

GRANT NUMBER H164 DRC

Development Grant Agreement

(Emergency Living Conditions Improvement Support Project)

between

DEMOCRATIC REPUBLIC OF CONGO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 28th , 2005

GRANT NUMBER H164 DRC

DEVELOPMENT GRANT AGREEMENT

AGREEMENT, dated _____, 2005, between DEMOCRATIC REPUBLIC OF CONGO (the Recipient) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

WHEREAS the Association has agreed, on the basis, *inter alia*, of the foregoing, to extend the Grant to the Recipient 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 May 1, 2004), with the modifications set forth in Schedule 6 to this Agreement (the General Conditions), constitute an integral part of this Agreement.

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

(a) “*Comité Interministériel de Supervision*” or “CIS” means the Interministerial Oversight Committee established pursuant to decree No. 03/23 dated September 10, 2003 *portant création, organisation et fonctionnement du Comité Interministériel de supervision du projet d’urgence et de soutien au processus de réunification économique et sociale en République Démocratique du Congo*;

(b) “Displaced Persons” means persons who, on account of the execution of any activity under the Project had or would have their: (i) standard of living adversely

affected; or (ii) right, title, or interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently; or (iii) access to productive assets adversely affected, temporarily or permanently; or (iv) business, occupation, work or place of residence or habitat adversely affected, temporarily or permanently;

(c) “Environmental and Social Impact Assessment” or “ESIA” means the evaluation of the potential environmental and social risks and impacts of Part C of the Project, to be prepared by the Recipient in accordance with the provisions of Section 3.03 of this Agreement and to include a management plan for mitigating, avoiding, reducing and/or offsetting such risks and impacts, as the same may be amended from time to time with the prior approval of the Association;

(d) “Environmental and Social Impact Management Framework” or “ESIMF” means the framework, in form and substance satisfactory to the Association, to be prepared in accordance with the provisions of Section 3.03 of this Agreement, describing the screening procedures applicable for activities under Part A, B and D of the project as well as guidelines for the preparation of management documents found to be required as a result of said screening, including, as the case may be the an ESMP (as hereinafter defined) as the same may be amended from time to time with the approval of the Association;

(e) “Environmental and Social Management Plan” or “ESMP” means the plan, in form and substance satisfactory to the Association, describing measures for the mitigation, reduction and or offset of the environmental and social impacts of activities under Part A, B and D of the Project, to be prepared as the case may be, pursuant to the ESIMF;

(f) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(g) “Fiscal Year” means the fiscal year of the Recipient commencing January 1 and ending December 31 in the same year;

(h) “Grant Account” means the account referred in Section 2.02 of this Agreement;

(i) “Lubumbashi - Kasenga Axis” means, the part of the Recipient’s national road number 5 between the city of Lubumbashi and the city of Kasomeno and the part of the Recipient’s national road number 35 between the city of Kasomeno and the city of Kasenga;

(j) “Manual of Financial and Accounting Procedures” or “MFAP” means the manual adopted by the Recipient pursuant to Section 5.01 (b) of this Agreement, outlining the financial and accounting procedures, policies, and guidelines to be followed by the Recipient in Project implementation, as the same may be amended from time to time with the concurrence of the Association, and such term includes any schedules to the MFAP;

(k) “Medium Urban Center” means an urban center eligible for support under Part A of the Project as described in Annex A to Schedule 2 to this Agreement ;

(l) “Medium Urban Center Support Firm” means a firm to be recruited in accordance with the provisions of Schedule 3 of this Agreement for the purpose of implementing Parts A of the Project as specified in Schedule 4 to this Agreement;

(m) “*Office des Routes*” means the office for road network administration of the Recipient, established pursuant to ordinance No. 78-223 dated May 5, 1978 *portant statuts d’une entreprise publique dénommé Office des Routes* and operating pursuant to the laws of the Recipient;

