

Ms Karen Gordon
Whole Child International
11726 San Vicent Blvd.
Suite 222
Los Angeles, CA 90049

Ref: Nicaragua. Nonreimbursable Technical Cooperation
No. ATN/KP-12327-NI. Improving Quality of Care
in Orphanages.

Dear Ms Karen Gordon:

This letter of agreement (hereinafter the “Agreement”) between Whole Child International (hereinafter the “Beneficiary”) and the Inter-American Development Bank (hereinafter the “Bank”) which we are submitting for your consideration, is to formalize the terms of a grant of a nonreimbursable technical cooperation to the Beneficiary, for an amount of up to five hundred thousand dollars of the United States of America (US\$500,000), which shall be chargeable to the Korean Poverty Reduction Fund (the “Contribution”). The Contribution will finance the contracting of consulting services and procurement of goods necessary for the execution of a technical cooperation to improve the quality of care in orphanages in Nicaragua (hereinafter the “Program”), which is set forth in the Annex of this Agreement. Unless otherwise stated in this Agreement, the term “dollars” shall hereinafter refer to the currency of legal tender in the United States of America.

The Bank and the Beneficiary agree upon the following:

First. **Components of the Agreement.** This Agreement consists of this part one, referred to as the “Special Conditions”; part two, referred to as the “General Conditions”, and the Annex, which are attached hereto. The prevalence between the above-mentioned Sections and the Annex is established in Article 1 of the General Conditions.

Second. Executing Agency. The Executing Agency of this Program shall be the Beneficiary (hereinafter referred to as the “Beneficiary” or “Executing Agency”).

Third. Conditions Prior to First Disbursement. The first disbursement of the Contribution shall be subject to the fulfillment, to the satisfaction of the Bank, of the conditions set forth in Article 2 of the General Conditions.

Fourth. Reimbursement of Expenditures Chargeable to the Contribution. With the consent of the Bank, resources of the Contribution may be used to reimburse expenditures incurred or to finance those that may be incurred in the Program on or after August 20th, 2010 and up to the date of this Agreement, provided that requirements substantially similar to those set forth herein have been fulfilled.

Fifth. Deadlines. (a) The period for execution of the Program shall be twenty four (24) months, from the effective date of this Agreement.

(b) The period for the last disbursement of the resources of the Contribution shall be thirty (30) months from the effective date of this Agreement. Any part of the Contribution which has not been utilized within this period shall be canceled.

(c) The aforementioned deadlines and any others that may be stipulated in this Agreement may be extended, when duly justified, with the written consent of the Bank.

Sixth. Total Cost of the Program and Additional Resources. (a) The Beneficiary shall make timely provision of the resources required (hereinafter the “Counterpart Resources”), in addition to the Contribution, for the complete and uninterrupted execution of the Program. The total amount of Counterpart Resources is estimated to be the equivalent of five hundred thousand dollars (US\$500,000), to make up a sum equivalent to one million dollars (US\$1,000,000), which is estimated to be the total cost of the Program. These estimates do not reduce the obligation of the Beneficiary to provide any additional resources required to complete the Program.

(b) The Counterpart Resources provided by the Beneficiary shall be used to finance the cost categories which are chargeable to it, as established in the Program’s budget set forth in the attached Annex.

Seventh. Recognition of Expenses Chargeable to the Counterpart Resources. The Bank may recognize, as part of the Counterpart Resources, expenditures incurred or which may be incurred in the Program on or after August 20th, 2010 and up to the date of this Agreement, provided that requirements substantially similar to those set forth herein have been fulfilled.

Eighth. Currencies for Disbursements. The Bank shall disburse the Contribution in dollars. The Bank may convert this convertible currency into other currencies, including the local currency, by applying the exchange rate indicated in Article 7 of the General Conditions.

Ninth. Acquisition of goods and services (different from consulting services). The acquisition of goods and services (different from consulting services) shall be carried out by the Beneficiary in accordance with the provisions set forth in Document GN-2349-7 ("Policies for the Procurement of Works and Goods Financed by the Inter-American Development Bank") dated July, 2006, the contents of which the Beneficiary hereby confirms its knowledge, and in accordance with the following provisions:

- (i) National Competitive Bidding: for goods and services estimated to cost less than one hundred and fifty thousand dollars (US\$150,000) equivalent per contract, in accordance with the provisions of paragraphs 3.3 and 3.4 of the aforementioned Policies and provided that the basic guarantees that bidding procedures must meet are complied with.
- (ii) Shopping: for goods and services estimated to cost up to twenty five thousand dollars (US\$25,000) equivalent per contract, in accordance with paragraph 3.05 of the aforementioned Policies.

