
Resolution DE-67/14
Resolution DE-68/14
Resolution DE-69/14

LOAN CONTRACT Nos. 3238/OC-GY and 3239/BL-GY

Between the

CO-OPERATIVE REPUBLIC OF GUYANA

and the

INTER-AMERICAN DEVELOPMENT BANK

Power Utility Upgrade Program

October 10, 2014

LEG/SGO/GY-38774909-14

SPECIAL CONDITIONS

INTRODUCTION

Parties, Purpose, Constituent Elements, and Executing Agency

1. PARTIES AND PURPOSE OF THE CONTRACT

CONTRACT entered into on October 10, 2014 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 finance the execution of a power utility upgrade program (hereinafter referred to as the "Program").

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

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

(a) This Contract consists of these Special Conditions, the General Conditions, and the Annex which 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 shall prevail. In case of inconsistencies or contradictions between the Special Conditions, and 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 and supervision are established in detail in the General Conditions. The General Conditions also include general definitions.

3. EXECUTING AGENCY

The parties agree that the execution of the Program and the utilization of the resources of the financing granted by the Bank shall be carried out in their entirety by the Borrower through the Guyana Power and Light, Inc., (GPL), hereinafter referred to as the "Executing Agency", as to the legal and financial capacity of which to function as such the Borrower gives its assurance.

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 sixty four million five hundred seventy three thousand Dollars of the United States of America (US\$64,573,000) which includes the amount of the financing referred to in Section 1.02 of these Special Conditions and up to nineteen million three hundred seventy five thousand Euros

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(€19,375,000) from the resources of the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY referred to in Section 3.03 (d) of these Special Conditions. Unless otherwise stated in this Contract, the term "Dollars" hereinafter signifies the currency of legal tender in the United States of America.

SECTION 1.02 **Amount of the financing.** (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 twenty two million five hundred thousand Dollars (US\$22,500,000) from the resources of the ordinary capital of the Bank under the Grant Leverage Mechanism;
- (ii) up to the amount of seven million five hundred seventy thousand eight hundred seventy five Dollars (US\$7,570,875) chargeable to the resources of the Single Currency Facility of the ordinary capital resources of the Bank; and
- (iii) up to the amount of seven million five hundred seventy thousand eight hundred seventy five Dollars (US\$7,570,875) 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".

(c) The parties agree that for the purpose of this Contract the resources comprised in subsections (a)(i) and (a)(ii) of this Section 1.02, shall be hereinafter referred to as "Ordinary Capital Financing".

(d) The parties agree that of the total amount of resources from the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY referred to in Section 1.01 of these Special Conditions, up to the equivalent of twenty two million five hundred thousand Dollars (US\$22,500,000) shall be used for purposes of this Contract to match the portion of the Financing referred to in subsection (a)(i) above and shall be disbursed in accordance with the provisions set forth in Section 3.04 of these Special Conditions.

SECTION 1.03. **Additional Resources.** Pursuant to the provisions set forth in Article 6.04 of the General Conditions, the Borrower undertakes to contribute in a timely manner all of the resources in addition to those of the Loan which may be necessary for the complete and uninterrupted execution of the Program. If during the process of disbursement of the Financing an increase in the estimated cost of the Program takes place, the Bank may require the modification of the investment schedule referred to in Article 4.01(c) of the General Conditions of the Loan Contract such that the Borrower shall meet such increase.

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 according to the rules 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 seventy two months (72) 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 a LIBOR-Based Interest Rate until the Determination Date of the Fixed Base Rate, according to Article 2.01(n) of the General Conditions of this Contract. From the Determination Date of the Fixed Base Rate the Bank will apply a Fixed Interest Rate, according to Article 2.01(t) of the General Conditions.

(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 to the Bank semiannually, beginning six (6) months from the date of signature of this Loan Contract, and taking into account Article 3.01(c) of the General Conditions.

SECTION 2.03 Resources for General Inspection and Supervision. During the disbursement period, 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 periodic review of financial charges, in accordance with the applicable provisions of the Bank's policy on lending rate methodology in Ordinary Capital loans, and the Borrower is notified by the Bank in this regard. 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 a credit fee at a percentage that will be established by the Bank on a periodic basis as a result of its review of financial charges, in accordance with the applicable provisions of the Bank's policy on lending rate methodology in Ordinary Capital loans; provided that, under no circumstance, may it exceed the percentage contemplated in Article 3.02 of the General Conditions.

CHAPTER III

Disbursements

SECTION 3.01 **Currencies of Disbursement of the Financing and Use of Funds.** The amount of the Financing shall be disbursed in Dollars to pay for goods and services acquired through international and/or national competition and for such other purposes as are indicated in this Contract.

SECTION 3.02 **Currency Availability.** If the Bank is unable to obtain access to Dollars, the Bank may, in consultation with the Borrower disburse the Loan in another currency of its choice.

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 requirements:

- (i) a subsidiary agreement executed between the Ministry of Finance and GPL, which establishes the manner in which the resources of the Financing shall be used and the obligations of GPL to execute the Program in accordance with the contract and the Program Operations Manual (POM);
- (ii) the establishment of a Program Coordinating Unit (PCU) within GPL, composed of the following full-time team: (a) a Program coordinator, (b) a loss reduction specialist, (c) an electricity distribution network design specialist, (d) an information technology specialist; (e) a procurement specialist with experience in contract management, and (f) a finance comptroller;
- (iii) the approval by the Executing Agency (EA), in accordance with the terms and conditions previously agreed with the Bank, of the following planning documents: (a) the (POM), (b) the first Procurement Plan, and (c) the first Annual Operating Plan;
- (iv) a Project Steering Committee (PSC) has been established; and

- (v) the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY, referred to in Section 1.01 of these Special Conditions has been duly signed between the Borrower and the Bank, and has entered into effect.

SECTION 3.04 **Special requirements for the disbursements of the Ordinary Capital resources.** (a) In addition to the provisions set forth in of Article 4.03 of the General Conditions, the portion of the Financing, referred to in Section 1.02(a)(i) of these Special Conditions, shall be disbursed on a *pari-passu* basis with an equivalent the amount of resources referred to in subsection (d) of Section 1.02 of these Special Conditions.

