

CONFORMED COPY

CREDIT NUMBER 2938 CE

Development Credit Agreement

(Energy Services Delivery Project)

between

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated April 22, 1997

CREDIT NUMBER 2938 CE

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated April 22, 1997, between DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS: (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) the Borrower intends to obtain from the Global Environment Facility (GEF) a grant (the Grant) in an amount equivalent to four million two hundred thousand Special Drawing Rights (SDR 4,200,000) to assist in financing the Project on the terms and conditions set forth in the Global Environment Facility Trust Fund Grant Agreement (the Grant Agreement) of even date herewith, entered into between the Borrower (therein referred to as the Recipient) and the International Bank for Reconstruction and Development acting as an implementing agency of the GEF (the Bank); the Borrower and the Association intend, to the extent practicable, that the proceeds of the Grant provided for in the Grant Agreement be disbursed on account of expenditures in respect of Parts B and C of the Project before disbursements of the proceeds of the Credit are made;

(C) Parts B and C of the Project will be carried out by the Ceylon Electricity Board (CEB) with the Borrower's assistance, and as part of such assistance, the Borrower will make available to CEB part of the proceeds of the Credit as provided in this Agree-

ment; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project Agreement of even date herewith between the Association and the Bank and CEB;

NOW THEREFORE the parties hereto hereby agree as follows:

#### ARTICLE I

##### General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the modifications set forth in Schedule 3 to this Agreement (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Act" means the Ceylon Electricity Board Act, No. 17 of 1969 as amended to the date of this Agreement;

(b) "Administration Agreement" means the agreement between the Borrower and the AU (as hereinafter defined) for the administration of Part A of the Project in accordance with the provisions of Schedules 5 and 6 to this Agreement, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Administration Agreement;

(c) "Administrative Unit" or "AU" means the Administrative Unit appointed by the Borrower with the concurrence of the Association, in accordance with the terms and conditions of the Administration Agreement and responsible for administering Part A of the Project;

(d) "AWDR" means the Average Weighted Deposit Rate, namely the weighted average of the interest rates paid to depositors by all commercial banks on interest-bearing term deposits, as issued weekly by the Central Bank of Sri Lanka;

(e) "CEB" means the Ceylon Electricity Board, a statutory corporation established pursuant to the Act;

(f) "free-limit Subloan" means a Subloan, as so defined, which qualifies as a free-limit Subloan pursuant to the provisions of Part II (A) paragraph 1 (b) of Schedule 6 to this Agreement;

(g) "Investment Enterprise" means an enterprise to which a Participating Credit Institution (as hereinafter defined) proposes to make or has made a Subloan (as hereinafter defined);

(h) "Investment Project" means a specific development project being either (a) a grid-connected mini-hydro (with capacity not more than 5 MW); (b) an off-grid village hydro; (c) a solar home system; or (d) another renewable energy investment, to be carried out by an Investment Enterprise utilizing the proceeds of a Subloan;

(i) "Operating Guidelines" means the operating guidelines dated January 31, 1997 for implementation of Part A of the Project, as such may be amended from time to time with the agreement of the Association;

(j) "Participating Credit Institution" means any private credit institution incorporated and operating under the laws of the Borrower, which has met eligibility criteria satisfactory to the Association and which has entered into a participation agreement with the Borrower pursuant to the provisions of Part II,

paragraph B (3) of Schedule 6 to this Agreement;

(k) "Project Agreement" means the agreement between the Association and the Bank and CEB, of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(l) "Project Preparation Advance" means the project preparation advance granted by the Association to the Borrower pursuant to an exchange of letters dated September 20, 1995 and November 3, 1996 between the Borrower and the Association;

(m) "Rs" and "rupees" means the currency of the Borrower;

(n) "Special Accounts" means both of the accounts referred to in Section 2.02 (b) of this Agreement;

(o) "Subloan" means a loan or lease financing made or proposed to be made by a Participating Credit Institution out of the proceeds of the Credit to an Investment Enterprise for an Investment Project under Part A of the Project; and

(p) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and CEB pursuant to Section 3.01 (c) of this Agreement, as the same may be amended from time to time, and such term includes all schedules supplemental to the Subsidiary Loan Agreement, and the term "Subsidiary Loan" means the loan provided under the Subsidiary Loan Agreement.

