

LOAN NO. 15/SFR-GUY



LOAN AGREEMENT
(Regional Tourism Emergency Programme)

BETWEEN

CARIBBEAN DEVELOPMENT BANK

AND

CO-OPERATIVE REPUBLIC OF GUYANA

AND

CARIBBEAN TOURISM ORGANIZATION

Dated: April 19, 2002

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LOAN AGREEMENT

AGREEMENT dated the 19th day of April, 2002 between the Caribbean Development Bank (hereinafter called the Bank) of the first part, the Government of the Co-operative Republic of Guyana (hereinafter called the Borrower) of the second part and the Caribbean Tourism Organization, an international organisation with its headquarters in Barbados (hereinafter called the Executing Agency) of the third part.

ARTICLE I

General Provisions, Interpretation and Definitions

Section 1.01 **General Provisions**. The "General Provisions Applicable to Public Sector Loan Agreements with an Executing Agency" of the Bank dated June 30, 1995, set forth in Schedule I, (hereinafter called the General Provisions) shall apply to this Loan Agreement subject, however, to any modifications thereof set forth herein.

Section 1.02 **Interpretation**. Unless otherwise stated, references to Sections are to Sections of this Loan Agreement and references to Schedules are to the Schedules immediately following Section 9.01.

Section 1.03 **Definitions**. (a) Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the General Provisions shall have the respective meanings therein set forth, and for the purposes of sub-paragraphs (v), (xv) and (xvi) respectively of Section 2.01 of the General Provisions, the terms:

- (i) "Due Dates" shall mean January 1, April 1, July 1 and October 1 and in each year, except in the case of interest payable under Section 3.09 of the General Provisions, and other charges, which are payable on demand;
- (ii) "Project" shall mean the regional tourism emergency programme (RTEP), a joint public/private sector initiative intended to promote the Caribbean destination and boost tourist arrivals, more particularly described in Schedule 2;
- (iii) "Project Country" shall mean the Co-operative Republic of Guyana.

(b) Wherever used in this Loan Agreement, the following additional terms shall have the following meanings:

- (i) "CDB" means the Bank;
- (ii) "Consultants" means the consultants to be engaged to undertake services in relation to the TV Advertising Component and/or the PR Component;
- (iii) "contributors" means the contributors referred to in the Summary of Programme Cost and Financing Plan set out in Appendix 1 to Schedule 2 or such other contributors to the Project as may be agreed by the Bank;
- (iv) "CTO" means the Executing Agency;
- (v) "Financing Plan" means the Contributions to the Regional Tourism Emergency Programme set out in Appendix 2 to Schedule 2;
- (vi) "GRG" means the Borrower;
- (vii) "Grant" means the grant by the Bank of USD 28,250 to the Government of Montserrat for use by CTO to assist in financing the Project;
- (viii) "Grant Agreement" means the Grant Agreement to be entered into between the Government of Montserrat and the Bank for the Project;
- (ix) "Loans" means the loans by the Bank to the participating countries for use by CTO to assist in financing the Project, and "Loan" means any one of these loans;
- (x) "Loan Agreement" means any loan agreement entered into between CDB and a participating country for the Project;

- (xi) "participating countries" means the Bank's member countries identified in Appendix 2 to Schedule 2 who are participating in the Project, and "participating country" means any one of these countries;
- (xii) "PR Component" means the public relations and promotion programme component of the Project intended to protect market share and personalise response to maintain the Caribbean image described in paragraph 1.04 of Schedule 2;
- (xiii) "Trust" means the trust to be established to implement the TV Advertising Component in accordance with paragraph 1.03 of Schedule 2;
- (xiv) "TV Advertising Component" means the television advertising campaign component of the Project involving creative designing, production of commercials, media planning and costing described in paragraph 1.03 of Schedule 2; and
- (xv) "United States dollars" or "USD" means dollars in the currency of the United States of America.

ARTICLE II

The Loan and its Purpose

Section 2.01 **Amount of Loan.** The Bank agrees to lend to the Borrower on the terms and conditions set out in this Loan Agreement an amount from the Special Funds Resources of the Bank not exceeding the equivalent of one hundred and twelve thousand five hundred United States dollars (USD 112,500).

Section 2.02 **Purpose.** The purpose for which the Loan is being made is for use by the Executing Agency to assist in financing the Project.

ARTICLE III

Repayment, Interest and Other Charges

Section 3.01 **Repayment**. Except as provided in paragraph (b) of Section 3.02 of the General Provisions, the Borrower shall repay the amount withdrawn from the Loan Account in thirty-six (36) equal or approximately equal and consecutive quarterly instalments on each Due Date, commencing on the first Due Date after the expiry of one (1) year following the date of the first disbursement of the Loan or on such later Due Date as the Bank may specify in writing.

Section 3.02. **Interest**. The Borrower shall pay to the Bank interest at the rate of two percent (2%) per annum on the amount of the Principal withdrawn and outstanding from time to time. Such interest shall be payable quarterly in accordance with paragraph (a) of Section 3.03 of the General Provisions.

Section 3.03 **Commission and Commitment Charge**. Sections 3.04 and 3.05 of the General Provisions shall not apply to this Loan Agreement.

Section 3.04 **Payments by the Executing Agency on behalf of the Borrower**. Section 3.11 of the General Provisions shall not apply to this Loan Agreement.

ARTICLE IV

Withdrawal of Loan

Section 4.01 **Withdrawal and Application of Loan**. (a) Except as the Bank may otherwise agree:

- (i) disbursements of each Loan for eligible expenditures shall be made rateably in the proportion that each Loan bears to the aggregate amount of all the Loans and the Grant to the participating countries for the purposes of the Project;
- (ii) the amounts withdrawn from the Loan Account shall be applied to finance the components of the Project allocated for financing by the Bank as shown in the Financing Plan up to the respective limits shown therein; and

(iii) total withdrawals from the Loan Accounts with respect to the Loans shall not exceed in the aggregate fourteen decimal one percent (14.1%) of the cost of the Project.

(b) The amount withdrawn from the Loan Account shall not be used to meet any part of the cost of the Project which consists of identifiable Taxes imposed under the laws of the Project Country.

Section 4.02 **Period for Disbursement.** The date to be specified pursuant to Section 4.03 of the General Provisions is March 31, 2003.

Section 4.03 **Procurement.** (a) Section 4.04 of the General Provisions shall not apply to this Loan Agreement.

(b) Consultants for the provision of services with respect to the TV Advertising Component may be selected and engaged by utilising the current commercial practices in the advertising industry involving invitation of proposals, and eligibility for the purposes of such services may be extended to the United States of America.

(c) Services with respect to the PR Component may be provided by firms with which the Executing Agency has existing relationships, and eligibility for the purposes of such services may be extended to the United States of America and France.

ARTICLE V

Conditions Precedent

Section 5.01 **Additional Conditions Precedent to First Disbursement.** In addition to the requirements specified in paragraph (a) of Section 6.01 of the General Provisions, the following shall have been provided to the Bank by the date referred to in Section 8.03 (i) of the General Provisions:

(i) a valid and enforceable Deed of Trust, acceptable to the Bank, with respect to the establishment of the Trust;

- (ii) details of the operating arrangements (which arrangements shall be acceptable to the Bank) with respect to the services to be provided by the Trust in relation to the TV Advertising Component; and
- (iii) a schedule of planned activities and expenditure for the TV Advertising Component and the PR Component.

Article VI
Particular Conditions

Section 6.01 **Execution of Project.** (a) Except as the Bank may otherwise agree, the Project shall be executed by the Executing Agency which may utilise the services of the Trustees of the Trust in relation to the implementation of the TV Advertising Component.

(b) The Borrower shall make the proceeds of the Loan available to the Executing Agency for the purpose of the Project, and shall take all necessary steps to facilitate and ensure the performance by the Executing Agency of its obligations as set out and referred to in this Loan Agreement.

