

**CONFORMED COPY**

**CREDIT NUMBER 3840-KH**

# **Development Credit Agreement**

**(Rural Electrification and Transmission Project)**

**between**

**KINGDOM OF CAMBODIA**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated November 15, 2004**

**CREDIT NUMBER 3840-KH**

**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated November 15, 2004, between KINGDOM OF CAMBODIA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

(B) Parts A(2) and A(3), Parts B(1) and B(3) and Part C(3) of the Project will be carried out by Electricite du Cambodge (EDC) with the Borrower's assistance and, as part of such assistance, the Borrower will make a portion of the proceeds of the Credit provided for in Article II of this Agreement (the Credit) available to EDC, as set forth in this Agreement;

(C) the Borrower has requested assistance from the resources of the Global Environment Facility (GEF) Trust Fund in the financing of Parts B(2)(b), B(2)(d), C(1)(a), C(1)(c), C(1)(d), C(1)(e), C(1)(f), C(1)(g), and C(2) of the Project, the International Bank for Reconstruction and Development (the Bank) has determined that such assistance would be in accordance with the provisions of Resolution No. 94-2 of the Executive Directors of the Bank, dated May 24, 1994, establishing the GEF Trust Fund, and, by an agreement of even date herewith between the Borrower and the Bank, acting as an Implementing Agency of the GEF (the GEF Grant Agreement), the Bank is agreeing to provide such assistance in an aggregate principal amount equal to five million seven hundred fifty thousand United States Dollars (US\$5,750,000) (the GEF Grant);

(D) the Asian Development Bank (ADB) has agreed to make a loan in an amount of approximately US\$45,000,000 equivalent (the ADB Loan) for the financing of Part A(1) of the Project on the terms and conditions set forth in an agreement to be entered into between the Borrower and ADB (the ADB Loan Agreement);

(E) the Nordic Development Fund (NDF) has also agreed to make a loan in an amount of approximately 10,000,000 Euros (US\$10,800,000 equivalent) (the NDF Loan) for the co-financing of Part A(1) of the Project on the terms and conditions set forth in an agreement to be entered into between the Borrower and NDF (the NDF Loan Agreement);

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, in the agreement of even date herewith between the Association and EDC (the Project Agreement) and in the GEF Grant Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

## **ARTICLE I**

### **General Conditions; Definitions**

Section 1.01. The “General Conditions Applicable to Development Credit Agreements” of the Association, dated January 1, 1985 (as amended through October 6, 1999) (the General Conditions), constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Beneficiary” means any rural electrification enterprise, private entrepreneur, or community group determined to be eligible for a Sub-Grant in accordance with the eligibility criteria set forth in the Operational Manual and to whom, or for whose benefit, a Sub-Grant is made or proposed to be made, and the term “Beneficiaries” means more than one Beneficiary.

(b) “Counterpart Funds Accounts” mean, collectively, the MIME Counterpart Funds Account referred to in Section 3.02 (a)(i) of this Agreement, the EAC Counterpart Funds Account referred to in Section 3.02 (a)(ii) of this Agreement, and the EDC Counterpart Funds Account referred to Section 3.02 (a)(iii) of this Agreement, and the term “Counterpart Funds Accounts” means either one of the Counterpart Funds Accounts.

(c) “Displaced Person” means a person who, on account of the execution of the Project, has experienced or would experience direct economic and social impacts caused by: (i) the involuntary taking of land, resulting in (A) relocation or loss of shelter; (B) loss of assets or access to assets; or (C) loss of income sources or means of livelihood, whether or not such person must move to another location; or (ii) the involuntary restriction of access to legally designated parks and protected areas, resulting

in adverse impacts on the livelihood of such person, and “Displaced Persons” means, collectively, all such Displaced Persons.

(d) “EAC” means the Electricity Authority of Cambodia established pursuant to the Electricity Law of the Borrower promulgated by the Royal Decree No. NS/RKM/0201/03 dated February 02, 2001, as an autonomous agency to regulate the electricity services and to govern the relations between the delivery, receipt and use of electricity, and such term includes any successor thereto.

(e) “EDC” means the Electricite du Cambodge, the electricity utility of the Borrower established and operating as a limited liability company pursuant to the Royal Decree No. NS 0396/10, dated March 9, 1996, for generation, transmission and distribution of electric power throughout Cambodia, and such term includes any successor thereto.