Tenth. Selection and Contracting of Consulting Services. The selection and contracting of consulting services shall be carried out by the Beneficiary in accordance with the provisions set forth in Document GN-2350-7 "Policies for the Selection and Contracting of Consultants Financed by the Inter-American Development Bank" dated July 2006, the contents of which the Beneficiary hereby confirms its knowledge, and in accordance with the following provisions:

- (i) The Beneficiary may utilize the modalities set forth in Sections III and V of the aforementioned Policies when hiring consulting firms and individual consultants, respectively. Section II and paragraphs 3.16 through 3.20 of Section III will be utilized for Quality and Cost Based Selection.
- (ii) The Beneficiary may utilize the "Single Source Selection" modality for contracting the services of the University of Pittsburgh, in accordance with paragraphs 3.9 and 3.10 of the aforementioned Policies.
- (iii) For the purposes of the provisions indicated in paragraph 2.7 of the Policies, the consultants' short list for contracts estimated to cost less than the equivalent of two hundred thousand dollars (US\$200,000), may be entirely comprised by nationals from Nicaragua.

Eleventh. Procurement Plan. Before starting any competitive bidding process or any request for proposals for the acquisition of goods and services (different from consulting services) and consulting services, respectively, the Executing Agency shall prepare and furnish

to the Bank for its approval, a Procurement Plan acceptable to the Bank setting forth: (a) the particular contracts for consulting services required to carry out the Program, including the estimated cost of each contract, and the proposed methods for acquisition of goods and selection of consultants' services, in accordance with paragraphs 1 of Appendixes 1 of the Procurement of Goods and Consultants Policy referred to in paragraphs Ninth and Tenth of these Special Conditions. This Plan shall be updated during the execution of the Program or as needed throughout the duration of the Program, and each updated version shall be submitted to the Bank's approval. The Executing Agency shall implement the Procurement Plan in the manner in which has been approved by the Bank.

Twelfth. Review by the Bank. Unless the Bank agrees otherwise in writing, each contract for the acquisition of goods and consulting services shall be subject to an ex ante review, in accordance with the procedures set forth in paragraphs 2 and 3 of Appendixes 1 of the Procurement of Goods and Consultants Policy.

Thirteenth. Auditing. (a) The Executing Agency undertakes to present, to the Bank's satisfaction, the financial statements of the Program duly certified by a firm of independent accountants in accordance with the Bank's policy and procedures on this matter and in accordance with Article 11(b) of the General Conditions of this Agreement.

(b) The auditing of the financial statements referred to in subsection (a) above will be financed with the Contribution.

Fourteenth. Reports. (a) The Beneficiary will present, to the Bank's satisfaction, a progress report twice a year. The progress reports will summarize the implementation benchmarks achieved during the reporting period, according to the Program's logical framework and plans agreed with the Bank. The progress reports will also include the Program's budget execution. The areas that will be monitored and reported are the following: (i) training and technical assistance for the staff of the four institutions being served; (ii) establishment of primary caregivers to each individual child; (iii) design and update of individual memory books by the primary caregiver; and (iv) continuity of care for the duration of the children's stay in the protection center.

(b) The Beneficiary will also present, to the Bank's satisfaction, a final report, sixty (60) days after the final disbursement of the Program, detailing the accomplishments of the Program according to the logical framework. The final report shall be accompanied by a before-and-after video, and pictures to reflect the changes in the organization and functioning of the orphanages achieved with this Program.

Fifteenth. Other special Contractual Conditions. (a) The Beneficiary will organize, during the second year of the Program's execution in a date to be agreed upon with the Bank, a technical workshop to present early results of the Program. Korean experts designated by the Government of Korea will be invited to participate in that workshop, along with other early child development experts (ECD) and professionals from MIFAN.

(b) The Beneficiary undertakes to transfer, upon termination of the Program, all goods acquired as part of the Program to the supported orphanages described in the Annex.

Sixteenth. Information Disclosure. The Beneficiary undertakes to notify the Bank, in writing, within a maximum period of ten (10) working days from the date of signature of this Agreement, whether it considers any part of this Agreement to be confidential or sensitive, or to contain information that may adversely affect relations between the Bank and the Beneficiary, or between the Bank and its private sector clients, in which case the Beneficiary undertakes to identify those provisions considered as such. In accordance with the Bank's Disclosure of Information Policy, the Bank will make the text of this Agreement available to the public once it has been signed and has entered into effect, with the sole exception of the information specifically identified by the Beneficiary as confidential, sensitive or adverse to relations with the Bank in the manner indicated in this paragraph.