(c) In consideration of the Borrower placing the proceeds of the Loan at the disposal of the Executing Agency for the purpose of the Project, the Executing Agency hereby undertakes to observe and perform all the obligations on its part to be observed and performed under this Loan Agreement.

(d) The Executing Agency shall carry out the Project at all times with due diligence and efficiency, with management personnel whose qualifications and experience are acceptable to the Bank and in accordance with sound technical, environmental, administrative, financial and managerial standards and practices.

(e) The Executing Agency shall institute and maintain organisational, administrative, accounting and auditing arrangements acceptable to the Bank for the Project.

Section 6.02 **Selection and Engagement of Consultants:** The Executing Agency shall by December 31, 2001 or such later date as the Bank may specify in writing:

- (i) procure the selection and engagement by the Trustees of the Trust, in accordance with the procurement procedures (referred to at paragraph (b) of Section 4.03 above) applicable to the Loans, of competent and experienced Consultants whose qualifications and experience are acceptable to the Bank, to undertake services with respect to the TV Advertising Component; and
- (ii) select and engage in accordance with the procurement procedures (referred to at paragraph (c) of Section 4.03 above) applicable to the Loans, competent and experienced Consultants whose qualifications and experience are acceptable to the Bank, to undertake services with respect to the PR Component.

Section 6.03 **Additional Funds.** For the purpose of Section 7.05 of the General Provisions, the estimated cost of the Project is eighteen million three hundred and forty-one thousand United States dollars (USD 18,341,000).

Section 6.04 **Executing Agency's Contribution to the Project.** (a) Without prejudice to the provisions of Section 7.05 of the General Provisions, the Executing Agency shall contribute, or shall procure the contribution to the Project of, an amount of not less than fifteen million seven hundred and forty-eight thousand United States dollars (USD 15,748,000).

(b) The contribution which the Executing Agency is required to make to the Project, or to procure, in accordance with paragraph (a) of this Section shall be expended by the Executing Agency on the components of the Project allocated for financing by the Executing Agency and other contributors as shown in the Financing Plan, unless the Bank shall otherwise specify in writing.

Section 6.05 **Reports and Information.** (a) Without prejudice to the provisions of paragraph (a) of Section 7.01 of the General Provisions, and except as the Bank shall otherwise agree, the Executing Agency shall furnish or cause to be furnished to the Bank in the form specified, or in such form or forms as the Bank may require, the reports and information set out in Schedule 3 not later than the times specified therein for doing so.

ARTICLE VII
Cancellation and Suspension

Section 7.01 **Suspension by the Bank.** The following events are hereby specified pursuant to paragraph (a) (xii) of Section 8.02 of the General Provisions as events for the purpose of that Section:

- (i) the breach by a participating country of any of its obligations to the Bank under a Loan Agreement, as herein defined, or the Grant Agreement;
- (ii) the failure by the Trust to perform any of its obligations with respect to the operating arrangements referred to at sub-paragraph (ii) of Section 5.01 above;
- (iii) the failure by any of the other contributors to the Project to provide the whole or any part of its contribution.

Section 7.02 **Cancellation by the Bank.** (a) The date referred to in sub-paragraph (iii) of Section 8.03 of the General Provisions is March 31, 2002 or such later date as the Bank may from time to time specify in writing.

(b) Without prejudice to the provisions of Section 8.03 of the General Provisions, if the following events shall occur, then at any time thereafter the Bank may by notice to the Borrower terminate the right of the Borrower to make withdrawals from the Loan Account or with respect to any amount of the Loan, as the case may be, and upon the giving of such notice, the amount of the Loan specified therein shall be cancelled:

- (i) the breach by a other participating country of any of its obligations to the Bank under a Loan Agreement, as herein defined, or the Grant Agreement;
- (ii) the failure by the Trust to perform any of its obligations with respect to the operating arrangements referred to at sub-paragraph (ii) of Section 5.01 above;
- (iii) the failure by any of the other contributors to the Project to provide the whole or any part of its contribution.

- (ii) the failure by the Trust to perform any of its obligations with respect to the operating arrangements referred to at sub-paragraph (ii) of Section 5.01 above;
- (iii) the failure by any of the other contributors to the Project to provide the whole or any part of its contribution.

ARTICLE VIII **Events of Default**

Section 8.01 **Events of Default.** The following events are hereby specified pursuant to sub-paragraph (xii) of Section 9.01 of the General Provisions as events for the purpose of that Section:

- (i) the breach by a participating country of any of its obligations to the Bank under a Loan Agreement, as herein defined, or the Grant Agreement;
- (ii) the failure by the Trust to perform any of its obligations with respect to the operating arrangements referred to at sub-paragraph (ii) of Section 5.01 above;
- (iii) the failure by any of the other contributors to the Project to provide the whole or any part of its contribution.

ARTICLE IX **Miscellaneous**

Section 9.01 **Addresses for Service.** The following addresses are specified for the purpose of Section 12.03 of the General Provisions:

For the Bank:

Caribbean Development Bank
Wildey
St. Michael
BARBADOS, W.I.

For the Borrower:

Secretary to the Treasury
Ministry of Finance
Georgetown
GUYANA, S.A.

Cable Address: CARIBANK, Bridgetown
Telex No.: WB 2287
Telefax No.: (246) 426-7269

Cable Address: MINFIN, GUYANA
Telex No.: 9Y 3038
Telefax No.: (592) 2-63395

For the Executing Agency:

Caribbean Tourism Organization
2nd Floor, Sir Frank Walcott Building
Culloden Road
St. Michael
BARBADOS, W.I.

Telefax No.: (246) 429-3065

SCHEDULE I

(Section 1.01)

CARIBBEAN DEVELOPMENT BANK

GENERAL PROVISIONS APPLICABLE TO PUBLIC SECTOR
LOAN AGREEMENTS WITH AN EXECUTING AGENCY

DATED: June 30, 1995

CARIBBEAN DEVELOPMENT BANK

GENERAL PROVISIONS APPLICABLE TO PUBLIC SECTOR
LOAN AGREEMENTS WITH AN EXECUTING AGENCY

Dated: June 30, 1995

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CARIBBEAN DEVELOPMENT BANK

GENERAL PROVISIONS APPLICABLE TO PUBLIC SECTOR
LOAN AGREEMENTS WITH AN EXECUTING AGENCY

DATED: June 30, 1995

ARTICLE I

**Application of General Provisions,
Inconsistency with Loan Agreement**

Section 1.01 Application of General Provisions. These General Provisions set forth certain terms and conditions generally applicable to loans made by the Bank and shall apply to Loan Agreements with an Executing Agency to such extent, and subject to such modifications, as may be provided in such Loan Agreements, provided however that, where there is no Guarantor, references in these General Provisions to Guarantor and Guarantee Agreement shall be disregarded.

Section 1.02 Inconsistency with Loan Agreement. If any provision of a Loan Agreement is inconsistent with a provision of these General Provisions, the provision of the Loan Agreement shall prevail.

