

CONFORMED COPY

**CREDIT NUMBER 3885-WSO
GRANT NUMBER H083-WSO**

Development Financing Agreement

(Cyclone Emergency Recovery Project)

between

INDEPENDENT STATE OF SAMOA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated May 5, 2004

**CREDIT NUMBER 3885-WSO
GRANT NUMBER H083-WSO**

DEVELOPMENT FINANCING AGREEMENT

AGREEMENT, dated May 5, 2004, between INDEPENDENT STATE OF SAMOA (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) the Borrower and the Association intend, to the extent practicable, that the proceeds of the Grant be disbursed on account of expenditures in respect of the Project before disbursements of the proceeds of the Credit are made; and

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through October 6, 1999), with the modifications set forth in Schedule 5 to this Agreement (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) “Affected Areas” means the areas of the Borrower’s territory which incurred material damage as a result of the Cyclone.

(b) “Beneficiary” means a local community or a non-governmental organization eligible to carry out Sub-projects under Part A(4) of the Project in accordance with the provisions of the Operational Manual, and the term “Beneficiaries” means, collectively, more than one Beneficiary.

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

(d) “Cyclone” means the tropical cyclone Heta that has affected the Borrower, on January 4-5, 2004.

(e) “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 to access to legally designated parks and protected areas, resulting in adverse impacts on the livelihood of such person, and “Displaced Persons” means, collectively, the plural thereof.

(f) “Eligible Categories” means Categories (1) through (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement.

(g) “Eligible Expenditures” means expenditures in respect of the reasonable cost of works and services required for the Project and to be financed out of the proceeds of the Credit and the Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement.

(h) “Environmental Policy Framework” means the framework, satisfactory to the Association, adopted by the Borrower on March 16, 2004, describing the rules, guidelines and procedures to assess environmental impacts under the Project and defining measures to reduce, mitigate or offset adverse environmental impacts and enhance positive impacts of the Project, as such framework may be amended from time to time with the prior agreement of the Association.

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

(j) “Land Acquisition and Resettlement Framework” means the framework, satisfactory to the Association, adopted by the Borrower on March 16, 2004, providing procedures, rules, and guidelines for: (i) the involuntary taking of land and other assets

from Displaced Persons, (ii) resettlement and rehabilitation of, and compensation to, Displaced Persons, (iii) reporting and monitoring arrangements to ensure compliance with such framework, and (iv) design criteria in accordance with which a resettlement action plan is submitted to the Association for approval, as such framework may be amended from time to time with the prior agreement of the Association.

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

(l) “Ministry of Natural Resources and Environment” means the Borrower’s Ministry of Natural Resources and Environment, and any successor thereto.

(m) “Ministry of Works, Transport and Infrastructure” means the Borrower’s Ministry of Works, Transport and Infrastructure, and any successor thereto.

(n) “Operational Manual” means the manual, satisfactory to the Association, to be adopted by the Borrower, in accordance with paragraph 6 of Schedule 4 to this Agreement, as said manual may be amended from time to time with the prior agreement of the Association.

(o) “Program Steering Committee” means the committee maintained within the Ministry of Finance in accordance with paragraph 1 of Schedule 4 to this Agreement.

(p) “Project Management Team” means the team to be established and maintained by the Borrower in accordance with paragraph 2 of Schedule 4 to this Agreement.

(q) “Special Account” means the account referred to in Part B.1 of Schedule 1 to this Agreement.

(r) “Sub-grant” means a grant made or proposed to be made by the Borrower, through its Ministry of Natural Resources and Environment, to a Beneficiary, out of the proceeds of the Grant, through a Sub-grant Agreement, satisfactory to the Association, to finance the carrying out of Sub-projects under Part A(4) of the Project, in accordance with the provisions of the Operational Manual, and the terms “Sub-grants” means more than one Sub-grant.

(s) “Sub-grant Agreement” means the agreement to be entered into between the Borrower, through its Ministry of Natural Resources and Environment, and a Beneficiary for purposes of providing a Sub-grant, as the same may be amended from time to time with the prior agreement of the Association, and the term “Sub-grant Agreements” means, collectively, more than one Sub-grant Agreement.