(f) “EDC Power Investment Plan” means each of the ten-year master investment plan of EDC, including investment in power generation, transmission and distribution projects and to be funded from its own resources or from resources provided to EDC by the Borrower or third parties, including those funded out of the proceeds of the Credit.

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

(h) “Environmental Management Plan” and its acronym “EMP” mean the environmental management plan, approved by the Borrower on November 14, 2003, which sets out the environmental protection measures in respect of Part A of the Project, as well as administrative and monitoring arrangements to ensure the implementation of said Plan, as the same may be amended from time to time with prior agreement of the Association.

(i) “Ethnic Minorities Development Strategy” means the strategy, dated November 13, 2003, adopted by the Borrower on November 14, 2003, which sets forth policies and procedures in respect of Part B(2) of the Project, for meaningful consultation with and informed participation of ethnic minorities residing within the Project area, who are affected by the Project, and for the preparation of ethnic minorities development plans as may be required, in order to mitigate any adverse impacts from the Project on such ethnic minorities and to ensure that Project activities adequately address their needs, cultural practices and preferences, as said Strategy may be revised from time to time with the prior concurrence of the Association.

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

(k) "Governing Law" means the Royal Decree No. NS 0396/10 dated March 9, 1996, pursuant to which EDC was established, Sub-decree No. 23 dated May 23, 1996, and the Electricity Law dated February 2, 2001, and other laws, decrees, sub-decrees, directives, resolutions and regulations which may from time to time govern, control or regulate the operations of EDC.

(l) "Project Implementation Plan" means the EDC's project implementation plan in respect to EDC's Respective Parts of the Project, as described in paragraph 2 of Schedule 2 to the Project Agreement, as the same may be amended from time to time with the prior agreement of the Association, and such term shall include any schedules, tables and annexes to such Project Implementation Plan.

(m) "MIME" means the Borrower's Ministry of Industry, Mines and Energy, established pursuant to the Borrower's Royal Decree dated November 1, 1993, and such term includes any successor thereto.

(n) "MIME Special Account" means the account referred to in Section 2.02 (b)(i) of this Agreement.

(o) "NBC" means the National Bank of Cambodia, the Borrower's central bank, and such term includes any successor thereto.

(p) "Operational Manual" means the manual prepared by MIME to assist in the implementation of Part B(2) of the Project, referred to in paragraph 7 of Schedule 3 to this Agreement, as said manual may be amended from time to time with the prior agreement of the Association.

(q) "Project Agreement" means the agreement between the Association and EDC of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement.

(r) "Project Preparation Advance" means the project preparation advance Granted by the Association to the Borrower pursuant to the letter agreement signed on behalf of the Association on October 10, 2001 and on behalf of the Borrower on November 6, 2001.

(s) "Resettlement Action Plan" means the plan for carrying out compensation, rehabilitation and resettlement of Displaced Persons under Part A of the Project, dated November 13, 2003, adopted by the Borrower on November 14, 2003, as such plan may be amended from time to time with prior agreement of the Association.

(t) "Resettlement Policy Framework" means the policy framework for compensation, resettlement and rehabilitation of Displaced Persons, dated November 13, 2003, adopted by the Borrower on November 14, 2003, setting forth the policies, principles, eligibility criteria of Displaced Persons, grievance redress mechanisms, entitlements, legal framework, institutional arrangements and the obligations of the Borrower to prepare resettlement action plans under Part B of the Project satisfactory to the Association, designed to improve the living standards, income earning capacity, and production levels of the Displaced Persons, as said Framework may be amended from time to time with the prior agreement of the Association.

(u) "Respective Parts of the Project" means: (i) in respect of MIME, Part C (1) of the Project; (ii) in respect of EAC, Part C(2) of the Project; (iii) in respect of REF, Part B(2) of the Project; and (iv) in respect of EDC, Parts A(2), A(3), B(1), B(3), and C (3) of the Project.

(v) "Riel" means the unit of currency of the Borrower.

(w) "Rural Electrification Fund" and its acronym "REF" mean the public institution to be established by the Borrower to provide financial and technical support for rural electrification development pursuant to paragraph 1 of Schedule 3 to this Agreement.

(x) "Special Accounts" means, collectively, the MIME Special Account and the EDC Special Account; a "Special Account" means either of said Special Accounts.