Seventeenth. Notice. Any notice, request, or communication from one party to another by virtue of this Agreement shall be made in writing and shall be considered to have been made when the relevant documents are delivered to the addressee, unless the parties otherwise agree in writing.

If to the Beneficiary, such notice shall be addressed to:

Whole Child International
11726 San Vicent Blvd.
Suite 222
Los Angeles, CA 90049

Facsimile: (310) 820-8886

If to the Bank, such notice shall be addressed to:

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

Facsimile: (202) 623-3096

Please confirm your acceptance of the terms and conditions of this Agreement, in representation of the Executing Agency, by signing and returning one of the originals hereof to the Bank's Headquarters in Washington, District of Columbia.

This Agreement shall be signed in two (2) originals of equal tenor by duly authorized representatives of the parties and shall enter into force on the date of its signature by the Beneficiary.

Yours Faithfully,

f// Gina Montiel

Gina Montiel
General Manager
Country Department for Central
America, Mexico, Panama and
Dominican Republic

AGREED:

Whole Child International

f// Karen Gordon

Representative of the Beneficiary

Name: Karen Gordon

Title: Founder & CEO

Date: 22 October 2010

**GENERAL CONDITIONS APPLICABLE TO
NONREIMBURSABLE TECHNICAL COOPERATIONS**

Article 1. Application and scope of General Conditions. (a) These General Conditions set forth terms and conditions generally applicable to all nonreimbursable technical cooperations made by the Bank, and their provisions form an integral part of this Agreement. Any exception to these General Conditions shall be expressly stated in the text of the Special Conditions.

(b) If any provision of the Special Conditions or of the Annex or Annexes should present any inconsistency or contradiction with these General Conditions, the provisions of the Special Conditions or the corresponding Annex shall prevail. In case of inconsistencies or contradictions between the Special Conditions and the corresponding Annex or Annexes, specific provisions shall prevail over general provisions.

Article 2. Conditions prior to first disbursement. (a) The first disbursement of the Contribution shall be subject to the fulfillment of the following requirements, by the Beneficiary, directly or through the Executing Agency:

- (i) designation of the person or persons authorized to represent it in all acts relating to the execution of this Agreement, and submission to the Bank of authenticated specimen signatures of such persons. If two or more officials are designated, the designation shall indicate whether they may act severally or jointly; and
- (ii) presentation to the Bank of a timetable for use of the Counterpart Resources.

(b) If within one hundred and eighty (180) days from the effective date of this Agreement, or within such longer period as the parties may agree in writing, the conditions precedent to the first disbursement established in this Article and in the Special Conditions have not been fulfilled, the Bank may terminate this Agreement by giving notice to the Beneficiary or to the Executing Agency, as the case may be.

Article 3. Requisites for all disbursements. For the Bank to make any disbursement, it shall be necessary that: (a) the Beneficiary 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; (b) the Beneficiary 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 Contribution; (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 Beneficiary or the Executing Agency, as the case may be, and the Bank may have agreed to in writing; and (d) none of the circumstances described in Article 7 of these General Conditions shall have occurred.

Article 4. Disbursement procedures. (a) The Bank shall make disbursements of the Contribution as follows: (i) by transferring to the Beneficiary or the Executing Agency, as the case may be, the sums to which it is entitled under to this Agreement, under the modality of reimbursement of expenditures and advance of funds¹; (ii) by making payments on behalf of and in agreement with the Beneficiary or the Executing Agency, as the case may be, to third parties and other banking institutions; and (iii) 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 Beneficiary or the Executing Agency, as the case may be.

(b) With resources of the Contribution and upon fulfillment of the requirements set forth in Articles 2 and 3 of these General Conditions and the pertinent requirements established in the Special Conditions, the Bank may disburse resources of the Contribution to:

- (i) Reimburse the Beneficiary or the Executing Agency, as the case may be, for expenditures related to the execution of the Program that have been incurred by its own resources or other financing resources and that are eligible to be financed with resources of the Contribution, pursuant to the provisions of this Agreement. Except by express agreement between the parties, the disbursement requests for reimbursing expenditures financed by the Beneficiary or Executing Agency, as the case may be, 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; and
- (ii) Disburse resources as an advance of funds to the Beneficiary or the Executing Agency, as the case may be, on the basis of the liquidity needs of the Program, to cover expenditures related to the execution of the Program that are eligible to be financed with resources of the Contribution, pursuant to the provisions of this Agreement. The maximum amount of each advance of funds shall be set by the Bank on the basis of the liquidity needs of the Program to cover periodic projected expenditures that are eligible to be financed by the Contribution. 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 Beneficiary or the Executing Agency, as the case may be, to efficiently manage the resources of the Contribution.

