedings. Such other sanctions may be imposed in addition to or in lieu of other sanctions.

(e) The imposition of any action to be taken by the Bank pursuant to the provisions referred to above may be public or private.

ARTICLE 5.03. Obligations not Affected. Notwithstanding the provisions of the foregoing Articles 5.01 and 5.02, none of the measures set forth in this Chapter shall affect the disbursement by

the Bank of: (a) any amounts subject to the guarantee of an irrevocable letter of credit; and (b) any amounts which the Bank by specific written agreement with the Borrower or the Executing Agency, or the Contracting Agency, if any, has agreed to provide from the resources of the Financing to make payments to a contractor, or to a supplier of goods and related services or consultant services. The exceptions set forth in subparagraph (b) shall not apply if the Bank determines that Prohibited Practices occurred with respect to the procurement of, or the negotiation or execution of the contract for, the works, goods and related services, or consultant services.

ARTICLE 5.04. Non-waiver of Rights. Any delay by the Bank in the exercise of its rights pursuant to this Contract, or failure to exercise them, shall not be construed as a waiver by the Bank of any such rights nor as acquiescence in events or circumstances which, had they occurred, would have empowered it to exercise them.

ARTICLE 5.05. Provisions not Affected. The application of any of the measures provided for by this Chapter shall not affect the obligations of the Borrower established in this Contract, which shall remain in full force and effect, except that in case the entire Loan has been declared due and payable, only the pecuniary obligations of the Borrower shall continue in force.

CHAPTER VI

Execution of the Project

ARTICLE 6.01. General Provisions for Execution of the Project. (a) The Borrower undertakes that the Project shall be executed with due diligence in conformity with sound financial and technical practices, and in accordance with the plans, specifications, investment schedule, budgets, regulations, and other documents approved by the Bank. The Borrower further undertakes that its obligations shall be fulfilled to the satisfaction of the Bank.

(b) Any important modification in the plans, specifications, investment schedule, budgets, regulations or other documents which the Bank has approved, as well as any substantial change in the contract or contracts for goods or services which may be funded with the resources devoted to the execution of the Project, or in the categories of investment, shall require the written consent of the Bank.

ARTICLE 6.02. Prices and Public Tender. Contracts for execution of works, procurement of goods, and rendering of services for the Project shall be undertaken at a reasonable cost which shall generally be the lowest market price, taking into account quality, efficiency, and any other pertinent factors.

ARTICLE 6.03. Use of Goods. Except with the express authorization of the Bank, the goods acquired with the resources of the Financing shall be used exclusively for the purposes of the Project. Once the Project has been completed, the construction machinery and equipment utilized in the execution of the Project may be used for other purposes.

ARTICLE 6.04. Additional Resources. (a) The Borrower shall contribute in a timely manner all of the resources in addition to those of the Loan which may be necessary for the complete and uninterrupted execution of the Project, the estimated amount of which is specified in the Special Conditions. If during the process of disbursement of the Financing an increase in the estimated cost of the Project takes place, the Bank may require the modification of the investment schedule referred to in Article 4.01(d) of these General Conditions such that the Borrower shall meet such increase.

(b) Beginning with the calendar year following the initiation of the Project and during the period of its execution, the Borrower shall demonstrate to the Bank within the first sixty (60) days of each calendar year that it will have available when needed the resources necessary to make the local contribution to the Project during that year.

CHAPTER VII

Financial Information and Internal Control Systems, Inspections, Reports and External Audit

ARTICLE 7.01. Financial Information and Internal Control Systems. (a) The Borrower or the Executing Agency, or the Contracting Agency, as the case may be, shall maintain: (i) a financial information system acceptable to the Bank that enables accounting, budgetary and financial record-keeping, as well as the issuance of financial statements and other reports related to the resources of the Financing and other financial sources, as the case may be; and (ii) an internal control structure that enables effective Project management; provides reliability regarding the financial information and the physical, magnetic and electronic records and files; and enables the fulfillment of the provisions of this Contract.

