

LOAN CONTRACT No. 2102/BL-GY

between the

CO-OPERATIVE REPUBLIC OF GUYANA

and the

INTER-AMERICAN DEVELOPMENT BANK

Second Low Income Settlement Program

April 17, 2009

SPECIAL CONDITIONS

INTRODUCTION

Parties, Purpose, Constituent Elements, and Executing Agency

1. PARTIES AND PURPOSE OF THE CONTRACT

CONTRACT entered into on April 17, 2009, between the CO-OPERATIVE REPUBLIC OF GUYANA (hereinafter referred to as the "Borrower") and the INTER-AMERICAN DEVELOPMENT BANK (hereinafter referred to as the "Bank") to cooperate in the execution of a Second Low Income Settlement Program (hereinafter referred to as the "Program").

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 are attached hereto. If any provision of the Special Conditions or the Annex should present any inconsistency or contradiction with the General Conditions, the provisions of the Special Conditions or the Annex, as the case may be, shall prevail. In case of inconsistencies or contradictions between the Special Conditions or the Annex, specific rules shall prevail over general rules.

(b) Rules for the application of 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 from the Bank shall be carried out by the Ministry of Housing and Water, through the Central Housing and Planning Authority (CH&PA) which for the purposes of this Contract shall be referred to as the "Executing Agency". The Borrower, through the Executing Agency, undertakes to fulfill all the obligations set forth in this 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 twenty seven million nine hundred thousand dollars of the United States of America (US\$27,900,000). Unless otherwise stated in this Contract, the term "dollars" hereinafter signifies the currency of legal tender in the United States of America. The Annex to this Loan Contract includes the Program's budget with the distribution by investment categories and sources of financing.

SECTION 1.02. Amount of the Financing. (a) In accordance with this Contract, the Bank agrees to grant to the Borrower, and the Borrower accepts, a "Financing", composed as follows:

- (i) up to the amount of thirteen million nine hundred and fifty thousand dollars (US\$13,950,000) chargeable to the resources of the Single Currency Facility of the Ordinary Capital resources of the Bank, hereinafter the "Ordinary Capital Financing"; and
 - (ii) up to the amount of thirteen million nine hundred and fifty thousand dollars (US\$13,950,000) chargeable to the resources of the Fund for Special Operations, hereinafter the "Fund for Special Operations Financing".
- (b) The amounts disbursed from the Financing shall constitute the "Loan".

CHAPTER II

Amortization, Interest, General Inspection and Supervision and Credit Fee

SECTION 2.01. Amortization. (a) The Loan shall be completely repaid by the Borrower as set forth in Article 3.01 of the General Conditions.

(b) **Ordinary Capital Financing.** The first repayment installment of the portion of the Loan disbursed against the Ordinary Capital Financing shall be paid six (6) years from the date of signature of this Contract and the last installment shall be paid no later than thirty (30) years from the same date.

(c) **Fund for Special Operations Financing.** The portion of the Loan disbursed against the Fund for Special Operations Financing shall be repaid in one single installment forty (40) years from the date of signature of this Contract.

SECTION 2.02. Interest. (a) **Ordinary Capital Financing.** Interest payable on the portion of the Loan disbursed against the Ordinary Capital Financing shall accrue on the daily outstanding balances of such portion of the Loan and shall be at a rate determined pursuant to Article 3.04(a) of the General Conditions for a Single Currency Facility loan with an adjustable interest rate. The Bank shall notify the Borrower of the rate of interest applicable during each Semester, as soon as practicable after the determination thereof.

(b) **Fund for Special Operations Financing.** Interest payable on the portion of the Loan disbursed against the Fund for Special Operations Financing shall accrue on the daily outstanding balances of such portion of the Loan at the rate set forth in Article 3.04(b) of the General Conditions.

(c) Interest shall be payable semiannually beginning six (6) months from the effective date of this Contract.

(d) Resources of the Financing shall be used to partially pay interest during the period of disbursement thereof, without a request from the Borrower and on the dates established in the

previous paragraph.

SECTION 2.03. Resources for General Inspection and Supervision. The Borrower shall not be required to cover the Bank's expenses for general inspection and supervision of the Financing, except if the Bank determines otherwise in respect to the Ordinary Capital Financing, as a result of its semiannual review of financial charges applicable to its operations financed with the Single Currency Facility of the Ordinary Capital, and the Borrower is notified by the Bank in this regard. In such event, the Borrower shall pay the Bank directly the corresponding amount, in dollars, during the disbursement period and on the dates on which interest payments are due. 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 Ordinary Capital Financing, divided by the number of semesters included in the original disbursement period.

SECTION 2.04. Credit Fee. The Borrower shall pay on the undisbursed balance of the Ordinary Capital Financing, a credit fee of 0.25% per annum pursuant to the provisions set forth in Article 3.02(a) of the General Conditions. This percentage may be modified by the Bank on a semiannual basis, provided that, under no circumstance, may it exceed the percentage contemplated in the above-cited Article.

CHAPTER III

Disbursements

SECTION 3.01. Currencies of Disbursement of the Financing. The amount of the Financing shall be disbursed in dollars chargeable to the resources of the Single Currency Facility of the Ordinary Capital resources of the Bank, in the case of the Ordinary Capital Financing, and to the Fund for Special Operations, in the case of the Fund for Special Operations Financing.

SECTION 3.02. Currency Availability. (a) Notwithstanding Sections 1.02(a) and 3.01 hereof, if the Bank is unable to obtain access to the agreed upon Single Currency to make disbursements as established in Article 4.04 of the General Conditions, the Bank, in consultation with the Borrower, 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.