(y) "Sub-Grant" means a Grant made or proposed to be made by the Borrower to a Beneficiary out of the proceeds of the Credit or the GEF Trust Fund Grant for the purpose of financing part of the cost of a Sub-project under Part B(2) of the Project, and the term "Sub-Grants" means more than one Sub-Grant.

(z) "Sub-Grant Agreement" means an agreement for a Sub-Grant referred to in paragraph 10 of Schedule 3 to this Agreement.

(aa) "Sub-project" means a specific rural electrification project selected for financing under Part B(2) of the Project in accordance with the Operational Manual and the terms and conditions set forth in Schedule 3 to this Agreement; and "Sub-projects" means, collectively, all such Sub-projects.

(bb) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and EDC pursuant to Section 3.03 (a) of this Agreement, as the same may be amended from time to time with the prior agreement of the Association, and such term includes all schedules to the Subsidiary Loan Agreement.

## **ARTICLE II**

### **The Credit**

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to twenty seven million nine hundred thousand Special Drawing Rights (SDR27,900,000).

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 the Project (except for Parts A (2)(e) and B(3) of the Project) and to be financed out of the proceeds of the Credit; and (ii) amounts paid (or, if the Association shall so agree, to be paid) on account of withdrawals made for the benefit of a Beneficiary to meet the reasonable costs of eligible expenditures relating to a Sub-project under Part B(2)(a) and (c) of the Project, and in respect of which the withdrawal from the Credit Account is requested.

(b) The Borrower may, for the purposes of the Project, open and maintain in Dollars, two special accounts, each in the National Bank of Cambodia or a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment: (i) the MIME Special Account for MIME's Respective Parts of the Project; and (ii) the EDC Special Account for EDC's Respective Parts of the Project. Deposits into, and payments out of, each respective Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

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

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set

by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

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

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

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

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

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 15 and December 15 commencing June 15, 2014 and ending December 15, 2043. Each installment to and including the installment payable on December 15, 2023 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:

- (i) shall through MIME, REF and EAC carry out their Respective Parts of the Project with due diligence and efficiency and in conformity with appropriate administrative, economic, financial, technical 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 their Respective Parts of the Project; and

- (ii) without any limitation or restriction upon any of its other obligations under this Agreement, shall cause EDC to carry out EDC's Respective Parts of the Project in accordance with the provisions of the Project Agreement, and carry out all of its obligations therein set forth, all with due diligence and efficiency and in conformity with appropriate administrative, economic, financial, engineering, technical and public utilities practices and sound environmental and social standards acceptable to the Association; and shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, and the adjustment of electricity tariffs, necessary or appropriate to enable EDC to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(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 through MIME, REF and EAC carry out their Respective Parts of the Project in accordance with the Implementation Program set forth in Schedule 3 to this Agreement.

Section 3.02. Without limitation upon the provisions of paragraph (a) of Section 3.01 of this Agreement, and except as the Borrower and the Association shall otherwise agree, the Borrower shall, for purposes of financing its contribution to expenditures under the Project:

(a) open three Counterpart Funds Accounts at the National Bank of Cambodia, (i) the first account in the name of MIME (the MIME Counterpart Funds Account); (ii) the second account in the name of EAC (the EAC Counterpart Funds Account); and (iii) the third account in the name of EDC (the EDC Counterpart Funds Account), and thereafter, maintain said Counterpart Funds Accounts under terms and conditions acceptable to the Association until the completion of the Project;

(b) deposit into the MIME Counterpart Funds Account, an initial amount equivalent to ten thousand United States Dollars (US\$10,000); into the EAC Counterpart Funds Account, an initial amount equivalent to three thousand United States Dollars (US\$3,000); and into the EDC Counterpart Funds Account, an initial amount equivalent to forty thousand United States Dollars (US\$40,000); and thereafter, replenish the Counterpart Funds Accounts on a quarterly basis by depositing therein the amounts needed in accordance with annual work plans and budgets referred to in paragraph 6 of Schedule 3 to this Agreement and paragraph 7 of Schedule 2 to the Project Agreement, respectively; and

(c) ensure that funds deposited into the Counterpart Funds Accounts in accordance with paragraphs (a) and (b) of this Section shall be used exclusively to finance expenditures under the Project.