(b) The Borrower or the Executing Agency, or the Contracting Agency, as the case may be, shall preserve the original records of the Project for a minimum period of three (3) years after the date agreed upon for the final disbursement of the Financing, in such a way as to: (i) make possible the identification of the sums received from the different sources; (ii) show, in accordance with the financial information system approved by the Bank, the investments in the Project, financed both with the resources of the Loan and with the other funds to be provided for its complete execution; (iii) include sufficient detail to show the works performed, goods procured and services contracted, as well as the utilization of such works, goods and services; (iv) provide evidence as to conformity in the acceptance, authorization and payments for the purchased or contracted works, goods and services; (v) maintain documentation relating to the bidding process and the execution of the contracts financed by the Bank and other financial sources, including, but not limited to, bid requests, bid packages, summaries, bid evaluations, contracts, correspondence, work product and drafts, invoices, certificates and acceptance reports, and receipts, including documents relating to the payment of commissions, and payments to agents, consultants and contractors; and (vi) show the cost of the investments in each category and the physical and financial progress of the works, goods and services. With respect to credit programs, the records shall also detail the credits granted, the recoveries obtained, and the utilization of the funds recovered.

ARTICLE 7.02. Inspections. (a) The Bank may establish such inspection procedures as it deems necessary to ensure the satisfactory development of the Project.

(b) The Borrower, the Executing Agency and the Contracting Agency, if any, shall permit the Bank to inspect at any time the Project and the equipment and materials involved therein, and to examine such records and documents as the Bank may deem pertinent. The personnel which the Bank shall send or designate as investigators, agents, auditors or experts for this purpose shall receive the complete cooperation of the respective authorities. All the costs relating to transportation, salaries, and other expenses of such personnel shall be borne by the Bank.

(c) The Borrower, the Executing Agency or the Contracting Agency, as the case may be, shall, upon request of an authorized representative of the Bank, provide to the Bank any documents, including procurement-related documents that the Bank might reasonably request. In addition, the Borrower, the Executing Agency and the Contracting Agency shall make their personnel available, upon reasonable notice, to respond to questions from Bank personnel, which arise during the review or audit of such documents. The Borrower, the Executing Agency or the Contracting Agency, as the case may be, shall produce the documents in a timely manner or shall submit an affidavit to the Bank setting forth the reasons why the requested material is unavailable or is being withheld.

(d) If the Borrower, the Executing Agency or Contracting Agency, as the case may be, refuses to comply with the Bank's request, or otherwise obstructs the Bank's review of the matter, the Bank, in its sole discretion, may take appropriate action against the Borrower, Executing Agency or Contracting Agency, as the case may be.

ARTICLE 7.03. Reports. The Borrower or the Executing Agency, as appropriate, shall present to the Bank's satisfaction: (a) Reports on the execution of the Project, within sixty (60) days following the end of each Semester, or within such other period as the parties may agree, prepared in accordance with the relevant rules agreed to with the Bank; and (b) Such other reports as the Bank may reasonably request regarding the investment of the sums lent, the use of goods acquired with such sums, and the progress of the Project.

ARTICLE 7.04. External Audit. (a) The Borrower shall present to the Bank, directly or through the Executing Agency, within the deadlines, for the period of duration, and with the frequency provided in the Special Conditions of this Contract, the financial statements and other reports, and any additional financial information that the Bank may request, in accordance with accounting principles and standards acceptable to the Bank.

(b) The Borrower agrees to have the financial statements and other reports, as indicated in the Special Conditions of this Contract, audited by independent auditors acceptable to the Bank, in accordance with auditing principles and standards acceptable to the Bank, and to present to the Bank's satisfaction such information as may be requested by the Bank related to the independent auditors whose services have been engaged.

(c) The Borrower shall select and hire directly or through the Executing Agency, as the case may be, the independent auditing services that are necessary for the timely submission of the

financial statements and other reports indicated in paragraph (b) above, no later than four (4) months before the closing of each fiscal year of the Borrower, beginning on the date on which this Contract enters into effect, or such other time as may be agreed upon between the parties, in accordance with procedures and terms of reference previously agreed upon with the Bank. The Borrower or the Executing Agency, as the case may be, shall authorize the external auditors to provide the Bank with any additional information it may reasonably request with respect to the audited financial statements and/or audited financial reports.

(d) In cases in which the audit is to be performed by an official auditing agency and such agency is unable to perform the audit in accordance with requirements satisfactory to the Bank or within the deadlines, for the period of duration or with the frequency mentioned in this Contract, the Borrower or the Executing Agency, as the case may be, shall select and contract the services of independent auditors acceptable to the Bank, as provided under section (c) above.

