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A.I.D. Project No. 398-0287
Project Agreement No. 398-0287.2

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PROJECT GRANT AGREEMENT
BETWEEN
THE GOVERNMENT OF MALAYSIA
AND
THE UNITED STATES OF AMERICA
FOR
ASEAN HUMAN RESOURCES DEVELOPMENT:
ASEAN PLANT QUARANTINE PHASE II PROJECT

Dated: September 25, 1987

Loan and Grant Agreements

FM, LMD (if Loan)

FM/PAFD

FM/CAD

GC/ANE

ANE/Desk

ANE/TR Officer

ANE/PD Officer & File

PPC/GDIE/DI

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PROJECT GRANT AGREEMENT

Dated: September 25, 1987

Between

The Government of Malaysia ("Grantee") on behalf of the Association for Southeast Asian Nations ("ASEAN")

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 support the ASEAN Plant Quarantine Centre and Training Institute (PLANTI) to further improve the quality of basic plant quarantine (PQ) services in the region. Annex I, attached, amplifies the above definition of the Project.

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

Section 2.2. Incremental Nature of Project.

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

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

Article 3: Financing.

Section 3.1. The Grant. To assist the Grantee to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to grant to the Grantee under the terms of this Agreement an amount not to exceed One Million Three Hundred Forty Thousand United States ("U.S.") Dollars (\$1,340,000.00) ("Grant").

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

Section 3.2. Grantee Resources for the Project.

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

(b) The resources provided by Grantee for the Project will be not less than the equivalent of U.S. \$2,120,000.00, including costs borne on an "in-kind" basis.

Section 3.3. Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is June 30, 1992, 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) 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; and

(b) A detailed Project Implementation Plan.

Section 4.2. Additional Disbursement. Prior to disbursement under the Grant, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made:

(a) For the training described in Annex I, the Grantee will furnish to A.I.D., in form and substance satisfactory to A.I.D., a time-phased implementation plan for the activities to be financed;

(b) For the institutional support described in Annex I, the Grantee will furnish to A.I.D., in form and substance satisfactory to A.I.D., a listing of commodities, salaries and operating and maintenance costs to be financed under the Grant, along with a listing of salary and operating cost items to be provided by the Grantee.

Section 4.3. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 4.1 and 4.2 have been met, it will promptly notify the Grantee.

Section 4.4. Terminal Dates for Conditions Precedent. If all of the conditions specified in Sections 4.1 and 4.2 have not been met within 120 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 the Grantee.

Article 5. Special Covenants.

Section 5.1. Project Evaluation. The Parties agree to establish an evaluation plan as part of the Project. Except as the Parties otherwise agree in writing, the plan 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. Grantee Guarantee on Recurrent Costs. The Grantee covenants and agrees to assume or make other arrangements for continued operations of the PLANTI after Project completion. In particular, the Grantee will:

- (a) Prepare an institutional finance plan, showing alternative sources of recurring cost support -- both actual and planned, both during and following the Project period -- and present such plan to A.I.D. not later than June 30, 1990; and

(b) Seek contributions from benefiting ASEAN countries for the travel costs of participants receiving training under the Project.

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 their source and origin in Brunei Darussalam, Indonesia, Philippines, Singapore, Thailand, or the United States ("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 Malaysia ("Local Currency Costs").

Article 7: Disbursement.

Section 7.1. Disbursement for Foreign Exchange Costs.

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

(1) by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services in 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 the Grantee in connection with Letters of Commitment and Letters of Credit will be financed under the Grant unless the Grantee instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Grant.

Section 7.2. Disbursement for Local Currency Costs.

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

(b) The local currency needed for such disbursements may be obtained:

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

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

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

Article 8: Miscellaneous.

