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A.I.D. Loan No. 497-H-020

L O A N A G R E E M E N T

BETWEEN THE

REPUBLIC OF INDONESIA

AND

P.T. PUPUK SRIWIDJAJA

AND THE

UNITED STATES OF AMERICA

46p.

Dated: July 2, 1970

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LOAN AGREEMENT

AGREEMENT, dated the second day of July, 1970 between the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (hereinafter called "A.I.D."), the REPUBLIC OF INDONESIA (hereinafter called the "Borrower") and P.T. PUPUK SRIWIDJAJA (hereinafter called "Pusri").

WHEREAS the Borrower, as part of its agricultural development policy, has undertaken, with the financial assistance of the International Development Association (hereinafter called "I.D.A.") to carry out a study of future domestic fertilizer demand, supply and marketing requirements for fertilizer and incentives to farmers to buy fertilizer in the territories of the Borrower (hereinafter called the "National Fertilizer Study");

WHEREAS the Borrower, in order to increase the supply of fertilizer within its territories, intends to construct a fertilizer plant near Palembang, Sumatra, and a gas conservation and transmission system to supply such plant and has requested assistance for the financing of the foreign exchange cost of such plant and system and related technical services;

WHEREAS the Government of Japan, acting through the Overseas Economic Cooperation Fund, A.I.D., the Asian Development Bank (hereinafter called "A.D.B."), and I.D.A. (hereinafter collectively called the "Lenders") are willing to furnish such assistance to the Borrower in loans of various currencies, in an aggregate principal amount

equivalent to not more than sixty-eight million United States dollars (\$68,000,000), representing the estimated foreign exchange component of the total cost of the above-mentioned construction and technical services;

WHEREAS the construction of the fertilizer plant will be carried out by Pusri, a state enterprise limited by shares ("Persero") established and operating under the laws of the Borrower, and the Borrower will make available to Pusri the funds required for the carrying out of such construction and for related technical services, including the proceeds of the A.I.D. Loan, and the loans of the other Lenders (hereinafter called the "Joint Loans"), in accordance with the terms and conditions of Section 9.1 of this Loan Agreement, the loan and related agreements of the other Lenders (hereinafter called the "Co-Lending-Agreements"), and a financing agreement to be entered into between the Borrower and Pusri (hereinafter called the "Pusri Financing Agreement");

WHEREAS the operation of said fertilizer plant will depend on gas to be supplied by P.N. Pertambangan Minyak dan Gas Bumi Nasional (hereinafter called "Pertamina"), a state enterprise ("Perum") established and operating under the laws of the Borrower, to Pusri, in accordance with a gas purchase agreement to be entered into between Pertamina and Pusri (hereinafter called the "Gas Purchase Agreement") and therefore the construction of the gas conservation and transmission system as well as additional investments required to ensure continued gas supply will

be carried out by Pertamina, and the Borrower will make available or cause to be made available to Pertamina the funds, including proceeds of the Joint Loans required to carry out such construction and additional investments in accordance with the terms and conditions of a subsidiary loan agreement to be entered into between the Borrower and Pertamina (hereinafter called the "Pertamina Subsidiary Loan Agreement");

WHEREAS the Borrower has issued Statements of Intent to all the Lenders in which it has set forth specific steps that it will take to encourage the use of urea fertilizer pursuant to its agricultural development policy, and the steps that it will take to facilitate the distribution and marketing of urea;

NOW THEREFORE in consideration of the premises and the mutual agreements contained herein the parties hereto hereby agree as follows:

ARTICLE I.

The Loan

SECTION 1.1. The Loan. A.I.D. hereby agrees to lend to the Borrower, for the use of and, under Section 9.1 hereunder and the terms and conditions of the Pusri Financing Agreement, to be relent to Pusri pursuant to the Foreign Assistance Act of 1961, as amended, up to twenty million United States dollars (\$20,000,000) to assist in financing the reasonable United States dollar costs of certain goods and services required for Part A of the Project as defined in Section 1.2 and Annex A hereof. Goods and services financed hereunder are hereinafter referred

to as "Eligible Items", and the aggregate amount disbursed hereunder is hereinafter referred to as "Principal."

SECTION 1.2. The Project. As used in this Agreement, the term "Project" shall mean the expansion of Pusri's urea fertilizer production in Palembang, Sumatra, Republic of Indonesia, from the present rated capacity of 100,000 metric tons per annum to 480,000 metric tons per annum capacity by the construction of a new plant at said site to produce 380,000 metric tons of urea per annum, together with engineering consulting and management and marketing training services connected therewith (Part A) for which portion of the Project the proceeds of this Loan will be provided; and the installation of a gas conservation and transmission system in Pertamina's gas fields in Prabumulih, Sumatra, Republic of Indonesia, together with engineering consulting services connected therewith (Part B). Said Project is more specifically defined in Annex A of this Agreement.

ARTICLE II.

Borrower Repayment Terms and Interest

SECTION 2.1. Interest. The Borrower shall pay semi-annually to A.I.D. in United States dollars on the unrepaid Principal, interest which shall accrue from the dates of the respective disbursements hereunder, the first such interest payment to be due and payable no later than six (6) months after the first such disbursement on a date to be specified by A.I.D. Principal and interest due but not paid shall accrue interest

at the maximum rate hereunder until fully paid. Interest shall accrue at the rate of two percent (2%) per annum for ten (10) years after the first disbursement hereunder and at a rate of three percent (3%) per annum thereafter, computed on the basis of a three hundred sixty-five (365) day year. Disbursements hereunder shall be deemed to occur on the date on which payment by A.I.D. is made either directly to the Borrower or its designee or to a banking institution pursuant to a commitment document.

