

PD-ABI-743  
8863

A.I.D. Project No. 617-0114

PROJECT GRANT AGREEMENT

Between

THE GOVERNMENT OF THE REPUBLIC OF UGANDA ("GRANTEE")

And

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

ACTING THROUGH

THE AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D." OR "GRANTOR")

For the

AGRICULTURAL NON-TRADITIONAL EXPORT PROMOTION PROGRAM

Dated: September 29, 1992

Appropriation No.: 72-112/31014  
Budget Plan Code: GSS2-92-21617-KG13  
Obligation Amount: \$500,000  
Reservation Control No.: U922068

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## 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.

(a) The Project, which is further described in ANNEX 1, will consist of assistance to Uganda's public and private sectors to increase the range and value of agricultural non-traditional exports. The Project will consist of technical assistance to the GOU for analysis of export-related reforms, and technical assistance and other limited support to private sector producers and exporters to increase the range and volume of Ugandan exports.

(b) The Project represents one part of the overall Agricultural Non-Traditional Export Promotion Program (the "Total ANEPP"). The other component is an existing Program Grant to the Grantee pursuant to which cash disbursements are made to support policy reforms focusing upon the establishment of an institutional framework to support export, and improving the regulatory and statutory environment for export, as more specifically set forth under the terms and conditions of the Sector Grant Agreement (Program Number 617-0113) (the "Program Agreement").

It is anticipated the A.I.D.'s overall contribution to the Total ANEPP over the life of the Program/Project will be fifty-four million United States ("U.S.") dollars (\$54,000,000), of which thirty-two million, five hundred thousand U.S. dollars (\$32,500,000) in non-project assistance and five million, five hundred thousand U.S. dollars (\$5,500,000) in project assistance has already been provided; and an additional thirteen million, five hundred thousand U.S. dollars (\$13,500,000) in non-project assistance will be provided, subject to the availability of funds to A.I.D. and the mutual agreement of the parties to proceed, as described in and pursuant to the terms of the Program Agreement, and two million five hundred thousand U.S. dollars (\$2,500,000) will be provided, subject to the availability of funds to A.I.D. and the mutual agreement of the parties to proceed, under the Project Agreement, as more specifically described below.

## 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 each subsequent increment, to proceed.

(b) Within the overall Project Assistance Completion Date ("PACD") 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 each 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 two million, five hundred thousand U.S. dollars (\$2,500,000) as part of a planned multi-year project, of which five hundred thousand U.S. dollars (\$500,000) shall represent the initial increment and the remaining two million U.S. dollars (\$2,000,000) shall be subject to the availability of funds to A.I.D. for this purpose and the mutual agreement of the Parties at the time of the subsequent increments.

The Grant may be used to finance foreign exchange costs, as defined in SECTION 6.1 of this Agreement, and local currency costs, as defined in SECTION 6.2 of this Agreement, 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 by the Grantee for the Total ANEPP will not be less than local currency counterpart funds in an amount equivalent to thirty-six million, one hundred fifty thousand U.S. dollars (\$36,150,000), of which an amount equivalent to no less than three million, one hundred fifty thousand U.S. dollars (\$3,150,000) will be contributed for the purposes of this Project Grant Agreement, including costs borne on an "in-kind" basis.

**SECTION 3.3. Project Assistance Completion Date (PACD)**

(a) The PACD, which is March 31, 1995, 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 6.2 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. First Disbursement.**

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

(a) An opinion of legal counsel acceptable to A.I.D. that this Agreement has been duly authorized and/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 all of its terms; and

(b) A written statement setting forth the names and titles of persons holding or acting in the Office of the Grantee, as specified in SECTION 8.2, and of any additional representatives, and representing that the named person or persons have the authority to act as the representative or representatives of the Grantee, together with a specimen signature of each such person certified as to its authenticity.

SECTION 4.2 Notification. When A.I.D. has determined that the conditions precedent specified in SECTION 4.1 have been met, A.I.D. will promptly so notify the Grantee.

SECTION 4.3 Terminal Dates for Conditions Precedent. If all of the conditions specified in SECTION 4.1 have not been met within one hundred twenty (120) days of the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Grantee.

#### 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 towards 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.