Section 3.03. (a) For purposes of EDC's Respective Parts of the Project, the Borrower shall make available to EDC part of the proceeds of the Credit and, to this end, shall enter into a Subsidiary Loan Agreement with EDC under terms and conditions which shall have been approved by the Association and which shall include, inter alia, the terms and conditions set forth in Schedule 5 of this Agreement.

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

Section 3.04. 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 1 to the Project Agreement.

Section 3.05. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of EDC's Respective Parts of the Project shall be carried out by EDC pursuant to Section 2.03 of the Project Agreement.

Section 3.06. 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 for the continued achievement of the Project's objectives; 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 maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the MIME, EAC and REF's Respective Parts of 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), commencing with the fiscal year in which the first withdrawal under the Project Preparation Advance was made, 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 11 of Schedule 3 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 MIME, REF and EAC's Respective Parts of 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 implementation of the MIME, REF and EAC's Respective Parts of the Project, 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 MIME, REF and EAC's Respective Parts of 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 events are specified, namely:

(a) EDC shall have failed to perform any of its obligations under the Project Agreement.

(b) The Borrower or EDC shall have failed to perform any of its respective obligations under the Subsidiary Loan Agreement.

(c) As a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that EDC will be able to perform its obligations under the Project Agreement.

(d) The Governing Laws or any provision thereof have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of EDC to perform any of its obligations under the Project Agreement.

(e) (i) Subject to subparagraph (ii) of this paragraph:

the right of the Borrower to withdraw the proceeds of: (i) the GEF Trust Fund Grant for the financing of parts of the Project as described in paragraph C of the Preamble to this Agreement; and (ii) the ADB Loan and the NDF Loan for the financing of Part A(1) of the Project, shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the agreements providing therefore.

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Association that:

(A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreements; and

(B) adequate funds for said parts of the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

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

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

(b) any events specified in paragraphs (c) and (d) of Section 5.01 of this Agreement shall occur; and

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

## **ARTICLE VI**

### **Effective Date; Termination**

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

(a) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and EDC;

(b) the GEF Trust Fund Grant Agreement, the ADB Loan Agreement and the NDF Loan Agreement have been executed and delivered and all conditions precedent to their effectiveness or to the right of the Borrower to make withdrawals thereunder, except only the effectiveness of the Development Credit Agreement, have been fulfilled;

(c) EDC has adopted the Project Implementation Plan, in accordance with paragraph 2 of Schedule 2 to the Project Agreement; and

(d) the Borrower has made the initial deposits into the Counterpart Funds Accounts in accordance with Section 3.02 (b) of this Agreement.

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

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

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

(c) the GEF Trust Fund Grant Agreement has been duly authorized or ratified by the Borrower and is legally binding upon the Borrower in accordance with its terms; and

(d) that the Environmental Management Plan, the Resettlement Action Plan, the Resettlement Policy Framework and the Ethnic Minorities Development Strategy have been duly authorized by the Borrower and are legally binding and enforceable in accordance with Cambodian law.

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

## **ARTICLE VII**

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

Section 7.01. The Minister of Economy and Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

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

For the Borrower:

Ministry of Economy and Finance

92<sup>nd</sup> Street, Sangkat Wat Phnom  
Phnom Penh  
Kingdom of Cambodia

Facsimile:

(855-23) 427 - 798

(855-23) 725 - 341



For the Association:

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

Cable address:

Telex:

Facsimile:

INDEVAS  
Washington, D.C.

248423 (MCI) or  
64145 (MCI)

(202) 477-6391

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

KINGDOM OF CAMBODIA

By /s/ Keat Chhon

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ian Porter

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) Civil works under EDC's Respective Parts of the Project	2,260,000	90%
(2) Goods		
(a) under EDC's Respective Parts of the Project	15,800,000	100% of foreign expenditures, 100% of Local expenditures (ex-Factory cost)
(b) under EAC's Respective Part of the Project	50,000	and 85% of local expenditures for other items procured locally
(3) Consultants' Services		
(a) under MIME's Respective Parts of the Project		
(i) Part C(1)(b)	210,000	95%
(ii) Part C(1)(c)	1,000,000	60%
(iii) Part C(1)(d)	140,000	54%
(iv) Part C(1)(e)	170,000	10%
(v) Part C(1)(f)	390,000	72%
(b) under EAC's Respective Part of the Project	220,000	71%