SECTION 2.2. Principal. Borrower shall repay the Principal to A.I.D. in United States dollars within forty (40) years from the date of first disbursement hereunder in sixty-one (61) level semi-annual installments of principal and interest, the first instalment to be due and payable nine and one-half (9 1/2) years after the first interest payment is due.

SECTION 2.3. Application and Place of Payment. All payments shall be applied first to the payment of any interest due and unpaid and then to the repayment of Principal. All payments shall be made to the Controller, United States Agency for International Development (hereinafter called "USAID"), Djakarta, Indonesia, or to such other payee or at such other address as A.I.D. may designate, and shall be deemed to have been paid when there received.

SECTION 2.4. Prepayment. The Borrower shall have the right to prepay, without penalty, on any date on which interest is due, all or

any part of the Principal. Any prepayment shall be applied first to the payment of any accrued and unpaid interest and then to the remaining installments of Principal in the inverse order of their maturity.

ARTICLE III.

Conditions Precedent

SECTION 3.1. Conditions Precedent to the First Disbursement for Eligible Items. Unless A.I.D. otherwise agrees in writing prior to the issuance of the first letter of commitment or other commitment document, the Borrower or Pusri as appropriate, shall furnish A.I.D., in form and substance satisfactory to A.I.D.:

(a) An opinion of the Minister of Justice of the Borrower that this Loan Agreement has been duly authorized or ratified by, and executed on behalf of, the Borrower and is a valid and legally binding obligation of the Borrower in accordance with its terms;

(b) An opinion of the principal legal officer of Pusri, or of other legal counsel satisfactory to A.I.D. and the other Lenders, that this Loan Agreement has been duly authorized or ratified by and executed on behalf of Pusri and is a valid and legally binding obligation of Pusri in accordance with its terms;

(c) The names of the persons who will act as the representatives of the Borrower and Pusri pursuant to Section 10.1 hereof, if other than the persons designated in said section, together with

evidence of their authority and a specimen signature of each such person, certified as to its authenticity by either the persons rendering the legal opinions pursuant to Sections 3.1(a) and 3.1(b) or the persons executing this Loan Agreement;

(d) Executed copies of each of the Co-Lending Agreements of the other Lenders for the Project, together with evidence that all conditions precedent to their effectiveness or the right to make withdrawals thereunder shall have been fulfilled, except any condition precedent which is a reciprocal of this Section 3.1(d);

(e) An executed copy of the Gas Purchase Agreement between Pusri and Pertamina for the supply of gas to Pusri by Pertamina, together with legal opinions of the principal legal officers of Pusri and Pertamina, or of legal counsel satisfactory to A.I.D. and the other Lenders, that the Gas Purchase Agreement has been duly authorized or ratified by, and executed on behalf of, Pusri and Pertamina and is fully effective and binding on said parties thereto in accordance with its terms, subject only to the effectiveness of this Loan Agreement and the other Co-Lending Agreements;

(f) An executed copy of the Pusri Financing Agreement, together with opinions of the Minister of Justice of the Borrower and the principal legal officer of Pusri, or other legal counsel satisfactory to A.I.D. and the other Lenders, that said agreement has been duly authorized or ratified by, and executed and delivered on behalf of,

the parties thereto and constitutes valid and binding obligations of the parties thereto, subject only to the effectiveness of this Loan Agreement and the other Co-Lending Agreements;

(g) Evidence of the arrangements that have been agreed upon by A.I.D., I.D.A. and A.D.B. with the concurrence of Pusri for the procurement by Pusri of Eligible Items;

(h) Evidence that the Borrower shall have retained the services of consultants, acceptable to A.I.D. and the other Lenders, on terms and conditions acceptable to A.I.D. and the other Lenders, for the carrying out of the National Fertilizer Study;

(i) Advice from the I.D.A. and A.D.B. that the procurement of equipment, material and services for Part B of the Project is proceeding satisfactorily.

SECTION 3.2. Conditions Precedent to Each Disbursement for Eligible Items. Unless A.I.D. otherwise agrees in writing, prior to the issuance of any letter of commitment or other commitment document, including the first letter of commitment or other commitment document, Pusri shall furnish A.I.D. as may be appropriate under the procurement arrangements required by Section 3.1(g) herein, copies of all procurement

documents, including invitations for bid, notifications of award and resulting contracts, for the procurement of Eligible Items.

SECTION 3.3. Terminal dates for Fulfillment of Conditions Precedent. Except as A.I.D. may otherwise agree in writing, if the conditions required by Section 3.1 have not been satisfied within 120 days after the execution of this Loan Agreement A.I.D. may at any time thereafter terminate this Agreement by giving notice to the Borrower, Pusri and the other Lenders. Upon such termination, and notwithstanding any other provisions of this Loan Agreement, the Borrower shall repay to A.I.D. the unrepaid Principal, if any, and any accrued interest. Upon full payment in accordance with the foregoing, all other obligations of the Borrower and A.I.D. under this Agreement shall cease. If Pusri is responsible for the failure to satisfy said conditions, then it shall pay to Borrower in Indonesian currency the equivalent, as computed in accordance with Section 9.2 herein of the amount paid to A.I.D. under this Section.

SECTION 3.4. Notification of Meeting of Conditions Precedent. A.I.D. shall notify the Borrower upon its determination that the conditions precedent specified in Sections 3.1 and 3.2 have been met.

ARTICLE IV.

Disbursements

SECTION 4.1. Requests for Letters of Commitment. To obtain disbursements, Pusri may from time to time request A.I.D. to issue, and subject to the provisions of this Loan Agreement A.I.D. shall issue, letters of commitment to one or more banks in the United States designated by Pusri and satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made, through letters of credit or otherwise, to Pusri or any designee of Pusri, pursuant to such documentation or requirements as A.I.D. may specify.

SECTION 4.2. Other Forms of Disbursement. Disbursements may also be made through such other means as the Borrower, Pusri, and A.I.D. may agree in writing.

