

CONFORMED COPY

**CREDIT NUMBER 4016-KG
GRANT NUMBER H139-KG**

Development Financing Agreement

(Small Towns Infrastructure and Capacity Building Project)

between

KYRGYZ REPUBLIC

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 3, 2005

**CREDIT NUMBER 4016-KG
GRANT NUMBER H139-KG**

DEVELOPMENT FINANCING AGREEMENT

AGREEMENT, dated February 3, 2005, between the KYRGYZ REPUBLIC (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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

(B) the Borrower and the Association intend, to the extent practicable, that the proceeds of the Grant be disbursed on account of expenditures in respect of the Project before the disbursements of the Credit are made;

(C) the Project will be carried out by the Community Development and Investment Agency of the Kyrgyz Republic (ARIS) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to ARIS the proceeds of the Credit and the Grant as provided for in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit and the Grant to the Borrower upon the terms and conditions set forth in this Agreement and in the agreement of even date herewith between the Association and ARIS (the Project 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 5 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) “Environmental Management Plan” or “EMP” means the plan, satisfactory to the Association, prepared and adopted by the Borrower describing the environmental mitigations, monitoring and institutional measures for the Project, including the guidelines for environmental screening and assessment of infrastructure Sub-projects (hereinafter defined);

(b) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of the Project Agreement (hereinafter defined);

(c) “Local Self-Government” means the local self government of the Participating Small Town (hereinafter defined) which will be responsible for carrying out of Parts A.1 and A.2 of the Project; and “Local Self-Governments” means such local self-governments collectively;

(d) “Operational Manual” means the operational manual satisfactory to the Association and the Borrower adopted by ARIS setting forth the operational and administrative procedures in respect of the preparation, selection, evaluation, approval, processing, financing and implementation and supervision of Sub-projects under Parts A.1 and A.2 of the Project, as well as procedures for the implementation of the Project, and which includes the EMP as its integral part, as such manual may be amended from time to time upon agreement with the Borrower and the Association;

(e) “Participating Small Town” means a small town selected by the Borrower to participate in the Project pursuant to criteria and procedures set forth in the Operational Manual; and “Participating Small Towns” means such small towns collectively;

(f) “Participating Entity” means legal entities established by the Borrower’s legislation, providing infrastructure services to Local Self-Governments;

(g) “Procurement Plan” means the Borrower’s procurement plan, dated October 22, 2004, covering the initial eighteen (18) month period (or longer) of Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 to this Agreement, to cover succeeding eighteen (18) month periods (or longer) of Project implementation;

(h) “Project Agreement” means the agreement of even date herewith between the Association and ARIS, as such agreement may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(i) “Qualifying Sub-project Expenditures” means the reasonable cost of goods, works and services required for the carrying out of a Sub-project approved in accordance with the procedures referred to in paragraph 4 of the Schedule to the Project Agreement, provided that such expenditures are actually made or incurred by the Local

Self-Government and are for items qualifying according to the eligibility criteria set forth or referred to in the Operational Manual;

(j) “Small Town” means a town as defined pursuant to the legislation of the Borrower and established as such town as of October 25, 2004;

(k) “Special Accounts” means the accounts referred to in Section 2.02 (b) of this Agreement;

(l) “Subsidiary Grant Agreement” means the agreement to be entered into between the Borrower and ARIS pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Grant Agreement;

(m) “Sub-grant” means a sub-grant made or proposed to be made pursuant to Parts A.1 and A.2 of Schedule 2 to this Agreement and referred to in paragraph 4 of the Schedule to the Project Agreement;

(n) “Sub-project Approval Letter” means the agreement to be entered into between the ARIS and each Local Self-Government, and the Participating Entity, providing for a Sub-grant and referred to in paragraph 4 of the Schedule to the Project Agreement; and

(o) “Sub-project” means a specific infrastructure project selected pursuant to criteria set forth in the Operational Manual and is proposed to be carried out by a Local Self-Government in whole or in part through the utilization of the proceeds of a Sub-grant.

Section 1.03. Each reference in the General Conditions to the Project implementation entity shall be deemed as a reference to ARIS.

