

LOAN CONTRACT No. 1550/SF-GY

between the

CO-OPERATIVE REPUBLIC OF GUYANA

and the

INTER-AMERICAN DEVELOPMENT BANK

**Fiscal and Financial Management Program
(Policy-Based Component)**

July 30, 2004

LOAN CONTRACT

SPECIAL CONDITIONS

INTRODUCTION

Parties, Constituent Elements and Executing Agency

1. PARTIES AND PURPOSE OF THE CONTRACT.

CONTRACT entered into on July 30, 2004 between the Co-Operative Republic of Guyana (hereinafter referred to as the "Borrower") and the Inter-American Development Bank (hereinafter referred to as the "Bank") to cooperate in the execution of a policy-based component of a Fiscal and Financial Management Hybrid Program (hereinafter referred to as the "Program").

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

(a) This Contract consists of these Special Conditions and the General Conditions, attached hereto. If any provision of the Special Conditions should present any inconsistency or contradiction with the General Conditions, the provisions of the Special Conditions shall prevail. The principle of specific rules shall prevail over general rules.

(b) Rules for the application of amortization, interest, credit fee, inspection and supervision, disbursement, obligations relating to currencies, participations, renunciation of part of the financing, transactions falling due in public holidays, place of payments, application of payments, advance payments, receipt and promissory notes clauses, as well as other conditions related to Program execution, are established in detail in the General Conditions. The General Conditions also include general definitions.

3. EXECUTING AGENCY

The parties agree that the execution of the Program and the utilization of the resources of the financing from the Bank shall be carried out by the Borrower, through its Ministry of Finance, which for the purposes of this Contract shall be referred to, without distinction, as either the "Executing Agency" or "MOF".

CHAPTER I

Amount of the Financing and Purpose

SECTION 1.01 Amount of the Financing. In accordance with this Contract, the Bank agrees to grant to the Borrower, and the Borrower accepts, a "Financing", chargeable to the resources of the Fund for Special Operations of the Bank, for up to the equivalent of fifteen million dollars (US\$15,000,000) or the equivalent thereof in other currencies forming part of such resources, except the currency of Guyana. The amounts disbursed from the Financing shall constitute the "Loan". 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 Purpose. The purpose of the Financing is to support the implementation of a policy-based program, in order to assist the Borrower in implementing a reform agenda aimed at improving the management of public finances, thereby providing a strong fiscal basis for sustained growth, and intended to improve the efficiency and equity aspects of the tax system, and to contribute to a more efficient use of public resources by strengthening the public sector financial management and the public audit and fiduciary oversight. Resources of the Financing will be used to support the balance of payments of the Borrower, taking into consideration the restrictions referred to in Section 3.07 of these Special Conditions. Also, resources of the Financing could be used to finance the activity referred to in Section 2.03 of these Special Conditions.

CHAPTER II

Amortization, Interest, General Inspection and Supervision and Credit Fee

SECTION 2.01 Amortization. The Loan shall be completely repaid by the Borrower by means of semiannual, and, insofar as possible, equal installments. The first installment shall be paid on the 30 of January of 2015, and the last installment, no later than the 30 of July of 2044.

SECTION 2.02 Interest. The Borrower shall pay interest semiannually on the outstanding daily balance of the Loan at the rate of one percent (1%) per annum until the 30 of July of 2014, and two percent (2%) per annum thereafter, which shall accrue from the date of each respective disbursement. The first payment shall be made the 30 of January 2005 and the following on the 30 of July and January of each year.

SECTION 2.03. Resources for General Inspection and Supervision. From the amount of the Financing, the sum of one hundred and fifty thousand dollars (US\$150,000) is hereby allocated to cover the Bank's expenses for general inspection and supervision. Said sum shall be disbursed in quarterly and, insofar as possible, equal installments and shall be credited to the accounts of the Bank without the necessity of a request from the Borrower.

SECTION 2.04 Credit Fee. In addition to interest, the Borrower shall pay a credit fee pursuant to the provisions of Article 3.02 of the General Conditions. For this purpose it is hereby noted that the Board of Executive Directors of the Bank approved the Resolution relating to the Financing on June 9, 2004.