(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 Program 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)(ii) above, provided that at least eighty percent (80%) of the total amount of resources disbursed as an advance of funds has been justified.

¹ "Advance of funds" means the amount of resources advanced by the Bank to the Beneficiary or the Executing Agency, as the case may be, chargeable to the resources of the Contribution, to cover eligible expenditures of the Program.

(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 Contribution have not been used or have not been justified to the Bank sufficiently and on a timely basis, at the Bank's satisfaction, in accordance with the provisions established in this Agreement.

Article 5. Closing Period². The Beneficiary 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 Contribution, the supporting documentation relating to expenditures made for the execution of the Program, 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 Contribution that has not been duly justified. If audit services are to be financed with resources of the Contribution, and such services will not be concluded or billed prior to the expiration of the Closing Period referred to in section (a) above, the Beneficiary 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 Contribution allotted for such purpose, should the Bank not receive the audited financial statements and other audited reports within the periods stipulated in this Agreement.

Article 6. Expenditures chargeable to the Contribution. The Contribution shall exclusively finance those eligible expenses which are set forth in the Program budget contained in the Annex that describes the Program. Only direct and actual Program expenses may be charged to the Contribution. Indirect or general operating expenses, which are not included in the Program budget, cannot be charged to the Contribution.

Article 7. Suspension and cancellation of disbursements and other measures. (a) The Bank may suspend the disbursements or cancel the Contribution if any of the following circumstances occurs: (i) the failure of the Beneficiary or the Executing Agency, as the case may be, to fulfill any obligation stipulated in this Agreement; (ii) if it is determined at any stage that evidence is sufficient to support a finding that an employee, agent, or representative of the Beneficiary or the Executing Agency, has engaged in a prohibited practice during the bidding process, negotiation of a contract, or the execution of the contract; or (iii) any circumstance which, in the Bank's opinion, may render unlikely the attainment of the objectives of the Program. Under these circumstances, the Bank shall notify in writing the Beneficiary or the Executing Agency, as the case may be, so that it may present its points of view, and after thirty (30) days from the date of the Bank's notice, it may suspend the disbursement or cancel the undisbursed portion of the Contribution.

(b) Pursuant to paragraph (a) above, the parties agree that upon the occurrence of institutional or organizational changes within the Beneficiary or the Executing Agency, which, in the Bank's opinion, might affect the timely execution of the Program's objectives, the Bank shall review and evaluate the likely attainment of the objectives and may at its discretion, suspend, condition or cancel the disbursements of the Contribution.

2 "Closing Period" means a ninety (90)-day period from the date stipulated for the final disbursement of the Contribution, 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 Contribution but not used and justified.

(c) The Bank may cancel the part of the Contribution pertaining to the procurement of certain goods, works or related services, or consulting services, if it determines at any time that: (i) the procurement was carried out without following the procedures set forth in this Agreement; or (ii) representatives of the Beneficiary or the Executing Agency have committed any prohibited practice, either in the process of selecting the supplier or consultant or in the negotiation or execution of the respective contract, and the Beneficiary or the Executing Agency has not taken timely and remedial measures, observing the due process guarantees of the legislation of the Beneficiary's or the Executing Agency's country, which are acceptable to the Bank.

(d) For the purposes of the above paragraph, 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 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.

(e) 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 Program including, *inter alia*, the Beneficiary, bidders, suppliers, contractors, sub-contractors, 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 Contribution as described in Article 6 (a) 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 Beneficiary, Executing Agency or Contracting Agency has engaged in a prohibited practice;
- (iii) cancel, the portion of the Contribution earmarked for a contract as described in Article 6 (c) above of these General Conditions, when there is evidence that the representative of the Beneficiary 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 Beneficiary 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 Programs 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 of the Bank for costs associated with investigations and proceedings. Such other sanctions may be imposed in addition to or in lieu of other sanctions.

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

(g) The provisions established in the precedent paragraphs (a) and (c) shall not affect the disbursement by the Bank of any amounts which the Bank by specific written agreement with the Beneficiary or the Executing Agency, as the case may be, has agreed to provide from the resources of the Contribution to make payments to a supplier of goods and related services or consultant services. The exceptions set forth in this paragraph (g) 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, such goods and related services or consultant services.

