

CONFORMED COPY
LOAN NUMBER 7996-MX

Loan Agreement

(Efficient Lighting and Appliances Project)

between

UNITED MEXICAN STATES

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated December 8, 2010

LOAN AGREEMENT

Agreement dated December 8, 2010, between UNITED MEXICAN STATES (“Borrower”), hereby represented by its Ministry of Finance and Public Credit (SHCP), and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (“Bank”).

(A) WHEREAS the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 1 to this Agreement (“Project”), has requested the Bank to assist in financing the Project;

(B) WHEREAS by agreement of even date herewith (the CTF Loan Agreement), the Bank, acting as an implementing agency of the Clean Technology Fund (CTF), has agreed to extend to NACIONAL FINANCIERA, S.N.C (NAFIN) a loan in the amount of fifty million Dollars (\$50,000,000) (the CTF Loan) to assist NAFIN in financing Part 2(a)(ii) of the Project, and by agreement of even date herewith between the Borrower and the Bank (the Guarantee Agreement), the Borrower has agreed to guarantee the CTF Loan payment obligations of NAFIN.;

(C) WHEREAS the Borrower has also requested the Bank, acting as an implementing agency of the Global Environmental Facility (GEF), to provide additional financial assistance towards the financing of the Project, and by an agreement of even date herewith between the Borrower and the Bank, acting as implementing agency of the GEF (the GEF Grant Agreement), the Bank has agreed to extend to the Borrower a grant in the amount of seven million one hundred eighteen thousand six hundred Dollars (\$7,118,600) (the GEF Trust Fund Grant) to assist in the financing of Parts 2(b) and 3 of the Project; and

(D) WHEREAS the Borrower has informed the Bank that the proceeds of the Loan (as set forth in the table in Schedule 2 to this Agreement and for purposes of supporting the Project), shall be used in conformity with the requirements of the Borrower’s income, budgetary and public debt laws and the terms of this Agreement;

The Borrower and the Bank hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions, the Appendix to this Agreement, the Appendix to the CTF Loan Agreement or the appendix to the GEF Grant Agreement (as the case may be).

ARTICLE II — LOAN

- 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of two hundred fifty million six hundred twenty five thousand Dollars (\$250,625,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.07 of this Agreement (“Loan”), to assist in financing the Project.
- 2.02. The Borrower may withdraw the proceeds of the Loan in accordance with Section IV of Schedule 2 to this Agreement. Unless the Borrower’s representative designated in Section 6.01 of this Agreement otherwise informs the Bank, the Borrower’s representative for purposes of taking any action required or permitted to be taken pursuant to this Section is the Director of International Financial Institutions of NAFIN (*Director de Organismos Financieros Internacionales de NAFIN*) or any person or persons whom such representative shall designate in writing.
- 2.03. The Front-end Fee payable by the Borrower shall be equal to one quarter of one percent (0.25%) of the Loan amount.
- 2.04. The interest payable by the Borrower for each Interest Period shall be at a rate equal to the Reference Rate for the Loan Currency plus the Variable Spread; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the interest payable by the Borrower during the Conversion Period on such amount shall be determined in accordance with the relevant provisions of Article IV of the General Conditions. Notwithstanding the foregoing, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the interest payable by the Borrower shall instead be calculated as provided in Section 3.02 (e) of the General Conditions.
- 2.05. The Payment Dates are June 15 and December 15 in each year.
- 2.06. The principal amount of the Loan shall be repaid in accordance with the provisions of Schedule 3 to this Agreement.
- 2.07. (a) The Borrower may, or may cause NAFIN to, at any time, request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management: (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency; (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Variable Rate to a Fixed Rate, or vice versa, or from a Variable Rate based on a Variable Spread to a Variable Rate based on a Fixed Spread; and (iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of

the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on the Variable Rate.

- (b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a “Conversion”, as defined in the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.
- (c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar for which the Borrower has requested that the premium be paid out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay any premium payable in accordance with Section 4.05 (c) of the General Conditions up to the amount allocated from time to time for the purpose in the table in Section IV of Schedule 2 to this Agreement.