SECTION 5.2. Local Currency Uses. The Parties agree that the local currency which has been generated and deposited into the Separate Local Currency Account pursuant to the terms of the Program Grant Agreement for the Agricultural Non-Traditional Export Promotion Program (the "Program Grant Agreement") shall be used for agreed upon activities under the Project, as well as the administrative expense requirements of A.I.D., as more specifically set forth in the Program Grant Agreement and in ANNEX 1 (Project Description) of this Agreement, which may be supplemented by Project Implementation Letters, The Grantee further agrees that it will disburse the local currency from the separate account for such agreed upon purposes (and to specified accounts) promptly upon the request from A.I.D. for said disbursement, and in no event later than 30 days thereafter.

ARTICLE 6: Procurement Source

SECTION 6.1. Foreign Exchange Costs. Except as A.I.D. may otherwise agree in writing, disbursements pursuant to SECTION 7.1 will be used exclusively as follows:

(a) 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 countries included within CODE 935 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, except as provided in the Project Grant Standard Provisions Annex, Section C.1(b) with respect to marine insurance ("Foreign Exchange Costs"). All reasonable efforts will be used to maximize U.S. procurement whenever practicable. Air travel and transportation to and from the U.S. shall be upon certified U.S. flag carriers to the extent available; and

(b) to finance ocean transportation costs under the Grant only on vessels under flag registry of the countries included in A.I.D. Geographic Code 935, subject to the requirement that at least fifty percent of the gross tonnage of the cargo shipped and fifty percent of the gross freight revenue generated be on vessels of U.S. flag registry.

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 their source and, except as A.I.D. may otherwise agree in writing, their origin in Uganda ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency Costs" may also include the provision of local currency resources required for the Project.

ARTICLE 7: Disbursement

SECTION 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfying the conditions precedent to disbursement set forth in Section 4.1, the Grantee may obtain disbursements of funds under the Grant for 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:

(i) 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 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 services, 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 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 satisfying the conditions precedent to disbursement set forth in Section 4.1, the Grantee may obtain disbursements of funds under the Grant for Local Currency Costs required for the Project in accordance with 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 obtained:

(1) by acquisition by A.I.D. with U.S. dollars by purchase or from local currency already owned by the U.S. Government; or,

(2) by A.I.D., (A) requesting the Grantee to make available the local currency for such costs, and (B) thereafter making available to the Grantee, through the opening or amendment by A.I.D. of Special Letters of Credit in favor of the Grantee or its designee, an amount of U.S. dollars equivalent to the amount of local currency made available by the Grantee, which dollars will be utilized for procurement from the United States under appropriate procedures described in Project Implementation Letters.

(c) The U.S. dollar equivalent of the local currency made available hereunder will be, in the case of subsection (b) (1) above, the amount of U.S. dollars required by A.I.D. to obtain the local currency, and in the case of subsection (b) (2) above, an amount calculated at the rate of exchange specified in the applicable Special Letter of Credit Implementation Memorandum

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hereunder as of the date of the opening or amendment of the applicable Special Letter of Credit.

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

SECTION 7.4. Rate of Exchange. Except as may be more specifically provided under SECTION 7.2, deposits of local currency required under this Agreement shall be calculated at the current official exchange rate of Uganda Shillings to U.S. Dollars.

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: Minister of Finance

Mail Address: Ministry of Finance  
P. O. Box 8147  
Kampala, Uganda

To A.I.D.: Mission Director

Mail Address: USAID Mission  
P. O. Box 7007  
Kampala, Uganda

Facsimile Number: 233417

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. The Grantee, in addition, will provide the USAID Mission to Uganda with a copy of each communication sent to A.I.D. Washington, D.C.

SECTION 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the office of the Minister of Finance and A.I.D. will be represented by the individual holding or acting in the Office of the Director, USAID Mission to Uganda, each of whom, by written notice, may designate additional representatives for all purposes including exercising the power under SECTION 2.1 to revise elements of the Project Description in ANNEX 1. The names of the representatives of the Grantee, with specimen

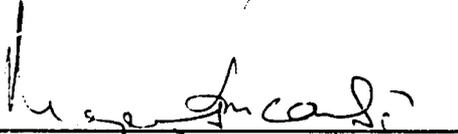
signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

SECTION 8.3. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (ANNEX 2) is attached to and forms part of this Agreement.