ARTICLE II

Definitions, References, Headings

Section 2.01 Definitions. The following expressions have the following meanings wherever used in these General Provisions unless the context otherwise requires:

- (i) "Aid Donor(s)" means such of the Donors or Lenders to the Bank which may be providing financing through the Bank for the Project;
- (ii) "Bank" means the Caribbean Development Bank;

- (iii) "Borrower" means the party to the Loan Agreement to which the Bank has agreed to make the Loan;
- (iv) "Closing Date" means the date referred to in Section 4.03;
- (v) "Due Dates" means the dates specified in the Loan Agreement for payment of instalments of the Principal and the interest (excluding interest payable pursuant to Section 3.09), commission, commitment charge and other charges in respect of the Loan;
- (vi) "Executing Agency" means the party to the Loan Agreement, other than the Borrower, to which the execution of the Project is entrusted;
- (vii) "Guarantee Agreement" means the agreement between the Guarantor and the Bank whereby the Guarantor guarantees the payment of the instalments of the Principal and the interest, commission, commitment charge and other charges in respect of the Loan, as such agreement may be amended from time to time, and includes all agreements amending such agreement or supplemental thereto and all schedules to such agreement;
- (viii) "Guarantor" means the party to the Guarantee Agreement which is the member of the Bank guaranteeing the payment of the instalments of the Principal and the interest, commission, commitment charge and other charges in respect of the Loan;
- (ix) "interest" means interest payable pursuant to Sections 3.03 and 3.09;
- (x) "Loan" means the loan provided for in the Loan Agreement and includes portions of the loan which are separately provided for in the Loan Agreement;
- (xi) "Loan Account" means the account referred to in Section 3.01;
- (xii) "Loan Agreement" means the agreement between the Bank and the Borrower providing for the Loan, to which some or all of these General Provisions shall have been made applicable, as such agreement may be amended from time to time, and includes such of

these General Provisions as thus made applicable thereto, all agreements amending such agreement or supplemental thereto and all schedules to such agreement;

- (xiii) "other charges" means expenditure incurred by the Bank for or in connection with the remittance by the Bank of amounts withdrawn from the Loan Account, the purchase by the Bank of any currency needed by the Bank for payment to itself of interest, commission, commitment charge, and/or other charges in accordance with Section 4.11 and the establishment or modification of Letters of Credit pursuant to Section 4.02, and amounts agreed to be paid by the Executing Agency to the Bank for or in connection with other special commitments entered into by the Bank in accordance with Section 4.02;
- (xiv) "Principal" means the amount withdrawn from the Loan Account and outstanding from time to time;
- (xv) "Project" means the project or programme for which the Loan is granted, as described in the Loan Agreement and as such description may be amended from time to time;
- (xvi) "Project Country" means the country specified in the Loan Agreement being the country of a member of the Bank in which the Project is located or in which the Borrower or the Executing Agency is directing the operations of, and implementing, the Project; and
- (xvii) "Taxes" includes imposts, levies, fees and duties of any nature in effect at the date of the Loan Agreement or Guarantee Agreement and thereafter.

Section 2.02 References. References in these General Provisions to Articles or Sections are to Articles or Sections of these General Provisions and reference to the singular shall include the plural and vice versa unless the context otherwise requires.

Section 2.03. Table of Contents and Headings. The Table of Contents and the headings of the Articles and Sections are inserted for convenience of reference only and are not a part of these General Provisions.

ARTICLE III

**Loan Account, Repayment, Interest, Commission,
Commitment Charge, Other Charges and Payments**

Section 3.01 Loan Account. The Bank shall open a Loan Account in its books in the name of the Borrower. The amount of the Loan shall be credited to the Loan Account and may be withdrawn therefrom as provided, and subject to the rights of cancellation and suspension set out, in the Loan Agreement and in these General Provisions.

Section 3.02 Repayment. (a) The Borrower shall repay the amount withdrawn from the Loan Account in the manner specified in the Loan Agreement. The Bank shall provide the Borrower and the Executing Agency with particulars of the repayments before the Due Date for the first repayment.

(b) Without prejudice to the provisions of Article IX, if there shall have been a cancellation, pursuant to Section 8.01 or Section 8.03, of such amount of the Loan as in the Bank's opinion is substantial and the Project has not been completed, the Borrower shall repay the Principal or, where portions of the Loan are separately provided for in the Loan Agreement, the amount of each portion of the Loan withdrawn from the Loan Account credited with such portion and outstanding, in such fewer instalments than those specified in the Loan Agreement as the Bank may specify in writing not exceeding such portion of the number of such instalments to the nearest whole number as the Principal bears to the Loan or the amount of each portion of the Loan withdrawn from the Loan Account credited with such portion and outstanding bears to such portion, as the case may be.

Section 3.03 Interest. (a) The Borrower shall pay interest on the Principal at the rate provided for in the Loan Agreement, except as otherwise provided in Section 3.09. Such interest shall accrue from the respective dates on which amounts shall be withdrawn from the Loan Account and shall be payable on the Due Dates, the first payment being due and payable on the first Due Date after the date of the first disbursement of the Loan.

(b) The Bank may from time to time increase or decrease the rate of interest for the time being payable on any amount of the Loan which is being lent from the Ordinary Capital Resources of the Bank

to take effect on the day after the first Due Date after June 30 and/or December 31 in any year, or on such other date or dates as the Bank may specify in writing from time to time.

Section 3.04 Commission. The Borrower shall pay to the Bank a commission on the Principal at the rate provided for in the Loan Agreement, except as otherwise provided in Section 3.09. Such commission shall accrue from the respective dates on which amounts shall be withdrawn from the Loan Account and shall be payable on the Due Dates, the first payment being due and payable on the first Due Date after the date of the first disbursement of the Loan.

Section 3.05 Commitment Charge. The Borrower shall pay to the Bank a commitment charge on the amount unwithdrawn from the Loan Account from time to time at the rate specified in the Loan Agreement. Except as the Bank may otherwise specify in writing, such commitment charge shall accrue from the date specified in the Loan Agreement to the respective dates on which amounts shall be withdrawn from the Loan Account or shall be cancelled and shall be payable on the Due Dates, the first payment being due and payable on the first Due Date after the date on which such charge shall accrue.

Section 3.06 Other Charges and Interest on Overdue Payments. Other charges due by the Borrower to the Bank and interest payable under Section 3.09 shall be payable on demand, except as otherwise provided in Section 3.10.

Section 3.07 Computation of Interest, Commission and Commitment Charge. Interest, commission and commitment charge shall be computed daily on the basis of a 360-day year of twelve (12) 30-day months.

Section 3.08 Advance Payments. The Borrower shall have the right, upon payment of all overdue Principal and all accrued interest, commission, commitment charge and other charges and upon not less than forty-five (45) days' notice to the Bank, to repay as of a date acceptable to the Bank in advance of maturity any portion of the Principal, provided however that, unless otherwise agreed, such early repayment shall not interfere with the repayment in the regular course of the Principal, but shall have the effect only of accelerating repayment of the Principal and the particulars of the repayments to be provided pursuant to Section 3.02 shall be amended accordingly.

Section 3.09 Overdue Payments. (a) In case the Borrower fails to pay any portion of the Principal, interest (excluding interest payable under this Section), commission, commitment charge and/or other charges due and payable under the Loan Agreement, but without prejudice to the provisions of Articles VIII and IX, the Borrower shall pay to the Bank interest on such overdue Principal, interest, commission, commitment charge and/or other charges at such rate or rates of interest per annum as shall be applicable thereto as provided in paragraph (b) of this Section for a period from the day immediately succeeding the Due Date for such overdue payment or payments to the day of actual payment thereof, both dates inclusive.

(b) The rate of interest per annum payable on the amount of an overdue payment, or, if there be more than one, of the aggregate of all overdue payments outstanding from time to time shall be such rate as the Bank shall specify in writing from time to time being equivalent to one per cent (1%) above the aggregate rates of interest and commission payable on loans by the Bank from its Ordinary Capital Resources prevailing either:

- (i) on the day on which the Loan was approved by the Bank; or
- (ii) on the day immediately succeeding the Due Date or Due Dates for such overdue payment or payments and each Due Date thereafter until payment in full of such overdue payment or payments,

whichever is higher.

(c) The rate or rates of interest payable on an overdue payment of Principal under this Section shall be in lieu of the rate or rates of interest and commission, if any, payable on the Loan.

Section 3.10 Place and Application of Payments. (a) The Principal and the interest, commission, commitment charge and other charges in respect of the Loan shall be paid at such place or places as the Bank may reasonably request.

(b) All payments shall be applied firstly to any interest payable under Section 3.09, then to any commitment charge and other charges due and payable, then to any interest (excluding interest payable under Section 3.09) and commission due and payable, then to any Principal due and payable.

