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A.I.D. Project No. 492-0429

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PROJECT
 GRANT AGREEMENT
 BETWEEN THE
 REPUBLIC OF THE PHILIPPINES
 AND THE
 UNITED STATES OF AMERICA
 FOR THE
 RURAL ELECTRIFICATION PROJECT

Date: September 28, 1988

Loan and Grant Agreement
 FM/LMD (if Loan)
 FM/PAFD
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 GC/ANE
 ANE/Desk
 ANE/TR Officer
 ANE/PD Officer & File
 PPC/CDIE/DI

See attached file

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PROJECT GRANT AGREEMENT

Dated: September 28, 1988

Between the Republic of the Philippines ("Grantee") and the United States of America, acting through the Agency for International Development ("A.I.D.").

Article 1: The Agreement.

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Grantee of the Project described below, and with respect to the financing of the Project by the Parties.

Article 2: The Project.

Section 2.1. Definition of Project. The Project, which is further described in Annex I, will consist of technical assistance, training, commodities and commodity-financing to help the rural electric cooperative system achieve commercial viability. Annex I, attached, amplifies the above definition of the Project.

Within the limits of the above definition of the Project, elements of the amplified description stated in Annex I may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2, without formal amendment of this Agreement.

Section 2.2. Incremental Nature of Project.

(a) A.I.D.'s contribution to the Project will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Agreement. Subsequent increments will be subject to availability of funds to A.I.D. for this purpose, and to the mutual agreement of the Parties, at the time of a subsequent increment, to proceed.

(b) Within the overall Project Assistance Completion Date stated in this Agreement, A.I.D., based upon consultation with the Grantee, may specify in Project Implementation Letters appropriate time periods for the utilization of funds granted by A.I.D. under an individual increment of assistance.

Article 3: Financing.

Section 3.1. The Grant. To assist the Grantee to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to grant the Grantee under the terms of this Agreement not to exceed Thirteen Million Eight Hundred Eighty-Six Thousand One Hundred Thirteen United States ("U.S.") Dollars (\$13,886,113) ("Grant").

The Grant may be used to finance foreign exchange costs, as defined in Section 6.1, and local currency costs, as defined in Section 6.2, of goods and services required for the Project.

Section 3.2. Grantee Resources for the Project.

(a) The Grantee agrees to provide or cause to be provided for the Project all funds, in addition to the Grant, and all other resources required to carry out the Project effectively and in a timely manner.

(b) The resources provided or caused to be provided by the Grantee for the Project will be not less than the equivalent of U.S. \$13,528,000, including costs borne on an "in-kind" basis.

Section 3.3. Project Assistance Completion Date.

(a) The Project Assistance Completion Date ("PACD"), which is September 30, 1993, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Grant will have been performed and all goods financed under the Grant will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Grant for services performed subsequent to the PACD or for goods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, are to be received by A.I.D. or any bank described in Section 7.1, no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Grantee, may at any time or times reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4: Conditions Precedent to Disbursement.

Section 4.1. Conditions Precedent to First Disbursement.

Prior to the first disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made, the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D.:

(a) an opinion of counsel acceptable to A.I.D. that this Agreement has been duly authorized or ratified by, and executed on behalf of, the Grantee and that it constitutes a valid and legally binding obligation of the Grantee in accordance with its terms; and

(b) a statement of the name of the person holding or acting in the office of the Grantee specified in Section 8.2, and of any additional representatives, together with a specimen signature of each person specified in such statement.

Section 4.2. Conditions Precedent to Disbursement for Commodities for Rural Electric Cooperatives.

(a) General. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for commodities for the benefit of any Rural Electric Cooperative ("REC"), the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., a written statement of the policies and operational procedures to be followed by the National Electrification Administration ("NEA") in the administration of the commodity financing program referred to in Section II(B)(5) of Annex I hereto, including, without limitation, a

specification of the policies and procedures to be followed in loan collections and in the event of delinquency or default.

(b) COMPAC-1 Commodities.