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

Done at Kampala, Uganda; in duplicate, the 29th day of September, 1992.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF UGANDA

  
\_\_\_\_\_  
J. S. Mayanja-Nkangi  
Minister of Finance  
& Economic Planning

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA

  
\_\_\_\_\_  
Keith W. Sherper  
Mission Director

Date: 29<sup>th</sup> September 1992

Date: 9/29/92

Clearances:

		<u>Date</u>
Steve Ryner, D/DIR	<u>(Draft)</u>	<u>          </u>
Shirley Kore, A/PRM	<u><i>Shirley</i></u>	<u>9/29</u>
Kat LeBlanc, CONT	<u>          </u>	<u>          </u>
Gary Bayer, ANR	<u>(Draft)</u>	<u>          </u>
Anthony Vance, RLA	<u>(Phone)</u>	<u>9/29</u>
Robin Phillips, EC	<u><i>R</i></u>	<u>27 Sept 82</u>

**Attachments:**

**ANNEX 1 - Project Description**

**ANNEX 2 - Project Grant Standard Provisions Annex**

**PROJECT DESCRIPTION**

The Agricultural Non-traditional Export Promotion Program (ANEPP) was established in 1988 to provide support to Uganda, with the purpose of increasing Uganda's non-traditional exports. Subsequently, in 1990 and 1991, ANEPP was amended to provide additional resources in support of its purpose. Although the mode of balance of payments support shifted from CIP (commodity import program) to cash transfer, the focus of the program remained on assisting the GOU (Government of Uganda) to liberalize the policy and regulatory framework influencing the non-traditional export sector. Since that amendment, Uganda has made significant strides in improving the broad macroeconomic framework, including stabilizing the economy and putting into place an increasingly liberal trade and payments regime. Indeed, recent analyses of the constraints to further development of the non-traditional export sector cite not macroeconomic, but more sector-specific policy, regulatory, and institutional constraints as being more binding.

In addition to providing balance of payments assistance to support policy changes, ANEPP has since 1988 also provided project assistance in a variety of ways. A key element of ANEPP was support to the GOU in the establishment of EPADU (the Export Policy Analysis and Development Unit), designed initially to build up capacity for policy analysis related to the non-traditional export drive. Subsequently, assistance was also provided to enable EPADU to directly carry out export promotion activities, in addition to its policy analysis mandate. In addition, funding was provided through EPADU for technical assistance directly to exporter groups. More recently, a portion of ANEPP project funds were disbursed through the African Project Development Facility (APDF), to support APDF's direct technical assistance to exporting producers and other firms. Funds still remain within the earlier ANEPP-related Project Agreements to carry EPADU, APDF, and other activities for a year and more into the future.

Through this new, 1992 Project Agreement, USAID intends to finance four activities. These are (1) an expansion of APDF activities, (2) Assistance to Smaller Enterprises, (3) Special Activities, and (4) Evaluations and Audits.

First, given the successes of APDF technical assistance to date, approximately an additional \$1.1 million will be provided to enable APDF to expand its activities in support of non-traditional exports in Uganda.

Second, mindful of the experience to date that APDF can, by its own regulations, work only with enterprises above a certain minimum size, and in light of the fact that experience has demonstrated that there are viable exporting activities below this threshold, approximately \$437,000 in ANEPP support will be provided for Assistance to Smaller Enterprises. This assistance is likely to be channelled through NGO/PVO groups capable of providing the necessary technical assistance and support.

Third, \$770,000 will be provided for Special Activities. Special Activities will provide technical assistance to the GOU to assist with the fulfillment of conditions precedent to disbursement of the accompanying ANEPP Program Assistance Grant. It will also provide technical assistance and other support for special concerns of the GOU and the Mission as needed. A special technical assistance set-aside will address women's concerns related to exporting. This component will also extend the long-term technical assistance currently funded through EPADU.

Finally, approximately \$217,000 will be provided to carry out evaluations and audits relevant to assessing whether the overall ANEPP activity has been successfully implemented and evaluating the impact of ANEPP on the intended beneficiaries.

## ANNEX 1

**ILLUSTRATIVE SUMMARY OF PROJECT COSTS  
BY EXPENSE CATEGORY AND SOURCE (\$000)**

	THIS OBLIGATION	LIFE OF PROJECT BUDGET
Expense Category	AID GRANT (in \$)	AID GRANT (in \$)
African Proj. Devel. Facil.		1,076
Small Enterpr. Assistance	437	437
Special Activ./ Other Tech. Assistance		770
Evaluations and Audits	63	217
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Total	500	2,500

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1. Over the life of the Program and Project the GOU is contributing the local currency equivalent of \$31,150,000 to Program and Project activities.