Section 3.11 Payments by the Executing Agency on behalf of the Borrower. (a) Without in any way derogating from the obligations of the Borrower under Sections 3.02, 3.03, 3.04, 3.05, 3.07 and 3.09, all payments of Principal, interest, commission, commitment charge and other charges required to be made to the Bank by the Borrower under the Loan Agreement shall be made to the Bank by the Executing Agency on behalf of the Borrower out of the resources of the Executing Agency.

(b) If the Executing Agency fails to make any payment of Principal, interest, commission, commitment charge or other charges required to be made by the Executing Agency by paragraph (a) of this Section or fails to make any such payment in full, the Borrower shall promptly make the required payment or provide the Executing Agency with additional funds as are needed to make such payment.

ARTICLE IV

Withdrawal of Loan

Section 4.01 Withdrawal and Application of Loan. (a) Subject to the provisions of the Loan Agreement, the Executing Agency shall be entitled on behalf of the Borrower to withdraw from the Loan Account amounts required for the purpose of the Project but, except with the agreement of the Bank, no withdrawals shall be made on account of expenditures incurred before the date of the Loan Agreement.

(b) The amount withdrawn from the Loan Account shall be applied for the purpose of the Project in accordance with the provisions of the Loan Agreement and of these General Provisions.

Section 4.02 Special Commitments. At the request of the Executing Agency and upon such terms and conditions as may be agreed upon between the Bank and the Executing Agency, the Bank may enter into special commitments in writing to pay amounts to the Executing Agency or others in respect of the cost of goods and services to be financed out of the amount withdrawn from the Loan Account notwithstanding any subsequent suspension or cancellation.

Section 4.03 Period of Disbursement. The Loan may be disbursed up to the date specified in the Loan Agreement or such later date as may be specified in writing by the Bank.

Section 4.04 Procurement (a) Any goods and services required for carrying out the Project shall, if they are to be financed out of an amount of the Loan,

- (i) be procured in accordance with the procedures outlined in the Bank's "Procedures for Selection and Engagement of Consultants by Recipients of CDB Financing" and "Guidelines for Procurement" as are in effect on the date of the Loan Agreement and as the same may be amended from time to time by the Bank or in accordance with such other procedures as may be specified in writing by the Bank; and,
- (ii) except as provided in the procedures referred to in sub-paragraph (i) of this paragraph, have their source and origin in and be procured from only the member countries of the Bank, all of which are specified in the Annex to these General Provisions, and such other countries as may be specified in, or pursuant to, the Loan Agreement.

(b) The Executing Agency undertakes that, in the procurement of goods and services for the Project, all necessary measures will be taken to ensure that the construction and service contracts and all purchases of goods financed out of an amount of the Loan will be made at a reasonable cost which will generally be the lowest market price taking into account time of delivery, quality, efficiency, reliability of the goods and availability of maintenance facilities and spare parts therefor and, in the case of services, of their quality and the competence of the parties rendering them.

Section 4.05 Goods and Services to be used exclusively in carrying out the Project Except as the Bank may otherwise agree, the Executing Agency shall cause all goods and services financed out of an amount withdrawn from the Loan Account to be used exclusively in carrying out the Project.

Section 4.06 Request for Withdrawal or Special Commitment When the Executing Agency desires to withdraw any amount from the Loan Account, or to request the Bank to enter into a special commitment pursuant to Section 4.02, the Executing Agency shall deliver to the Bank a written application in such form and containing such statements and agreements as the Bank shall reasonably request. Applications for withdrawal with the necessary documentation as hereinafter in this Article provided shall be made promptly in relation to expenditures for the Project.

Section 4.07 Authorisation of Requests for Withdrawals. The Executing Agency shall furnish to the Bank evidence of the authority of the person or persons authorised to sign applications for withdrawal and the authenticated specimen signature of such person or persons.

Section 4.08 Documentation of Requests for Withdrawals. The Executing Agency shall furnish to the Bank such documents and other evidence in support of the application as the Bank shall reasonably request, whether before or after the Bank shall have permitted any withdrawal requested in the application.

Section 4.09 Application and Documents to satisfy Bank. Each application and the accompanying documents and other evidence must be sufficient in form and substance to satisfy the Bank that the Executing Agency is entitled on behalf of the Borrower to withdraw from the Loan Account the amount applied for and that the amount to be withdrawn from the Loan Account has been or will be used for the purposes specified in the Loan Agreement.

Section 4.10 Payments to Executing Agency. Payment by the Bank to the Executing Agency on behalf of the Borrower of amounts which the Executing Agency is entitled on behalf of the Borrower to withdraw from the Loan Account shall be made to or on the order of the Executing Agency.

Section 4.11 Withdrawal and Deduction of Interest, Commission, Commitment Charge and Other Charges. The Bank shall be entitled, but not obligated, to withdraw from the Loan Account, when allocated for financing by the Bank, without the necessity of an application for withdrawal by the Executing Agency, or deduct from any disbursement to, or on behalf of, the Executing Agency under the Loan Agreement, and pay to itself interest, commission, commitment charge and/or other charges due and payable under the Loan Agreement, and the Bank shall promptly notify the Borrower and the Executing Agency in writing of such withdrawal or deduction. Each such withdrawal from the Loan Account shall be deemed to be a disbursement of a portion of the Loan to the extent of the amount and as of the date, of such withdrawal.

ARTICLE V

Currency Provisions

Section 5.01 Currencies in which Withdrawals may be made. Except as the Bank and the Executing Agency may otherwise agree, withdrawals from the Loan Account shall be made in the respective currencies in which the expenditures to be financed out of the Loan have been paid or are payable or in such other currency or currencies available to the Bank as the Bank may reasonably determine.

Section 5.02 Currency in which Principal is Repayable. (a) Any amount withdrawn from the Loan Account which is being lent from that portion of the Special Development Fund of the Bank subject to the Rules adopted by the Board of Directors of the Bank in May, 1983, as the same may be amended from time to time by the Bank, shall be repayable in United States dollars.

(b) Except as provided in paragraph (a) of this Section or as the Bank may otherwise specify in writing, the amount withdrawn from the Loan Account shall be repayable in the several currencies withdrawn from the Loan Account and the amount repayable in each currency shall be the amount withdrawn in that currency, provided that, if a withdrawal shall have been made in any currency which the Bank shall have purchased with another currency for the purpose of such withdrawal, the amount so withdrawn shall be repayable in such other currency and the amount so repayable shall be the amount paid by the Bank on such purchase.

(c) The portion of the amount withdrawn from the Loan Account to be repaid in a particular currency shall be repayable in such instalments as the Bank shall from time to time specify provided that the amount to be repaid on each Due Date shall remain as set out in the particulars of repayments to be provided under Section 3.02.

Section 5.03 Currencies in which Commitment Charge, Interest, Commission and Other Charges are Payable. The Commitment Charge shall be payable in United States dollars, interest and commission on any portion of the amount withdrawn from the Loan Account shall be payable in the currency or currencies in which such portion of the amount withdrawn from the Loan Account is repayable, interest payable under Section 3.09 shall be payable in the currency or currencies in which the overdue payment

is payable and other charges shall be payable in the currency or currencies utilised by the Bank for such other charges.

Section 5.04 Exchange Control Permission. The obligation to obtain any requisite exchange control permission shall be that of the Borrower and the Executing Agency.

Section 5.05 Purchase of Currencies. The Bank will, at the request of the Borrower or the Executing Agency and on such terms and conditions as the Bank shall determine, use its best efforts to purchase any currency needed by the Borrower or the Executing Agency for payment of Principal, interest, commission, commitment charge and other charges required under the Loan Agreement upon payment by the Borrower or the Executing Agency of sufficient funds therefor in such currency or currencies to be specified by the Bank from time to time. In purchasing the currencies required, the Bank shall be acting as agent of the Borrower or the Executing Agency, as the case may be, and the Borrower or the Executing Agency, as the case may be, shall be deemed to have made any payment required under the Loan Agreement only when and to the extent that the Bank has received such payment in the currency or currencies required.