Article 8. Exchange rate for programs financed with funds expressed in dollars of the United States of America.

(a) Disbursements:

- (i) The equivalence in dollars of the United States of America of other convertible currencies in which the disbursements of the Contribution might be made, shall be calculated applying the exchange rate in effect in the market on the date of the disbursement; and
- (ii) The equivalence in dollars of the United States of America of the local currency, or other non-convertible currencies, in the case of regional Programs, in which the disbursements of the Contribution might be made, shall be calculated applying, on the date of the disbursement, the exchange rate established pursuant to the understanding in force between the Bank and the respective country for the purpose of maintaining the value of its currency, or other non-convertible currencies, in the case of regional Programs, held by the Bank.

(b) Expenses:

- (i) The equivalency in the currency of the Contribution of an expenditure incurred in the currency of the Beneficiary or the Executing Agency, as the case may be, shall be calculated in accordance with the provisions set forth in the Special Conditions of this Agreement and pursuant to the following rates of exchange: (A) the same exchange rate used in the conversion of the resources disbursed in the currency of the Contribution to the currency of the Beneficiary's or the Executing Agency's country. In this case, for purposes of the reimbursement of expenditures chargeable to the Contribution 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 (B) the prevailing exchange rate in force in the Beneficiary's or the Executing Agency's country, as the case may be, on the effective date of the payment of the expenditure in the currency of the Beneficiary's or the Executing Agency's country.

Article 9. Exchange rate for programs financed with funds constituted in convertible currencies other than the US Dollar. (a) Disbursements. The Bank may convert the disbursed currency chargeable to the resources of the trust fund indicated in the Special Conditions in:

- (i) Other convertible currencies applying the exchange rate in effect in the market on the date of the disbursement; or
- (ii) The local currency or other non-convertible currencies, in the case of regional Programs, applying, on the date of the disbursement, the following procedure: (A) the equivalence of the currency of the trust fund indicated in

the Special Conditions shall be calculated in Dollars of the United States of America, applying the exchange rate in effect in the market; (B) next, the equivalence of these Dollars of the United States of America shall be calculated in local currency or other non-convertible currencies, in the case of regional Programs, applying the exchange rate established pursuant to the understanding in force between the Bank and the respective country for the purpose of maintaining the value of its currency held by the Bank.

(b) Expenses:

- (i) The equivalency in the currency of the Contribution of an expenditure incurred in the currency of the Beneficiary or the Executing Agency, as the case may be, shall be calculated in accordance with the provisions set forth in the Special Conditions of this Agreement and pursuant to the following rates of exchange: (A) the same exchange rate used in the conversion of the resources disbursed in the currency of the Contribution to the currency of the Beneficiary's or the Executing Agency's country. In this case, for purposes of the reimbursement of expenditures chargeable to the Contribution 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 (B) the prevailing exchange rate in force in the Beneficiary's or the Executing Agency's country, as the case may be, on the effective date of the payment of the expenditure in the currency of the Beneficiary's or the Executing Agency's country.

Article 10. Acquisition of goods and related services and contracting of consultants. (a) Chargeable to the Contribution, the Beneficiary or the Executing Agency, as the case may be, may acquire the goods and related services and contract the consulting services required for the execution of the Program, in an amount not to exceed the allocation specified for that purpose in the budget set forth in the Annex that describes the Program.

(b) When the goods and related services are acquired and the consulting services are contracted for the Program are entirely financed with local counterpart contribution, the Beneficiary or the Executing Agency, as the case may be, shall, whenever possible, follow procedures that allow the participation of several bidders, and shall take into account principles of economy, efficiency and price reasonability.

(c) When sources of financing other than resources of the Contribution or of the Counterpart Resources are used, the Beneficiary or the Executing Agency, as the case may be, may agree with the financing entity the procedure to be followed for the acquisition of goods and related services and the contracting of consultants. Notwithstanding, at the Bank's request, the Beneficiary or the Executing Agency, as the case may be, shall prove the reasonability of both the price agreed upon or paid for the acquisition of such goods and related services or the contracting of consultants, and of the financial conditions of such credits. The Beneficiary or the Executing Agency, as the case may be, shall likewise demonstrate that the quality of the goods and related services and of the consultants meets the technical requirements of the Program.

(d) During the execution of the Program, the goods referred to in subsection (a) above shall be used exclusively for the execution of the Program.

(e) The goods included in the Program shall be adequately maintained according to generally accepted technical standards, at a level compatible with the services that they should provide.

