

CREDIT NUMBER 1813 TON

Project Agreement

(Tonga Development Bank Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

TONGA DEVELOPMENT BANK

Dated July 15, 1987

CREDIT NUMBER 1813 TON

PROJECT AGREEMENT

AGREEMENT, dated July 15, 1987, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and THE TONGA DEVELOPMENT BANK (TDB).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Kingdom of Tonga (the Borrower) and the Association, the Association has agreed to lend to the Borrower an amount in various currencies equivalent to one million six hundred thousand Special Drawing Rights (SDR 1,600,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that TDB agree to undertake such obligations toward the Association as are set forth in this Agreement; and

(B) by a subsidiary loan agreement to be entered into between the Borrower and TDB, the proceeds of the credit provided for under the Development Credit Agreement will be made available to TDB on terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS TDB, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

## ARTICLE I

### Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project; Management and Operations of TDB

Section 2.01. (a) TDB declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out the Project and conduct its operations and affairs, in accordance with sound financial standards and practices, with qualified and experienced management and in accordance with the Act and the Policy Statement.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association otherwise agrees, TDB shall perform all obligations set forth in Schedule 6 to the ADB Loan Agreement to the extent that they are applicable to TDB. In such Schedule references to the "Bank" shall be read for the purpose of this Agreement to be references to the Association and references to "Part B of the Project" shall be read to be references to Part A of the Project in Schedule 2 to the Development Credit Agreement.

Section 2.02. (a) TDB undertakes that, unless the Association shall otherwise agree, Sub-loans will be made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 1 to the Development Credit Agreement.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association otherwise agrees, TDB shall perform all obligations set forth in the Schedule to the ADB Project Agreement not yet performed by the date of this Agreement. In such Schedule references to the "Bank" shall be read for the purpose of this Agreement to be references to the Association and "sub-loans" shall be read to be "Sub-loans".

(c) TDB shall exercise its rights in relation to each Qualified Project in such manner as to: (i) protect the interests of the Association and of TDB; (ii) comply with its obligations under this Agreement and the Subsidiary Loan Agreement; and (iii) achieve the purposes of the Project.

Section 2.03. Except as the Association shall otherwise agree, procurement of the goods and services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Development Credit Agreement.

Section 2.04. TDB shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition) in respect of the Project.

Section 2.05. TDB shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, TDB shall not take or concur in any action which would have the effect of assigning, amending, abrogating or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.06. (a) TDB shall, at the request of the

Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) TDB shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by TDB of its obligations under this Agreement and under the Subsidiary Loan Agreement.

(c) Without limiting the generality of the foregoing, TDB shall furnish to the Association quarterly reports on the execution of the Project and on the operation and management of TDB. Such reports shall be submitted within three months after the end of each quarter and shall be in such form and detail as the Association shall reasonably request and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter. Such reports shall include details of TDB's operations, financial position, resource position, arrears and collection performance and institutional developments for the quarter under review.

Section 2.07. (a) Whenever TDB proposes to make a Sub-loan in an amount exceeding the equivalent of \$40,000 or such other sum as shall from time to time be determined by the Association, TDB shall, before requesting a withdrawal, submit to the Association an application for approval of such Sub-loan. Such application shall be in a form satisfactory to the Association and shall contain a description and appraisal of the Qualified Project, the terms and conditions of the proposed Sub-loan and such other information as the Association shall reasonably request. A Sub-loan shall be deemed to exceed the equivalent of the amount specified in or agreed pursuant to this paragraph if the amount of such Sub-loan, when added to the amount of any other Sub-loan or Sub-loans previously made or authorized for the same Qualified Project, including sub-loans financed by the ADB pursuant to the ADB Loan Agreement, exceeds the equivalent of the amount so specified or agreed.

(b) Whenever TDB has made or proposes to make a Sub-loan in an amount not exceeding the equivalent of the amount specified in or agreed pursuant to paragraph (a) of this Section, TDB shall, promptly and before requesting a withdrawal, furnish to the Association a brief statement, in a form satisfactory to the Association, describing the Qualified Project and the terms and conditions of the Sub-loan. No withdrawal shall be made in respect of a Sub-loan falling within the provisions of this paragraph unless the Association shall have authorized withdrawals from the Credit Account.

(c) Except as the Association may otherwise agree, the applications and information required by paragraphs (a) and (b) of this Section shall be submitted to the Association not later than December 31, 1989.

