

Public Disclosure Authorized

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**CREDIT NUMBER 3968-AF**

# **Development Credit Agreement**

**(Afghanistan Investment Guarantee Facility)**

**between**

**ISLAMIC REPUBLIC OF AFGHANISTAN**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated August 4, 2004**

Public Disclosure Authorized



**CREDIT NUMBER 3968-AF**

**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated August 4, 2004, between the ISLAMIC REPUBLIC OF AFGHANISTAN (the Borrower) and the 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 the Multilateral Investment Guarantee Agency (MIGA) under a framework agreement between the Borrower and MIGA (that agreement, the Framework Agreement) and in accordance with MIGA's Operational Rules as set out in Annex II to the Framework Agreement (the Operational Rules); and

(C) the Borrower intends to obtain financing from various other donors, including the Asian Development Bank (ADB) and the Department for International Development (DFID) for MIGA to carry out the Project, and the Association intends to enter into an agreement with these donors to regulate certain matters of common interest regarding the financing (that agreement, the Participation Agreement);

WHEREAS, the Association has agreed, on the basis, among other things, of the foregoing, to extend the Credit to the Borrower 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. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through May 1, 2004) (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) "ADB Loan Agreement" means the loan agreement between ADB and the Borrower under which ADB assists in financing this Project;

(b) “Claim” means the amount claimed by an Eligible Investor under a Guarantee Contract;

(c) “Covered Risks” means the risks specified in the Facility’s Operational Rules and defined in the Guarantee Contract;

(d) “Critical Imports” means the critical imports of the Borrower to be financed out of the proceeds of the Unwithdrawn Facility Amount, in accordance with Section 3.03 and paragraph C of Schedule 3 to this Agreement;

(e) “Critical Imports Account” means an account to be opened by the Borrower at such time as after the Facility has been fully implemented and all guarantee commitments have expired or been cancelled in accordance with the provisions of the Framework Agreement, into which the Unwithdrawn Facility Amount shall be credited in accordance with the Framework Agreement for the purpose of financing Critical Imports;

(f) “Eligible Investment” means a transaction in the Borrower’s territory that is eligible under the Operational Rules to receive political risk insurance for Covered Risks through a Guarantee Contract;

(g) “Eligible Investor” means a person or entity eligible under the Operational Rules to seek and obtain political risk insurance for Covered Risks associated with an Eligible Investment to be carried out by that person or entity;

(h) “Environmental and Social Safeguards Framework” means environmental and social safeguard policies, environmental guidelines, and environmental and social review procedures, specified in the Framework Agreement applicable to the Facility (as this term is hereinafter defined);

(i) “Facility” means the Afghanistan Investment Guarantee Facility, organized and established as a MIGA Trust Fund and operated by MIGA in accordance with the Framework Agreement to provide political risk insurance for Covered Risks associated with Eligible Investments;

(j) “Facility Account” means the trust fund account to be set up and operated by MIGA under Section 2.02 (b) of this Agreement;

(k) “Framework Agreement” means the agreement between the Borrower and MIGA relating to the Facility’s management, administration, and operations;

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

(m) “Guarantee Contract” means the Contract of Guarantee between MIGA and an Eligible Investor by which MIGA provides political risk insurance for Covered Risks associated with an Eligible Investment;

(n) “Host Country Approval” means the Borrower’s approval for a Guarantee Contract to be issued by MIGA under Article 15 of the MIGA Convention;

(o) “MIGA Convention” means the Convention Establishing the Multilateral Investment Guarantee Agency dated October 11, 1985;

(p) “Ministry of Finance” means the Borrower’s Ministry of Finance or any successor entity thereto acceptable to the Association;

(q) “Participation Agreement” means the participation agreement entered into among the Association, ADB, DFID and any other donor who provides financing for the Facility, regarding matters of common interest; and

(r) “Unwithdrawn Facility Amount” means the amount of the Credit remaining unwithdrawn from the Facility Account and any interest and premium income remaining after the Facility has been fully implemented in accordance with the Framework Agreement.

## **ARTICLE II**

### **The Credit**

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to three million five hundred thousand Special Drawing Rights (SDR 3,500,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or if the Association shall so agree, to be made) in respect of Guarantee Contracts issued or to be issued by MIGA under the Facility and to be supported by the proceeds of the Credit.

(b) MIGA shall open and maintain in United States dollars, in trust and on behalf of the Borrower, a separate account (the “Facility Account”) on terms and conditions satisfactory to the Association.

(c) Deposits into, and payments out of, the Facility Account shall be made in accordance with the provisions of Schedule 4 to this Development Credit Agreement and any special instructions and procedures issued from time to time by the Association.