CHAPTER III

Conditions Concerning Disbursements

SECTION 3.01 General Provision. The amount of the Financing shall be disbursed in dollars or its equivalent thereof in other currencies of the Fund for Special Operations, except that of Guyana. The Bank will make the disbursements in three (3) equal tranches of five million dollars (US\$5,000,000) each. The disbursement of each tranche will require the compliance by the Borrower of the conditions precedent set forth in this Chapter and the conditions and procedures established in Chapter IV of the General Conditions.

SECTION 3.02 Special Conditions Prior to all the Disbursements. The disbursements of the Financing will be subject, in addition to the conditions precedent stipulated in Articles 4.01 and 4.03 of the General Conditions, to the compliance by the Borrower of the following dispositions:

- (a) The Borrower maintains a macroeconomic environment that allows the achievement of the objectives of the Program;
- (b) The Borrower complies with the conditions precedent established for each tranche as indicated in these Special Conditions;
- (c) The Borrower maintains open the special account referred to in Article 4.01(c) of the General Conditions, in which the Bank will deposit the amounts of the Financing; and
- (d) The Borrower continues to comply with the policies for each tranche or tranches of the financing already disbursed, as the case may be.

SECTION 3.03 Special Conditions Precedent to the Disbursement of the First Tranche of the Financing. The Bank shall only initiate the disbursement of the first tranche of the Financing only after the Borrower, in addition to the compliance of the conditions precedent set forth in Articles 4.01 and 4.03 of the General Conditions and in Section 3.02 of these Special Conditions, has fulfilled to the satisfaction of the Bank, the following conditions:

- (a) An amendment to the Guyana Revenue Authority ("GRA") Act to allow for the full autonomy in the management of its human resources has been enacted;
- (b) The new Fiscal Management and Accountability Act has been enacted;
- (c) The new Audit Act has been enacted; and
- (d) The Rules, Policies and Procedures Manual for the Office of the Auditor General ("OAG") has been approved.

SECTION 3.04 Special Conditions Precedent to the Disbursement of the Second Tranche of the Financing. The Bank shall only initiate the disbursement of the second tranche of the Financing only after the Borrower, in addition to the compliance of the conditions precedent set forth in Articles 4.01 and 4.03 of the General Conditions and in Section 3.02 of these Special Conditions, has fulfilled to the satisfaction of the Bank, the following conditions:

Tax policy and administration

- i. Legal: (a) A legal framework consistent with the modernization of customs operations has been established; and (b) The regulations for the implementation of the presumptive income tax on self-employed have been issued.
- ii. Tax exemptions: (a) A modern system for controlling and recording tax exemptions has been established; and (b) The tax exemptions that were granted during the previous fiscal year have been published.
- iii. GRA systems: (a) A new and unique taxpayer identification number ("TIN") has been implemented; (b) A new system of commercial invoice controls has been implemented; and (c) GRA's computerized information systems for customs and domestic tax administration have been procured and their customization and implementation have been initiated.

Financial management

i. Legal: The regulations for the implementation of the new Fiscal Management and Accountability Act have been issued.

ii. Procedures: (a) New procedures (for treasury and budget), budget classification and plan of accounts have been adopted; (b) New procedures for project selection and prioritization have been defined and approved by the Borrower; and (c) A single system of classification of accounts to integrate the current and capital budget has been adopted.

iii. Integrated Financial Management System ("IFMAS"): The IFMAS is in operation in the Ministry of Finance for the last six (6) months prior to the compliance of this condition, and it has been implemented in at least three (3) other ministries.

Audit and fiduciary oversight

(a) New rules, procedures and operational policies needed to enable the Economic Services Committee and Public Accounts Committee of the Parliament to perform their oversight role have been established;

(b) The members of the Public Procurement Commission ("PPC") have been appointed and the PPC is functioning; and

(c) The procurement Regulations and Procedures have been approved by the PPC.

SECTION 3.05 Special Conditions Precedent to the Disbursement of the Third Tranche of the Financing. The Bank shall only initiate the disbursement of the third tranche of the Financing only after the Borrower, in addition to the compliance of the conditions precedent set forth in Articles 4.01 and 4.03 of the General Conditions and in Section 3.02 of these Special Conditions, has fulfilled to the satisfaction of the Bank, the following conditions:

Tax policy and administration

i. Tax reform: (a) The consumption tax on services and the presumptive tax on the self-employed are being collected according to the tax reform laws; (b) The regime for tax exemptions adopted in 2003 is maintained; (c) The tax exemptions that were granted during the previous fiscal year have been published; and (d) An estimate of tax expenditures is used for preparation of the budget for the then-current fiscal year.

ii. GRA Systems: (a) A computerized information system is implemented and in full operation to support the customs control performed by the Customs and Trade Administration ("CTA"); and (b) A modern tax administration IT system for the Internal Revenue Department ("IRD") has been implemented and in full operation.

