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**CREDIT NUMBER 4028-VN**

# **Development Credit Agreement**

**(Urban Water Supply Development Project)**

**between**

**SOCIALIST REPUBLIC OF VIETNAM**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated July 15, 2005**



**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated, July 15, 2005, between SOCIALIST REPUBLIC OF VIETNAM (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS 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; and

WHEREAS the Association has agreed, on the basis, inter alia, 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 have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Affected Persons” means persons who, on account of the execution of the Project, had or would have their: (i) standard of living adversely affected; or (ii) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently; (iii) access to productive assets adversely affected, temporarily or permanently; or (iv) business, occupation, work or place of residence or habitat adversely affected; and an “Affected Person” means any of the Affected Persons.

(b) “Category” means a category of items set forth in the table in paragraph 1 of Schedule 1 to this Agreement.

(c) “CPU” means the Central Project Unit established in MOC (as defined below) pursuant to the provisions of paragraph 1 of Schedule 4 to this Agreement.

(d) “CRPPM” means the Competition Route Project Preparation Manual to be put into effect by the Borrower, which sets forth the procedures and requirements for the preparation of Project activities in each Part A Participating Province (as defined below), in accordance with the provisions of paragraph 9(a) of Schedule 4 to this Agreement.

(e) “DAF” means the Development Assistance Fund, a state-owned financial institution established and operating pursuant to the Borrower’s Decree 50/1999/ND-CP of July 8, 1999 and Decree 106/2004/ND-CP of April 1, 2004, to receive and manage state resources allocated to development investments.

(f) “DAF Credit Manual” means the credit manual to be put into effect by DAF in accordance with the provisions of paragraph 13 of Schedule 4 to this Agreement, which sets forth the criteria and procedures for WSS loans under Part C of the Project.

(g) “DAF Special Account” means the special account referred to in Section 2.02 (b)(i) of this Agreement.

(h) “Environmental Guidelines” means the Environmental Guidelines dated October 2004, adopted by MOC through Decision 1590 QD/BXD of October 15, 2004, satisfactory to the Association, and referred to in paragraph 5 of Schedule 4 to this Agreement, which sets forth policies and procedures for the preliminary screening of proposed Project activities under Parts A and B of the Project, and for the preparation of environmental assessment and environment management plans therefor.

(i) “Ethnic Minorities Policy Framework” means the framework dated October 2004, adopted by MOC through Decision 1590 QD/BXD of October 15, 2004, satisfactory to the Association, and referred to in paragraph 7 of Schedule 4 to this Agreement, which sets out the policies and procedures to ensure meaningful consultation with, and the informed participation of, ethnic minorities within the Project area who are affected by the Project, and principles for the preparation of ethnic minorities development plans as may be required during implementation of the Project, as said Strategy may be revised from time to time with the prior concurrence of the Association.

(j) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement.

(k) “IEC” means Information, Education and Communication.

(l) “Hai Phong” means the Borrower’s Hai Phong City, under the direct jurisdiction of the central government of the Socialist Republic of Vietnam, and any successor thereto.

(m) “Hai Phong Special Account” means the special account referred to in Section 2.02(b)(ii) of this Agreement.

(n) “HCMC Special Account” means the special account referred to in Section 2.02(b)(iii) of this Agreement.

(o) “Ho Chi Minh City” and “HCMC” means the Borrower’s Ho Chi Minh City, under the direct jurisdiction of the central government of the Socialist Republic of Vietnam, and any successor thereto.

(p) “MOC” means the Borrower’s Ministry of Construction, and any successor thereto.

(q) “MOC Special Account” means the special account referred to in Section 2.02 (b)(v) of this Agreement.

(r) “MOF” means the Borrower’s Ministry of Finance, and any successor thereto.

(s) “On-lending Agreement” means an agreement to be entered into between the Borrower, through MOF, and an eligible water supply company of a Participating Province under Part A.1 or Part B of the Project, as the case may be, in accordance with the provisions of Section 3.01 (c) and (d) of this Agreement.

(t) “Part A Participating Provinces” means those provinces of the Borrower selected from time to time by mutual agreement between the Borrower and the Association to participate in Part A of the Project, pursuant to the eligibility criteria set forth in paragraph 8 of Schedule 4 to this Agreement, including the Provinces of Binh Dinh, Ha Nam and Thai Binh, and any successor to said Part A Participating Provinces; and a “Part A Participating Province” means any of said Part A Participating Provinces.

(u) “Part B Participating Provinces” means Hai Phong, Ho Chi Minh City, Ha Tinh and Binh Thuan, and any successor thereto; and a “Part B Participating Province” means any of said Part B Participating Provinces.

(v) “Participating Provinces” means the Part A Participating Provinces and the Part B Participating Provinces; and a “Participating Province” means any of said Participating Provinces.

(w) “Phase I Participating Provinces” means: (i) among the Part A Participating Provinces, Binh Dinh, Ha Nam and Thai Binh; and (ii) among the Part B Participating Provinces, Hai Phong.

(x) “PPMU” means a Provincial Project Management Unit, established by each Participating Province pursuant to the provisions of paragraph 2 of Schedule 4 to this Agreement.

(y) “Procurement Plan” means the Borrower’s procurement plan, dated November 4, 2004 covering the initial 18 month period (or longer) of Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 to this Agreement, to cover succeeding 18 month periods (or longer) of Project implementation.

(z) “Resettlement Policy Framework” means the Policy Framework dated October 2004, approved by the Borrower through the Prime Minister’s Decision 1109/CP-CN of August 11, 2004 and adopted by MOC through Decision 1590 QD/BXD of October 15, 2004, satisfactory to the Association, and referred to in paragraph 6 of Schedule 4 to this Agreement, which sets out the policies and procedures for the acquisition of land and other assets, resettlement, compensation and rehabilitation of Affected Persons, and for the preparation of resettlement plans, as may be required, during the implementation of the Project, as said Policy Framework may be revised from time to time with the prior concurrence of the Association.

(aa) “Respective Part of the Project” means, in connection with each Participating Province, its respective Project activities under Part A or Part B of the Project, as the case may be.

(bb) “Sanitation Fund Manual” means the manual to be prepared by MOC pursuant to the provisions of paragraph 11 (a) of Schedule 4 to this Agreement, to guide the establishment and operations of the Sanitation Revolving Funds of the Part A Participating Provinces.

(cc) “Sanitation Loans” means loans made, or to be made by the Part A Participating Provinces through their respective Sanitation Revolving Funds to eligible households to assist in the financing of sanitation facilities improvements for said households under Part A.2 of the Project and in accordance with the provisions of paragraph 11 of Schedule 4 to this Agreement.

(dd) “Sanitation Revolving Funds” means, collectively, the revolving funds established by the Part A Participating Provinces pursuant to the provisions of paragraph 11 of Schedule 4 to this Agreement.

(ee) “Subsidiary Loan Agreement” means the agreement to be entered into between the Borrower, through MOF, and DAF pursuant to paragraph 13 of Schedule 4 to this Agreement, to enable DAF to make WSS Loans under Part C of the Project, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Loan Agreement.

(ff) “Subsidiary Loan” means the loan made by MOF to DAF under the Subsidiary Loan Agreement.

