

CONFORMED COPY

CREDIT NUMBER 2935 KE

Development Credit Agreement

(National Agricultural Research Project--Phase II)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 25, 1997

CREDIT NUMBER 2935 KE

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated February 25, 1997, between REPUBLIC OF KENYA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

(B) the Association has received a letter of subsectoral policy dated February 20, 1996 from the Borrower describing a program of actions, objectives and policies designed to improve its agricultural research (the Program) and declaring the Borrower's commitment to the execution of the Program;

(C) the Project will be carried out by the Kenya Agricultural Research Institute (KARI) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to KARI the proceeds of the Credit as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project Agreement of even date herewith between the Association and KARI;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the modifications thereto set forth below (the General Conditions), constitute an integral part of this Agreement:

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

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

"Except as the Association and the Borrower shall otherwise agree, no 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 Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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

(a) "ARF" means the Agricultural Research Fund established by KARI (as hereinafter defined) pursuant to Board Resolution Number MIN/BM/10/95 of May 18, 1995 and managed by KARI for the purpose of providing research grants to scientists;

(b) "ARF Manual" means the operational manual adopted by KARI establishing rules and procedures and eligibility criteria for awarding research grants under Part B.6 of the Project;

(c) "Grant Agreement" means the agreement to be entered into between the Borrower and KARI pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes any schedules thereto;

(d) "KARI" means Kenya Agricultural Research Institute, a body corporate established pursuant to Section 12 of the Science and Technology Act, Chapter 250 of the laws of the Borrower, as amended;

(e) "MALDM" means the Borrower's Ministry of Agriculture, Livestock Development and Marketing;

(f) "NRCs" means any of the Borrower's National Research Centers owned and operated by KARI;

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

(h) "Project Implementation Manual" means the manual, referred to in Section 6.01 (b) of this Agreement, describing the procedures, performance indicators and other arrangements for the purpose of implementing the Project;

(i) "Project Preparation Advance" means the project preparation advance granted by the Association to the Borrower pursuant to an exchange of letters dated November 7, 1994 and February 23, 1995 between the Borrower and the Association;

(j) "Research Grant" means a research grant under Part B.6 of the Project;

(k) "Research Grant Agreement" means the agreement to be entered

into between KARI and a research grant recipient for the purpose of carrying out a research activity under Part B.6 of the Project;

(l) "Research Grant Recipient" means the recipient of a Research Grant;

(m) "RRCs" means any of the Regional Research Centers owned and operated by KARI;

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

(o) "Shilling" means the currency of the Borrower.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to twenty-seven million four hundred thousand Special Drawing Rights (SDR 27,400,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) amounts paid (or, if the Association shall so agree, amounts to be paid) by KARI on account of withdrawals made by a Research Grant Recipient under a Research Grant to meet the reasonable cost of goods required for the agricultural research activities in respect of which the withdrawal from the Credit Account is requested; and (ii) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower may, for the purposes of the Project, open and maintain in US dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

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

Section 2.03. The Closing Date shall be June 30, 2002 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

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

(c) The commitment charge shall be paid: (i) at such places as

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

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

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

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 15 and December 15, commencing June 15, 2007 and ending December 15, 2036. Each installment to and including the installment payable on December 15, 2016 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 gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years, and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project, as set forth in Schedule 2 to this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause KARI to perform, in accordance with the provisions of the Project Agreement, all the obligations of KARI therein set forth, shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable KARI to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall make the proceeds of the Credit available to KARI as a grant under an agreement (the Grant Agreement) to be entered into between the Borrower and KARI, under terms and con-

ditions which shall have been approved by the Association.

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

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Project Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions, and without limitation thereto, the Borrower shall:

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

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.04. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) shall be carried out by KARI pursuant to Section 2.03 of the Project Agreement.