Financial management:

i. IFMAS: (a) The IFMAS is operating in all ministries; and (b) At least three (3) enhanced functions of the IFMAS have been incorporated.

ii. Budget: (a) The budget of the then-current fiscal year has been formulated in accordance with the provisions of the new Fiscal Management and Accountability Act; and (b) New procedures for project selection and prioritization are implemented.

iii. Information: (a) The Central Government financial statements produced by the IFMAS are auditable and meet applicable international accounting standards; and (b) the Central Government has fully complied with the obligations to report and publish the information requested by the new Fiscal Management and Accountability Act.

Audit and fiduciary oversight

(a) The Minister of Finance has issued to the Parliament a Treasury Memorandum detailing the status of actions to respond to the Public Accounts Committee ("PAC") audit recommendations in accordance with national legislation; and

(b) The Minister of Finance has established a system for monitoring the actions taken by public entities in response to audit recommendations.

SECTION 3.06 Disbursement Period. (a) The total amount of resources of the Financing shall not be disbursed in a period of less than eighteen (18) months from the effective date of this Contract.

(b) The period for final disbursement of the resources of the Financing shall expire two (2) years from the effective date of this Contract.

SECTION 3.07 Goods Excluded from the Financing. (a) No disbursement from the resources of the Financing shall be made for expenditure on:

- (i) imported goods included in the groups or sub-groups of the United Nations Standard International Trade Classification (SITC) list, as indicated in Section 3.08 of these Special Conditions;

- (ii) expenses in local currency or for goods supplied from within the Co-Operative Republic of Guyana;
- (iii) imported goods acquired under contracts in an amount less than ten thousand dollars (US\$10,000) equivalent;
- (iv) imported goods financed in foreign exchange, under medium or long terms;
- (v) imported luxury goods;
- (vi) imported weapons;
- (vii) imported goods for the use of the armed forces; and
- (viii) imported goods from countries that are not members of the Bank.

(b) If the Bank determines at any time, that resources of the Financing have been used to pay expenditures in any of the goods referred to in subsection (a) of this Section, the Borrower will have to immediately reimburse to the Bank or to the special account referred to in subsection (c) of Article 4.01 of the General Conditions, as the Bank may determine, the total amount of the resources of the Financing used for the payment of goods excluded from the Financing.

SECTION 3.08 Negative List. The goods referred to in subsection (i) of Section 3.07 of these Special Conditions are included in the following groups and sub-groups of the United Nations Standard International Trade Classification (SITC)^{1/}, including any amendment that may be made to these groups or sub-groups and of which the Bank shall notify the Borrower:

^{1/} See the Standard International Trade Classification, Revision 3 (SITC, Rev. 3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev. 3 (1986).

<u>GROUPS</u>	<u>SUB-GROUPS</u>	<u>DESCRIPTION OF ITEM</u>
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials
667	-	Pearls, precious and semi-precious stones, worked or unworked
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors
897	897.3	Jewelry of gold, silver or platinum group metals (except watches, and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971	-	Gold, non-monetary (excluding gold ores and concentrates)

CHAPTER IV

Execution of the Program

SECTION 4.01 Policy Letter. The Borrower and the Bank have agreed on the content of the Policy Letter dated April 27, 2004, from the Borrower to the Bank, that describes the objectives, policies and actions toward the achievement of the objective of the Program and in which the Borrower declares its commitment with the execution of the Program, and for the purposes established in Section 4.04 of these Special Conditions.

SECTION 4.02 Periodic Meetings. (a) The Borrower and the Bank shall meet at least every six (6) months at the request of either party and on the date and at the place agreed upon, to exchange views on: (i) the general progress achieved in carrying out the Program, compliance with the obligations set forth in Sections 3.02 to 3.05 of these Special Conditions, and performance of the commitments undertaken in the Policy Letter; and (ii) the consistency of the Co-Operative Republic of Guyana's macroeconomic framework with the objectives of the Program. Prior to each such exchange of views, the Borrower shall furnish the Bank, for its review and comment, a report in such detail as the Bank shall reasonably request on the fulfillment of the obligations referred to in subparagraphs (i) and (ii) of this Section.

