

CONFORMED COPY

LOAN NUMBER 4017 IND

Loan Agreement

(Second East Java Urban Development Project)

between

REPUBLIC OF INDONESIA

and

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

Dated September 23, 1996

LOAN NUMBER 4017 IND

LOAN AGREEMENT

AGREEMENT, dated September 23, 1996, between REPUBLIC OF INDONESIA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

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

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, (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 Bank and the Borrower shall otherwise agree, no withdrawals 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 for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

(c) In Section 6.02, sub-paragraph (k) is re-lettered as sub-paragraph (l) and a new sub-paragraph (k) is added to read:

"(k) An extraordinary situation shall have arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of 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) "Annual Project Implementation Plan" and "APIP" mean Memoranda Pelaksanaan Program Tahunan (MPPT) the annual action plan adopted among East Java and each Participating Local Government and its respective PDAM pursuant to the provisions of Part A.1 (b)(ii) of Schedule 5 to this Agreement;

(b) "BAPPENAS" means the National Development Planning Agency of the Borrower and includes any successor or successors thereto;

(c) "East Java" means the Borrower's Province of East Java;

(d) "Fiscal Year" means the fiscal year of the Borrower or the fiscal year of Participating Local Governments, both commencing April 1 and ending March 31;

(e) "Implementing Agencies" means the central, provincial and local agencies, departments and units responsible for Project implementation and coordination referred to under Part B of Schedule 5 to this Agreement, and "Implementing Agency" means any of the Implementing Agencies;

(f) "MHA" means the Ministry of Home Affairs of the Borrower and includes any successor or successors thereto;

(g) "MOF" means the Ministry of Finance of the Borrower and includes any successor or successors thereto;

(h) "MPW" means the Ministry of Public Works of the Borrower and includes any successor or successors thereto;

(i) "Participating Local Government" and "Participating LG" mean any of the local governments listed in the Annex to Schedule 2 to this Agreement;

(j) "Participating PDAM" means a PDAM, as hereinafter defined, operating in any Participating LG;

(k) "PDAM" means Perusahaan Daerah Air Minum, a water enterprise, established by and operating in a Participating LG pursuant to the provisions of the Borrower's Law No. 5 of 1962, Law No. 5 of 1974, Decree No. 26 of 1975 of MHA, and Joint Decree of MHA No. 3 of 1984 and MPW No. 269 of KPTS of 1984, as any of the same may be amended from time to time;

(l) "PDAM fiscal year" means the fiscal year of any of the Participating PDAMs commencing January 1 and ending December 31;

(m) "Performance Indicators" means the technical, physical and financial targets included in the APIPs to monitor the performance of Participating LGs and PDAMs pursuant to the provisions of Part C.2 (a) of Schedule 5 to this Agreement;

(n) "PPMO" means Provincial Project Management Office established and operating within the Provincial Development Planning Agency in East Java pursuant to SK Gub No. 185/95 dated September 20, 1995, issued by the Provincial Governor of East Java;

(o) "Project Affected Persons" and "PAPs" mean persons who on account of the execution of Part A.1 of the Project had or would have their: (i) standard of living adversely affected; or (ii) right, title or interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently adversely affected; or (iii) business, occupation, work or place of residence or habitat adversely affected, and "Project Affected Person" and "PAP" means individually all those who qualify as Project Affected Persons;

(p) "Provincial Program Implementation Memorandum" and "PPIM" mean the memorandum of understanding agreed between the Borrower and East Java pursuant to the provisions of Section 3.02 (c) of this Agreement, as such Memorandum may be amended from time to time in agreement with the Bank;

(q) "Resettlement Action Plan" and "RAP" mean a resettlement and rehabilitation action plan to be prepared by any Participating LG or Participating PDAM pursuant to the Resettlement Guidelines, as hereinafter defined; (r) "Resettlement Guidelines" means the framework approved by the Provincial Governor of East Java pursuant to SK Gub No. 44/96 dated April 16, 1996, describing procedural and institutional aspects pertaining to land acquisition and the resettlement, rehabilitation and compensation of PAPs under the Project, as such Guidelines may be amended from time to time in agreement with the Bank;

(s) "Rupiah" means Indonesian Rupiah, the currency of the Borrower;

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

(u) "Sub-project" means a specific infrastructure investment project described under Part A.1 of the Project;

(v) "Subsidiary Loan" means a loan made or proposed to be made by the Borrower to a Participating LG or a Participating PDAM under a Subsidiary Loan Agreement;

(w) "Subsidiary Loan Agreements" means the agreements to be entered into between the Borrower, represented by MOF, and Participating LGs and Participating PDAMs, pursuant to Section 3.02(a) of this Agreement, and "Subsidiary Loan Agreement" and "SLA" mean any of the Subsidiary Loan Agreements; and

(x) "UKL/UPL" means the environmental management and monitoring plans prepared by East Java in accordance with the Borrower's national guidelines for environmental assessment and mitigation established by Government Regulation No.51/1993 of the Borrower.