(gg) “Special Accounts” means, collectively, (i) the DAF Special Account; (ii) the Hai Phong Special Account; (iii) the HCMC Special Account; (iv) the WSS Special Account; and (v) the MOC Special Account; and a “Special Account” means any of said Special Accounts.

(hh) “VND” means Vietnam Dong, the currency of the Socialist Republic of Vietnam.

(ii) “WSC” means a Water Supply Company.

(jj) “WSS” means Water and Sanitation Sector.

(kk) “WSS Loan” means a loan made by DAF under Part C of the Project, out of the proceeds of the Subsidiary Loan, to qualified public or private water supply companies for eligible water supply and sanitation infrastructure sub-projects in accordance with the provisions of paragraph 13 of Schedule 4 to this Agreement; and “WSS Loans” means, collectively, the WSS Loans made by DAF.

(ll) “WSS Special Account” means the special account referred to in Section 2.02 (b)(iv) of this Agreement.

(mm) “WSS Sub-project” means a water supply and/or sanitation investment project under Part C of the Project, financed in part out of the proceeds of a WSS Loan and implemented by an eligible water supply company pursuant to the provisions of paragraph 13 of Schedule 4 to this Agreement.

(nn) “Women’s Union” means the Vietnam Women’s Union, a social organization established on October 20, 1950.

## **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 seventy-five million two hundred thousand Special Drawing Rights (SDR75,200,000).

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: (i) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods, works and services required for Parts A.1, B, D and E of the Project and to be financed out of the proceeds of the Credit; (ii) Sanitation Loans made by Part A Participating Provinces through their respective Sanitation Revolving Funds

under Part A.2 of the Project, to meet the reasonable costs of goods and works required for eligible household sanitation facilities and in respect of which the withdrawals from the Credit Account are requested; and (iii) WSS Loans made by DAF under Part C of the Project to meet the reasonable costs of goods, works and services required for an eligible WSS sub-project and in respect of which the withdrawals from the Credit Account are requested.

- (b) The Borrower may, open and maintain:
  - (i) for the purposes of Parts A, B.3 and B.4 of the Project, a special deposit account (the DAF Special Account);
  - (ii) for the purposes of Part B.1 of the Project, a special deposit account (the Hai Phong Special Account);
  - (iii) for the purposes of Part B.2 of the Project, a special deposit account (the HCMC Special Account);
  - (iv) for the purposes of Part C of the Project, a special deposit account (the WSS Special Account); and
  - (v) for the purposes of Parts D and E of the Project, a special deposit account (the MOC Special Account);

in each case in a commercial bank, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, each respective Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2012 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 (60 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 May 15 and November 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 May 15 and November 15 commencing May 15, 2015, and ending November 15, 2044. Each installment to and including the installment payable on November 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. 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 Parts A and B of the Project through the Participating Provinces; Part C of the Project through the Development Assistance Fund; and Parts D and E of the Project through its Ministry of Construction, all with due diligence and efficiency and in conformity with appropriate administrative, management, financial and public utilities practices, and sound environmental and social standards acceptable to the Association; and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out, and cause to be carried out, the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

(c) For purposes of Parts A.1, B.3 and B.4 of the Project, the Borrower, through MOF, shall make available, as loans, to the Water Supply Companies of the Part A Participating Provinces and to the Water Supply Companies of Binh Thuan and Ha Tinh, a portion of the proceeds of the Credit allocated from time to time to Categories (1)(a), (2)(a) and (5)(a) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, under terms and conditions and on-lending instruments satisfactory to the Association, which shall include the following:

- (i) the principal amount of loans made to the Water Supply Companies of the Part A Participating Provinces shall bear interest at a rate of three percent (3%) per annum, and shall be

repayable over a period of twenty (20) years with a three (3) year grace period; the principal amount to be repaid by said Water Supply Companies shall be the equivalent in Vietnamese Dong (determined as of the date or dates respectively of withdrawal from the Credit Account or of payment out of the DAF Special Account, as the case may be) of the value of currency or currencies so withdrawn or paid out in respect of the portion of the Credit allocated to Categories (1)(a), (2)(a) and (5)(a) and made available to said Water Supply Companies; and

- (ii) the principal amount of loans made to the Water Supply Companies of Binh Thuan and Ha Tinh under Parts B.3 and B.4 of the Project respectively, shall bear interest at a rate of five point four percent (5.4%) per annum, and shall be repayable over a period of twenty (20) years with a five (5) year grace period; the principal amount to be repaid by said Water Supply Companies shall be the equivalent in Vietnamese Dong (determined as of the date or dates respectively of withdrawal from the Credit Account or of payment out of the DAF Special Account, as the case may be) of the value of currency or currencies so withdrawn or paid out in respect of the portion of the Credit allocated to Categories (1)(a), (2)(a) and (5)(a) and made available to said Water Supply Companies.

(d) For purposes of Parts B.1 and B.2 of the Project, the Borrower, through MOF, shall make available, as loans, to the Water Supply Companies of Hai Phong and Ho Chi Minh City respectively, a portion of the proceeds of the Credit allocated from time to time to Categories (1)(b), (2)(b) and (5)(b) in the case of Hai Phong; and to Categories (1)(c), (2)(c) and (5)(c) in the case of Ho Chi Minh City, under terms and conditions and on-lending instruments satisfactory to the Association, which shall include the following:

- (i) the principal amount of loans made to the Water Supply Companies of Hai Phong and Ho Chi Minh City under Parts B.1 and B.2 of the Project respectively, shall bear interest at a rate of five point four percent (5.4%) per annum, and shall be repayable over a period of twenty (20) years with a five (5) year grace period;
- (ii) the principal amount to be repaid by said Water Supply Companies shall be the equivalent in Vietnamese Dong (determined as of the date or dates respectively of withdrawal from the Credit Account or of payment out of the respective Special Account, as the case may be) of the value of currency or currencies so withdrawn or paid out in respect of the portion of

the Credit allocated to Categories (1)(b), (2)(b) and (5)(b) in the case of Hai Phong, and Categories (1)(c), (2)(c) and (5)(c) in the case of Ho Chi Minh City, and made available to said Water Supply Companies.

(e) For purposes of Part A.2 of the Project, the Borrower, through MOF, shall make available as a grant to each of the Part A Participating Provinces a portion of the proceeds of the Credit allocated from time to time to Category (3) to enable said Participating Province to establish its respective Sanitation Revolving Fund.

(f) For purposes of Part C of the Project, the Borrower, through MOF, shall make available to DAF the proceeds of the Credit allocated from time to time to Category (4), under a subsidiary loan agreement in form and substance acceptable to the Association, including the following terms and conditions:

- (i) the principal amount thus made available to DAF shall be the equivalent in Vietnamese Dong (determined as of the date or dates respectively of withdrawal from the Credit Account or of payment out of the WSS Special Account, as the case may be) of the value of currency or currencies so withdrawn or paid out in respect of the portion of the Credit allocated to Category 4 from time to time;
- (ii) the principal amount so made available to DAF and outstanding from time to time shall bear interest at a rate equal to eighty percent (80%) of the interest rate on 364-day treasury bill; and
- (iii) DAF shall repay to the Borrower, through MOF, the principal amount thus made available to it over a term of thirty (30) years including a grace period of ten (10) years; provided that, in the event that DAF has not made any WSS Loan by March 1, 2007, its right to withdraw any proceeds of the Subsidiary Loan shall be canceled as of said date.