(b) If from the review of the Program's reports, the Bank does not find satisfactory the implementation of the Program, the Borrower undertakes to present to the Bank within thirty (30) days from the date the Bank has been notified, the plans or reports necessary to correctly implement the Program, along with a timetable for its implementation.

SECTION 4.03 Ex-post Evaluation. The Borrower agrees to, directly or through the Executing Agency, cooperate in the evaluation of the Program to be carried out by the Bank after the Program's execution, with the purpose of identifying to the extend possible whether or not the objectives of the Program have been reached, and to provide to the Bank all the information, data and documentation that the Bank may request to carry out said evaluation.

SECTION 4.04 Modification of Legal Provisions and Basic Regulations. The parties agree that, when changes are approved in the macroeconomic and sector policies indicated in the letter referred to in Section 4.01 of these Special Conditions, or in the legal provisions or in the basic regulations of the Executing Agency, and the Bank considers that said changes can substantially affect the Program, the Bank will have the right to request to the Borrower all necessary and reasonable information, with the purpose of determining whether said changes can or can not have a substantial adversely effect in the execution of the Program. The Bank, after receiving and analyzing the information provided by the Borrower, will take the measures it deems necessary in accordance with the provisions of this Contract.

CHAPTER V

Records, Inspections, and Reports

SECTION 5.01 Records, Inspections, and Reports. Resources of the Financing will be deposited in the Special Account or in the Special Accounts exclusively designated for the Program. The Borrower agrees to maintain separate accounting records, and an adequate internal control system, in accordance with Article 6.01 of the General Conditions.

SECTION 5.02 Audits. The Borrower shall furnish to the Bank, upon request, a statement of account for each disbursement under the Financing, duly certified in accordance with terms of reference to be agreed upon with the Bank by independent auditors acceptable to the Bank.

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 & Urquhart Streets
Georgetown, Guyana

Facsimile: (592) 22 61284

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

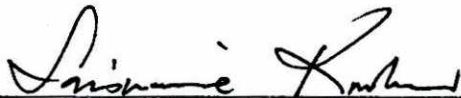
Arbitration

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 (2) equally authentic copies in Georgetown, Guyana, on the date above written.

CO-OPERATIVE REPUBLIC OF
GUYANA

INTER-AMERICAN DEVELOPMENT
BANK



Saisnarine Kowlessar
Minister of Finance



Marco Carlo Nicola
Deputy Representative in Guyana

PART TWO

GENERAL CONDITIONS

CHAPTER I

Application of the General Conditions

ARTICLE 1.01. Application of the General Conditions. These General Conditions apply to loan contracts entered into by the Inter-American Development Bank with its borrowers to support sectoral adjustment programs, and accordingly the provisions hereof form an integral part of this Contract.

CHAPTER II

Definitions

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

- (a) "Bank" means the Inter-American Development Bank.
- (b) "Board of Executive Directors" means the Board of Executive Directors of the Bank.
- (c) "Borrower" means the party to which the Financing is made available.
- (d) "Contract" means the entirety of the Special Conditions, the General Conditions, and the Annexes.
- (e) "Currency of a Country other than that of the Borrower" means any currency that 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 of account which represents the debt service obligation of a borrowing by the Bank.
- (f) "Executing Agency (or Agencies)" means the entity (or entities) responsible for executing the Program, in full or in part.
- (g) "Financing" means the funds in a convertible currency other than that of the Borrower which the Bank has agreed to make available to the Borrower.

- (h) "General Conditions" means the entirety of articles comprising Part Two of this Contract and reflecting the basic policies of the Bank uniformly applicable to its contracts for loans for sectoral adjustment programs.
- (i) "Guarantor" means the party which guarantees fulfillment of the obligations contracted by the Borrower and which assumes other obligations for which it is liable in accordance with the Guarantee Contract.
- (j) "Loan" means the funds disbursed from the Financing.
- (k) "Program" means the institutional or policy measures that the Borrower, the Executing Agency or the Guarantor must implement in order for the Bank to disburse the resources of the Financing.
- (l) "Semester" means the first or second six months of a calendar year.
- (m) "Special Conditions" means the entirety of the provisions constituting Part One of this Contract, and containing the particulars of each operation.