(b) Pursuant to the *pari-passu* disbursement requirement set out in paragraph (a) hereinabove, in the event that the available amount of resources under the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY is not sufficient to match the exact amount of Ordinary Capital Financing referred to in Section 1.02(a)(i) requested by the Borrower in a disbursement request, the Bank shall only disburse said Ordinary Capital Financing up to the exact amount of resources available under the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY

(c) In addition, to the foregoing if at any time during the implementation of the Program the resources to be provided under the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY are not received by the Bank from the donor of such funds or are not available for disbursement whichever the cause may be, the Bank shall not make disbursements from the ordinary capital resources referred to in paragraph (a) until the resources referenced from the Non Reimbursable Financing Agreement No. GRT/EX-14519-GY become available to fulfill the *pari-passu* disbursement requirement established in this Section 3.04.

SECTION 3.05 **Advance of Funds.** Notwithstanding the provision set forth in Article 4.08 of the General Conditions, the parties agree that a new Advance of Funds could be granted by the Bank on the basis of the provisions contained in paragraph (b) of Article 4.08 of the General Conditions, and provided that at least seventy percent (70%) of the total amount of resources disbursed as an Advance of Funds has been justified.

SECTION 3.06 **Reimbursement of Expenditures Chargeable to the Financing.** With the consent of the Bank, up to the equivalent of one hundred thousand Dollars (US\$100,000.00) of the resources of the Financing may be used to reimburse expenditures incurred in the Program to cover the costs of the following consulting services: (i) the consulting services recruited to assist the Executing Agency in conducting the large and complex procurement processes foreseen for the execution of Component I and Component III; (ii) consulting services to assist the EA in the procurement of the Supervision Firm; (iii) recruitment of the PCU personnel. Said expenditures shall have been incurred before June 25, 2014 but after December 20, 2013, provided that requirements substantially similar to those set forth in this Contract have been fulfilled. It is understood that, with the consent of the Bank, the resources of the Financing may also be used to reimburse expenditures incurred or to finance those that may be incurred in the Program on or after June 25, 2014 and up to the effective date of this Contract, provided that the requirements set forth above have been substantially fulfilled.

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SECTION 3.07 **Disbursement Period.** The period for final disbursement of the resources of the Financing shall expire five (5) years from the effective date of this Contract

SECTION 3.08 **Exchange Rate.** For the purposes of the provisions set forth in Article 3.06(b) of the General Conditions of this Contract, the parties agree that the applicable exchange rate shall be that which is indicated in subsection b (ii) of said Article. For this purpose, the exchange rate to be applied will be that in effect on the day on which the Borrower, the Executing Agency or any natural or juridical person in whom the power to incur expenditures has been vested makes the related payments to the contractor or supplier.

CHAPTER IV

Execution of the Program

SECTION 4.01. **Procurement of goods and works and non-consulting services.** (a) For purposes of Article 2.01(ff) of the General Conditions, the Parties agree that the Procurement Policies are those dated March 2011, which are contained in document GN-2349-9, approved by the Bank on April 19, 2011. If the Procurement Policies are amended by the Bank, the procurement of goods and works and non-consulting services shall be carried out in accordance with the provisions of the modified Procurement Policies, once they are made known to the Borrower and the Borrower agrees in writing to apply them.

(b) For the procurement of works and goods and non-consulting services, any of the methods described in the Procurement Policies may be used, provided that such method has been identified for the respective procurement in the Procurement Plan approved by Bank.

(c) The threshold for determining the use of international competitive bidding, will be made available to the Borrower or the Executing Agency, as the case may be, at www.iadb.org/procurement. Below that threshold, the selection method shall be determined according to the complexity and characteristics of the procurement, which should be reflected in the Procurement Plan approved by the Bank.

(d) Regarding the use of the International Competitive Bidding method, the Bank and the Borrower agree that the provisions of Appendix 2 to the Procurement Policies regarding domestic margin of preference when comparing bids for the procurement of goods, shall apply to goods manufactured in the country of the Borrower, as specified in the respective bidding document.

(e) Regarding the use of the National Competitive Bidding method, the respective national competitive bidding procedures may be used provided that, in the opinion of the Bank, these procedures ensure economy, efficiency, transparency and general consistency with the provisions of Section I of the Procurement Policies and taking into account the provisions of paragraph 3.4 of said Policies, among others.

(f) Notwithstanding the provisions set forth in Section 4.02 and in Article 6.02 of the General Conditions, the parties agree that firms and individuals from non-member countries of the Bank may be eligible, in addition to those of Bank's member countries, in procurement processes for the contracting of goods, works, and related services financed with resources of the Program, provided that the country of origin of such goods, works, related services is recognized as eligible by the European Union under its applicable regulations on procurement.

SECTION 4.02 **Maintenance of equipments and works.** The Borrower and the Executing Agency undertake to: (a) ensure that the works will be adequately maintained, according to generally accepted technical standards; (b) present to the Bank an annual maintenance report within the first quarter of each calendar year up to and including the fifth year after the last disbursement of the Financing. 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 and the Executing Agency shall undertake the necessary measures to correct these shortcomings.

SECTION 4.03 **Selection and Contracting of Consultant Services.** (a) For purposes of the provisions of Article 2.01(i) of the General Conditions, the Parties agree that the Consultant Policies are those dated March 2011, which are contained in document GN-2350-9, approved by the Bank on April 19, 2011. If the Consultant Policies are amended by the Bank, the selection and contracting of consulting services will be carried out in accordance with the provisions of the amended Consultant Policies, once they are made known to the Borrower and the Borrower agrees in writing to apply them.

(b) For the selection and contracting of consulting services, any of the methods described in the Consultant Policies may be used, provided that such method for the respective procurement has been identified in the Procurement Plan approved by Bank.

(c) The threshold for determining the short list of international consultants will be made available to the Borrower or the Executing Agency, as the case may be, at www.iadb.org/procurement. Below that threshold, the short list may be composed entirely of national consultants of the Borrower's country.

(d) Notwithstanding the provisions of this Section 4.04 and Article 6.02 of the General Conditions, the parties agree that firms and individuals from non-member countries of the Bank may be eligible, in addition to those from Bank's member countries, in procurement processes for the contracting of consultancy services financed with resources of the Program, provided that the nationality of such firms and individuals is recognized as eligible by the European Union under its applicable regulations on procurement.

SECTION 4.04 **Use of Country Systems.** In accordance with the provisions of Article 6.02(b) of the General Conditions, the parties agree that as of signature date of this Contract, the use of country systems is not foreseen for the procurement of works and goods, consulting services or non-consulting services.

