

CONFORMED COPY

LOAN NUMBER 3891 UA

Loan Agreement

(Seed Development Project)

between

UKRAINE

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated September 28, 1995

LOAN NUMBER 3891 UA

LOAN AGREEMENT

AGREEMENT, dated September 28, 1995, between UKRAINE (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

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

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

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

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

"(k) An extraordinary situation shall have arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of Agreement."

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

(a) "Charter" means the founding statutes, charter, articles of incorporation and by-laws, or other similar instrument of a Participating Seed Enterprise, including any agreement among the founders or shareholders thereof;

(b) "Financial Agent" means the Agro-Industrial Bank "Ukraina", a joint stock commercial bank registered pursuant to Registration Decision No. 2 of September 27, 1991 of the Borrower's National Bank, and selected as financial agent of the Borrower pursuant to the Financial Agency Agreement, or any other entity which shall have been selected by the Borrower to act as its financial agent for purposes of on-lending to any Participating Seed Enterprises under Part A of the Project;

(c) "Financial Agency Agreement" means an agreement entered into by the Borrower, through its Ministry of Finance, and the Financial Agent for the purposes of Part A of the Project;

(d) "MOAF" means the Ministry of Agriculture and Food of the Borrower;

(e) "Participating Seed Enterprise" means a Private Enterprise for the production of seed, selected by the Borrower for participation in Part A of the Project in accordance with the criteria set forth in Part B of the Annex to Schedule 5 of this Agreement;

(f) "PMU" means the Project Management Unit referred to in Section 6.01 (c) of, and paragraph 1 (a) of Schedule 5 to, this Agreement;

(g) "Private Enterprise" means a commercial entity registered as a joint stock company according to the applicable rules and regulations of the Borrower in which 51% or more of the interest is held by persons or companies other than the Borrower or a political or administrative subdivision thereof, or any agency of the Borrower or any subdivision thereof, or any regional, local or other governmental body, or any entity controlled by the Borrower;

(h) "Project Steering Committee" means the committee referred to in Section 6.01 (c) of, and paragraph 1 (b) of Schedule 5 to, this Agreement;

(i) "Seed Law" means the law of the Borrower on Seeds of December 15, 1993;

(j) "Seed Policy Letter" means the letter issued by the Minister of Economy of the Borrower to the Bank, dated September 9, 1994, which sets out the liberalization policies of the Borrower for the seed sector;

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

(l) "Subsidiary Loan Agreement" and "Subsidiary Loan" mean, respectively, the agreement entered into by the Borrower, through the Financial Agent, with each of the Participating

Seed Enterprises pursuant to paragraph 2 (a) of Schedule 5 to this Agreement, as the same may be amended from time to time, including all schedules to such Subsidiary Loan Agreement, and any loan made pursuant to a Subsidiary Loan Agreement;

(m) "UAAS" means the Ukrainian Academy of Agricultural Sciences established pursuant to the Decree of the Borrower's Council of Ministers No. 279, dated March 22, 1990, or any legal successor thereto;

(n) "Variety Protection Law" means the Law of the Borrower on Protection of Plant Variety Rights of April 21, 1993; and

(o) "Parliament" means the Verkhovna Rada of the Borrower or any legal successor thereto.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, various currencies that shall have an aggregate value equivalent to the amount of thirty two million dollars (\$32,000,000), being the sum of withdrawals of the proceeds of the Loan, with each withdrawal valued by the Bank as of the date of such withdrawal.

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

(b) The Borrower may, for the purposes of Parts B, C and D of the Project, open and maintain in dollars a special deposit account (the Special Account) in a commercial bank acceptable to the Bank, on terms and conditions satisfactory to the Bank, 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 6 to this Agreement.

Section 2.03. The Closing Date shall be September 30, 2000, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

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

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

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

(c) For the purposes of this Section:

(i) "Interest Period" means a six-month period ending

on the date immediately preceding each date specified in Section 2.06 of this Agreement, beginning with the Interest Period in which this Agreement is signed.

(ii) "Cost of Qualified Borrowings" means the cost, as reasonably determined by the Bank and expressed as a percentage per annum, of the outstanding borrowings of the Bank drawn down after June 30, 1982, excluding such borrowings or portions thereof as the Bank has allocated to fund: (A) the Bank's investments; and (B) loans which may be made by the Bank after July 1, 1989 bearing interest rates determined otherwise than as provided in paragraph (a) of this Section.

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

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

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

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

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

Section 2.06. Interest and other charges shall be payable semiannually on January 15 and July 15 in each year.