2. Life of project budget is subject to the availability of funds to A.I.D. for this purpose and to the mutual agreement of the parties to proceed at the time of each subsequent increment.

## ANNEX 2

## PROJECT GRANT STANDARD PROVISIONS ANNEX

Project Grant StandardProvisions 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 1.

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 experience management for, and train such staff as may be appropriate for the maintenance and



solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project towards completion ("Project books and records"). At the Grantee's option, with approval by A.I.D., Project books and records shall be maintained in accordance with one of the following methods:

(1) Generally accepted accounting principles prevailing in the United States,

(2) Generally accepted accounting principles prevailing in the country of the Grantee,

(3) Accounting principles prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants),

or (4) Such other accounting principles as the Parties may agree to in writing. Project books and records shall be maintained for at least three years after the date of last disbursement by A.I.D.

(c) If Dollars 25,000 or more is disbursed directly to the Grantee in any one calendar year under the grant, the Grantee, except as the Parties may otherwise agree in writing, shall have financial audits made of the funds disbursed to the Grantee under the Grant in accordance with the following terms:

(1) The Grantee shall select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the A.I.D. Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines".

(2) An audit of the funds provided under the Grant shall be conducted for each fiscal year of the Grantee. The audit shall determine whether the receipt and expenditure of the funds provided under the Grant are presented in accordance with generally accepted accounting principles agreed to in section (b) above and whether the Grantee has complied with the terms of the Agreement. Each audit shall be completed no later than one year after the close of the grantee's fiscal year.

(d) The Grantee shall submit an audit report to A.I.D. within 30 days after completion of each audit arranged for by the Grantee in accordance with this section. The A.I.D. Inspector General will review each report to determine whether it complies with the audit requirements of the Agreement. Subject to A.I.D. approval, costs of audits performed in accordance with the terms of this section may be charged to the Grant. In cases of continued inability or unwillingness to have an audit performed

in accordance with the terms of this section, A.I.D. will consider appropriate sanctions which include suspension of all or a portion of disbursements until the audit is satisfactorily completed or A.I. D. performs its own audit.

(e) The Grantee shall submit to A.I.D., in form and substance satisfactory to A.I.D., a plan by which the Grantee will ensure that funds made available to subrecipients that receive dollars 25,000 or more in any one calendar year under the Grant are audited in accordance with this agreement. The plan should describe the methodology to be used by the Grantee to satisfy its audit responsibilities with respect to any subrecipient to which this section applied. Such audit responsibilities with respect to subrecipients may be satisfied by relying on independent audits of the subrecipients or on appropriate procedures performed by the Internal Audit or Program Staff of the Grantee, by expanding the scope of the Independent Financial Audit of the Grantee to encompass testing of subrecipients' accounts, or by a combination of these procedures. The plan should identify the funds made available to subrecipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Grantee's audit responsibilities ( a non-profit organization organized in the United States is required to arrange for its own Audits; a for-profit contractor organized in the United States that has a direct contract with A.I.D. is audited by the cognizant U.S. Government Agency; A private voluntary organization organized outside the United States with a direct Grant from A.I.D. is required to arrange for its own audits; and a host-country contractor should be audited by the cognizant Grantee contracting agency). The Grantee shall ensure that appropriate corrective actions are taken on the recommendations contained in the subrecipients' audit reports; consider whether subrecipients' audits necessitate adjustment of its own records; and require each subrecipient to permit independent auditors to have access to records and financial statements as necessary.

(f) A.I.D. may, at its discretion, perform the audits required under this agreement on behalf of the grantee by utilizing funds under the grant or other resources available to A.I.D. for this purpose. The grantee shall afford authorized representatives of A.I.D. the opportunity at all reasonable times to audit or inspect the Project. The utilizations of goods and services financed by A.I.D. 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 cause 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;

(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 manufacturers, 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 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 by A.I.D. on preparation;

(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 produced 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 A.I.D. approval; 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 sub-section 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.

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 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 replacements 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 to 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 offloaded 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 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 thereof.

(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 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 refund 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 cost of goods and services required 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 constructed 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 with A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.