SECTION 4.05 Procurement Plan update. In order to update the Procurement Plan in accordance with the provisions of Article 6.02(c) of the General Conditions, the Borrower must use or, where appropriate, cause the Executing Agency to use, the implementation and monitoring system of procurement plans as determined by the Bank.

SECTION 4.06 Evaluations. The Borrower, through the Executing Agency, will be responsible for the following evaluations: (i) a mid-term evaluation once half of the execution period has elapsed or once fifty per cent (50%) of the resources of the Loan have been disbursed, whichever occurs first; and (ii) a final evaluation once ninety per cent (90%) of the resources of the Loan have been disbursed. These evaluations will be carried out by consultancy services, in accordance with terms of reference previously approved by the Bank.

SECTION 4.07 Special Execution Conditions. The Executing Agency must provide evidence that: (i) before initiating the procurement activities for the areas to be rehabilitated under Component III, the eligibility criteria, as set forth in the POM, should be met; (ii) previously to implement the SMP, the social-sector teams should have been appointed; (iii) before signing any contract related to works for Component III, an independent firm to supervise such works should have been hired; and (iv) two years after the first disbursement, or when the Program reaches 50% of disbursement (whichever occurs first), the Oversight Mechanism should have been implemented.

CHAPTER V

Supervision

SECTION 5.01 Records, Inspections, and Reports. The Borrower agrees to directly or through the Executing Agency maintain records, permit inspections, submit reports, maintain a financial information system and a structure of internal control acceptable to the Bank, and submit audited financial reports and other audited reports to the Bank, in accordance with the provisions established in this Chapter and in Chapter VII of the General Conditions.

SECTION 5.02 Supervision of Program Execution. (a) The Bank shall use the Program execution plan referred to in Article 4.01(c)(i) of the General Conditions as a tool to supervise Program execution. The Program execution plan shall comprise a complete planning of the Program, with the critical path of actions to be implemented in order to disburse the resources of the Financing before the expiration of the disbursement period set forth in Section 3.05 of these Special Conditions.

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

SECTION 5.03 Financial Statements and other Reports. The Borrower agrees to submit within one hundred twenty (120) days following the closing of each fiscal year of the Executing

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

CHAPTER VI

Miscellaneous Provisions

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

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

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

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

For the Borrower:

Mailing address:

Ministry of Finance
Main and Urquhart Streets
Georgetown, Guyana

Facsimile: (592) 227-3931

For matters related to execution of the Program:

Mailing address:

Guyana Power & Light Inc.
91 Duke Street
Kingston, Georgetown
Guyana

Facsimile: (592) 227 1978

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For the Bank:

Mailing address:

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

Facsimile: (202) 623-3096

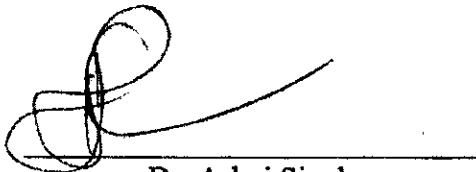
CHAPTER VII

Arbitration

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

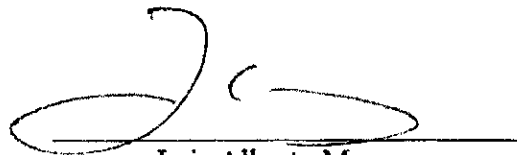
IN WITNESS WHEREOF, the Borrower and the Bank, each acting through its authorized representative, have signed this Contract, in two equally authentic copies in Washington, District of Columbia, United States of America, on the date above written.

CO-OPERATIVE REPUBLIC OF
GUYANA



Dr. Ashni Singh
Minister of Finance

INTER-AMERICAN DEVELOPMENT
BANK



Luis Alberto Moreno
President

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PART TWO

GENERAL CONDITIONS

CHAPTER I

Application of the General Conditions

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

CHAPTER II

Definitions

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

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

(b) "Bank" means the Inter-American Development Bank.

(c) "Bank's Cost of Funding" means a cost margin calculated quarterly relative to a three (3)-month LIBOR Dollar Interest Rate, using the weighted average cost of funding instruments applicable to the Single Currency Facility, expressed in terms of an annual percentage, as determined by the Bank.

(d) "Bank Group" means the Bank, the Inter-American Investment Corporation and the Multilateral Investment Fund.

(e) "Board" means the Board of Executive Directors of the Bank.

(f) "Borrower" means the party to which the Financing is made available.

(g) "Calculation Agent" means the Bank, except for the use of such term in the definition of LIBOR Interest Rate, in which case it will have the meaning assigned to it in the 2006 ISDA Definitions, in accordance with the publication of the *International Swaps and Derivatives*

Association, Inc., as amended and supplemented. Any determination made by the Calculation Agent shall be final, conclusive and binding on the parties (except in the case of manifest error), and, if made by the Bank as Calculation Agent, shall be duly documented and made in good faith and in a commercially reasonable manner.

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

(i) "Consultant Policies" means the Policies for the selection and contracting of consultants financed by the Inter-American Development Bank in force at the time of the approval of the Loan by the Bank.

(j) "Contract" means the entirety of the Special Conditions, the General Conditions and the Annexes.

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

(l) "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.

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

(n) "Determination Date of the Fixed Base Rate" means the 15th day of the months of January, April, July and October of each calendar year, following the date in which the minimum amount of an automatic conversion between the greater of three million Dollars (US\$3,000,000) or 25% of the net amount of the Financing (amount of the Financing minus cancellations) is reached.

(o) "Dollars" means dollars of the United States of America, unless otherwise stated.

(p) "Effective Date" means the date on which the Loan Contract acquires full legal validity pursuant to the provisions of Section 6.01 of the Special Conditions.

(q) "Executing Agency/Agencies" means the entity/entities responsible for executing all or part of the Project.

(r) "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.

(s) "Fixed Base Rate" means the market swap rate on the effective date of the LIBOR-Based Rate fixing.

(t) "Fixed Interest Rate" means: (i) the Fixed Base Rate, as defined in Article 2.01(s) of these General Conditions, plus (ii) the Ordinary Capital lending spread expressed in basis points (bps) which shall be periodically determined by the Bank.

(u) "Fund for Special Operations" means the Bank's Fund for Special Operations.

(v) "Fund for Special Operations Financing" means the portion of the Financing chargeable to the Fund for Special Operations.

(w) "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.

(x) "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.

(y) "LIBOR-Based Interest Rate" means the sum of: (i) the LIBOR Interest Rate, as defined in Article 2.01(z) below; (ii) plus or minus the Bank's Cost of Funding, determined on an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter.

