

**CONFORMED COPY**

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**CREDIT NUMBER 3864-NEP  
GRANT NUMBER H074-NEP**

# **Development Financing Agreement**

**(Financial Sector Restructuring Project)**

**between**

**KINGDOM OF NEPAL**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated June 10, 2004**

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**CREDIT NUMBER 3864-NEP**  
**GRANT NUMBER H074-NEP**

## **DEVELOPMENT FINANCING AGREEMENT**

AGREEMENT, dated June 10, 2004, between KINGDOM OF NEPAL (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

(B) the Project will be carried out by Nepal Rastra Bank (NRB), with the Borrower's assistance and, as part of such assistance, the Borrower will make the proceeds of the credit (the "Credit") and the proceeds of the grant (the "Grant") provided for in Section 2.01(a) and Section 2.01(b), respectively, of this Agreement available to NRB, as set forth in this Agreement; and

(C) the Borrower and the Association intend, to the extent practicable, that the proceeds of the Grant be disbursed on account of expenditures in respect of the Project before disbursements of the proceeds of the Credit are made;

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

NOW THEREFORE the parties hereto hereby agree as follows:

### **ARTICLE I**

#### **General Conditions; Definitions**

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through October 6, 1999), with the modifications set forth in Schedule 4 to this Agreement (the General Conditions), constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective

meanings therein set forth and the following additional terms have the following meanings:

(a) “Beneficiary Banks” means, collectively, Nepal Bank Limited and Rastriya Banijya Bank collectively;

(b) “Commercial Bank Act” means the Borrower’s Commercial Bank Act, 1974, as amended, or any subsequent statute enacted by the Borrower;

(c) “Coordination Support Team” and “CST” means the team of staff and officials to be maintained within Nepal Rastra Bank’s Operations Department, which shall be responsible for implementing the Project on behalf of Nepal Rastra Bank;

(d) “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 Financing allocated from time to time to the Eligible Categories in accordance with the provisions of Schedule 1 to this Agreement;

(e) “Financial Monitoring Report” means each report prepared in accordance with Section 3.02 of the Project Agreement;

(f) “Fiscal Year” and “FY” means the fiscal year of the Borrower commencing on or about mid-July of a calendar year and ending on or about mid-July of the following calendar year;

(g) “FSSS” means the Borrower’s Financial Sector Strategy Statement published in 2000;

(h) “FSTA Project” means the Financial Sector Technical Assistance Project described in Schedule 2 to the Development Credit Agreement No. 3727 NEP, signed between the Borrower and the Association on April 30, 2003;

(i) “Nepal Bank Limited” and “NBL” means the Nepal Bank Limited established under the Companies Law of Nepal, as amended, and further operating pursuant to the Commercial Bank Act;

(j) “Nepal Rastra Bank” and “NRB” means the Borrower’s central bank operating under the Nepal Rastra Bank Act;

(k) “Nepal Rastra Bank Act” means the Borrower’s Nepal Rastra Bank Act, 2002 as amended from time-to-time, under which the Nepal Rastra Bank has been established and operates as the Borrower’s central bank;

(l) “Nepalese Rupee” and the sign “NRs.” mean the lawful currency of the Borrower;

(m) “NRB Subsidiary Financing Agreement” means the agreement to be entered into between the Borrower and Nepal Rastra Bank pursuant to the provisions of Section 3.01 (d) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the NRB Subsidiary Financing Agreement;

(n) “Operations Department” means the Banks and Financial Institutions Regulation Department of Nepal Rastra Bank;

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

(p) “Rastriya Banijya Bank” and “RBB” means the Rastriya Banijya Bank operating pursuant to the Commercial Bank Act;

(q) “RBB, NBL Subsidiary Financing Agreement” means the agreement to be entered into between the Nepal Rastra Bank and the Beneficiary Banks pursuant to Section 3.01 (e) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the RBB, NBL Subsidiary Financing Agreement;

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

(s) “Supervision Department” means the Financial Institution Supervision Department and the Bank Supervision Department of Nepal Rastra Bank; and

(t) “VRS” means Voluntary Retirement Scheme.