CHAPTER III

Amortization, Interest and Credit Fee

ARTICLE 3.01. Amortization Dates. The Borrower shall amortize the Loan in semiannual installments on the same dates as those designated in the Special Conditions for payment of interest. The first amortization payment shall be made one hundred and twenty six (126) months after the date of signature of this Contract.

ARTICLE 3.02. Credit Fee. (a) The Borrower shall pay on the undisbursed balance of the Financing, a credit fee of 1/2 of 1% per annum, which shall begin to accrue 12 months after the date of the Resolution of the Board of Executive Directors approving the Financing.

(b) This fee shall be paid in United States dollars on the same dates as those specified for the payment of interest pursuant to the provisions of the Special Conditions.

(c) This fee shall cease to accrue in full or in part, as the case may be, to the extent that: (i) the respective disbursements have been made; or (ii) the Financing has been canceled totally or partially pursuant to Articles 3.10, 3.12 or 4.02 of these General Conditions, or pursuant to the Special Conditions.

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

ARTICLE 3.04. Obligations Relating to Currencies. (a) Amounts which are disbursed shall be applied, on the date of each respective disbursement, to the Financing in their United States dollar equivalent, as reasonably determined by the Bank.

(b) The Borrower shall owe the amounts disbursed in the same currency in which such disbursements were made.

(c) On the due dates established pursuant to the provisions of the Special Conditions, the Borrower shall pay amortization and interest in the currencies disbursed.

ARTICLE 3.05. Participations. The Bank may cede to other public or private institutions, in the form of participations and to the extent it may deem proper, the rights corresponding to the Borrower's pecuniary obligations derived from the Contract. The Bank shall immediately inform the Borrower of any participations it may have granted.

ARTICLE 3.06. 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 3.07. Receipts and Promissory Notes. 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 3.08. Application of Payments. All payments shall be applied first to fees and interest due on the payment date, and, if a balance exists, to installments of principal due.

ARTICLE 3.09. Advance Payments. Upon advance notice in writing to the Bank of at least fifteen (15) days, the Borrower may pay, on the date indicated in the notification, any part of the Loan prior to its maturity, provided that no sum is owing in respect of the credit fee and/or interest. Unless otherwise agreed in writing, each partial advance payment shall be applied to unpaid installments of principal in the inverse order of their maturity.

ARTICLE 3.10. Renunciation of Part of the Financing. The Borrower, with the concurrence of the Guarantor, if any, may renounce, by written notice to the Bank, its right to utilize any part of the Financing which has not been disbursed before the receipt of the notice, provided that such part is not subject to any of the circumstances set forth in Article 5.03 of these General Conditions.

ARTICLE 3.11. Transactions Falling Due on Public Holidays. Any payment or other transaction which under the Contract should be performed on a Saturday, Sunday or a day which is a banking holiday according to the law of the place where it is required to be done, shall be considered validly performed if carried out on the first business day immediately thereafter, and in such case no penalty whatever shall apply.

ARTICLE 3.12. 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 cancelled.

CHAPTER IV

Conditions Relating to Disbursements

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

- (a) The Bank shall have received one or more well-founded legal opinions which establish, with citations to 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 cover any other legal question that the Bank reasonably may 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 Borrower shall indicate whether such officials are to act jointly or separately.
- (c) The Borrower, directly or through the Executing Agency, if any, shall have provided to the Bank evidence that it has established a special bank account in the Borrower's Central Bank, and the particulars thereof, exclusively for the deposit by the Bank of the sums disbursed from the Financing.

- (d) The Borrower, directly or through the Executing Agency, if any, shall have presented to the Bank a disbursement request in the form indicated in Article 4.03 of these General Conditions.

ARTICLE 4.02. Period for Fulfilling the Conditions Precedent to the First Disbursement. If within sixty (60) days from the effective date of this Contract, or within such longer period as the parties may agree upon in writing, the conditions precedent to the first disbursement established in Article 4.01 of these General Conditions and in the Special Conditions have not been fulfilled, the Bank may terminate this Contract by giving notice to the Borrower.