Section 3.02. (a) Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Borrower shall update the Procurement Plan in accordance with guidelines acceptable to the Association and furnish such update to the Association not later than 12 months after the date of the preceding Procurement Plan, for the Association's approval.

Section 3.03. 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 (6) months after 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 objectives of the Project; and

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

## ARTICLE IV

### Financial Covenants

Section 4.01. (a) The Borrower shall establish and maintain, and shall cause to be established and maintained, 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:

- (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.

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

- (i) retain, 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 Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (ii) enable the Association's representatives to examine such records; and

- (iii) ensure that such statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Association), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations set out in paragraph 15 of Schedule 4 to this Agreement, the Borrower shall 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;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

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

## **ARTICLE V**

### **Remedies of the Association**

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional event is specified, namely that DAF shall have failed to perform any of its obligation under the Subsidiary Loan Agreement.

## **ARTICLE VI**

### **Effective Date; Termination**

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

- (a) The Borrower, through MOC, has:
  - (i) adopted a Project Implementation Plan acceptable to the Association, in accordance with the provisions of paragraph 4 of Schedule 4 to this Agreement; and
  - (ii) established the Central Project Unit in accordance with the provisions of paragraph 1 of Schedule 4 to this Agreement; and completed training of the CPU staff in procurement and financial management and disbursement procedures, all in a manner satisfactory to the Association.
  
- (b) The Borrower, through MOC, has:
  - (i) adopted a Competition Route Project Preparation Manual acceptable to the Association, in accordance with the provisions of paragraph 9 of Schedule 4 to this Agreement; and
  - (ii) completed the preparation of standard design and build prequalification and bidding documents, and standard operations prequalification and bidding documents, including the form and conditions of contract, in a manner satisfactory to the Association.
  
- (c) Each of the Phase I Participating Provinces has:
  - (i) established its respective Provincial Project Management Unit in accordance with the provisions of paragraph 2 of Schedule 4 to this Agreement;
  - (ii) completed training of the staff of said PPMU in procurement and financial management and disbursement procedures, in a manner satisfactory to the Association; and
  - (iii) established for said PPMU a financial management and control system satisfactory to the Association.
  
- (d) The Borrower, through MOF, has entered into a subsidiary loan agreement with DAF, acceptable to the Association, pursuant to the provisions of Section 3.01 (f) of this Agreement.
  
- (e) DAF has established a financial management unit for purpose of Parts A, B.3 and B.4 of the Project, and its Project Management Unit for purposes of Part C of the Project, all in accordance with the provisions of paragraph 3 (a) and (b) of Schedule 4



to this Agreement; completed the training of the staff of said financial management unit and PMU in financial management and disbursement procedures; and established a financial management system, including computerized accounting system; all in a manner satisfactory to the Association.

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 Subsidiary Loan Agreement has been duly authorized by the Borrower and by DAF, and is legally binding upon the Borrower and DAF in accordance with its terms; and

(b) (i) the Resettlement Policy Framework has been duly approved by the Borrower's Prime Minister; and the Resettlement Policy Framework and the Ethnic Minorities Policy Framework have been duly adopted by MOC and by the Phase I Participating Provinces; and (ii) both the Resettlement Policy Framework and the Ethnic Minorities Policy Framework are legally binding upon the Borrower and the Participating Provinces in accordance with their respective 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 Governor, or any Deputy Governor of the State Bank of Vietnam 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:

State Bank of Vietnam  
49 Ly Thai To  
Hanoi  
Socialist Republic of Vietnam

Cable address:	Telex:	Facsimile:
VIETBANK	412248	(84-4) 825 0612
Hanoi	NHTWVT	

For the Association:

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

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

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

SOCIALIST REPUBLIC OF VIETNAM

By /s/ Le Duc Thuy

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Rakesh Nangia

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) Works:		90%
(a) under Parts A.1, B.3 and B.4 of the Project	32,050,000	
(b) under Part B.1 of the Project	6,350,000	
(c) under Part B.2 of the Project	11,090,000	
(2) Goods		100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 75% of local expenditures for other items procured locally
(a) under Parts A.1, B.3 and B.4 of the Project	250,000	
(b) under Part B.1 of the Project	110,000	
(c) under Part B.2 of the Project	9,530,000	
(d) under Part E of the Project	50,000	
(3) Sanitation Loans under Part A.2 of the Project	1,670,000	100% of the amount of Sanitation Loans disbursed
(4) WSS Loans under Part C of the Project	6,670,000	100% of amount of WSS Loans disbursed

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(5) Consultants' Services		100% for expenditures for services of individuals domiciled outside the territory of the Borrower, and 93% for expenditures for services of all other consultants
(a) under Parts A.1, B.3 and B.4 of the Project	520,000	
(b) under Part B.1 of the Project	810,000	
(c) under Part B.2 of the Project	1,440,000	
(d) under Part C of the Project	80,000	
(e) under Parts D and E of the Project	4,160,000	
(6) Incremental Operating Costs		90%
(a) under Part A.2 of the Project	270,000	
(b) under Part E of the Project	150,000	
TOTAL	<u>75,200,000</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;

(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 “incremental operating costs” means the reasonable costs of incremental expenditures incurred by: (i) the Women’s Union in managing the Sanitation Revolving Funds of Part A Participating Provinces in accordance with the provisions of paragraph 11 of Schedule 4 to this Agreement (which expenditures would not have been incurred absent the Project), namely costs incurred in providing training to savings and credit groups, in monitoring the construction of household sanitation facilities and in carrying out IEC campaigns on household sanitation, costs of office equipment and consumables, transportation and per diem expenses while attending training sessions; and (ii) the Borrower, through MOC, in the implementation of Part E of the Project (which expenditures would not have been incurred absent the Project), including transportation and communication costs, office consumables, costs for fixed-term contracted staff; but in all cases excluding salaries and salary supplements of civil servants.

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

(a) 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 SDR34,000 may be made in respect of Category (5)(e) on account of expenditures before that date but after January 1, 2005;

(b) in respect of payments made for expenditures under Categories (1)(c), (2)(c) and (5)(c) until the Association has received satisfactory evidence that Ho Chi Minh City has: (i) established its PPMU in accordance with the provisions of paragraph 2 of Schedule 4 to this Agreement; (ii) adopted the Resettlement Policy Framework; and (iii) prepared a resettlement action plan, if required under said Framework, and environmental management plan satisfactory to the Association in accordance with the provisions of paragraphs 5 and 6 of Schedule 4 to this Agreement;

(c) in respect of payments made for Sanitation Loans under Category (3) until the Borrower, through MOC, has adopted a Sanitation Fund Manual acceptable to the Association in accordance the provisions of paragraph 11(a) of Schedule 4 to this Agreement; and

(d) in respect of payments for WSS Loans under Category (4) until DAF has adopted the DAF Credit Manual acceptable to the Association, in accordance with the provisions of paragraph 13(a) of Schedule 4 to this Agreement.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) works costing less than \$300,000 equivalent per contract; (b) goods costing less than \$100,000 equivalent per contract; (c) consultants' services under contracts with: (i) consulting firms costing less than \$100,000 equivalent per contract; and (ii) individual consultants costing less than \$50,000 equivalent per contract; (d) Sanitation Loans; (e) WSS Loans; and (f) incremental operating costs; 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 to improve water and household sanitation services in selected district towns and large urban centers in the Participating Provinces, in financially and environmentally sustainable manners, thus enhancing the health and economic potential of the resident households.