ARTICLE II

The Financing

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

(a) an amount in various currencies equivalent to eight million two hundred thousand Special Drawing Rights (SDR 8,200,000) (the Credit); and

(b) an amount in various currencies equivalent to two million one hundred thousand Special Drawing Rights (SDR 2,100,000) (the Grant).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account and the amount of the Grant may be withdrawn from the Grant Account, in each case in accordance with the provisions of Schedule 1 to this Agreement for: (i) 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 Financing; and (ii) amounts paid (or, if the Association shall so agree, amounts to be paid) on account of withdrawals made by a beneficiary of a Sub-grant to meet the reasonable cost of goods, works and services required for carrying out of a Sub-project for which the withdrawal from the Financing Accounts is requested.

(b) The Borrower may, for the purposes of the Project, open and maintain in Dollars, two separate special deposit accounts, one for those Parts of the Project financed by the Credit (Special Account A), and one for those Parts of the Project financed by the Grant (Special Account B), all 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, each respective Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be March 31, 2010 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

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

(b) Each commitment charge shall accrue: (i) from the date sixty (60) days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or the Grant Account (as the case may be) or canceled; and (ii) at the 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 2.06 of this Agreement.

(c) Each commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in 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. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent ($3/4$ of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

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

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each May 15 and November 15 commencing May 15, 2015, and ending November 15, 2044. Each installment to and including the installment payable on November 15, 2024 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

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

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six (6) months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five (5) years on such repayment of principal.

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

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

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

ARTICLE III

Execution of the Project

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

(b) The Borrower shall make the proceeds of the Credit and the Grant available to ARIS under a subsidiary grant agreement to be entered into between the Borrower and ARIS, under terms and conditions which shall have been approved by the Association.

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

(d) The Borrower shall, and shall cause ARIS, to exercise due oversight over the selection and award of Sub-grants under Parts A.1 and A.2 of the Project to the respective Local Self-Governments in accordance with appropriate policy guidelines, eligibility criteria and approval procedures acceptable to the Association, and shall cause the Local Self-Governments to carry out their obligations under the Sub-grants in accordance with terms and conditions satisfactory to the Association, including eligibility criteria, procedures, and terms and conditions set forth or referred to in paragraph 4 of the Schedule to the Project Agreement.

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

(b) The Borrower shall update the Procurement Plan in accordance with terms of reference acceptable to the Association, and furnish such update to the Association not later than twelve (12) months after the date of the preceding Procurement Plan, for the Association's approval.

Section 3.03. The Borrower shall maintain ARIS until completion of the Project with staff, resources and terms of reference satisfactory to the Association, shall not amend and shall cause ARIS not to amend its Charter without prior approval by the Association and shall assign to ARIS the responsibility for the overall Project management and coordination, including:

- (a) preparation of withdrawal applications under the Credit and the Grant;
- (b) management of the Special Account A and Special Account B referred to in Section 2.02 (b) of this Agreement;
- (c) maintenance of records and accounts related to the Project and arranging for the audit thereof;
- (d) participation in the administration of bidding procedures and of contracts under the Project; and
- (e) preparation of the quarterly progress reports and submission thereof to the Borrower and the Association not later than forty-five (45) days after the end of each quarter, the first such report to be furnished to the Association not later than forty-five (45) days after the end of the first full calendar quarter after the effectiveness of this Agreement.

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

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall, and shall cause the ARIS to, maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with consistently applied accounting standards acceptable to

the Association, adequate to reflect its operations, and financial condition, and to register separately the operation, resources and expenditures related to the Project.

(b) The Borrower shall, and shall cause ARIS to:

- (i) have the respective 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 (6) months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the respective financial statements referred to in paragraph (a) of this Section for such year (or such 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, 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 Financing Accounts were made on the basis of statements of expenditure, the Borrower shall, and shall cause to ARIS to:

- (i) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Financing Accounts were made;
- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such statements of expenditure are included in any audit that the Association may have requested pursuant to paragraph (b) of this Section.

ARTICLE V

Remedies of the Association

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

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

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

(c) The Edict of the President of the Kyrgyz Republic No. 330, dated October 15, 2003, shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of ARIS to perform any of its obligations under the Project Agreement.