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

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

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

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

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 15 and December 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 semiannual installments payable on each June 15 and December 15 commencing December 15, 2014 and ending June 15, 2044. Each installment to and including the installment payable on June 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 months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

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

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

Section 2.08. (a) The Executive Vice President of MIGA or any person or persons whom the Executive Vice President shall designate in writing is or are designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 (a) of this Agreement, Article V of the General Conditions, and the provisions of the Framework Agreement.

(b) Without limitation or restriction to the foregoing, the Borrower hereby entrusts MIGA with responsibility for preparing and delivering withdrawal applications under the Credit and for collecting documents and other evidence to be furnished to the Association in support of such applications.

Section 2.09. 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, shall carry out the Project, through MIGA, with due diligence and efficiency and in conformity with the Framework Agreement, the Operational Rules, and the Environmental and Social Safeguards Framework and appropriate administrative and financial practices.

(b) Without limitation or restriction upon its obligations under the Development Credit Agreement, the Borrower shall take all actions, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable MIGA to perform all its obligations under the Framework Agreement and the Operational Rules or any other applicable legal agreement. The Borrower shall not take or permit to be taken any action which would prevent or interfere with such performance.

Section 3.02. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan designed to ensure the continued achievement of the Project's objectives; and

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

Section 3.03. (a) The Borrower shall, after the Facility has been fully implemented (including if at the Closing Date no guarantees have been issued) and all guarantee commitments have expired or been cancelled in accordance with the provisions of the Framework Agreement, be entitled to withdraw the Unwithdrawn Facility Amount from the Facility Account for the purposes of financing Critical Imports, subject to the provisions of this Section 3.03 and paragraph C of Schedule 3 to this Agreement.

(b) The Borrower undertakes that the Unwithdrawn Facility Amount shall be used to finance Critical Imports and shall not be used to finance expenditures excluded pursuant to the provisions of paragraph C.2 of Schedule 3 to this Agreement. If the Association shall have determined at any time that the Unwithdrawn Facility Amount shall have been used to make a payment for an expenditure so excluded, the Borrower shall, promptly upon notice from the Association, pay such amount to the Association or apply such amount as agreed with the Association. Amounts paid to the Association upon such request shall be applied by the Association as a refund of the Credit.



## ARTICLE IV

### Financial Covenants

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

- (b) The Borrower shall cause MIGA to:
  - (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 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 and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations in Schedule 3, the Borrower shall cause MIGA to prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, 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 Credit, and explains variances between the actual and planned uses of such funds; and
- (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.

(b) The first Financial Monitoring Report shall be furnished to the Association not later than 45 days after the end of the second calendar quarter after the Effective Date, and shall cover the period from the first draw down of the Credit through the end of such second calendar quarter; thereafter, each Financial Monitoring Report shall be furnished to the Association not later than 45 days after each subsequent six months, and shall cover such period.

## **ARTICLE V**

### **Other Covenants**

Section 5.01. The Borrower shall cause MIGA to carry on the Facility's operations and conduct the Facility's affairs in accordance with sound administrative, financial and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

## **ARTICLE VI**

### **Remedies of the Association**

Section 6.01. Pursuant to Section 6.02(1) of the General Conditions, the following additional events are specified, namely that:

(a) MIGA shall have failed to perform any of its obligations under the Framework Agreement or those undertaken by the Borrower, on MIGA's behalf, under this Agreement;

(b) as a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that MIGA will be able to perform its obligations under the Framework Agreement or the Operational Rules;

(c) the Facility's legal or operational status shall have been changed or modified so as to affect materially and adversely MIGA's ability to carry out the Project; and

(d) the Borrower or any other authority having jurisdiction shall have taken any action for the dissolution, disestablishment, or winding-up of the Facility or for the suspension of its operations.

Section 6.02. Pursuant to Section 7.01(h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraphs (a), (b) and (c) of Section 6.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower; and

(b) the event specified in paragraph (d) of Section 6.01 of this Agreement shall occur.

## **ARTICLE VII**

### **Effective Date; Termination**

Section 7.01. 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) the Framework Agreement and the Operational Rules have been duly authorized, executed, and ratified by MIGA and the Borrower, and are legally binding on the two parties in accordance with their terms;

(b) the Participation Agreement has been duly authorized, executed, and ratified by all the parties to it, and is legally binding on them in accordance with its terms;

(c) the ADB Loan Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Borrower to make withdrawals thereunder, except only the effectiveness of this Agreement, have been fulfilled;

(d) appropriate arrangements, satisfactory and acceptable to the Association, have been made to finance the Facility's administrative, consulting, and implementation costs; and

(e) separate legal opinions from counsel to MIGA, ADB and other co-financiers, respectively, which are satisfactory to the Association and provided by counsel acceptable to the Association, declaring that all legal agreements relating to this Project to which they are parties have been duly authorized, executed, and ratified on their behalf and are legally binding upon the Borrower in accordance with its terms.