Section 2.08. Except as the Association and TDB may otherwise agree, no withdrawals shall be made from the Credit Account for amounts expended for the cost of a Qualified Project more than one hundred and twenty (120) days prior to receipt by the Association either of the application for approval of such Qualified Project pursuant to Section 2.07 (a) of this Agreement, or of the information required by Section 2.07 (b) of this Agreement.

Section 2.09. (a) Each Sub-loan shall carry interest at an appropriate rate and shall be made on terms whereby TDB shall obtain, by a written agreement with the Qualified Enterprise in form acceptable to the Association, rights adequate to protect the interests of the Borrower, TDB and the Association.

(b) Except as the Association may otherwise agree, the

amortization schedule applicable to each Sub-loan (i) shall not extend beyond fifteen (15) years, including a grace period not exceeding three (3) years, from the date when such Sub-loan is approved or authorized for withdrawals from the Credit Account pursuant to Section 2.07 (a) and (b) of this Agreement; and (ii) shall provide for appropriately structured monthly aggregate payments of principal plus interest.

Section 2.10. Without limiting the generality of the foregoing provisions of Section 2.09 of this Agreement, and in addition to any other provisions which a prudent lender would request, each Sub-loan agreement shall include provisions to the effect that:

- (i) the Qualified Enterprise shall carry out and operate the Qualified Project with due diligence and efficiency and in accordance with sound administrative, financial and business practices, including maintenance of adequate accounts and records;
- (ii) the proceeds of the Credit shall be used only for procurement in eligible countries as specified by the Association, in accordance with procedures acceptable to the Association, of goods produced in, and services supplied from, such countries;
- (iii) the goods and services to be financed out of the proceeds of the Credit shall be used exclusively in the carrying out of such Qualified Project;
- (iv) the Association and TDB shall each have the right to inspect such goods and the plant, sites, works, properties and equipment included in such Qualified Project, the operation thereof and of the Qualified Enterprise and any relevant records and documents;
- (v) the Qualified Enterprise shall take out and maintain with responsible insurers insurance against such risks and in such amounts as shall be consistent with sound business practice, and without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Credit to the place of use or installation, and for such insurance any indemnity shall be payable to a currency freely usable to replace or repair such goods;
- (vi) the Association and TDB shall each be entitled to obtain all such information as each shall reasonably request relating to the Sub-loan, the goods and services financed out of the proceeds of the Credit, the Qualified Project, the Qualified Enterprise and other related matters; and
- (vii) TDB shall be entitled to suspend or terminate further access by such Qualified Enterprise to the use of the proceeds of the Credit upon failure by such Qualified Enterprise to perform its obligations under its agreement with TDB.

Section 2.11. TDB shall promptly and effectively exercise its rights in relation to each Qualified Project in accordance with the standards of a prudent lender and in such manner as to protect the interest of the Borrower, TDB and the Association.

Section 2.12. TDB shall not make a Sub-loan to any Qualified Enterprise unless such Qualified Enterprise has at its disposal, or has made appropriate arrangements to obtain as and when required, all local currency funds, including adequate working capital and other resources which are required by such Qualified Enterprise for the carrying out of its Qualified Project in respect of which the

Sub-loan is to be made.

Section 2.13. For the purposes of Sections 2.01 (b) and 2.02 (b) hereof the provisions of Schedule 6 to the ADB Loan Agreement and the Schedule to the ADB Project Agreement, respectively, shall continue to remain in force and effect as if said provisions of such Schedules were fully set forth in such Sections, notwithstanding the termination of the ADB Loan Agreement, the ADB Project Agreement or the Administration Letter.

Section 2.14. The Association may, by notice to TDB, delegate to the ADB under an administration letter, for the duration of such period as may be set forth in the Administration Letter, any of all of its functions and responsibilities under Articles II and III of this Agreement and TDB shall comply with the provisions of the said Articles as if the ADB is substituted for the Association therein. The obligation of TDB to comply with said Articles II and III shall continue in force and effect notwithstanding any termination or suspension of such delegated functions and responsibilities to the ADB under the Administration Letter.

### ARTICLE III

#### Financial and Other Covenants

Section 3.01. (a) TDB shall maintain procedures and records to monitor and record the progress of the Project and of each Qualified Project (including its cost and the benefits to be derived from it) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of TDB.

