

CONFORMED COPY

CREDIT NUMBER 2907 KE

Development Credit Agreement

(Lake Victoria Environmental Management Project)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 10, 1996

CREDIT NUMBER 2907 KE

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 10, 1996, between REPUBLIC OF KENYA (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 1 to the Joint Project Agreement of even date herewith, has requested the Association to assist in the financing of such Project;

(B) the Borrower has also requested the International Bank for Reconstruction and Development (the Bank), acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the Global Environment Facility Trust Fund (GEF Trust Fund) by certain members of the Bank as participants of the GEF, to provide additional assistance towards the financing of the Project, and by the Global Environment Facility Trust Fund Grant Agreement (Kenya GEF Trust Fund Grant Agreement) of even date herewith, the Bank is agreeing to provide such assistance in an aggregate principal amount equivalent to eight million Special Drawing Rights (SDR 8,000,000);

(C) The Borrower and the Association intend, to the extent practicable, that the proceeds of the GEF Trust Fund Grant provided for in the Kenya GEF Trust Fund Grant Agreement be disbursed on account of expenditures in respect of the Project before disbursements of the proceeds of the Credit are made;

(D) The Borrower, The Republic of Uganda (Uganda) and the United Republic of Tanzania (Tanzania) have also requested the Association

and the Bank, acting as an implementing agency of the GEF, to assist in the financing of the Project described in Schedule 1 to the Joint Project Agreement and by agreements of even date herewith between Uganda and Tanzania, respectively, and the Association and the Bank, acting as an implementing agency of the GEF (the IDA Credit Agreements and GEF Trust Fund Grant Agreements, respectively), the Association and the Bank, acting as an implementing agency of the GEF, are agreeing to provide such assistance in an aggregate amount equivalent to SDR 17,600,000, and SDR14,200,000, respectively;

(E) the Project will be carried out in accordance with the Joint Project Agreement among the Borrower, Uganda, Tanzania, the Association, and the Bank acting as an implementing agency of the GEF; 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 and in the Joint Project Agreement, of even date herewith, among the Borrower, Uganda, Tanzania, the Association, and the Bank acting as an implementing agency of the GEF;

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, with the last sentence of Section 3.02 deleted (the General Conditions), constitute an integral part of this Agreement.

(a) The last sentence of Section 3.02 is deleted.

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Association and the Borrower shall otherwise agree, no withdrawal shall be made: (a) on account of expenditures in the territories of any country which is not a member of the Bank or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities or any imports of goods, if such payment or import, to the knowledge of the Association is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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

(a) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(b) "Joint Project Agreement" means the agreement of even date herewith among the Borrower, Uganda, Tanzania, the Association and the Bank acting as an implementing agency of the GEF, as such agreement may be amended from time to time, and such term includes all schedules and agreements supplemental to the Joint Project 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 this Development Credit Agreement, an amount in various currencies equivalent to eight million nine hundred thousand Special Drawing Rights (SDR 8,900,000).

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 expenditures made (or, if the Association shall so agree, to be made) 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.

(b) The Borrower may, for the purposes of the Project, open and maintain in dollars a special deposit account 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, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.02. The Closing Date shall be December 31, 2002, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.03. (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 cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date or 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 payment 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 2.04. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.05. Commitment charges and service charges shall be payable semiannually on March 1 and September 1 in each year.

Section 2.06. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each March 1 and September 1, commencing September 1, 2006 and ending March 1, 2036. Each installment to and including the installment payable on March 1, 2016 shall be one per cent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; 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 terms of repayment of installments under paragraph (a) above by 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. If so requested by the Borrower, the Association may revise such modification 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.

(c) 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 2.07. 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. The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 1 to the Joint Project Agreement, and, to this end, shall carry out the Project in accordance with the implementation Program set forth in Schedule 2 to the Joint Project Agreement, with due diligence and efficiency and in conformity with appropriate administrative and financial practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

Section 3.02 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 2 to this Agreement.

Section 3.03. For the purposes of Section 9.07 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 future operation 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 maintain, or cause to be maintained, records and accounts adequate to reflect, in accordance with sound accounting practices, the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section, including those for the Special Account, for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, 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, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

- (iii) furnish to the Association such other information concerning said records, accounts and the audit thereof as the Association shall 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) maintain, or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account or payment out of the Special Accounts was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

(a) the Borrower, Uganda or Tanzania shall have failed to perform any of their obligations under the Joint Project Agreement;

(b) as a result of events which have occurred after the date of this Agreement, an extraordinary situation shall have arisen which shall make it improbable that the Borrower, Uganda or Tanzania will be able to perform their obligations under the Joint Project Agreement;

(c) the Tripartite Agreement shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Borrower, Uganda or Tanzania to perform any of their obligations under the Joint Project Agreement; and