ARTICLE 4.03. Requisites for All Disbursements. For the Bank to make any disbursement, it shall be necessary that: (a) the Borrower, or the Executing Agency, if any, shall have submitted in writing a disbursement request and, in support thereof, shall have supplied to the Bank such pertinent documents and other background materials as the Bank may have required. Requests must be presented no later than thirty (30) calendar days in advance of the date of expiry of the term for disbursement or of any extension thereof which the Borrower and the Bank may have agreed to; (b) none of the circumstances described in Article 5.01 of these General Conditions shall have occurred; and (c) 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. Payment of Inspection and Supervision Fee. The Bank may allocate from the resources of the Financing the amount or amounts stipulated in the Special Conditions to be entered into the general accounts of the Bank for inspection and supervision, without the need for an application by the Borrower or the Executing Agency, provided that the conditions precedent to the first disbursement have been fulfilled or upon the occurrence of the first payment date for the Credit Fee, whichever occurs first.

ARTICLE 4.05. Disbursement Procedures. The Bank may make disbursements against the Financing by: (a) transferring to the Borrower the sums to which it is entitled in accordance with this Contract by depositing the same in the special bank account referred to in Article 4.01(c) of these General Conditions; (b) making payments on behalf of and in agreement with the Borrower to other banking institutions; and (c) utilizing such other method as the parties may agree upon in writing. Any banking expenses that may be charged by a third party in connection with disbursements shall be borne by the Borrower. Unless the parties otherwise agree, disbursements shall be made only in amounts of not less than five (5) percent of the total amount of the Financing.

CHAPTER V

Suspension of Disbursements and Accelerated Maturity

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

- (a) Delay in the payment of any sums owed by the Borrower to the Bank for principal, fees, interest, or for any other reason, as a result of this Contract or any other loan contract entered into between the Bank and the Borrower.
- (b) Nonfulfillment by the Borrower of the Program or of any other obligation set forth in this Contract.
- (c) Withdrawal or suspension from membership in the Bank of the country in which the Program is to be executed.
- (d) Any restriction of the legal capacity, or adjustment or amendment of the functions or assets of the Borrower or Executing Agency, if any, which, in the opinion of the Bank, may adversely affect the Program or the purposes of the Financing. In this case, the Bank shall have the right to require the Borrower to provide reasoned and detailed information in order that the Bank may determine whether such modification or modifications have or might have an unfavorable effect on the execution of the Program. The Bank may suspend disbursements only if, after hearing the Borrower and weighing the information or clarifications received, or if the Borrower fails to respond prior to the date of the next disbursement, the Bank considers that the modifications made affect the Program substantially and unfavorably or make its execution impossible.
- (e) The non-compliance on the part of the Guarantor, if any, of any obligations set forth in the Guarantee Contract.
- (f) 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.

ARTICLE 5.02. Termination or Accelerated Maturity. (a) If any of the circumstances set forth in paragraphs (a), (b), (c), (e) and (f) of the preceding Article continues for more than sixty (60) days, or if the information referred to in paragraph (d) or the clarifications or additional information presented by the Borrower or the Executing Agency, if any, is not satisfactory, the Bank may terminate this Contract with respect to the part of the Financing not yet disbursed.

(b) In the case of the circumstances described in paragraphs (a) and (c) of the preceding Article, the Bank may also declare immediately due and payable the entire Loan or any part of it together with interest and fees accrued up to the date of payment.

(c) The Bank may cancel the part of the Financing, or may declare a portion or the whole of the Loan immediately due and payable, if it determines at any time that representatives of the Borrower have committed corrupt practices in the execution of the Program, and the Borrower has not taken timely and remedial measures, observing the due process guarantees of the Borrowing country's legislation, and acceptable to the Bank.

(d) For the purposes of the above paragraph, corrupt practices shall be understood to include acts of: (i) bribery, meaning the act of unduly offering, giving, receiving, or soliciting of anything of value to influence the process of procuring goods or services, selecting consultants, or executing contracts; (ii) extortion or coercion, meaning the act of attempting to influence the process of procuring goods or services, selecting consultants, or executing contracts by means of threats of injury to person, property or reputation; (iii) fraud, meaning the misrepresentation of information or facts for the purpose of influencing the process of procuring goods or services, selecting consultants, or executing contracts, to the detriment of the borrower or other participants; and (iv) collusion, meaning an agreement between bidders designed to result in bids at artificial prices that are not competitive.