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: Competition Route

1. Carry out a program to expand water supply services to unserved district towns in selected provinces through the competitive selection of contractors to design and construct water supply facilities in said district towns, and, thereafter, the competitive selection of contractors to operate such facilities.
2. Assist households in selected district towns to improve their sanitation facilities through the establishment and operation of provincial sanitation revolving funds to provide small loans for such facilities.

#### Part B: Performance Route

Carry out a program to expand water supply services through the rehabilitation of treatment plants, the rehabilitation and/or expansion of distribution systems, and the expansion of water producing capacity in selected large urban centers in:

1. Hai Phong;
2. Ho Chi Minh City;
3. Binh Thuan; and
4. Ha Tinh.

#### Part C: Water Supply and Sanitation Lending Facility

Establish and operate a medium to long-term non-subsidized loan facility to support the development of the water supply sector.



Part D: Institutional Development

Carry out a program to strengthen the institutional capacity of water supply companies and to improve their performance, consisting of:

1. Assisting water supply companies in Participating Provinces by developing and testing improved management practices, including development of multi-year plans for expansion and improvement of services, preparation of water balances, and preparation of energy management audits;
2. Developing and testing procedures to assess the performance of water companies not participating in the Project to facilitate their participation in future investment projects; and
3. Strengthening the implementation capacity of the Project Provinces and of the Central Project Unit, and building the capacity of water supply companies and bidders to participate in the competitive bidding and contracting processes for the design and building, and for the operation of water supply facilities.

Part E: Project Implementation Support

Support to the Ministry of Construction in preparation of Project activities for later phases of Part A, Project coordination and monitoring, construction management, preparation of materials and methodology for public campaigns of information, education and communication on household sanitation, and financial audits.

\* \* \*

The Project is expected to be completed by December 31, 2011.

### **SCHEDULE 3**

#### **Procurement**

##### Section I. General

A. All goods, works and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Association of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

##### Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants' Services)

A. International Competitive Bidding. Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

##### B. Other Procurement Procedures

1. National Competitive Bidding. Goods estimated to cost less than \$150,000 equivalent per contract, works estimated to cost less than \$2,000,000 equivalent per contract, and services for the operation of the water supply schemes under Part A.1 of the Project, may be procured under contracts awarded on the basis of National Competitive Bidding and the additional provisions set forth in the Annex to this Schedule 3.

2. Shopping. Goods estimated to cost less than \$50,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping in accordance with the provisions of paragraph 3.5 of the Procurement Guidelines. With regard to each contract for goods estimated to cost less than \$50,000 but more than \$25,000 equivalent and to be procured under Shopping procedures, the request for quotations shall be advertised in at least one newspaper of provincial circulation. A minimum of 7 days for

the preparation and submission of quotations shall be provided. Quotations for contracts which require advertising shall be opened in public.

3. Commercial Practices. Items to be financed under Sanitation Loans made to households for improvement to household sanitation facilities under Part A.2 of the Project and under WSS Loans made for water supply and sanitation sector sub-projects under Part C of the Project, may be procured in accordance with commercial practices acceptable to the Association.

### Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than \$200,000 equivalent per contract may comprise entirely national consultants.

#### B. Other Procedures

1. Quality-based Selection. Services for assignments which the Association agrees meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines may be procured under contracts awarded on the basis of Quality-based Selection in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Least-cost Selection. Services for assignments which the Association agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

3. Selection Based on Consultants' Qualifications. Services estimated to cost less than \$50,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

4. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

5. Government-owned universities and research institutes. Services for preparation and monitoring of resettlement action plans and water quality monitoring, in the event there are no readily available alternatives among private consulting firms or individuals, may be procured from government-owned universities and research institutes with the

prior agreement of the Association. Services of members of such universities and research institutes may be procured on an individual basis, provided that such individuals have full time employment contracts with their respective institutions and have exercised their functions for at least one year prior to being contracted under the Project.

Section IV. Review by the Association of Procurement Decisions

Except as the Association shall otherwise determine by notice to the Borrower, the following contracts shall be subject to Prior Review by the Association:

- (a) each contract for works estimated to cost \$300,000 equivalent or more;
- (b) irrespective of the value thereof, the first contract for works for each Participating Province, each year, to be procured in accordance with the provisions of paragraph B.1 of Section II above;
- (c) all contracts for services, other than consultants' services, procured on the basis of National Competitive Bidding procedures for the operation of the water supply systems under Part A.1 of the Project;
- (d) each contract for goods estimated to cost \$100,000 equivalent or more;
- (e) irrespective of the value thereof, the first contract for goods for each Participating Province, each year, to be procured in accordance with the provisions of paragraph B.1 of Section II above; and the first contract for goods for each Participating Province, each year, to be procured in accordance with the provisions of paragraph B.2 of Section II above;
- (f) all contracts with consulting firms estimated to cost \$100,000 equivalent or more, and, irrespective of the value thereof, the first contract for construction supervision in each Participating Province;
- (g) all contracts with foreign individual consultants irrespective of the value thereof, and all contracts with individual consultants estimated to cost \$50,000 equivalent or more; and
- (h) the terms of reference for all consulting firms and individual consultants, irrespective of the value of the respective contracts.

All other contracts shall be subject to Post Review by the Association.

### **Annex to Schedule 3**

#### **National Competitive Bidding Procedures**

The procedures to be followed for National Competitive Bidding under Paragraph 1, Part B, Section II, shall be those set forth in Decree No. 88/1999/ND-CP dated September 1, 1999, of the Government of the Socialist Republic of Vietnam, as amended and supplemented by Decree No. 14/2000/ND-CP dated May 5, 2000 and Decree No. 66/2003/ND-CP dated June 12, 2003 (Decree No. 88/1999/ND-CP, Decree No. 14/2000/ND-CP, and Decree No. 66/2003/ND-CP, together “the Regulations”), modified in accordance with the following provisions to ensure economy, efficiency, transparency and broad consistency with the provision of Section I of the Guidelines and to comply with the provisions of paragraphs 3.3 and 3.4 of the Guidelines:

#### **Participation in bidding and preferences**

- (i) For clarification purposes, it is understood that the last sentence of the amended Paragraph (c), Section 2, Article 2 of Decree 88/ND-CP which states that “All the procedures for submission, appraisal and approval of bidding results and bidder selection results shall follow the Procurement Regulation” means “Approvals of draft bidding documents, bid evaluation reports and proposals for award shall be obtained in accordance with the relevant rules and procedures of the Procurement Regulation”.
- (ii) Government-owned enterprises in Vietnam shall be eligible to participate in bidding only if they can establish that they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Borrower or the procuring entity. Military or security units, or enterprises which belong to the Ministry of Defense or the Ministry of Public Security shall not be permitted to bid.
- (iii) Foreign bidders shall be eligible to participate in bidding under the same conditions as local bidders, and local bidders shall be given no preference (either in the bidding process or in bid evaluation) over foreign bidders, nor shall bidders located in the same province or city as the procuring entity be given any such preference over bidders located outside that city or province.
- (iv) Bidders shall be allowed to participate in bidding without being listed in the Government Database on Bidder Information or in any other registration system.
- (v) Prospective bidders shall be permitted to request bidding documents either in person or through the mail, upon submission of a written application. Bidding documents shall be sold to anyone who is willing to pay the required fee of the bidding documents, and no other conditions shall be imposed on the sale of the bidding documents. The bidding documents shall be delivered, at the prospective bidders' preference, either by hand or by mail/courier provided that the bidder is willing to pay the mail/courier delivery charges which should be specified in the Invitation for Bids. Each bidder shall

be allowed to purchase only one set of the bidding documents and only the bidders who purchased bidding documents shall be allowed to bid.