(t) “Sub-project” means a specific community-based small-scale project included in the positive list of eligible activities set forth in the Operational Manual

financed or to be financed in part out of the proceeds of the Grant under Part A(4) of the Project, and the term "Sub-projects" means, collectively, more than one Sub-project.

ARTICLE II

The Financing

Section 2.01. The Association agrees to make available to the Borrower, on the terms and conditions set forth or referred to in this Agreement:

(a) an amount in various currencies equivalent to one million four hundred thousand Special Drawing Rights (SDR 1,400,000) (the Credit); and

(b) an amount in various currencies equivalent to one million six hundred thousand Special Drawing Rights (SDR 1,600,000) (the Grant).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account and the amount of the Grant may be withdrawn from the Grant Account, in each case in accordance with the provisions of Schedule 1 to this Agreement, for: (i) 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 A(4) of the Project, and in respect of which the withdrawal from the Grant Account is requested; and (ii) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of works and services required for other Parts of the Project and to be financed out of the proceeds of the Financing.

Section 2.03. The Closing Date shall be December 31, 2006 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: (i) 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, such rate not to exceed the rate of one-half of one percent (1/2 of 1%) per annum; and (ii) a commitment charge on the principal amount of the Grant not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, such rate not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) Each 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 the Grant Account (as the case may be), or canceled; and (ii) at the respective 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 respective 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) Each 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 October 15 and April 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 semi-annual installments payable on each October 15 and April 15 commencing October 15, 2014, and ending April 15, 2044. Each installment to and including the installment payable on April 15, 2024 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by:

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment of the Credit 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 objective of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out: (i) Parts A(1), A(2), A(3), B and C(1) of the Project through its Ministry of Works, Transport and Infrastructure; (ii) Parts A(4) and A(5) of the Project through its Ministry of Natural Resources and Environment; and (iii) Part C(2) of the Project through its Ministry of Finance, all with due diligence and efficiency and in conformity with appropriate administrative, financial, economic, engineering and technical practices and

sound social and environmental standards, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

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

Section 3.02. Except as the Association shall otherwise agree, procurement of the works and consultants' services required for the Project (except for Part A(4) of the Project) and to be financed out of the proceeds of the Financing shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan to ensure the continued achievement of the Project's objective; 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 Project.

(b) The Borrower shall:

- (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Association) audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or other period agreed to by the Association), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and
- (iii) furnish to the Association such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account and the Grant Account were made on the basis of reports referred to in Part A.5 of Schedule 1 to this Agreement (Report-based Disbursements) or 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 and the Grant 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 reports and 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 10 of Schedule 4 to this Agreement, the Borrower shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit and the Grant, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

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

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Project Management Team has been duly established and sufficiently staffed with terms of reference satisfactory to the Association, in accordance with paragraph 2 of Schedule 4 to this Agreement;

(b) the Operational Manual has been duly adopted by the Borrower's Ministry of Natural Resources and Environment, in a manner and substance, satisfactory to the Association, in accordance with paragraph 6 of Schedule 4 to this Agreement; and

(c) the Borrower has: (i) established a computerized financial management system for the Project; (ii) provided training to the staff of the Project Management Team in the above-mentioned financial management system and in the Association's financial management and disbursement procedures; and (iii) adopted a financial management manual, all in a manner and substance satisfactory to the Association.

Section 5.02. 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 Environmental Policy Framework and the Land Acquisition and Resettlement Framework have been adopted by the Borrower and are legally binding upon the Borrower in accordance with their respective terms.

Section 5.03. 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 VI

Representative of the Borrower; Addresses

Section 6.01. 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 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance
Private Bag
Apia, Independent State of Samoa

Cable address:

FINSEC
Apia

Facsimile:

685-21312
685-24779

For the Association:

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

Cable address:

INDEVAS
Washington, D.C.

Telex:

248423 (MCI) or
64145 (MCI)

Facsimile:

(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 the District of Columbia, United States of America, as of the day and year first above written.

