

CONFORMED COPY

GEF TRUST FUND GRANT NUMBER TF051240

Global Environment Facility Trust Fund Grant Agreement

(Amazon Region Protected Areas Project)

between

FUNDO BRASILEIRO PARA A BIODIVERSIDADE - FUNBIO

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

acting as an Implementing Agency of the Global Environment Facility

Dated October 24 , 2002

GEF TRUST FUND GRANT NUMBER TF051240

GLOBAL ENVIRONMENT FACILITY TRUST FUND GRANT AGREEMENT

AGREEMENT, dated October 24, 2002, between the FUNDO BRASILEIRO PARA A BIODIVERSIDADE – FUNBIO (the Recipient) and the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF.

WHEREAS (A) the Bank, pursuant to Resolution No. 91-5 of March 14, 1991 of the Executive Directors of the Bank, established the GEF to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development;

(B) following the restructuring of the GEF, such arrangements continued in place on the basis set forth in Resolution No. 94-2 of May 24, 1994, of the Executive Directors of the Bank which, *inter alia*, established the GEF Trust Fund and appointed the Bank as trustee of the GEF Trust Fund (Resolution No. 94-2);

(C) the second replenishment of the GEF Trust Fund was approved on the basis set forth in Resolution No. 98-2 of July 14, 1998, of the Executive Directors of the Bank (Resolution No. 98-2);

(D) the Federative Republic of Brazil (FRB), has requested assistance from the resources of the GEF Trust Fund for funding the Project, and said request having been approved in accordance with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility approved under Resolution 94-2, and to be funded from the resources of the GEF Trust Fund;

(E) the FRB intends to carry out a ten year program for the establishment and consolidation of protected areas (*Unidades de Conservação*) in its Amazon region (the Program), in accordance with the FRB's Document entitled "*Programa de Áreas Protegidas da Amazônia*" and dated May 2, 2002;

(F) the FRB informed the Bank, in a letter dated March 20, 2002, that Fundo Brasileiro para a Biodiversidade – FUNBIO is the Recipient of the resources of the GEF Trust Fund which will finance part of the costs of the Project;

(G) the FRB, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), will carry out the Project through its Ministry of the Environment (MMA), its Brazilian Environmental Institute (IBAMA), and states and municipalities in the Amazon region as provided in this Agreement and in other implementation and cooperation agreements included herein;

(H) the Recipient will manage the resources of the GEF Trust Fund as provided in this Agreement;

(I) the Recipient intends to receive from the World Wide Fund for Nature (WWF) a grant in an amount of \$11,500,000 (the WWF Grant) to assist in financing Parts A.1, A.2, and A.3 (b) (i) of the Project on the terms and conditions set forth in an agreement to be entered into between the Recipient and WWF (the WWF Grant Agreement);

(J) the FRB intends to contract from Kreditanstalt für Wiederaufbau (KfW) a grant in an amount of Euro 17,700,000 (the KfW Grant) to assist in financing Parts A.3 (b) (ii), B.1, B.2, B.3 and B.4 (b) of the Project on the terms and conditions set forth in an agreement to be entered into between the FRB and KfW and another between MMA and the Recipient (the KfW Grant Agreement);

(K) the FRB intends to receive from Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) technical assistance to assist in the identification, monitoring and evaluation of protected areas on the terms and conditions set forth in an agreement to be entered into between the FRB and GTZ;

(L) the Recipient intends to contract from Brazil Connects, a Brazilian non-governmental organization for sustainable development (Brazil Connects), a grant in an amount of \$1,500,000 (the Brazil Connects Grant) to assist in funding the endowment fund under Part C of the Project on the terms and conditions set forth in an agreement to be entered into between the Recipient and Brazil Connects (the Brazil Connects Grant Agreement); and

WHEREAS the Bank has agreed, on the basis, *inter alia*, of the foregoing, to extend a grant (the GEF Trust Fund Grant) to the Recipient upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01 (a) The following provisions of the “General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans” of the Bank, dated May 30, 1995 (as amended through October 6, 1999), with the modifications set forth in paragraph (b) of this Section (the General Conditions), constitute an integral part of this Agreement:

- (i) Article I;
- (ii) Sections 2.01 (1), (2), (3), (4), (5), (7), (8), (14), (15), (16), (18) and (21), 2.02 and 2.03;
- (iii) Section 3.01;
- (iv) Sections 4.01 and 4.06;
- (v) Article V (except Section 5.08);
- (vi) Sections 6.01, 6.02 (a), (c), (d), (e), (f), (g), (h), (i), (l), (m), (n), (o) and (p), 6.03, 6.04 and 6.06;
- (vii) Section 8.01 (b);
- (viii) Sections 9.01 (a), 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09;
- (ix) Section 10.01 except for the first sentence which is deleted;
- (x) Section 10.03;
- (xi) Section 10.04, amended to read as follows: “Any dispute arising out of or relating to this Agreement which is not settled by agreement of the parties shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules in force on the date of this Agreement. The place of arbitration shall be Washington, D.C. In the event of a conflict between the UNCITRAL Arbitration Rules and the terms of this Agreement, the terms of this Agreement shall govern.”;

(xii) Article XI; and

(xiii) Sections 12.01, 12.02, 12.03 and 12.04.

(b) The General Conditions shall be modified as follows:

(i) a new paragraph shall be added to the end of Section 2.01 to read as follows: “22. “Special Drawing Rights” and the symbol “SDR” mean special drawing rights as valued by the International Monetary Fund in accordance with its Articles of Agreement.”;

(ii) the term “Bank”, wherever used in the General Conditions, other than in Sections 5.01 (a) and 6.02 (f) thereof, means the Bank acting as an implementing agency of the GEF;

(iii) the term “Borrower”, wherever used in the General Conditions, means the Recipient;

(iv) the term “Loan Agreement”, wherever used in the General Conditions, means this Agreement;

(v) the term “Loan” and “loan”, wherever used in the General Conditions, means the GEF Trust Fund Grant;

(vi) the term “Loan Account”, wherever used in the General Conditions, means the GEF Trust Fund Grant Account, the account opened by the Bank on its books in the name of the Recipient to which the amount of the GEF Trust Fund Grant is credited;

(vii) Section 4.01 is hereby amended to read as follows: “Except as and the Bank and the Recipient shall otherwise agree, withdrawals from the Loan Account shall be made in the respective currencies in which the expenditures to be financed out of the proceeds of the Loan have been paid or are payable.”; and

- (viii) a new paragraph is added after paragraph (p) in Section 6.02 of the General Conditions, as follows: “(q) an extraordinary situation shall have arisen in which any further disbursement under the GEF Trust Fund Grant would exceed the resources available for disbursement from the GEF.”.