ARTICLE III — PROJECT

- 3.01. The Borrower declares its commitment to the objective of the Project. To this end, the Borrower, through SENER, shall: (a) carry out Part 1 of the Project, in coordination with the Administrator; Part 2(a)(i) of the Project, in coordination with CFE, the Operator, and the Eligible Retailers, and Part 3 of the Project; (b) cause NAFIN to carry out Part 2(a)(ii) of the Project with the assistance of the Operator; and (c) carry out Part 2(b) of the Project with the assistance of NAFIN, acting as trustee of the Guarantee Facility, in accordance with the provisions of the SENER-NAFIN Financing Agreement, all in accordance with the provisions of Article V of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank shall otherwise agree, the Borrower, through SENER, shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE BANK

- 4.01. The Additional Events of Suspension consists of, namely that the Administrator shall have failed to perform any of its obligations under the CFL Implementation Agreement, and that in the opinion of both the Borrower, through SENER, and the Bank, such failure materially or adversely affects the objectives of the Project.
- 4.02. The Additional Event of Acceleration consists of, namely, that the event specified in Section 4.01 of this Agreement occur and continues for a period of sixty days after notice of the pertinent event has been given by the Bank to the Borrower.

ARTICLE V — EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
- (a) the *Contrato de Mandato* has been duly executed by the parties thereto;
 - (b) the CFL Implementation Agreement, the SENER-CFE Implementation Agreement and the CFE-Operator Implementation Agreement, have all been executed by the parties thereto; and
 - (c) the Borrower, through SHCP and SENER (in a separate legal opinion satisfactory to the Bank, issued by Borrower counsel acceptable to the Bank), and NAFIN (in a separate legal opinion satisfactory to the Bank, issued by NAFIN counsel acceptable to the Bank), indicate that the *Contrato de Mandato* has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower, and NAFIN and is legally binding upon the Borrower, and NAFIN in accordance with the *Contrato de Mandato*'s terms.
- 5.02 Without prejudice to the provisions of the General Conditions, the Effectiveness Deadline is the date ninety (90) days after the date of this Agreement, but in no case later than the eighteen (18) months after the Bank's approval of the Loan which expire on May 23, 2012.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

- 6.01. Except as set forth in Section 2.02 of this Agreement, the Borrower's Representative is the *Titular de la Unidad de Crédito Público* of SHCP. The authorized representative to make requests for Conversions or for an IBRD Hedge (as defined in the Hedging Guidelines) on behalf of the Borrower shall be:
- (a) the *Titular de la Unidad de Crédito Público* of SHCP or any person or persons whom he or she shall designate in writing for this particular purpose; or
 - (b) Director of International Financial Institutions of NAFIN (*Director de Organismos Internacionales de NAFIN*).
- 6.02. The Borrower's Address for the purposes of Section 10.01 of the General Conditions:
- Secretaría de Hacienda y Crédito Público
Unidad de Asuntos Internacionales de Hacienda
Palacio Nacional
Edificio 12, segundo piso
Colonia Centro
06000 México, D.F.
- Facsimile: 011-52-55-3688-1216
- 6.03. The Bank's Address is:

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423(MCI) or 64145(MCI)	1-202-477-6391

AGREED at Cancun, United Mexican States, as of the day and year first above written.

UNITED MEXICAN STATES

By /s/ Ernesto Cordero
Authorized Representative

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT**

By /s/ Robert B. Zoellick
Authorized Representative

SCHEDULE 1

Project Description

The objectives of the Project are to promote the Borrower's efficient use of energy and to mitigate climate change by increasing the use of energy efficient technologies at the residential level.

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

Part 1: Replacement of Incandescent Bulbs (IB) with Compact Fluorescent Lamps (CFL) in the Low to Medium Income Residential Sector

Provision of financing to carry out the CFL Replacement Program, through the purchase and distribution of about 45 million CFLs and the collection and proper disposal of replaced IBs.

Part 2: Incentives to Encourage the Replacement of Old and Inefficient Appliances in the Borrower's Residential Sector

- (a) Provision of financing to carry out the Appliances Replacement Program, through the provision of: (i) Vouchers to Eligible Beneficiaries; and (ii) Credits to Eligible Beneficiaries, for the financing of the cost of replacing old and inefficient appliances under the Appliances Replacement Program.
- (b) Capitalization of the Guarantee Facility to issue credit guarantees to NAFIN, in support of its lending under the Appliances Replacement Program.