(z) "LIBOR Interest Rate"¹ means the "USD-LIBOR-ICE", which is the rate administered by ICE Benchmark Administration (or any other entity which takes over the administration of that rate) for deposits in Dollars for a period of three (3) months that appears on the relevant page of the pages Bloomberg Financial Markets Service or Reuters Service, or on the relevant pages of any other service selected by the Bank that displays such rate, as of 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding the Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter. If such LIBOR Interest Rate does not appear on the relevant page, the LIBOR Interest Rate for that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined as if the parties had specified "USD-LIBOR-Reference Banks" as the applicable LIBOR Interest Rate. For these purposes, "USD-LIBOR-Reference Banks" means that the LIBOR Interest Rate for an Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter will be determined on the basis of the rates at which deposits in Dollars are offered by the Reference Banks at approximately 11:00 a.m., London time, on the day that is two (2) London Banking Days preceding that Interest Rate Determination Date of the LIBOR-Based Interest Rate for each Quarter to prime banks in the

¹ Any capitalized terms used in paragraph (z) of Article 2.01 and not otherwise defined herein shall have the meaning assigned to it in the 2006 ISDA Definitions as published by the *International Swaps and Derivatives Association, Inc.*, as amended and supplemented from time to time, which are hereby incorporated by reference.

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

- (aa) "Loan" means the funds disbursed from the Financing.
- (bb) "Official Auditing Authority" means the Borrower's official auditing authority.
- (cc) "Ordinary Capital Financing" means the portion of the Financing chargeable to the Single Currency Facility.
- (dd) "Procurement Agent" means the entity with legal capacity to enter into contracts and which, in agreement with the Borrower or the Executing Agency, as the case may be, assumes all or part of the responsibility of the procurement of goods or works, consultancy services or non-consulting services for the Project.
- (ee) "Procurement Plan" means a tool for programming and monitoring the procurement related to the operation, in the terms described in the Procurement Policies and Consultant Policies.
- (ff) "Procurement Policies" means the Policies for the Procurement of Works and Goods financed by the Inter-American Development Bank in force at the time of the approval of the Loan by the Bank.
- (gg) "Prohibited Practices" means the act(s) defined in Article 5.03 of these General Conditions.
- (hh) "Project" means the Program or Project for which the Financing has been extended.

(ii) "Quarter" means each of the following three-month (3-month) periods of the calendar year: the period beginning on January 1 and ending on March 31; the period beginning on April 1 and ending on June 30; the period beginning on July 1 and ending on September 30; and the period beginning on October 1 and ending on December 31.

(jj) "Semester" means the first or second six months of a calendar year.

(kk) "Single Currency Facility" means the facility the Bank has established to lend in certain convertible currencies which the Bank selects from time to time.

(ll) "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 15 and 30 or between December 15 and 31, the dates for the payment of interest shall be June 15 and December 15, 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, 4.02 or 5.02 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.

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

ARTICLE 3.04. Interest. (a) Ordinary Capital Financing. (1) Interest shall be charged on the daily outstanding balances of the Loan until the Determination Date of the Fixed Base Rate, at an annual rate for each Quarter as determined by the Bank on the Determination Date of the LIBOR-Based Interest Rate for each Quarter, calculated as follows: (i) the LIBOR-Based Interest Rate; (ii) plus the Ordinary Capital lending spread prevailing on the Determination Date of the LIBOR-Based Interest Rate for each Quarter, expressed as a percentage per annum.

(2) From the Determination Date of the Fixed Base Rate, interest shall be charged on the daily outstanding balances of the Loan at an annual fixed rate as determined by the Bank on the Determination Date of the Fixed Base Rate, calculated as follows: (i) the respective Fixed Base Rate as defined in Article 2.01(s) of these General Conditions; (ii) plus the Ordinary Capital lending spread prevailing on the Determination Date of the LIBOR-Based Interest Rate for each Quarter, expressed as a percentage per annum. The Bank shall promptly notify the Borrower of the Fixed Base Rate upon its determination, according to Article 2.01(n) of these General Conditions.

(3) The Borrower and Guarantor expressly acknowledge and agree that: (i) the LIBOR Interest Rate referred to in Article 2.01(z) above, and the Bank's Cost of Funding referred to in Article 2.01(c) above, may be subject to significant fluctuations during the life of the Loan and, therefore, the LIBOR-Based Interest Rate may involve significant financial risks to the Borrower and the Guarantor; and (ii) any risk of fluctuations in the LIBOR-Based Interest Rate is assumed entirely by the Borrower and the Guarantor, if applicable.

(4) The Parties agree that, notwithstanding any change in market practice that may, at any moment, affect the determination of the LIBOR Interest Rate, the Borrower's payments shall remain linked to the Bank's funding. For purposes of obtaining and maintaining such link under such circumstances, the Parties expressly agree that the Calculation Agent, seeking to reflect the Bank's corresponding funding, shall determine: (a) the occurrence of such changes; and (b) the alternate base rate applicable to determine the appropriate amount to be paid by the Borrower. The Calculation Agent shall provide no less than sixty (60) days prior notice to the Borrower and the Guarantor, if any, of the applicable alternate base rate. The alternate base rate shall become effective on the expiration of such notice period.

(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 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, one of the following rates of exchange shall be used, in accordance with the provisions set forth in the Special Conditions of this Contract and pursuant to

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paragraph (a) of this Article: (i) the same exchange rate used in the conversion of the resources disbursed in Dollars to the currency of the Borrower's country. In this case, for purposes of the reimbursement of expenditures chargeable to the Financing and the recognition of expenditures chargeable to the local counterpart, the applicable exchange rate shall be the prevailing exchange rate on the date on which the request is presented to the Bank; or (ii) the prevailing exchange rate in force in the Borrower's country on the effective date of the payment of the expenditure in the currency of the Borrower's country.

ARTICLE 3.07. 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. (a) Pursuant to an irrevocable request in writing to the Bank, accompanied by the written consent of the Guarantor, if any, at least thirty (30) days in advance, the Borrower may prepay, on one of the amortization payment dates, all or part of the outstanding balance of the Loan, provided that on the payment date no sum is due and outstanding in respect of fees or interest. The Borrower shall specify in the notice the amount the Borrower intends to prepay.