(i) General. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for any COMPAC-1 commodities, as described in Section II(B)(1) of Annex I hereto, the Grantee shall, except as A.I.D. may otherwise agree in writing, provide to A.I.D., in form and substance satisfactory to A.I.D., a standard form of loan agreement between NEA and a REC eligible to receive COMPAC-1 commodities specifying the terms and conditions upon which such commodities will be provided; and

(ii) Particular RECs. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for any COMPAC-1 commodities for a particular REC, the Grantee shall, except as A.I.D. may otherwise agree in writing, provide to A.I.D., in form and substance satisfactory to A.I.D., (a) evidence that the COMPAC-1 commodities to be procured for the REC conform to the recommendations of the technical equipment requirements contractor referred to in Section II(B)(1) of Annex I based on the contractor's assessment of the technical requirements of the REC, (b) evidence of the financial viability of the procurement based on the assessment of the local accounting firm referred to in Section II(B)(1) of Annex I, and (c) evidence that the REC and NEA have executed a loan agreement in the form submitted in satisfaction of Section 4.2(b)(i).

(c) COMPAC-2 Commodities.

(i) General. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for any COMPAC-2 commodities, as described in Section II(B)(2) of Annex I hereto, the Grantee shall, except as A.I.D. may otherwise agree in writing, provide to A.I.D., in form and substance satisfactory to A.I.D., a standard form of the loan agreement between NEA and a REC eligible to receive COMPAC-2 commodities which specifies the terms and conditions upon which such commodities will be provided; and

(ii) Particular RECs. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for any COMPAC-2 commodities for a particular REC, the Grantee shall, except as A.I.D. may otherwise agree in writing, provide to A.I.D., in form and substance satisfactory to A.I.D., (a) evidence that the COMPAC-2 commodities to be procured for the REC conform to the recommendations of the contractor referred to in Section II(B)(1) of Annex I based on the contractor's assessment of the technical requirements of the REC, (b) evidence of the financial viability of the procurement based on the assessment of the local accounting firm referred to in Section II(B)(1) of Annex I, and (c) evidence that the REC and NEA have executed a loan agreement in the form submitted in satisfaction of Section 4.2(c)(i).

Section 4.3. Condition Precedent to Disbursement for COMPAC-3 Commodities for NEA. Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made,

for any COMPAC-3 commodities, as described in Section II(B)(3) of Annex I hereto, the Grantee shall, except as A.I.D. may otherwise agree in writing, provide to A.I.D., in form and substance satisfactory to A.I.D., an executed contract between NEA and a long-term technical assistance contractor to provide the services described in Section II(A)(1) of Annex I, together with evidence that the executed contract has received all necessary approvals required by the Grantee.

Section 4.4. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 4.1 to 4.3 have been met, it will promptly notify the Grantee.

Section 4.5. Terminal Dates for Conditions Precedent. If (i) all of the conditions specified in Section 4.1 have not been met on or before October 31, 1988; or if (ii) all of the conditions specified in Sections 4.2(a), 4.2(b)(i) and 4.2(c)(i) have not been met on or before December 31, 1988; or if (iii) all of the conditions specified in Sections 4.2(b)(ii) and 4.2(c)(ii) have not been met on or before March 31, 1989; or if (iv) all of the conditions specified in Section 4.3 have not been met on or before September 30, 1989; or (v) in each such case, at such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement or the activity thereunder to which such condition relates and, to the extent not irrevocably committed to third parties, may cancel the then undisbursed balance of the Grant, or such undisbursed balance of the Grant made available for the activity to which such condition relates.

Article 5: Special Covenants.

Section 5.1. Project Evaluation. The Parties agree to establish an evaluation program as part of the Project. Except as the Parties otherwise agree in writing, the program will include, during the implementation of the Project and at one or more points thereafter:

- (a) evaluation of progress toward attainment of the objectives of the Project;
- (b) identification and evaluation of problem areas or constraints which may inhibit such attainment;
- (c) assessment of how such information may be used to help overcome such problems; and
- (d) evaluation, to the degree feasible, of the overall development impact of the Project.

Article 6: Procurement Source.

Section 6.1. Foreign Exchange Costs. Disbursement pursuant to Section 7.1 will be used exclusively to finance the costs of goods and services required for the Project having, with respect to goods, their source and origin and, with respect to services, their nationality, in the United States (Code 000 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services) ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Grant Standard Provisions Annex, Section C.1(b), with respect to marine insurance. Ocean transportation costs shall be financed under the Grant only on vessels under flag registry of the United States.