SECTION 4.3. Terminal Date for Requests for Commitment Documents and for Disbursements. Except as A.I.D. may otherwise agree in writing, no letters of commitment or other commitment documents shall be issued in response to requests received by A.I.D. after June 30, 1975, and no disbursements shall be made against documentation received after December 31, 1975.

ARTICLE V.

Particular Covenants and Warranties Concerning the Project

SECTION 5.1. Borrower's Covenants. The Borrower covenants and agrees that it shall:

(a) Cause Pusri to carry out Part A of the Project in accordance with the terms and conditions of this Loan Agreement, and cause Pusri and Pertamina to carry out their respective parts of the Project in accordance with the Co-Lending Agreements and the Gas Purchase Agreement; and take or cause to be taken all reasonable action which shall be necessary on its part or on the part of its agencies or instrumentalities to enable Pusri and Pertamina to carry out their respective parts of the Project in conformity therewith, and not take or permit any of its agencies or instrumentalities to take any action which would materially interfere with the efficient and business like conduct by Pusri of its enterprise or by Pertamina of its enterprise;

(b) Make available to Pusri in accordance with the terms and conditions of Section 9.1 herein and the Pusri Financing Agreement the proceeds of this Loan and the Joint Loans as may be required to carry out Part A of the Project, together with such Indonesian currency and foreign exchange over and above the proceeds of this Loan and the Joint Loans as may be required to carry out Part A of the Project;

(c) Except as A.I.D. and the other Lenders shall otherwise agree, not take or concur in any action the effect of which would

be to modify the financial obligations of the parties under the Pusri Financing Agreement;

(d) Lend to Pertamina in accordance with the terms and conditions of a Pertamina Subsidiary Loan Agreement such proceeds of the Joint Loans as may be required to carry out Part B of the Project, together with such Indonesian currency and foreign exchange over and above the proceeds of the Joint Loans as may be required to carry out Part B of the Project;

(e) Except as I.D.A. and A.D.D. shall otherwise agree, not take or concur in any action the effect of which would be to modify the financial obligations of the parties under the Pertamina Subsidiary Loan Agreement or any provision thereof;

(f) Cause the National Fertilizer Study to be carried out with due diligence and efficiency and to be completed not later than fifteen months from the date a contract is executed with consultants for the carrying out of the Study. Upon completion thereof the Borrower shall, as soon as practicable, consult with A.I.D. and the other Lenders regarding the findings and recommendations arising from this Study, and shall take such action required to implement such recommendations as shall be agreed upon by the Borrower, A.I.D., and the other Lenders;

(g) Reserve or cause Pertamina to reserve the gas resources required for the supply of gas to Pusri pursuant to the Gas Purchase Agreement;

(h) Promptly as needed, take all measures which may be necessary or desirable to assist Pusri to build up and maintain an effective and economic marketing organization for its fertilizer products and to stimulate the sale of such products at competitive prices in accordance with sound commercial practices. Such measures shall include a rice price support program or other programs which will encourage farmers to make optimum use of nitrogenous fertilizer at such prices, and the provision to Pusri's distributors, in the period preceding completion of the Project, of supplies of imported nitrogenous fertilizer sufficient to enable Pusri to carry out its marketing expansion program;

(i) Consult with A.I.D. and the other Lenders before undertaking or approving the undertaking of any other nitrogenous fertilizer project in its territories.

SECTION 5.2. Pusri's Covenants. Pusri covenants and agrees that it shall:

(a) Carry out Part A of the Project, or cause said Part

to be carried out, with due diligence and efficiency, and in conformity with sound engineering, construction, financial, administrative and management practices;

(b) Submit through I.D.A. all plans, specifications, contracts, schedules, and engineering, construction or procurement arrangements for Part A of the Project, and all modifications thereof, to A.I.D. and the other Lenders, on such terms and conditions as may be required by A.I.D. and the other Lenders for said Lenders' approval prior to their execution or implementation; and carry out said Part, or cause said Part to be carried out in conformity therewith;

(c) Adequately maintain, repair and operate, in accordance with sound commercial practices, all Eligible Items and any construction or facility resulting from their use;

(d) Employ qualified and experienced consultants acceptable to A.I.D. and the other Lenders, upon terms and conditions satisfactory to A.I.D. and the other Lenders, for the purpose of assisting Pusri's management in (i) the carrying out of Part A (1) of the Project (as defined in Annex A herein), (ii) the development of training programs for Pusri's personnel to operate the plant and related facilities included in Part A of the Project, (iii) the packaging and marketing of Pusri's products and (iv) management planning, financial control, accounting and executive staff training at least during the construction, start-up and initial operation of Part A of the Project;

(e) Employ qualified and experienced contractor's acceptable to A.I.D. and the other Lenders, upon terms and conditions satisfactory to A.I.D. and the other Lenders, for the design, procurement and construction of all works included in Part A of the Project and to arrange for training of Pusri's personnel in operating the plant and related facilities included in Part A of the Project;

(f) Except as A.I.D. and the other Lenders shall otherwise agree, duly perform all its obligations under the Pusri Financing Agreement and take no action, or concur in any action which would have the effect of modifying the financial obligations of the parties under the Pusri Financing Agreement;

(g) Take all action within its power to maintain its existence as a limited liability corporation under Indonesian law and maintain its right to carry on its operations, and to retain such land, interest in land and properties, and to acquire, maintain and renew such licenses, powers, franchises and other rights as may be necessary or useful in the carrying out of Part A of the Project or in the conduct of its business;

(h) Except as A.I.D. and the other Lenders shall otherwise agree, not sell, lease, transfer or otherwise dispose of any of its property or assets, except in the normal course of business;