(b) If pursuant to section 3.02(a) above, the Bank disburses in a Single Currency that is not the agreed Single Currency, the financial charges for the Ordinary Capital Financing shall be those which correspond to such Single Currency, while financial charges for the Fund for Special Operations shall remain unchanged.

SECTION 3.03. Special Conditions Prior 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 requirement: the approval by the Bank of the terms of the Operating Regulations Manual for the Program.

SECTION 3.04. Special Conditions Prior to the Disbursement of the Financing for Components 1 and 2. In addition to the conditions precedent stipulated in Article 4.01 of the General Conditions and in Section 3.03 of these Special Conditions, the disbursement of the Financing for Component 1 and for Sub-components II and III of Component 2 of the Program shall be subject to the fulfillment, to the satisfaction of the Bank, of the following requirements:

- (a) Component 1: (i) the employment of two (2) engineers and one (1) community development specialist; (ii) the identification of CH&PA staff assigned to Program execution, guaranteed by the Chief Executive Officer of CH&PA; (iii) holding of the first meeting of the Inter-Agency Coordination Committee and the approval of the five (5) year work plan for the Project; (iv) approval by the Bank of CH&PA work plan for Program execution; and (v) approval of the bidding documents for the evaluation system by the Bank.
- (b) Component 2: Sub-component II: evidence of Memoranda of Understanding between CH&PA and the partnering professional groups; and Component 2, Sub-component III: evidence of the agreements between CH&PA and village councils of the selected communities on the specific layout of the developments.

SECTION 3.05. Reimbursement of Expenditures Chargeable to the Financing. With the consent of the Bank, resources of the Financing may be used to reimburse expenditures incurred or to finance those that may be incurred in the Program on or after December 17, 2008 and up to the effective date of this Contract, provided that requirements substantially similar to those set forth in this Contract have been fulfilled.

SECTION 3.06. 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.

CHAPTER IV

Description of the Program and Use of Financing Funds

SECTION 4.01. Use of Financing Funds. The resources of the Financing shall only be used for payments of goods and services and for such other purposes as are indicated in this Contract, including the provisions of Section 4.02 hereof. Goods and services shall originate in the member countries of the Bank and shall be acquired pursuant to the proceedings set forth in this Contract.

SECTION 4.02. Program Activities. To achieve the objective of the Program referred to in the first paragraph of the introduction of these Special Conditions, the resources of the Financing shall only be used to undertake the activities comprised in the Program components, as described in the Annex.

CHAPTER V

Execution of the Project

SECTION 5.01. Procurement of goods and works. Goods and works shall be procured in accordance with the provisions set forth in Document GN-2349-7 ("Policies for the Procurement of Goods and Works Financed by the Inter-American Development Bank"), dated July, 2006 (hereinafter referred to as the "Procurement Policies"), which are known to the Borrower, and the following provisions:

- (a) International Competitive Bidding: Except as otherwise provided in subsection (b) of this Section, goods and works shall be procured pursuant to the thresholds of one million dollars (US\$1,000,000) and above for works and one hundred thousand dollars (US\$100,000) and above for goods respectively.
- (b) Other Procurement Procedures: The following procurement methods may be used for the procurement of goods and works as long as the Bank determines that these methods meet the requirements established in the provisions set forth in Section III of the Procurement Policies:
 - (i) *National Competitive Bidding;* for works, where the estimated cost of each contract is less than one million dollars (US\$1,000,000) and more than one hundred thousand dollars (US\$100,000); and for goods where the estimated cost of each contract is less than one hundred thousand dollars (US\$100,000) and more than twenty five thousand dollars (US\$25,000), pursuant to the provisions set forth in paragraphs 3.3 and 3.4 of the Procurement Policies and the provisions below, and provided that such procurement method is not in contradiction with the Procurement Policies or the basic guarantees that every procurement must meet; and
 - (ii) *Shopping;* for goods estimated to cost less than twenty five thousand dollars (US\$25,000) per contract, in accordance with the provisions set forth in paragraph 3.5 of the Procurement Policies.
- (c) Additional Procurement Requirements. The Borrower, through the Executing Agency, (i) shall carry out the procurement of works and goods 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 guidelines and other documents necessary for the call for prequalification or bids; and (ii) in the case of works, shall show evidence that it has, prior to the initiation of the works, the right of legal possession, easements or other necessary rights on the land to initiate the construction of the works.

(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, through the Executing Agency, shall present the proposed procurement plan for the Program to the Bank for its review and approval, in accordance with the provisions set forth in 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 submitted to the Bank for its review and approval. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as approved by the Bank and with the provisions set forth in said paragraph 1.
- (ii) Prior Review: Unless the Bank agrees otherwise in writing, the contracts for works and the acquisition of goods and related services shall be subject to prior review, in accordance with the procedures spelled out in paragraphs 2 and 3 of Appendix 1 to the Procurement Policies.

SECTION 5.02. Maintenance of Works. The Borrower, through the Executing Agency, undertakes to preserve all the goods and works included in the Program in the operating conditions in which they were upon their acquisition, at a level compatible with their intended use and, particularly, 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 a report on the status of said works and equipment and an annual maintenance plan for that year, during the five (5) years following the completion of the first of the works of the Program and within the first quarter of each calendar year. The annual maintenance plan shall include: (i) details of the organization responsible for maintenance; and (ii) information pertaining to the resources to be allocated for maintenance during the current 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, through the Executing Agency, shall undertake the necessary measures to correct these shortcomings.

SECTION 5.03. Reimbursement of Expenses as of Date of Loan Approval. The Bank may recognize as part of the local contribution expenditures incurred or which may be incurred in the Program on or after December 17, 2008 and up to the effective date of this Contract, provided that requirements substantially similar to those set forth in this Contract have been fulfilled.