## ARTICLE II

### The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to sixteen million nine hundred thousand Special Drawing Rights (SDR 16,900,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) amounts paid (or, if the Association shall so agree, amounts to be paid) by a Participating Credit Institution on account of withdrawals made by an Investment Enterprise under a Subloan to meet the reasonable cost of goods and services required for the Investment Project in respect of which the withdrawal from the Credit Account is requested; and (ii) expenditures made (or if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for Parts B and C of the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower may, for the purposes of each of Part A and Parts B and C of the Project, open and maintain in dollars two special deposit accounts, being Special Account A for Part A of the Project and Special Account B for Parts B and C of the Project, in its Central Bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Accounts shall be made in accordance with the provisions of Schedule 7 to this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be December 31, 2002 or such later date as the Association shall establish. The Association shall promptly notify the Borrower and CEB of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on March 15 and September 15 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each March 15 and September 15 commencing September 15, 2007 and ending March 15, 2037. Each installment to and including the installment payable on March 15, 2017 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Association shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by: (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's

economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

### ARTICLE III

#### Description of the Project; Use of the Proceeds of the Credit

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end:

- (i) shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, environmental and energy sector practices and shall provide, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project; and
- (ii) without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause CEB to perform in accordance with the provisions of the Project Agreement all the obligations of CEB therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable CEB to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out, or cause to be carried out, Part A of the Project in accordance with the Implementation Program set forth in Schedule 5 to this Agreement, the Operating Guidelines and arrangements agreed with the Association.

(c) The Borrower shall relend a part of the proceeds of the Credit allocated from time to time to Parts B and C of the Project to CEB under a subsidiary loan agreement to be entered into between the Borrower and CEB under terms and conditions which shall have been approved by the Association which shall include:

- (i) interest at a rate of not less than 13% per annum on the principal amount of the Subsidiary Loan withdrawn by CEB and outstanding from time to time;
- (ii) repayment over a period of seventeen years, including therein a period of two years grace; and
- (iii) the principal amount of the Subsidiary Loan repayable by CEB shall be equivalent in rupees of the value of the currencies withdrawn from the Credit Account under Categories 2, 3 and 4 of the table in Schedule 1 hereto, such equivalent to be determined as of the respective date or dates of withdrawal.

(d) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Loan Agreement or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree,

procurement of the goods, works and consultants' services required for Part A of the Project and to be financed out of the proceeds of the Credit and the Grant shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of Parts B and C of the Project shall be carried out by CEB pursuant to Section 2.03 of the Project Agreement.

Section 3.04. For the purposes of Section 9.07 of the General Conditions, or without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan for the future sustainability of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

#### ARTICLE IV

##### Financial and Other Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to monitor the progress of Part A of the Project and of each Investment Project (including its cost and the benefits to be derived from it) and to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part A of the Project of the departments or agencies of the Borrower responsible for carrying out Part A of the Project or any part thereof.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Accounts and the financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(ii) furnish to the Association, as soon as available, but in any case not later than four months after the end of each such year: (A) certified copies of said financial statements for such year as so audited, and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning said records, accounts and financial statements and the audit thereof as the Association shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

(i) maintain, or cause to be maintained, in accordance with sound accounting practices, records and accounts reflecting such expenditures;

(ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such

expenditures are retained until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made;

- (iii) enable the Association's representatives to examine such records;
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals; and
- (v) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

#### ARTICLE V

##### Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

- (a) CEB shall have failed to perform any of its obligations under the Project Agreement.
- (b) As a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that CEB will be able to perform its obligations under the Project Agreement.
- (c) The Act shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of CEB to carry out Parts B and C of the Project or to perform any of its obligations under the Project Agreement.
- (d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of CEB or for the suspension of its operations.
- (e) The AU shall have failed to perform any of its obligations under the Administration Agreement.
- (f) As a result of events which have occurred after the date of this Agreement, an extraordinary situation shall have arisen which shall make it improbable that the AU will be able to perform its obligations under the Administration Agreement.
- (g) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the AU or for the suspension of its operations.
- (h) The Recipient shall have failed to perform any of its obligations under the Grant Agreement.

Section 5.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

- (a) Either of the events specified in paragraphs (a) or (e) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower and CEB or the AU, as the case may be.
- (b) Any event specified in paragraphs (c), (d) or (g) of

Section 5.01 of this Agreement shall occur.