(b) 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 installment of principal. The Borrower may not prepay the outstanding balance of a Loan disbursed against the Ordinary Capital Financing in an amount lower than three million Dollars (US\$3,000,000), unless the remaining outstanding balance of the Loan is lower than that amount. The part of the partial advance allocated to the Fund for Special Operations Financing shall be applied against the single amortization installment.

(c) Notwithstanding the provisions of sub-paragraph (b) above, in cases of partial or total prepayment of the outstanding balance of the Loan disbursed against the Ordinary Capital Financing, any gain or loss resulting from the cancellation or change of the Bank's funding associated with the corresponding prepayment will be either credited or charged by the Bank to the Borrower, as the case

may be, within thirty (30) days from the date of prepayment. In the event of any gain, it will be credited first to any amounts due and payable by the Borrower to the Bank. The Bank shall also charge the Borrower any cost the Bank may incur as a result of failure on the part of the Borrower to comply with a partial or total prepayment of the outstanding balance of the Loan as previously requested in writing by the Borrower, in accordance with the provisions of this Article.

ARTICLE 3.11. 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 3.12. 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 3.13. 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 3.14. 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 5.04 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 3.15. 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:

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(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, as the case may be, shall have presented to the Bank an initial report prepared in the form indicated by the Bank, which in addition to such other information as the Bank may reasonably request pursuant to the provisions of this Contract, shall set forth: (i) a plan for implementation of the Project including, 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 content that the progress reports referred to in Article 7.03 of these General Conditions shall have. If this Contract permits the recognition of expenditures made prior to its entry into effect, the initial report shall include a statement of the investments and, in accordance with the objectives of the Financing, a description of works carried out under the Project or a statement as to credits granted, as the case may be, up to a date immediately preceding the report.

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

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

ARTICLE 4.03. Requisites for All Disbursements. For the Bank to make any disbursement, it shall be necessary that: (a) the Borrower, or the Executing Agency, as the case may be, shall have submitted in writing, or by electronic means in such form and conditions as may be specified by the Bank, a disbursement request and, in support thereof, shall have supplied to the Bank such pertinent documents and other background materials as the Bank may have required; (b) the Borrower or the Executing Agency, as the case may be, shall have opened and maintains one or more bank accounts in a financial institution to which the Bank shall make the disbursements of the Financing; (c) unless the Bank otherwise agrees, disbursement requests must be presented no later than thirty (30) calendar

days in advance of the date of expiration of the term for disbursement or of any extension thereof which the Borrower and the Bank may have agreed to in writing; (d) none of the circumstances described in Article 5.01 of these General Conditions shall have occurred; and (e) the Guarantor, if any, shall not be in non-compliance for more than one hundred twenty (120) days with any obligation to make payments to the Bank on any Loan or Guarantee.

ARTICLE 4.04. 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 Borrower the sums to which it is entitled under this Contract, under the modality of reimbursement of expenses and/or Advances of Funds; (b) by making payments on behalf of and in agreement with the Borrower to third parties; (c) by utilizing such other modality as the parties may agree upon in writing. Any banking expenses that may be charged by a third party in connection with disbursements shall be borne by the Borrower. Unless the parties agree otherwise, disbursements shall be made only in amounts of not less than the equivalent of one hundred thousand Dollars (US\$100,000) each.

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

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

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

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

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

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

ARTICLE 4.09. Closing Period. The Borrower or the Executing Agency, as the case may be, shall: (a) present to the Bank's satisfaction, within a period of ninety (90) days from the date stipulated for the final disbursement of the Financing, the supporting documentation relating to expenditures made for the execution of the Project, and any other information that the Bank may have requested; and (b) return to the Bank, at the latest on the day of expiration of the Closing Period, the balance of disbursed resources of the Financing that has not been duly justified. If audit services are to be financed with resources of the Financing, and such services will not be concluded or billed prior to the expiration of the Closing Period referred to in section (a) above, the Borrower or the Executing Agency, as the case may be, shall inform and reach agreement with the Bank as to the way in which payment for such services will take place, and shall return to the Bank the resources of the Financing allotted for such purpose, should the Bank not receive the audited financial statements and/or audited financial reports within the periods stipulated in this Contract.

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

CHAPTER V

Suspension of Disbursements, Accelerated Maturity and other Dispositions

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

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

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

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

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

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

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

(g) If it is determined, in accordance with the sanctions procedures of the Bank, that an employee, agent, or representative of the Borrower, Executing Agency or Contracting Agency, has engaged in a Prohibited Practice during the procurement process or during the execution of a contract.

ARTICLE 5.02. Termination, Accelerated Maturity or Partial Cancellation of Undisbursed Balances. (a) The Bank may terminate this Contract with respect to the part of the Financing not yet disbursed or may declare the entire loan or a portion thereof immediately due and payable, together with interest and fees accrued up to the date of payment if: (i) any of the circumstances set forth in paragraphs (a), (b), (c) and (e) of the preceding article continues for more

than sixty (60) days; or (ii) the information referred to in paragraph (d) of the preceding article, or the clarifications or additional information presented by the Borrower or the Executing Agency, 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 undisbursed portion of the Financing or accelerate repayment of that part of the Financing earmarked for a contract, when it is determined in accordance with the sanctions procedures of the Bank, that a firm, entity or individual bidding for or participating in an activity financed by the Bank, including, *inter alia*, applicants, bidders, suppliers, contractors, consulting firms and individual consultants, personnel, subcontractors, sub-consultants, service providers or suppliers, concessionaires, the Borrower, the Executing Agency or the Contracting Agency (including their respective officers, employees and agents, irrespective of whether the agency is express or implied) has engaged in a Prohibited Practice at any stage of the procurement or implementation of a contract; and that there is evidence that the Borrower, the Executing Agency or the Contracting Agency has not taken adequate remedial measures (including, *inter alia*, providing adequate notice to the Bank upon learning of the Prohibited Practice) within a period of time the Bank considers reasonable.

(c) The Bank may also cancel the undisbursed portion of the Financing or accelerate the maturity of that part of the Financing pertaining to the procurement of certain goods, works or related services, or consulting services, if it determines at any time that the procurement was carried out without following the procedures set forth in this Contract. 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.

ARTICLE 5.03. Prohibited Practices. (a) For the purposes of this Contract, a "Prohibited Practice" shall be understood to include the following acts: (i) a "corrupt practice", is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; (ii) a "fraudulent practice", is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; (iii) a "coercive practice", is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; (iv) a "collusive practice", is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; and (v) an "obstructive practice" is (A) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or making false statements to investigators in order to materially impede a Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (B) acts intended to materially impede the exercise of the Bank's inspection and

audit rights provided for under Articles 7.01(c), 7.02(e) and 7.04(g) of these General Conditions.