	(c) under EDC's Respective Parts of the Project	1,100,000	95%
(4)	Training		
	(a) under EDC's Respective Parts of the Project	100,000	100%
	(b) under MIME's Respective Parts of the Project	30,000	100%
	(c) under EAC's Respective Part of the Project	50,000	100%
(5)	Sub-Grants		
	(a) under REF's Parts B(2)(a) and (2)(c) of the Project	3,550,000	100% of the amount disbursed
(6)	Incremental Operating Costs under Part C(1)(d)	120,000	85%
(7)	Refunding of Project Preparation Advances	210,000	Amount due pursuant to Section 2.02(c) of this Agreement
(8)	Unallocated	2,500,000	
		27,900,000	
	TOTAL	27,900,000	

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;

(c) the term “training” means reasonable expenditures incurred by MIME, EDC and EAC respectively, which expenditures would not have been incurred absent the Project, for training activities, including travel costs, lodging and travel per diem for training participants, preparation, translation and duplication of training materials, rental of training-related equipment and training venues, and consumables, but excluding fees paid to consultants and excluding salaries and salaries supplements; and

(d) the term “incremental operating costs” means the reasonable costs of incremental expenditures incurred by MIME on account of implementation of Part C(1)(c) of the Project, which expenditures would not have been incurred absent the Project, including office supplies, equipment, furniture, utilities, and costs for operation and maintenance of the Project vehicles, but excluding salaries or salary supplements.

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

(a) made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR140,000, may be made in respect of Category (3)(c) above on account of payments made for expenditures before that date but after January 1, 2003; and

(b) made for Sub-Grants under Category (5) above until the REF has been duly established and become fully operational in accordance with paragraph 1 of Schedule 3 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 for: (a) goods under contracts costing less than \$200,000 equivalent each; (b) works under contracts costing less than \$500,000 equivalent each; (c) consultants’ services under contracts awarded to: (i) consulting firms, costing less than \$100,000 equivalent each, and (ii) individuals, costing less than \$50,000 equivalent each; (d) training, (e) Sub-Grants, 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: (a) improve power sector efficiency and reliability, and reduce electricity supply costs; (b) improve standards of living and foster economic growth in rural areas by expanding rural electricity supplies; and (c) strengthen electricity institutions and the regulatory framework for the power sector to foster its commercialization and privatization.

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. Power Transmission Development

1. Construction of 220 kilovolt (kV) transmission systems:
  - (a) construction of a 220 kV transmission line of approximately 109 kilometers (km) in length from the Chau Doc substation in Vietnam to the West Phnom Penh substation and a bulk supply distribution system serving communities along the transmission route;
  - (b) construction of a 220/115/22 kV substation at West Phnom Penh; and a 220/22 kV substation at Takeo and a medium voltage distribution system serving Takeo town and West Phnom Penh vicinities;
  - (c) strengthening EDC's capacity in financial management, information technology, internal audits, implementation of social and environmental safeguards measures under the Project, demand management and energy savings, consumer services and relations, and review of EDC long term tariff structures; and
  - (d) carrying out resettlement and rehabilitation of Displaced Persons under Parts A(1)(a) and (1)(b) of the Project.
2. Reinforcement of the 115 kV Transmission System and Extension of 22 kV Power Distribution Networks:
  - (a) construction of approximately 20 km of a double circuit 115 kV transmission line, each circuit approximately 10 km in length, to connect the West Phnom Penh substation and the grid substation (GS3); and stringing of a second circuit of

the existing 115 kV transmission line of about 23 km connecting three existing grid substations (GS1, GS2 and GS3);

(b) upgrading equipment in the existing 115 kV grid substations GS1, GS2 and GS3, including installation of 115/22kV 30/50MVA transformers, about 40 MVar of reactive compensation, and other switchyard equipment;

(c) extending the medium-voltage power distribution networks by about 130 km from the West Phnom Penh substation along national roads No. 3 and No. 4, and the Takeo substation to Samraong and Kampong Chrey;

(d) strengthening the capacity of the EDC PMU through acquisition of office and communication equipment, inspection and field work vehicles, power planning software, and operation and maintenance equipment and tools; and

(e) carrying out resettlement and rehabilitation of Displaced Persons under Parts A(2)(a), (2)(b) and (2)(c) of the Project.

3. Construction of a modern National Control Center and installation of a Supervisory Control and Data Acquisition (SCADA) system for the National Control Center.