#### ARTICLE VI

##### Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Subsidiary Loan Agreement has been entered into by the Borrower and CEB, respectively;

(b) the Administration Agreement has been entered into by the Borrower and the AU respectively; and

(c) participation agreements have been entered into with at least two Participating Credit Institutions in accordance with the provisions of paragraph C Part II of Schedule 6 to this Agreement.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by CEB, and is legally binding upon CEB in accordance with its terms;

(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by, and is legally binding upon the Borrower and CEB in accordance with its terms;

(c) that the Administration Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and the AU and is legally binding upon the Borrower and the AU in accordance with its terms; and

(d) that the participation agreements signed pursuant to Section 6.01 (c) of this Agreement have been duly authorized by the Borrower and the relevant Participating Credit Institution and are legally binding upon the Borrower and such Participating Credit Institution in accordance with their terms.

Section 6.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

#### ARTICLE VII

##### Representative of the Borrower; Addresses

Section 7.01. The Secretary or the Director General, External Resources Department, Ministry of Finance and Planning of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Planning  
Democratic Socialist Republic of Sri Lanka  
Colombo, Sri Lanka

Cable address:

Telex:

SECMINFIN  
Colombo

FINMIN 21409  
FORAID 21232

For the Association:





and C of the Project		expenditures, 100% of local expenditures (ex-factory cost) and 80% of local expenditures for other items procured locally
(5) Refunding of Project Preparation Advance	240,000	Amount due pursuant to Section 2.02 (c) of this Agreement
(6) Unallocated	740,000	
	16,900,000	
TOTAL	=====	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) a Subloan unless the Subloan has been made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 6 to this Agreement; and

(b) payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 1.2 million may be made, subject to the provisions of subparagraph (a) of this paragraph 3, in respect of Category 1 set forth in the table in paragraph 1 of this Schedule (Subloans) on account of payments made for expenditures before that date but after September 1, 1996 and made in respect of an Investment Project which is either a solar home system or a village hydro Investment Project.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure (a) in respect of Part A of the Project for expenditures for goods under contracts not exceeding \$2,000,000 equivalent, for works under contracts not exceeding \$3,000,000 equivalent, and for turnkey contracts not exceeding \$5,000,000 equivalent; (b) for expenditures in respect of Parts B and C of the Project for goods, works and services under contracts not exceeding \$200,000 equivalent; (c) for consultants' services under contracts not exceeding \$100,000 equivalent in the case of firms, and \$50,000 in the case of individuals; and (d) for all training costs, under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) promote the provision by the private sector, non-governmental organizations and cooperatives of grid-connected and off-grid energy services using environmentally sustainable renewable energy technologies; (ii) strengthen the environment for implementation of demand side management; and (iii) improve public and private sector delivery of energy services through renewable energy technologies and demand side management.

The Project consists of the following Parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Investment Projects

The financing of specific Investment Projects through the provision by Participating Credit Institutions of Subloans to Investment Enterprises in the energy sector.

Part B: Pilot Wind Farm

Construction of a pilot grid-connected wind farm of approximately 3 MW.

Part C: Capacity Building

Provision of: (i) training in the form of overseas and local workshops, seminars and classes, and (ii) technical support in the form of consultant services and equipment for renewable and energy efficiency initiatives.

\* \* \*

The Project is expected to be completed by June 30, 2002.

SCHEDULE 3

Modifications of the General Conditions

For purposes of this Agreement, the provisions of the General Conditions are modified as follows:

1. The last sentence of Section 3.02 is deleted.

2. The following subparagraph is added to Section 2.01:

"15. The term 'Project Agreement' has the meaning set forth in paragraph (b) of Section 1.02 of the Development Credit Agreement."

3. The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a member of the Association or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

4. Section 6.03 is modified to read:

"Section 6.03. Cancellation by the Association. If (a) the right of the Borrower to make withdrawals from the Credit Account shall have been suspended with respect to any amount of the Credit for a continuous period of thirty days, or (b) at any time, the Association determines, after consultation with the Borrower, that an amount of the Credit will not be required to finance the Project's costs to be financed out of the proceeds of the Credit, or (c) at any time, the Association determines, with respect to any contract to be financed out of the proceeds of the Credit, that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the Credit during the procurement or the execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Association to remedy the situation, and establishes the amount of expenditures in respect of such

contract which would otherwise have been eligible for financing out of the proceeds of the Credit, or (d) at any time, the Association determines that the procurement of any contract to be financed out of the proceeds of the Credit is inconsistent with the procedures set forth or referred to in the Development Credit Agreement and establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Credit, or (e) after the Closing Date, an amount of the Credit shall remain unwithdrawn from the Credit Account, or (f) by the date specified in paragraph 2 (c) of Part II of Schedule 6 to the Development Credit Agreement, the Association shall, in respect of any portion of the Credit: (i) have received no applications or requests permitted under subparagraphs (a) and (b) of said paragraph; or (ii) have denied any such applications or requests, the Association may, by notice to the Borrower, terminate the right of the Borrower to submit such applications or requests or to make withdrawals from the Credit Account, as the case may be, with respect to such amount or portion of the Credit. Upon the giving of such notice, such amount or portion of the Credit shall be canceled."