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

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, agricultural, technical, accounting, environmental and financial practices 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 Bank shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 5 to this Agreement.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds

of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. The Borrower shall:

(a) by September 30, 1995, review, with the assistance of consultants with qualifications, experience and terms of reference satisfactory to the Bank, the Seed Law and Variety Protection Law with a view of ensuring that these laws conform with the Borrower's liberalization policies referred to in the Seed Policy Letter and conform to international standards;

(b) by November 30, 1995, submit the findings of such review to the Bank for review and afford the Bank a reasonable opportunity to comment on such findings; and

(c) by March 31, 1996, based on the findings of such review, and taking into account the views of the Bank thereon, present to the Borrower's Parliament specific proposals for amending or modifying the Seed Law and the Variety Protection Law.

Section 3.04. The Borrower shall, in regard to the production, marketing and trade in the types of seeds covered by the Project, establish and maintain all regulatory measures necessary to carry out the liberalization policies referred to in the Seed Policy Letter.

Section 3.05. Without limitation upon the provisions of Article IX of the General Conditions, the Borrower shall:

(a) prepare and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, a program, of such scope and in such detail as the Bank shall reasonably request, for the regulatory framework for the national seed system and the agricultural research system;

(b) afford the Bank a reasonable opportunity to exchange views with the Borrower on said program; and

(c) thereafter, carry out said program with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Parts B, C and D of the Project of the departments or agencies of the Borrower responsible for carrying out the said Parts of the Project or any sub-parts thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than four months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

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

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

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

ARTICLE V

Remedies of the Bank

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

(a) Any Participating Seed Enterprise shall have failed to perform any of its obligations under its Subsidiary Loan Agreement as determined by the Borrower and/or the Bank.

(b) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that one or more of the Participating Seed Enterprises will be able to perform its obligations under its Subsidiary Loan Agreement.

(c) The Charter of any Participating Seed Enterprise shall have been amended, suspended, abrogated, repealed or waived, so as to affect materially and adversely the ability of such Participating Seed Enterprise to perform any of its obligations under its Subsidiary Loan Agreement.

(d) Any Participating Seed Enterprise shall have been dissolved or disestablished or its operations shall have been suspended.

(e) Any Participating Seed Enterprise shall have ceased to be a private enterprise as defined in Section 1.02 (g) hereof.

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

(a) any event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower; and

(b) any event specified in paragraphs (b), (c), (d) or (e) 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 Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

(a) The Financial Agency Agreement satisfactory to the Bank has been duly signed on behalf of the parties thereto and has entered into force;

(b) At least two Subsidiary Loan Agreements satisfactory to the Bank have been signed on behalf of the parties thereto and have entered into force; and

(c) The order establishing the PMU and the Project Steering Committee has been issued and the PMU and the Project Steering Committee have been established with functions, powers and staff satisfactory to the Bank.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely that each of the Financial Agency Agreement and the Subsidiary Loan Agreements has been duly authorized or ratified by the respective parties thereto and is legally binding upon the respective parties thereto in accordance with its terms.

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

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of 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
12/2 Hrushevsky St.
Kyiv, Ukraine 252008

Telex:

131450

For the Bank:

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

Cable address:

Telex:

INTBAFRAD
Washington, D.C.

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.

UKRAINE

By /s/ Roman Shpek

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Basil G. Kavalsky

Acting Regional Vice President
Europe and Central Asia

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

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

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Items provided under turnkey contract for Odesa Maize Seed Enterprise under Part A of the Project:		
(a) goods, equip- ment and materials	9,000,000	100% of foreign expenditures
(b) civil works	750,000	50% of expend- itures
(2) Other goods and equipment provided for Odesa Maize Seed Enterprise under Part A of the Project	1,150,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 75% of local ex- penditures for other items procured locally
(3) Goods, equip- ment, and materials	4,120,000	100% of foreign expenditures

provided under turnkey contract for Trostianetsk Sugarbeet Seed Enterprise under Part A of the Project		
(4) Other goods and equipment pro- vided for Trostianetsk Sugarbeet Seed Enterprise under Part A of the Project	910,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 75% of local ex- penditures for other items procured locally
(5) Goods, equip- ment, and materials provided under turnkey con- tract for Zaporizhzhia Sunflower Seed Enterprise under Part A of the Project	3,800,000	100% of foreign expenditures
(6) Goods, equipment, and materials provided under Part B of the Project	2,210,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 75% of local ex- penditures for other items procured locally
(7) Goods, equipment and materials provided under Part C of the Project	2,260,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 75% of local ex- penditures for other items procured locally
(8) Incremental operating costs under Part D of the Project	340,000	100%
(9) Consultants' services and training	1,690,000	100%
(10) Unallocated	5,770,000	
TOTAL	<u>32,000,000</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

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 "turnkey contract" means a contract for design, supply and erection of a seed plant; and

(d) the term "incremental operating costs" means operation and maintenance costs which would not have been incurred absent the Project and includes, inter alia, costs with respect to: (i) office equipment and supplies procured for the PMU; (ii) travel expenditures of PMU staff associated with the Project; (iii) salaries paid to the PMU staff hired for the purposes of the Project; and (iv) cost of audits required under Parts B through D of the Project.