(n) “Priority Investments” means the activities agreed upon with the Borrower on April 26, 2005 to be carried out under Part B of the Project;

(o) “Priority Institutional Support Activities” means the list of activities to be carried under Part D of the Project, each under a contract providing for quantified performance indicators, including provision of basic training, acquisition of equipment; and minimal rehabilitation of facilities, satisfactory to the Association;

(p) “Procurement Firm” means the firm to be recruited in accordance with Schedule 3 to this Agreement to carry out certain procurement activities under the Project as defined in Schedule 4 to this Agreement;

(q) “Project Operational Manual” or “POM” means the manual adopted by the Recipient pursuant to Section 5.01 (b) of this Agreement, outlining the institutional and operational arrangements for the implementation of the Project, including, *inter alia*, the monitoring and evaluation arrangements, the eligibility criteria for activities, and guidelines to be followed in Project implementation, as the same may be amended from time to time with the concurrence of the Association, and such term includes any schedules to the MOP;

(r) “Project Preparation Advance” means the project preparation advance granted by the Association to the Recipient pursuant to the Letter Agreement signed on

behalf of the Association on October 11, 2004, and on behalf of the Recipient on October 25, 2004;

(s) “Procurement Plan” means the Recipient’s procurement plan, dated April 26, 2005 covering the period Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 to this Agreement;

(t) “Resettlement Policy Framework” or “RPF” means the policy framework for land acquisition, compensation, resettlement and rehabilitation of Displaced Persons to be prepared and adopted by the Recipient in accordance with the provisions of Section 3.03 of this Agreement, as said policy framework may be amended from time to time with the approval of the Association;

(u) “Resettlement Action Plan” or “RAP” means the plan, in form and substance satisfactory to the Association, describing measures for the mitigation of the Project’s impacts on Displaced Persons, to be prepared, as the case may be, pursuant to the Resettlement Policy Framework;

(v) “Special Account” means the account referred to in Section 2.02 (b) of this Agreement;

(w) “*Unité de Coordination du Projet*” or “UCOP” means the Project Coordination Unit established pursuant to decree No. 03/23 dated September 10, 2003 *portant création, organisation et fonctionnement du Comité Interministériel de supervision du projet d’urgence et de soutien au processus de réunification économique et sociale en République Démocratique du Congo*;

(x) “Urban Rehabilitation Management Firm” or “URMF” means a firm to be recruited in accordance with the provisions of Schedule 3 of this Agreement for the purpose of implementing parts B and D of the Project as specified in Schedule 4 to this Agreement, it being specified that a second project urban rehabilitation management firm subject to the same obligations, may be recruited to implement activities under Part D of the Project in the Recipient’s provinces of Province Orientale, Nord Kivu, Sud Kivu and Maniema; and

(y) “Zongo – Akula Axis” means the part of the Recipient’s national road number 6 linking the cities of Libenge, Boyabo, Gemena and Akula and the part of the Recipient’s national road number 23 between the city of Zongo and the city of Boyabo;

ARTICLE II

The Grant

Section 2.01. The Association agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to fifty three million nine hundred thousand Special Drawing Rights (SDR 53,900,000) (the Grant).

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

(b) The Recipient 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 5 to this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Recipient, withdraw from the Grant 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 un-withdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be September 30, 2010 or such later date as the Association shall establish. The Association shall promptly notify the Recipient of such later date.

Section 2.04. (a) The Recipient shall pay to the Association 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, 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 Recipient from the Grant Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as

of June 30 in each year shall be applied from the next date in that year specified in Section 2.04 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 Recipient; and (iii) in Dollars or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of Section 4.02 of the General Conditions.

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

ARTICLE III

Execution of the Project

Section 3.01. (a) The Recipient declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices and with due regard to environmental concerns, 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 Recipient and the Association shall otherwise agree, the Recipient 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 goods, works and services required for the Project and to be financed out of the proceeds of the Grant shall be governed by the provisions of Schedule 3 to this Agreement as said provisions may be further elaborated in the Procurement Plan.