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

- (a) “Amazon Region” means the tropical forest areas of the Legal Amazon region established by Law Number 5.173 of October 27, 1966 and by Article 45 of the Supplemental Law Number 31 of October 11, 1977;

- (b) “Approved POA” means each annual operating plan referred to in Section 3.04 of this Agreement and paragraph 1 (c) of Schedule 6 to this Agreement;

- (c) “Asset Management Contract” means the contract referred to in Section 3.07 (b) of this Agreement;

- (d) “Asset Manager” means the manager referred to in Section 3.07 (b) of this Agreement;

- (e) “Beneficiary” means:

- (i) in respect of a Sustainable Use Subproject, an association or other organization representing a community which resides in or around a Protected Area included in Part B of the Project; and

- (ii) in respect of a Revenue Generation Subproject, an association, non-governmental organization, corporation or other agency, or an association or other organization representing a community,

all of which meet the criteria set forth in the Operational Manual to participate in a Sustainable Use Subproject and/or a Revenue Generation Subproject under Parts B.4 (a) and C.3 of the Project, respectively;

- (f) “Beneficiary Agreement” means any of the agreements referred to in Section 3.01 (d) of this Agreement;

(g) “Committees” means the General Coordination Committee, the Program Committee, the Conflict Mediation Committee and the Technical Commission;

(h) “Conflict Mediation Committee” means the committee referred to in Paragraph 1 (a) (ii) (E) of Schedule 6 to this Agreement;

(i) “Eligible Population” means the eligible population set forth or referred to in the Resettlement Framework;

(j) “Endowment Fund” means the endowment fund to be created by the Recipient with financing from the proceeds of the GEF Trust Fund Grant and other public and private donors to finance the costs associated with the maintenance and operation of Strict Protection Protected Areas, and with the fiscalization and/or enforcement of Sustainable Use Protected Areas, which shall be managed by the Recipient;

(k) “Endowment Fund Eligible Protected Areas” means Protected Areas eligible for financing by the Endowment Fund in accordance with the provisions of the Endowment Fund Manual;

(l) “Endowment Fund Manual” means the manual for the operation of the Endowment Fund, referred to in Section 3.06 of this Agreement, as the same may be amended from time to time by agreement between the Bank and the Recipient;

(m) “Financial Monitoring Report” means each report prepared in accordance with Section 4.02 of this Agreement;

(n) “FUNAI” means *Fundação Nacional do Índio*, the National Indian Foundation established pursuant to the FRB’s Law No. 5371, of December 5, 1967;

(o) “FUNAI Cooperation Agreement” means the agreement referred to in paragraph 1 (g) of Schedule 6 to this Agreement;

(p) “FUNBIO’s Charter” means the Recipient’s by-laws approved by its Board on October 1, 1999 and registered in the Registry of Juridical Persons on December 20, 1999;

(q) “General Coordination Committee” means the committee referred to in paragraph 1 (a) (ii) (A) of Schedule 6 to this Agreement;

(r) “IBAMA Implementation Agreement” means the agreement referred to in Section 3.01 (b) (ii) of this Agreement;

(s) “INCRA” means *Instituto Nacional de Colonização e Reforma Agraria*, the National Land Reform and Colonization Agency established pursuant to the FRB’s Law No. 1110 of July 9, 1970;

(t) “INCRA Cooperation Agreement” means the agreement referred to in paragraph 1 (h) of Schedule 6 to this Agreement;

(u) “Indigenous Action Plan” or “IAP” means the plan developed in accordance with the Indigenous Peoples Strategy;

(v) “Indigenous Peoples” means the indigenous peoples recognized as such by FUNAI as eligible to benefit from the constitutional and other legal protection as indigenous peoples;

(w) “Indigenous Peoples Strategy” means the strategy with measures to be taken 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, set forth in the letter from the MMA to the Bank, dated July 18, 2002;

(x) “Management Plan” means a document, prepared by IBAMA, a State or a Municipality containing a set of management objectives sought to be achieved for a Protected Area and a description of the strategies required to achieve such objectives, and also as needed, containing a Resettlement Plan and/or Indigenous Action Plan following the requirements of the Operational Manual;

(y) “MDA” means the Ministry of Agrarian Development;

(z) “MDJ” means the Ministry of Justice;

(aa) “MMA Implementation Agreement” means the agreement referred to in Section 3.01 (b) (i) of this Agreement;

(bb) “Model Form” means respectively the model State Cooperation Agreement, Municipality Cooperation Agreement, Sustainable Use Subproject Grant Agreement and the Revenue Generation Subproject Grant Agreement, all as set forth in the Operational Manual;

(cc) “Municipality” means any municipality or part thereof in the FRB’s territory with jurisdiction over an existing or proposed Protected Area, which municipality meets the requirements of the Operational Manual for participation in the Project;

(dd) “Municipality Cooperation Agreement” means any of the agreements, with a Municipality, referred to in Section 3.01 (b) (iii) of this Agreement;

(ee) “Operational Manual” means the manual for the operation of the Project referred to in Section 3.05 of this Agreement and paragraph (1) (d) of Schedule 6 to this Agreement, as the same may be amended from time to time, after the approval by the Program Committee, by agreement between the Bank and the Recipient;

(ff) “PA Management Council” means any council established pursuant to Article 29 of the SNUC Law for the management of a Protected Area;

(gg) “PCU” means the unit referred to in paragraph 1 (a) (ii) (D) of Schedule 6 to this Agreement;

(hh) “Performance Indicators” means the performance indicators to be used for purposes of monitoring the progress of the Project set forth in the letter from MMA to the Bank dated July 18, 2002;

(ii) “PMU” means the unit referred to in Section 3.01 (c) (i) of this Agreement;

(jj) “Presidential Decree” means a decree regulating the implementation of the Program and the Project, in terms substantially in accordance with those in the draft provided to the Bank on July 18, 2002;

(kk) “Program Committee” means the committee referred to in paragraph 1 (a) (ii) (B) of Schedule 6 to this Agreement;

(ll) “Protected Area” means any Sustainable Use Protected Area or Strict Protection Protected Area;

(mm) “Resettlement Framework” means the frameworks for preparing and implementing plans as needed: (i) to mitigate the possible impact of restrictions on livelihoods of people living in or around a Protected Area as a result of measures required to manage such Protected Area (Process Framework); or (ii) to relocate and rehabilitate Eligible Populations residing in a Protected Area (Resettlement Framework); set forth in the letter from MMA to the Bank dated July 18, 2002;

(nn) “Resettlement Plan” means any plan prepared and implemented in accordance with the Resettlement Framework;

(oo) “Revenue Generation Subproject” means a discrete set of activities for implementation of a financial mechanism or partnership to ensure the sustainability of a Protected Area, which subproject is selected, approved and implemented in accordance with the requirements of the Operational Manual;

(pp) “Revenue Generation Subproject Grant” means a grant made or proposed to be made by the Recipient out of the proceeds of the GEF Trust Fund Grant to a Beneficiary for the financing of a Revenue Generation Subproject pursuant to the terms of the Operational Manual;

(qq) “Revenue Generation Subproject Grant Agreement” means any of the agreements to be entered into between the Recipient and a Beneficiary providing for a Revenue Generation Subproject Grant;

