

CONFORMED COPY

HIPC ASSIGNMENT AND RELEASE AGREEMENT NO. 022737  
022738

HIPC Debt Initiative  
Assignment and Release Agreement

between

REPUBLIC OF MOZAMBIQUE

and

INTERNATIONAL DEVELOPMENT ASSOCIATION  
in its own capacity and as administrator of the  
HIPC Debt Initiative Trust Fund

Dated December 1, 1999

HIPC DEBT RELIEF AGREEMENT NO. 022737  
022738

ASSIGNMENT AND RELEASE AGREEMENT

AGREEMENT, dated December 1, 1999, between REPUBLIC OF MOZAMBIQUE (the Beneficiary) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) in its own capacity and as administrator of the HIPC Debt Initiative Trust Fund (the HIPC Trust Fund).

WHEREAS (A) the Beneficiary has been determined to be eligible for debt relief under the HIPC Debt Initiative and the Association has agreed to provide debt relief under the HIPC Debt Initiative on debts owed by the Beneficiary to the Association in accordance with the terms of the HIPC Debt Initiative Debt Relief Agreement, dated October 6, 1999, between the Beneficiary and the Association (the Debt Relief Agreement); and

(B) In accordance with the terms of the Debt Relief Agreement, such debt relief is to be financed by a grant from the HIPC Trust Fund and is to be effected in part by the transfer to the Association, as administrator of the HIPC Trust Fund, of the Association's claims in respect of such debt in exchange for the payment to the Association by the Association, as administrator of the HIPC Trust Fund, of the Transfer Price (as defined in the Debt Relief Agreement), following which the Association, as administrator of the HIPC Trust Fund, is to cancel such claims and release and discharge the Beneficiary from

such debt.

NOW THEREFORE the parties hereto hereby agree as follows:

## ARTICLE I

### Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Debt Relief Agreement and in the Preamble to this Agreement have the respective meanings therein set forth, and "Identified Debt" means the debt listed in Schedule 2 (a) to the Debt Relief Agreement.

## ARTICLE II

### Assignment

Section 2.01. In consideration of the payment of the Transfer Price, receipt of which is hereby acknowledged, the Association, in its own capacity, hereby transfers, assigns and sets over the Identified Debt and all the Association's rights, title and interest therein to the Association, as administrator of the HIPC Trust Fund and its successors and assigns, to have and to hold, absolutely and forever.

Section 2.02. Notwithstanding the transfer and assignment of the Identified Debt to the Association, as administrator of the HIPC Trust Fund, the Association in its own capacity, acknowledges and agrees that the Association, as administrator of the HIPC Trust Fund, does not assume and shall not be responsible for any of the liabilities or obligations of the Association, in its own capacity, under, or in respect of, the Identified Debt.

## ARTICLE III

### Representations and Warranties

Section 3.01. The Association, in its own capacity, hereby represents and warrants that:

(a) it is the sole beneficial owner of the Identified Debt with good and marketable title thereto free and clear of any liens, mortgages, security interests, charges, encumbrances or rights of others (except for the rights of the Association, as administrator of the HIPC Trust Fund, under this Agreement) and is exclusively entitled to possess and dispose of the Identified Debt in accordance with this Agreement;

(b) it has all necessary power and authority to enter into, execute and deliver this Agreement and to carry out its obligations hereunder;

(c) the execution and delivery of this Agreement and the consummation of the transactions evidenced and contemplated hereby or hereunder have been duly authorized by all necessary action on its part;

(d) this Agreement constitutes its valid and binding agreement and obligation enforceable and effective in accordance with its terms; and

(e) the performance of its obligations under this Agreement does not and will not conflict with (i) any applicable law or regulation or any judicial order in effect at the date hereof; (ii) its constitutive documents; or (iii) any agreement or document to which it is a party or which is binding on it.