ARTICLE VI

Effectiveness; Termination

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

(a) that the Subsidiary Grant Agreement has been executed on behalf of the Borrower and ARIS; and

(b) that the Operational Manual, satisfactory to the Association, has been adopted by ARIS.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by ARIS, and is legally binding upon ARIS in accordance with its terms; and

(b) that the Subsidiary Grant Agreement has been duly authorized or ratified by the Borrower and ARIS and is legally binding upon the Borrower and ARIS 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
58 Erkindik Blvd.
Bishkek City, 720040
Kyrgyz Republic

Telex:

Facsimile:

245-156NUR KH

(996-312) 661645

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 Bishkek, Kyrgyz Republic, as of the day and year first above written.

KYRGYZ REPUBLIC

By /s/ Bolot Abildaev

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ J. Christopher Lovelace

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Financing

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

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>Amount of the Grant Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Sub-grants for:			
(a) Part A.1 of the Project	6,900,000	350,000	100% of the amounts disbursed
(b) Part A.2 of the Project	550,000	140,000	100% of the amounts disbursed
(2) Goods for:			
(a) Part B of the Project		40,000	100%
(b) Part C of the Project		60,000	100%
(3) Works under Part C		65,000	100%
(4) Consultants' services, including audit	560,000	1,140,000	100% of local expenditures 90% of foreign expenditures
(5) Training		155,000	100%
(6) Operating costs		150,000	100%
(7) Unallocated	<u>190,000</u>		
TOTAL	<u>8,200,000</u>	<u>2,100,000</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, works 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 for goods, works or services supplied from the territory of the Borrower;

(c) the term “training” means Project related study tours, training courses, seminars, workshops and other training activities not included under goods or service providers’ contracts, including travel and per diem costs of trainees and trainers;

(d) the term “operating costs” means incremental operating expenditures incurred by the ARIS on account of the Project implementation, management and monitoring, including its staff salaries, social charges, office rent and maintenance, materials and supplies, communication costs, support for information systems, translation costs, bank charges and travel and per diem costs of the ARIS staff and other reasonable expenditures directly associated with implementation of the Project activities, all based on an annual budget acceptable to the Association; and

(e) the term “social charges” means any payments, premia, or contributions for health benefits, unemployment benefits, disability insurance, workers’ compensation benefits, retirement (pension or social security) benefits, and life insurance, which constitute payment for the drawdown of future benefits to the staff concerned.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

4. The Association may require withdrawals from the Credit Account and the Grant Account to be made on the basis of statements of expenditure for: (a) goods under contracts costing less than \$100,000 equivalent each; (b) works; (c) services under contracts costing less than \$100,000 equivalent each for consulting firms and services under contracts costing less than \$25,000 equivalent each for individual consultants; (d) Sub-grants; (e) operating costs; and (f) training, all under such terms and conditions as the Association shall specify by notice to the Borrower.

5. If the Association shall have determined at any time that any amount of the Credit and the Grant were used in a manner inconsistent with the provisions of this Agreement, the Borrower shall, promptly upon notice from the Association, refund to the Association for deposit into the Credit Account and the Grant Account, an amount equivalent to the amount so used.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in improving the availability, quality and efficiency of local infrastructure services for the population of Participating Small Towns.

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

Part A: Small Towns Infrastructure Improvements

1. Sub-grants for the financing of qualifying urban infrastructure Sub-projects carried out by Local Self Governments of Participating Small Towns.
2. Sub-grants for the financing of qualifying social infrastructure Sub-projects carried out by Local Self Governments of Participating Small Towns.
3. Technical assistance to prepare final design and procurement documentation, carrying out technical supervision of Sub-projects, and technical studies for the preparation of Sub-projects.

Part B: Institutional Strengthening

1. Technical assistance, training and workshops, and provision of goods to Local Self-Governments for: (i) preparing performance improvement action programs (PIAPs) for urban infrastructure service providers; (ii) PIAPs implementation support; and (iii) procurement procedures management, implementation and supervision of social infrastructure Sub-projects.
2. Technical assistance to the Borrower to develop and implement specific policy actions for local self-government activities under the National Strategy for Further Decentralization and Local Government Development Support.