(rr) “Scientific Advisory Panel” means the panel referred to in Paragraph 1 (a) (ii) (C) of Schedule 6 to this Agreement;

(ss) “SNUC Law” means the FRB’s Law No. 9985 of July 18, 2000 establishing the system of protected areas;

(tt) “Special Account” means the account referred to in Section 2.02 (b) of this Agreement;

(uu) “State” means any of the FRB’s states with jurisdiction over an existing or proposed Protected Area, which State meets the requirements of the Operational Manual for participation in the Project;

(vv) “State Cooperation Agreement” means any of the agreements, with a State, referred to in Section 3.01 (b) (iii) of this Agreement;

(ww) “Strict Protection Protected Area” means any ecological station, biological reserve or park, as defined in articles 9, 10, and 11 of the SNUC Law respectively, which meets the criteria in the Operational Manual for creation under Part A of the Project, consolidation under Part B of the Project or financing by the Endowment Fund under Part C of the Project;

(xx) “Subprojects” means collectively Sustainable Use Subprojects and Revenue Generation Subprojects;

(yy) “Sustainable Use Protected Area” means an extractive reserve or a sustainable development reserve as defined in Articles 18 and 20 of the SNUC Law respectively, which meets the criteria set forth in the Operational Manual for the creation of Protected Areas under Part A of the Project;

(zz) “Sustainable Use Subproject” means a Subproject consisting of activities of sustainable use of natural resources in the buffer zones of Strict Protected Areas included in Part B. 4. (a) (ii) of the Project which subproject is selected, approved and implemented in accordance with the requirements of the Operational Manual;

(aaa) “Sustainable Use Subproject Grant” means a grant made or proposed to be made by the Recipient out of the proceeds of the GEF Trust Fund Grant to a Beneficiary for the financing of a Sustainable Use Subproject pursuant to the terms of the Operational Manual;

(bbb) “Sustainable Use Subproject Grant Agreement” means any of the agreements to be entered into between the Recipient and a Beneficiary providing for a Sustainable Use Subproject Grant; and

(ccc) “Technical Commission” means the commission referred to in Section 3.01 (c) (ii) of this Agreement.

Section 1.03. Each reference in the General Conditions to the Project implementation entity shall be deemed as a reference to IBAMA for Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project.

Section 1.04. Each reference in this Agreement to MMA shall be deemed as a reference to MMA acting in the name and on behalf of the government of the FRB.

ARTICLE II

The GEF Trust Fund Grant

Section 2.01. The Bank agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the GEF Trust Fund Grant in an amount in various currencies equivalent to twenty-two million seven hundred thousand Special Drawing Rights (SDR 22,700,000).

Section 2.02. (a) The amount of the GEF Trust Fund Grant may be withdrawn from the GEF Trust Fund Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services, and for capitalizing the Endowment Fund, required for carrying out the Project and to be financed out of the proceeds of the GEF Trust Fund Grant.

(b) The Recipient may, for the purposes of the Project, open and maintain in Dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2007 or such later date as the Bank shall establish. The Bank shall promptly notify the Recipient of such later date.

ARTICLE III

Execution of the Project

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

- (i) carry out Parts B.4 (a) (ii), C and E (a) of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, social and environmental standards and practices, as well as in conformity with the Operational Manual, the Endowment Fund Manual, the Approved POAs, and the Performance Indicators and shall provide, promptly as needed, the funds, facilities, services and other resources required for Parts B.4 (a) (ii), C and E (a) of the Project; and
- (ii) handle the procurement, disbursement and the financial requirements of the GEF Trust Fund Grant for all Parts of the Project in accordance with the provisions of Articles I, II, III and IV of, and related Schedules to, this Agreement.

(b) The Recipient shall enter into agreements, under terms and conditions satisfactory to the Bank, including those specified herein and in Schedule 6 to this Agreement with:

- (i) MMA in respect of Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project;
- (ii) MMA and IBAMA in respect of Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project; and
- (iii) MMA and each State and Municipality in respect of Parts A, B (other than B.4 (a) (ii) thereof), and D of the Project;

whereby MMA and IBAMA, and the respective State or Municipality, if applicable, shall carry out their respective Parts of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, social and environmental standards and practices, as well as in conformity with the Operational Manual, the Performance Indicators, the Endowment Fund Manual, the Approved POAs, the Resettlement Framework, and the Indigenous Peoples Strategy and shall provide, promptly as needed, the funds, facilities, services and other resources required for such Parts of the Project.

(c) For the purposes of carrying out the Project, the Recipient shall establish and maintain during Project implementation:

- (i) a unit to manage the GEF Trust Fund Grant; and
- (ii) technical commissions to oversee the management of the GEF Trust Fund Grant and the Endowment Fund,

both with responsibilities, structure and functions satisfactory to the Bank.

(d) The Recipient shall enter into a Sustainable Use Subproject Grant Agreement or a Revenue Generation Subproject Agreement, as the case may be, with each Beneficiary, substantially in accordance with the terms of the Model Form and including, *inter alia*, the Beneficiary's obligation to:

- (A) use the proceeds of the GEF Trust Fund Grant exclusively for carrying out the Subproject in question; (B) provide, from its own resources, a mandatory contribution for its Subproject; (C) have the goods, works and services for the Subproject be procured in compliance with the provisions of Schedule 3 to this Agreement; (D) take all action necessary to facilitate compliance with the terms of Section 4.01 of this Agreement in connection with the Subproject; (E) not use GEF Trust Fund Grant proceeds to compensate for labor provided by the

Beneficiary's members; (F) abide by the technical and environmental practices and systems required for the Subproject as set forth in the Operational Manual; (G) comply with the prohibitions set forth in Schedule 5 to this Agreement; (H) participate in periodic self-assessment and monitoring of the Subproject; and (I) furnish to the Recipient, and the Bank any information reasonably requested with respect to the Subproject, as well as access reasonably requested to Subproject sites, facilities and equipment.

(e) The Recipient shall exercise its rights and comply with its obligations under the MMA Implementation Agreement, and the IBAMA Implementation Agreement, and each of the Municipality Cooperation Agreements and State Cooperation Agreements in such a manner as to protect the interests of the Recipient and the Bank and to accomplish the purposes of the GEF Trust Fund Grant and, except as the Bank shall otherwise agree, the Recipient shall not assign, amend, abrogate, waive or fail to enforce the MMA Implementation Agreement or the IBAMA Implementation Agreement, or any of the Municipality Cooperation Agreements or State Cooperation Agreements or any provision thereof, or allow the Beneficiaries to assign, amend, abrogate, waive or fail to enforce their Revenue Generation Subproject Grant Agreement, Sustainable Use Subproject Grant Agreements or any provision thereof.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant and the Endowment Fund shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. The Recipient shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the Performance Indicators, the carrying out of Parts B.4 (a) (ii), C and E (a) of the Project, and the achievement of the objectives thereof, as well as its financial management responsibilities for all Parts of the Project financed by the GEF Trust Fund Grant;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, not later than twelve months after the Effective Date and every six months thereafter during the period of Project implementation, reports integrating the results of the evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of Parts B.4 (a) (ii), C and E (a) of the Project during the semester preceding the date of such reports and setting out the measures recommended to ensure the efficient carrying out of such Parts of the Project and the achievement of the objectives thereof during the semester following such date; and

(c) review with the Bank shortly after such reports' preparation, the reports referred to in paragraph (b) of this Section, 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 reports and taking into account the Bank's views on the matter.