Part 3: Technical Assistance and Institutional Strengthening

- (a) Strengthening the sustainability of the CFL Replacement Program, through: (i) the carrying out of studies and activities aimed at developing CFLs recycling centers and proper disposal schemes; and (ii) the development of a policy framework to gradually phase out the use of IBs in the Borrower's territory and ensure a sustainable transformation of the market.
- (b) Development of energy efficiency standards and programs, through: (i) the carrying out of studies and consultations to enhance harmonization of energy efficiency standards among all Central America countries, the United States of America and Canada; (ii) the carrying out of an evaluation of the feasibility of raising energy efficiency standards for appliances in the Borrower's territory, as well as the development of a policy framework to support the ban of imports of inefficient appliances to ensure a sustainable transformation of the market; (iii) the design of

energy efficiency projects and programs in eligible private sector companies, the Borrower's municipalities and federal public administration facilities, and the design of commercial and industrial lighting and other energy efficiency projects; and (iv) the provision of training to local banks to raise the awareness on energy efficiency technologies and projects and provide to local banks' selected personnel the expertise required to appraise and manage loans for energy efficiency projects in the Borrower's territory.

- (c) Promotion of the CFL Replacement Program and the Appliances Replacement Program through: (i) Provision of technical assistance for the carrying out of a dissemination and information campaign; and (ii) carrying out of a dissemination campaign through mass-media broadcasting networks.
- (d) Provision of support for the mid-term review of the Project, and monitoring and evaluation activities for the Project.
- (e) Provision of training for implementing agencies, scrapping centers, and other entities identified by SENER, in the areas consistent with the objectives of the Project.
- (f) Provision of support for the functioning of the Energy Efficiency Administrative Unit.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Borrower, through SENER, shall maintain, until completion of the Project, the unit within SENER (the Energy Efficiency Administrative Unit), with staff (including a procurement specialist and a financial management specialist), structure and functions satisfactory to the Bank, responsible for the management, coordination, supervision, monitoring and evaluation of the Project, including, without limitation, the carrying out of procurement and financial management activities under the Project, together with the responsibility for the preparation of the financial statements, financial reports, Project Reports, and maintenance of the records and accounts referred to in Section II of Schedule 2 to this Agreement.
2. The Borrower, through SENER, shall:
 - (a) transfer the necessary resources to FTE, for the Administrator to carry out Part 1 of the Project under a subsidiary agreement (the CFL Implementation Agreement) to be entered into between the Borrower, through SENER, FTE and the Administrator, under terms and conditions acceptable to the Bank, for the purposes of carrying out Part 1 of the Project and setting forth their respective roles and responsibilities regarding the implementation of the said part of the Project, as established in the Operational Manual; and
 - (b) exercise its rights and carry out its obligations under the CFL Implementation Agreement in such manner as to protect the interests of the Borrower and the Bank, and to accomplish the purposes of the Loan. Except as the Bank shall otherwise agree, the Borrower, through SENER, shall not assign, amend, abrogate, waive or fail to enforce the CFL Implementation Agreement, or any of its provisions. In case of any conflict between the terms of this Agreement and the terms of the CFL Implementation Agreement, the terms of this Agreement shall prevail.
3. For the purposes of implementing Part 2(a)(i) of the Project, the Borrower, through SENER (through FTE) shall:
 - (a) transfer the necessary resources to CFE under a subsidiary agreement (the SENER-CFE Implementation Agreement), to be entered into between the Borrower, through SENER, and CFE, under terms and conditions acceptable to the Bank, setting forth their respective roles and responsibilities regarding the implementation of Part 2(a)(i) of the Project;