#### SCHEDULE 4

##### Procurement and Consultants' Services

##### Section I. Procurement of Goods and Works

##### Part A: General

Goods and works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996 (the Guidelines) and the following provisions of this Section, as applicable.

##### Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods, works and services shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.
2. The following provision shall apply to goods, works and services to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

##### Preference for Domestically Manufactured Goods and Domestic Contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

##### Part C: Other Procurement Procedures

##### International or National Shopping

Goods estimated to cost less than \$2,000,000 equivalent per contract, up to an aggregate amount not to exceed \$20,000,000 equivalent, works estimated to cost less than \$3,000,000 equivalent per contract, up to an aggregate amount not to exceed \$20,000,000 equivalent, and turnkey contracts estimated to cost less than \$5,000,000 equivalent per contract, up to an aggregate amount not to exceed \$20,000,000 equivalent, may be procured under contracts awarded on the basis of shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

##### Part D: Review by the Association of Procurement Decisions

## 1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

## 2. Prior Review

With respect to each contract financed out of a Subloan and in the case of goods estimated to cost the equivalent of \$2,000,000 or more; in the case of works estimated to cost the equivalent of \$3,000,000 or more; and in the case of turnkey contracts estimated to cost the equivalent of \$5,000,000 or more; the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

## 3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

## Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications thereto as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts, shall not apply to: (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each; or (b) contracts for the employment of individual consultants estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to: (a) the terms of reference for such contracts; (b) single-source selection of consulting firms; (c) assignments of a critical nature, as reasonably determined by the Bank; (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above; or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

## SCHEDULE 5

### Implementation Program

#### A. Implementation of Part A of the Project

##### 1. Administration and On-lending Arrangements

The Ministry of Finance and Planning of the Borrower (MOFP) shall be responsible for carrying out Part A of the Project. For the purposes of administering the Subloan credit program under Part A of the Project, MOFP shall cause the AU to implement Part A of the Project in accordance with the Administration Agreement and the Operating Guidelines. For the purposes of on-lending to

Investment Enterprises, MOFP shall enter into a participation agreement with each Participating Credit Institution in accordance with the provisions of Schedule 6 of this Agreement.

## 2. The Administrative Unit

The AU shall be established and maintained with organization, structure and administrative and technical functions satisfactory to the Association, headed by a general coordinator assisted by competent staff in adequate numbers whose qualifications, experience and performance shall be satisfactory to the Association.

## B. Project Reporting and Review Provisions

### 1. Periodic Review

(a) Without limitation or restrictions upon its other reporting requirements under Sections 9.05 and 9.06 of the General Conditions, the Borrower, CEB and the Association shall periodically exchange views on the progress achieved in carrying out the Project. The first such exchange of views shall take place no later than six months after the Effective Date, and subsequent reviews shall take place at intervals to be determined by the Association.

(b) Prior to each such exchange of views, the Borrower shall furnish to the Association for its review and comment, a report on the progress achieved in the carrying out of the Project during the review period, in such detail as the Association shall reasonably request. The progress report shall include, among other things: (i) in respect of Part A of the Project, (a) a summary statistical report on Investment Projects; (b) AU off-grid support activities; (c) semiannual loan collection performance reports of each Participating Credit Institution; and (d) annual audited financial statements of the Participating Credit Institutions and auditors reports thereon; (ii) in respect of Part B of the Project, the work, training, procurement and wind farm performance during the review period, and plans and budget for the succeeding review period; and (iii) in respect of Part C of the Project, the training and activities during the review period, and the training and activity plans for the succeeding review period.