Article 11. Other contractual obligations of consultants. In addition to the special requirements included in the Special Conditions, Annex or Annexes and in the respective terms of reference, the Beneficiary or the Executing Agency, as the case may be, agrees that contracts signed with consultants shall also specify the consultants' obligations to:

(a) provide any clarifications or additional information that the Beneficiary or the Executing Agency or the Bank consider necessary with respect to the consultants' reports required under the terms of reference set forth in their respective contracts;

(b) provide the Beneficiary or the Executing Agency and the Bank with any additional information as they may reasonably request concerning the performance on their work;

(c) in the case of international consultants, perform their work in an integrated manner with the local professional staff assigned or contracted by the Beneficiary or the Executing Agency to participate in the execution of the Program, with a view to carrying out technical and operational training of such staff by the conclusion of the work;

(d) assign copyrights, patents and any other form of industrial property right to the Bank in cases where such rights result from the work and documents carried out by the consultants under the consulting contracts financed with resources of the Program; and

(e) notwithstanding paragraph (d) above, in order to obtain a timely dissemination of the results of the Program, the Bank authorizes the Beneficiary, or the Executing Agency, to make use of the products resulting from the consulting services financed with the resources of the Program, with the understanding that the Beneficiary, or the Executing Agency, shall utilize such consulting products under the terms set forth in Article 15 of these General Conditions.

Article 12. Financial information and internal control systems. The Beneficiary or the Executing 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 of financial statements and other reports related to the resources of the Contribution and other financial sources, as the case may be; and (ii) an internal control structure that enables effective Program 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 Agreement.

(b) The Beneficiary or the Executing Agency, as the case may be, shall preserve the original records of the Program for a minimum period of three (3) years after the date agreed upon of the final disbursement of the Contribution, 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 Program, financed both with the resources of the Contribution and with the other funds to be provided for its complete execution; (iii) include sufficient detail to show the works performed, the services contracted and the goods procured, as the case may be, as well as the utilization of such services and goods; (iv) provide evidence as to conformity in the acceptance, authorization and payments for the contracted services or purchased goods, as the case may be; (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, and invoices, certificates and acceptance reports, receipts, including documents relating to the payment of commissions, and payments to agents, consultants and contractors; and (vi) show the cost of the Program in relation to each category in the Program's budget.

Article 13. External audit. (a) The Beneficiary or the Executing Agency, as the case may be, shall present to the Bank, during the period of the Program execution and within the deadlines and with the frequency provided in the Special Conditions of this Agreement, the Program's 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 Beneficiary agrees to have the financial statements and other reports, as indicated in the Special Conditions of this Agreement, 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 Beneficiary 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 Beneficiary, beginning on the date on which this Agreement 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 Beneficiary 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 other audited 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 Agreement, the Beneficiary 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 Program and other audited reports as provided in this Agreement 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 Beneficiary 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 Program, 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.

Article 14. Inspections. (a) The Bank may establish such inspection procedures as it deems necessary to assure the satisfactory development of the Program.

(b) The Beneficiary and the Executing Agency, as the case may be, shall permit the Bank to inspect at any time the Program, 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 Beneficiary and the Executing 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 Beneficiary and the Executing 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 Beneficiary and the Executing 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 Beneficiary or the Executing 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 Beneficiary or Executing Agency, as the case may be.

Article 15. Other Commitments. The Beneficiary, either directly or through the Executing Agency shall also:

(a) provide the consultants and local experts with secretarial services, offices, office supplies, communication services, transport and any other logistical support required for the execution of their work;

(b) present to the Bank a copy of the consultants reports and their comments thereof;

(c) provide the Bank with any other additional information or legal reports as it may reasonably request concerning execution of the Program and the use of the Contribution and the counterpart resources; and

(d) keep the Bank's Representative in the respective country or countries informed of all aspects of the Program.

Article 16. Publication of Documents. Any document issued under the Bank's name or logotype, as part of a special Program, joint program, research Program or any other event financed with the resources of the Program intended for publication, shall be previously approved by the Bank.

Article 17. Supervision in the Field. Without prejudice to the supervision of the Program activities performed by the Beneficiary or the Executing Agency, as the case may be, the Bank may supervise the Program in the field through its Country Office in the country or countries as it may designate for such purpose.

Article 18. Limitation of the Bank's Obligation. It is understood that the granting of the Contribution by the Bank does not constitute any obligation whatsoever to totally or partially finance any program or Program that may be undertaken directly or indirectly as a result of the execution of the Program.