Section 3.03. The Recipient shall, within twelve months of the Date of Effectiveness, prepare and publicly disclose the ESIA, the ESIMF and the RPF, all in form and substance satisfactory to the Association.

Section 3.04 The Recipient shall, within three months of the Date of Effectiveness, cause UCOP to select a firm satisfactory to the Association in charge of performing an internal audit function for the Project.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Recipient 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 Recipient 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 Grant Account were made on the basis of statements of expenditure, the Recipient shall:

- (i) retain, until at least two years after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from 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 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 Recipient's progress reporting obligations set out in section II of Schedule 4 to this Agreement, the Recipient shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which: 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 Grant, and explains variances between the actual and planned uses of such funds; 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 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

Effectiveness; Termination

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

- (a) the Recipient has opened the Special Account;
- (b) the Recipient has adopted the POM and the MFAP in form and substance satisfactory to the Association;
- (c) the Recipient has adopted the list of Priority Institutional Support Activities in form and substance satisfactory to the Association;

(d) the Recipient has established an operational fiduciary management system satisfactory to the Association including, (i) the recruitment of one additional accountant by UCOP; and (ii) the formatting of a software for financial management and training of the relevant staff within UCOP; and

(e) the Recipient has recruited the independent auditors referred to in Section 4.01 (b) of this Agreement.

Section 5.02. 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 Recipient; Addresses

Section 6.01. The Minister in charge of Finance of the Recipient is designated as representative of the Recipient 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 Recipient:

Minister of Finance
Ministry of Finance
Boulevard du 30 juin
BP 12997
Kinshasa I - Gombe
Democratic Republic of Congo

Facsimile:

243 880 23 81

For the Association:

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

Cable address:

Telex:

Facsimile:

INDEVAS
Washington, D.C.

248423 (MCI)
64145 (MCI)

(202) 477 6391

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

DEMOCRATIC REPUBLIC OF CONGO

By

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Grant

A. General

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Grant, the allocation of 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 Grant Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1)	Part A - Support to Medium Urban Centers	6,600,000	100 %
(2)	Part B - Support to provincial capitals	17,700,000	100 %
(3)	Part C - Opening Up of isolated areas	21,000,000	100 %
(4)	Part D - Support to provincial Provincial Institutions	4,600,000	100%
(5)	Part E - Project management And Operating costs	2,000,000	100 %
(6)	Refunding of the Project Preparation Advance	1,300,000	Amount due pursuant to Section 2.02 (c) of this Agreement
(7)	Unallocated	700,000	
	TOTAL	<u>53,900,000</u> =====	

2. For the purposes of this Schedule:

the term “operating costs” means the incremental operating costs for UCOP arising on account of Project implementation, including vehicles acquisition, operation and maintenance, communication, reasonable bank charges on the Special Account, rental expenses, premises maintenance costs, equipment and office supplies, utilities, consumables, travel cost and *per diem* for Project staff, allowances, and accommodation and salaries of contractual staff of the Project.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made (a) in respect of payments made for expenditures prior to the date of this Agreement; and (b) as regards Categories 2 and 4 until the financial management capacity of URMF has been assessed to the satisfaction of the Association and until the procurement plan related to said activities has been reviewed to the satisfaction of the Association.

4. The Association may require withdrawals from the Grant Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods costing less than US\$250,000 equivalent per contract; (b) works costing less than US\$500,000 equivalent per contract; (c) services of individual consultants costing less than US\$50,000 equivalent per contract; (d) services of consulting firms under contracts costing less than US\$100,000 equivalent per contract; and (e) operating costs, all under such terms and conditions as the Association shall specify by notice to the Recipient.

SCHEDULE 2

Description of the Project

The objective of the Project is to assist the Recipient in improving the living conditions of the population by strengthening the socio-economic situation in key urban areas as well as in two isolated regions.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Association may agree upon from time to time to achieve such objectives.

