

CONFORMED COPY

LOAN NUMBER 4610-UA

Loan Agreement

(Lviv Water and Wastewater Project)

between

UKRAINE

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated August 27, 2002

LOAN NUMBER 4610-UA

LOAN AGREEMENT

AGREEMENT, dated August 27, 2002, between UKRAINE (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

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 Bank to assist in the financing of the Project;

(B) The Project will be carried out by Lviv City Communal Enterprise, "Lvivvodokanal" (LVK), a municipal water supply and wastewater services enterprise, with the Borrower's assistance, and as part of such assistance, the Borrower will make available to LVK the proceeds of the Loan as provided in this Agreement;

(C) The Borrower intends to obtain from the Swedish Agency for International Development (SIDA), a grant (the SIDA Grant) in an amount of at least \$6,000,000 equivalent to assist in financing the Project under an agreement (the SIDA Grant Agreement) to be concluded between the Government of Sweden, the Government of Ukraine, Lviv City Council, and LVK; and

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans" of the Bank, dated May 30, 1995, as modified through October 6, 1999, (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) "Additional Investment or Expenditure" means an investment for water supply or wastewater treatment, or an expenditure for institutional strengthening activities including improvement of LVK's financial and commercial management

systems, training, and carrying out of public information and opinion survey activities, and to be selected for financing from the proceeds of the Loan in accordance with the criteria set forth in Schedule 2 to the Project Agreement;

(b) “Environmental Mitigation Plan” means the environmental mitigation plan prepared and adopted by LVK and Lviv on November 24, 2000, detailing the measures proposed to address the adverse environmental impact of investments under the Project;

(c) “Guarantee Agreement” means the agreement to be entered into between the MOF (as hereinafter defined) and Lviv (as hereinafter defined) pursuant to 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 Guarantee Agreement;

(d) “Lviv” means Lviv City Council, which represents the accordant territorial community and acts as the local government on behalf of the territorial community;

(e) “Lviv Project Account” means the account referred to in Section 2.04 (b) of the Project Agreement;

(f) “LVK” means Lviv City Communal Enterprise for Water Supply and Wastewater;

(g) “LVK Charter” means the Statute and constituent documents of LVK as amended to the date of this Agreement;

(h) “LVK Project Account” means the account referred to in Section 2.04 (a) of the Project Agreement;

(i) “MOF” means the Borrower’s Ministry of Finance;

(j) “MOIA” means the management and operations improvement advisor, to be appointed by LVK, pursuant to Section 6.01 (e) of this Agreement;

(k) “Operating Fund” means the fund to be established and maintained by LVK for the purpose of carrying out Part C of the Project;

(l) “Performance Agreement” means an agreement to be entered into between Lviv and LVK pursuant to Section 6.01 (c) of this Agreement which sets forth the mutual rights and obligations of the Lviv and LVK for the duration of the Project;

(m) “PIU” means the Project Implementation Unit established and maintained by LVK consistent with the provision of Section 2.02 of the Project Agreement;

(n) “Project Management Report” means each report prepared in accordance with Section 3.02 (a) of the Project Agreement;

(o) "Project Agreement" means the agreement between the Bank and Lviv and LVK 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) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

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

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, an amount equal to twenty-four million two hundred fifty thousand Dollars (\$24,250,000).

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan 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, works and services required for the Project and to be financed out of the proceeds of the Loan, and in respect of the fee referred to in Section 2.04 of this Agreement.

(b) The Borrower may, for the purposes of the Project, open and maintain in Dollars a separate special deposit account in a commercial bank acceptable to the Bank, on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 2006, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a fee in an amount equal to one percent (1%) of the amount of the Loan. On or promptly after the Effective Date, the Bank shall on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount of said fee.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three fourths of one percent ($3/4$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to LIBOR Base Rate plus LIBOR Total Spread.