(b) TDB shall:

- (i) have its records and accounts (including the Special Account) 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 Association.
- (ii) furnish to the Association as soon as available, but in any case not later than nine months after the end of each such year, (A) certified copies of its financial statements for such year as so audited, and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof as the Association shall from time to time reasonably request.

Section 3.02. TDB shall take such steps satisfactory to the Association as shall be necessary to protect itself against risk of loss resulting from changes in the rates of exchange between the various currencies (including Pa'anga) used in its operations.

Section 3.03. TDB shall enable the Association's representatives to inspect any Qualified Enterprise, any Qualified Project, the goods financed out of the proceeds of the Credit, and any relevant records and documents maintained by TDB or by the Qualified Enterprise.

Section 3.04. (a) TDB shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are

necessary in the carrying out of the Project or in the conduct of its business.

(b) TDB shall at all times conduct its business in accordance with sound administrative, financial, banking, business and development policies and practices and under the supervision of competent and experienced management and personnel.

(c) Except as the Association may otherwise agree, TDB shall not (i) sell, lease, transfer or otherwise dispose of any of its assets, except in the ordinary course of its business, or (ii) establish or acquire any Subsidiary.

Section 3.05. Except as the Association may otherwise agree, TDB shall (i) maintain a ratio of the consolidated debt of TDB and all its Subsidiaries to the consolidated equity of TDB and all its Subsidiaries not higher than 3:1; and (ii) maintain a debt service ratio of not less than 1.5 times.

For the purposes of the foregoing provisions:

(a) "Debt" refers to any debt incurred, assumed or guaranteed by TDB or a Subsidiary which matures more than one year after the date on which it is originally incurred (but excluding that portion of any such debt payable within one year from the date of any debt-equity ratio calculation), provided that debt shall be counted only to the extent it is drawn down and outstanding. The incurring of debt includes any modification of the terms of payment of such debt.

(b) "Consolidated debt of TDB and all its Subsidiaries" means the total amount of debt of TDB and of all its Subsidiaries, excluding any debt owed by TDB to any Subsidiary or by any Subsidiary to TDB or to any other Subsidiary.

(c) "Consolidated equity of TDB and all its Subsidiaries" means the aggregate of the total unimpaired paid-in capital, surplus and free reserves of TDB and all its Subsidiaries after excluding such items of capital, surplus and reserves as shall represent equity interests of TDB in any such Subsidiary or of any such Subsidiary in TDB or any other such Subsidiary.

(d) "Debt-service ratio" means the ratio of the annual net income of TDB after tax but before interest and depreciation plus principal collections under its loan portfolio, to the aggregate amount of annual amortization (including sinking fund payment) of, and interest and other charges on, debt.

Section 3.06. TDB shall cause each of its Subsidiaries to observe and perform the obligations of TDB under this Project Agreement to the extent to which such obligation may be applicable thereto, as though such obligations were binding upon each of such Subsidiaries.

Section 3.07. TDB shall, by December 31, 1987, have carried out a detailed review of its loan portfolio in arrears of twelve months or more and shall discuss the review with the Association. Based on such discussion, TDB shall prepare an action plan to reduce such arrears, including restructurings, foreclosures or write-offs as necessary, and shall carry out such plan in accordance with a schedule satisfactory to the Association.

Section 3.08. TDB shall cause the diversification study referred to in Part B of the Project to be carried out by June 30, 1988, and thereafter shall be December 31, 1988, prepare an action program, satisfactory to the Association, for carrying out the results of such study.

#### ARTICLE IV

Effective Date; Termination;

## Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 4.02. (a) This Agreement and all obligations of the Association and of TDB thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate; or
- (ii) a date 20 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify TDB of this event.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

## ARTICLE V

### Miscellaneous Provisions

Section 5.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Association:

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

Cable address:

INDEVAS  
Washington, D.C.

Telex:

440098 (ITT)  
248423 (RCA) or  
64145 (WUI)

For TDB:

Tonga Development Bank  
P. O. Box 126  
Nuku'alofa  
Kingdom of Tonga

Telex:

DEVBANK  
NUKU'ALOFA

66206 TS

Section 5.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of TDB or by TDB on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by its Managing Director, or by such other person or persons as the Managing Director or the Board of Directors of TDB shall designate in writing, and TDB shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 5.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Attila Karaosmanoglu  
Regional Vice President  
Asia

TONGA DEVELOPMENT BANK

By /s/ James Cecil Cocker  
Authorized Representative