- (b) cause CFE to make available to the Operator, through an agreement (the CFE-Operator Implementation Agreement), the necessary resources to allow the Operator to pay Eligible Retailers with the amounts equivalent to the Vouchers under the Appliances Replacement Program;
- (c) cause the Operator, under the terms of the CFE-Operator Implementation Agreement, to make available to each Eligible Retailer, through an agreement (the Operator-Eligible Retailers Agreement), the required amounts from the Loan to cover payments due to each of the Eligible Retailers, under terms and conditions which shall have been approved by the Bank; and
- (d) exercise its rights and carry out its obligations under the SENER-CFE Implementation Agreement, and cause CFE and the Operator to carry out their obligations under the CFE-Operator Implementation Agreement, in such manner as to protect the interests of the Borrower and the Bank, and to accomplish the purposes of the Loan. Except as the Bank shall otherwise agree, the Borrower, through SENER shall, and shall cause CFE to, not assign, amend, abrogate, waive or fail to enforce the SENER-CFE Implementation Agreements or the CFE-Operator Implementation Agreement, as the case may be, or any of their provisions. In case of any conflict between the terms of this Agreement and the terms of either the SENER-CFE or the CFE-Operator Implementation Agreements, the terms of this Agreement shall prevail.

B. *Contrato de Mandato*

1. The Borrower, through SHCP, shall enter into a contract (*Contrato de Mandato*), satisfactory to the Bank, among NAFIN and SENER, whereby, *inter alia*:
 - (a) NAFIN agrees to act as financial agent of the Borrower with regard to the Loan, meaning that, *inter alia*, NAFIN agrees to represent the Borrower *vis-à-vis* the Bank for purposes of submitting Loan withdrawal applications to the Bank in form and substance sufficient to justify disbursement by the Bank to the Borrower of Loan proceeds and agrees to maintain and operate the designated account (referred to in the additional instructions cited in Section IV.A.1 of this Schedule 2) in compliance with the terms of this Agreement;
 - (b) NAFIN agrees to abide by the Anti-Corruption Guidelines;
 - (c) the Borrower, through SENER, agrees to carry out the Project in accordance with the provisions of this Agreement, the Anti-Corruption Guidelines, and the Operational Manual;
 - (d) the Borrower shall have the right to, in case of fraud or corruption (as defined in the Anti-Corruption Guidelines), provide for the early termination of the *Contrato de Mandato*, or temporarily suspend its

effects, or, if applicable, require the restitution of funds transferred to NAFIN under said *Contrato de Mandato*; and

- (e) the Borrower, through SENER, agrees to cooperate fully with NAFIN to ensure that NAFIN is able to comply with all of NAFIN's obligations referred to in Section I.B.1(a) and (b) herein.
2. The Borrower shall exercise its rights and carry out its obligations under the *Contrato de Mandato* in such a manner as to protect the interests of the Bank and to accomplish the purposes of the Loan. The Borrower shall not amend, waive or fail to enforce the *Contrato de Mandato* or any provision thereof, except as the Bank may otherwise agree. In case of any conflict between the terms of the *Contrato de Mandato* and those of this Agreement, the terms of this Agreement shall prevail.

C. Safeguards and Operational Manual

1. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank may otherwise agree, the Borrower, through SENER shall, carry out and/or cause to be carried out the Project in accordance with:
- (a) the Operational Manual, which shall contain specific provisions on detailed arrangements for the carrying out of the Project, including: (i) the procurement, disbursement and financial management requirements for the Project; (ii) the Key Performance Indicators; (iii) the operational rules of both the CFL Replacement Program and the Appliances Replacement Program, including: (A) the eligibility criteria to select Eligible Retailers; and (B) the monitoring that the prices registered by Eligible Retailers with the Operator, on eligible appliances under the Project, are offered to the Eligible Beneficiaries; (iv) the Anti-Corruption Guidelines; and (v) the procedures for processing and paying Vouchers under Part 2(a)(i) of the Project. Except as the Bank shall otherwise agree, the Borrower, through SENER, shall not, and/or shall cause not to, amend, waive or fail to enforce any provision of the Operational Manual without the Bank's prior written approval. In case of any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.
 - (b) the IPPF; and
 - (c) the Environmental Management Plan.