Section 3.04. The Recipient shall, by September 30 of each year during Project implementation, prepare and furnish to the Bank, the proposed annual operating plan and budget, satisfactory to the Bank, detailing the Project activities for Parts B.4 (a) (ii), C and E (a) proposed to be carried out during the next succeeding year and the respective sources of funding therefore, all approved following the procedures of the Operational Manual.

Section 3.05. The Recipient shall carry out Parts B.4 (a) (ii), C and E (a) of the Project (other than the Endowment Fund) in accordance with a manual, satisfactory to the Bank, which shall include, *inter alia*, the requirements set forth in paragraph (d) of Schedule 6 to this Agreement.

Section 3.06. The Recipient shall issue a manual, satisfactory to the Bank, setting forth specific rules and procedures for the operation of the Endowment Fund including, *inter alia*, the Endowment Fund's:

- (a) governance structure;
- (b) financial structure and asset manager's role;
- (c) mechanisms to finance operational costs of Endowment Fund Eligible Protected Areas and preparation and implementation of the Management Plans related thereto;
- (d) the disbursement, auditing and reporting requirements, including those set forth in Section 3.07 of this Agreement;
- (e) the expenditures eligible for financing as operational costs of Endowment Fund Eligible Protected Areas;
- (f) the criteria for eligibility of Endowment Fund Eligible Protected Areas and institutional arrangements required therefor; and
- (g) monitoring and evaluation requirements.

In case of any conflict between the terms of this Agreement and those of the Endowment Fund Manual, the terms of this Agreement shall prevail.

Section 3.07. With respect to Part C.1 and C.2 of the Project:

(a) the Recipient shall deposit within the Endowment Fund all proceeds of the GEF Trust Fund Grant disbursed under Category (5) of the table in paragraph 1 of Schedule 1 to this Agreement. Once so deposited, said proceeds shall constitute part of the Endowment Fund's capital, be kept segregated from funds deposited by other donors into such fund, and shall be divided by the Recipient into:

- (i) a reserve in an amount satisfactory to the Bank, said amount to be used, in accordance with the criteria and procedures set forth in FUNBIO's Charter and in the Endowment Fund Manual, only for the purpose of covering shortfalls in investment income in a given year; and
- (ii) a fund to be invested by the Recipient so as to generate sufficient income to cover the recurrent costs associated with the operation and maintenance of Endowment Fund Eligible Protected Areas.

(b) The Endowment Fund's capital shall be invested by the Recipient through an internationally recognized financial manager employed in compliance with procedures acceptable to the Bank, and including those in Schedule 3 to this Agreement, acting under a contract, satisfactory to the Bank, between the Recipient and said manager, which contract shall require said manager to:

- (i) invest the Endowment Fund capital in accordance with the instructions issued by the Recipient and set forth in the Endowment Fund Manual;
- (ii) for each year of Project implementation, only release to the Recipient investment income derived from the Endowment Fund's capital (and a portion of the Endowment Fund's capital in case the use of such portion has been given prior explicit approval in writing by the Bank);
- (iii) not later than one month after the end of each semester in the relevant year of Project implementation, provide to the Recipient and the Bank bi-annual reports regarding management performance, capital value, asset allocation, and investment

income (including dividends) with respect to the Endowment Fund; and

- (iv) provide the Recipient with information required by the Recipient to comply with its obligations under Section 4.02 of this Agreement in respect of the Endowment Fund.

(c) The Recipient shall exercise its rights and carry out its obligations under the Asset Management Contract in such a manner so as to protect the interests of the Bank and to accomplish the purposes of the GEF Trust Fund Grant. Except as the Bank may otherwise agree, the Recipient shall not amend, waive or fail to enforce any provision of the Asset Management Contract. In case of any conflict between the terms of the Asset Management Contract and those of this Agreement, the terms of this Agreement shall prevail.

(d) The Recipient shall provide the Bank with plans for the use of the proceeds of the Endowment Fund (including a description of the procurement requirements for such use) for each year of the Project.

Section 3.08. Amounts released by the Asset Manager to the Recipient under Section 3.07 (b) (ii) of this Agreement shall be used for financing the recurrent costs of Endowment Fund Eligible Protected Areas, all as prescribed, *inter alia*, in this Agreement, the Endowment Fund Manual and each relevant Approved POA.

Section 3.09. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Recipient shall in respect of Parts B.4 (a) (ii), C and E (a) of the Project:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Bank, a plan for the future operation of Parts B.4 (a) (ii), C and E (a) of the Project; and

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

ARTICLE IV

Financial Conditions

Section 4.01. (a) The Recipient shall establish and thereafter maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project (including, as a separate item, the operations, financial condition, resources and expenditures of the Endowment Fund).

(b) The Recipient shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements), and the records and accounts for the Special Account and the Endowment Fund for each fiscal year audited, in accordance with auditing standards acceptable to the Bank, consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year: (A) certified copies of the financial statements referred to in paragraph (a) of this Section, and the Endowment Fund for such year as so audited; and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Bank may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Trust Fund Grant Account were made on the basis of statements of expenditure, the Recipient shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;

- (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (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.

Section 4.02. (a) Without limitation upon the Recipient's progress reporting obligations set out in Section 3.03 of this Agreement, the Recipient shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the GEF Trust Fund Grant, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Bank not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each Financial Monitoring Report shall be furnished to the Bank not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Bank

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

(a) MMA or IBAMA or INCRA or FUNAI shall have failed to perform any of their respective obligations under the MMA Implementation Agreement, the IBAMA Implementation Agreement, the INCRA Cooperation Agreement, or the FUNAI Cooperation Agreement;

(b) MMA shall have assigned, amended, abrogated or failed to enforce the MMA Implementation Agreement, the IBAMA Implementation Agreement, the INCRA Cooperation Agreement or the FUNAI Cooperation Agreement without the Bank's prior agreement;

(c) Any State or Municipality shall have failed to perform any of their respective obligations under the State Cooperation Agreement or Municipality Cooperation Agreement provided, however, that the suspension of the Recipient's right to make withdrawals from the GEF Trust Fund Grant Account may be limited by the Bank to withdrawals in respect of Project expenditures incurred or to be incurred by said State or Municipality;

(d) the SNUC Law or the Presidential Decree shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Recipient, MMA or IBAMA, to perform any of its obligations under this Agreement, the MMA Implementation Agreement, the IBAMA Implementation Agreement, the INCRA Cooperation Agreement, or the FUNAI Cooperation Agreement;