## **ARTICLE II**

### **The Financing**

Section 2.01. The Association agrees to make available to the Borrower, on the terms and conditions set forth or referred to in this Agreement:

(a) an amount in various currencies equivalent to forty seven million six hundred thousand Special Drawing Rights (SDR47,600,000) (the Credit); and

(b) an amount in various currencies equivalent to four million nine hundred thousand Special Drawing Rights (SDR4,900,000) (the Grant).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account and the amount of the Grant may be withdrawn from the Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project, and amounts paid (or, if the Association shall so agree, to be paid) under Severance Payments, and to be financed out of the proceeds of the Financing.

(b) The Borrower may, for the purposes of the Project, open and maintain in Dollars a special deposit account in Nepal Rastra Bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be September 30, 2009, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

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

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

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

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

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

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each February 15 and August 15, commencing August 15, 2014, and ending February 15, 2044. Each installment up to and including the installment payable on February 15, 2024 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita Gross National Product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by:

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six (6) months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five (5) years on such repayment of principal.

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

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

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

### **ARTICLE III**

#### **Execution of the Project**

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under the Development Financing Agreement, shall cause the Nepal Rastra Bank to perform in accordance with the provisions of the Project Agreement all the obligations of the Nepal Rastra Bank therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable the Nepal Rastra Bank to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall re-lend in the same currencies the proceeds of the Financing to the Nepal Rastra Bank under NRB Subsidiary Financing Agreement to be entered into between the Borrower and the NRB.

(c) The Nepal Rastra Bank shall further re-lend in the same currencies portion of the proceeds of the Financing to the Beneficiary Banks under RBB, NBL Subsidiary Financing Agreement, all under terms and conditions which shall be satisfactory to the Association.

(d) Without any limitation or restriction upon any of its other obligations under this Agreement, the Borrower shall cause NRB to perform in accordance with the provisions of the Project Agreement all the obligations of NRB therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable NRB to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

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

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods and consultants' services required for the Project and to be financed out of the



proceeds of the Financing shall be governed by the provisions of Schedule 1 to the Project Agreement.

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

Section 3.04. The Borrower shall cause NRB to take, all necessary legal, administrative and procedural measures, satisfactory to the Association, to ensure its effective control of the Nepal Bank Limited until the completion of its restructuring process aimed at improving prospects for its privatization, which shall include fit and proper strategic investor(s).

## **ARTICLE IV**

### **Financial Covenants**

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect its operations, resources and expenditures related to the Project.

(b) The Borrower shall:

- (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Association), audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or such other period agreed to by the Association), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and
- (iii) furnish to the Association such other information concerning such records, accounts and the audit of such financial statements,

and concerning said auditors, as the Association may from time to time reasonably request.

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

- (i) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Financing Accounts was made;
- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such statements of expenditure are included in any audit that the Association may have requested pursuant to paragraph (b) of this Section.

## **ARTICLE V**

### **Remedies of the Association**

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

- (a) NRB shall have failed to perform any of its obligations under the Project Agreement;
- (b) as a result of events which have occurred after the date of the Development Financing Agreement, an extraordinary situation shall have arisen which shall make it improbable that NRB will be able to perform its obligations under the Project Agreement;
- (c) the Nepal Rastra Bank Act shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of NRB to perform any of its obligations under the Project Agreement or the NRB Subsidiary Financing Agreement;
- (d) the Commercial Bank Act shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Beneficiary Banks to perform any of their obligations under the RBB, NBL Subsidiary Financing Agreement; and

(e) failure to submit in a timely manner, satisfactory and acceptable to the Association, audited financial statements for the Financial Sector Technical Assistant Project for the Fiscal Year ended on July 14, 2003.

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

(a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Association to the Borrower; and

(b) the events specified in paragraphs (b), (c) and (d) of Section 5.01 of this Agreement shall occur.

## **ARTICLE VI**

### **Effective Date; Termination**

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

(a) the NRB Subsidiary Financing Agreement has been executed on behalf of the Borrower and NRB; and

(b) the RBB, NBL Subsidiary Financing Agreement has been executed on behalf of the NRB of one part, and the Beneficiary Banks of the second part .

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

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

(b) that NRB Subsidiary Financing Agreement has been duly authorized or executed by the Borrower and NRB and is legally binding upon the Borrower and NRB in accordance with its terms; and

(c) that RBB, NBL Subsidiary Financing Agreement has been duly authorized or executed by NRB and the Beneficiary Banks and is legally binding upon NRB and the Beneficiary Banks in accordance with its terms.