(b) In addition to the provisions established in Articles 5.01(g) and 5.02(b) of these General Conditions, if it is determined in accordance with the sanctions procedures of the Bank, that a firm, entity or individual bidding for or participating in an activity financed by the Bank, including, *inter alia*, applicants, bidders, suppliers, contractors, consulting firms and individual consultants, personnel, subcontractors, sub-consultants, service providers, concessionaires, the Borrower, the Executing Agency or the Contracting Agency (including their respective officers, employees and agents, irrespective of whether their authority has been formally or implicitly granted) has engaged in a Prohibited Practice at any stage during the procurement process or during the execution of a contract, the Bank may:

- (i) not finance any proposal to award a contract for works, goods and related services or for consultant services;
- (ii) determine that a contract will not be eligible for Bank financing whenever there is evidence that the Borrower, the Executing Agency or the Contracting Agency has not taken adequate remedial measures (including, *inter alia*, providing adequate notice to the Bank upon learning of the commission of the Prohibited Practice) within a period of time the Bank considers reasonable;
- (iii) issue the firm, entity or individual a reprimand in the form of a formal letter of censure for its behavior;
- (iv) declare that a firm, entity or individual is ineligible, either permanently or for a stated period of time, to (A) be awarded or participate in contracts under activities financed by the Bank; and (B) be a nominated sub-consultant, sub-contractor, supplier or service provider of an otherwise eligible firm being awarded a Bank-financed contract;
- (v) refer the matter to appropriate law enforcement authorities; and/or
- (vi) impose other sanctions that it deems to be appropriate under the circumstances, including the imposition of fines representing reimbursement to the Bank for costs associated with investigations and proceedings. Such other sanctions may be imposed in addition to or in lieu of other sanctions set forth in Article 5.01(g), Article 5.02(b) and Article 5.03(b)(i) to (v).

(c) The provisions of Article 5.01(g) and Article 5.03(b)(i) will also be applicable in cases where firms, entities or individuals have been declared temporarily ineligible for the awarding of additional contracts pending the final outcome of a sanction proceeding, or other resolution.

(d) The imposition of any action to be taken by the Bank pursuant to the provisions referred to above will be made public.

(e) Any firm, entity or individual bidding for or participating in an activity financed by the Bank, including, *inter alia*, applicants, bidders, suppliers, contractors, consulting firms and individual consultants, personnel, subcontractors, sub-consultants, service providers, concessionaires, the Borrower, the Executing Agency or the Contracting Agency (including their respective officers, employees and agents, (irrespective of whether the agency is express or implied) may be subject to sanctions pursuant to agreements the Bank may have with other international financial institutions regarding the mutual enforcement of debarment decisions. For purposes of this paragraph (e) the term "sanction" shall mean any permanent debarment, conditions on future contracting or any publicly-disclosed action taken in response to a violation of an international financial institution's applicable framework for addressing allegations of Prohibited Practices.

(f) When a Borrower procures works, goods or related services directly from a specialized agency or hires a specialized agency to provide consulting services using resources of the Financing, under an agreement between the Borrower and such specialized agency, all provisions under this Contract regarding sanctions and Prohibited Practices shall apply in their entirety to applicants, bidders, suppliers, contractors, consulting firms or individual consultants, personnel, subcontractors, sub-consultants, service providers, concessionaires (including their respective officers, employees and agents, irrespective of whether the agency is express or implied), or to any other entities that have signed contracts with such specialized agency to supply works, goods and related services, in connection with the Bank-financed activities. The Bank reserves the right to require the Borrower to invoke remedies such as suspension or termination. The Borrower agrees that contracts with specialized agencies shall include provisions requiring them to consult the Bank's list of firms and individuals debarred, either temporarily or permanently by the Bank. In the event a specialized agency signs a contract or purchase order with a firm or an individual temporarily or permanently debarred by the Bank, the Bank will not finance the related expenditures and will apply other remedies as appropriate.

ARTICLE 5.04. Obligations not Affected. Notwithstanding the provisions of the foregoing Articles 5.01 and 5.02, none of the measures set forth in this Chapter shall affect the disbursement by the Bank of: (a) any amounts subject to the guarantee of an irrevocable letter of credit; and (b) any amounts which the Bank by specific written agreement with the Borrower or the Executing Agency, or the Contracting Agency, if any, has agreed to provide from the resources of the Financing to make payments to a contractor, or to a supplier of goods and related services or consultant services. The exceptions set forth in subparagraph (b) shall not apply if the Bank determines that Prohibited Practices occurred with respect to the procurement of, or the negotiation or execution of the contract for, the works, goods and related services or consultant services.

ARTICLE 5.05. 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 5.06. 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 agrees to execute the Project in accordance with the objectives thereof, with due diligence in an economic, financial, administrative and technically efficient manner and in accordance with the provisions of this Contract and the plans, specifications, investment schedule, budgets, regulations, and other relevant documents of the Project approved by the Bank. The Borrower further agrees that its obligations or those of the Executing Agency, 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 approves, as well as any substantial change in contracts financed with resources of the Loan shall require the written consent of the Bank.

(c) In case of contradiction or inconsistency between the provisions of this Contract and any plan, specification, investment schedule, budget, regulations, or other relevant document of the Project approved by the Bank, the provisions of this Contract shall prevail over those documents.

ARTICLE 6.02. Selection and contracting of works and non-consulting services, procurement of goods and selection and contracting of consulting services. (a) Subject to the provisions of subparagraph (b) of this Article, the Borrower undertakes to carry out and, where appropriate, cause the Executing Agency or the Contracting Agency, if any, to carry out the procurement of works and non-consulting services as well as the procurement of goods, in accordance with the Procurement Policies and the Procurement Plan approved by the Bank, and the selection and contracting of consulting services, in accordance with the Consultant Policies and the Procurement Plan approved by the Bank. The Borrower acknowledges and undertakes to inform the Executing Agency, the Contracting Agency and the specialized agency, as the case may be, of the Procurement Policies and the Consultant Policies.