(e) the KFW Grant Agreement or the Brazil Connects Grant Agreement shall have failed to become effective by a date eighteen months after the Effective Date, or such later date as the Bank may agree; provided, however, that the provisions of this paragraph shall not apply if the Recipient or the FRB establish to the satisfaction of the Bank that adequate funds for the Project are available to the Recipient from other sources on terms and conditions consistent with the obligations of the Recipient under this Agreement;

- (f) (i) Subject to subparagraph (ii) of this paragraph, the right of the FRB or the Recipient, as the case may be, to withdraw the proceeds of the KFW Grant or the WWF Grant or the Brazil Connects Grant shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the KFW Grant Agreement or the WWF Grant Agreement or the Brazil Connects Grant Agreement; or
- (ii) Subparagraph (i) of this paragraph shall not apply if the Recipient or the FRB establish, to the satisfaction of the Bank that: (A) such suspension, cancellation, or termination is not caused by the failure of the Recipient or the FRB, as the case may be, to perform any of their respective obligations under such agreements; and (B) adequate funds for the Project are available to the Recipient or the FRB from other sources on terms and conditions consistent with the obligations of the Recipient under this Agreement or MMA under the MMA Implementation Agreement; and
- (g) the Recipient shall have modified its governance structure in such a manner that, in the Bank's opinion, it jeopardizes its ability to control the Endowment Fund and comply with the Project's obligations related to the Endowment Fund.

ARTICLE VI

Effectiveness; Termination

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

- (a) the MMA Implementation Agreement has been signed on behalf of the Recipient and MMA;
- (b) the IBAMA Implementation Agreement has been signed on behalf of the Recipient, IBAMA and MMA;
- (c) the PMU has been established and staffed in form and substance satisfactory to the Bank and in particular that the financial and procurement experts have been employed and trained to the satisfaction of the Bank;

(d) the PCU has been established and staffed, and the Program Committee and the Conflict Mediation Committee have been established;

(e) the Recipient, MMA and IBAMA have adopted the Operational Manual in form and substance satisfactory to the Bank;

(f) the Recipient has adopted the Endowment Fund Manual;

(g) the Recipient has strengthened its financial management system in a manner satisfactory to the Bank;

(h) the WWF Grant Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Recipient to make withdrawals thereunder, except only the effectiveness of the GEF Trust Fund Grant Agreement, have been fulfilled;

(i) the INCRA Cooperation Agreement and the FUNAI Cooperation Agreement have been executed on behalf of the respective parties thereto;

(j) the Recipient has furnished to the Bank terms of reference, satisfactory to the Bank, for the hiring of the auditors referred to in Section 4.01 (b) (i) of this Agreement; and

(k) the Presidential Decree has been enacted.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the two opinions to be furnished to the Bank, one on behalf of the Recipient and the other on behalf of MMA:

(a) for the Recipient: that the MMA Implementation Agreement and the IBAMA Implementation Agreement have been duly authorized or ratified by the Recipient;

(b) for MMA that:

(i) the MMA Implementation Agreement has been duly signed by MMA;

- (ii) the IBAMA Implementation Agreement has been duly signed by MMA and IBAMA;
- (iii) the INCRA Cooperation Agreement has been duly signed by INCRA, MMA and MDA; and
- (iv) the FUNAI Cooperation Agreement has been duly signed by FUNAI, MMA and MDJ; and

(c) that all said agreements are legally binding upon the parties thereto in accordance with said agreements' respective terms. The opinion on behalf of MMA regarding the MMA Implementation Agreement, the IBAMA Implementation Agreement, the INCRA Cooperation Agreement, and the FUNAI Cooperation Agreement shall be issued by: (i) each Ministry's respective counsel and counsel to FUNAI and INCRA; or (ii) counsel to MMA.

Section 6.03. The date January 24, 2003 is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.04. This Agreement shall continue in effect until the GEF Trust Fund Grant has been fully disbursed and the parties to this Agreement have fulfilled all their obligations hereunder.

ARTICLE VII

Representative of the Recipient; Addresses

Section 7.01. The Executive Director of the Recipient is designated as representative of the Recipient 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 Recipient:

Fundo Brasileiro para a Biodiversidade
Largo do IBAM 1 – 6° Andar
Rio de Janeiro, RJ
22271-070
Brazil

Facsimile:

(21) 2570829

For the Bank:

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

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (MCI)
64145 (MCI)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the city of Brasília, Brazil, as of the day and year first above written.

FUNDO BRASILEIRO PARA A BIODIVERSIDADE

By /s/ Pedro Wilson Leitão Filho

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
as an implementing agency of the Global Environment Facility

By /s/ Vinod Thomas

Acting Regional Vice President
Latin America and the Caribbean

SCHEDULE 1

Withdrawal of the Proceeds of the GEF Trust Fund Grant

1. The table below sets forth the Categories of items to be financed out of the proceeds of the GEF Trust Fund Grant, the allocation of the amounts of the GEF Trust Fund Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the GEF Trust Fund Grant Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Goods for Part E of the Project	150,000	100%
(2) Consultants' services for Parts A.3 (a), B.4 (a) (i), C.1, C.2, and E of the Project	3,900,000	100%
(3) Goods, works and Services for Sustainable Use Subprojects	2,000,000	100%
(4) Incremental Operating Costs	1,900,000	86%
(5) Deposits into the capital of the Endowment Fund	11,000,000	100%
(6) Special Services	1,500,000	100%
(7) Goods, works and services for Revenue Generation Subprojects	900,000	100%
(8) Unallocated	<u>1,350,000</u>	
TOTAL	<u>22,700,000</u> =====	

2. For the purposes of this Schedule:

(a) the term “Incremental Operating Costs” means recurrent incremental costs, that would not have been incurred absent the Project, associated with the implementation of the Project (other than Part D thereof) by the Recipient, the MMA and IBAMA including: (i) operation and maintenance of vehicles, repairs, fuel and spare parts; (ii) equipment and computer maintenance; (iii) office supplies; (iv) rent for office facilities; (v) utilities; (vi) travel and per diem costs for technical staff carrying out training, supervisory and quality control activities; and

(b) “Special Services” means the cost of services for demarcation of Protected Areas, reproduction of documents and printing, and for the logistical arrangement of seminars, workshops and consultation activities.

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

(a) payments made for expenditures prior to the date of this Agreement except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR1,132,000, may be made on account of payments made of expenditures within the twelve months immediately prior to the date of this Agreement, but after May 29, 2002;

(b) payments under Sustainable Use Subprojects and Revenue Generation Subprojects unless the respective: (i) draft Management Plan for the Protected Area where the Subproject will be carried out has been approved by the Bank; and (ii) Sustainable Use Subproject Grant Agreement or Revenue Generation Subproject Grant Agreement shall have been entered into between the parties thereto; and

(c) payments under Category (5) unless:

(i) the Asset Management Contract has been signed by the parties thereto; and

(ii) an amount at least equivalent to the amount to be disbursed from the GEF Trust Fund Grant Account has been deposited in the Endowment Fund by other donors.