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

## **ARTICLE VII**

### **Representative of the Borrower; Addresses**

Section 7.01. The Secretary, Ministry of Finance of the Borrower, is designated as the representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

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

For the Borrower:

Ministry of Finance  
Singha Durbar  
Kathmandu  
Nepal

Facsimile:

(977-1) 4259-891

For the Association:

International Development Association  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

Telex:

Facsimile:

INDEVAS  
Washington, D.C.

248423 (MCI) or  
64145 (MCI)

(202) 477-6391

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

KINGDOM OF NEPAL

By /s/ Bhanu Prasad Acharya  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Kenichi Ohashi  
Country Director  
Nepal

## SCHEDULE 1

### Withdrawal of the Proceeds of the Financing

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Financing, the allocation of the amounts of the Credit and the amounts of the 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<br/>Credit Allocated<br/>(Expressed in<br/>SDR Equivalent)</u> | <u>Amount of the<br/>Grant Allocated<br/>(Expressed in<br/>SDR Equivalent)</u> | <u>% of<br/>Expenditures<br/>to be Financed</u>   |
|------------------------------|---|--|---|
| (1) Severance<br>payments    | 39,250,000  | 0  | 100% of<br>amounts<br>disbursed   |
| (2) Goods                    | 2,780,000   | 0  | 100% of foreign<br>expenditures; 100%<br>of local expenditures<br>(ex-factory cost)<br>and 85% of local<br>expenditures for other<br>items procured locally |
| (3) Consultants'<br>services | 4,170,000   | 4,900,000  | 85%   |
| (4) Unallocated              | 1,400,000   | 0  |   |
| TOTAL                        | <u>47,600,000</u><br>=====  | <u>4,900,000</u><br>=====  |   |

2. For the purposes of this Schedule:

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

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

(c) the term "Severance Payments" means payments made by the Beneficiary Banks, to their employees who will seek voluntary retirement as a result of the proposed restructuring of the Beneficiary Banks, such payment shall not include provident fund payment, encashment of leave and medical benefits.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR18,360,000, may be made on account of payments made for expenditures before that date but after September 1, 2003; and

4. The Association may require withdrawals from the Credit Account and the Grant Account to be made on the basis of statements of expenditure for expenditures for: (i) goods estimated to cost less than \$200,000 equivalent per contract; (ii) services of consulting firms under contracts costing less than \$100,000 equivalent per contract; (iii) services of individual consultants under contracts costing less than \$25,000 equivalent per contract; and (iv) Severance Payments, all under such terms and conditions as the Association shall specify by notice to the Borrower.

## **SCHEDULE 2**

### **Description of the Project**

The objectives of the Project are to assist the Borrower in: (i) sustaining and deepening the on-going efforts to develop a healthier financial sector initiated by the Borrower in 2003 under the Financial Sector Technical Assistance Project (FSTA Project) and in line with the Borrower's medium term vision as enunciated in the FSSS; (ii) further strengthening the Nepal Rastra Bank for it to effectively perform its central banking functions; and (iii) restructuring the Beneficiary Banks to improve their prospects for privatization, which shall include fit and proper strategic investor(s).

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

#### Part A: Voluntary Retirement Scheme (VRS)

1. Implementation of Voluntary Retirement Scheme to right-size staffing levels at the Beneficiary Banks including the payments of severance for approximately 4,700 staff seeking voluntary retirement.

#### Part B: Hiring of Sales Advisors

1. Provision of consultants' services for the hiring of a sales adviser to assist in privatization the Beneficiary Banks, which shall include fit and proper strategic investors.

#### Part C: Second Phase of Nepal Rastra Bank (NRB) Reengineering

1. Strengthening Nepal Rastra Bank's human resource management capabilities through the following measures:

- (a) adopt a new simplified organizational structure;
- (b) assist in implementing Nepal Rastra Bank's new human resource policies which emphasize merit-based advancement criteria; and
- (c) further development and implementation of the training plan, designed under FSTA Project, for continuous professional development of Nepal Rastra Bank's staff.



2. Supporting Nepal Rastra Bank's accounting reform through the following measures:

- (a) revise existing Accounting Manual consistent with International Accounting Standards (IAS); and
- (b) provision of consultants' services to assist in developing NRB's accounts to be compatible with IAS.