D. Anti-Corruption

1. The Borrower, through SENER, shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines. In this regard, the Borrower, through SENER or through any other entity as the Borrower,

through SENER, may deem appropriate, shall, *inter alia*, ensure compliance with paragraph 9 (d) of the Anti-Corruption Guidelines as follows:

- (a) by requiring the Operator, the Administrator, CFE, and NAFIN (through their respective Implementation Agreements), and Eligible Retailers (through the letter referred to in Section I.D.2 of Schedule 2 to this Agreement), to take appropriate measures to prevent, inform on, respond to and investigate corrupt, fraudulent, collusive, coercive and obstructive practices with respect to the handling of Project funds under those Parts of the Project for which they are responsible;
 - (b) by allowing the Bank, whenever a fraud and/or corruption practice has occurred, to inspect accounts, records and other documents of any/or all the Operator, the Administrator, CFE, NAFIN and Eligible Retailers relating to the Project upon the Bank's request and in the company of SENER, representatives, or through representatives of any other entity as the Borrower, through SENER, may deem appropriate;
 - (c) by allowing the Bank, at its request, to have such accounts, records and other documents audited by or on behalf of the Bank, using the Bank's terms of reference for such purpose, with the collaboration of the Borrower, through SENER;
 - (d) by agreeing to obtain restitution from any/or all of the Administrator, the Operator, CFE, and NAFIN, as the case may be, of any amount of the Loan with respect to which fraud and corruption has occurred, all the above pursuant to audit, transparency, control, restitution and information sharing clauses within the Implementation Agreements and the Operational Manual; and
 - (e) by acknowledging, that whenever a fraud and/or corruption practice by an Eligible Retailer has occurred, the Borrower's procedures for obtaining restitution of misused funds established under Mexican laws and regulations, will be followed.
2. The Borrower, through SENER, shall cause the Operator, by not later than 10 business days after the date of this Agreement, issue a notice to the Eligible Retailers, on terms acceptable to the Bank, informing them of the existence of the Anti-Corruption Guidelines (and accompanying a copy thereof), and notifying them that if any of said Eligible Retailers (or any employee involved in the management of funds for the Appliances Replacement Program) incur in any of the sanctionable offenses described under the Anti-Corruption Guidelines, the Bank may sanction said Eligible Retailer in accordance with the Bank's sanctions regime.

Section II. Project Monitoring Reporting and Evaluation

A. Project Reports

The Borrower, through SENER, shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions and on the basis of the performance indicators included in the Operational Manual. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Bank not later than sixty (60) days after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Borrower, through SENER, shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Borrower, through SENER, shall prepare and furnish to the Bank not later than sixty (60) days after the end of each calendar semester, interim unaudited financial reports for the Project covering the pertinent semester, in form and substance satisfactory to the Bank.
3. The Borrower, through SENER, shall have the Financial Statements for the Project audited in accordance with the provisions of Section 5.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Borrower. The audited Financial Statements for each such period shall be furnished to the Bank not later than six months after the end of such period.

Section III. Procurement

A. General

1. **Goods and Non-Consultant's Services.** All goods and Non-Consultant's Services required for the Project and to be financed with an amount equivalent to the amount in Dollars provided under the Loan shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed with an amount equivalent to the amount in Dollars provided under the Loan shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines and with the provisions of this Section.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Bank of particular

contracts refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

4. **Special Provisions.** The Borrower, through SENER, shall: (a) supply the SEPA with the information contained in the initial Procurement Plan within 45 days after the date of this Agreement; and (b) update the Procurement Plan at least once a year, or as needed through the duration of the Project, to reflect the actual Project implementation needs and progress and supply the SEPA with the information contained in the updated Procurement Plan immediately thereafter.

B. Particular Methods of Procurement of Goods and Non-Consultant’s Services

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and Non-Consultant’s Services shall be procured under contracts awarded on the basis of International Competitive Bidding procedures.
2. **Other Methods of Procurement of Goods and Non-Consultant’s Services.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and Non-Consultant’s Services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) National Competitive Bidding
(b) Shopping
(c) Direct Contracting

C. Particular Methods of Procurement of Consultants’ Services

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants’ services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
2. **Other Methods of Procurement of Consultants’ Services.** The following table specifies the methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) Quality-Based Selection
(b) Selection under a Fixed Budget
(c) Least-Cost Selection
(d) Selection Based on the Consultants’ Qualification
(e) Single Source Selection
(f) Procedures set forth in paragraphs 5.2, 5.3 and 5.4 of the Consultant Guidelines for the selection of Individual Consultants

D. Review by the Bank of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Bank’s Prior Review. All other contracts shall be subject to Post Review by the Bank.