(i) Except as A.I.D. and the other Lenders shall otherwise agree, not acquire or establish any subsidiary. For the purposes of this

paragraph, the term "subsidiary" shall mean an entity of which a majority of the outstanding voting stock shall be owned, or which shall otherwise be effectively controlled, by Pusri or by one or more subsidiaries of Pusri or by Pusri and one or more of its subsidiaries;

(j) Except as A.I.D. and the other Lenders shall otherwise agree, not make expenditures, or commitments for expenditures, for fixed or capital assets (including investments in or loans to other business entities) until such date as on which Pusri's plant included in the Project shall have produced an aggregate of 300,000 metric tons of urea during the 12 month period preceding that date, except:

- (i) expenditures, or commitments for expenditures required for the repair, maintenance or replacement of assets;
- (ii) investment in short term marketable securities solely for the purpose of temporarily employing its idle funds;
- (iii) expenditures, or commitments for expenditures, required for carrying out Part A of the Project;
- (iv) other expenditures; or commitments for expenditures, not exceeding in the aggregate the equivalent of \$500,000 in any fiscal year;

(k) Except as A.I.D. and the other Lenders shall otherwise agree, not incur any indebtedness (other than under Section 9.1 herein

and the Pusri Financing Agreement) if, after the incurring of such indebtedness, the indebtedness of Pusri then incurred and outstanding would be greater than the equity of Pusri. For purposes of this section:

- (i) the term "indebtedness" shall mean all indebtedness incurred by Pusri, including indebtedness assumed or guaranteed by Pusri but excluding short term debt incurred in the ordinary course of its business;
- (ii) indebtedness shall be deemed to be "incurred" under a contract or loan agreement, on the date it is drawn down, pursuant to such contract or loan agreement, and under a guaranty agreement, on the date the agreement providing for such guaranty shall have been entered into;
- (iii) the term "equity" shall mean the aggregate of the unimpaired paid in capital of Pusri and the unallocated surplus in reserves not set apart for any specific purpose;
- (iv) whenever in connection with this section it shall be necessary to value in terms of Indonesian currency debt repayable in a foreign currency, such valuation shall be

made on the basis of the prevailing lawful rate of exchange at which such foreign currency could be obtained by Pusri at the time of such valuation, for the purposes of servicing such debt as required by Section 9.2 herein;

(1) Except as A.I.D. and the other Lenders shall otherwise agree, make accounting arrangements to:

- (i) fully depreciate its present depreciable fixed assets relating to manufacturing operations by the end of 1975, and
- (ii) fully depreciate those depreciable fixed assets to be constructed under Part A of the Project relating to manufacturing operations over a 12 year period starting at the close of the fiscal year during which such assets will have been placed into service, and
- (iii) fully depreciate other depreciable fixed assets in conformity with consistently maintained sound financial principles;

(m) Except as A.I.D. and the other Lenders shall otherwise agree:

- (i) not declare any dividend or make any

distribution with respect to its capital shares except out of its accumulated net earnings;

- (ii) not pay any dividend or make any other distribution with respect to its capital shares (other than dividends or distributions payable solely in such capital shares) or purchase, redeem or otherwise acquire directly or indirectly for any consideration, any of such capital shares if, after giving effect to such action, the quick assets of Pusri (as defined below) would be less than the current liabilities of Pusri (as defined below);
- (iii) not pay any dividend or make any other distribution with respect to its capital shares until such date as on which Pusri's plant included in the Project shall have produced an aggregate of 300,000 metric tons of urea during the 12 month period preceding such date;

For purposes of this section:

- (i) the term "quick assets" shall mean cash, securities readily convertible into cash and trade receivables realizable within one year;

(ii) the term "current liabilities" shall mean liabilities due and payable and all other liabilities which would be due and payable, or could be called for payment, within one year including the portion of long term indebtedness falling due within one year;

(n) Perform its obligations under the Gas Purchase Agreement and, except as A.I.D. and the other Lenders shall otherwise agree, not take, or concur in, any action which would have the effect of amending, abrogating, assigning or waiving the Gas Purchase Agreement or any provision thereof;

(o) Make all reasonable efforts prior to operation of the plant included in Part A of the project and thereafter, to improve its arrangements and facilities for marketing its fertilizer products and to develop and maintain an effective efficient marketing organization.

ARTICLE VI.

General Covenants, Warranties and Agreements

SECTION 6.1. Utilization of Eligible Items. All Eligible Items shall be used exclusively in carrying out and operating the portions of Part A of the Project financed under this Loan. This restriction shall apply only until such time as such goods can no longer be usefully employed for Part A of the Project, provided that no goods financed hereunder shall be exported from the Republic of Indonesia without the

prior written approval of A.I.D., and provided further that no Eligible Items shall at any time be used to promote or assist any project or activity associated with or financed by any country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such projected use except with the prior written consent of A.I.D.

SECTION 6.2. Information and Marking. Pusri shall identify the Project sites and give publicity to the loans of the Lenders, including the A.I.D. Loan, and the Project as a program of assistance from all the Lenders, including A.I.D., and as to goods financed under the A.I.D. Loan, mark said goods as prescribed in A.I.D. Implementation Letters.

SECTION 6.3. Disclosure of Material Facts and Circumstances. The Borrower and Pusri represent and warrant that all facts and circumstances that they have disclosed or caused to be disclosed to A.I.D. in the course of obtaining the Loan provided for herein are accurate and complete, and that they have disclosed to A.I.D., accurately and completely, all facts and circumstances that might materially affect Part A of the Project and the discharge of their obligations under this Loan Agreement. The Borrower and Pusri shall promptly inform A.I.D. of any facts and circumstances that may hereafter arise that might materially affect, or that it is reasonable to believe might materially affect, Part A of the Project or the discharge of the Borrower's or Pusri's obligations, as applicable, under this Loan Agreement, any of the other Co-Lending Agreements, the Pusri Financing Agreement, the Pertamina Subsidiary Loan Agreement or the Gas Purchase Agreement.