Section 3.05. The Borrower shall implement appropriate measures to ensure the high quality of imported and exported seeds. To that end, the Borrower shall, not later than 27 months after the Effective Date, submit to Parliament draft legislation for the establishment of a Kenya Plant Health Inspection Service (KEPHIS) which shall be responsible for quality control, including management of the plant quarantine services to facilitate the export and import of seeds.

Section 3.06. The Borrower shall:

(a) carry out jointly with the Association and KARI, not earlier than 21 months and not later than 27 months after the Effective Date, a midterm review of the progress made in carrying out the Project and the Program (referred to in this Section as the Midterm Review). The Midterm Review shall cover, among other things: (i) the effectiveness of the institutional arrangements; (ii) the effectiveness of the implementation arrangements; (iii) KARI's performance, functioning and management; (iv) the implementation of Project activities, particularly the decentralization of research activities; (v) the performance of ARF; and (vi) progress in involving the private sector in research activities.

(b) At least four weeks prior to the Midterm Review, furnish to the Association a report describing the status of the items listed in paragraph (a) above and of Project implementation generally.

(c) Not later than four weeks after the Midterm Review, prepare an action plan, acceptable to the Association, for the further implementation of the Project and, thereafter, implement such action program.

ARTICLE IV

Financial Covenants

Section 4.01. (a) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with sound accounting practices, records and accounts reflecting such expenditures;
 - (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made; and
 - (iii) enable the Association's representatives to examine such records.
- (b) The Borrower shall:
- (i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
 - (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including 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; and
 - (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

ARTICLE V

Remedies of the Association

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

(a) A situation has arisen which shall make it improbable that the Program, or a significant part thereof, shall be carried out.

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

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

(d) The Science and Technology Act, Chapter 250 of the laws of the Borrower, shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of KARI to perform any of its obligations under the Project Agreement.

(e) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of KARI or the ARF or for the suspension of their operations.

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

(a) the event specified in paragraph (b) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty

days after notice thereof shall have been given by the Association to the Borrower; and

(b) any event specified in paragraphs (d) and (e) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

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

(a) the Grant Agreement has been executed on behalf of the Borrower and KARI;

(b) KARI has adopted a Project Implementation Manual satisfactory to the Association;

(c) KARI has submitted to the Association a plan, satisfactory to the Association, for implementing the pilot seeds program referred to in Part C.2 of Schedule 2 to this Agreement;

(d) KARI has established arrangements, satisfactory to the Association, for its organizational structure, including the appointment of the Manager of the Seeds Coordination Unit, with qualifications and experience satisfactory to the Association; and

(e) KARI has adopted the ARF Manual.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association: (a) that the Project Agreement has been duly authorized or ratified by KARI and is legally binding upon KARI in accordance with its terms; and (b) that the Grant Agreement has been duly authorized or ratified by the Borrower and KARI and is legally binding upon the Borrower and KARI in accordance with its terms.

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

ARTICLE VII

Representatives of the Borrower; Addresses

Section 7.01. The Minister for 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
P.O. Box 30007
Nairobi, Kenya

Cable address:	Telex:
FINANCE Nairobi	22921 MINFIN-KE

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 (RCA)
82987 (FTCC)
64145 (WUI) or
197688 (TRT)

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

REPUBLIC OF KENYA

By /s/ Benjamin Kipkorir

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Callisto Madavo

Regional Vice President
Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

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

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Civil Works	4,900,000	90%
(2) Vehicles, plants and equipment (other than Part B.6 of the Project)	4,675,000	100% of foreign expenditures and 90% of local expenditures
(3) Consultants' services	1,500,000	100%
(4) Training	4,125,000	100%
(5) Research Grants under Part B.6 of the Project	2,400,000	100% of amounts disbursed by KARI
(6) Operating Costs:		
(a) Vehicles	1,600,000	75%

(b) Buildings	150,000	75%
(c) Other	5,800,000	75%
(7) Refunding of Project Preparation Advance	500,000	Amounts due pursuant to Section 2.02 (c) of this Agreement
(8) Unallocated	1,750,000	
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TOTAL	27,400,000	=====

2. For the purposes of this Schedule:

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

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

(c) the term "operating costs" means the incremental operating costs arising under the Project on account of maintenance of buildings, vehicles, fuel, equipment, office supplies, utilities, consumables, short-term research assistance, travel and accommodation; and

(d) Research Grants under Category (5) shall be used to finance research-related operating costs, as provided in paragraph 10 of Schedule 2 to the Project Agreement.