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;

(b) expenditures under Categories (1) and (2), or Categories (3) and (4), or Category (5), as the case may be, for the Participating Seed Enterprise with which a Subsidiary Loan Agreement has not been previously concluded in accordance with Section 6.01 (b) of this Agreement, until the Bank shall have communicated to the Borrower its acceptance of the evidence furnished to the Bank that a Subsidiary Loan Agreement satisfactory to the Bank has been duly concluded between the Borrower, acting through the Financial Agent, and the Participating Seed Enterprise concerned, and has entered into force, which Subsidiary Loan Agreement has been duly authorized or ratified by the respective parties thereto and is legally binding upon the respective parties thereto in accordance with its terms; and

(c) expenditures under Category (6) until the Bank shall have received an acceptable plan for the improvement of the Borrower's System of Seed Testing and Protection of Plant Varieties.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures for goods, works and services under contracts not exceeding \$100,000 equivalent, under such terms and conditions as the Bank shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in improving its agricultural productivity and agricultural exports through: (i) the supply of quality hybrid seeds for maize, sunflower and sugarbeet; and (ii) improvements in the efficiency and viability of the domestic seed system.

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

Part A: Hybrid Seed Production

Establishment and initial operation of three Private Enterprises specializing in the production, processing and marketing of hybrid maize, sunflower, and sugar beet seed.

Part B: Regulatory Framework

Strengthening, through provision and upgrading of equipment, facilities, technical assistance and staff training, of the institutional capacity of agriculture regulatory agencies of the Borrower to regulate the seed system.

Part C: Germplasm Maintenance and Improvement

Provision of equipment and materials, technical assistance and training for germplasm maintenance and improvement in the UAAS research institutes in Kyiv, Odesa, and Zaporizhzhia (Sugarbeet Institute, Plant Breeding and Genetics Institute, Oilseeds Institute, and Institute of Agro-Ecology and Biotechnology).

Part D: Project Management

Establishment and operation of the Project Management Unit capable of providing administrative, institutional and training support to implement the Project.

* * *

The Project is expected to be completed by March 31, 2000.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
On each January 15 and July 15 beginning January 15, 2001 through January 15, 2012	1,335,000
On July 15, 2012	1,295,000

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

Premiums on Prepayment

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

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.18
More than three years but not more than six years before maturity	0.35
More than six years but not more than 11 years before maturity	0.65
More than 11 years but not more than 15 years before maturity	0.88
More than 15 years before maturity	1.00

SCHEDULE 4

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods and works, including goods and works under turnkey contracts, shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines), and in accordance with the following additional procedures:

(a) When contract award is delayed beyond the original bid validity period, such period may be extended once, subject to and in accordance with the provisions of paragraph 2.59 of the Guidelines, by the minimum amount of time required to complete the evaluation, obtain necessary approvals and clearances and award the contract. The bid validity period may be extended a second time only if the bidding documents or the request for extension shall provide for appropriate adjustment of the bid price to reflect changes in the cost of inputs for the contract over the period of extension. Such an increase in the bid price shall not be taken into account in the bid evaluation. With respect to each contract made subject to the Bank's prior review in accordance with the provisions of Part D.1 (a) of this Section, the Bank's prior approval will be required for: (i) a first extension of the bid validity period if the period of extension exceeds sixty (60) days; and (ii) any subsequent extension of the bid validity period.

(b) In the procurement of goods and works in accordance with this Part A, the relevant standard bidding documents issued by the Bank shall be used, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, bidding documents based on other internationally recognized standard forms agreed with the Bank shall be used.

2. To the extent practicable, contracts for goods shall be

grouped into bid packages estimated to cost the equivalent of \$100,000 or more.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A hereof, goods manufactured in Ukraine may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Laboratory equipment, chemicals, and data processing equipment estimated to cost less than the equivalent of \$300,000 per contract, and up to an aggregate amount equivalent to \$1,000,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers from at least three different countries eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

2. Items or groups of items under Part D of the Project estimated to cost less than the equivalent of \$50,000 per contract and up to an aggregate amount equivalent to \$100,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

Part D: Review by the Bank of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract referred to in Parts A and C.1 of this Schedule, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, said procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 6 to this Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

1. In order to assist the Borrower in implementing the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the

Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, the Borrower shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, the Borrower shall use other standard forms agreed with the Bank.