Part C: Project Implementation Support

Technical assistance, training, workshops, and provision of goods, and works to enable ARIS and the Local Self Governments to develop capacity to prepare, evaluate, finance and manage infrastructure investments for the Project management and monitoring, including financing of the Project operating costs, and audit.

* * *

The Project is expected to be completed by September 30, 2009.

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 for 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 Borrower and works to be carried out by domestic contractors.

B. Other Procurement Procedures

1. National Competitive Bidding. Goods estimated to cost less than \$100,000 equivalent per contract and works estimated to cost less than \$600,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding and the additional provisions set forth or referred to in the Annex to this Schedule.

2. Shopping. Goods estimated to cost less than \$100,000 equivalent per contract and works estimated to cost less than \$50,000 equivalent per contract, may be procured under contracts awarded on the basis of Shopping.

3. Community Participation. Goods, works and services required for Part A.2 of the Project may be procured on the basis of community participation in accordance with the Operational Manual.

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

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. If the Procurement Plan provides for prior review of contracts for the employment of individual consultants, the record of justification for such contracts, referred to in paragraph 5 of Appendix 1 to the Consultant Guidelines, shall be subject to Prior Review by the Association. All other contracts shall be subject to Post Review by the Association.

**Annex
To
SCHEDULE 3**

National Competitive Bidding procedures of the Borrower may be used for procurement of works under the Project provided that the following provisions are complied with:

A. Registration and Licensing

(a) Bidding shall not be restricted to pre-registered/licensed firms.

(b) Where registration or licensing is required, bidders: (i) shall be allowed a reasonable time to complete the registration or licensing process; and (ii) shall not be denied registration/licensing for reasons unrelated to their capability and resources to successfully perform the contract, which shall be verified through post-qualification.

(c) Foreign bidders shall not be precluded from bidding. If a registration or licensing process is required, a foreign bidder declared the lowest evaluated bidder shall be given a reasonable opportunity to register or to obtain a license.

B. Advertising

Invitations to bid shall be advertised in the Bulletin of State Procurement and in at least one widely circulated national daily newspaper allowing a minimum of thirty (30) days for the preparation and submission of bids.

C. Pre-qualification

When pre-qualification shall be required for large or complex works, invitations to pre-qualify for bidding shall be advertised in at least one widely circulated national daily newspaper a minimum of thirty (30) days prior to the deadline for the submission of pre-qualification applications. Minimum experience, technical and financial requirements shall be explicitly stated in the pre-qualification documents.

D. Participation by Government-owned enterprises

Government-owned enterprises in the Kyrgyz Republic shall be eligible to participate in bidding only if they can establish that they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the contracting authority. Furthermore, they will be subject to the same bid and performance security requirements as other bidders.

E. Bidding Documents

Procuring entities shall use the appropriate standard bidding documents for the procurement of goods, works or services, acceptable to the Association.

F. Bid Opening and Bid Evaluation

(a) Bids shall be opened in public, immediately after the deadline for submission of bids;

(b) Evaluation of bids shall be made in strict adherence to the monetarily quantifiable criteria declared in the bidding documents;

(c) Domestic preference should not be applied; and

(d) Contracts shall be awarded to qualified bidder having submitted the lowest evaluated substantially responsive bid and no negotiation shall take place.

G. Price Adjustment

Civil works contracts of long duration (for example, more than eighteen (18) months) shall contain an appropriate price adjustment clause.

H. Rejection of Bids

All bids shall not be rejected and new bids solicited without the Association's prior concurrence.

I. Rejection of an Individual Bid

An individual bid shall be rejected only in the following cases:

(a) The bidder is not qualified;

(b) The bidder does not accept the correction of an arithmetical error in his bid by the Tender Commission of the procuring entity;

(c) The bidder is not responsive to the requirements of the bidding documents; and

(d) Under the circumstances referred to in Article 6 of the Law on State Procurement of Goods, Construction and Services.

J. Resolution of the Government of the Kyrgyz Republic No. 626 of October 3, 2003

The provisions of the Resolution of the Government of the Kyrgyz Republic No. 626 of October 3, 2003 shall not apply.