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, various currencies that shall have an aggregate value equivalent to the amount of one hundred forty-two million seven hundred thousand dollars (\$142,700,000), being the sum of withdrawals of the proceeds of the Loan, with each withdrawal valued by the Bank as of the date of such withdrawal.

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

(b) The Borrower may, for the purposes of the Project, open and maintain in dollars a special deposit account in Bank Indonesia on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 6 to this Agreement.

Section 2.03. The Closing Date shall be March 31, 2000, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent (3/4 of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to the Cost of Qualified Borrowings determined in respect of the preceding Semester, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rate applicable during such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Semester.

(c) For the purposes of this Section:

(i) "Interest Period" means a six-month period ending on the date immediately preceding each date specified in Section 2.06 of this Agreement, beginning with the Interest Period in which this Agreement is signed.

(ii) "Cost of Qualified Borrowings" means the cost, as reasonably determined by the Bank and expressed as a percentage per annum, of the outstanding borrowings of the Bank drawn down after June 30, 1982, excluding such borrowings or portions thereof as the Bank has allocated to fund:

(A) the Bank's investments; and  
(B) loans which may be made by the Bank after July 1, 1989 bearing interest rates determined otherwise than as provided in paragraph (a) of this Section.

(iii) "Semester" means the first six months or the second six months of a calendar year.

(d) On such date as the Bank may specify by no less than six months' notice to the Borrower, paragraphs (a), (b) and (c) (iii) of this Section shall be amended to read as follows:

"(a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Quarter equal to the Cost of Qualified Borrowings determined in respect of the preceding Quarter, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rates applicable during such Interest Period."

"(b) As soon as practicable after the end of each Quarter, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Quarter."

"(c) (iii) 'Quarter' means a three-month period commencing on January 1, April 1, July 1 or October 1 in a calendar year."

Section 2.06. Interest and other charges shall be payable semiannually on

January 15 and July 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

### ARTICLE III

#### Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under the Loan Agreement, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and environmental practices and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation to the provisions of paragraph (a) of this Section, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 5 to this Agreement.

Section 3.02. (a) The Borrower shall make available out of the proceeds of the Loan the amounts allocated from time to time to Categories (1) (a) and (2) (a) of the table in paragraph 1 of Schedule 1 to this Agreement to Participating Local Governments and Participating PDAMs under subsidiary loan agreements entered into between the Borrower and each Participating Local Government and the Borrower and, each Participating PDAM, respectively, under terms and conditions which shall have been approved by the Bank, which shall include, inter alia, the following principal terms and conditions: (i) the amount repayable under each Subsidiary Loan shall be the Rupiah equivalent at the time of withdrawal of such proceeds of the Loan; (ii) the interest on the principal amount withdrawn and outstanding of a Subsidiary Loan shall be payable at a fixed annual rate of 11.75%; (iii) the commitment charge shall be payable on the amount so on-lent but not yet withdrawn from time to time at the rate payable by the Borrower in accordance with Section 2.04 of this Agreement; and (iv) the repayment period of each Subsidiary Loan shall be up to twenty (20) years, including a grace period of up to five (5) years.

(b) The Borrower shall make available out of the proceeds of the Loan to the Participating Local Governments and Participating PDAMs, on a grant basis, the amount allocated from time to time to Categories (1)(b), (2)(b), and (3)(b) of the table in paragraph 1 of Schedule 1 to this Agreement, in accordance with terms and conditions which shall have been approved by the Bank.

(c) The Borrower shall enter into a provincial program implementation memorandum with East Java on terms and conditions satisfactory to the Bank including those set forth in Part A.1 of Schedule 5 to this Agreement.

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

Section 3.03. Except as the Bank 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 Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.04. For the purposes of Section 9.08 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank 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 Bank, a plan for the future operation of the Project; and

(b) afford the Bank 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, including the Participating PDAMs, 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 Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

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

(i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;

(ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Bank'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.