INDEPENDENT STATE OF SAMOA

By /s/ Ali'ioaiga Feturi Elisaia

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Natasha Beschorner

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Financing

Part A. General

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Financing, the allocation of the amounts of the Credit and the amounts of the Grant 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>Amount of the Grant Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Works			
a. under Parts A.1 A.2 and B of the Project	1,150,000	680,000	75%
b. under Parts A.3 and A.5 of the Project		250,000	75%
(2) Consultants' services:		550,000	80% for foreign individual consultants; 75% for local individual consultants and local firms; and 67% for foreign firms
(3) Sub-grants		90,000	100% of the Sub- grant amount disbursed under Part A (4) of the Project

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>Amount of the Grant Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(4) Incremental operating costs		30,000	75%
under Part C (1) of the Project			
(5) Unallocated	250,000		
	<u>1,400,000</u>	<u>1,600,000</u>	
TOTAL		<u>3,000,000</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 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 for services supplied from the territory of the Borrower; and

(c) the term “Incremental operating costs” means reasonable expenditures directly related to Part C(1) of the Project, incurred by the Borrower (which expenditures would not have been incurred absent the Project), including expenditures for the cost of: (i) travel per diem and transportation of Project staff and other participants, but excluding salaries and allowances; (ii) rental of meeting facilities; (iii) publication and dissemination of Project related materials; (iv) office supplies and consumables; and (v) communications.

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, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 600,000 may be made in respect of Categories 1(a) and (2) on account of payments made for expenditures before that date but after March 1, 2004.

4. The Association may require withdrawals from the Credit Account and the Grant Account to be made on the basis of statements of expenditure for expenditures for: (a) works costing less than \$600,000 equivalent per contract; (b) contracts for the employment of consulting firms costing less than \$100,000 equivalent per contract; (c) contracts for the employment of individual consultants costing less than \$50,000 equivalent per contract; (d) Sub-grants; and (e) incremental operating costs; all under such terms and conditions as the Association shall specify by notice to the Borrower.

5. The Borrower may request withdrawals from the Credit Account and the Grant Account to be made on the basis of reports to be submitted to the Association in form and substance satisfactory to the Association, such reports to include the Financial Monitoring Reports and any other information as the Association shall specify by notice to the Borrower (Report-based Disbursements). In the case of the first such request submitted to the Association before any withdrawal has been made from the Credit Account and the Grant Account, the Borrower shall submit to the Association only a statement with the projected sources and applications of funds for the Project for the six-month period following the date of such request.

Part B. Special Account

1. The Borrower may, for the purposes of the Project, open and maintain in Dollars a special deposit account in the Central Bank of Samoa on terms and conditions satisfactory to the Association.

2. After the Association has received evidence satisfactory to it that the Special Account has been opened, withdrawals from the Credit Account and the Grant Account of amounts to be deposited into the Special Account shall be made as follows:

(a) if the Borrower is not making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) if the Borrower is making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. 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.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if the Association, at any time, is not satisfied that the reports referred to in Part A.5 of this Schedule 1 adequately provide the information required for Report-based Disbursements;

(b) if the Association determines at any time that all further withdrawals for payment of Eligible Expenditures should be made by the Borrower directly from the Credit Account and the Grant Account; or

(c) 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: (A) the records and accounts for the Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were Report-based Disbursements or were made on the basis of statements of expenditure, as the case may be.

5. The Association shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule 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 and the Grant Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or 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. 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 determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, 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 subparagraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account and the Grant Account for subsequent withdrawal or for cancellation in accordance with the provisions of this Agreement.

**ANNEX A
to
SCHEDULE 1**

**Operation of Special Account
When Withdrawals Are Not
Report-based Disbursements**

1. For the purposes of this Annex, the term “Authorized Allocation” means an amount equivalent to \$450,000 to be withdrawn from the Credit Account and the Grant Account deposited into the Special Account pursuant to paragraph 2(a) of this Annex.

2. 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 deposit into the Special Account of an amount or amounts which in the aggregate do not exceed the amount of the Authorized Allocation. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and the Grant Account and deposit into the Special Account such amount as the Borrower shall have requested.

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. 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 Part B.3 of Schedule 1 to this Agreement 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 the Grant 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. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account and the Grant Account under one or more of the Eligible Categories.

3. The Association shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit and the Grant minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Credit Account and the Grant Account of the remaining unwithdrawn amount of the Credit and the Grant 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.