### 2. Mid-Term Review

The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association no later than two months prior to the date specified in paragraph (c) below, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) above, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, on the earlier of the date which is two years from the date of this Agreement or the date on which amounts authorized for withdrawal from the Credit Account in respect of Part A of the Project total the equivalent of \$10,000,000 (or such later date as the Association shall request), the report referred to in paragraph (b) above, and thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

Terms and Conditions of, and  
Procedures for Subloans and Guidelines for  
Participating Credit Institutions and Investment Projects

Part I. Terms and Conditions

A. Terms for onlending by the Borrower to Participating Credit Institutions

1. Interest rate : variable rate equal to AWDR
2. Amortization Period : 15 years, inclusive of 5 years of grace
3. Foreign exchange risk : to be borne by the Borrower
4. Administration fee to be paid by Borrower to Administrative Unit : 1% per annum of Credit proceeds withdrawn and outstanding with respect to Part A of the Project, until the proceeds of the Credit with respect to Part A of the Project are fully withdrawn, and 0.5% per annum thereafter

B. Terms of Subloans

1. Interest rate : to be determined by the respective Participating Credit Institution
2. Amortization Period : up to 10 years including periods of up to 2 years
3. Maximum amount to be financed out of Credit proceeds : \$3,000,000 equivalent per Investment Project
4. Maximum percentage : 60% of debt or lease financing provided by a Participating Credit Institution for an Investment Project eligible for financing out of the proceeds of the Credit

5. Subloans shall be made on terms whereby the Borrower shall obtain or cause the Participating Credit Institution to obtain, by written contract with the Investment Enterprise or by other appropriate legal means, rights adequate to protect the interests of the Association and the Borrower, including the right to:

(a) require the Investment Enterprise to carry out and operate the Investment Project with due diligence and efficiency and in accordance with sound technical, financial and managerial standards, to obtain all required licenses and permits and to maintain adequate records;

(b) require that:

- (i) the goods, works and consultants' services to be financed out of the proceeds of the Credit shall be procured in accordance with the provisions of Schedule 4 to this Agreement; and
- (ii) such goods, works and services shall be used exclusively in the carrying out of the Investment Project;

(c) require the Investment Enterprise to maintain records adequate to reflect in accordance with sound accounting practices its operation and financial condition;

(d) inspect, by itself or jointly with representatives of the Association if the Association shall so request, such goods and the sites, works, plants and construction included in the Investment Project, the operation thereof, and any relevant records and documents;

(e) require that:

(i) the Investment Enterprise shall take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practices; and

(ii) without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Credit to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Investment Enterprise to replace or repair such goods;

(f) obtain all such information as the Association or the Borrower shall reasonably request relating to the foregoing and to the administration, operations and financial condition of the Investment Enterprise and to the benefits to be derived from the Investment Project; and

(g) suspend or terminate the right of the Investment Enterprise to the use of the proceeds of the Credit upon failure by such Investment Enterprise to perform its obligations under its contract with the relevant Participating Credit Institution.

#### C. Adjustment of Terms

The interest rate charged to the Participating Credit Institutions by the Borrower shall be adjusted every six months based on the AWDR; provided however that the Borrower may, with the Association's approval, decide on an alternate basis for determining the interest rate payable by such Participating Credit Institution. The administration fee to be paid by the Borrower to the Administrative Unit may, with the Association's approval, be revised from time to time.

### Part II. Procedures

#### A. Application Procedures

1. No expenditures for goods or works required for an Investment Project shall be eligible for financing out of the proceeds of the credit unless:

(a) the Subloan for such Investment Project shall have been approved by the Association and such expenditures shall have been made not earlier than 120 days prior to the date on which the Association shall have received the application and information required under Part II (A) paragraph (2) (a) of this Schedule in respect of such Subloan; or

(b) (i) the Subloan for such Investment Project shall have been a free-limit Subloan for which the Association has authorized withdrawals from the Credit Account and such expenditures shall have been made not earlier than 120 days prior to the date on which the Association shall have received the request and information required under Part II (A) paragraph (2) (b) of this Schedule in respect of such free-limit Subloan. For purposes of this Agreement, a free-limit Subloan shall be a Subloan as determined by the Association for each Participating Credit Institution in terms of the amount to be financed out of the proceeds of the Credit for



an Investment Project.

(ii) Notwithstanding the provisions of subparagraph (i) above: (A) the first two Subloans proposed to be made by each Participating Credit Institution; (B) the first Subloan in respect of a solar home system investment project proposed to be made by each Participating Credit Institution; and (C) the first Subloan proposed to be made to an Investment Enterprise in respect of a solar home system investment project, shall not be eligible to be treated as free-limit Subloans.