Section 5.06 Valuation of Currencies. Whenever it shall be necessary to determine the value of one currency in terms of another, such value shall be as reasonably determined by the Bank.

ARTICLE VI

Conditions Precedent to First Disbursement

Section 6.01 (a) ~~The Borrower shall~~, by the date referred to in Section 8.03 (i), furnish or cause to be furnished to the Bank:

- (i) the Guarantee Agreement in form and substance acceptable to the Bank;
- (ii) evidence, acceptable to the Bank, that the Borrower, if it is not a member of the Bank, and the Executing Agency are legally established;
- (iii) one or more opinions, satisfactory to the Bank, of a legal practitioner, acceptable to the Bank, showing that:

- (aa) the Borrower, if it is not a member of the Bank, and the Executing Agency are legally established and have the legal capacity to contract the obligations assumed in the Loan Agreement and to fully execute the Project;
 - (bb) the Borrower and the Executing Agency have complied with all the necessary requirements under the Constitution of the Project Country and under the Laws and Regulations in force therein in order to enter into the Loan Agreement; and
 - (cc) the Loan Agreement has been duly authorised by and executed and delivered on behalf of the Borrower and the Executing Agency and constitutes a valid and legally binding obligation in accordance with all of its terms;
- (iv) proof, satisfactory to the Bank, that the person or persons who signed the Loan Agreement on behalf of the Borrower and the Executing Agency were legally empowered to do so;
 - (v) evidence, acceptable to the Bank, that the Borrower and the Executing Agency have designated one or more representatives to represent them in all acts regarding the implementation of the Loan Agreement and the authenticated specimen signature of the said representative or representatives; and
 - (vi) evidence, acceptable to the Bank, that the Executing Agency has authorised one or more persons to sign applications for withdrawals in accordance with Section 4.07 and the authenticated specimen signature of the person or persons so authorised on a withdrawal card to be provided by the Bank to the Executing Agency.
- (b) Except as the Bank may otherwise agree, the Bank shall not be obliged to make the first disbursement of the Loan until the requirements of paragraph (a) of this Section, as amplified by the Loan Agreement, have been complied with to the entire satisfaction of the Bank and the Aid Donor(s) shall have authorised withdrawals for the Project, if necessary.

ARTICLE VII

Particular Covenants

Section 7.01 Records, Accounts and Information. (a) The Executing Agency shall maintain records and accounts adequate to reflect in accordance with consistently maintained sound accounting practice the operations and financial condition of the Executing Agency and in particular, but without prejudice to the generality of the foregoing provision, adequate to identify the goods and services financed out of the amount withdrawn from the Loan Account, to disclose the use thereof in the Project, to show the expenditures of the amount withdrawn from the Loan Account and to record the progress of the Project (including the cost thereof). The Executing Agency shall maintain such accounts and records relating to the Project to the satisfaction of the Bank and such records and accounts shall be kept separately and distinct from the records and accounts of the other operations of the Executing Agency.

(b) The Executing Agency shall:

- (i) have its accounts and financial statements (balance sheets, statements of income and expenditure and related statements) for each fiscal year audited by independent auditors acceptable to the Bank in accordance with sound auditing principles consistently applied;
- (ii) furnish to the Bank, as soon as available, but in any case not later than six (6) months after the end of each such year, certified copies of its audited financial statements for such year and an audit report by the said auditors of such scope and in such detail as the Bank may reasonably request; and
- (iii) furnish to the Bank such other information concerning its accounts and financial statements and the audit thereof as the Bank may from time to time reasonably request.

(c) The Executing Agency shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditures of the amount withdrawn from the Loan Account, the Project, the benefits to be derived therefrom, the administration and operations of the Project and the financial condition of the Executing Agency.

(d) The authorised representatives of the Bank and the Aid Donor(s) shall be entitled to inspect the goods financed out of the amount withdrawn from the Loan Account, the sites, works, plant and construction included in the Project, the operation thereof and any records, documents and accounts of the Project and for that purpose to enter any lands, buildings, erections or facilities owned or occupied by the Borrower or the Executing Agency. The Borrower and the Executing Agency will provide such representatives with all reasonable opportunities and facilities for this purpose.

Section 7.02 Cooperation between the Bank, the Borrower and the Executing Agency. (a) The Bank, the Borrower and the Executing Agency shall cooperate fully to ensure that the purpose of the Loan will be accomplished. To that end, the Bank, the Borrower and the Executing Agency shall from time to time, at the request of any such party, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower and the Executing Agency of their respective obligations under the Loan Agreement and any other matters relating to the Project.

(b) The Borrower and the Executing Agency shall promptly inform the Bank of any condition which interferes, or threatens to interfere, with the accomplishment of the purpose of the Loan, the maintenance of the service thereof or the performance by the Borrower and the Executing Agency of their respective obligations under the Loan Agreement.

Section 7.03 Taxes. The Borrower shall pay, or cause to be paid, all taxes, if any, imposed under the laws in force in the Project Country in connection with the execution, issue, delivery or registration of the Loan Agreement, any instrument given as a requirement of the Loan Agreement (including securities and promissory notes), any transfer or assignment by the Bank pursuant to Section 7.07 and any agreement amending or supplemental to the Loan Agreement, any such instrument and any such transfer or assignment and all payments of Principal, interest, commission, commitment charge and other charges shall be made without deduction for, and free from, any taxes imposed under any such laws.

Section 7.04 Priority of Loan. (a) It is the mutual intention of the Borrower, if it is a member of the Bank, and the Bank that no external debt shall enjoy any priority over the Loan by way of lien on governmental assets.

(b) To that end, the Borrower, if it is a member of the Bank, undertakes that, except as the Bank otherwise agree, if any lien shall be created by the Borrower on any governmental assets as security for any external debt, such lien will, *ipso facto* and at no cost to the Bank, equally and ratably secure the payment of the Principal, interest, commission, commitment charge and other charges and that in the creation of any such lien express provision will be made to that effect. The Borrower, if it is a member of the Bank, shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing provisions of this Section shall not apply to:

- (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or
- (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one (1) year after its date.

(d) As used in this Section the term:

- (i) "external debt" means any debt payable by the Borrower in any medium other than the currency which at the time in question is legal tender in the Project Country whether such debt is payable absolutely or at the option of the creditor in such other medium; and
- (ii) "governmental assets" means assets of the Project Country, if the Borrower is a member of the Bank, of any of its political sub-divisions, or of any agency of the Project Country, if the Borrower is a member of the Bank, or of any such political sub-division including an institution performing the functions of a central bank.

(e) The Borrower, if it is not a member of the Bank or a political sub-division or agency of a member of the Bank or an enterprise in which equity participation by one or more members of the Bank or one or more agencies of such member or members of the Bank is a controlling one, undertakes that, except as the Bank may otherwise agree or as contemplated for the Project, no security which will rank prior to, or *pari passu* with, any security given as a requirement of the Loan Agreement shall, after the date of the Loan Agreement, be created or maintained on any of its property as security for any debts.

Section 7.05 Additional Funds. The Borrower and the Executing Agency shall provide promptly as necessary all funds in addition to the amount withdrawn from the Loan Account and all other resources required for the punctual and effective carrying out of the Project and, in particular, shall be responsible for meeting any amount by which the cost of the Project exceeds the estimated cost thereof as specified in the Loan Agreement.