Part A: Support to Medium Urban Centers

Supporting the recovery of basic services and accessibility in Medium Urban Centers by financing emergency activities including infrastructure rehabilitation (such as rural roads, bridges) social services delivery (such as schools health centers) and economic revitalization activities (such as markets), all through the carrying out of works and the provision of goods and services.

Part B: Support to provincial capitals

Stabilizing and consolidating the socio-economic situation and contributing to the recovery of economic activity through the implementation of Priority Investments in the cities of Bandundu, Kananga, Lubumbashi, Matadi, Mbandaka, Mbuji Mayi and Kikwit, including the carrying out of works and the provision of goods and services.

Part C: Opening up of isolated areas

Rehabilitation and maintenance of the Lubumbashi – Kasenga Axis and of the Zongo – Akula Axis for a total length estimated at 600 kilometers so as to make them fit for circulation and the transportation of goods under acceptable economical conditions, all through the carrying out of works and the provision of goods and services.

Part D: Support to provincial institutions

Support and strengthen key provincial institutions through activities defined in the list of Priority Institutional Support Activities including : (a) provision of basic training; (b) acquisition of equipment; and (c) minimal rehabilitation of office facilities.

Part E: Project Management

Supporting project implementation, project coordination, procurement and financial management through the provision of technical advisory services for the carrying out of technical audits and financial audits and monitoring, including environmental and social, and evaluation activities under the Project, as well as through operating costs.

* * *

The Project is expected to be completed by March 31 2010.

**Annex A
to
SCHEDULE 2**

Medium Urban Centers

<u>BAS-CONGO:</u>	Mbanza-Ngungu, Luozi, Moanda
<u>BANDUNDU:</u>	Inongo, Kenge, Bulungu
<u>EQUATEUR:</u>	Lisala, Ingende, Bikoro
<u>KASAI OCCIDENTAL:</u>	Tshikapa, Luiza, Mweka
<u>KASAI ORIENTAL:</u>	Mueneditu, Kabeyakamwanga, Tshilenge
<u>KATANGA:</u>	Kasenga, Kamina, Kolwezi

SCHEDULE 3

Procurement

Section I. General

A. All goods, works and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines: Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Association of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants' Services)

A. International Competitive Bidding. Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Recipient and works to be carried out by domestic contractors.

B. Other Procurement Procedures

1. National Competitive Bidding. Goods estimated to cost less than \$250,000 equivalent per contract and works estimated to cost less than \$1,000,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding in accordance with the provisions of paragraphs 3.1, 3.3, 3.4 of the Procurement Guidelines.

2. Shopping. Goods estimated to cost less than \$50,000 equivalent per contract and works estimated to cost less than \$ 100,000 equivalent per contract, may be procured

under contracts awarded on the basis of Shopping in accordance with the provisions of paragraphs 3.1 and 3.5 of the Guidelines.

3. Direct Contracting. Goods and works which the Association agrees meet the requirements for Direct Contracting may, with the Bank's prior agreement, be procured in accordance with the provisions of said procurement method.

4. Procurement from UN Agencies. Equipment, such as computers and vehicles estimated to cost less than \$200,000 equivalent per contract may be procured directly from United Nations Office of Project Services in accordance with the provisions of paragraphs 3.1 and 3.9 of the Procurement Guidelines.

Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than \$100,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Least-cost Selection. Services for assignments which the Association agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications. Services 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, 3.7 and 3.8 of the Consultant Guidelines.

3. Single Source Selection. Services for tasks in circumstances which meet the requirements of paragraph 3.10 of the Consultant Guidelines for Single Source Selection, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.

4. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances

described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

Section IV. Review by the Association of Procurement Decisions

Except as the Association shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Association: (a) each contract for goods estimated to cost the equivalent of \$250,000 or more, each contract for works estimated to cost the equivalent of \$500,000 or more and all goods and works procured by Direct Contracting; and (b) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$100,000 or more, each contract for consultants' services provided by a individual consultant estimated to cost the equivalent of \$50,000 or more, and all Single Source selection of consultants services. All other contracts shall be subject to Post Review by the Association.