Section IV. Withdrawal of Loan Proceeds

A. General

1. The Borrower may withdraw the proceeds of the Loan in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Bank may specify by notice to the Borrower (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Bank and as made applicable to this Agreement pursuant to such instructions).
2. The Bank shall, on behalf of the Borrower, withdraw from the Loan Account on or after the Effective Date and pay to itself the Front-end Fee payable pursuant to Section 3.01 of the General Conditions. The remaining proceeds of the Loan shall be disbursed in Dollars unless otherwise agreed between the Borrower and the Bank and so reflected in the additional instructions referred in Section IV.A.1 immediately above. Consistently with Section 2.05 of the General Conditions, the Borrower shall use an amount equivalent to the amount in Dollars provided under the Loan Agreement to finance Eligible Expenditures.
3. The following table specifies the categories of Eligible Expenditures that may be financed with an amount equivalent to the amount in Dollars provided under the Loan (“Category”), the allocation of the amounts of the Loan to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category.

<u>Category</u>	<u>Amount of the Loan Allocated (expressed in USD)</u>	<u>Percentage of Expenditures to be financed (inclusive of Taxes)</u>
(1) CFLs under Part 1 of the Project	55,000,000	100%
(2) Vouchers under Part 2(a)(i) of the Project	194,998,437	100% of payments made by the Operator to Eligible Retailers for the payment of redeemed Vouchers.
(3) Front-end Fee	626,563	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07 (b) of the General Conditions.
(4) <i>Premia</i> for Interest Rate Caps and Interest rate	-0-	Amounts due under section 2.07 (c) of this Agreement.

Collars.		
TOTAL AMOUNT	250,625,000	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except those withdrawals under Category (2), up to an aggregate amount not to exceed fifty million Dollars (\$50,000,000) equivalent may be made for payments made prior to this date but after January 1, 2010 but in no case made more than twelve (12) months prior to the date of this Agreement.
2. The Closing Date is June 30, 2014.

SCHEDULE 3

Amortization Schedule

The Borrower shall repay the principal amount of the Loan in full on June 15, 2022.

APPENDIX

Section I. Definitions

1. “Administrator” means FIDE (*Fideicomiso para el Ahorro de Energía Eléctrica*), or any other entity with similar mandate, proposed by the Borrower, through SENER, and acceptable to the World Bank, as set forth in the Operational Manual, for the purposes of Part 1 of the Project.
2. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006, with the modifications set forth in Section II of this Appendix.
3. “Appliances Replacement Program” means *Programa de Sustitución de Electrodomésticos para el Ahorro de Energía*, a program established by the Borrower, through SENER on February 2009, which provides incentives to electricity consumers to exchange old inefficient appliances (refrigerators and air conditioners) with more efficient ones, as further described in the Operational Manual, and referred to in Part 2 of the Project.
4. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
5. “CFE” means *Comisión Federal de Electricidad*, the Borrower’s national electricity utility.
6. “CFE-Operator Implementation Agreement” means any of the agreements referred to in paragraph 3(b) of Section I.A of Schedule 2 to this Agreement.
7. “CFL” means compact fluorescent lamp.
8. “CFL Implementation Agreement” means the agreement referred to in paragraph 2(a) of Section I.A of Schedule 2 to this Agreement.
9. “CFL Replacement Program” means the Borrower’s program to replace approximately 45 million IBs with CFLs in low to medium income households, as part of the Borrower’s national program on energy efficiency referred to in Part 1 of the Project.
10. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006 and May 2010.
11. “*Contrato de Mandato*” means the agreement to be entered into among the Borrower, through SHCP, SENER and NAFIN, pursuant to paragraph 1 of Section I.B of Schedule 2 to this Agreement.