Section 7.02. The date one hundred twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

## **ARTICLE VIII**

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

Section 8.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance  
Kabul  
Islamic Republic of Afghanistan

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 the District of Columbia, United States of America, as of the day and year first above written.

ISLAMIC REPUBLIC OF AFGHANISTAN

By /S/ Said Tayeb Jawad

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /S/ Alastair McKechnie

Authorized Representative

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Credit**

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

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Guarantee contracts	3,500,000	100%
<b>TOTAL</b>	<u>3,500,000</u> =====	

2. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures in respect of Guarantee Contracts issued by MIGA under the Facility prior to the date of this Agreement.

## **SCHEDULE 2**

### **Description of the Project**

The Project's objective is to assist the Borrower's reconstruction efforts to attract foreign investments by supporting the establishment of the Facility for the provision of political risk insurance through the issuing of Guarantee Contracts.

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

#### Support for Facility's Guarantee Operations

Financial support for the Facility to issue Guarantee Contracts for Eligible Investments.

\* \* \*

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

### SCHEDULE 3

#### Implementation Program

A. *Overall Project Management*

The Borrower shall cause MIGA to carry out the Project in accordance with the Framework Agreement, the Operational Rules, the Environmental and Social Framework, and the Participation Agreement and except as the Association shall otherwise agree, the Borrower shall not, and shall not cause MIGA to, amend, vary, or waive the Framework Agreement, the Operational Rules, or the Environmental and Social Framework if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the carrying out of the Project or the achievement of the objectives thereof.

B. *Guarantee Contracts*

1. The Borrower shall cause MIGA to:

(a) ensure that an application for political risk insurance from Eligible Investors satisfies the following criteria before a Guarantee Contract is issued:

(i) the underlying transaction does not involve goods which are intended for a military or paramilitary purpose or for luxury consumption or are included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Borrower:

<u>Group</u>	<u>Sub-group</u>	<u>Description of Items</u>
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors
728.43	-	Tobacco processing machinery

(ii) it complies with the Environmental and Social Safeguard Framework;

(iii) it serves a productive purpose by virtue of financing goods to be used for production by enterprises in the territory of the Borrower or for enhancing the production capacity of such enterprises;

(iv) its maturity is consistent with the production cycle or repayment capacity of the enterprise in the territory of the Borrower which receives the goods; and

(v) its value is not less than the amount specified in the Operational Rules, if any;

(b) ensure, prior to issuing a Guarantee Contract, that on the relevant date the maximum amount of such Guarantee Contract when added to the contingent liability under all the other outstanding Guarantee Contracts held by the Eligible Investor, does not exceed the sum specified in that respect in the Operational Rules;

(c) notify the Association of any notice of a potential Claim filed by an Eligible Investor under a Guarantee Contract, investigate whether the events giving rise to the alleged Claim can be remedied, and, if so, use its best efforts to remedy or seek to remedy the same in a timely manner;

(d) determine a Claim by and payment of compensation to an Eligible Investor in accordance with the relevant provisions of the Guarantee Contract and notify the Association of the determination made;

(e) for all Guarantee Contracts issued by MIGA or for any payments for Covered Claims under a Guarantee Contract, on the Borrower's behalf, from the Facility Account, to furnish to the Association those documents, information, and other evidence, which the Association shall reasonably request, relating to an Eligible Investment and its underlying transactions covered by the Guarantee Contract, including any due diligence prepared by MIGA in order to issue the Guarantee Contract; and

(f) ensure that the amounts requested for withdrawal from the Credit proceeds reflect the pro-rata contribution of the Association to the Facility in accordance with the provisions of the Participation Agreement.

2. The Borrower shall ensure that MIGA does not enter into any Guarantee Contracts under the Facility after the Closing Date.

3. The Borrower shall cooperate with, and assist MIGA to issue Guarantee Contracts in accordance with the provisions of the Framework Agreement, the Operational Rules, and the Participation Agreement.



4. The Borrower shall not unreasonably withhold its approval under Article 15 of the MIGA Convention for Guarantee Contracts to be issued by MIGA.

C. *Financing Critical Imports*

1. No withdrawal of the Unwithdrawn Facility Amount shall be made unless the Association is satisfied: (i) that a Critical Imports Account has been opened by the Borrower in a commercial bank on terms and conditions satisfactory to the Association; and (ii) that audit costs that may be required under sub-paragraph C.3 below are budgeted for as part of the expenditures to be financed by the Unwithdrawn Facility Amount.