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

SCHEDULE 5

Implementation Program

1. During the execution of the Project the Borrower shall:

(a) maintain the PMU with functions and responsibilities satisfactory to the Bank and ensure that the PMU is at all times headed by a full-time project manager and one technical assistant, with qualifications, experience and terms of reference satisfactory to the Bank; and

(b) maintain the Project Steering Committee with composition, functions and responsibilities satisfactory to the Bank, including overseeing the Project implementation and supervising the PMU.

2. For the purposes of carrying out Part A of the Project the Borrower shall:

(a) relend to the Participating Seed Enterprises the equivalent of the proceeds of the Loan allocated from time to time to Categories (1) through (5) of the table set forth in paragraph 1 of Schedule 1 to this Agreement under Subsidiary Loan Agreements to be entered into between the Borrower, acting through the Financial Agent, and each such Participating Seed Enterprise, under terms and conditions which shall include, without limitation, those set forth in the Annex to this Schedule 5;

(b) (i) exercise its rights under the Financial Agency Agreement and Subsidiary Loan Agreements in such manner as to protect the interests of the Bank and the Borrower and to achieve the purposes of the Project; (ii) except as the Bank shall otherwise agree, suspend and/or terminate any Subsidiary Loan Agreement upon occurrence of the events set forth in Part D of the Annex to Schedule 5; and (iii) except as the Bank shall otherwise agree, not assign, amend, abrogate or waive the Financial Agency Agreement or any Subsidiary Loan Agreement or any respective provision thereof;

(c) coordinate the overall execution of Part A of the Project and monitor the carrying out by the Participating Seed

Enterprises of their obligations under the respective
Subsidiary Loan Agreements in accordance with policies and
procedures satisfactory to the Bank; and

(d) take or cause to be taken all action, including, inter
alia, the measures specified in the Seed Policy Letter,
necessary or appropriate to enable the Participating Seed
Enterprises to perform in accordance with the provisions of
their respective Subsidiary Loan Agreements all the obligations
of the Participating Seed Enterprises therein set forth, and
not take or permit to be taken any action which would prevent
or interfere with such performance.

3. The Borrower shall:

(a) carry out Part B of the Project through the State
Commission for Seed Quality Control and the State Commission
for Testing and Protection of Plant Varieties; and

(b) by March 1, 1996, submit to the Bank a plan acceptable
to the Bank for the reorganization of the System of Seed
Testing and Protection of Plant Varieties.

4. The Borrower shall carry out Part C of the Project through
the UAAS and its selected institutes and, for this purpose
shall by October 30, 1995, cause the UAAS to engage consultants
with experience, qualifications and terms of reference
satisfactory to the Bank who shall assist the UAAS to review
the Borrower's system of agricultural research.

5. The Borrower shall:

(a) by April 30 and October 30 of each year during the
execution of the Project submit to the Bank for review and
comment semi-annual progress reports of such scope and detail
as the Bank shall stipulate from time to time; and

(b) (i) by no later than twelve months following the date
of the effectiveness of this Agreement, submit to the Bank a
status report on the Project which shall include a summary on
the status of Project implementation and initial operating
results; and (ii) by no later than three months following the
submission of such status report to the Bank, conduct with the
Bank a review of the said status report.

ANNEX TO SCHEDULE 5

A. Principal Terms and Conditions of Subsidiary Loans to Participating Seed Enterprises

Loan Amount:	up to the amounts stipulated for the items to be provided to the respective Participating Seed Enterprise under Categories (1) through (5) of the table in paragraph 1 of Schedule 1 to this Agreement
Currency:	dollars
Term:	not to exceed 11 years maturity including grace period of up to four years
Interest rate:	4.30% above the rate of the Bank Loan
Interest period:	six months

B. Eligibility Criteria for Participating Seed Enterprises

A Subsidiary Loan Agreement may be entered into with a
Participating Seed Enterprise duly established, registered and

operating under the laws of the Borrower, which, as the Borrower shall have determined, and the Bank shall have agreed:

1. has duly funded working capital needs through the provision of credit and/or contribution of capital by the founders thereof;
2. has a staffing plan satisfactory to the Bank for employment of management and essential staff; and
3. has adopted a Charter satisfactory to the Bank.