SECTION 6.4. Inspections. The authorized representatives of A.I.D. shall have the right at all reasonable times, whether prior to completion of the Project or subsequent thereto, to inspect the Project, the utilization of all Eligible Items, the books and records referred to in Section 6.10, and any other documents, correspondence, memoranda, or records relating to the Loan provided for herein or to the Project. The Borrower and Pusri shall cooperate with A.I.D. to facilitate such inspections and shall afford a reasonable opportunity for authorized representatives of A.I.D. to visit any part of the Republic of Indonesia for any purpose related to the Loan provided for herein.

SECTION 6.5. Taxes and Duties. The Borrower covenants and agrees that this Loan Agreement and the Loan provided for herein shall be free from, and the Principal and interest shall be paid to A.I.D. without deduction for and free from, any taxation or fees imposed under any laws or decrees in effect within the Republic of Indonesia or any such taxes or fees so imposed or payable shall be reimbursed by the Borrower. The importation of any Eligible Items, including the provision of services, shall be free from all import duties, fees and taxes of whatever nature or kind.

SECTION 6.6. Commissions, Fees and Other Payments. The Borrower and Pusri warrant and covenant that in connection with obtaining the Loan provided for herein or taking any action under or with respect to this Loan Agreement they have not paid and will not pay or agree to

pay nor to the best of their knowledge has there been paid or will there be paid or agreed to be paid by any other person or entity, commissions, fees or other payments of any kind, except as regular compensation to the Borrower's or Pusri's or Pertamina's full-time officers and employees or as compensation for bona fide professional, technical or other comparable services. The Borrower and Pusri shall promptly report to A.I.D. any payment or agreement to pay for such bona fide professional, technical, or comparable services to which it is a party or of which it has knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by A.I.D., the party concerned shall cause a reduction satisfactory to A.I.D. to be made therein.

SECTION 6.7. Renegotiation of Terms. The Borrower agrees that, at any time or times when it is requested to do so by A.I.D., but not sooner than six (6) months prior to the date the first repayment of Principal is due, it will negotiate with A.I.D. with respect to acceleration of the repayment of Principal by the Borrower. It is agreed that the Borrower and A.I.D. shall mutually determine to what extent repayment of such Principal should be accelerated on the basis of one or more of the following criteria:

- (a) significant improvement in the internal economic and financial situation of the Republic of Indonesia;
- (b) favorable trends in the balance of payments and foreign exchange holdings of the Republic of Indonesia;

(c) ability of the Republic of Indonesia to make future repayment of A.I.D. loans without interfering with the service of debts owing to any United States Government agency or any international organization of which the United States is a member.

SECTION 6.8. Insurance. Pusri covenants that it will, throughout the life of the loans provided for under Section 9.1 hereunder and the Pusri Financing Agreement maintain prudent insurance coverage issued by responsible underwriters in such amounts and against such risks as is considered to be in accordance with good commercial practice.

SECTION 6.9. Local Sales Agents Commissions and Service Payments. Borrower and Pusri agree that commissions and service payments to local sales agents are not Eligible Items and therefore will not be financed under the Loan, and that said parties will apply such rules and procedures with respect thereto as A.I.D. may prescribe in Implementation Letters.

SECTION 6.10. Maintenance and Audit of Records. Pusri shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating both to Part A of the Project, and to this Loan. Such books and records shall, without limitation, be adequate to show:

- (a) the receipt and use made of Eligible Items;
- (b) the progress of Part A of the Project;
- (c) current data covering operation; and
- (d) financial condition of Pusri.

Such books and records shall be regularly audited by independent certified public accountants, in accordance with sound auditing standards, on an annual basis or for such period and at such intervals as A.I.D. may require, and shall be maintained for five years after the date of the last disbursement by A.I.D. or until all sums due A.I.D. under this Loan Agreement have been paid, whichever date shall first occur.

SECTION 6.11. Reports. The Borrower and Pusri will each furnish A.I.D. with such information and reports relating to the Project, Eligible Items, and the Loan provided for herein as A.I.D. may reasonably request.

ARTICLE VII.

Covenants Concerning Procurement

SECTION 7.1. Procurement Source and Origin. Except as A.I.D. may otherwise agree in writing, all Eligible Items financed under the Loan, including transportation services and marine insurance, shall have both their source and origin in the United States. Transportation services shall be deemed to have their source and origin in the United States if procured from a United States flag carrier. Marine insurance shall be deemed to have its source and origin in the United States if issued in the United States by a company authorized to do a marine insurance business in any state of the United States. All other goods and services not financed under the Loan, except transportation services, obtained for the Project shall have their source and origin in countries included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time

such goods or services are procured. All Eligible Items shall be transported to Indonesia on carriers of countries included in the said Code 935 as in effect at the time such transportation is procured. This covenant shall be construed in accordance with A.I.D. regulations, as from time to time amended.

SECTION 7.2. Date of Procurement. No goods or services may be financed hereunder which arise out of orders or contracts firmly placed or entered into prior to the date of this Loan Agreement.

SECTION 7.3. Port Charges. With respect to transportation services that constitute Eligible Items, A.I.D. will finance under the Loan ninety percent (90%) of all ocean freight costs of each shipment, and ninety-eight percent (98%) of such costs on any shipment under free-out terms. The remaining ten percent (10%), or two percent (2%) of free-out shipments, represent port charges in Indonesia, and Borrower covenants that it shall make available foreign exchange to finance said port charges in accordance with such rules and procedures as A.I.D. may prescribe in Implementation Letters.

SECTION 7.4. Small Business Notification. In order that United States small business shall have the opportunity to participate in furnishing Eligible Items, Pusri shall advertise its requirements for Eligible Items in accordance with such procedures as A.I.D. shall specify in Implementation Letters.