(vi) Foreign bidders shall not be required, in order to participate in bidding or as a condition of award of the contract or during execution of the contract, to enter into a joint venture with a local bidder, or to subcontract part of their contract to a local bidder.

(vii) If there is prequalification, *all* prequalified bidders shall be invited to bid.

(viii) If there is limited bidding because there are only a limited number of bidders who can meet the requirements of the bidding documents, *all* of these bidders shall be invited to bid.

(ix) Bidders shall not be required, as a condition of participation in the bidding, to provide suppliers' credits.

#### **Advertising; time for bid preparation**

(x) Invitations to bid shall be advertised in at least one widely circulated national newspaper. In addition, the Borrower is encouraged to advertise in the Government Public Procurement Bulletin when established and on a free and open access website. A minimum of 30 days for the preparation and submission of bids shall be provided, and potential bidders shall be allowed to purchase bidding documents up to 24 hours prior to the deadline for the submission of bids.

#### **Standard Bidding Documents**

(xi) The Borrower's standard bidding documents, acceptable to the Association, shall be used. The bidding documents shall provide clear instructions on how bids should be submitted, how prices should be offered, and the place and time for submission and opening of bids. Bidders shall be allowed to submit bids by hand or by mail.

#### **Qualification criteria and evaluation criteria**

(xii) Qualification criteria shall be clearly specified in the bidding documents, *and* all criteria so specified, and *only* criteria so specified, shall be used to determine whether a bidder is qualified. Qualifications of a bidder found to meet the specified qualification criteria shall not be taken into account in the evaluation of such bidder's bid.

(xiii) Evaluation criteria shall be clearly specified in the bidding documents, and evaluation criteria other than price shall be quantified in monetary terms. All evaluation criteria so specified, and only evaluation criteria so specified, shall be taken into account in bid evaluation. Merit points shall not be used in bid evaluation.

#### **Bid opening, evaluation and award of contract**

(xiv) Bids shall be opened in public, immediately after the stipulated deadline for submission of bids. Bidders or their representatives, shall be allowed to be present. The name of the bidder and total amount of each bid, including discounts, shall be read aloud and recorded. Immediately after completion of the bid opening proceedings, a copy of the bid opening record shall be posted at a prominent location, accessible to the public, outside the office of the concerned procuring entity and shall be retained at the same location until the award of contract has been notified. A copy of the bid opening record shall be promptly provided to all bidders who submitted bids.

(xv) Bids received after the deadline for bid submission shall be returned to the bidders unopened.

(xvi) All bids shall not be rejected or new bids solicited without the Association's prior concurrence.

(xvii) No bidder shall be rejected merely on the basis of a comparison with the owner's estimate and budget ceiling without the Association's prior concurrence.

(xviii) A bid containing material deviations from, or reservations to, the terms, conditions or specifications of the bidding documents shall be rejected as not substantially responsive. A bidder shall not be permitted to withdraw material deviations or reservations once bids have been opened. Bidders shall not be eliminated from detailed evaluation on the basis of non-material, minor deviations or reservations.

(xix) Evaluation of bids shall be made in strict adherence to the criteria specified in the bidding documents, and contracts shall be awarded to the qualified bidder offering the lowest evaluated and responsive bid.

(xx) A bidder shall not be required, as a condition for award, to undertake obligations not specified in the bidding documents, or otherwise to modify the bid as originally submitted.

(xxi) There shall be no post-bidding negotiations with the lowest or any other bidder.

(xxii) The Borrower shall declare a firm ineligible, either indefinitely or for a stated period, to be awarded a contract financed by the Association and the Government, if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an Association-financed contract.

### **Suppliers and Contractors**

(xxiii) Bidding documents and contracts under national competitive bidding procedures financed by the Association shall include a provision requiring suppliers and contractors

to permit the Association to inspect their accounts and records relating to the bid submission and the performance of the supplier and/or contractor, and to have them audited by auditors appointed by the Association, if so required by the Association.

(xxiv) License for foreign contractors operation in Vietnam will be provided in a timely manner and will not be arbitrarily withheld.

#### **Publication of the Award of Contract**

(xxv) The Borrower shall publish the following information on contract award in Government Public Procurement Bulletin when established or on a free and open access website or on another means of publication acceptable to the Association: (a) name of each bidder who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated price of each bid that was evaluated; (d) name of bidders whose bids were rejected and the reasons for their rejection; and (e) name of the winning bidder, price it offered as well as the duration and summary scope of the contract awarded. This publication shall be updated quarterly.

#### **Protests by Bidders and Handling of Protests**

(xxvi) The national competitive bidding procedures for contracts financed by the Association shall include provisions, acceptable to the Association, for bidders to protest.



## **SCHEDULE 4**

### **Implementation Program**

#### **Project Management**

1. The Borrower shall establish and, thereafter, throughout the period of implementation of the Project, maintain a Central Project Unit within the Ministry of Construction to be responsible for the overall coordination, management, monitoring and reporting of Project implementation, and, more specifically, for: (a) preparing the proposed Project activities under Part A.1 of the Project; (b) providing training and support to the Participating Provinces in the review of procurement and the monitoring of the quality of construction; (c) assisting the Part A Participating Provinces and Binh Thuan and Ha Tinh in regard to financial management, auditing and safeguard monitoring; (d) assisting the Women's Union in the Part A Participating Provinces to manage the respective provincial Sanitation Revolving Funds; and (e) implementing the institutional capacity building and project implementation support activities under Parts D and E of the Project; said Central Project Unit shall be under the direction of qualified managers, provided with sufficient resources, and staffed with competent personnel in adequate numbers, including procurement staff, a financial officer and a Project accountant, in each case with qualifications and experience and under terms of reference acceptable to the Association.

2. For purposes of Parts A and B of the Project, the Borrower shall cause each Participating Province to establish and, thereafter, throughout the period of implementation of the Project, maintain a Provincial Project Management Unit to be responsible for: (a) managing the implementation of said Province's Project activities; (b) ensuring coordination among all relevant departments and agencies within said Participating Province; (c) in particular in regard to a Part A Participating Province, ensuring the competitive selection of contractors for the design and construction and of contractors for the operation of water supply facilities in selected districts of said Participating Province; and (d) monitoring and reporting all Project activities of said Participating Province; each such Provincial Project Management Unit shall be under the direction of qualified managers, provided with sufficient resources, and staffed with competent personnel in adequate numbers, including procurement staff, a financial officer and at least one accountant, in each case with qualifications and experience and under terms of reference acceptable to the Association.