4. The Bank may require withdrawals from the GEF Trust Fund Grant Account to be made on the basis of statements of expenditure for expenditures for, under such terms and conditions as the Bank shall specify by notice to the Recipient:

- (a) goods, Subprojects, Incremental Operating Costs and Special Services;
- (b) consultant firms under contracts costing less than \$100,000 equivalent;
and
- (c) individual consultants under contracts costing less than \$50,000 equivalent.

5. Without prejudice to the provisions of Part B of paragraph 6 of Schedule 4 to this Agreement, the Recipient shall promptly refund, and/or (in the case of the Endowment Fund) cause the Asset Manager to refund, to the Bank, the GEF Trust Fund Grant proceeds disbursed by the Bank, and the investment income generated by the Endowment Fund therefrom, in whole or in part, at the Bank's option, if:

(a) the Bank shall have determined at any time that any payment made from the GEF Trust Fund Grant Account (or from the investment income generated therefrom by the Endowment Fund) was used for any expenditure not consistent with the provisions of this Agreement and the Recipient has not remedied the situation to the satisfaction of the Bank after a period of 90 (ninety) days after notice thereof shall have been given by the Bank of the Recipient;

(b) the Bank shall have determined, at any time, that the Recipient shall have failed to perform any of its obligations under this Agreement and the Recipient has not remedied the situation to the satisfaction of the Bank after a period of 90 (ninety) days after notice thereof shall have been given by the Bank of the Recipient;

(c) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom by the Endowment Fund) were made: (i) in the territories of any country which is not a member of the Bank or for goods procured in, or services supplied from, such territories; or (ii) on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

(d) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom by the Endowment Fund) were made under a contract in respect of which the Bank determines that corrupt or fraudulent practices were engaged in by representatives of the Recipient, or of a beneficiary of the GEF Trust Fund Grant during the procurement or execution of such contract, without the Recipient having taken timely and appropriate action satisfactory to the Bank to remedy the situation.

6. Refunds to the Bank, of GEF Trust Fund Grant proceeds, made pursuant to paragraph 5 shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the provisions of this Agreement. Except for such portions thereof for which a refund to the Bank is required pursuant to the terms of this Agreement, the Recipient may keep in perpetuity funds disbursed to it under Category (5) of the table in paragraph 1 of this Schedule.

SCHEDULE 2

Description of the Project

The objective of the Project is to expand and consolidate the system of Protected Areas in the Amazon Region.

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

Part A: Creation of Sustainable Use Protected Areas and Strict Protection Protected Areas

Creation of approximately nine million hectares of Strict Protection Protected Areas and approximately nine million hectares of Sustainable Use Protected Areas, through, *inter alia*:

1. The collection of biological, social, and economic data in the Amazon Region and consolidation of such data, as needed to select Protected Areas, with updated satellite images.
2. The carrying out of environmental, social, and land tenure assessments as needed to establish Protected Areas, and implementation of consultations with stakeholders at the federal, state and municipal levels to discuss the proposed areas and related FRB's, State's or Municipality's decrees.
3. Upon enactment of each FRB, State or Municipality decree as the case may be, establishing a Protected Area:
 - (a) demarcation of the boundaries of the Protected Area in question; and
 - (b) carrying out of minimum pre-Management Plan activities such as land acquisition where needed, preparation of interim basic protection plans, and construction of essential infrastructure and purchase of essential equipment and hiring and training of essential personnel, for:
 - (i) the Sustainable Use Protected Area in question (if the relevant decree is for a Sustainable Use Protected Area); and

- (ii) the Strict Protection Protected Area in question (if the relevant decree is for a Strict Protection Protected Area),

as required to ensure that such Protected Areas are a reality on the ground, instead of just on paper, as a prelude to eventual full management planning therefor.

Part B: Consolidation of Strict Protection Protected Areas

Consolidation of the new Strict Protection Protected Areas established under Part A of the Project and of approximately seven million hectares of Strict Protection Protected Areas in existence since before Project implementation, including, *inter alia*:

1. With respect to said existing Strict Protection Protected Area demarcation and land regularizations, including land tenure assessments, baseline land registry surveys, ground surveys, private property infrastructure surveys, and mapping and acquisition of lands where needed and workshops to disseminate conflict resolution methods to settle boundary disputes between private landholders and Protected Areas.

2. Construction of infrastructure and the provision of emergency and communication and patrolling equipment and staffing, and preparation of Management Plans with respect to said new and said existing Strict Protection Protected Areas.

3. Implementation of approximately 20 Management Plans for the Strict Protection Protected Areas consolidated under Part B of the Project.

4. (a) (i) Establishment and/or operation of PA Management Councils and partnerships with non-governmental organizations (NGOs) for Strict Protection Protected Area management, among others; and

(ii) implementation of Sustainable Use Subprojects.

(b) Training of IBAMA staff, and staff of other agencies and communities involved in the management of Strict Protection Protected Areas, to strengthen their technical, administrative and financial management skills.

Part C: Long Term Sustainability of Protected Areas

1. Creation of the administrative, financial, and legal structure for the Endowment Fund, and development and implementation of a strategy for the capitalization of such Endowment Fund.

2. Carrying out of studies to evaluate financial mechanisms (such as ecotourism, fiscal incentives and royalties) for revenue generation in Protected Areas, to assess the viability of income generation activities in the buffer zones of Protected Areas, and to prepare subprojects (including Revenue Generation Subprojects) to apply any such mechanisms or activities.
3. Implementation of Revenue Generation Subprojects in Protected Areas and the buffer zones thereto.

Part D: Protected Area Monitoring

1. Establishment of a biodiversity monitoring system and analysis of new and existing Protected Areas. Such monitoring system would include information on: (a) biodiversity status (key indicator groups); (b) pressure on ecosystems (levels of threat); (c) water resources and climate; (d) island effects (levels of connectivity); and (e) management effectiveness.
2. Training activities for staff of Protected Areas (IBAMA and environmental agencies of States and Municipalities) on data collection and implementation of the biodiversity monitoring system, as well as dissemination activities aimed at preparing local communities to access, and to provide, information relevant to Protected Area monitoring.

Part E: Project Coordination and Management

Establishment and operation (including equipping) of: (a) the PMU; and (b) the PCU and Committees responsible, *inter alia*, for: (i) preparation of the Approved POAs; (ii) preparation of supervision reports and other Project reports; (iii) monitoring and evaluation of Project activities; and (iv) financial management and accountability.

* * *

The Project is expected to be completed by December 31, 2006.

SCHEDULE 3

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: General

Goods, works and services 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, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

Part B: Shopping

Goods for Part E of the Project and for Subprojects, and services for demarcation of Protected Areas, reproduction of documents and printing, shall 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 C: Procurement of Small Works

Works for Subprojects and for activities financed under the Endowment Fund shall be procured under lump-sum, fixed-price contracts awarded on the basis of quotations obtained from three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Bank, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work and who has the experience and resources to complete the contract successfully.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations for quotations, 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 the first two contracts for goods and works procured in accordance with the requirements of Parts B and C of this Section; the following procedures shall apply:

(a) prior to the selection of any supplier or contractor under shopping procedures, the Recipient shall provide to the Bank a report on the comparison and evaluation of quotations received;

(b) prior to the execution of any contract procured under shopping procedures (including small works), the Recipient shall provide to the Bank a copy of the specifications and the draft contract; and

(c) the procedures set forth in paragraphs 2 (f), 2 (g) 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

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto, and the following provisions of this Section.

Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of

the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provision shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph: the short list of consultants for services, estimated to cost less than \$200,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 and footnote 8 of the Consultant Guidelines.

Part C: Other Procedures

1. Least-cost Selection

Services for the development of a computer network, auditing and accounting not exceeding in the aggregate \$300,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications

Services for organization of workshops, monitoring, and legal studies under Part C of the project, not exceeding in the aggregate \$200,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Individual Consultants

Advisory services for the PMU and PCU for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines, and not exceeding in the aggregate \$3,200,000 equivalent, shall be procured under contracts awarded in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Bank of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Bank, for its review and approval, prior to the issuance to consultants of any requests for proposals. Such plan shall be updated every 6 months during the

execution of the Project, and each such updating shall be furnished to the Bank for its review and approval. Selection of all consultants' services shall be undertaken in accordance with such selection plan (as updated from time to time) as shall have been approved by the Bank.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the report on the comparison of the qualifications and experience of candidates, the qualifications, experience and the terms of reference and terms of employment of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultants' Guidelines shall also apply to such contracts.

(c) With respect to each contract for the employment of individual consultants estimated to cost less than the equivalent of \$50,000 but more than the equivalent of \$20,000, the terms of reference of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after said approval shall have been given.

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 Consultant Guidelines shall apply.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:
 - (a) the term “eligible Categories” means Categories (1), (2), (3), (4), (6) and (7) 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 GEF Trust Fund Grant 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 \$2,500,000 to be withdrawn from the GEF Trust Fund Grant Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.
2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.
3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:
 - (a) For withdrawals of the Authorized Allocation, the Recipient shall furnish to the Bank a request or requests for deposit into the 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 Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.
 - (b)
 - (i) For replenishment of the Special Account, the Recipient shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.
 - (ii) Prior to or at the time of each such request, the Recipient shall furnish to the Bank 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 Bank shall, on behalf of the

Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the GEF Trust Fund Grant 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 Recipient out of the Special Account, the Recipient shall, at such time as the Bank shall reasonably request, furnish to the Bank 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 Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Recipient directly from the GEF Trust Fund Grant 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 Recipient shall have failed to furnish to the Bank, 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 Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the GEF Trust Fund Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Category minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the GEF Trust Fund Grant Account of the remaining unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Category shall follow such procedures as the Bank shall specify by notice to the Recipient. Such

further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the 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 Bank, the Recipient shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

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

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

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

SCHEDULE 5

Provisions Regarding Management Plans, Subprojects for/or Affecting a Protected Area

No Management Plans or Subprojects in or affecting a Protected Area may involve or relate to:

- (a) investments in timber harvesting operations or in timber processing equipment (except with respect to plantations in non-forested areas, in heavily degraded forested areas, or in areas already planted; or except with respect to controlled, community based, sustained-yield forest management; but in no case commercial logging in areas of primary tropical moist forest);
- (b) investments in any road-related civil works or engineering;
- (c) mere consumption or transfer of ownership;
- (d) financing of debts and liabilities;
- (e) purchase or rental of land (except as may be financed with other than GEF Trust Fund Grant proceeds);
- (f) provision of welfare or other social assistance;
- (g) financing of any operating costs that would not have been incurred absent the Subproject;
- (h) activities relating to, or in preparation for, exploitation of any plant or animal species listed in the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) or in the FRB's list of threatened species, except that such activities may be carried out as part of a Plan or Subproject, with the prior approval of the Bank, if the individual plant or animal specimens in question: (i) are of a species not listed in CITES Appendix I or qualify as part of CITES Appendix II pursuant to CITES Article VII (4); (ii) qualify for the issuance of certificates pursuant to CITES Article VII (5) and are bred or propagated from parent specimens that also qualify for the issuance of such certificates; and (iii) are to be placed in trade or otherwise disposed of in a manner specifically approved by MMA and consistent with the terms of CITES and of FRB's law;

(i) use of pesticides that are formulated products within classes IA and IB of the World Health Organization's Recommended Classification of Pesticides by Hazard and Guidelines to Classification (Geneva: World Health Organization, 1994-95; hereinafter WHO Guidelines), or are formulations of products in Class II of the WHO Guidelines;

(j) reconversion out of shaded coffee or expansion of non-shaded coffee production;

(k) extensive livestock use in medium- or high-altitude areas;

(l) introduction or promotion of invasive species not native to the Protected Area in question;

(m) establishment, maintenance or expansion of timber plantations in forested areas (unless the forested areas in which such actions would take place are heavily degraded); and/or

(n) significant conversion or degradation of critical or other natural habitats (as such terms are defined in the Bank's June 2001 Operational Policy 4.04, Annex A, on natural habitats).

SCHEDULE 6

Terms and Conditions of the MMA Implementation Agreement, the IBAMA Implementation Agreement, the State Cooperation Agreements and the Municipality Cooperation Agreements

1. MMA Implementation Agreement

The MMA Implementation Agreement shall contain the following provisions:

- (a) MMA has satisfied itself as to the feasibility and priority of the Project and shall:
 - (i)
 - (A) carry out Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project with due diligence and efficiency and in conformity with administrative, financial, social and environmental standards and practices, as well as in conformity with the provisions of the GEF Trust Fund Grant Agreement, the Operational Manual, the Endowment Fund Manual, the Approved POA, the Resettlement Framework and the Indigenous Strategy;
 - (B) provide, promptly as needed, the funds, services and other resources required for Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project; and
 - (C) coordinate with IBAMA, INCRA, FUNAI and other national and international institutions to ensure that such institutions provide promptly as needed, the funds, services and other resources required for the implementation of the Resettlement Framework and the Indigenous Strategy; and
 - (ii) establish and maintain during Project implementation:
 - (A) a committee to oversee the implementation of the Project;
 - (B) a committee to provide policy and strategy guidance in the implementation of the Project;

- (C) a scientific panel to advise on the identification of new Protected Areas;
- (D) a unit to coordinate execution and monitoring of the Project; and
- (E) a committee to address social conflicts arising as a result of Project implementation,

all with responsibilities, structure, composition and functions agreed with the Bank.

(b) MMA shall:

- (i) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the Performance Indicators, the carrying out of Parts A, B, (other than B.4 (a) (ii) thereof), D and E (b) of the Project and the achievement of the objectives thereof;
- (ii) prepare, under terms of reference agreed with the Bank, and furnish to the Bank not later than one year after the Effective Date and every six months thereafter during the period of Project implementation, reports integrating the results of the evaluation activities performed pursuant to subparagraph (i) of this paragraph, on the progress achieved in the carrying out of such Parts of the Project during the semester preceding the date of such reports and setting out the measures recommended to ensure the efficient carrying out of such Parts of the Project and the achievement of the objectives thereof during the semester following such date; and
- (iii) review with the Bank shortly after such reports' preparation, the reports referred to in paragraph (ii) of this Section, and, thereafter, take all measures required to ensure the efficient completion of Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said reports and taking into account the Bank's views on the matter.