(e) Notwithstanding the provisions above, the Bank may, on an exceptional basis and subject to prior agreement between the parties, select and hire the services of independent auditors to prepare the financial statements of the Project and other audited reports as provided in this Contract when: (i) the benefits of the selection and hiring of such services by the Bank outweigh the costs of doing so; (ii) there is limited access to auditing services within the country; or (iii) special circumstances warrant the selecting and hiring of such services by the Bank.

(f) The Bank shall have the right to request the Borrower or the Executing Agency, as the case may be, to have other types of independent audits and/or services carried out relating to the auditing of projects, of the Executing Agency and related entities, of the financial information system, and of the bank accounts of the Project, among others. The nature, frequency, scope, timing, methodology, type of applicable auditing norms, reports, selection procedures and terms of reference shall be agreed upon between the parties.

CHAPTER VIII

Provision on Encumbrances and Exemptions

ARTICLE 8.01. Commitment on Encumbrances. If the Borrower should agree to create any specific encumbrance on all or part of its assets or revenues to secure an external debt, it shall at the same time create an encumbrance guaranteeing to the Bank, equally and proportionally, the fulfillment of the pecuniary obligations arising from this Contract. However, the foregoing shall not apply: (a) to encumbrances on goods used as security for payment of the unpaid balance of the purchase price; and (b) to encumbrances created in banking operations to secure payment of debts with maturities of not more than one year. In the event that the Borrower is a member country, the term “assets or revenues” shall mean all types of assets or revenues which belong to the Borrower or any of its dependent agencies which are not autonomous entities with their own separate capital.

ARTICLE 8.02. Tax exemption. The Borrower undertakes to ensure that both the principal and the interest and other charges of the Loan shall be paid without any deduction or restriction

whatsoever, exempt from any tax, fee, duty or charge established or that may be established by the laws of its country, and to pay any tax, fee, or duty applicable to the signing, negotiation, and execution of this Contract.

CHAPTER IX

Arbitration Procedure

ARTICLE 9.01. Composition of the Tribunal. (a) The Arbitration Tribunal shall be composed of three members to be appointed in the following manner: one by the Bank, another by the Borrower, and a third, hereinafter called the “Referee”, by direct agreement between the parties or through their respective arbitrators. If the parties or the arbitrators fail to agree on who the Referee shall be, or if one of the parties should not designate an arbitrator, the Referee shall be appointed, at the request of either party, by the Secretary General of the Organization of American States. If either of the parties fails to appoint an arbitrator, one shall be appointed by the Referee. If either of the appointed arbitrators or the Referee is unwilling or unable to act or to continue to act, his successor shall be appointed in the same manner as for the original appointment. The successor shall have the same functions and faculties as his predecessor.

(b) If the controversy affects not only the Borrower but also the Guarantor, if any, both shall be considered a single party and consequently shall act jointly in the designation of the arbitrator and for the other purposes of the arbitration proceedings.

ARTICLE 9.02. Initiation of the Procedure. In order to submit the controversy to arbitration, the claimant shall address to the other party a written communication setting forth the nature of the claim, the satisfaction or compensation which it seeks, and the name of the arbitrator it appoints. The party receiving such communication shall, within forty-five (45) days, notify the adverse party of the name of the person it appoints as arbitrator. If, within thirty (30) days after delivery of such notification to the claimant, the parties have not agreed upon the person who is to act as Referee, either party may request the Secretary General of the Organization of American States to make the appointment.

ARTICLE 9.03. Convening of the Tribunal. The Arbitration Tribunal shall be convened in Washington, District of Columbia, United States of America, on the date designated by the Referee, and, once convened, shall meet on the dates which the Tribunal itself shall establish.

ARTICLE 9.04. Procedure. (a) The Tribunal shall be competent to hear only the matters in controversy. It shall adopt its own procedures and may on its own initiative designate whatever experts it considers necessary. In any case, it shall give the parties the opportunity to make oral presentations.

(b) The Tribunal shall proceed *ex aequo et bono*, basing itself on the terms of this Contract, and shall issue an award even if either party should fail to appear or present its case.

(c) The award shall be in writing and shall be adopted with the concurrent vote of at least two members of the Tribunal. It shall be handed down within approximately sixty (60) days from the date on which the Referee is appointed, unless the Tribunal determines that, due to special and unforeseen circumstances, such period should be extended. The award shall be notified to the parties by means of a communication signed by at least two members of the Tribunal, and shall be complied with within thirty (30) days from the date of notification. The award shall be final and will not be subject to any appeal.