Section 6.2. Local Currency Costs. Disbursements pursuant to Section 7.2 will be used exclusively to finance the costs of goods and services required for the Project having, with respect to services, except as A.I.D. may otherwise agree in writing, their nationality and, with respect to goods, their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of the Philippines ("Local Currency Costs").

Article 7: Disbursement.

Section 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agreed upon:

(1) by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services on the Grantee's behalf for the Project; or

(2) by requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letters of Credit or otherwise, for such goods, or (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by the Grantee in connection with Letters of Commitment and Letters of Credit will be financed under the Grant unless the Grantee instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Grant.

Section 7.2. Disbursement for Local Currency Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursements may be purchased by A.I.D. with U.S. Dollars. The U.S. Dollar equivalent of the local currency made available hereunder will be the amount of U.S. Dollars required by A.I.D. to obtain the local currency.

Section 7.3. Other Forms of Disbursement. Disbursements of the Grant may also be made through such other means as the Parties may agree to in writing.

Section 7.4. Rate of Exchange. Except as may be more specifically provided under Section 7.2, if funds provided under the Grant are introduced into the Republic of the Philippines by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder, the Grantee will make such arrangements as may be

necessary so that such funds may be converted into Philippine currency at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the Republic of the Philippines.

Article 8: Miscellaneous.

Section 8.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following addresses:

To the Grantee:

Mail Address: National Electrification Administration
D & E Building, Quezon Avenue, Quezon City
Philippines

with a copy to:

Mail Address: National Economic and Development Authority
P.O. Box 419, Greenhills, Metro Manila
Philippines

Alternate address for cables: NEDAPHIL

To A.I.D.:

Mail Address: United States Agency for International
Development
c/o The Embassy of the United States
of America
Manila, Philippines

Alternate address for cables: USAID/AMEMB MANILA

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

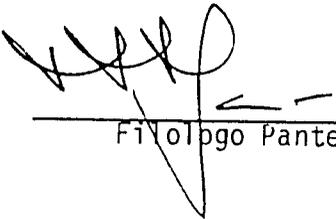
Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individuals holding or acting in the office of the Director-General of the National Economic and Development Authority or in the office of the Administrator of the National Electrification Administration and A.I.D. will be represented by the individual holding or acting in the office of the Director, United States A.I.D. Mission to the Philippines, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex I. The names of the representatives of the Grantee, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 8.3. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex II) is attached to and forms part of this Agreement.

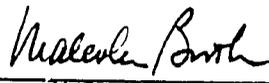
IN WITNESS WHEREOF, the Grantee and the United States of America, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

UNITED STATES OF AMERICA

By: 

Filologo Pante, Jr.

By: 

Malcolm Butler

Title: Deputy Director-General
and Officer-In-Charge

National Economic and
Development Authority

Title: Mission Director

United States Agency for
International Development

ANNEX I
RURAL ELECTRIFICATION PROJECT
PROJECT DESCRIPTION

I. PROJECT GOAL AND PURPOSE

The goal towards which the Rural Electrification Project contributes is to increase the reliability of electric power service in rural areas of the Philippines. The purpose of the Project is to achieve the commercial viability of selected Rural Electric Cooperatives ("RECs") by addressing institutional, policy and technical weaknesses of the rural electrification system. By the end of the Project, it is expected that a majority of the RECs participating in the Project will be commercially viable distributors of electric power in their service areas.

II. PROJECT DESCRIPTION

The Project consists of two related components: (1) Institutional Development and (2) System Loss Reduction. These components are designed to overcome existing constraints to the restoration of RECs to commercial viability. The Project will focus on the rehabilitation of the existing systems of selected RECs rather than on the physical expansion of those systems.

A. Institutional Development.

Under this component, the Project will finance technical assistance, training and computer equipment to support the institutional development efforts of NEA and participating RECs. All RECs are eligible to participate in the Institutional Development component of the Project. However, assistance to those RECs which rely on self-generating

power plant facilities, or are under management contract, or have been determined to be non-viable by NEA, shall be limited to technical assistance to perform operating studies to recommend action plans for the RECs' operating future. The focus of the institutional development efforts shall be on the remaining RECs, of which there are currently 93, which are considered to be financially viable or to have the potential to be financially viable. Particular attention shall be paid to those RECs which lack adequate management capability.

1. Technical Assistance. The Project will finance technical assistance required to support the undertakings of NEA and participating RECs to improve the efficiency and effectiveness of management systems and personnel.