(b) When the Bank has validated the systems of the member country of the Bank where the Project will be executed, the Borrower or the Executing Agency, as the case may be, may carry out the procurement and contracting financed wholly or partially with resources of the Loan using such systems, in accordance with the terms of the validation of the Bank and applicable validated legislation, which are identified in the Special Conditions. The Borrower, directly or via the Executing Agency as the case may be, undertakes to notify the Bank of any change in legislation or change affecting it, in which case the Bank may cancel, suspend or change the terms of its validation. The use of country systems does not constitute a waiver of the application of the provisions set forth in Section I of the Procurement Policies and Consultant Policies, including the requirement that the respective procurements and contracting of services be contained in the Procurement Plan, and said use of country systems is subject to the remaining provisions of this Contract.

(c) The Borrower, directly or via the Executing Agency as the case may be, undertakes to update the Procurement Plan at least annually or more frequently, depending on the Project needs. Each updated version of the Procurement Plan shall be submitted for review and approval of the Bank.

(d) The Bank will conduct a review of the selection process, contracting and procurement, ex-ante or ex-post, as set forth in the Procurement Plan. At any time during the execution of the Project, the Bank may change the method of review of these processes, with prior notice to the Borrower or the Executing Agency. The changes approved by the Bank shall be reflected in the Procurement Plan.

(e) The Borrower, directly or via the Executing Agency, as the case may be, agrees to obtain, prior to awarding the contract for each of the works of the Project, if any, legal possession of the property where the construction of the respective work is to take place, easements or other rights required for its construction and use, as well as water rights required for the work in question.

ARTICLE 6.03. Use of Goods. Except with the express authorization of the Bank to the contrary, 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, any machinery or construction equipment utilized in the execution of the Project and any other goods, may be used for other purposes.

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

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

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

and the physical, magnetic and electronic records and files; and enables the fulfillment of the provisions of this Contract.

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

(c) The Borrower agrees that all bidding documents, requests for proposals and contracts financed with a Bank loan that are entered into by the Borrower, the Executing Agency or the Contracting Agency shall include a provision that requires that providers of goods or services, suppliers and subcontractors, consultants and their agents, personnel or concessionaires, keep all documents and records related to Bank-financed activities for a period of seven (7) years after completion of the work contemplated in the relevant contract.

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

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

(c) The Borrower, the Executing Agency or the Contracting Agency, as the case may be, shall, upon request of an authorized representative of the Bank, provide to the Bank any documents, including procurement-related documents that the Bank might reasonably request. In addition, the Borrower, the Executing Agency and the Contracting Agency shall make their personnel available, upon reasonable notice, to respond to questions from Bank personnel, which arise during the review or audit of such documents. The Borrower, the Executing Agency or the Contracting Agency, as the

case may be, shall produce the documents in a timely manner or shall submit an affidavit to the Bank setting forth the reasons why the requested material is unavailable or is being withheld.

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

(e) The Borrower agrees that all bidding documents, requests for proposals and contracts financed by the Bank that are entered into by the Borrower, the Executing Agency or the Contracting Agency shall include a provision that requires applicants, bidders, suppliers and their agents, contractors, consultants, personnel, sub-contractors, sub-consultants, service providers and concessionaires to: (i) allow the Bank to inspect any and all accounts, records and other documents relating to the submission of bids and contract performance as well as to have them audited by auditors appointed by the Bank; (ii) provide full assistance to the Bank in the case of an investigation; and (iii) deliver to the Bank any document deemed necessary for the investigation of allegations of Prohibited Practices and ensure that those employees or agents who are responsible for Bank-financed activities will be available to respond to inquiries within the context of an investigation, be it from Bank personnel or from any investigator, agent, auditor or consultant duly assigned to the investigation. If any applicant, bidder, supplier or its agent, contractor, consulting firm or individual consultant, personnel, subcontractor, sub-consultant, service provider, or concessionaire refuses to cooperate or fails to comply with the Bank's request or otherwise obstructs an investigation carried out by the Bank, the Bank, in its sole discretion, may take appropriate action against said applicant, bidder, supplier and its agent, contractor, consultant, personnel, subcontractors, sub-consultants, service provider, or concessionaire.

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

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

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

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

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

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

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

(g) All bidding documents, requests for proposals and contracts financed by the Bank that are entered into by the Borrower, the Executing Agency or the Contracting Agency with a provider of goods or services, contractor, subcontractor, consultant, sub-consultant, personnel or concessionaire shall include a provision allowing the Bank to inspect any and all accounts, records and other documents related to the submission of bids and contract performance as well as to have them audited by auditors appointed by the Bank.

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

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fulfillment of the pecuniary obligations arising from this Contract. However, the foregoing shall not apply: (a) to encumbrances on goods used as security for payment of the unpaid balance of the purchase price; and (b) to encumbrances created in banking operations to secure payment of debts with maturities of not more than one year. In the event that the Borrower is a member country, the term "assets or revenues" shall mean all types of assets or revenues which belong to the Borrower or any of its dependent agencies which are not autonomous entities with their own separate capital.

ARTICLE 8.02. Tax exemption. The Borrower undertakes to ensure that both the principal and the interest and other charges of the Loan shall be paid without any deduction or restriction whatsoever, exempt from any tax, fee, duty or charge established or that may be established by the laws of its country, and to pay any tax, fee, or duty applicable to the signing, negotiation, and execution of this Contract.

CHAPTER IX

Arbitration Procedure

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

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

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

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

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

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

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

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

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

ANNEX

THE PROGRAM

Power Utility Upgrade Program

I. Objective

- 1.01 The general objective of the Program is to enhance Guyana Power and Light's (GPL) operational efficiency and corporate performance, in order to prepare the organization to supply electricity in a sustainable manner over the long-term.
- 1.02 The specific objectives are improving GPL's: (i) management and administration; (ii) system planning and design; (iii) information technology; (iv) infrastructure requirements; (v) commercial operations; and (vi) infrastructure to allow for loss reduction, consistent with GPL's Development and Expansion Programme (D&E).

II. Description

- 2.01 In order to achieve the Program objective described in Section I above, the Program contemplates the following three (3) components:

Component 1: Strengthening GPL's Management Capabilities

- 2.02 The objective of Component I, as part of the Corporate Development Plan (CDP), is to strengthen the utility's managerial capabilities by implementing a Management Strengthening Program (MSP) to support its senior management in the following areas: (i) operations and execution of projects; (ii) commercial services and information technology; (iii) finance and procurement; (iv) human resources; and (v) loss reduction.
- 2.03 This Component will contribute to set in place a capacity building and cost-effective oversight mechanism to help improve, monitor and evaluate GPL's performance on a permanent basis. This mechanism will comprise the following key elements: (i) an Outsourced Technical Support (OTS) firm to provide capacity building to the Senior Management Team (SMT) in the areas defined in article 2.02; (ii) a performance agreement between the Government of Guyana (GOG) and GPL; and (iii) standardized performance contracts between GPL and its SMT, consistent with GPL's commitments to GOG. A Monitoring Unit (MU) will support the Ministry of Finance and the Office of the Prime Minister in tracking and measuring progress against the Performance Targets; for which the hiring of an international expert will contribute to the generation of regular, standard reports on the achievements of the CDP's targets. The proposed mechanism will allow for quality communication between all stakeholders and the swift adoption of strategic decisions on a routine basis.