3. Further strengthening Nepal Rastra Bank's supervisory and regulatory capacity with respect to banks and non-banking financial institutions through the following measures:

- (a) enhancing technical and physical support for the work of the Nepal Rastra Bank's Supervision Department, through the provision of desk top computers and lap top computers;
- (b) provision of consultants' services to assist with on-the-job training during the two-year examination cycle of all Borrower's commercial banks; and
- (c) conducting classroom training for professional development of Nepal Rastra Bank's staff in the area of bank supervision, computing, and report writing, all consistent with international standards.

4. Strengthening information technology solutions for Nepal Rastra Bank.

Part D: Management Team Support

Provision of consultants' services to maintain the Beneficiary Banks under professional management from the end of the third year of the Management Team contracts through to full privatization of said Banks.

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The Project is expected to be completed by March 31, 2009.

### **SCHEDULE 3**

#### **Special Account**

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means Categories (1), (2), and (3) 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, services, Severance Payments required for the Project and to be financed out of the proceeds of the Financing 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 four million Dollars (\$4,000,000) to be withdrawn from the Credit Account or the Grant Account and deposited into the Special Account pursuant to paragraph 3(a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to two million Dollars (\$2,000,000) until the aggregate amount of withdrawals from the Credit Account and the Grant Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR5,000,000.

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 Association 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 Borrower shall furnish to the Association 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 Association shall, on behalf of the Borrower, withdraw from the Credit Account or the Grant Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

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

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence

required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account or the Grant Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account or the 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 Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

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

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account or the 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 Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b)(ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account and the Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

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

Thereafter, withdrawal from the Credit Account and the Grant Account of the remaining unwithdrawn amount of the Credit and the Grant allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such

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

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

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

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

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

## **SCHEDULE 4**

### **Modifications of General Conditions**

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

1. Section 1.01 is amended to read:

“These General Conditions set forth certain terms and conditions generally applicable to development financing granted by the Association as a development credit and development grant to its members. They apply to any development financing agreement providing for any such development finance to the extent and subject to any modifications set forth in such agreement.”

2. Paragraph 8 of Section 2.01 is amended to read as follows:

“8. “Development Financing Agreement” means the particular Development Financing Agreement to which these General Conditions apply, as such agreement may be amended from time to time. Development Financing Agreement includes these General Conditions as applied thereto, and all schedules and agreements supplemental to the Development Financing Agreement.”

3. The following new paragraphs are added to Section 2.01:

“15. “Grant” means the development grant provided for in the Development Financing Agreement.”;

16. “Grant Account” means the account opened by the Association on its books in the name of the Borrower to which the amount of the Grant is credited.”;

17. “Financing” means, collectively, the Credit and the Grant.

18. “Financing Accounts” means, collectively, the Credit Account and the Grant Account (or, where the context so requires, either of the Credit Account or the Grant Account).”

4. The term “Credit”, wherever used in the following Articles and Sections of the General Conditions, is amended to read “Financing”: Sections 2.01(3), 2.01(12), 4.01, Article V, Article VI (excluding Section 6.05), Section 7.01(d), Article VIII, and Article IX.

5. The term “Credit Account”, wherever used in the following Articles and Sections of the General Conditions, is amended to read “Financing Accounts”: Section 2.01(6), 4.01, Article V, Article VI, and Section 12.03.

6. The term “Development Credit Agreement”, wherever used in the General Conditions, is amended to read the Development Financing Agreement.

7. Section 3.01 is modified to read as follows:

“Section 3.01. *Financing Accounts.* The amount of the Credit shall be credited to the Credit Account and may be withdrawn from the Credit Account by the Borrower as provided in the Development Financing Agreement and in these General Conditions. The amount of the Grant shall be credited to the Grant Account and may be withdrawn from the Grant Account by the Borrower as provided in the Development Financing Agreement and in these General Conditions.”

8. The phrase “(including any development financing agreement or development grant agreement)” is added to Section 6.02(a)(ii) after the words “any development credit agreement” and before the words “between the Borrower and the Association”, to Section 6.02(c)(i) after the words “any development credit agreement” and before the words “with the Association”, and to Section 7.01(b)(i) after the words “any other development credit agreement” and before the words “between the Borrower and the Association”:

9. Section 6.05 is amended to read as follows:

“Except as the Borrower and the Association shall otherwise agree, any cancellation of any amount of the Credit shall be applied *pro rata* to the several installments of the principal amount of the Credit maturing after the date of such cancellation.”