12. “Credit” means a loan made or proposed to be made by NAFIN, through the Operator, out of the proceeds of the CTF Loan, to an Eligible Beneficiary, for purposes of partially financing the replacement of an old and inefficient appliance for a more efficient one, under the Appliances Replacement Program.
13. “Default Event” means the event of default which will trigger the prematuring of any given Credit made by NAFIN, through the Operator, to an Eligible Beneficiary and affected by such an event of default, under terms, mechanisms, conditions and exceptions set forth in the Guarantee Facility Operating Rules.
14. “Eligible Beneficiaries” means: (a) for Part 1 of the Project: low to medium income households within the Borrower’s territory; and (b) for Part 2(a) of the Project: electricity consumers from low income and other qualified households (calculated by their level of electricity consumption) currently owning and using appliances at least 10 years old, and eligible for financial assistance under the Appliances Replacement Program, all in accordance with the specifications of the Operational Manual.
15. “Eligible Retailer” means any retail store within the Borrower’s territory that meets the eligibility criteria set forth in the Operational Manual to participate under the Appliances Replacement Program.
16. “Energy Efficiency Administrative Unit” means the unit within SENER referred to in paragraph 1 of Section I.A of Schedule 2 to this Agreement.
17. “Environmental Management Plan” means the plan prepared by the Borrower, through SENER, and approved by the Bank on June 18, 2010, and made available to the public on July 7, 2010 in the website <http://www.energia.gob.mx>, which sets out the environmental protection measures in respect of the Project, including: (i) an environmental screening checklist for Project interventions; and (ii) environmental supervision, monitoring and evaluation procedures for the Project.
18. “FTE” means *Fondo para la Transición Energética y el Aprovechamiento Sustentable de la Energía*, the Borrower’s fund for energy transition and the sustainable use of energy, established pursuant the Borrower’s renewable energy law (*Ley para el Aprovechamiento de Energías Renovables y el Financiamiento de la Transición Energética*), of November 2008.
19. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 31, 2010.
20. “Guarantee Facility” means the subaccount No. 1064047 (*Fondo Senior*) created under the *Fideicomiso* 1148-0 (*Fondo para la Participación en el Riesgo*), a trust fund established under the *Fideicomiso* 8013-9 administered by NAFIN and created pursuant to the agreement dated December 20, 2001 and registered in the Borrower’s trust registry within SHCP under No. 368-V-537, for the purposes of

providing repayment default risk guarantees to NAFIN in respect to and upon verification that a Default Event has materialized, all in support of NAFIN's lending (through the Operator) of Credits to Eligible Beneficiaries under the Project, utilizing the proceeds of the Grant allocated to Part 2(b) of the Project and other sources of financing, including the counterpart funds to be provided by the Recipient, through SENER.

21. "Hedging Guidelines" means the Bank's Guidelines for Using Hedging Products dated March 23, 2009 or any later guidelines issued by the Bank to replace said guidelines.
22. "IB" means incandescent bulbs.
23. "Implementation Agreements" means collectively the CFL Implementation Agreement, the SENER-CFE Implementation Agreement, the CFE-Operator Implementation Agreement, the NAFIN-Operator Financing Agreement and the SENER-NAFIN Financing Agreement.
24. "IPPF" means the Borrower's Indigenous Peoples Planning Framework prepared by the Borrower, and approved by the Bank on June 28, 2010, and made available to the public on June 29, 2010, in the website <http://www.energia.gob.mx>, which sets out the measures to be taken (including the preparation and implementation of indigenous peoples plans) to ensure that indigenous peoples will not be harmed by the Project and to ensure their participation and involvement in the implementation and monitoring of the Project as it affects them.
25. "NAFIN" means *Nacional Financiera, S.N.C.*, a Mexican development bank serving as the Borrower's financial agent for purposes of the Loan.
26. "NAFIN-Operator Financing Agreement" means the agreement referred to in paragraph 2 of Section I.A of Schedule 2 to the CTF Agreement.
27. "Operational Manual" means the Borrower's manual dated October 25, 2010, acceptable to the Bank, referred to in paragraph 1 of Section I.C.1 of Schedule 2 to this Agreement, as said manual may be amended from time to time with the Bank's prior approval.
28. "Operator" means FIDE (*Fideicomiso para el Ahorro de Energía Eléctrica*), or any other entity with similar mandate, proposed by the Borrower, through SENER, and acceptable to the World Bank, as set forth in the Operational Manual, for the purposes of Part 2(a) of the Project.
29. "Operator-Eligible Retailers Agreement" means any of the agreements referred to in paragraph 3 (c) of Section I.A of Schedule 2 to this Agreement.
30. "Procurement Guidelines" means the "Guidelines: Procurement under IBRD Loans and IDA Credits" published by the Bank in May 2004, revised in October 2006 and May 2010.