Section 7.06 Maintenance of Insurance. (a) Except as otherwise specified in the Loan Agreement, the Executing Agency shall take out and maintain with responsible insurers, or make adequate arrangements acceptable to the Bank for, insurance against such risks and in such amounts as shall be consistent with sound business practice, and, without limitation upon the foregoing, such insurance shall cover marine, transit and other hazards incident to the acquisition, transportation and delivery of goods financed out of an amount withdrawn from the Loan Account to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Executing Agency to replace or repair such goods.

(b) The Executing Agency shall require any such insurers with which insurances in respect of any insurable property financed out of an amount withdrawn from the Loan Account and other insurable property are taken out and are to be maintained to give notice periodically to the Executing Agency and the Bank when such insurances are to be renewed and, in addition, advise the Bank immediately on each renewal date whether such insurances are renewed.

Section 7.07 Transfer or Assignment of Loan Agreement or Loan. The Bank shall be entitled to transfer or assign at any time to the Aid Donor(s) all or any of its right, title and interest in and under the Loan Agreement, and any instrument (including securities and promissory notes) given as a requirement of the Loan Agreement and in and to the whole or any part of all monies whatsoever due or to become due to the Bank thereunder. The Bank shall promptly inform the Borrower and the Executing Agency of any such transfer or assignment.

ARTICLE VIII

Cancellation and Suspension

Section 8.01. Cancellation by Borrower. The Borrower may by notice to the Bank cancel any amount of the Loan which the Executing Agency shall not have withdrawn prior to the giving of such notice, except that the Borrower may not so cancel any amount of the Loan in respect of which the Bank shall have entered into a special commitment pursuant to Section 4.02.

Section 8.02 Suspension by Bank. (a) If any of the following events shall have occurred and be continuing, the Bank may, by notice to the Borrower, the Guarantor and the Executing Agency, suspend in whole or in part the right of the Executing Agency to make withdrawals on behalf of the Borrower from the Loan Account:

- (i) The Borrower shall have failed to make payment (notwithstanding the fact that such payment may have been made by the Guarantor or a third party) of Principal, interest, commission, commitment charge or other charges under the Loan Agreement or any principal, interest, commission, commitment charge or other payment required under any other agreement between the Bank and the Borrower;
- (ii) The Guarantor shall have failed to make payment of Principal, interest, commission, commitment charge or other charges under the Guarantee Agreement or any principal, interest, commission, commitment charge or other payment required under any other agreement between the Bank and the Guarantor;
- (iii) The Executing Agency shall have failed to make any payment of Principal, interest, commission, commitment charge or other payment under the Loan Agreement or any principal, interest, commission, commitment charge or other payment required under any other agreement between the Bank and the Executing Agency;
- (iv) The Borrower, the Guarantor or the Executing Agency shall have failed to perform or observe any of its other obligations under the Loan Agreement or the Guarantee Agreement;

- (v) A situation shall have arisen which shall make it improbable in the Bank's opinion that the Project can be carried out or that the Borrower, the Guarantor or the Executing Agency will be able to perform or observe any of its obligations under the Loan Agreement or the Guarantee Agreement;
- (vi) Prior to the Closing Date, any material adverse change in the condition of the Borrower or the Executing Agency, as represented by the Borrower or the Executing Agency, shall have occurred;
- (vii) A representation made by the Borrower, the Guarantor or the Executing Agency in or pursuant to the Loan Agreement or the Guarantee Agreement or any statement furnished in connection therewith and intended to be relied upon by the Bank in making the Loan shall have been incorrect in any material respect;
- (viii) The Borrower, if it is a member of the Bank, or the Guarantor shall have withdrawn or been suspended from membership in, or ceased to be a member of, the Bank;
- (ix) The right of the Borrower, the Guarantor or the Executing Agency to make withdrawals under any other agreement with the Bank shall have been suspended in whole or in part by the Bank;
- (x) The right of the Bank to receive funds for the Project from the Aid Donor(s) shall have been suspended in whole or in part or shall have terminated;
- (xi) A situation shall have arisen whereby, in the Bank's opinion, any withdrawal or further withdrawal from the Loan Account will cause the Bank to exceed any of the lending limits of the Bank, established by the Board of Directors of the Bank from time to time;
- (xii) Any event specified in subparagraph (vii) of Section 8.03 and sub-paragraphs (iv), (vi), (vii), (viii), (ix), (x), (xi) and (xii) of Section 9.01 shall have occurred; or

(xiii) Any other event specified in the Loan Agreement for the purpose of this Section shall have occurred.

(b) The right of the Executing Agency to make withdrawals on behalf of the Borrower from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Bank shall have notified the Borrower and the Executing Agency that the right to make withdrawals shall be restored, whichever is earlier, but, in case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any right, power or remedy of the Bank in respect of any other or subsequent event described in this Section.

Section 8.03 Cancellation by the Bank. If any of the following events shall occur, then at any time thereafter the Bank may by notice to the Borrower, the Guarantor and the Executing Agency terminate the right of the Executing Agency to make withdrawals on behalf of the Borrower from the Loan Account or with respect to any amount of the Loan, as the case may be, and, upon the giving of such notice, the amount of the Loan specified therein shall be cancelled:

- (i) The Borrower shall have failed to comply with the conditions set out in Section 6.01 (a), as amplified by the Loan Agreement, by the sixtieth (60th) day after the date of the Loan Agreement, or such later date as may be specified in writing by the Bank;
- (ii) In the opinion of the Bank, it is improbable that any requirement specified in or pursuant to Section 6.01 (b) or any condition to be fulfilled in meeting any such requirement will be satisfied;
- (iii) By the date referred to in the Loan Agreement, the Bank has not received any application for withdrawal from the Loan Account or for Special Commitment in accordance with Article IV, or all applications received by that date shall not have been acceptable to the Bank;

- (iv) The right of the Executing Agency to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of thirty (30) days;
- (v) At any time the Bank determines, after consultation with the Borrower and the Executing Agency, that an amount of the Loan will not be required to finance the Project's cost to be financed out of the Loan;
- (vi) After the Closing Date an amount of the Loan remains unwithdrawn from the Loan Account; or
- (vii) The Bank shall have received notice from the Guarantor pursuant to Section 3.05 of the General Provisions applicable to Guarantee Agreements with respect to any amount of the Loan.

Section 8.04 Amounts subject to Special Commitment not affected by Cancellation or Suspension by the Bank. No cancellation or suspension by the Bank shall apply to amounts subject to any special commitment entered into by the Bank pursuant to Section 4.02.

Section 8.05 Effectiveness of Provisions after Cancellation or Suspension. Notwithstanding any cancellation or suspension, all the provisions of the Loan Agreement and of these General Provisions which shall have been made applicable thereto shall continue in full force and effect except as in this Article specifically provided.

ARTICLE IX Events of Default

Section 9.01 If any of the following events shall occur and shall continue for the period specified, if any, then, at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower, the Guarantor and the Executing Agency declare the Principal due and payable immediately together with interest, commission, commitment charge and other charges under the Loan

Agreement and upon such declaration the Principal together with interest, commission, commitment charge and other charges under the Loan Agreement shall become due and payable immediately:

- (i) A default shall occur in the payment of Principal, interest, commission, commitment charge or other charges under the Loan Agreement and such default shall continue for a period of thirty (30) days;
- (ii) A default shall occur in the payment of Principal, interest, commission, commitment charge or other charges under the Guarantee Agreement and such default shall continue for a period of thirty (30) days;
- (iii) A default shall occur in the payment of principal, interest, commission, commitment charge or any other payment required under any other loan or guarantee agreement between the Bank and the Borrower and such default shall continue for a period of thirty (30) days;
- (iv) A default shall occur in the payment of principal, interest, commission, commitment charge or other charges under any loan or guarantee agreement between the Guarantor and the Bank under circumstances which would make it unlikely that the Guarantor would meet its obligations under the Loan Agreement or the Guarantee Agreement and such default shall continue for a period of thirty (30) days;
- (v) A default shall occur in the performance or observance of any other obligation on the part of the Borrower, the Guarantor or the Executing Agency under the Loan Agreement or Guarantee Agreement, and such default shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower, the Guarantor and the Executing Agency;
- (vi) The Borrower, if it is not a member of the Bank, or the Executing Agency shall have become unable to pay its debts as they mature or any action or proceeding shall have been taken by the Borrower, if it is not a member of the Bank, or the Executing Agency or by

others whereby any of the property of the Borrower, if it is not a member of the Bank, or the Executing Agency shall or may be distributed among its creditors;