#### Part B. Rural Electrification Program

1. Extending the medium-voltage grid network by approximately 516 km in length and the low-voltage grid network by approximately 536 km in length to about 50,000 customers in four provincial areas of Sihanoukville, Battambang, Kampot and Kampong Speu; and installing, in the aggregate, about 200 distribution transformers and 16 isolating transformers.

2. Provision of Sub-Grants to assist in financing: (a) extension of the rural electricity grids to about 50,000 new households by rural electricity enterprises; (b) installation of solar home systems and providing electricity generated from the solar home systems to about 12,000 households; (c) construction of mini hydroelectric power stations of about six (6) megawatts (MW) of renewable energy capacity; and (d) construction of micro hydroelectric power plants of about 850 kilowatts (kW) capacity.

3. Carrying out resettlement and rehabilitation of Displaced Persons under Parts B(1) and B(2) of the Project.

Part C. Sector Reform and Institutional Strengthening

1. Strengthening the capacity of MIME and REF in institutional development and sector reform, through:

(a) developing an energy policy framework which supports private sector participation in the renewable energy business, including developing subsidy financing mechanism for ensuring the sustainability of the renewable energy development; and preparation of a small Power Purchase Agreement model for renewable energy developers;

(b) preparing a master plan for the power sector development, including preparation of a power system expansion master plan, and conducting energy consumption surveys in provincial and rural areas;

(c) establishment and operation of the REF and developing the REF's capacity in project appraisal, implementation, monitoring and evaluation, and financial management, including provision of technical assistance and operational support;

(d) developing and promoting income generation activities in rural areas for electricity end-users;

(e) developing and promoting renewable energy business, including pipeline development of renewable energy Sub-projects; promoting the use of renewable energy through media campaign and community demonstration; and providing training to selected non-governmental organizations and private sector entrepreneurs in renewable energy technologies;

(f) strengthening the capacity of selected rural electricity enterprises, and the Rural Electricity Enterprises Association, and facilitating coordination between the rural electricity enterprises and local stakeholders; and

(g) strengthening the capacity of selected financial institutions in appraising and supervising renewable energy Sub-projects.

2. Strengthening the institutional capacity of EAC in carrying out its functions, including: (a) issuing licenses to electricity service providers and monitoring their services; (b) setting, application and monitoring of electricity tariffs; (c) developing power sector regulations and codes including preparing the Grid Code and the Distribution Code; (d) improving consumer protection by establishing technical and consumer service standards for electricity service providers; and (e) providing training to

staff of EAC in computer and language skills, administration, management, power sector regulations, tariffs setting, and consumer disputes resolution; including provision of operational support and technical assistance.

3. Strengthening the institutional capacity of EDC in: (a) project implementation, with respect to, inter alia, engineering design, construction, project supervision, coordination with ADB, and procurement matters; (b) the establishment and operation of the National Control Center; (c) monitoring resettlement and compensation process; and addressing complaints and grievances of the Displaced Persons; (d) improving EDC's commercial practices through implementation of accounting and financial management systems and new project costs models compatible with commercial practices; and providing management training thereof; (e) providing training in the implementation of the social and environmental safeguards measures under the Project; and (f) developing a power investment plan for power generation, transmission and distribution investment; including provision of technical assistance.

\* \* \*

The Project is expected to be completed by December 31, 2008.