ARTICLE 9.05. Costs. The fees of each arbitrator shall be paid by the party which appointed him and the fees of the Referee shall be paid by both parties in equal proportion. Prior to the convening of the Tribunal, the parties shall agree on the remuneration of the other persons who, by mutual agreement, they deem should take part in the arbitration proceedings. If such agreement is not reached in a timely manner, the Tribunal itself shall determine the compensation which may be reasonable for such persons under the circumstances. Each party shall defray its own expenses in the arbitration proceedings, but the expenses of the Tribunal shall be borne equally by the parties. Any doubt regarding the division of costs or the manner in which they are to be paid shall be determined, without appeal, by the Tribunal.

ARTICLE 9.06. Notification. All notifications relative to the arbitration or to the award shall be made in the manner provided in this Contract. The parties waive any other form of notification.

ANNEX

THE PROGRAM

WSC Support Program - New Providence Water Supply and Sanitation Systems Upgrade

I. Objectives

- 1.01** The general objective of the Program is to improve the efficiency and quality of service provision of potable water, address immediate problems of sanitation in New Providence, prepare for the implementation of economic and environmental regulation, and create and support the corresponding regulatory entities.
- 1.02** The specific objectives of the Program are to: (i) reduce water losses; (ii) strengthen the institution of the WSC; (iii) upgrade and rehabilitate selected sewerage infrastructure; and (iv) improve the legal and regulatory framework of the sector.

II. Description

- 2.01** In order to achieve the abovementioned objectives, the Program will implement the following components:

Component 1: Non-Revenue Water (NRW) Reduction

- 2.02** This component will finance a NRW reduction contract to address water losses in New Providence. The activities will be as follows: (i) perform a Baseline Survey and prepare a detailed NRW reduction strategy; (ii) leak detection and repairs; (iii) construction works and equipment including mains and service lateral replacement, pressure control, data collection and monitoring; (iv) NRW/asset management information system (MIS) that integrates key existing WSC systems such as Geographical Information Systems (GIS), Work Order Management (WOM), customer information, and network analysis; (v) NRW training for WSC staff; and (vi) consulting services to assist with execution.

Component 2: WSC Institutional Strengthening

- 2.03** This component will finance several activities geared towards: (i) introducing and integrating supervisory control and data acquisition (SCADA) capabilities to improve system monitoring and design operating improvement actions; (ii) utilizing automatic reading meters in targeted accounts to improve staff productivity and customer service; (iii) carrying out a winning back customer campaign, geared to customers who have moved to individual private well supplies as a result of deficient service levels; (iv) developing and implementing the new organizational structure of WSC, including: an operational strategy design, a human resources strategy, the definition of benchmark performance standards to prepare WSC for regulation by the Utilities Regulation and

Competition Authority (URCA), and training WSC's personnel; and (v) carrying out a tariff study and a scheme proposal in alignment with the new sector economic regulation.

Component 3: Rehabilitation and Upgrade of Sewerage Infrastructure and Preparation of a Wastewater Treatment Master Plan

- 2.04** This component will finance the rehabilitation of: (i) malfunctioning infrastructure that is causing environmental and potential health problems; (ii) critical lift stations, which require civil/mechanical/electrical and security upgrades; and (iii) collection systems and force mains, to address failing and inefficient/ineffective sewers. It will also finance the preparation of a wastewater master plan to address the wastewater collection, treatment, and disposal needs of New Providence. The master plan will also include the necessary technical, social, environmental and financial analyses.

Component 4: Upgrade Legal and Regulatory Framework

- 2.05** This component will finance the: (i) hiring of consultants to draft economic regulatory bylaws, and to train personnel, that will be utilized by URCA in its expanded responsibilities as water and sanitation regulator; and (ii) hiring of qualified staff, training, laboratory upgrade, office rental and drafting of various bylaws that will be required to establish the new independent environmental regulator, through the reorganization of existing units in the Ministry responsible for the Environment (MRTE). After the program implementation concludes, the Guarantor will finance any recurrent costs related to the office rental and staff for the new independent environmental regulator.