(d) (i) subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower, Uganda or Tanzania to withdraw the proceeds of any loan or grant made to the Borrower, Uganda or Tanzania for the financing of the Project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms thereof, or

(B) any such loan shall have become due and payable prior to the agreed maturity thereof; and

(ii) paragraph (d) (i) (A) of this Section shall not apply if the Borrower, Uganda or Tanzania 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 agreement; and (B) adequate funds for the Project are available

to the Borrower, Uganda or Tanzania 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 (d) of the General Conditions, the following additional events are specified:

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

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

ARTICLE VI

Effective Date; Termination

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

(a) all conditions precedent to the effectiveness of the other IDA Credits and GEF Trust Fund Grant Agreements, other than those related to the effectiveness of this Agreement, have been fulfilled;

(b) the Borrowers have confirmed the membership of the Regional Policy and Steering Committee;

(c) the Borrowers have strengthened the three National Secretariats by the appointment of a Head of Secretariat, in accordance with paragraph 2 of Schedule 2 to the Joint Project Agreement, an Accountant, Disbursement and Procurement Officer, an Operations Officer and a Management Information Systems Officer, all with experience and qualifications acceptable to the Association;

(d) the Borrowers have appointed a panel of internationally renowned scientists in accordance with paragraph 3 of Schedule 2 to the Joint Project Agreement;

(e) the Borrowers have furnished evidence satisfactory to the Association that they have agreed on common standards for measuring and monitoring water quality;

(f) the Borrowers have furnished evidence satisfactory to the Association that they have each made budgetary allocations representing their first year contribution to the Project; and

(g) the Borrowers have finalized and furnished to the Association annual work plans and financial plans, satisfactory to the Association, for the first year of the Project Implementation Plan.

Section 6.02. The following is specified as an additional matter, 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, namely that the Joint Project Agreement has been duly authorized or ratified by the parties and is legally binding upon the parties in accordance with its terms.

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

ARTICLE VII

Representative of the Borrower; Addresses

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

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

For the Borrower:

Ministry of Finance and Economic Planning
P.O. Box 30007
Nairobi
Kenya

Cable address: Telex:

FINANCE 22921
Nairobi MINFIN-KE

For the Association:

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

Cable address: Telex:

INDEVAS 248423 (RCA)
Washington, D.C. 82987 (FTCC)
 64145 (WUI) or
 197688 (TRT)

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 KENYA

By /s/ Benjamin Kipkorir Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Callisto Madavo Regional Vice President
 Africa

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:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Civil works	1,030,000	100% of foreign expenditures and 90% of local

		expenditures
(2) Vehicles and equipment	1,520,000	100% of foreign expenditures and 90% of local expenditures
(3) Consultants' services and training	1,730,000	100%
(4) Goods, works, and services for microprojects	490,000	90%
(5) Operating Costs	3,190,000	90%
(6) Unallocated	940,000	
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TOTAL	8,900,000	=====

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; and

(c) the term "operating costs" means incremental operating expenditures incurred in carrying out the Project, including office supplies, office utilities and other office-related expenditures, operation and maintenance of the buildings, office space, aircraft, boats, vehicles and other equipment, including fuel and lubricants, and field allowances.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of 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 and works under contracts not exceeding \$100,000 equivalent, (b) consultants' contracts, not exceeding \$100,000 for firms and \$50,000 for individuals, (c) all operating costs, and (d) goods, works and services for microprojects, under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: General

Goods and works shall be procured under contracts awarded in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January 1996 (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

1. Except as provided in Part C of this Section, goods and works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of contracts

To the extent practicable, contracts for goods and works shall be grouped into bid packages estimated to cost the equivalent of \$100,000 or more each.

(b) Notification and Advertising

The invitation to prequalify or bid for each contract estimated to cost \$10,000,000 equivalent or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Goods and works estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$2,800,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. International Shopping

Goods estimated to cost less than \$50,000 equivalent per contract up to an aggregate amount not to exceed \$3,500,000 equivalent, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. National Shopping

Goods estimated to cost less than \$20,000 equivalent per contract, up to an aggregate amount not to exceed \$500,000, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association, for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing

Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Association shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Association review or approval of budgets, shortlists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to: (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each, or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Association review shall not apply to: (a) the terms of reference for such contracts, (b) single-source selection of consulting firms, (c) assignments of a critical nature, as reasonably determined by the Association, (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (5) 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 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 \$500,000, to be withdrawn from the Credit Account and deposited into the Special Account concerned, 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 \$250,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 1,500,000.

2. Payments out of the 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 Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for a deposit or deposits 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 Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the 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 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 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 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 the 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; or

(b) once the total unwithdrawn amount of the Credit allocated to the eligible Categories, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to 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 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 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 the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the 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 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 the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the 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 Account.

(d) Refunds to the Association made pursuant to paragraph 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.