Section 4.02. (a) Except as the Bank shall otherwise agree, the Borrower shall ensure that:

(i) no Participating PDAM shall incur any debt unless a reasonable forecast of the revenues and expenditures of such Participating PDAM shows that the projected net revenues of such Participating PDAM for each PDAM fiscal year during the term of the debt to be incurred shall be at least 1.3 times the projected debt service requirement of such Participating PDAM in such year, the previous PDAM fiscal year and the next PDAM fiscal year on all debt of such PDAM including the debt to be incurred; and

(ii) each Participating PDAM, except for those PDAMs in the Participating LGs of Bondowoso, Pacitan and Trenggalek, produces

for each of its fiscal years: (A) through January 1, 1999, gross revenues from all sources equivalent to not less than its operating expenses; and (B) after January 1, 1999, gross revenues from all sources equivalent to not less than the sum of its operating expenses and depreciation.

(b) For purposes of this Section:

(i) the term "debt" means any indebtedness of a Participating PDAM maturing by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred:

(A) under a loan contract or agreement or other instrument providing for such debt or further modification of its terms of payment, on the date of such contract, agreement or instrument; and

(B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues of such Participating PDAM" means gross revenues of a Participating PDAM from all sources, adjusted to take account of such Participating PDAM's tariffs in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues related, less all operating expenses of such Participating PDAM, including expenses accountable to administration, maintenance and taxes (or payments in lieu of taxes), but before provision for depreciation of assets and interest and other charges on debt.

(iv) The term "debt service requirement" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(v) The term "reasonable forecast" means a forecast prepared by a Participating PDAM in the PDAM fiscal year in which the debt in question is to be incurred, which both the Bank and the Participating PDAM accept as reasonable and as to which the Bank has notified the Participating PDAM of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of such Participating PDAM.

(vi) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of a Participating PDAM not allocated to cover specific liabilities.

(vii) The term "gross revenues from all sources" means the sum of revenues from all sources related to water operation, house connections, and cash consumer contributions in aid of construction, but excluding non-operating income and any other cash inflows.

(viii) The term "operating expenses" means the sum of all expenses related to water operations, including maintenance and administration, but excluding depreciation.

(ix) The term "depreciation" means the annual provision charged against revenues to depreciate, on a basis acceptable to the Bank, the current value of the water fixed assets in operation as valued from time to time in accordance with methods of valuation satisfactory to the Bank.

(x) Whenever, for the purposes of this Section, it shall be necessary to value, in terms of Rupiah, debt payable in another currency, such

valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, with the absence of such rate on the basis of a rate of exchange acceptable to the Bank.

Section 4.03. Without limitation upon the provisions of paragraph (a) of Section 4.02 of this Agreement, the Borrower shall take all such action as shall be necessary to enable each Participating PDAM to adjust its tariffs by not later than October 31, 1996, and thereafter by January 1, 1999 to meet the requirements of said Section.

Section 4.04. (a) Except as the Bank shall otherwise agree, the Borrower shall ensure that no Participating LG shall incur any debt unless a reasonable forecast of the revenues and expenditures of such Participating LG shows that the projected non-grant and local revenues for a Fiscal Year minus the projected routine account expenditure on staff administration and routine operational and maintenance needs of such Participating LG for each Fiscal Year during the term of the debt to be incurred shall be at least 1.5 times the projected debt service requirement of such Participating LG in such year on all debt of such Participating LG including the debt to be incurred.

(b) For the purposes of this Section:

(i) the term "debt" means any indebtedness of a Participating LG maturing by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred:

(A) under a loan contract or agreement or other instrument providing for such debt or further modification of its terms of payment, on the date of such contract, agreement or instrument; and

(B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "debt service requirement" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(iv) The term "reasonable forecast" means a forecast prepared by a Participating LG in the Fiscal Year in which the debt in question is to be incurred, which both the Bank and the Participating LG accept as reasonable and as to which the Bank has notified the Participating LG of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or operating results of such Participating LG.

(v) Whenever for the purposes of this Section it shall be necessary to value, in terms of Rupiah, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purpose of servicing such debt, or, with the absence of such rate on the basis of a rate of exchange acceptable to the Bank.