SECTION 7.5. Ocean Shipment. At least fifty percent (50%) of the gross tonnage of all Eligible Items (computed separately for dry bulk carriers, dry cargo liners, and tankers) which shall be transported on ocean vessels shall be transported on privately owned United States flag commercial vessels. No goods may be financed hereunder which are transported on any ocean vessel or aircraft (a) which A.I.D. in a notice to the Borrower and Pusri has designated as ineligible to carry A.I.D. financed commodities or (b) which has been chartered for the carriage of A.I.D. financed commodities unless such charter has been approved in advance by A.I.D.

SECTION 7.6. Discrimination in Marine Insurance. If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, the Republic of Indonesia, by statute, decree, rule or regulations, favors any insurance company of any country over any marine insurance company authorized to do business in any state of the United States, goods financed hereunder shall during the continuance of such discrimination be so insured in the United States with a company or companies authorized to do a marine insurance business in any state of the United States.

SECTION 7.7. Employment of Contract Personnel. The employment of personnel to perform services under contracts financed hereunder, in whole or in part, will be subject to all applicable United States legislation and such requirements, including security clearances and

limitations on the employment of third country nationals, as A.I.D. may from time to time promulgate or specify and, except as A.I.D. may otherwise direct, all such contracts shall include provisions necessary to implement such legislation and requirements.

ARTICLE VIII.

Remedies of A.I.D.

SECTION 8.1. Events of Default; Acceleration. If any one or more of the following events ("Events of Default"), shall occur:

(a), the Borrower shall fail to pay in full any interest payment or installment of principal of this Loan when the same shall become payable by it;

(b) the Borrower and/or Pusri shall fail to comply with any other provision contained herein, or any other Lender has declared that Borrower and/or Pusri have failed to comply with its Co-Lending Agreement;

(c) any representation or warranty made by or on behalf of the Borrower and/or Pusri with respect to obtaining the Loan provided for herein or made or required to be made hereunder is incorrect in any material respect;

(d) any indebtedness or obligation of Pusri for the payment of borrowed money shall have become due and payable and not been paid;

(e) all or any substantial part of Pusri's assets, business or operations (whether now or hereafter existing) shall be condemned, seized or appropriated, or any action by any governmental authority shall be instituted to dissolve or disestablish Pusri or to suspend its operations, or a substantial part thereof;

(f) any franchise, license, right, privilege, or charter, granted pursuant to or existing by virtue of law or other legal authority and necessary for the conduct of Pusri's business, for the completion of Part A of the Project, or for the carrying out of the terms of this Loan Agreement is revoked, cancelled, or denied in such manner as to make it improbable to A.I.D. that Pusri will be able to perform its obligations under this Loan Agreement or any of the Co-Lending Agreements or that the Loan provided for herein, or any of the Joint Loans, will substantially fulfill the purposes for which they have been established;

(g) Pusri shall voluntarily enter into or be subjected involuntarily to any procedure under the laws in effect within the Republic of Indonesia for the relief of a financially distressed debtor which is substantially equivalent to a petition in bankruptcy or the appointment of a receiver for the benefit of creditors; or

(h) an event has occurred which is declared by any other Lender to be a default under its Co-Lending Agreement or like instrument for financing the Project entitling the Lender thereunder to terminate said agreement or instrument or accelerate the repayment of said financing;

then A.I.D., at its option, may declare all or any part of the unrepaid principal under the Loan provided for herein or, if Pusri is in default, any part of the unrepaid principal under the A.I.D. Loan from the Borrower to Pusri pursuant to Section 9.1 herein and the Pusri Financing Agreement, to be due and payable immediately, and upon any such declaration, unless the default may be cured and is cured within sixty (60) days thereafter, such principal and all interest accrued thereon shall become immediately due and payable.

The Borrower, if Pusri is in default, at its option may declare all or any part of the unrepaid principal under the Loan from the Borrower to Pusri pursuant to Section 9.1 hereof and the Pusri Financing Agreement to be due and payable immediately, and upon any such declaration, unless the default may be cured and is cured within sixty (60) days thereafter, such principal and interest accrued thereon shall become due and payable immediately. The Borrower shall not exercise the right set forth in the preceding sentence hereunder without the prior written concurrence of A.I.D.

SECTION 8.2. Termination of Disbursements; Transfer of Goods to A.I.D. In the event that at any time:

(a) an Event of Default has occurred and has not been remedied as provided in Section 8.1 above;

(b) an event occurs that A.I.D. determines to be an extraordinary situation which makes it improbable that the purposes of the Loan provided for herein, or any of the Joint Loans, will be attained or that the Borrower and/or Pusri will be able to or will perform its obligations thereunder; or

(c) any disbursement would be in violation of the legislation governing A.I.D.;

then A.I.D. at its option, after notice to the other Lenders, the Borrower and Pusri, may (i) decline to issue further letters of commitment or other commitment documents, (ii) suspend or cancel outstanding letters of commitment or other commitment documents to the extent that they have not been utilized through the issuance of irrevocable letters of credit or through bank payments made other than under irrevocable letters of credit, giving notice to the Borrower and Pusri thereof, (iii) decline to make disbursements other than under letters of commitment; and (iv) at A.I.D.'s expense, direct that title to goods financed under disbursements hereunder shall be transferred to A.I.D. at cost to Pusri provided that the goods are from a source outside the Republic of Indonesia, are in a deliverable state and have not been off-loaded in ports of entry of the Republic of Indonesia. To the extent that any costs connected with the purchase and transportation of these goods have been financed hereunder, these amounts shall be deducted from Principal.