3. The Borrower shall cause the Development Assistance Fund to establish and, thereafter throughout the period of implementation of the Project, maintain:

(a) for purposes of Parts A, B.3 and B.4 of the Project and in its capacity as agent of MOF, a financial management unit to be responsible for managing the disbursement to the Participating Provinces of proceeds of the Credit allocated to said Parts of the Project; said financial management unit shall be under the direction of

qualified managers, provided with sufficient resources and staffed with competent personnel in adequate numbers and with qualifications and experience acceptable to the Association; and

(b) for purposes of Part C of the Project, a Project Management Unit to be responsible for managing the implementation of Part C of the Project, including the flow of funds, financial management and control, and reporting; said Project Management Unit shall: (i) be under the direction of qualified managers, provided with sufficient resources, and staffed with competent personnel in adequate numbers, including a Financial Officer and two accountants, in each case with qualifications and experience and under terms of reference acceptable to the Association; and (ii) be supported by a credit advisor, and an engineer to be engaged by DAF, in each case with qualifications and experience and under terms of reference acceptable to the Association.

4. (a) To guide the implementation of the Project, the Borrower shall, through MOC, prepare and put into effect a Project Implementation Plan acceptable to the Association setting forth procedures and guidelines for the implementation of the Project; in particular said Project Implementation Plan shall include:

- (i) a financial management manual establishing the requirements and procedures for financial management control, recording and reporting, and auditing requirements, consistent with the provisions of Article IV of this Agreement;
- (ii) a procurement manual establishing the requirements and procedures, and allocating roles and responsibilities, in regard to procurement planning, preparation of bidding documents, review and approval; in particular models of the prequalification and bidding documents, including form and general conditions of contract, for the selection of contractors for the design and building of water supply schemes and of operators of such schemes under Part A.1 of the Project, consistent with the provisions of Schedule 3 to this Agreement; and
- (iii) the Resettlement Policy Framework, the Ethnic Minorities Policy Framework, and the Environmental Guidelines.

(b) From time to time, the Borrower shall update said Project Implementation Plan by incorporating therein improved management procedures acceptable to the Association, as developed under Part D of the Project.

(c) The Borrower shall not amend, revise or waive the provisions of said Project Implementation Plan, or any part thereof, without the prior concurrence of the Association.

(d) The Borrower shall provide, and shall cause to be provided, training for the staff of the CPU, of all PPMUs and of the Financial Management Unit within DAF, on the policies and procedures for financial management, control and reporting, and, as the case may be, on procurement, in accordance with the financial management manual and the procurement manual, and the related provisions of this Agreement, all in a manner satisfactory to the Association.

### **Environmental Protection, Resettlement and Ethnic Minorities**

5. The Borrower shall and shall cause the Participating Provinces to:

(a) carry out the Environmental Guidelines in a manner satisfactory to the Association, and designed to ensure that the Project is implemented in accordance with sound environmental practices and standards;

(b) prepare, as may be necessary in accordance with the requirements set forth in said Guidelines, and implement in a manner satisfactory to the Association, environmental management plans acceptable to the Association in respect of their respective parts of the Project;

(c) provide to the Association for its prior approval any revision proposed to be introduced into said Guidelines or said environmental management plans, as the case may be, in order to achieve their respective objectives, and thereafter introduce such revision into said Guidelines or said environmental management plans as shall have been agreed with the Association; and

(d) maintain, policies and procedures adequate to enable it and the Participating Provinces to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of said Guidelines or said environmental management plans, and the achievement of their respective objectives.

6. The Borrower shall and shall cause the Participating Provinces to:

(a) carry out the Resettlement Policy Framework, in a manner satisfactory to the Association;

(b) wherever implementation of the Project or any part thereof, would give rise to Affected Persons, provide to the Association for its review, resettlement action plans prepared in accordance with the principles and procedures set forth in said Framework and, thereafter, implement in a manner satisfactory to the Association, such resettlement action plans as shall have been approved by the Association;

(c) provide to the Association for its prior approval any revision proposed to be introduced into said Framework or into any resettlement plan prepared pursuant to said Framework in order to achieve their respective objectives, and thereafter introduce

such revision into said Framework or said plan as shall have been agreed with the Association; and

(d) maintain policies and procedures adequate to enable it and said Provinces to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of said Framework and any resettlement plan prepared pursuant thereto, and the achievement of their respective objectives.

7. The Borrower shall and shall cause the Participating Provinces to:

(a) implement the Ethnic Minorities Policy Framework in a manner satisfactory to the Association, designed to provide meaningful consultation with, and the informed participation of, ethnic minority groups living within the Project area, and to ensure that benefits under the Project are socially and culturally acceptable to such groups;

(b) whenever implementation of the Project or any part thereof would take place in an area where an ethnic minority community resides, cultivates or use as grazing lands, prepare and provide to the Association for its approval an ethnic minorities development plan prepared in accordance with the principles and procedures set forth in said Framework and with the full and informed participation of such ethnic minority community, designed to ensure that Project activities adequately address the needs, cultural practices and preferences of such community; and, thereafter, implement in a manner satisfactory to the Association, such ethnic minorities development plan as shall have been approved by the Association;

(c) provide to the Association for its prior approval any proposed revision of said Framework or any of said ethnic minorities development plans, and thereafter introduce such revision into said Framework or said plans as shall have been agreed with the Association; and

(d) maintain policies and procedures adequate to enable them to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of said Framework and said ethnic minorities development plans, and the achievement of their objectives.

### **Project Implementation**

8. For purposes of Parts A and B of the Project, the Borrower shall not finance any Project activities for a Participating Province until:

(a) such Participating Province has: (i) established a PPMU in accordance with the provisions of paragraph 2 above; (ii) adopted the Resettlement Policy Framework and the Ethnic Minorities Policy Framework and, as may be required under said Policy Frameworks and in accordance with the provisions thereof, prepared a

resettlement action plan and/or an ethnic minorities development plan acceptable to the Association; and (iii) through its respective People's Committee, approved a feasibility study of its respective part of the Project; all in a manner satisfactory to the Association;

(b) in respect of Part A, the respective Participating Province has given a commitment in form and substance satisfactory to the Association, to undertake, and to cause its Water Supply Companies to undertake, a competitive bidding process for the selection of contractors for the operation of the water supply schemes constructed and/or expanded under Part A.1 of the Project; and

(c) the Association has completed a satisfactory appraisal of Project activities proposed for such Participating Province.

### **Part A.1 of the Project**

9. To guide the preparation of Project activities of the Part A Participating Provinces, the Borrower, through MOC, shall:

(a) prepare a Competition Route Project Preparation Manual satisfactory to the Association, setting forth, inter alia, procedures and requirements for: socio-economic and physical surveys of towns to establish sources and costs of water supplies; preparation of initial water supply design, cost estimates and financial models to quantify tariff options; willingness-to-connect surveys; eligibility criteria for towns and their respective water supply companies to participate in the Project; preparation of feasibility studies; and preparation of procurement plans and bidding documents;

(b) implement and cause each Part A Participating Province to implement said Preparation Manual; and

(c) not waive, amend, or otherwise modify, or permit to be waived, amended or otherwise modified, said Preparation Manual without the prior concurrence of the Association.