#### ARTICLE V

##### Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional events are specified:

(a) as a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable



that the Borrower or East Java will be able to perform any of their respective obligations under the Provincial Program Implementation Memorandum; and

(b) the Resettlement Guidelines shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Borrower to perform any of its obligations under this Agreement or the ability of East Java to perform any of its obligations under the PPIM.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional event is specified, namely, that the events specified in paragraph (b) of Section 5.01 of this Agreement shall occur.

#### ARTICLE VI

##### Effective Date; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely, that the Provincial Program Implementation Memorandum has been duly approved by all relevant authorities and executed by the Borrower and East Java.

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

(a) that the Provincial Program Implementation Memorandum has been duly authorized or ratified by the Borrower and East Java and is legally binding upon the Borrower and East Java in accordance with its terms; and

(b) that the Resettlement Guidelines have been duly approved by the Borrower and East Java and all necessary actions have been taken to enable the Resettlement Guidelines to be implemented in accordance with their terms.

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

#### ARTICLE VII

##### Representative of the Borrower; Addresses

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

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

For the Borrower:

Ministry of Finance  
c/o Directorate General of Budget  
Jalan Lapangan Banteng Timur 2-4  
P. O. Box 1139  
Jakarta 10710, Indonesia

Cable address:

FINMINSTRY  
JAKARTA

Telex:

45799 DJMLN-IA  
44319 DEPKEU-IA

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433

United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

248423 (MCI), or  
64145 (MCI)

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

REPUBLIC OF INDONESIA

By /s/ Arifin M. Siregar

Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Russell J. Cheetham

Regional Vice President  
East Asia and Pacific

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

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

Category	Amount of the Loan Allocated (Expressed Dollar Equivalent)	% of Expenditures to be Financed
(1) Civil works for Sub-projects:		
(a) financed under SLAs	41,400,000	90%
(b) other works	45,700,000	70%
(2) Goods for Sub-projects:		
(a) financed under SLAs	26,100,000	90%
(b) other goods	11,000,000	100% of foreign ex- penditures, 100% of local expenditures (ex-factory cost) and

65% of other items  
procured locally

(3) Consultants' services:		
(a) contracted by the Borrower	2,300,000	80%
(b) contracted by East Java, Participating Local Governments and Participating PDAMs	16,200,000	100%
TOTAL	<u>142,700,000</u> =====	

2. For the purposes of this Schedule:

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

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

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

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

(b) Categories (1) and (2) with respect to expenditures incurred by a Participating LG and its respective Participating PDAM, unless the Bank has approved the first APIP for such Participating LG and such Participating PDAM, which shall have been adopted in accordance with the provisions of Part A.1 (b) (ii) of Schedule 5 to this Agreement; and

(c) Categories (1) (a) and (2) (a), with respect to expenditures incurred by a Participating LG or a Participating PDAM, unless the Bank has approved the first Subsidiary Loan Agreement for such Participating LG or such Participating PDAM, which shall have been entered into in accordance with the provisions of Section 3.02 (a) of this Agreement.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures under: (a) (i) the first contract for goods and the first contract for works to be entered into by any of the Implementing Agencies; and (ii) thereafter, contracts for goods costing less than \$200,000 equivalent, and civil works costing less than \$1,000,000 equivalent; and (b) contracts for the employment of: (i) consulting firms costing less than \$100,000 equivalent; and (ii) individual consultants costing less than \$50,000 equivalent, under such terms and conditions as the Bank shall specify by notice to the Borrower.

## SCHEDULE 2

### Description of the Project

The objectives of the Project are to improve the delivery of urban infrastructure services and develop the financial and institutional capacity of Participating Local Governments and Participating PDAMs in the Province of East Java.

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

#### Part A: Infrastructure Works

1. Carrying out a three-year program of high-priority infrastructure investment projects for Participating Local Governments and Participating PDAMs in the following

sub-sectors:

- (a) urban roads and traffic management;
  - (b) water supply;
  - (c) solid waste management;
  - (d) sanitation and human waste disposal;
  - (e) drainage and flood control;
  - (f) provision of support to low-income communities and rehabilitation of urban neighborhoods (Kampung);
  - (g) urban infrastructure renewal, including market area rehabilitation; and
  - (h) environmental monitoring and implementation of mitigation measures designed pursuant to the provisions of UKL/UPL.
2. Resettlement and rehabilitation of Project Affected Persons under Part A.1 above.