- (vii) The Borrower, if it is not a member of the Bank, or the Executing Agency, shall have taken or suffered any action for its reorganisation, liquidation or dissolution or the suspension of its operations, or a receiver or liquidator shall have been appointed of all or any part of its property;
- (viii) Any modification shall have been made in the purpose, nature or objectives, capital or assets of the Borrower, if it is not a member of the Bank, or the Executing Agency and particularly any substantial revision of the legislation establishing the Borrower, if it is not a member of the Bank and is established by legislation, or the Executing Agency, which may have a deleterious effect on the Project or on the purpose for which the Loan Agreement was entered into;
- (ix) The Borrower, the Guarantor or the Executing Agency shall have failed to fulfil any of its other obligations to the Bank whether arising under the agreement establishing the Bank or otherwise;
- (x) There shall have been a cancellation, pursuant to Section 8.01 or Section 8.03, of such an amount of the Loan as will make it improbable in the Bank's opinion that the Project can be carried out or that the Borrower or the Executing Agency will be able to perform or observe any of its obligations under the Loan Agreement;
- (xi) The Project shall have been discontinued or suspended without the prior approval of the Bank or the Borrower or the Executing Agency shall have suspended, or ceases or threatens to cease to carry on, the business contemplated in carrying out the Project; or
- (xii) Any other event specified in the Loan Agreement for the purpose of this Section shall have occurred and shall continue for the period, if any, specified in the Loan Agreement.

ARTICLE X
Termination

Section 10.01 Upon payment in full of the Principal and all interest, commission, commitment charge and other charges under the Loan Agreement, the Loan Agreement and all obligations of the parties thereunder shall forthwith terminate.

ARTICLE XI
Enforceability

Section 11.01 (a) Except as provided in paragraph (b) of this Section, the rights and obligations of the Bank, the Borrower and the Executing Agency under the Loan Agreement shall be valid and enforceable in accordance with its terms.

(b) If the Borrower is not a member of the Bank, the rights and obligations of the Bank, the Borrower and the Executing Agency under the Loan Agreement shall be construed and determined in accordance with the laws of the Project Country at the date of the Loan Agreement.

(c) Neither the Bank, the Borrower nor the Executing Agency shall be entitled in any proceeding under or pursuant to Article XIII to assert any claim that any provision of the Loan Agreement is invalid or unenforceable because of any provision of the agreement establishing the Bank or for any other reason.

ARTICLE XII
Miscellaneous

Section 12.01 All statements, reports, certificates, evidence, opinions, notices, communications and other documents or information furnished or given under the Loan Agreement shall be supplied or submitted in the English Language without cost to the Bank.

Section 12.02 No failure or delay on the part of the Bank to exercise any right, power or privilege under the Loan Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under the Loan Agreement preclude any other or further exercise thereof or the exercise of any right, power or privilege.

Section 12.03 All notices and other communications required or permitted to be given or made under the Loan Agreement and any other agreement between any of the parties contemplated by the Loan Agreement shall be in writing. Any such notice or other communication shall be deemed to have been duly given or made when delivered by hand or mail or by telegram, cable, telex, telefax or radiogram to the party to which it is required or permitted to be given or made at such party's address specified in the Loan Agreement or at such other address as such party may have designated by notice to the party giving such notice or making such communication.

Section 12.04 Subject to Article 42 of the agreement establishing the Bank, if the Borrower, being a member of the Bank, or the Guarantor ceases to be a member of the Bank, any amount due to it for its shares repurchased by the Bank shall be withheld so long as the Borrower or the Guarantor remains liable to the Bank in respect of the Loan. Such amount may, at the option of the Bank, be applied on any such liability as it matures.

Section 12.05 Subject to Article 46 of the agreement establishing the Bank, in the event of a distribution of the assets of the Bank, the Borrower, being a member of the Bank, or the Guarantor shall not be entitled to receive its share in such distribution until it has settled its obligations to the Bank under the Loan Agreement or the Guarantee Agreement.

ARTICLE XIII

Arbitration

Section 13.01 (a) Any controversy between the parties to the Loan Agreement and any claim by any such party against any other such party arising under the loan Agreement which shall not be determined by agreement between the parties shall be submitted to arbitration before an Arbitration Committee as hereinafter provided.

(b) The parties to such arbitration shall be the Bank on one side and the Borrower and the Executing Agency on the other side.

(c) The Arbitration Committee shall consist of three arbitrators appointed as follows:

One arbitrator shall be appointed by the Bank, another by the Borrower and the Executing Agency or, if they shall not agree, by the Borrower and a third (hereinafter called the umpire) shall be appointed by agreement between the parties, either directly or through their respective arbitrators. If the parties fail to agree on who shall be the umpire, he shall be appointed at the request of either party by the Secretary-General of the Caribbean Community. If either side fails to appoint an arbitrator, he shall be appointed by the Secretary-General of the Caribbean Community at the request of the other party. If either of the appointed arbitrators or the umpire is unwilling or unable to act or to continue to act in such capacity, 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.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the remedy sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty (30) days after the giving of such notice, the other party shall notify the party instituting the proceeding of the name of the arbitrator appointed by such other party.

(e) If within sixty (60) days after giving notice instituting the arbitration proceeding the parties shall not have agreed upon an umpire, either party may request the appointment of an umpire as provided in paragraph (c) of this Section. If within forty-five (45) days after becoming entitled to do so, neither party requests the appointment of an umpire as provided in paragraph (c) of this Section, the arbitration proceeding shall be deemed to have been abandoned.

(f) The Arbitration Committee shall convene in Barbados at such time and place as shall be fixed by the umpire. Thereafter the Arbitration Committee shall meet in Barbados or in the Project Country at such time and place as the Arbitration Committee shall determine.

- (g) Subject to the provisions of this Section and except as the parties shall otherwise agree, the Arbitration Committee shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitration Committee shall be by a majority vote.
- (h) The Arbitration Committee shall afford to both sides a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitration Committee shall constitute the award of the Arbitration Committee. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to the Loan Agreement. Each party shall abide by and comply with any such award rendered by the Arbitration Committee in accordance with the provisions of this Section.
- (i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. The Bank, the Borrower and the Executing Agency shall defray its own expenses in the arbitration proceedings. The costs of the Arbitration Committee shall be divided between and borne equally by the Bank on the one side and the Borrower and the Executing Agency on the other. Any question concerning the division of the costs of the Arbitration Committee or the procedure for payment of such costs shall be determined by the Arbitration Committee.
- (j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of any controversy between the parties to the Loan Agreement or any claim by any such party against another such party arising thereunder.
- (k) If within thirty (30) days after the counterparts of the award shall be delivered to the parties the award shall not be complied with, any party may enter judgement upon or institute a proceeding to enforce the award in any court of competent jurisdiction against any other party, may enforce such judgement by execution or may pursue any other appropriate remedies against such other party for the enforcement of the award and the provisions of the Loan Agreement. Notwithstanding the foregoing, this Section shall not authorise any entry of judgement or enforcement of award against any party that is a member of the Bank except as such procedure may be available otherwise than by reason of the provisions of this Section.

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section may be made in the manner provided in Section 12.03. The parties to the Loan Agreement waive any and all other requirements for the service of any such notice or process.