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

To the Grantee:

Mail Address: Secretary General
Ministry of Agriculture
Jalan Mahameru,
50624 Kuala Lumpur
Malaysia

Alternate address for cables: TANI, KUALA LUMPUR

To A.I.D.:

Mail Address: AID/ASEAN Regional Development Officer
c/o U.S. Agency for International Development
The American Embassy
Manila, Philippines

Alternate address for cables: USAID/AMEMB MANILA

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

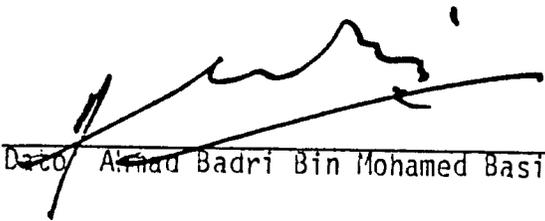
Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the office of the Director of the ASEAN Plant Quarantine Centre and Training Institute and A.I.D. will be represented by the individual holding or acting in the office of the AID/ASEAN Regional Development Officer, attached to the United States A.I.D. Mission to the Philippines, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex I.

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

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

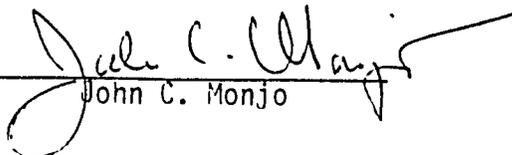
IN WITNESS WHEREOF, the Grantee and the United States of America, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

For and on Behalf of:
GOVERNMENT OF MALAYSIA

By: 
Dato Ahmad Badri Bin Mohamed Basir

Title: Secretary General
Ministry of Agriculture

For and on Behalf of:
UNITED STATES OF AMERICA

By: 
John C. Monjo

Title: Ambassador
United States of America

PROJECT DESCRIPTION

In April of 1987, AID authorized assistance for ASEAN Human Resources Development (HRD). The general purpose of HRD assistance is to increase the human and institutional resource capacities of the ASEAN region in priority development areas, including plant protection and plant quarantine. A part of the HRD assistance is this Phase II Project with the ASEAN Plant Quarantine Center and Training Institute (PLANTI) in Malaysia.

1. Project Purpose. The purpose of the PLANTI Phase II Project is to improve the quality of basic plant quarantine (PQ) services in the region. The Project will strengthen the capacity of PLANTI to -- (i) conduct relevant, practical training and applied research; (ii) further develop as a clearing house for information on PQ issues affecting the ASEAN region; (iii) assist member countries meet the phytosanitary requirements of their commercial partners and thus facilitate international trade; and (iv) assist in the formulation of diagnostic procedures for detecting and identifying exotic pests and diseases and in developing contingency plans for containment and eradication should pest establishment occur.

2. Project Activities. Major activities to be undertaken during the Phase II Project are: (a) Training (U.S. and regional institutions in ASEAN); (b) Technical Assistance for curricula and course development; (c) Institutional Support; and (d) Information Dissemination.

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a. Training. The scope of training to be provided under the Project is expected to be as follows:

1) Master's Degree training for approximately 12 ASEAN participants (6 in the US; 6 in ASEAN institutions) in scientific, PQ-related fields where critical shortages exist.

2) Diploma training (10 months) in basic PQ practices and procedures for an estimated 30 ASEAN PQ officers who hold Bachelor's Degrees in agriculture or the equivalent.

3) Certificate training of 22 weeks in basic PQ practices and procedures for approximately 80 ASEAN PQ officials who do not have B.S. level degrees, but hold diploma or certificate credentials.

4) Short courses of 2-4 weeks on specific PQ subjects for an estimated 800 ASEAN participants. Planned courses include subjects such as (i) fumigation for private and government sectors, (ii) cargo inspection and treatment, (iii) pest detection techniques, (iv) training for trainers, etc.

5) One-month study tours in the US and ASEAN member countries for up to 54 senior ASEAN PQ officials to observe and receive on-the-job training on PQ practices/procedures; and a US observation/study tour for up to four PLANTI staff to observe and learn about recent development in PQ research practices.

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6) Senior fellowships of six months for approximately six ASEAN scientists to conduct in-depth research on selected priority PQ problems.