10. In each Part A Participating Province which has met the eligibility criteria set forth in paragraph 8 above, for the purposes of financing the construction and/or expansion of water supply schemes in selected towns of said Participating Province, the Borrower shall:

(a) enter into an on-lending agreement with the WSC of the selected towns in accordance with the provisions of Section 3.01 (c) of this Agreement;

(b) by written contract, or other appropriate legal means, with the respective WSC obtain rights adequate to protect the interests of the Participating Province, the Borrower and the Association, including the right to require said WSC to:

- (i) manage, operate and maintain, and cause to be managed, operated and maintained, its respective water supply scheme, and conduct all its operations in accordance with sound management, financial, engineering and public utility practices, and environmental and social standards acceptable to the Participating Province, the Borrower and the Association;
  - (ii) maintain adequate records and accounts in respect of said water supply scheme and all its operations;
  - (iii) have its records, accounts and financial statements for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association, and provide to the Association, as soon as available, the report of such audit of such scope and in such detail as the Association shall have reasonably requested;
  - (iv) enable the Participating Province, the Borrower and the Association to inspect said scheme and its operations, and any records, accounts and documents related thereto; and
  - (v) provide all such information as the Participating Province, the Borrower or the Association may reasonably request regarding such water supply scheme and its operations;
- (c) exercise its rights in respect of the funds so onlent and the respective WSC in such manner as to protect its interests, the interests of the Participating Province and the Association, and to achieve the purpose of the Credit; and
- (d) cause said Part A Participating Province, in respect of the water supply scheme of each selected town and its respective WSC:
- (i) at the beginning of operation of such water supply scheme, to apply the tariffs agreed upon in the willingness-to-connect survey carried out for such town as updated for actual costs in a manner satisfactory to the Association; and
  - (ii) take, and cause the town and its WSC to take, all action necessary, including timely adjustment to tariffs and efficiency improvement, to enable such WSC to meet the working ratio, acceptable to the Association, established for such WSC in the feasibility study for such Participating Province.

**Part A.2 of the Project**

11. For purposes of Part A.2 of the Project, the Borrower shall:

(a) through MOC, prepare and put into effect a Sanitation Fund Manual, satisfactory to the Association, setting forth the procedures and requirements for the establishment and operation by each Part A Participating Province of its respective Sanitation Revolving Fund; the financial management procedures for said Fund; eligibility criteria for households applying for Sanitation Loans; and the terms and conditions of the Sanitation Loans;

(b) make available to each Part A Participating Province, as grant, a portion of the proceeds of the Credit allocated from time to time to Category (3) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, provided that said Participating Province has met the conditions set forth in paragraph 8 above; and

(c) without any limitation to its obligation under Section 3.01 of this Agreement, cause said Part A Participating Province to enter into an implementation arrangement with the Women's Union in said Participating Province whereby the Women's Union shall undertake the following actions and responsibilities for purposes of Part A.2 of the Project:

- (i) the Women's Union shall manage the Sanitation Revolving Fund on behalf of said Participating Province to make loans to eligible households in selected towns, in accordance with the provisions of the Sanitation Fund Manual;
- (ii) in respect of each Sanitation Loan, the Women's Union shall obtain by written contract with the borrowing household, rights adequate to protect the interests of the Women's Union, the respective Participating Province, the Borrower and the Association, including the rights: (A) to require the borrowing household to use the proceeds of the Sanitation Loan for its intended purpose, with due diligence and efficiency and in accordance with sound technical and sanitation standards, and to maintain adequate records; (B) to require that goods and works be procured at a reasonable price following established commercial procedures; (C) to inspect by themselves, or jointly with representatives of the selected towns, of the Participating Province or the Association, if the Association shall so request, the goods, works and installation implemented using the proceeds of the Sanitation Loan, and any relevant records and documents; and (D) to suspend or terminate the right of the borrowing household to the use of the proceeds of the Sanitation Loan upon failure of its obligations under its contract with the Women's Union;

- (iii) the Women's Union shall 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 its operations, resources and expenditures in respect of the respective Sanitation Revolving Fund;
- (iv) the Women's Union shall have the financial statements, records and accounts referred to in clause (iii) above, for each fiscal year audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association; furnish to the Participating Province and the Association certified copies of such financial statements and an opinion on such statements by the auditors, in scope and detail satisfactory to the Association; and furnish such other information on its financial statements, the audit thereof and concerning the auditors as the Association may from time to time reasonably request;
- (v) proceeds of the Sanitation Loans re-paid by borrowing households to the Women's Union may be used for further Sanitation Loans to households within the selected towns, under terms and conditions acceptable to the Association; and
- (vi) said Part A Participating Province shall retain the right to cancel its implementation arrangement with the Women's Union in the event of failure of the Women's Union to perform in accordance with the provisions of said implementation arrangement and of the Sanitation Fund Manual.

### **Part B of the Project**

12. In each Part B Participating Province which has met the eligibility criteria set forth in paragraph 8 above, for the purposes of financing the rehabilitation of water treatment plants, the rehabilitation and expansion of distribution systems, and/or the expansion of water producing capacity in said Participating Province, the Borrower shall directly or through said Participating Province:

- (a) enter into an onlending arrangement with the WSCs in said Participating Province in accordance with the provisions of Section 3.01 (c)(ii) and (d) of this Agreement; provided, however, that in respect of Binh Thuan and Ha Tinh the proceeds of the Credit shall not be used for construction of water production facilities unless such Participating Provinces reach a score of at least 70% under an independent performance audit satisfactory to the Association;



(b) by written contract, or other appropriate legal means, with the respective WSC obtain rights adequate to protect the interests of the Participating Province, the Borrower and the Association, including the right to require said WSC to:

- (i) maintain its performance at least at the level indicated under the 2002 performance audit;
- (ii) unless otherwise agreed by the Association, maintain a working ratio acceptable to the Association, established, or to be established, for such WSC in the feasibility study for such Participating Province;
- (iii) procure the works, goods and services required for its respective water supply scheme and to be financed with the proceeds of the Credit in accordance with the provisions of Schedule 3 to this Agreement as further elaborated in the Procurement Plan; and use such goods, works and services exclusively for the purposes for which the proceeds of the Credit have been made available to such WSC;
- (iv) manage, operate and maintain, and cause to be managed, operated and maintained, its respective water supply scheme, and conduct all its operations in accordance with sound management, financial, engineering and public utility practices, and environmental and social standards acceptable to the Participating Province, the Borrower and the Association;
- (v) maintain adequate records and accounts in respect of said water supply scheme and all its operations;
- (vi) have its records, accounts and financial statements for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association, and provide to the Association, as soon as available, the report of such audit of such scope and in such detail as the Association shall have reasonably requested;
- (vii) enable the Participating Province, the Borrower and the Association to inspect said scheme and its operations, and any records, accounts and documents related thereto; and
- (viii) provide all such information as the Participating Province, the Borrower or the Association may reasonably request regarding such water supply scheme and its operations.

(d) exercise its rights in respect of the funds so onlent and the respective WSC in such manner as to protect its interests, the interests of the Participating Province and the Association, and to achieve the purpose of the Credit; and

(e) cause said Part B Participating Province, in respect of its respective water supply scheme and WSC, to take, and to cause to be taken, all action necessary, including timely adjustment to tariffs and operational efficiency improvement, to enable its respective WSC to comply with its obligations set forth in clauses (b)(i) and (ii) of this paragraph 12.