(m) Notwithstanding the provisions of paragraph (j) of this Section, if the Borrower is not a member of the Bank, nothing in this Section shall be deemed to preclude any of the parties from exercising or instituting any legal or equitable action to enforce any right or claim arising out of or pursuant to any instrument given as a requirement of the Loan Agreement with respect to the repayment of the Principal and payment of interest, commission, commitment charge and other charges and submission to arbitration under this Section shall not be deemed to be a condition precedent or in any way prejudice such exercise or other enforcement of any such right or claim.

ANNEX

[Section 4.04 (a) (ii)]

MEMBERS OF THE BANK

Regional Members

1. Anguilla
2. Antigua and Barbuda
3. Bahamas - Commonwealth of The
4. Barbados
5. Belize
6. British Virgin Islands
7. Cayman Islands
8. Colombia
9. Dominica - Commonwealth of
10. Grenada
11. Guyana - Co-operative Republic of
12. Jamaica
13. Mexico
14. Montserrat
15. Saint Kitts and Nevis
16. Saint Lucia
17. Saint Vincent and the Grenadines
18. Trinidad and Tobago - Republic of
19. Turks and Caicos Islands
20. Venezuela

Non-Regional Members

1. Canada
2. China - The People's Republic of
3. Germany
4. Italy
5. United Kingdom

SCHEDULE-2

[Section 1.03 (a) (ii)]

THE REGIONAL TOURISM EMERGENCY PROGRAMME (RTEP)

OBJECTIVES

1.01 The main objectives of RTEP are to:

- (a) increase visitor arrivals to the Caribbean region by conducting selective, targeted, television advertising, and PR and promotion activities in the European and North American marketplace; and
- (b) maintain or improve market share of visitor arrivals to the Caribbean.

PROGRAMME DESCRIPTION

1.02 The programme involves:

- (a) a television advertising campaign;
- (b) a PR and promotion programme; and
- (c) project management.

1.03 The television advertising campaign involves creative designing, production of commercials, media planning and costing. It is proposed to use either advertising material that had been prepared for an earlier (1993) campaign, appropriately modified to reflect the changed circumstances, or new material to be developed, with safety and family values as the underlying themes. The campaign will be promoted under the theme "Great Places in the Caribbean". This campaign will promote the warmth and friendliness of the Caribbean. The Television Advertising component will be designed and implemented through a Trust to be established by CTO, CHA and CTO-member governments. The Trust will have 27 trustees, 11 of which will be public sector representatives. The Board of Trustees (BOT) will comprise 60% private sector representatives and 40% public sector representatives.

1.04 The PR and promotion programme will seek to protect market share and personalise response to maintain the Caribbean image. Some of the activities will involve joint promotions with airlines, tour operators, hoteliers and cruise lines. Full-page advertisements of Caribbean destinations will be displayed in prominent North American and European travel magazines, brochures will be distributed to travel agents at international travel fairs and conferences, and Caribbean musicians and radio stations will be used to promote Caribbean destinations. The main focus of the PR programme will be on the USA, Canada, the UK and Continental Europe.

1.05 CTO will provide project management services by planning, coordinating, directing and monitoring the activities of RTEP. The BOT will approve the production of television commercials, the media plan and the contract for an experienced advertising agency to implement the proposed television advertising campaign. CTO will provide inputs into the production of the television commercials and the media plan. The intention is to have finished commercials on international television networks in the USA by early January 2002 and shortly thereafter on television networks in the UK. The PR and promotional programme will be implemented directly by CTO. The Marketing Committee of CTO will

plan, coordinate and implement this programme, which is intended to target the USA, Canada, UK and Continental Europe. In this regard, CTO may engage the services of PR firms in the USA, UK, France and Germany with whom it has existing relationships to assist in the implementation of the programme. It is anticipated that the PR agencies will be engaged by December 31, 2001.

1.06 CTO has qualified and experienced managers in the areas of marketing, finance and resource management, information management and research and human resource development. CTO has the capacity to implement the PR programme and provide the oversight necessary with respect to the implementation of the television campaign.

1.07 The total cost of the programme is estimated at USD 18.3 mn as shown in Appendix 1 to Schedule 2. It is proposed that CDB finance USD 2.593 mn or 14.1% of the cost of RTEP by way of loans and a grant to selected CDB BMCs as shown in Appendix 2 to Schedule 2. Of the USD 2.593 mn, it is proposed that USD 2.3 mn will finance the Television Advertising Component and USD 0.293 mn be used to finance the PR Component. Other CTO members, CHA and CTO will finance 40.4%, 45% and 0.5% respectively of the cost of RTEP as shown in Appendix 1 to Schedule 2. CHA will provide matching financing of USD 8.0 mn for the television advertising campaign.

IMPLEMENTATION

1.08 Implementation of the programme is expected to be over a period of 12 months commencing early in 2002.

APPENDIX 1 TO SCHEDULE 2

[Section 1.03 (b) (iii)]

SUMMARY OF PROGRAMME COST AND FINANCING PLAN
(USD '000)

Items	CDB*	Other CTO Members**	CHA***	CTO	Total
Television Advertising Campaign	2,300	5,700	8,000		16,000
Television Rights			250		250
PR and Promotion Programme	293	1,715			2,008
Project Management				83	83
TOTAL	2,593	7,415	8,250	83	18,341
Percentages	14.1	40.4	45.0	0.5	100

* CDB's BMC's in CTO identified in Loans/Grant and Programme Summary

** Include Barbados, Bahamas and Trinidad and Tobago

*** Matching funds from private sector, coordinated by CHA

APPENDIX 2 TO SCHEDULE 2

[Section 1.03 (b) (v)]

**CONTRIBUTIONS TO THE
REGIONAL TOURISM EMERGENCY PROGRAMME**

Country	Contribution (USD)			Proportional Allocations %
	Private/Public Sector TV Campaign	CTO Promotional Programme	Total	
<u>Grant:</u>				
Montserrat	25,000	3,250	28,250	1.1
<u>Loans:</u>				
The Commonwealth of Dominica	100,000	12,500	112,500	4.3
The Cooperative Republic of Guyana	100,000	12,500	112,500	4.3
St. Vincent and the Grenadines	100,000	12,500	112,500	4.3
Belize	175,000	22,500	197,500	7.6
Grenada	175,000	22,500	197,500	7.6
St. Kitts and Nevis	175,000	22,500	197,500	7.6
Antigua and Barbuda	350,000	45,000	395,000	15.2
St. Lucia	350,000	45,000	395,000	15.2
Jamaica	750,000	95,000	845,000	32.6
Total	2,300,000	293,250	2,593,250	100

SCHEDULE 3

[Section 6.05]

REPORTING REQUIREMENTS

CTO will provide CDB with quarterly reports on the performance and effectiveness of the programme. Some of the key indicators in the reports will include, tourist arrivals, cruise passenger arrivals, hotel occupancy levels, and visitor expenditure. At the conclusion of the television advertising campaign and the PR and promotions programme in December 2002, CTO will be required to furnish CDB with a completion report on RTEP. This report will highlight, *inter alia*, the activities undertaken under the programme and the lessons learnt for future regional programmes.

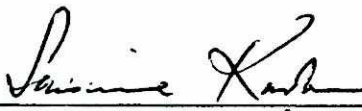
IN WITNESS WHEREOF this Loan Agreement has been signed in three (3) equally valid copies at Wildey, St. Michael, Barbados, Georgetown, Guyana and Culloden Road, St. Michael, Barbados on behalf of the **Bank**, the **Borrower** and the **Executing Agency** by their respective duly authorised representatives and shall be deemed to be in force as of the day and year first above written.

CARIBBEAN DEVELOPMENT BANK

GOVERNMENT OF THE CO-OPERATIVE
REPUBLIC OF GUYANA




Neville L. Grainger
Vice-President (Finance)



Minister responsible for Finance
of
SC

SIGNED on behalf of the CARIBBEAN TOURISM

ORGANIZATION by  _____

a person authorised so to do