Part B: Institutional Capacity Development

1. Improving the urban management and services delivery capabilities of the staff of Participating LGs and Participating PDAMs, through the provision of advisory services and training. 2. Improving the capabilities of the Borrower's central, provincial and local agencies to manage and finance Sub-project preparation and implementation, and environmental management, through the provision of advisory services.

Part C: Strategic Development Program

Design and preparation of a development policy framework and regional program for future investments in the infrastructure sector, through the provision of advisory services and the carrying out of policy studies.

\* \* \*

The Project is expected to be completed by September 30, 1999.

ANNEX TO SCHEDULE 2

Participating Local Governments

1. Mojokerto - City
2. Pasuruan - City
3. Probolinggo - City
4. Kediri - City
5. Lamongan - Regency
6. Banyuwangi - Regency
7. Sidoarjo - Regency
8. Jember - Regency
9. Madiun - City
10. Blitar - City
11. Situbondo - Regency
12. Lumajang - Regency
13. Malang - Regency
14. Pasuruan - Regency
15. Tulungagung - Regency
16. Ponorogo - Regency
17. Jombang - Regency
18. Bojonegoro - Regency
19. Tuban - Regency
20. Gresik - Regency
21. Bangkalan - Regency

22. Sampang - Regency
23. Pamekasan - Regency
24. Malang - City
25. Bondowoso - Regency
26. Probolinggo - Regency
27. Mojokerto - Regency
28. Kediri - Regency
29. Blitar - Regency
30. Trenggalek - Regency
31. Pacitan - Regency
32. Nganjuk - Regency
33. Madiun - Regency
34. Magetan - Regency
35. Ngawi - Regency
36. Sumenep - Regency

### SCHEDULE 3

#### Amortization Schedule

Date Payment Due	Payment of Principal (Expressed in dollars)*
January 15, 2002	2,770,000
July 15, 2002	2,865,000
January 15, 2003	2,965,000
July 15, 2003	3,070,000
January 15, 2004	3,175,000
July 15, 2004	3,285,000
January 15, 2005	3,400,000
July 15, 2005	3,520,000
January 15, 2006	3,645,000
July 15, 2006	3,770,000
January 15, 2007	3,900,000
July 15, 2007	4,040,000
January 15, 2008	4,180,000
July 15, 2008	4,325,000
January 15, 2009	4,475,000
July 15, 2009	4,630,000
January 15, 2010	4,795,000
July 15, 2010	4,960,000
January 15, 2011	5,135,000
July 15, 2011	5,315,000
January 15, 2012	5,500,000
July 15, 2012	5,690,000
January 15, 2013	5,890,000
July 15, 2013	6,095,000
January 15, 2014	6,310,000
July 15, 2014	6,530,000
January 15, 2015	6,755,000
July 15, 2015	6,990,000
January 15, 2016	7,235,000
July 15, 2016	7,485,000

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\* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

#### Premiums on Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of any maturity of the Loan to be prepaid shall be the percentage specified for the applicable time of prepayment below:

Time of Prepayment	Premium
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percentage per annum) the day of prepayment	The interest rate (expressed as a applicable to the Loan on multiplied by:
Not more than three years before maturity	0.15
More than three years but not more than six years before maturity	0.30
More than six years but not more than 11 years before maturity	0.55
More than 11 years but not more than 16 years before maturity	0.80
More than 16 years but not more than 18 years before maturity	0.90
More than 18 years before maturity	1.00

#### SCHEDULE 4

#### Procurement and Consultants' Services

##### Section I. Procurement of Goods and Works

##### Part A: General

Goods and works shall be procured 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 otherwise 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) Prequalification

Bidders for works estimated to cost the equivalent of \$1,000,000 or more shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the guidelines.

##### (b) Preference for Domestically Manufactured Goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower.

##### (c) 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

The following may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines:

(a) works estimated to cost less than \$3,000,000 equivalent per contract, up to an aggregate amount not to exceed \$106,700,000; and

(b) goods estimated to cost less than \$200,000 equivalent per contract, up to an aggregate amount not to exceed \$27,500,000 equivalent.

2. National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent 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.

3. Procurement of Small Works

Works estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, shall be procured under lump-sum, fixed price contracts awarded on the basis of quotations obtained from three qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Bank, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to successfully complete the contract.

Part D: Review by the Bank 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 Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all works and goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

The procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply with respect to:

(a) (i) the first contract for works; and (ii) the first contract for goods to be entered into by any of the Implementing Agencies; and

(b) thereafter, each contract for: (i) works estimated to cost the equivalent of \$1,000,000 or more; and (ii) goods estimated to cost the equivalent of \$200,000 or more.