SECTION 5.04. Contracting of Consultants. Consultants' services shall be procured 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 (hereinafter called "the Consultant Policies"), which the Borrower declares to know and the provisions set forth below:

- (a) Quality- and Cost-Based Selection. Except as otherwise provided in subsection (b) of this Section, consultants' services shall be procured under contracts awarded 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 (QCBS) of consultants. The short list of consultants for each contract for services estimated to cost less than one hundred thousand dollars (US\$100,000) equivalent per contract, may be comprised entirely by national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Policies.

- (b) Other Methods of Procurement of Consultant's Services. The following methods, other than QCBS, may be used for the procurement of consultants' services for those services which the Bank agrees meet the requirements set forth in the Consultant Policies for their use: (i) Quality-Based Selection (QBS); (ii) Selection under a Fixed Budget (FBS); (iii) Least-Cost Selection (LCS); (iv) Selection Based on Consultants' Qualifications (CQS); (v) Single Source Selection (SSS); and (vi) Selection of Individual Consultants.
- (c) Review by the Bank of the process of selection of consultants:
 - (i) Selection and Contracting Planning: Prior to the issuance of any request for proposal to the consultants, the Borrower, through the Executing Agency, shall present to the Bank, for its review and approval, a procurement plan, which shall include contract cost estimates, contract packaging and applicable selection criteria and procedures, in accordance with the provisions set forth in 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 submitted to the Bank for its review and approval. Selection and contracting of consultants shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank.
 - (ii) Ex-ante Review: Unless the Bank agrees otherwise in writing, the contracts for the contracting of consulting services shall be subject to ex-ante review, in accordance with the procedures spelled out in paragraphs 2 and 3 of Appendix 1 to the Consultant Policies.

CHAPTER VI

Records, Inspections, and Reports

SECTION 6.01. Records, Inspections, and Reports. The Borrower agrees to, directly or through the Executing Agency, maintain records, permit inspections, and submit reports and financial statements in accordance with the provisions established in Chapter VII of the General Conditions.

SECTION 6.02. Supervision of Program Execution. (a) The Bank shall use the Program's five (5) year work plan and annual operational plans (the latter referred to as "plan for implementation of the Project" in Article 4.01(c)(i) of the General Conditions as a tool to supervise

Program execution. The Program work plan shall be based on the procurement plan referred to in Sections 5.01(d)(i) and 5.04(c)(i) of these Special Conditions, and shall comprise a complete planning of the Program, with the critical route 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 3.07 of these Special Conditions.

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

SECTION 6.03. **Audits.** (a) With respect to the provisions of Article 7.03 of the General Conditions, the financial statements of the Program shall be submitted to the Bank on an annual basis, duly certified by a firm of independent public accountants acceptable to the Bank.

(b) The cost related to the auditing referred to in subsection (a) of this Section 6.03, will be financed with resources of the Financing.

CHAPTER VII

Miscellaneous Provisions

SECTION 7.01. **Entry into Effect.** The parties agree that this Contract shall enter into effect on the date of its signature, date upon which it acquires full legal validity.

SECTION 7.02. **Termination.** Payment in full of the Loan and of all interest and fees shall terminate this Contract and all obligations arising thereunder.

SECTION 7.03. **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 7.04. **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:

Ministry of Finance
Main and Urquhart Streets
Georgetown, Guyana

Facsimile: (592) 227-3931

For matters related to the execution of the Program

Mailing address:

Ministry of Housing and Water
41 Brickdam, Stabroek
Georgetown, Guyana

Facsimile: (592) 227-3455

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 VIII

Arbitration

SECTION 8.01. 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.

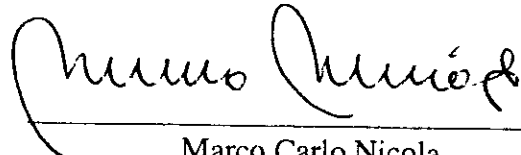
IN WITNESS WHEREOF, the Borrower and the Bank, each acting through its authorized representative, have signed this Contract, in two (2) equally authentic copies in Georgetown, Guyana, on the date above written.

CO-OPERATIVE REPUBLIC OF
GUYANA

INTER-AMERICAN DEVELOPMENT
BANK



Ashni Singh
Minister of Finance



Marco Carlo Nicola
Representative in Guyana

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) "Bank" means the Inter-American Development Bank.
- (b) "Board" means the Board of Executive Directors of the Bank.
- (c) "Borrower" means the party to which the Financing is made available.
- (d) "Contract" means the entirety of the Special Conditions, the General Conditions and the Annexes.
- (e) "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, and Consulting Firm or Individual Consultant, as the case may be.
- (f) "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.
- (g) "Cost of Single Currency Qualified Borrowings with an Adjustable Interest Rate" means the cost to the Bank of the Single Currency Qualified Borrowings with an Adjustable Interest Rate in the Single Currency of the Financing, expressed as a percentage per annum, as determined by the Bank.
- (h) "dollars" means dollars of the United States of America, unless otherwise stated.