Technical assistance will be provided on both a long- and short-term basis. A long-term technical assistance contractor will provide expertise in finance, accounting, management systems and in electrical distribution engineering. Contractor personnel will be resident at NEA, and will use NEA as their base for working with the RECs receiving assistance under the Project. The contractor will assist NEA's undertaking to develop its capacity to monitor and serve RECs more effectively. The contractor also will assist the RECs receiving the second commodity package (COMPAC-2 described below in Section II(B)(2)) in their undertaking to improve their performance and attain commercial viability. The contractor also will provide short-term advisors, as required, to assist NEA's undertaking software development, rate-setting studies, training module development and training seminars and programs for NEA and REC staff.

With the assistance of local engineering and accounting and management consultant contractors, NEA will perform studies, make financial projections, and install the management information, reporting and billing systems developed under the Project at NEA and at the participating RECs.

In support of institutional development, technical assistance financed under the Project will support: the development of strategies to achieve the commercial and operational viability of selected RECs; the identification of RECs which are unlikely to achieve commercial viability and the development of action plans for their operating future; the performance of studies on the consolidation of RECs as appropriate and assistance in implementation of recommendations; the performance of operation and maintenance (O&M) and systems studies of viable RECs to determine 10-year projections of physical plant and capital requirements, and assistance in establishing performance targets; conduct of a feasibility study of regionally-based service centers to meet REC equipment servicing needs; streamlining and strengthening the effectiveness of NEA operations; planning and implementing training programs for NEA and the RECs; and developing and implementing management information systems (MIS) improvements at NEA and the RECs.

2. Training.

Annual training plans will be developed by NEA and REC staff with the assistance of technical assistance contractors, for training programs which will include substation operation and maintenance, line equipment maintenance, meter testing and repair, and a development program for REC managers and supervisors (encompassing

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distribution system engineering, planning and design, construction and operations and maintenance, materials management, inventory control, accounting, auditing, financial planning, cash management and management).

Training modules for REC managers and staff will be conducted by NEA, with the assistance of technical assistance contractors. NEA staff will be trained in-house, and also at various local institutes. REC staff will also receive on-site training, as needed. Training will be conducted by U.S. or Philippine consultants depending upon the subject matter. Most training will be carried out in the Philippines, and will be short to medium term in duration. Longer term or participant training will be considered only on an exceptional basis.

3. Equipment.

The Project will finance computer hardware and software requirements of NEA and participating RECs related to their efforts to improve management efficiency and effectiveness. NEA will undertake a detailed computer requirements analysis with the assistance of a short-term technical assistance contractor, which may be provided under an Indefinite Quantity Contract ("IQC"). Equipment and software to be financed under the Project and the timing of procurement will be based upon the requirements analysis.

B. System Loss Reduction.

Under this component, the Project will finance the procurement of commodity packages for selected RECs to reduce system losses and a commodity package for NEA to enhance its ability to service RECs.

1. Commodity Package 1 ("COMPAC-1").

The first commodity package ("COMPAC-1") will consist of a package of commodities to reduce system losses for selected RECs that have been determined to have adequate management systems and personnel in place and do not need technical assistance prior to or concurrently with receiving commodities. COMPAC-1 commodities will include items such as meters, transformers, test equipment, poles and cross-arms, tools, connectors, sectionalizing equipment, conductors, safety equipment, and other miscellaneous related equipment. The maximum CIF value of COMPAC-1 commodities provided to any REC will be U.S. \$410,000. A.I.D. financing of COMPAC-1 commodities will not exceed U.S. \$8,631,000, inclusive of Procurement Service Agent ("PSA") fees.

The RECs that are eligible to apply for COMPAC-1 commodities are listed in the schedule set forth in Attachment A to this Annex I. All twenty RECs included in Group A in the schedule will be offered the opportunity to receive COMPAC-1 commodities; however, if the maximum amount of A.I.D. financing available for COMPAC-1 commodities is not availed of by the RECs in Group A that elect to participate in the program, NEA may offer the opportunity to receive COMPAC-1 commodities to one or more of the RECs included in Group B in the schedule to the extent funds are available therefor.