SCHEDULE 4

Implementation Program

I. Overall Project Supervision and Implementation Arrangements

1. Except as the Association shall otherwise agree, the Recipient shall: (a) apply the criteria, policies, procedures and arrangements set out in the MOP and MFAP; and (b) not amend or waive, or permit to be amended or waived, the MOP and MFAP, or any provision thereof, in a manner which, in the opinion of the Association, may materially and adversely affect the implementation of the Project.

2. CIS

The Recipient shall ensure that at all time during project implementation, CIS be kept operational, meet regularly and ensure proper oversight of UCOP activities by providing overall guidance.

3. UCOP

The Recipient shall ensure that at all time during project implementation UCOP be maintained with staff having qualifications and experience and working under terms of reference satisfactory to the Association and ensure: (i) overall oversight of Project implementation, (ii) coordination with technical ministries and other relevant entities, and (iii) financial management of the Project.

4. Procurement Firm

The Recipient shall select the Procurement Firm and cause UCOP to enter into an agreement with the Procurement Firm under terms and conditions satisfactory to the Association, making Procurement Firm responsible for carrying out: the procurement of works and services necessary for the carrying out of Part C of the Project; the procurement of services necessary for the supervision of the implementation of Part B and Part D of the Project; and the procurement of services for audits and environmental and social studies as necessary.

5. Medium Urban Center Support Firm

The Recipient shall select Medium Urban Center Support Firm and cause UCOP to enter into an agreement with the Medium Urban Center Support Firm making the Medium Urban Center Support Firm responsible for the implementation of activities under Part A of the Project under terms and conditions satisfactory to the Association, including *inter alia*, the following:

(a) the obligation to carry out activities under Part A of the Project in compliance with the MOP and the MFAP, and with a pre-established work plan to be regularly updated including a dated estimate of financing needs;

(b) the obligation to set up an operational unit for implementing component A of the Project including technical supervision, procurement and financial management elements, and to recruit and second an engineer to municipal authorities in each of the Medium Urban Center

(c) the obligation to establish a list of priority activities for each of the Medium Urban Center, satisfactory to the Association, in compliance with eligibility criteria set up in the MOP, including: (A) being identified by local authorities in consultation with the private sector and civil society (B) be implemented in designated priority urban areas; (C) include quantified performance indicators as well as a baseline for each activity; (D) not exceed US\$250,000 by individual task, for a total of US\$500,000 by urban area, and can be completed within 12 months after inception; (E) unless the Association otherwise agrees, not being already financed or proposed to be financed under another source of financing; (F) contribute to improving living conditions in the community, and (G) include realistic and sustainable mechanisms for operation and maintenance (including financing);

(d) the obligation to select in accordance to pre-determined procedures and enter into contracts with contractors for the supply of works, goods and services, and proceed to the payment of said contractors in accordance with the pre-determined payment procedures;

(e) the obligation to provide general supervision to ensure professionalism and transparency in the carrying out of activities; and

(f) the obligation to carry out the necessary information campaigns to ensure effective involvement of local populations in the monitoring of activities and to provide proper information on procurement activities through on site posting and local radios broadcasting of: the activity, name of the contractor, cost of the contract, inception and completion dates, payments already made.