### **SCHEDULE 3**

#### **Implementation Program**

##### Project Management and Implementation

1. The Borrower shall duly establish the REF and make the REF fully operational, all in a manner satisfactory to the Association; to this end, the Borrower shall ensure that: (i) the Royal Decree and Statute for the establishment of the REF are issued; (ii) the REF Board members and the REF Secretariat staff are duly appointed; (iii) a financial management and accounting system satisfactory to the Association are established at the REF; (iv) an Operational Manual for the REF, including a financial management manual, satisfactory to the Association is adopted for the REF; (v) staff of the REF are provided with training satisfactory to the Association in financial management, accounting and procurement procedures, and in appraising, monitoring and evaluating Sub-projects; and (vi) an independent payment agent for the REF is contracted.
2. The Borrower shall maintain, until the REF has been duly established and become fully operational pursuant to paragraph 1 above of this Schedule, the MIME PMU, assigned with such functions, responsibilities and funds, satisfactory to the Association, and with competent staff in adequate numbers, headed by a qualified and experienced officer for the day-to-day implementation and management of MIME's Respective Parts of the Project.
3. The Borrower shall take all necessary actions, including but not limited to adjustment of tariffs to enable EDC to comply with its obligations set forth in Sections 4.03, 4.04 and 4.05 of the Project Agreement.
4. The Borrower shall take all necessary actions to carry out the Accounts Receivables Management Action Plan, in a form and substance satisfactory to the Association, to assist EDC in collecting and reducing outstanding Government arrears and achieve the monitoring targets set forth in said Action Plan. The Borrower shall not amend said Action Plan without the prior approval of the Association.
5. Without any limitation or restriction upon any of its obligations under this Agreement, the Borrower shall: (i) take all such action to enable EDC to prepare and implement, in an efficient and transparent manner, satisfactory to the Association, each of EDC's Power Investment Plans; and (ii) prior to its approval, provide information to the Association in such detail and substance as the Association may reasonably request, on any energy generation, transmission and distribution projects to be implemented outside the relevant EDC's Power Investment Plan, and allow the Association sufficient time to provide comments on such investment(s).

6. No later than November 30 of each year, commencing in 2005, the Borrower shall, through MIME, REF and EAC, furnish to the Association, for its review and concurrence, proposed annual work plans and budgets for the forthcoming Fiscal Year, giving details of proposed disbursement estimates, proposed procurement activities, and such other particulars as the Association may require.

#### Sub-Grants and Sub-projects

7. (a) The Borrower shall prepare and adopt the Operational Manual for carrying out Part B(2) of the Project, in a form and substance satisfactory to the Association.

(b) The Operational Manual shall include the details of, inter alia: (i) governance and organizational structure of the REF; (ii) procedures and criteria for the screening, review, approval of Sub-Grants applications, disbursement of Sub-Grants, and monitoring and evaluation of Sub-projects; (iii) the measures set forth in the Resettlement Policy Framework and the Ethnic Minorities Development Strategy, and the environmental screening procedures; and (iv) the terms and conditions of Sub-Grant Agreements with Beneficiaries of Sub-Grants.

(c) Except as the Borrower and the Association shall otherwise agree, the Borrower shall not amend or waive any provision of the Operational Manual, if in the opinion of the Association, such amendment or waiver may materially and adversely affect the carrying out of the Project or the achievement of the objectives thereof.

8. The Borrower shall cause the REF to furnish to the Association for comments and approval, the Sub-Grants proposals for the first ten (10) Sub-projects to be eligible for financing by a Sub-Grant under Part B(2) of the Project.

9. The Borrower shall cause REF to ensure that no Sub-project shall be eligible for financing out of the proceeds of the Sub-Grants unless the Sub-project satisfies the eligibility criteria specified below and in more detail in the Operational Manual:

(a) each Sub-project shall be a specific rural electrification project which is technically and financially viable and environmentally and socially sound;

(b) each Sub-project shall be promoted, identified, appraised and approved in accordance with the procedures and other provisions set forth in the Operational Manual;

(c) each Beneficiary applying for any Sub-Grants provided under the Project shall meet relevant criteria set out in the Operational Manual;

(d) (i) an analysis of the environmental effects of such Sub-project has been prepared; and (ii) if applicable, an environmental impact assessment, satisfactory to the Association, has been undertaken and mitigation measures designed, on the basis of environmental standards acceptable to the Association, and in accordance with the environmental procedures set forth in the Operational Manual;

(e) a resettlement action plan has been prepared in accordance with the Resettlement Policy Framework and such plan has been approved by the Association, if the proposed Sub-project involves resettlement of Displaced Persons;

(f) an ethnic minorities development plan has been prepared in accordance with the Ethnic Minorities Development Strategy and such plan has been approved by the Association, if the proposed Sub-project involves communities with ethnic minorities; and

(g) no Sub-Grant shall be used for the financing of government salaries, any local taxes, land acquisition or cash compensation under the resettlement action plan(s) referred to in subparagraph (e) above.