The Project will finance the services of a technical consultant under an A.I.D. Indefinite Quantity Contract ("IQC") to assist NEA in assessing the technical equipment requirements of these eligible RECs. A local accounting firm will be contracted to assess the financial

viability of the proposed procurement for each eligible REC applying for COMPAC-1 commodities. The COMPAC-1 commodities to be procured for a REC will conform to the recommendations of the IQC contractor based on the contractor's technical assessment. Each REC for which the procurement is determined to be financially viable must enter into a loan agreement with NEA, as described below in Section II(B)(5) before commodities will be procured for it under the Project. Each REC that will receive COMPAC-1 commodities must provide baseline data to NEA, including financial and physical performance data, before the installation of COMPAC-1 commodities.

2. Commodity Package 2 ('COMPAC-2').

The second commodity package ("COMPAC-2") will consist of a limited package of the most critical items required to initiate a system loss reduction program for selected RECs that have potential commercial viability, but are presently in need of significant technical and managerial assistance. COMPAC-2 commodities will consist primarily of line transformers and watt hour meters, but may also include limited amounts of test equipment, instrument transformers for metering to assure effective utilization of transformers, and wood pole treatment chemical applicators. The maximum CIF value of COMPAC-2 commodities provided to any REC will be U.S. \$120,000. A.I.D. financing of COMPAC-2 commodities will not exceed U.S. \$2,400,000, inclusive of PSA fees.

The RECs that are eligible for COMPAC-2 commodities are the participants in the NEA Relending Program. The IQC contractor referred to in Section II(B)(1) above will assist NEA in assessing the technical equipment requirements of RECs eligible for COMPAC-2 commodities, and a

local accounting firm will assess the financial viability of the proposed procurement for each eligible REC applying for COMPAC-2 commodities. This financial viability assessment will take into consideration the commitment of the cooperative's membership to have the REC assume obligations in connection with obtaining the commodities. The COMPAC-2 commodities to be procured for a REC will conform to the recommendations of the IQC contractor based on its technical assessment. Each REC for which the procurement is determined to be financially viable must enter into a loan agreement with NEA, as described below in Section 11(B)(5) before commodities will be procured for it under the Project. Each REC that will receive COMPAC-2 commodities must provide baseline data to NEA, including financial and physical performance data, before the installation of COMPAC-2 commodities.

3. Commodity Package 3 ("COMPAC-3").

The third commodity package ("COMPAC-3") will consist of equipment for NEA to enhance its ability to service RECs. COMPAC-3 commodities will include four mobile transformers (two 5 MVA and two 10 MVA) to be regionally based for use by NEA as standby units in case of failure or maintenance and repair of REC substation equipment, and a limited amount of test equipment to enable NEA to verify and complete load forecast studies. A.I.D. financing of COMPAC-3 commodities is estimated at U.S. \$623,000, inclusive of PSA fees.

4. Other Commodity Packages.

Additional A.I.D. financing for commodity packages for RECs may be provided under the Project, subject to the availability of funds to A.I.D. and to the agreement of the Parties to proceed with the

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Project. In deciding whether to continue the Project, the Parties will take into consideration the results of the assessment of Project performance referred to in Section III(E) below and the continued commitment of the Philippine Government to promote commercial viability as the long-term goal of the rural electric cooperative system. Any additional commodity assistance will be subject to such terms and conditions as may be specified in any amendment to the Agreement providing funding therefor or as may otherwise be agreed upon by the Parties.

Additional commodity assistance that may be provided may include: (i) a follow-on commodity package having a maximum CIF value of U.S. \$290,000 for each REC that received COMPAC-2 commodities, provided that the REC has participated in institutional development activities under the Project, has demonstrated significant improvement in performance and is no longer managed or under the direct management supervision of NEA; and (ii) commodity packages similar to COMPAC-1 for an additional thirty RECs which have demonstrated improved performance by meeting targets set by NEA.

5. Commodity Financing Program.

A REC that receives either COMPAC-1 or COMPAC-2 commodities must enter into a loan agreement with NEA, in the form submitted in satisfaction of the conditions specified in Sections 4.2(b)(i) and 4.2(c)(i), respectively, whereby the REC incurs a peso-denominated loan obligation to NEA equivalent to the FOB U.S. dollar cost of the commodities provided to it, determined on the basis of the foreign exchange buying rate of the Central Bank of the Philippines in effect on

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the date of the NEA-REC Agreement. The loan agreement, inter alia, will require either the REC or NEA to provide the funds required to pay storage, handling, insurance and other costs incurred after the commodities are landed at the Philippine port of entry, including inter-island shipping, inland transportation, and installation costs. In addition, the loan agreement for RECs receiving COMPAC-2 commodities will include a requirement that the REC participate in institutional development activities under the Project and undertake a program to improve management efficiency and effectiveness. The interest rate on loans to RECs receiving commodities will be 12 percent.