(b) For the purposes of this Section:

- (i) "Interest Period" means the initial period from and including the date of the Agreement to, but excluding, the first Interest Payment Date occurring thereafter, and after the initial period," each period from and including an Interest Payment Date to, but excluding, the next following Interest Payment Date.
- (ii) "Interest Payment Date" means any date specified in Section 2.07 of this Agreement.
- (iii) "LIBOR Base Rate" means, for each Interest Period, the London interbank offered rate for six-month deposits in Dollars for value the first day of such Interest Period (or, in the case of the initial Interest Period, for value the Interest Payment Date, occurring on or next preceding the first day of such Interest Period), as reasonably determined by the Bank and expressed as a percentage per annum.
- (iv) "LIBOR Total Spread" means, for each Interest Period: (A) three-fourth of one percent ($3/4$ of 1%); (B) minus (or plus) the weighted average margin, for such Interest Period, below (or above) the London interbank offered rates, or other reference rates, six-month deposits, in respect of the Bank's outstanding borrowings or portions thereof allocated by the Bank to fund single currency loans or portions thereof made by it that include the Loan; as reasonably determined by the Bank and expressed as a percentage per annum.

(c) The Bank shall notify the Borrower of LIBOR Base Rate and LIBOR Total Spread for each Interest Period, promptly upon the determination thereof.

(d) Whenever, in light of changes in market practice affecting the determination of the interest rates referred to in this Section 2.05, the Bank determines that it is in the interest of its borrowers as a whole and of the Bank to apply a basis for determining the interest rates applicable to the Loan other than as provided in said Section, the Bank may modify the basis for determining the interest rates applicable to the Loan upon not less than six (6) months' notice to the Borrower of the new basis. The basis shall become effective on the expiry of the notice period unless the Borrower notifies the Bank during said period of its objection thereto, in which case said modification shall not apply to the Loan.

Section 2.07. Interest and other charges shall be payable semiannually on April 15 and October 15 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

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 this Agreement, shall assist Lviv and LVK to carry out the Project with due diligence and efficiency and in conformity with appropriate financial, engineering, environmental, and technical practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) For the purposes of the Project, the Borrower through MOF shall relend the proceeds of the Loan to LVK under an agreement (the Subsidiary Loan Agreement), to be entered into between the MOF and LVK under terms and conditions which shall have been approved by the Bank including provisions whereby:

- (i) the principal amount of the Subsidiary Loan shall be repaid by LVK to the MOF in Dollars in semi-annual installments over twenty years, including a grace period of five years;
- (ii) a commitment fee shall be charged on the undisbursed amount of the Subsidiary Loan at a rate equal to the rate payable by the Borrower from time to time pursuant to Section 2.05 of this Agreement; and
- (iii) interest shall be charged on the principal amount of the Subsidiary Loan withdrawn and outstanding from time to time at a rate equal to the rate payable by the Borrower from time to time in respect of the Loan pursuant to Section 2.06 (a) of this Agreement plus up to one percent (1%).

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

(d) For the purpose of the Project, the Borrower through MOF, shall enter into a Guarantee Agreement with Lviv providing that Lviv will promptly and fully fulfill all obligations of the LVK to MOF in case of failure by LVK to fulfill its obligations under the Subsidiary Loan Agreement.

Section 3.02. The Borrower shall: (a) ensure that each Additional Investment or Expenditure is selected in accordance with the procedures and selection criteria set

forth in Schedule 2 of the Project Agreement; and (b) take all necessary administrative and regulatory measures to facilitate the implementation of the Environmental Mitigation Plan.

Section 3.03. The Borrower and the Bank hereby agree that the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) shall be carried out by LVK pursuant to Section 2.06 (a) of the Project Agreement.

Section 3.04. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 to the Project Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall cause LVK to 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 relating to the Project.

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

- (i) maintain or cause to be maintained in accordance with sound accounting practices, records and accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made; and
- (iii) enable the Bank's representatives to examine such records.

(c) The Borrower shall:

- (i) have the, records and accounts referred to in paragraph (b) (i) of this Section and those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles 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 (6) months after the end of each such year the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested, including a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal control involved in their preparation, can be relied upon to support the related withdrawals; and
- (iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

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) Lviv and LVK shall have failed to perform any of the obligations under the Project Agreement.