Article 19. Arbitration. For the solution of any controversy which may arise hereunder and which is not resolved by agreement of the parties, said parties shall unconditionally and irrevocably submit to the following arbitration procedure and award:

(a) **Composition of the Tribunal.** The Arbitration Tribunal shall be composed of three (3) members, to be appointed in the following manner: one by the Bank, another by the Beneficiary, and a third, hereinafter called the "Referee", by direct agreement between the parties or through their respective arbitrators. If the parties fail to agree on who shall be the Referee, or if one of the parties fails to appoint the Referee, 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, he 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 perform the same functions and shall have the same powers as his predecessor.

(b) **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 sought, and the name of the arbitrator it has appointed. The party receiving such communication shall, within forty-five (45) days, notify the adverse party of the name of the person it has appointed 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.

In cases of Agreements with Argentina, the parties agree that prior paragraphs (a) and (b), where it reads: "Secretary General of the Organization of American States", it shall read instead: "President of the International Court of Justice."

(c) **Convening of the Tribunal.** The Arbitration Tribunal shall be convened in Washington, District of Columbia, on the date designated by the Referee and, once convened, the Tribunal itself shall decide when it shall meet.

In cases of Agreements with Argentina, the parties agree that this paragraph (c) shall read instead: "The Arbitration Tribunal shall be convened at the place and date it designates and, once convened, it shall meet on the date decided by the Tribunal."

(d) **Procedure.**

- (i) The Tribunal shall be competent only to hear the matter 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 of making oral presentations.
- (ii) The Tribunal shall proceed ex aequo et bono, basing itself on the terms of this Agreement, and shall issue an award even if either party should fail to appear or to present its case.
- (iii) The award shall be in writing and shall be adopted with the concurrent vote of at least two of the members of the Tribunal. It shall be handed down within sixty (60) days from the date on which the Referee has been appointed, unless the Tribunal determines that, due to special and unforeseen circumstances, such period should be extended. The parties shall be notified of the award by means of a communication signed by at least two members of the Tribunal. The parties agree that any award of the Tribunal shall be complied with within thirty (30) days from the date of notification and it shall be final and not be subject to any appeal.

(e) **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 any other person who by mutual agreement, they deem should participate in the arbitration proceedings. If such agreement is not reached in a timely manner, the Tribunal itself may determine the compensation reasonable for such person under the circumstances. Each party shall defray its own expenses in the arbitration proceedings but the expenses of the Tribunal shall be divided and borne equally by both parties. Any doubt regarding the division of expenses or the manner in which they are to be paid shall be determined, without appeal, by the Tribunal.

(f) **Notification.** All notifications regarding the arbitration proceeding or to the award shall be made in the manner provided in the present Agreement. The parties expressly waive any other form of notification.

In cases of Agreements with Ecuador, the parties agree that, for the purposes of notification, this paragraph (f) shall read: "All notifications regarding the arbitration proceeding or to the award,

shall be made in the manner provided in the Agreement. The parties expressly waive any other form of notification. Notwithstanding the foregoing, any party delivering a notification hereunder must also notify the Attorney General (Procurador General del Estado) of Ecuador.”

ANNEX

THE PROGRAM

Improving Quality of Care in Orphanages

I. Objective

- 1.01** The Program's goal is to improve the quality of early childcare in orphanages and other forms of childcare in Nicaragua, under the leadership of "*Ministerio de la Familia, Adolescencia y Niñez*" (MIFAN), applying the quality of care principles promoted by Whole Child International (WCI), which underscore the fundamental role of affective development as the basis for all other areas of development. The Program's expected outcome is the establishment of an improved, child-focused system of best quality care for institutionalized children in four publicly supported orphanages, with expected results in care-givers and children's improved well being and development indicators.

II. Description

- 2.01** In order to achieve the objectives described in Section I, the Program contemplates the following three Components:

Component 1 – Implement the Whole Child International childcare model in four orphanages

- 2.02** This Component consists of two intervention phases in four orphanages. Phase I consists of administrative reforms that include: (i) changes in personnel schedule; (ii) caregivers assignments to provide primary care to children, looking to improve childcare continuity; (iii) development of memory books for each child by his or her caregiver to document milestones in the life of each institutionalized child; (iv) organization of work in small groups and promoting freedom of movement for infants and toddlers; and (v) training and technical support for both administrative and caregiver staff, plus the minor refurbishment of the four centers to become more welcoming and child focused environments. In Phase II, training and technical support will expand and deepen as Whole Child continues to support a corps of local trainers and provide technical resources to the orphanages as partner institutions.
- 2.03** The resources of this Component will finance the implementation of the WCI model in four orphanages in Managua: Rolando Carazo, *Pajarito Azul*, *Nueva Vida* and *Arca de Noé*. While *Pajarito Azul*, *Nueva Vida* and *Arca de Noé* will receive Phases I and II of the intervention, Rolando Carazo, which was benefitted under the previous Whole Child/MIFAN agreement, will receive Phase II directly, in addition to intensive services

to set this orphanage as a national reference. The four orphanages are the largest publicly funded ones in Nicaragua, and in the case of *Pajarito Azúl* the only orphanage specialized for the care of children with disabilities.