- (i) "Effective Date " means the date on which the Loan Contract acquires full legal validity pursuant to the provisions of Section 7.01 of the Special Conditions.
- (j) "Executing Agency/Agencies" means the entity/entities responsible for executing all or part of the Project.
- (k) "Financing" means the funds which the Bank has agreed to make available to the Borrower to assist in carrying out the Project and comprises the Ordinary Capital Financing and the Fund for Special Operations Financing.
- (l) "Fraud and corruption" means the act(s) defined in Article 5.02(c) of these General Conditions.
- (m) "Fund for Special Operations" means the Bank's Fund for Special Operations.
- (n) "Fund for Special Operations Financing" means the portion of the Financing chargeable to the Fund for Special Operations.
- (o) "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.
- (p) "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.
- (q) "Loan" means the funds disbursed from the Financing.
- (r) "Official Auditing Authority" means the Borrower's official auditing authority.
- (s) "Ordinary Capital Financing" means the portion of the Financing chargeable to the Single Currency Facility.
- (t) "Project" means the Program or Project for which the Financing has been extended.
- (u) "Revolving Fund" means a fund that the Bank may establish as provided in Article 4.07 of these General Conditions, for the purpose of advancing resources to defray Project expenses chargeable to the Financing.
- (v) "Semester" means the first or second six months of a calendar year.
- (w) "Single Currency" means any convertible currency which forms part of the Single Currency Facility and the Fund for Special Operations.

- (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 Qualified Borrowings" for borrowings 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.
- (z) "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. (a) **Ordinary Capital Financing.** The Borrower shall amortize the portion of the Loan disbursed against the Ordinary Capital Financing in semiannual, consecutive, and, insofar as possible, equal installments on the same dates as those determined in accordance with Section 2.02 (c) of the Special Conditions for payment of interest.

(b) **Fund for Special Operations Financing.** The Borrower shall amortize the portion of the Loan disbursed against the Fund for Special Operations Financing in one installment payable on the date set forth in Section 2.01(c) of the Special Conditions.

(c) If the date of signature of the Loan Contract falls between June 15th and 30th or between December 15th and 31st, the dates for the payment of interest shall be June 15th and December 15th, as the case may be.

ARTICLE 3.02. Credit Fee. (a) **Ordinary Capital Financing.** The Borrower shall pay on the undisbursed balance of the Ordinary Capital Financing a credit fee, which shall begin to accrue sixty (60) days after the date of signature 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. The fee shall be payable in dollars, on the same dates as those specified for the payment of interest pursuant to the provisions of the Special Conditions.

(b) The credit 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 3.14, 3.15 and 4.02 of these General Conditions and the relevant provisions of the Special Conditions.

(c) **Fund for Special Operations Financing.** The Borrower shall not pay a credit fee with respect to the Fund for Special Operations Financing.

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 Rate. (a) **Ordinary Capital Financing.** The Bank shall periodically determine the annual interest rate that shall accrue on the portion of the Loan disbursed against the Ordinary Capital Financing, in accordance with its lending rate policy, and as determined by the Cost of Single Currency Qualified Borrowings with an Adjustable Interest Rate in the Single Currency of the Financing, plus the prevailing ordinary capital lending spread expressed as a percentage per annum.

(b) **Fund for Special Operations Financing.** The interest rate chargeable to the portion of the Loan disbursed against the Fund for Special Operations Financing shall be 0.25% per annum.

ARTICLE 3.05. Currency Obligations. All payments of amortization and interest shall be made in the Single Currency disbursed.

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, 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 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.
- (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.
- (vi) In case of a delayed payment the Bank may require that the rate of exchange in effect at the time of payment be applied.

(b) For the purpose of determining the equivalency in dollars of an expenditure incurred in the currency of the Borrower's country, the rate of exchange which is applicable on the date of payment of such expenditure shall be utilized, pursuant to paragraph (a) above. To that end, the date of payment of such expenditure shall mean the date on which the Borrower, the Executing Agency or any natural or juridical person in whom the power to incur expenditures has been vested makes the respective payments to the order of the contractor or supplier.

ARTICLE 3.07. 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 3.08. 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.

ARTICLE 3.09. 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 3.10. Advance Payments. Upon advance notice in writing to the Bank of at least fifteen (15) days, the Borrower may pay, on one of the interest payment dates indicated in the Special Conditions, any part of the Loan prior to its maturity, provided that on the payment date no sum is

owing in respect of fees or interest. Each partial advance payment shall be applied to the portion of the Loan disbursed against the Ordinary Capital Financing and the portion of the Loan disbursed against the Fund for Special Operations Financing in the same proportion that each represents of the total Financing. The part of the partial advance allocated to the Ordinary Capital Financing shall be applied *pro rata* to each unpaid installments of principal. The part of the partial advance allocated to the Fund for Special Operations Financing shall be applied against the single amortization installment.

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. Likewise, the Borrower shall sign and deliver to the Bank, at its request, promissory notes or other negotiable instruments representing the Borrower's obligation to repay the Loan with the interest agreed upon in the Contract. Such documents shall be in the form prescribed by the Bank taking into account the applicable legal provisions of the country of the Borrower.

ARTICLE 3.13. Transactions Falling Due on Public Holidays. Any payment or other transaction which, pursuant to this Contract, should be effected on 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 amount 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. The renunciation shall be deemed to have been made in respect of the Ordinary Capital Financing and the Fund for Special Operations Financing, and shall be applied in the same proportion that each represent, of the total amount of the Financing.

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 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 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, except with respect to a program for the granting of credits, the plans and specifications deemed necessary by the Bank; (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 format in which the progress reports referred to in Article 7.03(a)(i) of these General Conditions shall be presented. If this Contract permits the recognition of expenditures made prior to its signature or to the date of the Resolution authorizing the Financing, 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.
- (d) The Borrower or Executing Agency shall have presented to the Bank the plan, catalog or code of accounts referred to in Article 7.01 of these General Conditions.
- (e) The Official Auditing Authority referred to in the Special Conditions shall have agreed to perform the auditing function foreseen in Article 7.03(b) of these General Conditions and in the Special Conditions, or the Borrower or the Executing Agency shall have agreed with the Bank with respect to a firm of independent public accountants to perform the above functions.