31. “Procurement Plan” means the Borrower’s procurement plan for the Project, prepared by SENER, dated October 8, 2010, and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
32. “SENER” means *Secretaría de Energía*, the Borrower’s Ministry of Energy.
33. “SENER-CFE Implementation Agreement” means the agreement referred to in paragraph 3(a) of Section I.A of Schedule 2 to this Agreement.
34. “SENER-NAFIN Financing Agreement” means the agreement to be entered into between the Recipient, through SENER, and NAFIN, acting as a trustee of the Guarantee Facility, and referred to in Section I.B.1(a) of Schedule 2 to the GEF Grant Agreement.
35. “SEPA” means the Bank’s publicly accessible Procurement Plans Execution System.
36. “SHCP” means *Secretaría de Hacienda y Crédito Público*, the Borrower’s Ministry of Finance and Public Credit.
37. “Voucher” means the non-refundable financial support (*Apoyo Directo*) provided by the Borrower, through SENER, in favor of an Eligible Beneficiary, for use by said Eligible Beneficiary as partial payment to an Eligible Retailer in connection with the purchase of a new appliance (covering a portion of the cost of said appliance, and in those cases specified in the Operational Manual, the cost of delivery and disposing of the old appliance), all under the Appliances Replacement Program and in accordance with the Operational Manual.

Section II. Modifications to the Anti-Corruption Guidelines

The modifications to the Anti-Corruption Guidelines are as follows:

1. Section 5 is re-numbered as Section 5(a) and a new Section 5(b) is added to read as follows:

“... (b) These Guidelines also provide for the sanctions and related actions to be imposed by the Bank on Borrowers (other than the Member Country) and all other individuals or entities who are recipients of Loan proceeds, in the event that the Borrower or the individual or entity has been debarred by another financier as a result of a determination by such financier that the Borrower or the individual or entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of a financing made by such financier.”
2. Section 11(a) is modified to read as follows:

“... (a) sanction in accordance with prevailing Bank’s sanctions policies and procedures (fn13) a Borrower (other than a Member Country) (fn 14) or an individual or entity, including (but not limited to) declaring such Borrower, individual or entity ineligible publicly, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; (ii) to benefit from a Bank-financed contract, financially or otherwise, for example as a sub-contractor; and (iii) to otherwise participate in the preparation or implementation of the project or any other project financed, in whole or in part, by the Bank, if at any time the Bank determines (fn 15) that such Borrower, individual or entity has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of loan proceeds, or if another financier with which the Bank has entered into an agreement for the mutual enforcement of debarment decisions has declared such person or entity ineligible to receive proceeds of financings made by such financier or otherwise to participate in the preparation or implementation of any project financed in whole or in part by such financier as a result of a determination by such financier that the Borrower or the individual or entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of a financing made by such financier.”

Footnotes:

“13. An individual or entity may be declared ineligible to be awarded a Bank financed contract upon completion of sanctions proceedings pursuant to the Bank’s sanctions policies and procedures, or under the procedures of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding, or following a sanction by another financier with whom the Bank has entered into a cross debarment agreement, as a result of a determination by such financier that the firm or individual has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of a financing made by such financier.”

“14. Member Country includes officials and employees of the national government or of any of its political or administrative subdivisions, and government owned enterprises and agencies that are not eligible to bid under paragraph 1.8(b) of the Procurement Guidelines or participate under paragraph 1.11(c) of the Consultant Guidelines.”

“15. The Bank has established a Sanctions Board, and related procedures, for the purpose of making such determinations. The procedures of the Sanctions Board sets forth the full set of sanctions available to the Bank. In addition, the Bank has adopted an internal protocol outlining the process to be followed in implementing debarments by other financiers, and explaining how cross-debarments will be posted on the Bank’s website and otherwise be made known to staff and other stakeholders.”