- 2.04** This Component will be developed through seven strategic activities: (1) childcare experts will implement training and technical support with 136 local caregivers and staff in four orphanages, as well as MIFAN staff; (2) 223 assignments will be made for all beneficiary children to provide more stable long-term relations with caregivers; (3) the schedules of the 88 caregivers in the four orphanages will be modified to allow them to develop more continuous relationships between caregivers and beneficiary children; (4) small group working practice will be established to develop children's emotional bonds with caregivers; (5) freedom of movement will be implemented to improve children's physical and cognitive development; (6) 223 memory books will be designed and filled out for all beneficiary children, to provide them with personal history and improve their sense of personal identity; and, (7) the Rolando Carazo orphanage will be set as a national reference center for practice through the full implementation of the requirements and principles promoted by WCI, and by organizing demonstrations for other orphanages.

Component 2 – Build local capacities

- 2.05** With the resources of this Component, WCI will: (i) hire experts and local professionals and train them into a corps of trainers and caregivers who will be able to sustain the benefits of this Program; and (ii) hire six apprentice trainers and gradually replace the international experts who will function initially as mentors, by local professionals in a one-to-two year span after the end of the Program's execution period. WCI will work hand in hand with MIFAN in order to standardize the best child development practices beyond the reach of this Program. All of these efforts will combine to increase the opportunities for vulnerable children to access higher standards of childcare in state institutions.
- 2.06** The expected outputs under this Component include: (i) the training of six local apprentice-trainers by foreign childcare experts for "train-the-trainer" knowledge transfer and gradual replacement of the foreign mentors to sustain the benefits of this project; and (ii) a proposal of standardized norm for the organization of orphanages and other childcare centers based on international best child care practices presented by Whole Child by the end of the Program's execution period.

Component 3 – Assess Impact

- 2.07** The resources of this Component will finance the contracting of University of Pittsburgh in order to carry out the impact assessment of the Program.
- 2.08** The expected outputs under this Component include a completed final evaluation report specifying the outcomes of the Program measured by caregiver and children indicators, and any other finding from this intervention.

III. Total Cost of the Program

- 3.01** The estimated cost of the Program is the equivalent of US\$1,000,000, in accordance with the following budget:

Cost and Financing (in US\$)

Category	Description	BID	Local
1. Component 1: Implement the Whole Child Childcare Model in Four Orphanages		126,100	178,965
1.1	Team of consultants	115,800	68,885
1.2	Furniture and materials (quality of childcare)	10,300	110,080
2. Component 2: Build Local Human Capacities		156,400	151,900
2.1	Training (facilitators and trainers)	153,200	64,000
2.2	Materials and training logistics	3,200	87,900
3. Operating costs		6,500	152,335
3.1	Office rent, operating expenses and communication		60,935
3.2	Travel and transportation		91,400
3.3	Final audit	6,500	
4. Program evaluation		176,000	16,800
4.1	Technical assistance by the University of Pittsburgh	176,000	
4.2	Local evaluators		16,800
5. Dissemination workshop		35,000	0
5.1	Travelling expenses of participants and logistics	35,000	
TOTAL		500,000	500,000
%		50%	50%

IV. Execution

- 4.01** The Program's Executing Agency is Whole Child International (WCI). WCI will hire a two-person expert training team and a coordination team, which will be recruited locally. This coordination team will consist of a project manager, a program coordinator and a director. This staff will be joined by an expanding team of local trainers, two of whom are already working in the field. This team will expand to at least six by the end of the Program. The team will provide training, consultation, and technical support to a gradually expanding roster of local institutions, recruiting and mentoring apprentice-trainers until those local trainers constitute the entirety of the trainer corps for permanent operation in-country.
- 4.02** For the dissemination workshop, referred to in paragraph Fifteenth of the Special Conditions, resources of the Contribution will finance: (i) the logistics for the realization of the workshop; (ii) the distribution of materials during the workshops; and (iii) the travelling expenses of ECD experts and MIFAN's professionals in the workshop.