### **Part C of the Project**

13. For purposes of Part C of the Project, the Borrower shall cause DAF to:

(a) prepare and put into effect a DAF Credit Manual satisfactory to the Borrower and the Association, setting forth therein the eligibility criteria for WSS Loans, the procedures and requirements for the technical appraisal and credit risk assessment of water supply sub-projects;

(b) undertake to make WSS Loans available to qualified public water supply companies or private enterprises for eligible water supply infrastructure sub-projects in accordance with the provisions of the DAF Credit Manual, under terms and conditions acceptable to the Association which shall, unless otherwise agreed by the Association, include the following:

- (i) a WSS Loan for any single eligible water supply sub-project shall not exceed \$2,000,000 equivalent; shall be for a term of 5 to 15 years; and shall bear interest at a rate sufficient to enable DAF to cover its operating expenses and risks in respect of such Loan;
- (ii) the aggregate of all WSS Loans in a principal amount of less than \$100,000 equivalent each, outstanding at any time shall not exceed \$1,000,000 equivalent;
- (iii) in regard to the first three (3) WSS Loans in a principal amount of \$250,000 equivalent or higher, prior to making the proceeds of such WSS Loan available for any water supply sub-project, DAF shall provide to the Association for its review and approval a request for disbursement, including therein a report on its appraisal of the technical and financial qualifications of the borrowing water supply company and its credit analysis of the sub-project for which the WSS Loan had been requested; and

(iv) DAF shall, by written contract with the beneficiary of the WSS Loan, obtain rights adequate to protect the interests of DAF, the Borrower and the Association, including require that such beneficiary undertake to: (A) carry out its respective sub-project with due diligence and efficiency, in accordance with sound financial and technical practices, consistent with appropriate environmental measures and satisfactory social standards as set forth in the Environmental Guidelines, the Resettlement Policy Framework and the Ethnic Minorities Policy Framework; (B) provide promptly as needed funds and other resources required for the purposes of its respective sub-project; and maintain adequate records and accounts; (C) procure the works, goods and services required for its respective sub-project in accordance with commercial practices acceptable to the Association, and use such works, goods and services exclusively in the carrying out of the sub-project for which the WSS Loan was granted; (D) enable DAF, the Borrower and the Association to inspect the goods and sites included in its respective sub-project and any records, accounts and documents; and provide all such information as DAF, the Borrower or the Association may reasonably request regarding said sub-project.

(c) exercise its rights in respect of WSS Loans in such manner as to protect its interests, the interests of the Borrower and the Association, and to achieve the purpose of the Credit;

(d) make its best efforts to enter into loan syndication with commercial banks in regard to at least one WSS Loan;

(e) undertake 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 Part C of the Project; and

(f) undertake to have the records and accounts referred to in sub-paragraph (e) above for each fiscal year audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association; furnish to the Borrower and the Association certified copies of such financial statements and an opinion on such statements by the auditors, in scope and detail satisfactory to the Association; and furnish such other information on its financial statements, the audit thereof and concerning the auditors as the Association may from time to time reasonably request.

14. The Borrower shall: (i) exercise its rights under the Subsidiary Loan Agreement with DAF in such manner as to protect the interests of the Borrower and the Association,

and to accomplish the purposes of the Credit; and (b) except as the Association shall otherwise agree, not assign, amend, abrogate or waive its Subsidiary Loan Agreement with DAF or any provision thereof.

15. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory 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: (i) on or about January 31 and July 31 of each year, commencing on January 31, 2006, a semi-annual report, and (ii) on or about July 31, 2008, a mid-term report, in each case consolidating the reports provided by each of the Participating Provinces and by DAF, and integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph 15, on the progress achieved in the carrying out of the Project during the period preceding each such 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; and

(c) promptly review with the Association, each report referred to in sub-paragraph (b) of this paragraph 15, 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 5**

### **Special Accounts**

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means: (i) in respect of the DAF Special Account for Parts A.1, A.2, B.3 and B.4 of the Project, Categories (1)(a), (2)(a), (3), (5)(a) and (6)(a) set forth in the table in paragraph 1 of Schedule 1 to this Agreement; (ii) in respect of the Hai Phong Special Account for Part B.1 of the Project, Categories (1)(b), (2)(b) and (5)(b); (iii) in respect of the HCMC Special Account for Part B.2 of the Project, Categories (1)(c), (2)(c) and (5)(c); (iv) in respect of the WSS Special Account for Part C of the Project, Categories 4 and (5)(d); and (v) in respect of the MOC Special Account for Parts D and E of the Project, Categories (2)(d), (5)(e) and (6)(b).

(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 Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) (i) the term “Authorized Allocation” means an amount equal to \$3,000,000 in respect of the DAF Special Account for Parts A.1, A.2, B.3 and B.4 of the Project, to be withdrawn from the Credit Account and deposited into the DAF 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 equal to \$1,500,000 in respect of the DAF Special Account until the aggregate amount of withdrawals from the Credit Account allocated to Categories (1)(a), (2)(a), (3), (5)(a) and (6)(a) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Parts A.1, A.2, B.3 and B.4 of the Project shall be equal to or exceed the equivalent of SDR8,000,000;

(ii) the term “Authorized Allocation” means an amount equal to \$500,000 in respect of the Hai Phong Special Account for Part B.1 of the Project, to be withdrawn from the Credit Account and deposited into the Hai Phong 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 equal to \$250,000 in respect of the Hai Phong Special Account until the aggregate amount of withdrawals from the Credit Account allocated to Categories (1)(b), (2)(b) and (5)(b) plus the total amount of all outstanding

special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part B.1 of the Project shall be equal to or exceed the equivalent of SDR2,000,000;

- (iii) the term “Authorized Allocation” means an amount equal to \$1,500,000 in respect of the HCMC Special Account for Part B.2 of the Project, to be withdrawn from the Credit Account and deposited into the HCMC 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 equal to \$750,000 in respect of the HCMC Special Account until the aggregate amount of withdrawals from the Credit Account allocated to Categories (1)(c), (2)(c) and (5)(c) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part B.2 of the Project shall be equal to or exceed the equivalent of SDR5,000,000;
- (iv) the term “Authorized Allocation” means an amount equal to \$500,000 in respect of the WSS Special Account for Part C of the Project, to be withdrawn from the Credit Account and deposited into the DAF 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 equal to \$250,000 in respect of the DAF Special Account until the aggregate amount of withdrawals from the Credit Account allocated to Categories (4) and (5)(d) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part C of the Project shall be equal to or exceed the equivalent of SDR1,500,000; and
- (v) the term “Authorized Allocation” means an amount equal to \$100,000 in respect of the MOC Special Account for Parts D and E of the Project, to be withdrawn from the Credit Account and deposited into the MOC Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the respective 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 respective Special Account has been duly opened, withdrawals of the Authorized Allocation and

subsequent withdrawals to replenish the respective 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 respective 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 and deposit into the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective 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 and deposit into the respective 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 respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit 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 respective 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 any 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 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 Accounts;

(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 pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account, 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 respective Part or Parts of the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories in regard to the respective Part or Parts of the Project 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 respective 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 any 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 respective 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 any 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 any 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 Accounts.

(d) Refunds to the Association made pursuant to paragraphs 6(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.