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 thereto as shall have been agreed by the Bank. Where

no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, 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 individual consultants estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to:

(i) the terms of reference for such contracts;

(ii) single-source selection of consulting firms;

(iii) assignments of a critical nature, as reasonably determined by the Bank;

(iv) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above; or

(v) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

#### SCHEDULE 5

##### Implementation Program

###### Part A: Implementation Arrangements

###### 1. Provincial Program Implementation Memorandum (PPIM)

Except as the Bank shall otherwise agree, the PPIM shall, inter alia, include the following undertakings:

(a) The Borrower shall designate East Java as the principal Implementing Agency.

(b) (i) East Java shall declare its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and to this end shall carry out its respective parts of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, and environmental and resettlement practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required by the Participating Local Governments and Participating PDAMs for their respective parts of the Project.

(ii) To this end, East Java shall take all such action as shall be necessary to ensure that starting April 15, 1997 and thereafter, by not later than April 15 in each year until the completion of the Project, an annual project implementation plan (APIP) is adopted among East Java, each Participating LG and each Participating PDAM, in accordance with model terms and conditions which shall have been approved by the Bank, including, inter alia, a description of Sub-projects, operations and maintenance programs, institutional capacity development programs and Performance Indicators for the upcoming year.

(c) East Java, through its provincial public works agencies shall ensure that procurement of the goods, works and consultants' services required for its respective parts of the Project and to be financed out of the proceeds of the Loan shall be



governed by the provisions of Schedule 4 to this Agreement.

(d) East Java shall cause the Participating LGs and Participating PDAMs to use the goods and services financed out of the proceeds of the Loan exclusively for the purposes of their respective Sub-projects.

(e) The Borrower and East Java shall closely monitor the implementation of all proposed activities, and shall inspect, from time to time, the goods, works and services under the Sub-projects including all records and documents relating thereto.

(f) East Java shall cause Participating LGs and Participating PDAMs to promptly inform East Java of any condition which interferes or threatens to interfere with the progress of their respective Sub-projects and ensure that appropriate corrective measures are taken by the relevant Participating LGs.

(g) The Borrower and East Java shall:

(i) from time to time, at the request of either the Borrower, East Java or the Participating PDAMs, exchange views with the Participating LGs and Participating PDAMs regarding progress achieved in carrying out their respective Sub-projects; and

(ii) furnish to the Bank all such information and documents related thereto as may reasonably be requested. East Java shall further agree to obtain such information and documents from Participating LGs or Participating PDAMs as may be required by the Borrower to fulfill its supervision, monitoring, recording and reporting obligations to the Bank.

## 2. Sub-projects

In carrying out Part A.1 of the Project, the Borrower shall and shall cause East Java to:

(a) select Sub-projects to be financed under the Project using technical, environmental and economic criteria satisfactory to the Bank. Such criteria shall include, without limitation:

(i) each Sub-project shall be prepared by the respective Participating LG or Participating PDAMs in accordance with general technical guidelines approved by the Bank;

(ii) for each Sub-project in the urban road, water supply, drainage and rehabilitation sub-sectors, referred to under Parts A.1 (a), A.1 (b), A.1 (e) and A.1 (f) of the Project, a minimum economic rate of return of twelve (12%) percent shall be required;

(iii) for each Sub-project involving the involuntary resettlement of any PAPs, a RAP has been prepared in accordance with the Resettlement Guidelines and in consultation with said PAPs, and such RAP has been furnished to the Bank for approval; and

(iv) for each Sub-project, the UKL/UPL requirements have been completed pursuant to terms and conditions which shall have been approved by the Bank;

(b) ensure that Participating LGs and Participating PDAMs furnish to PPMO, for its review and approval by not later than October 15 of each year until completion of the Project, a list of proposed Sub-projects to be financed under the Project during the next year, together with all supporting documentation, all in accordance with the criteria set forth in sub-paragraph (a) above; and

(c) promptly after receiving PPMO's approval thereof, cause the Participating LGs and Participating PDAMs to carry out their respective Sub-projects in accordance with procedures and guidelines issued by PPMO.