2. (a) When presenting a Subloan (other than a free-limit Subloan) to the Association for approval, the Borrower shall furnish to the Association an application in form satisfactory to the Association, together with:

- (i) a description of the Investment Enterprise and an appraisal of the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Credit;
- (ii) the proposed terms and conditions of the Subloan, including the repayment period of the Subloan;
- (iii) a statement as to the environmental impact of the Investment Project, including where relevant any remedial action to be taken with respect thereto; and
- (iv) such other information as the Association shall reasonably request.

(b) Each request for authorization to make withdrawals from the Credit Account in respect of a free-limit Subloan shall contain:

- (i) a summary description of the Investment Enterprise and the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Credit;
- (ii) the terms and conditions of the free-limit Subloan, including the schedule of amortization therefor; and
- (iii) a statement as to the environmental impact of the Investment Project, including where relevant any remedial action to be taken with respect thereto.

(c) Applications and requests made pursuant to the provisions of sub-paragraphs (a) and (b) of this paragraph shall be presented to the Association on or before December 31, 2000.

B. Eligibility of Participating Credit Institutions and Procedures for, and Terms and Conditions of, Participation Agreements

1. Each Participating Credit Institution shall meet criteria satisfactory to the Association in order to be eligible to participate under the Project.

2. Participating Credit Institution compliance with such eligibility criteria shall be reviewed semiannually by the Borrower and the Association. If any Participating Credit Institution fails at any time to satisfy the eligibility criteria, the Association reserves the right to suspend Subloan authorizations under the Project until the Participating Credit Institution has taken specific steps to address its problems in a manner satisfactory to the Borrower and the Association.

3. The Borrower shall enter into a participation agreement with each Participating Credit Institution providing for its participation in the Project on terms and conditions satisfactory to the Association, including, without limitation, those outlined in this Part B

of Schedule 6. Without limitation, the Borrower shall ensure that each participation agreement includes provisions for the relevant Participating Credit Institution:

(a) to retain responsibilities and staff satisfactory to the Association to appraise Investment Projects and extend Subloans under Part A of the Project;

(b) to apply procedures and criteria satisfactory to the Association in the appraisals of Investment Projects; and

(c) to complete environmental impact assessments satisfactory to the Association for each Subloan.

#### C. Environmental and Other Standards for Investment Projects

1. Each Investment Project shall comply with all applicable national environmental standards and procedures. To that end the Borrower shall require, or shall cause each Participating Credit Institution to require:

(a) each Investment Enterprise to submit evidence showing that each Investment Project in respect of which application for a Subloan has been made complies with all applicable national environmental standards and procedures, such evidence to include, where relevant, an environmental impact assessment satisfactory to the Association and a resettlement plan satisfactory to the Association in respect of any persons displaced or to be displaced by such Investment Project; and

(b) each agreement under which a Subloan is made to include suitable provisions obligating each Investment Enterprise sponsoring such Investment Project to ensure compliance with such national environmental standards and procedures.

2. Each off-grid village hydro and solar home system Investment Project shall comply with, respectively, the Village Hydro Specifications and the Specifications for Solar Home Systems (collectively, the "Specifications") on file with the Administrative Unit. Such Specifications may be amended from time to time with the agreement of the Association, provided however that any such amendment shall not apply to those Investment Projects for which applications were received prior to the date of such amendment.

### SCHEDULE 7

#### Special Accounts

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means, in the case of Special Account A, Category (1) and, in the case of Special Account B, Categories (2) through (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$1,000,000 in respect of Special Account A and an amount equivalent to \$100,000 in respect of Special Account B, both such amounts to be withdrawn from the Credit Account and deposited into the respective Special Accounts pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation for: (i) Special Account A shall be limited to an amount equivalent to \$500,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions

for Part A of the Project shall be equal to or exceed the equivalent of SDR 7,000,000; and for (ii) Special Account B shall be limited to an amount equivalent to \$50,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 1,000,000.

2. Payments out of the respective Special Accounts shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective Special Account at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the respective Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into any Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

(c) if, at any time, the Association shall have notified the

Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to, in the case of Special Account A, Part A of the Project and, in the case of Special Account B, Parts B and C of the Project, shall equal the equivalent of twice the amount of the respective Authorized Allocation. Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Category for Part A of the Project shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in such Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of any Special Account:

- (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or
- (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the respective Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into such Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in a Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in a Special Account.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