ANNEX B
to
SCHEDULE 1

Operation of Special Account
When Withdrawals Are
Report-based Disbursements

1. Withdrawals from the Credit Account and the Grant Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account and the Grant Account under one or more of the Eligible Categories.

2. Upon receipt of each application for withdrawal of an amount of the Credit and the Grant, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and the Grant Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the reports referred to in Part A.5 of this Schedule 1 applicable to such withdrawal application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the date of such reports.

SCHEDULE 2

Description of the Project

The objective of the Project is to assist the Borrower in recovering resilience of the natural and built environments damaged by the Cyclone to a sustainable level so that the vulnerability of the people and the economy to prevailing natural hazards is reduced.

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: Coastal Resilience Recovery

1. Carrying out of a program of repair and rehabilitation of shoreline protection structures in the length of about fourteen (14) kilometers (km) damaged by the Cyclone at selected locations in the Affected Areas.
2. Carrying out of a program of reconstruction and upgrading of shoreline protection structures in the length of about ten (10) km in the Affected Areas to withstand prevailing natural hazard risks.
3. Carrying out of a program of restoration of the natural resilience of the shoreline of about two (2) km to withstand prevailing natural hazard risks through non-structural measures, including beach nourishment, stabilization, or avoidance measures in selected Affected Areas.
4. Providing Sub-grants to improve the resilience of coastal environments and communities in the Affected Areas through various small-scale Sub-projects.
5. Supporting the recovery of marine and coastal fringe ecosystems in the selected Affected Areas through, inter alia, assessment surveys, mapping and analysis of vulnerable areas, community consultation and development and implementation of recovery plans.

Part B: Road Infrastructure Rehabilitation

1. Carrying out of a program of rehabilitation or replacement of road pavements, drainage structures, slope stabilization and road furniture damaged by the Cyclone in the Affected Areas.
2. Carrying out of a program of upgrading of about five (5) small river crossings that were damaged by the Cyclone or are highly vulnerable to natural hazards risks in the Affected Areas.

Part C: Project Implementation Support

1. Supporting the Ministry of Works, Transport and Infrastructure and the Ministry of Natural Resources and Environment in carrying out: (i) coastal engineering for the identification, design and supervision of selected structural and non-structural coastal resilience measures; (ii) small-scale natural hazard mitigating measures; (iii) management of Sub-projects; (iv) preparation and supervision of road rehabilitation activities referred to in Part B(1) of this Schedule; (v) design, preparation and supervision of small river crossings upgrades referred to in Part B(2) of this Schedule; through provision of technical assistance.

2. Supporting the Ministry of Finance in managing and implementing the Project through provision of technical assistance.

* * *

The Project is expected to be completed by June 30, 2006.

SCHEDULE 3

Procurement

Section I. Procurement of Works

Part A: General

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 and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of this Section.

Part B: International Competitive Bidding

Except as otherwise provided in Part C of this Section, 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.

Part C: Other Procurement Procedures

1. National Competitive Bidding

(a) Works estimated to cost more than \$100,000 equivalent, but less than \$1,000,000 equivalent per contract, up to an aggregate amount not to exceed \$1,500,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(b) The procedures to be followed for National Competitive Bidding under this Paragraph 1, Part C, shall be those set forth in the Guidelines for Government

Procurement by Public Tender (February 2003), issued by the Tenders Board, Independent State of Samoa, with the modifications set forth in the Annex to this Schedule 3 required to ensure economy, efficiency, transparency, and consistency with Section I of the Guidelines (as required by paragraph 3.3 thereof).

2. Procurement of Small Works

Works estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$250,000 equivalent, may be procured under lump-sum, fixed-price contracts awarded on the basis of quotations obtained from three (3) 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 Association, 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 complete the contract successfully.

3. Direct Contracting

Works additional to existing contracts, estimated to cost less than \$20,000 equivalent per contract, up to an aggregate amount not to exceed \$200,000 equivalent, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations 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

(a) With respect to: (i) each contract for works estimated to cost the equivalent \$600,000 or more and procured in accordance with Part C(1) of this Section; and (ii) the first contract for works to be procured under each sub-component of the Project estimated to cost less than \$600,000 equivalent; the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

(b) With respect to the first contract procured in accordance with the provisions of Paragraphs C(2) and C(3), the following procedures shall apply:

- (i) prior to the execution of any contract for procurement of small works, the Borrower shall provide to the Association a report on the comparison and evaluation of quotations received;
- (ii) prior to the execution of any contract procured under direct contracting or procurement of small works procedures, the Borrower shall provide to the Association a copy of the specifications and the draft contract; and
- (iii) the procedures set forth in paragraphs 2(f), 2(g) 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

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions of Section II of this Section.

Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provision shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph: the short list of consultants for services under Part A(5) of the Project, estimated to cost less than \$200,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 and footnote 8 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Least-cost Selection

Services under Part A(5) of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines

2. Selection Based on Consultants' Qualifications

Services under Part A (5) of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Single Source Selection

Services for project management under Part C(2) of the Project which are estimated to cost less than \$150,000 equivalent per contract, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

4. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines, or selected on a sole-source basis if the provisions of paragraph 5.4 of the Consultant Guidelines are met, subject to prior approval of the Association.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Association for its review and approval prior to the issuance to consultants of any requests for proposals. Such plan shall be updated every six (6) months during the execution of the Project, and each such updating shall be furnished to the Association for its review and approval. Selection of all consultants' services shall be undertaken in accordance with such selection plan (as updated from time to time) as shall have been approved by the Association.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the report on the comparison of the qualifications and experience of candidates, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

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 Consultant Guidelines shall apply.

ANNEX TO SCHEDULE 3

National Competitive Bidding

Participation in Bidding

1. State-owned enterprises in the Independent State of Samoa shall be eligible for bidding only if they can establish that they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Borrower.
2. No bidder shall be denied access to bidding for reasons unrelated to its capacity to perform the contract. In particular, bidders shall not be denied participation for reason of being registered in a category higher than the nominated category. Furthermore, any request to register or to update registration shall be promptly entertained so as to allow any qualified bidder to participate.
3. Subject to paragraph 7 below, foreign bidders shall be eligible to participate in bidding under the same conditions as national bidders. In particular, no domestic preference over foreign bidders shall be granted to national bidders in bid evaluation, nor shall foreign bidders be asked or required to form joint ventures with national bidders in order to submit a bid.

Advertising; time for bid preparation

4. Invitations to bid shall be advertised in at least one newspaper of national circulation, allowing a minimum of thirty (30) days for the preparation and submission of bids, such thirty (30) days to begin with the availability of the bidding documents or the advertisement, whichever is later.

Standard bidding documents

5. Until national standard bidding documents, approved by the Association are available, bidding documents approved by the Association shall be used.

Qualification; post-qualification

6. Registration shall not be used to assess bidders' qualifications. Prequalification (if required) shall not be denied to any bidder for reasons unrelated to that bidder's capability and resources to successfully perform the contract, nor may bidders be pre-selected through short lists in place of prequalification. If prequalification is not required, the bidder determined to be the lowest evaluated responsive bidder shall be subject to post-qualification as a prerequisite to contract award.

Registration

7. A foreign bidder shall not be required to register as a condition for submitting its bid and, if determined to be the lowest evaluated responsive bidder, shall be given reasonable opportunity of registering, without any let or hindrance. The registration process shall not be applicable for Sub-contractors.

Bid Opening and Bid Evaluation

8. All bidding for works shall be carried out through one envelope procedure.

9. Bidders may submit bids, at their option, either in person or by courier service or by mail.

10. Bids shall be opened in public, immediately after the deadline for submission of bids.

11. Evaluation of bids shall be made in strict adherence to the criteria declared in the bidding documents and contracts shall be awarded to the lowest evaluated responsive bidder.

Rejection of Bids

12. Rebidding shall not be carried out without the Association's prior concurrence.

Extension of validity of bids

13. In exceptional circumstances, the procuring entity may, before the expiration of bid validity, request all bidders in writing to extend the validity of their bids. In such case, bidders shall not be requested nor permitted to amend the price or any other condition of their bids. Bidders shall have the right to refuse to grant such an extension without forfeiting their bid security, but bidders granting such an extension shall be required to provide a corresponding extension of their bid security.