SECTION 8.3. Refunds. If A.I.D. determines that any disbursement is not supported by valid documentation in accordance with the terms of this Loan Agreement, or is not made or used in accordance with the terms of this Loan Agreement, or was at the time of disbursement in violation of the legislation governing A.I.D., A.I.D., at its option, may, notwithstanding the availability of any other remedy provided for under this Loan Agreement or the exercise of the remedy provided for in Section 8.1, require the Borrower to pay to A.I.D. in United States dollars within thirty (30) days after receipt of a request therefor, an amount not to exceed the amount of such disbursement. If Pusri is responsible for the improper documentation or use of the disbursement, then it shall pay the Borrower in Indonesian currency the equivalent, as computed in accordance with a maintenance of value provision required in the Pusri Financing Agreement by Section 9.1 hereunder, of the amount to be paid to A.I.D. under this Section; provided that such request by A.I.D. shall be made not later than five (5) years after the date of the final disbursement hereunder. Any such refund received by A.I.D. shall be applied first to any accrued interest, and then to installments of Principal in inverse order of their maturity.

SECTION 8.4. Waivers. No delays in exercising or omission to exercise any right, power or remedy accruing to A.I.D. under this Loan Agreement shall be construed as a waiver of any such right, power or remedy.

SECTION 8.5. Expenses of Collection. All reasonable costs incurred by A.I.D. (other than salaries of its staff) after an Event of Default has occurred, in connection with the collection of amounts due under this Loan Agreement, may be charged to the Borrower and reimbursed as A.I.D. shall specify.

ARTICLE IX.

Pusri's Repayment Terms

SECTION 9.1. Pusri Financing Agreement. The Borrower shall make available the proceeds of the Loan and all other proceeds made available for Part A of the Project to Pusri pursuant to such terms and conditions as shall be set forth in the Pusri Financing Agreement which shall be approved by A.I.D. pursuant to Section 3.1(f) herein. Unless A.I.D. agrees otherwise, Borrower and Pusri covenant that:

(a) The first contribution of proceeds to Pusri shall be up to an Indonesian currency equivalent of \$19,300,000 from all proceeds made available for Part A of the Project other than the proceeds of the A.I.D. Loan in the following manner:

(1) A subscription of additional shares of the outstanding capital stock of Pusri in an amount up to an Indonesian currency equivalent of U.S. \$6,100,000;

(2) A class B loan to Pusri in an amount up to an Indonesian currency equivalent of U.S. \$13,200,000.

- (i) Said loan shall carry interest at the rate of 12% per annum on the principal amount outstanding, interest to accrue from May 1, 1974 and payable semi-annually on May 1 and November 1 of each year starting November 1, 1974;
- (ii) The principal amount of said loan shall be repaid by Pusri in 20 equal semi-annual installments commencing May 1, 1977 and ending November 1, 1986;
- (iii) Payment of such portion of the interest, or of the principal and interest, due on any interest payment date as shall exceed the amount by which the quick assets of Pusri shall exceed the current liabilities of Pusri at the close of business of the calendar semester immediately preceding such interest payment date shall be deferred and shall be added to the interest, or interest and principal, due on the next interest payment date, subject to further deferral in accordance with this paragraph;

(iv) For the purposes of paragraph (iii) above the terms "quick assets" and "current liabilities" shall have the same meaning as is set forth in Section 5.2(m) herein provided, however, that any interest on, or principal of, the class B loan due on the next interest payment date following the determination of current liabilities (including any amounts deferred pursuant to paragraph (iii) above) shall not be included among such liabilities.

(b) Thereafter, Borrower shall make a class A loan to Pusri up to an Indonesian currency equivalent of U.S. \$48,200,000 from all proceeds made available for Part A of the Project, including the entire proceeds of the A.I.D. Loan.

(1) Said class A loan shall carry interest at the rate of twelve percent (12%) per annum on the principal amount outstanding from time to time and shall be repaid in 24 approximately equal semi-annual installments commencing on May 1, 1975 and ending on November 1, 1986, on the basis of constant annuities of principal and interest over such period to be determined as soon as the class A loan has been fully withdrawn; provided, however, that the accrued interest to be added to the principal amount of the class A loan which results from disbursements of the proceeds of the A.I.D. Loan shall be in the same amount as if the proceeds of the A.I.D. Loan had been allocated to the

Project in an identical manner with those of the other Lenders, namely, first to equity and the class B loan as set forth in Section 9.1(a) herein, and finally to the class A loan as set forth in this Section.

(2) Payment of interest accrued on the class A loan up to November 1, 1973 will be deferred without interest thereon until such date, and the amount of interest so deferred shall, on that date, be added to the principal amount of the class A loan to be repaid in accordance with paragraph (1) above;

(3) Interest shall be paid semi-annually on May 1 and November 1 of each year, commencing on May 1, 1974;

(4) All payments of interest and principal which relate to the proceeds of the A.I.D. Loan shall be made to the Borrower by Pusri in accordance with Section 9.2 herein;

(5) All payments of interest and principal made to the Borrower by Pusri which relate to the proceeds of the A.I.D. Loan shall be used for the Development Budget of the Borrower or for such other purposes as Borrower and A.I.D. may agree.

SECTION 9.2. Rate of Exchange. With respect to principal repayments and interest payments related to the A.I.D. Loan made to the Borrower by Pusri pursuant to Section 9.1 of this Loan Agreement:

(a) The amount of Indonesian currency equivalent to the United States dollar amount for which payment is due shall be computed on the basis of the rate of exchange prescribed in subsection (c)

of this Section applicable to such payment; provided that in any case where payment is made after the due date for that payment A.I.D. may require that it be computed on the basis of the prescribed rate of exchange existing on the date of payment.