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) payments made for expenditures under Category 5 unless: (i) KARI has submitted to the Association a draft Research Grant Agreement satisfactory to the Association, and (ii) the Research Grant has been made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 2 to the Project Agreement.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (a) goods under contracts not exceeding \$100,000 equivalent, (b) works under contracts not exceeding \$500,000 equivalent, (c) services with consulting firms under contracts not exceeding \$100,000 equivalent, (d) expenditures for individual consultants under contracts not exceeding \$50,000 equivalent, (e) operating costs, (f) local training, (g) foreign training not to exceed \$10,000 equivalent, and (h) contracts under ARF not exceeding \$50,000 equivalent, all under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (a) raise agricultural productivity and incomes on a sustained basis, (b) improve food security, and (c) promote poverty alleviation and environmental protection, all through generation and dissemination of new agricultural technologies.

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: Institutional Development

1. Streamlining the organizational structure of KARI through a rationalization of its network of research centers and of its staffing system.
2. Strengthening of KARI's administrative, financial management and accounting system to ensure efficient and timely allocation and utilization of resources, through a restructuring of the finance and accounting functions and decentralization of key financial responsibilities to NRCs and RRCs.
3. Improving procedures for technical processes for research planning and priority setting, design and budgeting, implementation, dissemination of results and impact assessment, including decentralization of key functions to NRCs and RRCs.
4. Improving KARI's capability to retain and motivate its staff through the introduction of a transparent performance appraisal system and rewards/incentive framework.
5. Carrying out of an expanded skills upgrading program for KARI staff in management, technical and administrative skills.
6. Improving KARI's library and information system, including the establishment of a management information system (MIS) for KARI headquarters and research centers.
7. Improving KARI's capacity to monitor and evaluate donor support in agricultural research.

Part B: Applied Research

1. Strengthening the capacity of NRCs and RRCs to identify priority constraints of dominant crop/livestock/agroforestry production systems and to design adaptive research programs in research stations and farmers' fields to produce appropriate technologies which are biologically stable, economically viable and benign to the environment.
2. Rehabilitation of RRCs located at Embu and Mtwapa.
3. Carrying out of nationally coordinated research programs on strategic, high-priority crops.
4. Carrying out of improved research on production and health of dairy cattle, beef cattle, small ruminants and poultry.
5. Carrying out, on a pilot basis in two KARI research centers, of assessments on the viability and effectiveness of utilizing research centers to provide advice on fertilizer use recommendations through the correlation of fertilizer response data obtained in fertilizer trials with soil and plant tissue analyses.
6. Provision of grants to agricultural research scientists, research institutions or universities to support and promote high-priority research activities.

Part C: Seeds Program

1. Implementing the program to liberalize the seed industry.
2. Carrying out of a pilot scheme for the provision of basic seeds to the private sector, both formal and informal.
3. Improving KARI's capacity to provide breeder and foundation seeds to private sector seed companies and farmer seed producers through the establishment of foundation seed units with seed processing facilities and field equipment and vehicles at selected research centers.

* * *

The Project is expected to be completed by December 31, 2001.

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means the Categories set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount, to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, equivalent to \$2,000,000, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$1,000,000 until the aggregate amount of withdrawals from the Credit Account under the eligible Categories for the Special Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for the Project, shall be equal to or exceed the equivalent of SDR 5,000,000.

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 Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation, and subsequent withdrawals to replenish the Special Account, shall be made as follows:

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

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

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and

other evidence showing that such payment was made exclusively for eligible expenditures.

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

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

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

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

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the Special Account, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

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

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

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