(b) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that Lviv and LVK will be able to perform their obligations under the Project Agreement.

(c) The Guarantee Agreement or the Performance Contract shall have been modified so as to affect materially and adversely, in the opinion of the Bank, the ability of Lviv or LVK, as the case may be, to carry out their respective responsibilities under the Project.

- (d)
 - (i) Subject to sub-paragraph (ii) of this paragraph the right of the Borrower to withdraw the proceeds of the SIDA Grant shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the SIDA Grant Agreement.
 - (ii) Sub-paragraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Bank that: (A) such suspension, cancellation, or termination is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (B) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

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

(a) The events specified in paragraph (b) of Section 5.01 of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Bank to the Borrower.

(b) The events specified in paragraph (c) of Section 5.01 of this Agreement shall occur.

(c) The event specified in paragraph (d) (i) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (d) (ii) of that Section.

ARTICLE VI

Effective Date; Termination

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

(a) the Subsidiary Loan Agreement between MOF and LVK has been executed by their authorized representatives;

(b) the Guarantee Agreement between MOF and Lviv has been executed by their authorized representatives;

(c) the Performance Agreement between Lviv and LVK has been executed by their authorized representatives;

(d) the SIDA Grant Agreement has been concluded and all conditions for the effectiveness of the SIDA Grant Agreement, other than conditions related to the effectiveness of this Loan Agreement, have been fulfilled; and

(e) LVK has, in accordance with procedures acceptable to the Bank selected the MOIA, referred to in Part D of the Project, to provide management and operations improvement advisory services to LVK under the Project, and concluded a contract therefor, under the terms and conditions acceptable to the Bank.

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 opinion or opinions to be furnished to the Bank:

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

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

(c) that the Guarantee Agreement has been duly authorized or ratified and is legally binding upon MOF and Lviv in accordance with its terms; and

(d) that the Performance Agreement has been duly authorized or ratified and is legally binding upon Lviv and LVK 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 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 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance
12/2 Hrushevsky Street
Kiev, 01008
Ukraine

Telex:

131450

Facsimile:

(380-44) 293-6256
(380-44) 219-3477

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
or Washington, D.C.

Telex:

248423 (MCI)
64145 (MCI)

Facsimile:

(1-202) 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.

UKRAINE

By /s/ Kostyantyn Gryshchenko

Authorized Representative

INTERNATIONAL BANK
FOR RECONSTRUCTION AND DEVELOPMENT

By /s/ Annette Dixon

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

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

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Dollars)</u>	<u>% of Expenditures to be Financed</u>
(1) Works	2,020,000	100% of foreign expenditures and 80% of local expenditures
(2) Goods:		100% of foreign expenditures, 100% of local expenditures (ex-factory cost), and 80% of local expenditures for other items procured locally
(a) Excluding Part C	12,320,000	
(b) For Part C of the Project	5,980,000	
(3) Consultants' Services (including training):		100%
(a) Excluding Part C	2,487,500	
(b) For Part C of the Project	300,000	
(4) Fee	242,500	Amount due under Section 2.04 of this Agreement
(5) Unallocated	<u>900,000</u>	
TOTAL	<u>24,250,000</u>	

2. For the purposes of this Schedule:

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

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

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

(a) payments made for expenditures prior to the date of this Agreement; and

(b) Categories 2 (b) and 3 (b), unless the Additional Investment or Expenditure has been selected and approved in accordance with the procedures set forth in Schedule 2 of the Project Agreement.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for: (i) works under contracts not exceeding \$500,000 equivalent; (ii) goods under contracts not exceeding \$100,000 equivalent; and (iii) services under contracts not exceeding \$100,000 equivalent for consulting firms and \$50,000 equivalent for individual consultants, under such terms and conditions as the Bank shall specify notice to the Borrower.

SCHEDULE 2

Description of the Project

The objective of the Project is to improve the operation and management of the water supply and wastewater systems in the city of Lviv.