(c) MMA shall, by September 30 of each year during Project implementation, commencing September 30, 2003, prepare jointly with IBAMA, or the States and

Municipalities if applicable, and furnish to the Bank, the proposed annual operating plan and budget, agreed with the Bank, detailing the Project activities for Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) proposed to be carried out during the next succeeding year and the respective sources of funding therefor, all approved following the procedures of the Operational Manual.

(d) MMA shall carry out Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project in accordance with a manual, agreed with the Bank, said manual to include, *inter alia*:

- (i) the organizational structure of the Project, the procurement and financial requirements, and the procedures for the carrying out, monitoring and evaluation of the Project;
- (ii) criteria for the identification, creation and consolidation of Protected Areas;
- (iii) requirements for the preparation, approval and implementation of Management Plans, each such Management Plan to include the Protected Area's arrangements for, *inter alia*:
 - (A) environmental monitoring;
 - (B) buffer zone management and control;
 - (C) surveillance;
 - (D) administration and maintenance;
 - (E) infrastructure and equipment;
 - (F) staffing;
 - (G) institutional cooperation through partnerships, concession arrangements or other associations for the management of the Protected Area; and
 - (H) compensation for loss of livelihood;

- (iv) criteria for the selection of Beneficiaries and for the financing of Sustainable Use Subproject Grants and Revenue Generation Subproject Grants;
- (v) requirements for the selection, approval and implementation of Sustainable Use Subprojects and Revenue Generation Subprojects, including the environmental screening, evaluation, approval and monitoring procedures and those set forth in Schedule 5 to this Agreement;
- (vi) the model draft agreement for State Cooperation Agreements and Municipality Cooperation Agreements;
- (vii) the model draft agreement for Sustainable Use Subproject Grant Agreements and Revenue Generation Subproject Grant Agreements; and
- (viii) the Resettlement Framework and Indigenous Peoples Strategy.

In the case of any conflict between the terms of the GEF Trust Fund Grant Agreement and those of the Operational Manual, the terms of the GEF Trust Fund Grant Agreement shall prevail.

(e) MMA shall prepare and submit to the Bank for approval each draft Management Plan prior to its implementation under Part C of the Project.

(f) MMA shall enter into the IBAMA Cooperation Agreement, the State Cooperation Agreements and the Municipality Cooperation Agreements.

(g) MMA and MDJ shall enter into a cooperation agreement with FUNAI, under terms and conditions substantially in accordance with those in the Indigenous Peoples Strategy to set forth that MMA and FUNAI shall, in the event that the creation or consolidation of a Protected Area will affect Indigenous Peoples living in and around a Protected Area, comply with the requirements of the Indigenous Strategy and carry out the IAP as set forth therein.

(h) MMA and MDA shall enter into a cooperation agreement with INCRA, under terms and conditions substantially in accordance with those in the Resettlement Framework to set forth that MMA and INCRA shall, in the event that the creation or consolidation of a Protected Area will require the resettlement of Eligible Population, or affect the livelihood of Eligible Population living in or around a Protected Area, comply

with the requirements of the Resettlement Framework and carry out the Resettlement Plans as set forth therein.

(i) MMA, and MDA in the case of the INCRA Cooperation Agreement, and MDJ in the case of FUNAI Cooperation Agreement shall exercise their rights and comply with their respective obligations under the MMA Implementation Agreement, the IBAMA Implementation Agreement, each State Cooperation Agreement, each Municipality Cooperation Agreement, the INCRA Cooperation Agreement and the FUNAI Cooperation Agreement, in such a manner as to accomplish the objectives of the Project.

(j) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the PCU shall:

- (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Bank, a plan for the future operation of Parts A, B (other than B.4 (a) (ii) thereof), D and E (b) of the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with the said plan.

(k) MMA shall:

- (i) assist the Recipient in the procurement of the goods, works and services required for the Project in accordance with the provisions of the GEF Trust Fund Grant Agreement;
- (ii) use the goods and services procured by the Recipient on its behalf for the purposes for which they were purchased; and
- (iii) enable the Bank to visit the sites and review the records maintained for the Project.

(l) MMA shall enter into an agreement with each State and Municipality, substantially in accordance with the model draft agreements included in the Operational Manual, including those set forth in paragraphs 3 and 4 of this Schedule.

(m) The Recipient shall manage the GEF Trust Fund Grant proceeds for Parts A, B, D and E of the Project carried out by MMA and coordinate its execution.

2. IBAMA Implementation Agreement

The IBAMA Implementation Agreement will contain the following provisions:

(a) IBAMA shall comply *mutatis mutandis* with the obligations set forth in paragraphs (a) (i) and (ii) (A), (b) through (g) and (k) through (m) of paragraph 1 of this Schedule and in particular:

- (i) prepare, analyze and send to the PCU the Approved POAs for the existing Protected Areas to be consolidated;
- (ii) carry out technical studies in the proposed polygons before the creation of new Protected Areas approved in the Approved POAs;
- (iii) carry out the supervision of the consolidation of the management of existing FRB's Protected Areas approved in the Approved POAs; and
- (iv) use the amounts disbursed by the Recipient for financing the recurrent costs of Endowment Fund Eligible Protected Areas in accordance with the Endowment Fund Manual and each relevant Approved POA.

(b) The Recipient shall manage the GEF Trust Fund Grant proceeds for Parts A, B, D and E of the Project.

3. State Cooperation Agreement

Each State Cooperation Agreement shall contain the following provisions:

(a) The State shall comply *mutatis mutandis* with the obligations set forth in paragraphs (a) (i), (b) through (g) and (k) through (m) of paragraph 1 of this Schedule and enter into contractual arrangements or agreements with its agencies as needed to discharge its obligations under paragraph (a) (i) above.

(b) The Recipient shall manage the GEF Trust Fund Grant proceeds for Parts A, B, D and E of the Project.

4. Municipality Cooperation Agreement

Each Municipality Cooperation Agreement shall contain the following provisions:

(a) The Municipality shall comply *mutatis mutandis* with the obligations set forth in paragraphs (a) (i), (b) through (g) and (k) through (m) of paragraph 1 of this Schedule, and enter into contractual arrangements or agreements with its agencies as needed to discharge its obligations under paragraph (a) (i) above.

(b) The Recipient shall manage the GEF Trust Fund Grant proceeds for Parts A, B, D and E of the Project.

5. General

All agreements contemplated by this Schedule shall contain provisions that in case of any conflict of any provision of such agreements with the GEF Trust Fund Grant Agreement, the provisions of the GEF Trust Fund Grant Agreement will prevail.