10. The Borrower shall through REF enter into Sub-Grant agreements with Beneficiaries satisfactory to the Association as a condition for the making of Sub-Grants for Sub-projects. The terms and conditions of each Sub-Grant Agreement shall, inter alia:

(a) require that the eligible Beneficiary: (i) carry out the Sub-project with due diligence and efficiency and in accordance with appropriate administrative, financial, technical, managerial and public utility practices and sound environmental and social standards; (ii) provide, promptly as needed, the funds, facilities, services and other resources required for the Sub-project; (iii) maintain adequate records to reflect, in accordance with sound accounting practices, the operations, resources and expenditures relating to the Sub-project;

(b) require that the goods, works and services to be financed from the proceeds of the Grant shall: (i) be procured in accordance with procedures ensuring efficiency and economy and in accordance with the provisions of Schedule 1 to the Project Agreement; and (ii) be used exclusively in the carrying out of the Sub-project or Sub-projects; and

- (c) reserve for the Borrower the right to:
  - (i) inspect by itself, or jointly with the Association, if the Association shall so request, the goods, works, sites, plants and construction included in the Sub-project or Sub-projects, the operations thereof and any relevant records and documents;
  - (ii) obtain all information as the Borrower or the Association shall reasonably request regarding the administration, operation and financial conditions of the eligible Beneficiary; and
  - (iii) suspend or terminate the right of the eligible Beneficiary to use the proceeds of the Sub-Grant upon the failure by the eligible Beneficiary to perform any of its obligations under the Sub-Grant Agreement.

Monitoring, Evaluation, Reporting

11. The Borrower shall, jointly through MIME, REF and EAC:

(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 their Respective Parts 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, on or about March 31, 2007, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of their Respective Parts of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Respective Parts of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, by June 30, 2007, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of their Respective Parts of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

## **SCHEDULE 4**

### **Special Accounts**

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means: (i) in respect of EDC’s Respective Parts of the Project and the EDC Special Account, Categories (1), (2)(a), (3)(c), and (4)(a); and (ii) in respect of MIME’s Respective Parts of the Project, and the MIME Special Account, Categories (3)(a), (4)(b) and (6); all as set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods, works 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) the term “Authorized Allocation” means an amount equivalent to \$2,500,000 in respect of the EDC Special Account for its Respective Parts of the Project and an amount equivalent to \$1,500,000 in respect of the MIME Special Account for MIME’s Respective Parts of the Project, in each case to be withdrawn from the Credit Account and deposited into the respective Special Account pursuant to paragraph 3(a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$1,000,000 in respect of the EDC Special Account and an amount equivalent to \$500,000 in respect of the MIME Special Account, until (i) in respect of the EDC Special Account, the aggregate amount of withdrawals from the Credit Account allocated to Categories (1), (2)(a), (3) (c.) and (4)(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 EDC’s Respective Parts of the Project shall be equal to or exceed the equivalent of SDR 2,100,000, and (ii) in respect of the MIME Special Account, the aggregate amount of withdrawals from the Credit Account allocated to Categories (3)(a), (4)(b), and (6); plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for the MIME and REF’s Respective Parts of the Project shall be equal to or exceed the equivalent of SDR 1,400,000.

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 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 for the Respective 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.



## **SCHEDULE 5**

### **Terms and Conditions of the Subsidiary Loan Agreement**

The Subsidiary Loan Agreement to be entered into between the Borrower and EDC, pursuant to the provisions of Section 3.03 (a) of this Agreement, shall include the following principal terms and conditions:

1. EDC shall repay to the Borrower the aggregate amount of the proceeds of the Credit withdrawn from time to time from the Credit Account for the financing of EDC's Respective Parts of the Project (the "Subsidiary Loan"): (i) over a period not to exceed twenty (20) years, including a grace period not to exceed five (5) years in respect of the amount allocated to the financing of Part A(2) (excluding Part A(2)(e)) and Part C(3) of the Project; and (ii) over a period not to exceed twenty five (25) years, including a grace period not to exceed seven (7) years in respect of the amount allocated to the financing of Part B(1) of the Project.
2. The Subsidiary Loan shall be denominated in United States dollars and repaid by EDC to the Borrower in Riels, at least semi-annually at the official rate of exchange as determined by NBC on the respective dates on which the proceeds of the Subsidiary Loan are repaid by EDC.
3. EDC shall pay interest on the principal amount of the Subsidiary Loan, withdrawn and outstanding from time to time, (i) at a fixed rate per annum equal to 4.2% in respect of the amount allocated to the financing of Part A(2) (excluding Part A(2)(e)) and Part C(3) of the Project; and (ii) at a fixed rate per annum equal to 2.0% for Credit in respect of the amount allocated to the financing of Part B(1) of the Project.