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

Part A: Water Supply

Improvement of Lviv's water supply system through: (a) rehabilitation and/or replacement of pumping and electrical equipment at selected pumping stations; (b) supply and installation of valves, pressure reducers and pipes to create pressure zones; (c) replacement and/or rehabilitation of transmission and distribution pipes; and (d) supply of repair and construction equipment.

Part B: Wastewater Treatment

Improvement of Lviv's wastewater system through: (a) replacement of inlet pumps at wastewater treatment plant No. 2; (b) rehabilitation of the aeration systems at wastewater treatment plant Nos. 1 and 2; (c) rehabilitation of sedimentation tanks at wastewater treatment plant No. 2; and (d) supply and installation of sludge dewatering equipment.

Part C: Operating Fund

Carrying out of Additional Investments for water supply or wastewater treatment, and Expenditures for improvement of LVK's commercial and financial management systems, training and public information and opinion survey activities.

Part D: Institutional Strengthening

Provision to LVK, under a contract with a MOIA, of management and operations improvement advisory services to: (a) strengthen LVK's management, through the introduction of computerized management, control, financial and commercial systems, procurement assistance and training of LVK's staff in the operation of the new systems; and (b) design and implement measures and programs to: (i) increase network and plant efficiency; (ii) reduce leakage; (iii) improve water demand management; and (iv) improve quality of services provided to consumers.

Part E: Engineering and Construction Supervision

1. Provision of engineering services through a construction supervision engineer (CSE) to assist in the supervision of construction under Part A of the Project.

2. Provision of engineering services to assist in the identification, design, procurement and supervision of construction of Additional Investments.

Part F: Auditors' Services

Provision of auditors' services for carrying out audits of LVK's project and enterprise accounts and financial statements.

* * *

The Project is expected to be completed by June 30, 2006.

SCHEDULE 3

Amortization Schedule

<u>Date Payment Due</u>	<u>Payment of Principal (Expressed in Dollars)*</u>
October 15, 2006	510,000
April 15, 2007	525,000
October 15, 2007	540,000
April 15, 2008	555,000
October 15, 2008	575,000
April 15, 2009	590,000
October 15, 2009	610,000
April 15, 2010	625,000
October 15, 2010	645,000
April 15, 2011	665,000
October 15, 2011	685,000
April 15, 2012	705,000
October 15, 2012	725,000
April 15, 2013	750,000
October 15, 2013	770,000
April 15, 2014	795,000
October 15, 2014	820,000
April 15, 2015	840,000
October 15, 2015	870,000
April 15, 2016	895,000
October 15, 2016	920,000
April 15, 2017	950,000
October 15, 2017	975,000
April 15, 2018	1,005,000
October 15, 2018	1,035,000
April 15, 2019	1,065,000
October 15, 2019	1,100,000
April 15, 2020	1,130,000
October 15, 2020	1,165,000
April 15, 2021	1,210,000

* The figures in this column represent the amount in Dollars to be repaid, except as provided in Sections 4.04 (d) of the General Conditions.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:
 - (a) the term “eligible Categories” means Categories (1), (2) and (3) set forth 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 Loan 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 \$2,000,000 to be withdrawn from the Loan Account and deposited into the Special Accounts pursuant to paragraph 3 of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$1,000,000 until the aggregate amount of withdrawals from the Loan Account allocated to the eligible Category plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed to the equivalent of \$4,000,000.
2. Payments out of the Special Account shall be made exclusively for eligible expenditures 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 Borrower shall furnish to the Bank 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 Borrower, withdraw from the Loan 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 Bank requests for deposits into the respective Special Account at such intervals as the Bank shall specify.
 - (ii) Prior to or at the time of each such request, the Borrower 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 Borrower, withdraw from the Loan Account a deposit into the Special Account such amount as the Borrower shall have requested and as should

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 Loan Account under the eligible Categories, and in the respective equivalent amounts, as should 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 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 Borrower directly from the Loan 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 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 Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. 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 Borrower 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 Borrower 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 Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Borrower 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 Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