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, if any, shall have submitted in writing 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) requests must be presented no later than thirty (30) calendar days in advance of the date of expiry of the term for disbursement or of any extension thereof which the Borrower and the Bank may have agreed to; (c) none of the circumstances described in Article 5.01 of these General Conditions shall have occurred; and (d) 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. Application of Disbursed Amounts. The Bank shall calculate the percentage that each of the Ordinary Capital Financing and the Fund for Special Operations Financing represent of the total Financing and shall charge each disbursement to the Ordinary Capital and the Fund for Special Operations in the respective proportion.

ARTICLE 4.05 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 4.06. Disbursement Procedures. The Bank may make disbursements against the Financing: (a) by transferring to the order of the Borrower the sums to which it is entitled under this Contract; (b) by making payments on behalf of and in agreement with the Borrower to other banking institutions; (c) by establishing or replenishing the Revolving Fund referred to in Article 4.07 below; and (d) by utilizing such other method 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 fifty thousand dollars (US\$50,000) each.

ARTICLE 4.07. Revolving Fund. (a) 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 advance resources of the Financing for the purpose of establishing, increasing or replenishing a Revolving Fund to defray costs pertaining to the execution of the Project which, pursuant to provisions of this Contract, are eligible for financing with such resources.

(b) Except by express agreement between the parties, the amount of the Revolving Fund shall not exceed five percent of the amount of the Financing. Upon justified request, the Bank may increase or replenish the Revolving Fund as the resources are used, provided that the requirements of Article 4.03 of these General Conditions and those which may be established in the Special Conditions have been fulfilled. The Bank may also reduce or cancel the Revolving Fund should it determine that the resources provided through the Revolving Fund exceed the needs of the Project. The establishment and the replenishment of the Revolving Fund shall be regarded as disbursements for the purposes of this Contract.

(c) The plan, catalog or code of accounts that the Borrower or Executing Agency must present to the Bank in accordance with Article 4.01(d) of these General Conditions shall indicate the accounting method used by the Borrower to verify the transactions and statements of account of the Revolving Fund.

(d) Not later than thirty (30) days prior to the date agreed upon for the final disbursement of the Financing, the Borrower shall present a final justification of the use of the Revolving Fund and return any unused portion thereof.

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 the 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 an act of fraud and corruption during the bidding process, negotiation of a contract, or the execution of the 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 commissions 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. If the Bank declares a portion of the loan immediately due and payable, payment received by the Bank shall be applied to the portion of the Loan disbursed against the Ordinary Capital Financing and the portion of the Loan disbursed against the Fund for Special Operations Financing, in the same proportion that each represents of the total Financing. The payment allocated to the Ordinary Capital Financing shall be applied *pro rata* to each unpaid installment of principal. The payment allocated to the Fund for Special Operations Financing shall be applied against the single amortization installment.

(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 act of fraud or corruption, either in the process of selecting the contractor or 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. Any cancellation shall be deemed made with respect to the Ordinary Capital Financing and the Fund for Special Operations Financing, in the percentage that each represents of the total amount of the Financing.

(c) For the purposes of the above paragraph, acts of fraud and corruption shall be understood to include, but not be limited to, acts of: (i) a corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, of something of value to influence the actions of another party; (ii) a fraudulent practice is any act or omission, including a misrepresentation, which deliberately or as a result of gross negligence, misleads, or attempts to mislead, a party in order 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 property of the party to influence in an inappropriate manner the actions of a party; and (iv) a collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

(d) If, in accordance with the administrative procedures of the Bank, it is demonstrated that any firm, entity or individual bidding for or participating in a Bank-financed project including, *inter*

alia, Borrower, bidders, suppliers, contractors, sub-contractors, concessionaires, applicants, consultants, Executing Agency or Contracting Agency (including their respective officers, employees and agents) has engaged in an act of fraud or corruption, 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 operation 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 an act of fraud or corruption;
 - (iii) cancel, and/or accelerate repayment of, the portion of a loan or grant earmarked 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 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.
- (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 supplier of goods and related services or consultant services. The exceptions set forth in subparagraph (b) shall not apply if the Bank determines that acts of fraud and corruption 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 of Public Tenders. 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 the resources in addition to those of the Loan which may be necessary for the complete and uninterrupted execution of the Project. If during the process of disbursement of the Financing an increase in the estimated cost of the Project arises, the Bank may require the modification of the investment schedule referred to in Article 4.01(d) of these General Conditions in order that the Borrower shall meet such increase.

(b) Within the first sixty (60) days of each calendar year of Project execution, the Borrower shall demonstrate to the Bank that it will have available when needed, the resources necessary to make the local contribution during the respective year, , if any.

CHAPTER VII

Records, Inspections and Reports

ARTICLE 7.01. Internal Control and Records. The Borrower or the Executing Agency, or the Contracting Agency, as the case may be, shall maintain an appropriate system of internal accounting and administrative controls. The accounting system shall be organized so as to provide the necessary documentation to permit the verification of transactions and facilitate the timely preparation of financial statements and reports. The records of the Project shall be maintained for a minimum of three (3) years after the date of final disbursement of the Loan, in such a way that: (a) make it possible to identify the sums received from the various sources; (b) show, in accordance with the catalogue of accounts approved by the Bank, the investments in the Project, both with the resources of the Loan and with the other funds to be provided for its complete execution; (c) include sufficient detail to show the works performed, goods acquired and the services contracted, as well as the utilization of such works, goods and services; and (d) such documents include documentation relating to the bidding process and the execution of the contracts financed by the Bank including, but not limited to, bid requests, bid packages, summaries, bid evaluations, contracts, correspondence, work product and drafts, and invoices, including documents relating to the payment of commissions, and payments to agents, consultants and contractors; and (e) show the cost of the investments in each category and the progress of the works. 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 assure 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, 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 and Financial Statements. (a) The Borrower or the Executing Agency, as appropriate, shall present to the Bank the following reports, within the periods specified with respect to each:

- (i) Reports on the execution of the Project, in the format established in the initial report mentioned in Article 4.01(c)(iv) of these General Conditions, within sixty (60) days following the end of each calendar Semester, or within such other period as the parties may agree, prepared in accordance with the relevant rules agreed to with the Bank.
- (ii) 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.
- (iii) Three copies of the financial statements for the entire Project as of the close of each fiscal year of the Executing Agency, and supplementary financial information relating to such statements. Such financial statements shall be submitted within one hundred twenty (120) days following the close of each fiscal year of the Executing Agency, beginning with the fiscal year in which the Project was initiated and during the period stipulated in the Special Conditions.
- (iv) When the Special Conditions so require, three copies of the financial statements of the Borrower as of the close of each fiscal year, and supplementary financial information relating to such statements. The financial statements shall be submitted during the period stipulated in the Special Conditions, beginning with the fiscal year in which the Project was initiated and within one hundred twenty (120) days following the close of each fiscal year of the Borrower. This obligation shall not apply if the Borrower is the Republic or the Central Bank.
- (v) When the Special Conditions so require, three copies of the financial statements of the Executing Agency as of the close of each fiscal year, and supplementary financial information relating to such statements. The statements shall be submitted during the period stipulated in the Special Conditions, beginning with the fiscal year in which the Project was initiated and within one hundred twenty (120) days following the close of each fiscal year of the Executing Agency.

(b) The statements and documents described in subparagraphs (a)(iii), (iv) and (v) shall be submitted with the opinion of the auditing entity specified in the Special Conditions of this Contract and in accordance with requirements satisfactory to the Bank. The Borrower or the Executing Agency, as the case may be, shall authorize the auditing entity to provide the Bank with any additional information it may reasonably request with respect to the financial statements and audit reports issued.

(c) In cases in which the audit is to be performed by the Official Auditing Authority and such authority is unable to perform the audit in accordance with requirements satisfactory to the Bank or within the periods mentioned above, the Borrower or the Executing Agency shall contract the services of a firm of independent public accountants acceptable to the Bank. The services of a firm of independent public accountants may also be utilized if the contracting parties so agree.

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 as to 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**Second Low Income Settlement Program****I. Objective**

- 1.01** The general objective of the Program is to improve the quality of life of low-income families through better access to housing.

II. Description

- 2.01** The Program will implement the following components:

Component 1 – Development of new sites with services, consolidation of existing housing schemes, and upgrading squatter areas.

- 2.02** This component will cover the costs of design, construction, and supervision of construction to: (i) develop new sites with services; (ii) consolidate the existing housing schemes; and (iii) upgrade squatter areas.
- a. *Sub-Component I - Development of new sites with services.* This Sub-component will include new land subdivisions of housing lots with connections to basic infrastructure (streets, sanitation, power, water, and drainage); services (storm drains, road maintenance, and street lighting); and community facilities (as needed). In addition, the Program will include financing for a package of technical assistance and materials so that the beneficiaries can build septic tanks in their lots. Finally, the Program will provide the initial financing for street lighting in the case where the capacity for local maintenance has been identified. The Program will finance approximately 3,766 serviced lots on 11 sites in 6 regions based on investment costs previously agreed upon with the Bank.
 - b. *Sub-Component II - Consolidation of existing housing schemes.* This Sub-component will include on-site investments to complete or rehabilitate infrastructure and services in existing sites. The Program will finance the improvement of approximately 4900 lots on 8 sites in 4 regions based on investment costs previously agreed upon with the Bank.
 - c. *Sub-Component III - Upgrading of squatter areas.* This Sub-component will include improving the physical conditions (such as widening, where possible, and paving street access, drainage, septic tanks, and water distribution) and supporting the process of land titling in those areas. In addition the Program will provide the initial financing for street lighting in the case where the capacity for local maintenance has been identified. It will also include community development that will facilitate residents to get organized and participate in the design and implementation of the investments. The Program will finance the upgrading of

approximately 1,350 lots on 5 sites in 3 regions based on investment costs previously agreed upon with the Bank.

2.03 Additionally, this component will include: (i) the allocation of US\$2,000,000 in off-sites investments (such as new bore holes, transmission upgrades, and leak reduction, as needed) to guarantee water supply to the new sites as well as to the existing housing schemes;¹ and (ii) a pilot of 400 core houses, defined as: 312 sq. ft., with a sanitary block (septic tank, toilet, shower, and a multi-purpose sink), concrete block for the outer walls, floor in concrete slab, basic doors, windows, electrical wiring, and water connections). The pilot will be carried out by CH&PA in new sites as well as in existing housing schemes, according to selection criteria laid out in the Operating Regulations.

2.04 Sub-component I and III, as well as Sub-component I of Component 2, will be executed using the current subsidy structure. A summary of the financial structure follows:

Household Monthly Income <US\$300					
Solution	Average Development Expenditure (per lot or per core house)	Equity Share/Savings ²	Subsidy	Loan	%Subsidy
Site with services	2,750	330	2,420	None	88%
Upgrading	2,500	330	2,170	None	86.8%
Core house	5,500	500	5,000	None	90%

Component 2 – Implementation of pilots to attend issues of affordability and sustainability in housing

2.05 This component will finance three pilots to create instruments and lay the groundwork for affordable housing solutions. Pilots include: (i) subsidies to support housing improvement; (ii) serviced lots for partnerships with professional groups; and (iii) subsidies to provide housing solutions to households located in the hinterland with limited access to services. The pilots will be executed under the umbrella of the current subsidy structure.