Part B: Implementing Agencies

Responsibility for implementation of the Project shall be vested in the Implementing Agencies as follows:

1. The Borrower

(a) MPW through its Directorate General of Human Settlements (Cipta Karya) shall be the executing agency responsible for overall technical supervision and management of Project implementation. Cipta Karya shall delegate day-to-day management responsibilities to East Java, for its respective parts of the Project.

(b) BAPPENAS shall be responsible for ensuring close coordination of Project activities among MOF, MPW, MHA, East Java, Participating LGs and Participating PDAMs.

(c) The Directorate General of Financial Institutions in MOF shall be responsible for the execution, enforcement and supervision of the Subsidiary Loan Agreements.

2. East Java

(a) East Java shall be responsible for the overall coordination and monitoring of Project implementation and to this end, shall maintain within its Provincial Development Planning Agency (BAPPEDA I), the Provincial Project Management Office (PPMO) with competent and qualified staff in adequate numbers and headed by a qualified and experienced Project Manager.

(b) The PPMO shall be responsible for:

- (i) overall management of the Project;
- (ii) reviewing and approving proposed Sub-projects;
- (iii) issuing standard operating procedures and related guidelines for the implementation of Sub-projects by Participating LGs and Participating PDAMs;
- (iv) planning, contracting and monitoring of consultants' services financed under the Project; and
- (v) monitoring implementation of approved Sub-projects.

(c) The provincial public works agencies shall be responsible for managing their respective Sub-projects and, to this end, shall appoint and thereafter maintain, a qualified and experienced Sub-project Manager for each of said Sub-projects.

3. Participating Local Governments

(a) Each Participating LG shall be responsible for coordination and monitoring of the implementation of Sub-projects carried out by such Participating LG.

(b) The Development Planning Agency (BAPPEDA II) in each Participating LG shall be responsible for overall supervision of Sub-projects, including programming and planning of civil works under such Sub-projects and to this end, shall assign, and thereafter maintain throughout Project implementation, qualified and experienced technical officers which shall carry out day-to-day coordination activities, including preparation and dissemination of consolidated progress reports.

Part C: Implementation Actions

1. The Borrower shall:

(a) cause East Java, through its Provincial Inspectorate, to carry out every year until the completion of the Project, commencing not later than October 31, 1997, annual technical audits, in a manner acceptable to the Bank, for Project quality assurance, including, achievement of Project objectives pursuant to the Performance Indicators, performance of civil works and consultants' contracts, provision of compensation under the RAPs, and procurement of goods works and services financed

under the Project; and

(b) promptly after completion of the said audits, furnish to the Bank the recommendations submitted as part of said audits.

2. The Borrower shall, and shall cause East Java to:

(a) maintain policies and procedures adequate to enable the Borrower and East Java to monitor and evaluate on an ongoing basis, in accordance with Performance Indicators satisfactory to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

(b) not later than July 31 of each year, until the completion of the Project, furnish to the Bank a report in such detail as the Bank shall reasonably request, including, inter alia: (i) an evaluation of progress achieved by the Borrower and East Java in Project implementation pursuant to the Performance Indicators; and (ii) draft APIs and SLAs proposed for the upcoming year;

(c) not later than October 31 of each year, until the completion of the Project, and on the basis of the above reports, carry out annual Project implementation reviews to, inter alia: (i) evaluate progress achieved by the Borrower in general, and by East Java in particular, in carrying out the Project, including the carrying out of the RAPS; (ii) evaluate performance of the Participating LGs and Participating PDAMs, under the APIs and SLAs during the previous year and review the recommendations made by East Java on APIs and SLAs proposed for the upcoming year; (iii) assess the level of expenditures incurred by Participating LGs and Participating PDAMs to finance the costs of operations and maintenance of infrastructure financed under the Project, during the previous year and the allocations proposed for the upcoming year; (iv) discuss and exchange views on all other related activities financed by other donor agencies; and (v) exchange information among Implementing Agencies and propose solutions to any current implementation issue; and

(d) promptly after completing the annual reviews take all measures required to ensure efficient implementation of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said annual reviews and the Bank's views on the matter.

#### SCHEDULE 6

##### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1)(a), (1)(b), (2)(a), (2)(b), (3)(a), and (3)(b) 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 Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$14,000,000 to be withdrawn from the Loan Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$3,000,000 until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$28,000,000.

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 Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent

withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account 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 Bank from the Loan 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 Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Borrower shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account:

(i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or

(ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank:

(A) provide such additional evidence as the Bank may request; or

(B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

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

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