6. URMF

The Recipient shall cause UCOP to recruit and enter into an agreement with URMF making URMF responsible for the implementation of activities under Part B and Part D of the Project under terms and conditions satisfactory to the Association, including *inter alia*, the following:

(a) the obligation to carry out activities under Part B and under Part D of the Project in compliance with the MOP and the MFAP and with a pre-established work plan to be regularly updated including a dated estimate of financing needs as well as a pre-established procurement plan;

(b) the obligation to deploy an operational unit with staff having the required qualification and experience for implementing Parts B and D of the Project including technical supervision, procurement and financial management;

(c) the obligation to select in accordance to pre-determined procedures and enter into contracts with contractors for the supply of works, goods and services in connection with the Priority Investments, to provide technical supervision of contract execution (supervision of works, certification of invoices, etc.), ensure reception of works and goods, ensure professionalism and transparency in the carrying out of activities, and proceed to the payment of said contractors in accordance with the pre-determined payment procedures;

(d) the obligation to set up a monitoring and evaluation system (including baseline data) for the impact of activities financed under Part B and Part D of the Project;

(e) the obligation to cooperate with institutions and public entities involved with the activities considered in accordance with pre-determined procedures; and

(f) the obligation to carry out the necessary information campaigns to ensure effective involvement of local populations in the monitoring of activities and to provide proper information on procurement activities through on site posting and local radios broadcasting of: the activity, name of the contractor, cost of the contract, inception and completion dates, payments already made.

7. Office des Routes

The Recipient shall ensure that at all time during project implementation Office des Routes be maintained operative and that staff having qualifications and experience

satisfactory to the Association be assigned to assist in the supervision of activities carried out under Part C of the Project.

II. Safeguard policies

The Recipient shall carry out the Project or cause the Project to be carried out in accordance with the provisions of the ESIA, ESIMF and the RPF, and, as the case may be in accordance with the provisions of the EMP and of the RAP, and except as the Association shall otherwise agree, the Recipient shall not amend or waive any provision of the aforementioned, if such amendment or waiver may, in the opinion of the Association, materially or adversely affect the implementation of the Project.

III. Monitoring and Evaluation, Annual and Midterm Reviews

1. The Recipient shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in Schedule 7 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof, as well as the implementation of the ESIA, the ESIMF and the RPF;

(b) (i) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about February 15 of each calendar year, commencing on February 15, 2006 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

(ii) review with the Association, by March 15 of each calendar year, commencing on March 15, 2006 the report referred to in paragraph (b) of this Section, (Annual Review) 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.

(c) (i) by March 31, 2008, or such other date as the Association shall agree upon, carry out jointly with the Association, a midterm

review (Midterm Review). The Recipient shall invite the members of sector ministries and agencies affected by the Project to participate, and take all actions it considers necessary to ensure the participation of representatives of community associations involved in the carrying out of the Project in such Midterm Review. Such Midterm Review shall cover the progress achieved in the implementation of the Project under an agenda encompassing the agenda of the Annual Reviews.

- (ii) No later than one month prior to the Midterm Review, the Recipient shall furnish to the Association, for its review and comments, a report, in such detail as the Association shall reasonably request, on the implementation of the Project.
- (iii) Following such Midterm Review, the Recipient shall act promptly and diligently in order to take any corrective action deemed necessary by the Association to remedy any shortcoming noted in the implementation of the Project, or to implement such other measures as may have been agreed upon between the Recipient and the Association in furtherance of the objectives of the Project.

SCHEDULE 5

Special Account

1. For the purposes of this Schedule:
 - (a) the term “eligible Categories” means Categories (1) through (5) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;
 - (b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and
 - (c) the term “Authorized Allocation” means an amount equivalent to US\$800,000 to be withdrawn from the Grant Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to US\$400,000 until the aggregate amount of withdrawals from the Grant Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of US\$20,000,000.
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 Recipient shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Recipient, withdraw from the Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.
 - (b) (i) For replenishment of the Special Account, the Recipient 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 Recipient 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 Recipient, withdraw from the Grant Account and deposit into the Special Account such amount as the Recipient 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 Grant 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 Recipient out of the Special Account, the Recipient 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 Recipient directly from the Grant 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 Recipient 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 Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

- (d) once the total unwithdrawn amount of the Grant allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Grant Account of the remaining unwithdrawn amount of the Grant allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Recipient. 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 Recipient 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 Recipient 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 Recipient shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Recipient 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 Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

SCHEDULE 6

Modifications to the General Conditions

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

1. Sections 3.02, 3.03, 3.04 (a), 3.04 (b), 6.05 and Article VII are deleted in their entirety.
2. Wherever used in the General Conditions, the following terms are modified to read as follows:
 - (a) The term “Borrower” is modified to read “Recipient”.
 - (b) The term “Credit” is modified to read “Grant”.
 - (c) The term “Credit Account” is modified to read “Grant Account”.