Component 2: Operational Efficiency

- 2.04** This component will support strengthening of GPL's capabilities in planning, design, commercial operation, power & network operations and demand-side management.
- 2.05** This Component will finance the following activities: (i) provision of services from experienced power system planners and design advisers; (ii) modernization and strengthening of the Planning and Design department; (iii) advanced training for the use of the SCADA, Procurement Inventory Control and Management Information Software, which will facilitate follow up on service orders and requests for new connections, among others; (iv) implementation of the Management Information Software; (v) design of a system to automate the detection of distribution faults and improving the quality of power supply; and (vi) strengthening of the design and construction departments including data integration for new demand planning, training, development of technical standards and tools.

Component 3: Infrastructure Investments for Loss Reduction

- 2.06** This component will finance the rehabilitation of approximately 830-km of the distribution network with focus on the reduction of overall electricity losses and the improvement of safety and reliability of the system. This infrastructure will be planned and executed with a comprehensive and consistent approach to tackle technical and commercial losses, while building upon experience obtained from the ongoing loss reduction efforts.
- 2.07** The scope of works included in this component consists of both technical and non-technical loss reduction measures, including: (i) network investments, comprising interventions to pursue the reduction of technical losses, such as replacement of conductors, relocation and incorporation of transformers, distribution boxes and accessories; (ii) upgrading customer interface, namely service line, meters, enclosures and related accessories, among others; and (iii) the implementation of social management campaigns.
- 2.08** To be eligible, each potential area of intervention must: (i) be an existing area of GPL's current distribution network; (ii) be prioritized by GPL using the Selection Methodology for Loss Reduction Areas (SMLRA), (iii) have detailed designs, bills of quantity and estimated cost, and (iv) have met the threshold for an attractive Financial Internal Rate of Return (IRR). Additionally, in selected areas for rehabilitation, a Social Management Plan (SMP) will be adopted and implemented, in order to: (i) improve trust between GPL and its customers; (ii) improve collection rates; (iii) reduce the incidence of theft of electricity; and (iv) educate users in the efficient and safe use of energy. To this end, GPL will assign social-sector teams to work on the implementation of the SMP, which will be carried out in three phases: (i) prior to any intervention; (ii) during works; and (iii) after works are formally completed. The social-sector teams will work directly with users of the service and will employ participatory methods to conduct socioeconomic assessments

of the identified areas, and evaluate electricity service and the levels of payment and fraud.

III. Cost and Financing

3.01 The total cost of the Program is estimated in the equivalent of US\$64,573,000. The following table contains a summary of the costs by component disaggregated by source of funding:

**Total Program Costs
(in US\$)**

Components	Financing			Total (US\$)
	IDB (US\$)	EU Euros	EU (US\$ equiv)	
Component I. Strengthening GPL's Management Capabilities	3,672,000	2,641,726	3,672,000	7,344,000
Component II. Operational Efficiency	2,176,000	1,565,468	2,176,000	4,352,000
Component III. Infrastructure Investments for Loss Reduction **	24,775,000	13,111,511	18,225,000	43,000,000
Administration, Monitoring and Auditing	2,319,625	2,056,295	2,858,250	5,177,875
Financial and technical auditing, monitoring and evaluation ***	1,319,625	949,371	1,319,625	2,639,250
Administration ****	1,000,000	719,424	1,000,000	2,000,000
Administrative Fee (2%)	-	387,500	538,625	538,625
Contingencies	4,699,125	-	-	4,699,125
TOTAL	37,641,750	19,375,000	26,931,250	64,573,000

* EU's contribution of €19,375,000 is equivalent to 26,931,250 US Dollars, based on the exchange rate of 1.39 US\$/€, as of March 18th, 2014. Any amount of the EU of the resources not subject to the *pari-passu* disbursement requirement under the GLM will also be used for activities of the Program, provided that the total amount of the EU resources used for the Program shall be matched with no less than the same amount of Bank resources by the end of the execution period

** Includes financing for the execution of a Social Management Plan for US\$1,500,000.

*** Includes financing of external supervision of works during execution of Component III.

**** Includes the financing of the Program Coordinating Unit (PCU) during the executing period.

IV. Execution

4.01 The Executing Agency will be GLP through a Program Coordinating Unit (PCU), which will follow the strategic directions from GPL's CEO. A Project Steering Committee (PSC) will be established to provide guidance on strategic and policy issues related to the Program. The PSC will be composed of the Minister responsible for the electricity sector (as Chairperson), representatives of the Ministry of Finance, the Guyana Energy Agency, GPL and the Program Coordinator (PC) as its Secretary. The Bank and the European Union will participate in the PSC as observers. The PSC will meet at least twice per year.

4.02 In order to execute the Program, a PCU will be established and will follow the strategic directions from GPL's CEO. The specific function of the PCU will be, *inter-alia*: (i) technical execution of the Program; (ii) selecting and hiring consulting services; (iii) reviewing consulting products; (iv) managing contracts and processing payments; (v) reporting periodically to GPL's CEO and the Bank on the activities of the Program;

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and (vi) preparing progress reports, in addition to supervising the administration of the Program.

- 4.03 The PCU will be composed of the following full-time team: (a) a Program Coordinator (PC); (b) a loss reduction specialist; (c) an electricity distribution network design specialist; (d) an information technology specialist; (e) a procurement specialist with experience in contract management; and (f) a finance comptroller.
- 4.04 The PC will be responsible for the preparation of technical specifications and support for the selection of consulting firms, review of products prepared by consulting firms, budget administration, logistics, local technical support and coordination among key stake holders. The PC will report to GPL's CEO and the PSC.
- 4.05 GLP will hire an independent firm to inspect the contracted works for Component III which will report on work quality and execution timetable. Such reports must be approved by GPL as a precondition for notification to the Bank of its instructions for payments to the respective contractors.