Loan payments will be made to and retained by NEA for the use of NEA. NEA will administer the loans in accordance with the policies and operational procedures specified in the statement submitted in satisfaction of the condition specified in Section 4.2(a).

III. IMPLEMENTATION ARRANGEMENTS

A. Implementing Agencies.

NEA will act as the implementing agency for the Project. NEA will be responsible for host-country contracting for technical assistance, including contracting for the long-term technical assistance contractor; clearing commodities procured under the Project through customs; coordinating with RECs to ensure that commodities are delivered from the port of entry to the REC, that REC warehouse facilities are adequate and that the REC is capable of installing the commodities upon delivery; ensuring that funds are available when needed to pay storage, handling, insurance, inter-island and inland transportation, installation

and other costs incurred after commodities financed under the Project are landed at the Philippine port of entry; and administering the commodity-financing loans made to participating RECs.

B. Contracting and Commodity Procurement.

Long-term technical assistance will be acquired through host-country contracts in accordance with the requirements of A.I.D. Handbook 11 and procedures prescribed in Project Implementation Letters. Short-term technical assistance will be acquired through A.I.D. direct contracts or host country contracts, including through the issuance of purchase orders under Indefinite Quantity Contracts ("IQCs"). The services of Procurement Services Agents (PSAs) will be obtained through A.I.D. direct contracts. Commodities acquired from U.S. suppliers will be procured directly by A.I.D. through PSAs. When required by applicable A.I.D. regulations, procurements will be advertised in the United States. Shelf items available in the Philippines may be procured from Philippine suppliers directly by A.I.D. or by the GOP, subject to applicable A.I.D. regulations on shelf item procurement, as detailed in Project Implementation Letters. Training will be implemented through host country contracts, except for participant training, which may be implemented directly by A.I.D.

C. Monitoring and Management

NEA will be responsible for monitoring overall Project progress, and will submit quarterly reports to A.I.D. identifying work tasks, resource inputs, progress milestones, accomplishments, issues and problems. NEA and A.I.D. will develop and jointly agree upon an overall

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implementation schedule for the Project including clearly identifiable key progress indicators. NEA and A.I.D. will hold periodic reviews to assess Project progress based on this schedule.

The services of two personal services contractors (PSCs), one for each Project component, will be financed under the Project to assist A.I.D. in managing the Project. These services will be procured pursuant to A.I.D. Project Implementation Orders for Technical Services (PIO/Ts) issued unilaterally by A.I.D. Due consideration will be given to recruitment in the Philippines of the PSC for the System Loss Reduction component.

D. Financing Mechanisms and Disbursements.

A.I.D. inputs will be financed using the following financing mechanisms, as appropriate:

1. Direct Payments - Under this method of financing, A.I.D. will make payments directly to suppliers or contractors under A.I.D. or host country contracts.
2. Direct Reimbursements - Under this method of financing, the GOP implementing agency will advance its own funds for Project expenses and subsequently be reimbursed by A.I.D. upon submission of appropriate documentation.

E. Evaluation and Audit.

An assessment of Project performance will be conducted in January, 1991 to evaluate progress in implementing the System Loss Reduction and Institutional Development components and the ability of individual RECs to meet agreed-upon performance targets. Difficulties encountered will be analyzed, and a decision will be made whether or not

to continue the Project. Modifications of the Project approach will be suggested, if necessary. An end of Project evaluation will assess progress towards meeting stated objectives and the Project's impact on participants and beneficiaries. A.I.D staff, GOP personnel and external consultants will participate in these evaluations.

Primary responsibility for audits of A.I.D.-financed projects lies with the A.I.D. Inspector General's Office. However, an external auditing firm may be contracted for audit purposes and financed under the Project. Any external audit services will be acquired under A.I.D. direct contracts pursuant to PIO/Ts issued unilaterally by A.I.D.