- a. *Sub-Component I - Housing improvement.* The objective of this pilot is to help households improve an existing core house (new roof, floor, or room additions). This will consist of a package comprised by a financial contribution and technical assistance evaluated at US\$1,000 per family and will benefit 400 families. Additionally, a contribution (sweat equity) per household will be required. This pilot will be executed in existing housing schemes. The beneficiaries will be selected according to income level criteria, as detailed in the Operating Regulations.
- b. *Sub-Component II - Partnership between CH&PA and professional groups.* The objective of this pilot is to address the shortage of affordable homes for specific professional groups, such as teachers and nurses. The homes would be funded by

¹ The selected new sites will be adjacent to or near the sites developed by the previous Program in order to maximize the benefit of off-site investment costs. The needs and investments have been defined and agreed-upon with the Beneficiary.

² The households equity share has been defined to achieve greater cost recovery and to be affordable to the lowest income households (<US\$300).

professional associations and available for ownership to their members who would have to comply with the selection criteria agreed upon in the Operating Regulations. The Technical Cooperation ATN/SF-10953-GY will finance the feasibility studies of this partnership to determine: (i) eligible organizations; (ii) eligible activities; (iii) amount of the subsidy; (iv) eligible projects; and (v) project cycle. The Memoranda of Understanding between CH&PA and the professional groups will include details on: (i) the selection of beneficiaries; (ii) subsidy; (iii) down payment; (iv) financing of the investments; and (v) identification of the actors and roles involved in the building process.

- c. *Sub-Component III - Housing in the hinterland.* The objective of this pilot is to address the housing needs of about 8 communities in Regions 1 and 9 (amongst the poorest in the country). The Technical Cooperation ATN/SF-10953-GY will finance the feasibility of this pilot based on needs assessments of the pre-identified communities. Communities will be selected based on criteria defined in the Operating Regulations. The subsidy will consist of a package comprised of grant financing and technical assistance. The Memoranda of Understanding will include details on: (i) the selection of the sites and beneficiaries; (ii) project cycle; (iii) mitigation measures in accordance with the ESMR; and (iv) community participation.

Component 3 - Strengthening of the CH&PA

- 2.06** Investments will include consulting services and goods for: (i) the finalization of the national housing policy and the preparation of a strategic plan; (ii) training of CH&PA staff to reach better project cycle management; (iii) management training for CH&PA staff; (iv) the upgrade of a monitoring and evaluation system; (v) the creation of Program evaluation system; and (vi) activities to strengthen CH&PA's regional housing offices.
- 2.07** The Bank's Country Office in Guyana will complement capacity building activities for CH&PA, undertaking responsibility for the following: the Program Manager and CH&PA staff will be trained in the Bank's procurement policies and procedures and in particular, on the preparation of standard bidding documents for civil works, goods and consulting services, as well as in the preparation of annual operations plans, semi annual progress reports and their respective procurement plans, preparation of financial statements, semi annual reports involving management of the revolving fund, and preparation of disbursement requests.

III. Total Cost of the Program and Financing Plan

3.01 The total cost of the Program, estimated in the amount of US\$27,900,000 will be distributed among the following categories of expenditures:

Table 2.1: Estimate and Breakdown of Program Costs
(in US\$ million)

Components	Bank Total
Component 1 – Housing Schemes and Squatter Areas	24.8
New sites and Services	10.4
Consolidation of existing housing schemes	6.9
Squatter Areas/Neighborhood Upgrading	3.3
Off-site investments	2
Core houses	2.2
Component 2 – Pilots	1.8
Pilot in the Hinterland	1
Pilot in Incremental Housing	0.4
Pilot for a partnership with professional groups	0.4
Component 3 – Strengthening of CH&PA and Program Management	0.7
Institutional strengthening	0.4
Program management	0.3
Evaluation and Auditing	0.2
Interest³	0.4
TOTAL	27.9

IV. Execution

4.01 The Executing Agency of the Program is the Ministry of Housing and Water, through the Central Housing and Planning Authority (CH&PA) and its Program management unit. A strengthened management unit will be responsible for general Program administration, coordination, monitoring, and procurement. To support the CH&PA's Program management unit, the Program will finance top up to a maximum of 20%, the wages of: three (3) new specialists to work full-time on the Program: two (2) engineers and one (1) community development specialist. The Program will also finance four (4) years of salary

³ As requested by the government.

for the Program Officer, in the process of being hired under ATN/SF-10953-GY. Additionally, the Program includes financing to top up to a maximum of 20%, staff wages of six (6) managers, one (1) accountant, and three (3) engineers. CH&PA will ensure that the arrangements for implementation include clear responsibilities for the Program's successful implementation and will incorporate personnel, as necessary, to ensure efficient planning and monitoring of the Program. The Chief Executive Officer of CH&PA will be responsible for the overall administration of the Program and will report directly to the Minister of Housing and Water.