No post-bidding negotiations

14. There shall be no post-bidding negotiations between the procuring entity and the lowest or any other bidder.

Inspection and Auditing

15. Each contract financed from the proceeds of the Credit shall provide that the contractors shall permit the Association, at its request, to inspect their accounts and records relating to the performance of the contract and to have said accounts and records audited by auditors appointed by the Association.

SCHEDULE 4

Implementation Program

1. The Borrower shall maintain, until completion of the Project, a Program Steering Committee established within the Ministry of Finance, chaired by the Chief Executive Officer of the Ministry of Finance and comprising of representatives, inter alia, the Ministry of Works, Transport and Infrastructure, Ministry of Natural Resources and Environment, Ministry for Women, Community, and Social Development and community, including two deputy chairpersons, with terms of reference satisfactory to the Association and assigned with such funds, responsibilities and resources as shall be required to enable it to provide overall guidance in the carrying out of the Project, review the progress of Project implementation, assist in achieving the Project objectives and complying with the terms and conditions of this Agreement.
2. The Borrower shall establish and maintain, until completion of the Project, the Project Management Team within the Ministry of Finance, headed by a Project manager, provided with sufficient resources and such responsibilities and funding as shall be required to enable it to carry out the day-to-day management, monitoring and coordination of procurement, accounting, disbursement, financial management and other Project related activities, and reporting to the Program Steering Committee, and staffed with competent personnel in adequate numbers, all under terms of reference acceptable to the Association.
3. The Borrower shall:
 - (a) maintain until completion of the Project, a financial management system for the Project, acceptable to the Association; and
 - (b) not abrogate, amend, assign, repeal, suspend or waive any provisions of the financial management manual without the prior agreement of the Association.
4. The Borrower shall, by March 31, 2005, appoint an independent auditor acceptable to the Association, under terms of reference satisfactory to the Association, to carry out annual audits of Project accounts and financial statements in accordance with the provisions of Section 4.01 of this Agreement.
5. For purposes of carrying out Parts A and B of the Project, the Borrower shall select Project sites in accordance with criteria acceptable to the Association, and, thereafter, implement the respective Parts of the Project in a manner and substance satisfactory to the Association.

6. The Borrower shall:

- (a) prepare, adopt and thereafter apply the Operational Manual, satisfactory to the Association, as such manual may be amended from time to time with the prior agreement of the Association, in the implementation of Part A(4) of the Project, which Operational Manual shall provide, inter alia, for: (i) procedure and criteria for selection of Beneficiaries; (ii) appraisal criteria for design and screening for the carrying out of measures to mitigate risks from natural hazards; (iii) terms and conditions governing the Sub-grant Agreements; (iv) procurement procedures for goods, works and services to be financed out of the proceeds of the Sub-grants; (v) process for monitoring implementation; and (vi) financial management and disbursement arrangements; and
- (b) not abrogate, amend, assign, repeal, suspend or waive any of the provisions of the Operational Manual without the prior agreement of the Association.

7. For purposes of the carrying out of Part A(4) of the Project, the Borrower shall enter into a Sub-grant Agreement with each Beneficiary on terms and conditions satisfactory to the Association; and shall not abrogate, amend, assign, repeal, suspend or waive any of the provisions of the Sub-grant Agreement without the prior agreement of the Association.

8. The Borrower shall:

- (a) carry out the Project in accordance with the provisions of the Environmental Policy Framework and the Land Acquisition and Resettlement Framework, as the case may be; and
- (b) not abrogate, amend, assign, repeal, suspend or waive the provisions of the Environmental Policy Framework and the Land Acquisition and Resettlement Framework without the prior agreement of the Association.

9. The Borrower shall, by June 30, 2004, authorize the implementing agencies under this Project to approve changes to contracts for civil works up to 10% of the initial contract price (including provisional sum and allowance for dayworks), notwithstanding any law or regulation requirement in this regard in effect at the time of issuance of said authorization.

10. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators set forth in Schedule 6 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about June 30, 2005, 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 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 Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, by September 30, 2005, 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 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.