V. COST ESTIMATES AND FINANCIAL PLAN

Total Project costs are estimated at \$53.528 million over a five-year life of project, with a planned A.I.D. contribution of \$40 million in Grant funding and a GOP contribution of \$13.528 million. The GOP will provide or cause to be provided a contribution to the Project in the form of personnel services, office space and logistics support, including vehicle use, financing of storage, customs clearance, handling, transportation, installation and related costs of commodities provided to RECs upon landing at the Philippine port of entry, management information system improvements, computer installation costs and training support costs, including international air fares for participant training.

The following financial plan is illustrative and changes may be made by the representatives designated in Section 8.2 of the Agreement without formal amendment of the Agreement in accordance with Section 2.1 of the Agreement.

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Table 1
Estimated Life-of-Project Budget

<u>ELEMENT</u>	<u>AID GRANT</u>	<u>GOP</u>	<u>TOTAL</u>	<u>FY 1988 A.I.D. OBLIGATION</u>
1. Commodities	\$31,848,000	\$ 6,910,000	\$38,758,000	\$12,333,000
2. Technical assistance	4,968,000	0	4,968,000	1,032,000
3. Training	320,000	304,000	624,000	170,000
4. Project Operations/ Management/Monitoring	900,000	6,314,000	7,214,000	325,000
5. Evaluation	100,000	0	100,000	0
6. Provision for Audit	50,000	0	50,000	0
7. Contingency/Inflation	<u>1,814,000</u>	<u>0</u>	<u>1,814,000</u>	<u>26,113</u>
TOTAL	<u>\$40,000,000</u>	<u>\$13,528,000</u>	<u>\$53,528,000</u>	<u>\$13,886,113</u>

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ANNEX I
ATTACHMENT A

SCHEDULE OF RECS ELIGIBLE TO RECEIVE
COMPAC-1 COMMODITIES

The RECs included in Groups A and B below will be offered the opportunity to receive COMPAC-1 commodities to the extent and in the manner provided in Section II(B)(1) of Annex I:

Group A

Bohol I
Cebu I
Cebu III
Zamboanga del Sur II
Agusan del Sur
South Cotabato I
South Cotabato II
Negros Occidental
Capiz
Iloilo I
Misamis Oriental II
North Cotabato
Maguindanao
Cebu II
Quezon I
Zamboanga City
Ilocos Norte
Davao del Norte
Davao del Sur
Zamboanga del Norte

Group B

Zamboanga del Sur I
Leyte V
Negros Oriental II
Surigao del Sur I
Aklan
Misamis Oriental

ANNEX II
PROJECT GRANT STANDARD PROVISIONS ANNEX

Definitions: As used in this Annex, the "Agreement" refers to the Project Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Article A: Project Implementation Letters.

To assist Grantee in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex I.

Article B: General Covenants.

Section B.1. Consultation. The Parties will cooperate to assure that the purpose of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on the progress of the Project, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged on the Project, and other matters relating to the Project.

Section B.2. Execution of Project. The Grantee will:

(a) Carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by A.I.D. pursuant to this Agreement; and

(b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

Section B.3. Utilization of Goods and Services.

(a) Any resources financed under the Grant will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

(b) Goods or services financed under the Grant, except as A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

Section B.4. Taxation.

(a) This Agreement and the Grant will be free from any taxation or fees imposed under laws in effect in the territory of the Grantee.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Grant, and any property or transactions relating to such contracts; and (2) any commodity procurement transaction financed under the Grant are not exempt from identifiable taxes, tariffs, duties, or other levies imposed under laws in effect in the territory of the Grantee, the Grantee will, as and to the extent provided in and pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Grant.

Section B.5. Reports, Records, Inspections, Audit. The Grantee will:

(a) Furnish A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request;

(b) Maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Grant. Such books and records will be audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by A.I.D.; such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; and

(c) Afford authorized representatives of a Party the opportunity at all reasonable times to inspect the Project, the utilization of goods and services financed by such Party, and books, records, and other documents relating to the Project and the Grant.

Section B.6. Completeness of Information. The Grantee confirms:

(a) That the facts and circumstances of which it has informed A.I.D., or caused A.I.D. to be informed, in the course of reaching agreement with A.I.D. on the Grant, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement; and

(b) That it will inform A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

Section B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Grant, except fees, taxes, or similar payments legally established in the country of the Grantee.