III. Total Cost of the Program and Financing Plan

- 3.01** The total cost of the Program, estimated in the amount of US\$81,000,000, will be distributed among the following categories of expenditures:

(in US\$)

Category	Bank	Local	Total
1- Program Administration			
1.1 Program Management and Supervision	1,820,000		1,820,000
2- Direct Costs			
2.1 NRW Reduction	49,000,000		49,000,000
2.2 WSC Institutional Strengthening	5,500,000		5,500,000
2.4 WW Infrastructure and Master Plan	15,580,000		15,580,000
2.5 Legal and Regulatory	3,000,000		3,000,000
3- Concurrent Costs			0
3.1 Auditing	120,000		120,000
3.2 Monitoring and Evaluation	460,000		460,000
4. Unallocated			0
4.1 Contingencies	3,120,000		3,120,000
4.2 Financial Charges	2,400,000		2,400,000
Total	81,000,000		81,000,000
Percentage (%)	100%	0%	100%

IV. Execution

- 4.01** For the implementation of the Program the WSC will establish a dedicated Program Management Unit (PMU), which will be composed as a minimum by the Program Manager; a senior level Engineer for Component 1; and a senior level Engineer for Component 3. The PMU will be supported with a senior level Auditor (Internal Control and Compliance Unit) and an administrative assistant. Additional support, operating from their specific units will include: a senior level Legal Counsel (Administration Department); a mid-level Financial Management specialist (Management Accounts Unit); and, a mid-level Procurement specialist (Purchasing Department). In addition, WSC will hire consultancy services, as part of the PMU staff, for the five years of execution, to supervise its execution and leave installed capacity in WSC's staff.
- 4.02** The PMU's specific responsibilities will include: (i) coordinating and supporting the preparation of the Annual Operating Plans (AOP); (ii) preparation of budget, Program accounting, and requests to replenish the Program's funds; (iii) preparation of annual procurement plans and the processing of procurement for goods, works, non-consulting services and consultants for the Program; (iv) coordinating the preparation of technical reports and the periodic and end-of-year financial reports; (v) monitoring and evaluating the progress of the execution of Program's activities and analyzing variances of actual results against plans in all components; and (vi) serving as a liaison for the Program and the Bank. Each fiscal year during the Program execution, the PMU will produce semi-annual financial reports for the Program and will hire a firm of independent public accountants for the preparation of the annual audited financial statements referred to in Section 5.03 of the Special Conditions.
- 4.03** The PMU will be responsible for developing the system for gathering and maintaining the data related to the different indicators included in the Results Framework. An evaluation consultant will be hired by the PMU during the first semester of execution to assist in determining the methodology and gathering the data for the baselines of Program indicators. Progress toward meeting the different targets will be evaluated and communicated to the Bank in the semi-annual progress reports.
- 4.04** The WSC General Manager and executives will provide strategic direction, coordination and support for Program execution. The Program Manager will be responsible for monitoring progress against agreed benchmarks and assessing the continued viability of the Program.
- 4.05** For activities comprised in Component 4, MRTE will chair a Committee with representatives from WSC, MOF, URCA and The Attorney General's Office that will oversee execution and performance of this component. This Committee will be responsible for the achievement of all economic indicators with implications for the Program and the timely delivery of legislation' and for the Economic and Environmental Regulatory functions by the fifth year of the Program. The Committee will be chaired by the line ministry responsible for the WSC and the WSC will be a member of the Committee, but will not have any veto power on the decisions approved by the rest of the

members of the Committee. The draft terms of reference of the operating procedures for the Committee will be detailed in the Operations Manual for the Program, and the final operating procedures will be approved by the Committee during its first meeting.

- 4.06** *Annual Operating Plans (AOPs)*. The Program will be executed following the AOP that will be included for each activity in the annual program: its goals, budget, source of funding, and responsibility for execution. The Program's OM will set forth the details regarding Program execution, including coordination of activities among different offices. The need to update the Program's Operations Manual will be assessed during the midterm review.
- 4.07** *Operations Manual (OM)*. The implementation of the Program will be governed by the terms and conditions set forth in this Contract and in the OM approved by WSC's Board, with the prior non-objection of the Bank, on the understanding that changes can be introduced into the OM with the prior written approval of the Bank. The overall need to update the OM will be assessed yearly during Program implementation. If any provision of the OM should present any inconsistency or contradiction with the terms and conditions set forth in this Contract, the provisions of this Contract shall prevail.