2. For purposes of Section 3.03 (b) of this Agreement, the Unwithdrawn Facility Amount shall not be used to finance any of the following expenditures:

(a) expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the International Bank for Reconstruction and Development (the Bank) or the Association shall have financed or agreed to finance, or which the Association or the Bank shall have financed or agreed to finance under another credit, loan or grant;

(b) expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Borrower:

<u>Group</u>	<u>Subgroup</u>	<u>Description of Items</u>
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials

<u>Group</u>	<u>Subgroup</u>	<u>Description of Items</u>
667	-	Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971	-	Gold, non-monetary (excluding gold ores and concentrates)

(c) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

(d) expenditures for environmentally hazardous goods (for purposes of this paragraph the term "environmentally hazardous goods" means goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party;

(e) expenditures 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

(f) expenditures under a contract in respect of which the Association determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a

beneficiary of the Credit during the procurement or execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Association to remedy the situation.

3. Upon the Association's request, the Borrower shall:

(a) have the Critical Imports Account audited in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(b) furnish to the Association as soon as available, but in any case not later than four months after the date of the Association's request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(c) furnish to the Association such other information concerning the Critical Imports Account and the audit thereof as the Association shall have reasonably requested.

*D. Progress Reports and Mid-Term Review*

1. The Borrower shall cause MIGA to:

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

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, semi-annually beginning six months after the effectiveness date a report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date;

(c) review with the Association, no later than one month after submission, or such later date as the Association shall request, the report referred to in sub-paragraph (b) of this paragraph, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

## **SCHEDULE 4**

### **Operation of the Facility Account**

1. For the purposes of this Schedule:
  - (a) the term “eligible Category” means Category (1) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;
  - (b) the term “eligible expenditures” means expenditures for the Project and to be supported out of the proceeds of the Credit allocated from time to time to the eligible Category in accordance with the provisions of Schedule 1 to this Agreement; and
  - (c) the term “Initial Advance” means an amount equivalent to \$1,250,000 to be withdrawn from the Credit Account and deposited into the Facility Account pursuant to paragraph 3 (a) of this Schedule.
2. Except as provided in Section 3.03 of this Agreement, payments out of the Facility Account shall be made exclusively for a valid Claim under a Guarantee Contract issued in accordance with Schedule 3 to this Agreement.
3. After the Association has received evidence satisfactory to it that the Facility Account has been duly opened, withdrawals for the Initial Advance and subsequent withdrawals for the Facility Account shall be made as follows:
  - (a) For withdrawals of the Initial Advance, MIGA, on behalf of the Borrower, shall furnish to the Association a request or requests for deposit into the Facility Account of an amount or amounts which do not exceed the aggregate amount of the Initial Advance. On the basis of this request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Facility Account such amount or amounts as MIGA shall have requested.
  - (b)
    - (i) The Borrower through MIGA shall not make any requests for withdrawals exceeding the Initial Advance unless the Initial Advance has been entirely utilized for issuing a Guarantee Contract(s) or is inadequate to cover issuing a Guarantee Contract(s).
    - (ii) Prior to, or at the time of making the first request for withdrawals exceeding the Initial Advance, MIGA shall, on the Borrower’s behalf, furnish to the Association relevant documents and other satisfactory evidence, including Host Country Approvals for Guarantee Contracts showing that the Initial Advance has been entirely utilized for issuing a Guarantee Contract(s) or is inadequate to cover issuing a Guarantee Contract(s) with respect to which the request for withdrawal is made.

(iii) Prior to, or at the time of making any requests for withdrawals subsequent to the request referred to in clause (ii), above, MIGA shall, on the Borrower's behalf, furnish to the Association relevant documents and other satisfactory evidence, including Host Country Approvals for Guarantee Contracts with respect to which the request is made.

(iv) On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Facility Account such amount as MIGA shall have requested. All such deposits shall be withdrawn by the Association from the Credit Account under the eligible Category, and in the respective equivalent amounts, as is justified by the documents and other evidence presented by MIGA on the Borrower's behalf.

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

(a) if MIGA, on the Borrower's behalf, 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 Facility Account; or

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

5. (a) If the Association shall have determined at any time that any withdrawal (including the Initial Advance) from the Credit Account to issue Guarantee Contracts or any payment from the Facility Account: (i) was made for a Guarantee Contract not issued in accordance with the provisions of this Agreement or for a payment not eligible under paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, or shall cause MIGA to, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Facility 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 Facility Account shall be made until the Borrower, or MIGA, as the case may be, 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 Facility Account will not be required to cover further payments for eligible expenditures, the Borrower shall or shall cause MIGA to, promptly upon notice from the Association, refund to the Association such outstanding amount.

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

(d) Refunds to the Association made pursuant to paragraphs 5 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.