K. State unit costs shall not be used for bidding and evaluation of bids for civil works contracts.

SCHEDULE 4

Special Accounts

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means in respect of Special Account A, Categories (1) (a) and (b), and (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, and, in respect of Special Account B, Categories (1) (a) and (b), (2) (a) and (b), (3), (4), (5) and (6) 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, works and services required for the Project and to be financed out of the proceeds of the Financing 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 \$500,000 in respect of the Special Account A for those Parts of the Project financed under the Credit and an amount equivalent to \$250,000 in respect of the Special Account B for those Parts thereof financed under the Grant, to be withdrawn from the Credit Account or the Grant Account and deposited into the Special Accounts 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 \$250,000 in respect of the Special Account A for those Parts of the Project financed under the Credit and an amount equivalent to \$125,000 in respect of the Special Account B for those Parts thereof financed under the Grant, until: (i) in respect of the Special Account A, the aggregate amount of withdrawals from the Credit Account allocated to Categories (1) (a) and (b) and (4) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for those Parts of the Project financed under the Credit shall be equal to or exceed the equivalent of SDR 1,000,000; and (ii) in respect of the Special Account B, the aggregate amount of withdrawals from the Grant Account allocated to Categories (1) (a) and (b), (2) (a) and (b), (3), (4), (5) and (6) plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for those Parts of the Project financed under the Grant shall be equal to or exceed the equivalent of SDR 500,000.

2. Payments out of the respective 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 respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

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

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

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account or the Grant Account and deposit into the respective 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 respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account or 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 Borrower out of the respective Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

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

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account or 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 Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports

required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

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

(d) once the total unwithdrawn amount of the Credit and the Grant allocated to the eligible Categories for the respective Special Account, 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 Credit Account and the Grant Account of the remaining unwithdrawn amount of the Credit and the Grant allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the respective 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 any Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the respective 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 any Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

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

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

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

SCHEDULE 5

Modifications to the General Conditions

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

1. Section 1.01 is modified to read:

“Section 1.01. Application of General Conditions

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

2. Section 2.01 is modified to read as follows:

- (a) Paragraph 3 of Section 2.01 is modified to read as follows:

“3. “Borrower” means the party to the Development Financing Agreement to which the Financing is made.”

- (b) Paragraph 8 of Section 2.01 is modified to read as follows:

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

- (c) The following new paragraphs are added after paragraph 11 of Section 2.01, and paragraphs 12 through 14 are renumbered as paragraphs 16 through 18 accordingly:

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

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

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

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

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

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

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

6. Article III is modified as follows:

(a) Section 3.01 is modified to read as follows:

“Section 3.01. *Financing Accounts*

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

(b) 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 Financing Agreement”.

7. Article IV is modified as follows:

(a) Section 4.02(a) and the heading of Section 4.02 are modified to read as follows:

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

(a) The Borrower shall pay all amounts required to be paid by it under the Development Financing 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.”

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

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

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

8. Section 5.08 of the General Conditions is amended to read as follows:

“Section 5.08. *Treatment of Taxes*

Except as otherwise provided in the Development Financing Agreement, the proceeds of the Financing may be withdrawn to pay for taxes levied by, or in the territory of, the Borrower on the goods or services to be financed under the Financing, or on their importation, manufacture, procurement or supply. The financing of such taxes is subject to the Association’s policy of requiring economy and efficiency in the use of the proceeds of its credits and grants. To that end, if the Association shall at any time determine that the amount of any taxes levied on or in respect of any item to be financed out of the proceeds of the Financing is excessive or otherwise unreasonable, the Association may, by notice to the Borrower, adjust the percentage for withdrawal set forth or referred to in respect of such item in the Development Financing Agreement as required to be consistent with such policy of the Association.”

9. 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”.

(c) Section 6.05 is modified to read as follows:

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

amount of the Credit maturing after the date of such cancellation.”

10. Section 7.01 is modified to read as follows:

(a) The words “principal or interest or any other amount” in paragraph (b) are modified to read “any amount”.

(b) The word “credit” in paragraph (b)(i) is replaced with the words “credit, grant or financing”.

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

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