The term “Development Credit Agreement” is modified to read “Development Grant Agreement”.

3. Section 1.01 is modified to read as follows:

“Section 1.01. *Application of General Conditions*

These General Conditions set forth the terms and conditions generally applicable to the Development Grant Agreement to the extent and subject to any modifications set forth in such agreement.”

4. Paragraph 3 of Section 2.01 is modified to read as follows:

“3. “Recipient” means the party to the Development Grant Agreement to which the Grant is made.”

5. Article III is modified as follows:

(a) The heading of Article III is modified to read “Grant Account; Partial Payment”, and the heading of Section 3.04 is modified to read “Partial Payment”.

The words “The principal of, and service charges on, the Credit” in Section 3.05 are modified to read “All amounts required to be paid under the Development Grant Agreement”.

6. Article IV is modified as follows:

(a) Section 4.02 (a) is modified to read as follows:

“Section 4.02. *Currencies in which Payments are to be Made*

(b) The Recipient shall pay all amounts required to be paid by it under the Development Grant Agreement in the currency specified in such agreement or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to paragraph (c) or (e) of this Section.”

(c) Wherever used in Section 4.02 (c) and (e) of the General Conditions, the words “principal and service charges” are modified to read “amounts”.

Section 4.03 is modified to read as follows:

“Section 4.03. *Amount of the Grant*

The amount of the Grant withdrawn from time to time shall be the equivalent in terms of SDR (determined as of the date or respective dates of withdrawal from the Grant Account) of the value of the currency or currencies so withdrawn.”

(d) Section 4.06 (b) is modified to read as follows:

“(b) All amounts which the Recipient shall be required to pay under the Development Grant Agreement shall be paid without restrictions of any kind imposed by, or in the territory of, the Recipient.”

7. Article VI is modified as follows:

(a) The word “credit” in paragraphs (a) (ii) and (c) (i) of Section 6.02 is replaced with the words “credit, grant or financing”.

(b) Section 6.03 (c) is modified by replacing the words “corrupt or fraudulent” with the words “corrupt, fraudulent, collusive or coercive”.

8. Section 8.01 (a) is modified to read as follows:

“(a) All amounts which the Recipient shall be required to pay under the Development Grant Agreement shall be paid without deduction for, and free from, any taxes levied by, or in the territory of, the Recipient.”

9. Section 12.05 and its heading are modified to read as follows:

“Section 12.05. *Termination of Development Grant Agreement.*

The obligations of the Recipient under the Development Grant Agreement shall terminate on the date 20 years after the date of the Development Grant Agreement.”

SCHEDULE 7

Performance Indicators

1. The pre-established quantified performance indicators identified by stakeholders during the selection process for each activity financed in Medium Urban Centers have been reached (reduced average transportation time for transport infrastructure, increased number of children with access to good quality education, increased number of persons with access to a performing health center, etc.)
2. The pre-established quantified performance indicators identified and listed in the list of Priority Investments have been reached (increased number of households connected to utilities; with access to good quality education, increased number of persons with access to a performing health center, etc.)
3. The cost for the transportation of goods has decreased in the two isolated areas (price per ton transported between Lumbumbashi et Kasenga decreased by 25%; price per ton transported between Akula et Gemena decreased by 30%).
4. The administrative capacity of target provincial institutions is strengthened and the pre-established quantified performance indicators identified and listed in the list of Priority Institutional Support Activities have been reached.

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