(b) In the event there is no prescribed rate of exchange on the due date for a payment, the amount of Indonesian currency equivalent to the United States dollar amount of the obligation for which payment is due shall be computed and paid on the basis of the prescribed rate of exchange existing on the date nearest preceding the due date for the payment on which such a rate can be ascertained. Within sixty (60) days after the first date after such due date on which a current prescribed rate of exchange can be ascertained, Pusri shall, upon the request of A.I.D., make prompt payment to the Borrower, or the Borrower, upon the request of A.I.D., shall make prompt reimbursement to Pusri of the amount of Indonesian currency required to make the total payment of Indonesian currency equivalent in value to the United States dollar amount of the obligation against which the payment was made, computed on the basis of the prescribed rate of exchange existing on the first date following such due date on which such a rate can be ascertained.

(c) For purposes of this Section, the prescribed rate of exchange between Indonesian currency and United States dollars on any particular date shall be the effective rate of exchange at which

United States dollars are sold or offered for sale on that date in exchange for Indonesian currency to residents of the Republic of Indonesia, exclusive of Government entities, for effecting: (1) the payment of interest and repayment of principal on loans; (2) the transfer of dividends and other forms of earnings on capital investments in the Republic of Indonesia; and (3) the transfer of investment capital; provided that there is only one such rate in the Republic of Indonesia for such transactions; provided that A.I.D. and the Republic of Indonesia may agree in writing on a rate of exchange applicable to this agreement. If there is no written agreement between A.I.D. and the Republic of Indonesia on the rate of exchange applicable to this agreement, and if there is no such single rate of exchange applicable to all of the three categories of transactions referred to in the preceding sentence the applicable rate of exchange on any particular date shall be the highest (i.e., the largest number of units of Indonesian currency per United States dollar) effective rate of exchange at which United States dollars are sold or offered for sale on that date to residents of the Republic of Indonesia, exclusive of Government entities, to effect transactions within any of the three categories referred to in the preceding sentence.

ARTICLE X.

Miscellaneous

SECTION 10.1. Designation of Representatives.

(a) All actions required or permitted to be performed or taken under this Loan Agreement by the Borrower and Pusri or A.I.D. may be performed by their respective duly authorized representatives.

(b) The Borrower hereby designates Mr. Widjojo Nitisastro and Pusri hereby designated H. Hasan Kasim as their respective representatives with authority to designate in writing other representatives in their dealings with A.I.D. The representatives designated in or pursuant to the preceding sentence, unless A.I.D. is given notice otherwise, shall have authority to agree, on behalf of the Borrower and Pusri respectively, to any modification of this Loan Agreement which does not substantially increase their obligations hereunder. Until receipt by A.I.D. of written notice of revocation of the authority of any such representative, A.I.D. may accept the signature of such representative on any instrument as conclusive evidence that any action effected by such instrument is authorized by the party on whose behalf such representative purports to act.

SECTION 10.2. Implementation Letters. A.I.D. shall from time to time issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Loan Agreement.

SECTION 10.3. Communications. Any communication or document given, made or sent by the Borrower or Pusri or A.I.D. pursuant to this Loan Agreement shall be in writing and shall be deemed to have been duly given, made or sent to the party to which it is addressed when it shall be delivered by hand or by mail, telegram, cable or radiogram to such party at its following address:

To the Borrower:

Mail Address:

Ministry of Finance
Post Office Box 21
Djakarta, Indonesia

Cable Address:

Ministry Finance
Djakarta

To Pusri:

Mail Address:

P.T. Pupuk Sriwidjaja
Dj. Sungai Selajur
Post Office Box 084
Palembang, Indonesia

Cable Address:

PUSRI
Palembang (Telex No. 01517)

To A.I.D.:

Mail Address:

United States Agency for International Development
American Embassy
Djakarta, Indonesia

Cable Address:

USAID AMEMB DJAKARTA

Other addresses may be substituted for the above upon giving of notice as provided herein.

All communications and documents submitted to A.I.D. hereunder shall be in English, and all technical and engineering specifications therein shall be in English and in terms of United States standards except as A.I.D. may otherwise agree in writing.

Executed at Djakarta, Indonesia on the date first above written.

UNITED STATES OF AMERICA

_____/s/_____

By: Richard M. Cashin

Title: Director U.S.A.I.D.

THE REPUBLIC OF INDONESIA

_____/s/_____

By: Ismael M. Thajeb

Title: Director General for
Foreign Economic Relations

P.T. PUPUK SRIWIDJAJA

_____/s/_____

By: H. Hasan Kasim

Title: President Director

ANNEX A

Description of the Project .

The Project consists of the following Parts:

Part A.

- (1) The detailed engineering, construction and start-up of a fertilizer plant at Palembang (Sumatra) to manufacture about 380,000 metric tons of urea annually. The Plant's facilities will include:
 - (a) a single train ammonia unit, employing centrifugal compressors, with a daily capacity of about 660 metric tons;
 - (b) a urea unit with a daily capacity of about 1,150 metric tons;
 - (c) a gas scrubbing unit; and
 - (d) the usual off-sites and auxiliaries required to support such plant, including inter alia power and steam generation, shipping facilities and a housing colony.
- (2) Technical services for the purpose of assisting Pusri's management in the carrying out of Part A (1) of the Project, the training of local personnel, the marketing of Pusri's products, and in management planning, financial control, accounting and executive staff training.

(Not to be financed by A.I.D.)

Part B.

- (1) The detailed engineering and construction of a gas conservation system, including inter alia a gas pipeline network of about 110 miles connecting Pertamina's existing wells and four compressor stations producing in the aggregate about 13,000 horse power and a 12-inch gas transmission pipeline of about 65 miles connecting the gas conservation system with Pusri's plant;
- (2) Technical services for the purpose of assisting Pertamina's management in carrying out Part B (1) of the Project, and during start-up and intermittently thereafter for the ensuing two years, in training of local personnel, and in the planning of gas operations, accounting and executive staff training.

Part A (1) and Part B (1) of the Project are expected to be completed by the end of 1973.