ARTICLE 5.03. Obligations not Affected. Notwithstanding the provisions of the foregoing Articles 5.01 and 5.02, none of the measures set forth in this Chapter shall affect the disbursement by the Bank of: (a) any amounts subject to the guarantee of an irrevocable letter of credit; or (b) any amounts which the Bank by specific written agreement with the Borrower or the Executing Agency, as the case may be, has agreed to provide from the resources of the Financing to make payments to a supplier of goods and services. The exceptions set forth in subparagraph (b) shall not apply if the Bank determines that corrupt practices occurred with respect to the procurement of, or the execution of the contract for, such goods or services.

ARTICLE 5.04. Nonwaiver of Rights. Any delay by the Bank in the exercise of the rights provided by this chapter, or failure to exercise them, shall not be construed as a waiver by the Bank of any such rights nor as acquiescence in facts or circumstances that, had they occurred, would have empowered it to exercise them.

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

CHAPTER VI

Records, Inspections and Reports

ARTICLE 6.01. Internal Control and Records. The Borrower or the Executing Agency, as the case may be, shall maintain an appropriate system of internal accounting and administrative controls. The accounting system shall be organized so as to provide the necessary documentation that makes it possible to verify the transactions and facilitate the timely preparation of financial statements and reports.

ARTICLE 6.02. Inspections. (a) The Bank may establish such inspection procedures as it deems necessary to assure the fulfillment of the Program and the satisfactory execution of the Program.

(b) The Borrower and the Executing Agency, if any, shall allow the Bank to inspect and examine at any time such records and documents as the Bank may deem pertinent. The personnel the Bank shall send 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.

ARTICLE 6.03. Reports and Financial Statements. (a) The Borrower, the Executing Agency or the Guarantor, as appropriate, shall present to the Bank the reports indicated in the Special Conditions and those listed below:

- (i) Within one hundred and twenty (120) days following the close of each fiscal year of the Borrower, when the Borrower is not the Republic or the Central Bank, beginning with the fiscal year in which this Contract was signed and while the obligations of the Borrower under this Contract continue, three copies of its financial statements as of the close of such fiscal year and complementary financial information relative to such statements.
- (ii) Within one hundred and twenty (120) days following the close of each fiscal year of the Executing Agency, beginning with the fiscal year in which this Contract was signed and during the period stipulated in the Special Conditions, three copies of the financial statements and complementary financial information of the Executing Agency, when the latter is not also the Borrower and it is so stipulated in the Special Conditions.

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

(c) In cases in which the audit is to be performed by an official auditing agency and such agency is unable to perform the audit in accordance with requirements satisfactory to the Bank or within the periods mentioned above, the Executing Agency or the Borrower, as the case may be, shall contract the services of a firm of independent public accountants acceptable to the Bank. The services of a firm of independent public accountants may be utilized also if the contracting parties so agree. Whenever a firm of independent public accountants is retained, the fees shall be paid by the Borrower or the Executing Agency.

CHAPTER VII

Provision on Encumbrances and Exemptions

ARTICLE 7.01. Commitment on Encumbrances. If the Borrower should agree to create any specific encumbrance on all or part of its assets or revenues to secure an external debt, it shall at the same time create an encumbrance guaranteeing to the Bank, equally and proportionally, the fulfillment of the pecuniary obligations arising from this Contract. However, the foregoing shall not apply: (a) to encumbrances on goods to assure the payment of the unpaid balance of their purchase price; and (b) to encumbrances created under banking operations to guarantee 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 7.02. Tax Exemption. The Borrower agrees 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, registration and execution of this Contract.

CHAPTER VIII

Arbitration Procedure

ARTICLE 8.01. 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 perspective arbitrators. If the parties or the arbitrators fail to agree on who shall be the Referee, 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 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 there is such, 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 8.02. 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 the delivery of such notification to the claimant, the parties have not agreed as to the person who is to act as Referee, either party may request the Secretary General of the Organization of American States to make the appointment.

ARTICLE 8.03. 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 8.04. Procedure. (a) The Tribunal shall be competent to hear only 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 of making oral presentations.

(b) The Tribunal shall proceed *ex aequo et bono*, basing itself on the terms of the 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 has been appointed, unless the Tribunal determines that, on account of 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 8.05. 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 8.06. Notification. All notifications relative to the arbitration or to the award shall be made in the manner provided in the Contract. The parties waive any other form of notification.