11. The Borrower shall, through its Ministry of Works, Transport and Infrastructure:

(a) establish and maintain a database, satisfactory to the Association, to record main procedures taken in handling requests for shoreline protection or other coastal works, including: (i) verification against the relevant Coastal and Infrastructure Management Plan; (ii) site investigation; (iii) recommendation of proper treatment of the concerned request; (iv) cost estimates; and (v) environmental impacts category; and

(b) prepare a report every six months, beginning on July 31, 2004, on all shoreline protection works commenced within the last six months, including information on location, type of works, size, relevant Coastal Infrastructure Management Plan, required environmental clearances, and cost estimates upon works completion; and thereafter submit said report to the Association for review and comments.

12. The Borrower shall apply the draft EIA Regulations, the Interim Codes of Environmental Practice and any successor thereto, and any Coastal Infrastructure Management Plan as a Sustainable Management Plan referred to in the Borrower's Planning and Urban Management Act (2004), to all works under the Project, all in a manner and substance, satisfactory to the Association.

SCHEDULE 5

Modifications to the General Conditions

For the purpose of this Agreement, the provisions of the General Conditions are modified as follows:

1. Section 1.01 is amended to read:

“These General Conditions set forth certain terms and conditions generally applicable to development financing granted by the Association as a development credit and development grant to its members. They apply to any development financing agreement providing for any such development finance to the extent and subject to any modifications set forth in such agreement.”

2. Paragraph 8 of Section 2.01 is amended to read as follows:

8. “Development Financing Agreement” means the particular Development Financing Agreement to which these General Conditions apply, as such agreement may be amended from time to time. Development Financing Agreement includes these General Conditions as applied thereto, and all schedules and agreements supplemental to the Development Financing Agreement.

3. The following new paragraphs are added to Section 2.01:

15. “Grant” means the development grant provided for in the Development Financing Agreement.”;

16. “Grant Account” means the account opened by the Association on its books in the name of the Borrower to which the amount of the Grant is credited.”;

17. “Financing” means, collectively, the Credit and the Grant.

18. “Financing Accounts” means, collectively, the Credit Account and the Grant Account (or, where the context so requires, either of the Credit Account or the Grant Account).

4. The term “Credit”, wherever used in the following Articles and Sections of the General Conditions, is amended to read “Financing”: Sections 2.01(3), 2.01(12), 4.01, Article V, Article VI (excluding Section 6.05), Section 7.01(d), Article VIII, and Article IX.

5. The term “Credit Account”, wherever used in the following Articles and Sections of the General Conditions, is amended to read “Financing Accounts”: Section 2.01(6), 4.01, Article V, Article VI, and Section 12.03.

6. The term “Development Credit Agreement”, wherever used in the General Conditions, is amended to read the Development Financing Agreement.

7. Section 3.01 is modified to read as follows:

“Section 3.01. *Financing Accounts*. The amount of the Credit shall be credited to the Credit Account and may be withdrawn from the Credit Account by the Borrower as provided in the Development Financing Agreement and in these General Conditions. The amount of the Grant shall be credited to the Grant Account and may be withdrawn from the Grant Account by the Borrower as provided in the Development Financing Agreement and in these General Conditions.”

8. The phrase “(including any development financing agreement or development grant agreement)” is added to Section 6.02(a)(ii) after the words “any development credit agreement” and before the words “between the Borrower and the Association”, to Section 6.02(c)(i) after the words “any development credit agreement” and before the words “with the Association”, and to Section 7.01(b)(i) after the words “any other development credit agreement” and before the words “between the Borrower and the Association”:

9. Section 6.05 is amended to read as follows:

“Except as the Borrower and the Association shall otherwise agree, any cancellation of any amount of the Credit shall be applied *pro rata* to the several installments of the principal amount of the Credit maturing after the date of such cancellation.”

SCHEDULE 6

Performance Indicators

Components	Activities	Unit	Year 1 (June 2005)	Year 2 (June 2006)	Year 3	End of Project
A Coastal resilience	A.1. Structural Rehabilitation	km	5	12		14
.	A2. Structural Upgrading	Km	3	8		10
	A3. Non- structural Rehabilitation	Km	1	2		2.5
	A.4. Small Resilience Subprojects completed	number	5	20		25
	A.5 Ecosystem Recovery Plans prepared	number	2	6		8
B. Road Infrastructure rehabilitation	B2. River crossings completed	number	2	5		5
C. Implementation Support	C. Resilience projects prepared	% budget	60	100		100