- 4.02** The Ministry of Housing and Water will require the timely support of various other government ministries and agencies. The Ministry of Housing and Water will be responsible for the operation of the Inter Agency Coordination Committee, that will be attributed the following functions:⁴ (i) review and coordination of Program content and cost; (ii) coordination of Program implementation; and (iii) consultation and planning for future land selection. The Committee will meet every six (6) months to coordinate investments. At their inaugural meeting, CH&PA will formally present the working plan for the execution of the Program.
- 4.03** CH&PA will be responsible for coordinating the environmental management of the Program with the relevant agencies and will have specific responsibility for obtaining environmental clearance from the Environmental Protection Agency.
- 4.04** The following are relevant aspects in the execution of Components 1 and 2 that entail specific responsibilities on the part of CH&PA:
- 4.05** *Component 1* – Construction sites for the five (5) year execution of the Program have been selected. Any additional sites will have to meet the criteria laid out in the Operating Regulations and would require the no objection of the Bank. CH&PA will be responsible for: (i) selection of beneficiaries; (ii) design of infrastructure development; (iii) tendering, contracting, and supervision of physical works; and (iv) coordination of the provision of services (utility and social services). Additionally, for the development of new sites with services and the consolidation of existing housing schemes, CH&PA will formalize the subsidy for the 400 core houses and supervise their construction. For the upgrading of squatter areas, CH&PA will be responsible for community participation and for coordinating the process for granting security of tenure and land titling.
- 4.06** *Component 2 – Sub-component I: Housing improvement.* CH&PA will be directly responsible for (i) selecting eligible beneficiaries for grants and providing such grants; (ii) providing technical support to the beneficiaries during design and construction phases; and (iii) providing oversight of the housing improvement process. *Sub-component II: Partnership with professional groups:* CH&PA will be responsible for: (i) identification and acquisition of the land; (ii) tendering, contracting, and supervision of physical works for land clearing, design layout, cadastral survey, main access roads, and main water connections and electrical transmission lines; (iii) validation

⁴ Members of the Committee are representatives of Guyana Water Incorporated, Guyana Power and Light, Lands and Surveys Commission, Environmental Protection Agency, Ministry of Health, Ministry of Education, Ministry of Local Governance, Ministry of Public Works, National Drainage and Irrigation Board, and the Guyana Police Force.

of the selection of beneficiaries in accordance with the Operating Regulations; and (iv) supervision of the works. The professional group will be responsible for (i) selection of the beneficiaries; and (ii) financing of the construction of the drainage network, internal roads, internal water distribution network, and the construction of the houses. Memoranda of Understanding prepared by CH&PA will lay out the respective obligations of the parties in implementing the sub-component. *Sub-component III: Housing in the Hinterland:* CH&PA will be responsible for: (i) validating the selection of sites and beneficiaries; (ii) designing the subsidy; (iii) designing the infrastructure development in accordance with the regulations which govern design layouts; and (iv) tendering, contracting, and supervision of physical works and training. The Ministry of Amerindian Affairs will be responsible for: (i) selection of the sites and beneficiaries, based on a set of criteria agreed upon in the Operating Regulations; (ii) providing support in the needs assessment; (iii) coordinating with village councils to agree on specific layouts for each community; and (iv) supporting community development during Program implementation.

- 4.07** The Executing Agency will take action to improve coordination with: (i) the Neighborhood Democratic Councils; (ii) Guyana Water Incorporated; (iii) Guyana Power and Light Inc; (iv) the national Drainage and Irrigation Authority; (v) the Ministry of Education; (vi) the Ministry of Health; and (vii) the Environment Protection Agency.
- 4.08** This includes agreeing upon criteria for site selection, coordination during the planning phase, and the implementation of memoranda of understanding with the various stakeholders and the beneficiaries directed to providing fully serviced lots. The terms of the corresponding inter-agency memoranda of understanding will be included in the Operating Regulations.
- 4.09** The Executing Agency will also strengthen community participation. Program activities include actions in each phase of Program development, such as: (i) participation of the community in the assessment of needs at pre-design phase; and (ii) training and education of community members in maintenance and environmental responsibilities during project construction.
- 4.10** In order to mitigate the fiduciary risk, and in addition to the training sessions mentioned in paragraph 2.07, both fiduciary specialists -financial management and procurement-, will conduct inspection visits periodically to verify compliance with Bank policies, and in the case of procurement activities, to revisit thresholds with the objective of moving small dollar value procurement in goods to an ex-post review within one year of operation.
- 4.11** The Program's implementation will be governed by a set of Operating Regulations covering the following topics: Program objectives and components, executing actors and functions, projects' cycles, terms and conditions for beneficiaries participation, sites selections, application procedure, performance indicators and commitments, Program monitoring, evaluation and results, and Terms of Reference for the hiring of consultants for the first year of execution.

V. Monitoring, Evaluation and Auditing

- 5.01** Monitoring and reporting will be the responsibility of CH&PA. Specific tasks include: (i) preparing semi-annual progress reports documenting Program implementation; (ii) preparing and administering the Program budget; (iii) updating implementation schedules and procurement plans; (iv) documenting the bidding and contract administration process; and (v) monitoring indicators.
- 5.02** A mid-term and final evaluation of the Program will be undertaken by external consultants to be contracted directly by CH&PA according to the Terms of Reference previously agreed upon with the Bank and financed by the Program. The mid-term evaluation will be prepared three (3) years after the first disbursement. A final evaluation will be conducted three (3) months prior to the end of the execution period of the Program. During the execution of the Program, CH&PA will compile Program indicators set forth in the Program's Results Framework agreed upon with the Bank. These indicators will be used by the Bank to gauge the overall impact of the Program and to assess the results. Additionally, the Program includes the financing of top up of up to 20% of staff wages for two (2) economists and one (1) technical assistant to support the establishment of a monitoring and evaluation function within the Ministry of Housing and Water.
- 5.03** An independent auditing firm will be contracted by CH&PA to perform financial audits of the Program. This company must be part of the updated list of Audit Firms certified by the Bank to conduct audits to Bank funded operations. The firm will be selected and hired pursuant to applicable Bank policies and procedures. The costs associated with the hiring of the auditing firm will be financed by the Program. Financial statements of the Program will be submitted on an annual basis.