Section 3.02. The Beneficiary represents and warrants that:

(a) it is indebted to the Association in the principal amount specified in the Schedule to this Agreement in respect of the Identified Debt, together with all charges accrued and unpaid thereon;

(b) its liabilities in respect of the Identified Debt are not subject to reduction or diminution in any manner whatsoever including, without limitation, by way of set-off, compensation, counterclaim, defense, damages or otherwise; and

(c) it hereby consents to the transfer and assignment of the Identified Debt to the Association, as administrator of the HIPC Trust Fund, pursuant to this Agreement.

#### ARTICLE IV

##### Release

Section 4.01. The Association, as administrator of the HIPC Trust Fund, having become the owner of the Identified Debt under this Agreement, hereby irrevocably and unconditionally releases and forever discharges the Beneficiary from any and all liabilities and obligations of whatsoever nature, whether present or future, arising in relation to the Identified Debt, all of which are hereby irrevocably cancelled.

#### ARTICLE V

##### Enforceability of Agreement; Failure to Exercise Rights; Arbitration

Section 5.01. The rights and obligations of the Beneficiary and the Association under this Agreement shall be valid and enforceable in accordance with their terms notwithstanding the law of any State or political subdivision thereof to the contrary. Neither the Beneficiary nor the Association shall be entitled in any proceeding under this Article to assert any claim that any provision of this Agreement is invalid or unenforceable because of any provision of the Articles of Agreement of the Association.

Section 5.02. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default. No action of such party in respect of any default, or any acquiescence by it in any default, shall affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 5.03. (a) Any controversy between the parties to this Agreement, and any claim by either such party against the other party arising under this Agreement which has not been settled by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

(b) The parties to such arbitration shall be the Association and the Beneficiary.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Association, a second arbitrator shall be appointed by the Beneficiary, and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by said President, by the Secretary-General of the United Nations. If either of the parties shall fail to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator, and such successor shall have all the powers and duties of such original arbitrator.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought, and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty days after such notice, the other party shall notify to the party instituting such proceeding the name of the arbitrator appointed such other party.

(e) If within sixty days after the notice instituting the arbitration proceeding, the parties shall not have agreed upon an Umpire, either party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to the provisions of this Section and except as the parties shall otherwise agree, determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

(h) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to this Agreement. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this Section.

(i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. Each party shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by the parties. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

(j) The provisions of arbitration set forth in this Section shall be in lieu of any other procedure for the settlement of controversies between the parties to this Agreement or of any claim by either party against the other party arising hereunder.

(k) The Association shall not be entitled to enter judgment against the Beneficiary upon the award, to enforce the award against the Beneficiary by execution or to pursue any other remedy against the Beneficiary for the enforcement of the award, except as such procedure may be available against the Beneficiary otherwise than by reason of the provisions of this Section. If, within thirty days after counterparts of the award shall have been delivered to the parties, the award shall not be complied with by the Association, the Beneficiary may take any such action for the enforcement of the award against the Association.

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section shall be made in the manner provided in Section 6.01 of this Agreement. The parties to this Agreement waive any and all other requirements for the service of any such notice or process.

## ARTICLE VI

### Miscellaneous

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Beneficiary:

BANK OF MOZAMBIQUE  
Avenida 25 de Setembro  
P.O. Box 423  
Maputo

Mozambique

Cable address:

MOBANCO  
Maputo

Telex:

6355/7

For the Association:

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

Cable address:

INDEVAS  
Washington, D.C.

Telex:

248423 (MCI) or  
64145 (MCI)

Section 6.02. This Agreement may be executed in several counterparts, each of which shall be an original.

Section 6.03. This Agreement shall become effective upon its execution by the parties.

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

REPUBLIC OF MOZAMBIQUE

By /s/ Marcos Namashulua

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

in its own capacity and as Administrator of  
the HIPC Debt Initiative Trust Fund

By /s/ Callisto E. Madavo

Regional Vice President  
Africa

