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A.I.D. Project Number: 538-0129

PROJECT
GRANT AGREEMENT
BETWEEN
GRENADA
and the
GOVERNMENT OF THE UNITED STATES OF AMERICA
ACTING THROUGH
THE AGENCY FOR INTERNATIONAL DEVELOPMENT
for
INFRASTRUCTURE REVITALIZATION II

Dated: December 30, 1985

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PROJECT GRANT AGREEMENT

Dated: December 30, 1985

Between

Government of Grenada ("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 assistance to the Grantee in improving designated roads, upgrading the power generation capacity, development of an industry park with sites and services, and upgrading the capacity to provide aggregate, asphalt and cement for public and private construction. The Project will furnish related services where appropriate. 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 estimated to total Three Million United States Dollars (US\$3,000,000) 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 Two Million United States ("U.S.") Dollars (US\$2,000,000) ("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

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.

SECTION 3.3. Project Assistance Completion Date

(a) The "Project Assistance Completion Date" (PACD), which is December 31, 1987, 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. First Disbursement. Prior to the first disbursement under the Grant, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties 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 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;

(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. Disbursement for Equipment for Power Generation Capacity

Prior to any disbursement, or to the issuance of any commitment documents under the Project Agreement for activities under the Power Generation Capacity component, the Grantee shall receive the prior written approval of A.I.D. to proceed with this component.

SECTION 4.3. Disbursement for Construction of an Industrial Park

Prior to any disbursement, or to the issuance of any commitment documents under the Project Agreement for activities under the Construction of an Industrial Park component, 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., evidence of:

- (a) Grantee title to the land to be used in this component or evidence that the Grantee has initiated the necessary arrangements to secure unencumbered use of the land for the Project;
- (b) A plan for the development, operation and management of the Frequente Industrial Park including a statement of the policy for setting rental rates sufficient to amortise the capital cost of construction and provide an economic return for the operation and maintenance of the facilities.

SECTION 4.4. Disbursement for Each Major Item of Equipment to Upgrade the Capacity to Provide Aggregate, Asphalt and Cement for Public and Private Construction

Prior to any disbursement, or to the issuance of any commitment documents under the Project, for each major item of equipment to upgrade the capacity to provide aggregate, asphalt and cement for public and private construction, 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) Specifications for the item of equipment;
- (b) Evidence of availability of an acceptable site for the location of the item; and
- (c) A preliminary training plan to operate the facility.

SECTION 4.5. Disbursement for Technical Management Assistance

Prior to any disbursement or to the issuance of any commitment documents under the Project for technical management assistance, the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish in form and substance satisfactory to A.I.D., evidence that it will furnish the necessary assistance, support and facilities to install rock crushing and asphalt equipment at the Telescope Point Quarry.

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SECTION 4.6. Notification. When A.I.D. has determined that the Condition Precedent specified in Section 4.1., 4.2, 4.3., 4.4. and 4.5. have been met, it will promptly notify the Grantee.

SECTION 4.7. Terminal Dates for Conditions Precedent

If all of the conditions specified in Section 4.1. have not been met within thirty (30) days from 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 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 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.

SECTION 5.2. Privatization

(a) Except as A.I.D. may otherwise agree in writing, the Grantee covenants that, prior to expiration of the contract for technical services to operate the rock crushing and asphalt plants and in any event no later than one year after the date of signing of the Project Agreement, it shall have taken substantial steps to privatize the various operations of the Mount Hartman and Telescope Point Quarries rock-crushing and asphalt plant facilities by means of a management contract or contracts, which contract(s) will include the requirement to put in place performance incentives and a plan to sell or lease the operation(s) to a private sector bidder under the most advantageous terms to the Government of Grenada.

(b) Except as A.I.D. may otherwise agree in writing, the Grantee covenants to take, within two years from the date of signing of the Project Agreement, the necessary steps to implement the privatization plan mentioned in 5. 2. (a) above.

Article 6: Procurement Source

SECTION 6.1. Foreign Exchange Costs. Disbursements 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 will be financed under the Grant only on vessels under flag registry of the United States except as A.I.D. may otherwise agree in writing.

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 Grenada ("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: Disbursements

SECTION 7.1. Disbursements 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 in 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 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 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 obtained:

(1) by acquisition by A.I.D. with U.S. dollars by purchase or;

(2) by A.I.D. (i) requesting the Grantee to make available the local currency for such costs, and (ii) 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.

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 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 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 in Grenada 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 local currency of Grenada at the highest rate of exchange which, at the time the conversion is made, is not unlawful.

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 Construction

Mail Address: Young Street
St. Georges, Grenada

Cable Address:

Telex:

To A.I.D.:

AID Representative

Mail Address:

United States Agency for International
Development
P.O. Box 445
St. George's
GRENADA

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 with a copy of each communication sent to A.I.D.

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 Minister of Construction and A.I.D. will be represented by the individual holding or acting in the office of the USAID Representative, 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 representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

UNITED STATES OF AMERICA

GOVERNMENT OF GRENADA

By: Roy T. Haverkamp
Roy T. Haverkamp

By: Herbert A. Blaize
Herbert A. Blaize

Title: Charge d'Affaires

Title: Prime Minister and
Minister for Home Affairs,
Security, Information,
Finance, Trade, Industrial
Development & Planning

By: William B. Erdahl
William B. Erdahl

By: Keith Mitchell
Keith Mitchell

Title: AID Representative

Title: Minister of Works,
Communications, Public
Utilities, Civil Aviation
and Energy

AMPLIFIED PROJECT DESCRIPTION

I. Project Purpose

The purpose of the project is to improve Grenada's physical infrastructure to a level required to create immediate employment opportunities, encourage foreign exchange inflows, and encourage a long-term flow of private investment.