C. Principal Obligations of the Participating Seed Enterprises

Each respective Subsidiary Loan Agreement shall contain provisions pursuant to which each respective Participating Seed Enterprise shall undertake to:

(a) carry out its activities under Part A of the Project and conduct its operations and affairs in accordance with appropriate administrative, agricultural, technical, accounting, environmental and financial standards and practices, with qualified management and staff in adequate numbers and to provide, promptly as needed, the funds, facilities, services and other resources required for the purpose;

(b) (i) exchange views with, and furnish all such information to the Bank, the Borrower and the Financial Agent, as may be reasonably requested by the Bank, the Borrower and/or the Financial Agent, with regard to the progress of its activities under the Project, the performance of its obligations under its respective Subsidiary Loan Agreement, and other matters relating to the purposes of the Project; and (ii) promptly inform the Financial Agent of any condition which interferes or threatens to interfere with the progress of its activities under its respective Subsidiary Loan Agreement;

(c) (i) maintain records and accounts adequate to reflect, in accordance with sound accounting practices, its operations and financial condition; (ii) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank; (iii) furnish to the Bank and the Financial Agent as soon as available, but in any case not later than four months after the end of each such year: (A) certified copies of said financial statements and accounts for such year, certified copies of said financial statements and accounts for such year as so audited; and (B) the report of such audit by said auditors of such scope and detail as the Bank and/or the Financial Agent shall have reasonably requested; and (iv) furnish to the Bank and the Financial Agent such other information concerning said records, accounts, and financial statements, as well as the audit thereof, as the Bank and/or the Financial Agent shall from time to time reasonably request;

(d) (i) procure the goods and works to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Agreement, (ii) use such goods and works exclusively in the carrying out of Part A of the Project, and (iii) adopt design criteria for the seed plant which shall provide for appropriate dust removal systems and storage facilities for chemicals;

(e) at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial, agricultural and environmental practices;

(f) take out and maintain with responsible insurers, or

make other provision satisfactory to the Bank and the Borrower for, insurance against such risks and in such amounts as shall be consistent with appropriate practice;

(g) (i) except as the Bank and the Borrower shall otherwise agree, not incur any debt, if after the incurrence of such debt the ratio of debt to equity shall be greater than six to one; and (ii) for purposes of this paragraph (g):

1. The term "debt" means any indebtedness of the Participating Seed Enterprise maturing by its terms more than one year after the date on which it is originally incurred.
2. Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
3. The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the Participating Seed Enterprise not allocated to cover specific liabilities.
4. Whenever for the purposes of this paragraph (g) it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

(h) except as the Bank and the Borrower shall otherwise agree: (i) not declare any dividend or make any other distribution with respect to its share capital, unless such Participating Seed Enterprise is current in the service of all its debt service requirements and, after such dividend has been paid or other distribution has been made, the debt to equity ratio of the Participating Seed Enterprise (determined pursuant to paragraph (g) above) would equal or be less than 3:1; (ii) not declare a dividend or make any other distribution with respect to its share capital that exceeds 50% of the net profit of such Participating Seed Enterprise unless, after such dividend has been paid or other distribution has been made, the debt to equity ratio of the Participating Seed Enterprise (determined pursuant to paragraph (g) above) would equal or be less than 1:1; and (iii) for the purposes of this paragraph (h):

1. the term "net profit" means the sum of revenues from all sources related to operations minus the sum of all expenses related to debt service requirements and taxes and payments in lieu of taxes; and
2. the term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(i) (i) prepare and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, a program, of such scope and in such detail as the Bank shall reasonably request, for the future operation of the

Participating Seed Enterprise; (ii) afford the Bank a reasonable opportunity to exchange views with the Borrower on said program; and (iii) there-after, carry out said plan with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

D. Remedies under the Subsidiary Loan Agreements

Each respective Subsidiary Loan Agreement shall also provide that the right of the Participating Seed Enterprise under such Subsidiary Loan Agreement shall be:

(a) suspended upon its failure to: (i) comply with any of the criteria set forth in Part B of this Annex to Schedule 5; or (ii) perform any of its obligations under its respective Subsidiary Loan Agreement; and

(b) terminated if such right shall have been suspended pursuant to paragraph (a) hereof for a continuing period of 120 days.

SCHEDULE 6

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (6) through (9) 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 Parts B, C and D of the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$300,000 to be withdrawn from the Loan Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$200,000 until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$2,000,000.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

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

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

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

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

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

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

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

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

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

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

- (d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories for Parts B, C and D of the Project, less the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to Parts B, C and D of the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

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

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if

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

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

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

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