Section B.8. Information and Marking. The Grantee will give appropriate publicity to the Grant and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by A.I.D., as described in Project Implementation Letters.

Article C: Procurement Provisions.

Section C.1. Special Rules.

(a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(b) Premiums for marine insurance placed in the territory of the Grantee will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7(a).

(c) Any motor vehicles financed under the Grant will be of United States manufacture, except as A.I.D. may otherwise agree in writing.

(d) Transportation by air, financed under the Grant, of property or persons, will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

Section C.2. Eligibility Date. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

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Section C.3. Plans, Specifications and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

- (a) The Grantee will furnish to A.I.D. upon preparation:
- (1) any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Grant, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished A.I.D. on preparation; and
 - (2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services, which, though not financed under the Grant, are deemed by A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this subsection (a)(2) will be identified in Project Implementation Letters.
- (b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Grant will be approved by A.I.D. in writing prior to their issuance, and their terms will include United States standards and measurements;
- (c) Contracts and contractors financed under the Grant for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Project Implementation Letters, will be approved by A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution; and
- (d) Consulting firms used by the Grantee for the Project but not financed under the Grant, the scope of their services and such of their personnel assigned to the Project as A.I.D. may specify, and construction contractors used by the Grantee for the Project but not financed under the Grant, shall be acceptable to A.I.D.

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Grant. Such items will be procured on a fair and, to the maximum extent practicable, on a competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Grant, the Grantee will furnish A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Project Implementation Letters.

Section C.6. Shipping.

(a) Goods which are to be transported to the territory of the Grantee may not be financed under the Grant if transported either:

(1) on an ocean vessel or aircraft under the flag of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment; or

(2) on an ocean vessel which A.I.D., by written notice to the Grantee has designated as ineligible; or

(3) under an ocean or air charter which has not received prior A.I.D. approval.

(b) Costs of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Grant, if such goods or persons are carried:

(1) on an ocean vessel under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs," without prior written A.I.D. approval or on a non-U.S. flag air carrier if a U.S. flag carrier is available (in accordance with criteria which may be contained in Project Implementation Letters) without prior written approval of A.I.D.; or

(2) on an ocean vessel which A.I.D., by written notice to the Grantee, has designated as ineligible; or

(3) under an ocean vessel or air charter which has not received prior A.I.D. approval.

(c) Unless A.I.D. determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels:

(1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by A.I.D. which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and

(2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by A.I.D. and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

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Section C.7. Insurance.

(a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided:

(1) such insurance is placed at the lowest available competitive rate; and

(2) claims thereunder are payable in U. S. dollars or, as A.I.D. may agree in writing, in the currency in which such goods were financed or in any freely convertible currency. If the Grantee (or government of Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by A.I.D. hereunder will be insured against marine risks and such insurance will be placed in the United States with a company or companies authorized to do a marine insurance business in a State of the United States.

(b) Except as A.I.D. may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Grant imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in A.I.D. Geographic Code 935 as in effect at the time of replacement, and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Grant may be used to finance the costs of obtaining such property for the Project.

Article D: Termination; Remedies.

Section D.1. Termination. Either Party may terminate this Agreement by giving the other Party 30 days written notice. Termination of this Agreement will terminate any obligations of the Parties to provide financial or other resources to the Project pursuant to this Agreement, except for payment which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to

the termination of this Agreement. In addition, upon such termination A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Grantee's country, are in a deliverable state and have not been off-loaded in ports of entry of Grantee's country.

Section D.2. Refunds.

(a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, A.I.D., notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to A.I.D. within sixty (60) days after receipt of a request therefor.

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement, A.I.D. may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. Dollars to A.I.D. within sixty (60) days after receipt of a request therefor.

(c) The right under subsection (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refunds under subsection (a) or (b), or (2) any refund to A.I.D. from a contractor, supplier, bank or other third party with respect to goods or services financed under the Grant, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Project, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on Grant funds disbursed by A.I.D. to the Grantee under this Agreement prior to the authorized use of such funds for the Project will be returned to A.I.D. in U.S. Dollars by the Grantee.

Section D.3. Nonwaiver of Remedies. No delay in exercising any right or remedy accruing to a party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section D.4. Assignment. The Grantee agrees, upon request, to execute an assignment to A.I.D. of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. Dollar contract which A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.