II. Project Description

The objectives of the Infrastructure Revitalization II Project are: (1) the purchase and installation of a portable asphalt plant to complement a new portable rock-crusher purchased separately; (2) the development of the Frequente Industrial Park; (3) the paving of approximately 18 miles of primary and secondary roads; (4) the procurement and installation of additional generating capacity at the Grenada Electricity Company (GRENLEC); and (5) the procurement of technical assistance and construction services for the operation of the asphalt/crusher plant and the construction of (2) and (3) above.

Portable Asphalt Plant

The project will finance a new portable asphalt plant to replace the existing unit at Mount Hartman and complement the new portable rock-crusher financed under a separate A.I.D. project. These procurements will be supported by a technical assistance contract to install the new units and operate them for a period of one year while training Grenadian personnel to operate the units and the quarry.

2. Frequente Industrial Park

This component proposes to develop the Frequente site as an industrial park to include roads, utilities, fencing, site preparation, and the construction of at least two complete factory shells totalling 20,000 square feet. The development of Frequente must be approached as a phased program. This component will provide for the planned roads and site clearing, and some factory shells for Phase I of the industrial park. Utilities and additional factory shells to be constructed in future phases will be funded under other activities, by other donors, or through loans procured by the Industrial Development Corporation. The estimated cost of this component is \$750,000 of which \$500,000 will be provided by this project. The remaining requirement of \$250,000 is already available for factory shells under the Infrastructure Revitalization Project.

3. Road Paving

This component proposes to complete the paving of major roads in the South-West Quadrant and to link St. George's and Grenville by paving the main road between the two. A discussion of each road segment follows:

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Lance Aux Epines--This road, which is depicted on the map at Annex II, Exhibit F, supports the tourism industry by providing access to four hotels and one of the two marina facilities in Grenada. Access to the Mount Hartman Quarry is via the same road. Repaving of the Lance Aux Epines road will link the above mentioned facilities to the newly resurfaced Airport, Woodlands and Grand Anse Roads. RDO/C Grenada supports this activity because it is necessary given the importance of tourism to Grenada. The road is approximately 2.5 miles in length and it is estimated that the cost of resurfacing will amount to \$190,000.

Morne Rouge--This road, which is depicted on the map at Annex II, Exhibit F, is a logical extension of the resurfacing of the Grand Anse Loop which is being completed as a demonstration project under the Airport Project. The area it serves contains several hotels, a night club, potential hotel sites, and the beach area at Morne Rouge Bay. It is hoped that the completion of this road will encourage investment in that area. The road is .25 miles in length and the cost of resurfacing is \$44,000.

St. George's Selected Road Segments--The condition of the streets in St. George's is generally poor and resurfacing is required to facilitate the movement of traffic and relieve congestion. The paving to be accomplished includes the linkage of the Carenage to the northern side of St. George's and points north and east; the paving of areas within the St. George's Port; and several short streets that provide access within the city. Total resurfacing consists of approximately 1.25 miles at an estimated cost of \$144,000.

St. George's/Grenville Main Road--The St. George's/Grenville Road is in poor condition and requires resurfacing. Portions of the road were to be upgraded under the Infrastructure Revitalization Project, but it is now believed that the entire road needs to be resurfaced. The road is approximately 14 miles in length and the estimated cost of resurfacing is \$1,200,000.

4. Generator(s)

This component will finance the procurement of one to two diesel generator(s) of approximately 1800kw to 3000kw in total capacity. The installed cost of the unit(s) is estimated to be \$1,250,000. The supplier will be responsible for delivery, installation (including foundation work), commissioning, and training of GRENLEC operators. GRENLEC will be responsible for support functions. This turn-key arrangement will eliminate gaps in responsibility and assure that the generator(s) is installed in the shortest possible time. Space for the unit(s) is available at the Queen's Park Power Station.

5. Technical Assistance and Training

Technical assistance is required to install and operate the rock crusher and asphalt plants and to train personnel to assume responsibility for their operation.

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 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.

This component will fund technical assistance for a period of one year to meet this requirement. The technical assistance contract will be combined with the contract for construction services in order to facilitate coordination with the project's construction components and reduce administrative costs. It is estimated that the technical assistance component will require the services of four long term expatriate staff. This team would be responsible for the installation of the equipment; the procurement of quarrying equipment and materials necessary for production; the operation of the quarries, rock-crusher and asphalt plant; the training of Grenadian personnel in all facets of operation; and the development of the operation as a profit-making entity. Both aggregate and asphalt will be sold to both the private sector and donor-financed projects, such as the Eastern Main Road Project and the IBRD farm roads project, at commercial rates. For its part, the GOG will be required to develop the operation as either a private company or an autonomous public sector company with a management contract.

III. Summary Financial Plan

SUMMARY FINANCIAL PLAN

(Costs in US\$000)

<u>PROJECT COMPONENTS</u>	<u>AID</u>	<u>GOG</u>	<u>TOTAL</u>
Asphalt Plant	500	-	500
Road Resurfacing	1,678	200	1,878
Technical Assistance/Materials	1,072	100	1,172
Frequent Development	500	-	500
Generator (1.8-3.0mw)	<u>1,250</u>	<u>-</u>	<u>1,250</u>
<u>PROJECT TOTAL</u>	<u>5,000</u>	<u>300</u>	<u>5,300</u>

- (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 of 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 transaction 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;

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- (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.

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;

- (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 sub-section (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 or aircraft 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 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 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.

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, 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 non-cancellable 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 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 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 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 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. Non-Waiver 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 with A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.