7) Support for up to 200 ASEAN PQ officers to attend one-week meetings on selected technical subjects.

8) Support for three ASEAN PQ conferences for up to 50 PLANTI and ASEAN PQ experts (150 total) to standardize practices and procedures and exchange ideas for improving PQ services on a region-wide basis, including support for the costs of PLANTI staff and senior ASEAN PQ officials to attend overseas (non-ASEAN) conferences on major PQ issues.

For the above training activities, ASEAN and PLANTI will encourage member countries to nominate women as well as candidates from the private sector for available scholarships; and, where appropriate, to nominate two or more candidates for each available training position. Selection criteria include (i) Bachelor's Degree in agriculture or science, or a Diploma or Certificate in agriculture; (ii) position in PQ enforcement duties; and (iii) position providing technical backstop services. Trainees are initially selected by the PQ chiefs in participating countries. The nominations are then submitted to the head of the department/bureau for further review approval. Nominee names are then forwarded to PLANTI for final processing.

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b. Technical Assistance (TA)

1) Support for approximately 100 person weeks of short-term TA will be provided to assist PLANTI staff in curriculum and course development and to help ASEAN members resolve country-specific technical problems.

2) Support for two person years of longer term TA to provide services of an experienced PQ officer to help augment the practical and applied dimensions of PLANTI training activities.

c. Institutional Support Costs. This category covers commodity, salary and other operational cost items.

1) Commodities will be provided to enhance and expand PLANTI's training, research and information dissemination capabilities. The types of commodities planned are laboratory equipment, reference materials, training and audio visual aids, office equipment and necessary supplies.

2) Support for salary and allowance is to be provided for necessary professional and semi-professional staff but not exceeding the positions eligible for funding under Phase I. These are selected professional and technical support staff.*

*Up to 31 staff members are eligible for Grant-funding. They are expected to include approximately 11 professional staff (director, plant pathologist, entomologist, weed scientist, documentation officer, seed pathologist, nematologist, administrative and procurement officer, plant pathologist, seed technologist, graphic artist) as well as part of the technical support staff (research assistants, laboratory assistants, farm manager, agriculture technician, clerks, stenographer, library assistant).

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3) Selected operating and maintenance costs, including transportation and communication, insurance and maintenance and repair.

d. Information Dissemination. This activity will further strengthen the regional information network initiated during Phase I. Priority concerns are to increase applied research on critical problems and develop greater response capacity among PQ member countries. Print publications will be the primary mode, using PLANTI Pest Data Bulletins and the in-depth coverage sections in the PLANTI Newsletter.

e. ASEAN Country Contributions. Malaysia and participating ASEAN countries are expected to contribute approximately \$2.12 million. Of this amount some \$1.79 is expected to be in the form of cash contribution with some \$330,000 expected as in-kind contributions. Cash contributions include: staff support for non-technical personnel*, and any additional technical support staff; operation and maintenance costs for the PLANTI center (\$1.52 million); construction of an additional wing on the PLANTI administration and training building (\$135,000); and local commodities and office/training supplies (\$135,000). In-kind contributions include the costs of participant salaries while in training and pre-departure costs incurred before commencement of training.

3. Project Budget. The total cost of this Project is estimated at \$6.12 million. As noted, the AID contribution is expected to be \$4.0 million, while that from host country Malaysia and other ASEAN member countries is expected to be \$2.12 million. Based on the above described activities, it is planned that AID and ASEAN country resources will be allocated to the Project as follows:

*Non-technical personnel include typists, drivers, security guards, laborers, etc.

Table A

Life of Project Financial Plan

(US\$000s)

<u>Use of Funds</u>	<u>Source of Funds</u>		
	<u>AID</u>	<u>ASEAN</u>	<u>TOTAL</u>
- Training	\$ 2,100	\$ 330	\$ 2,430
- Technical Assistance	425		425
- Institutional Support			
a. Commodities	200	135	335
b. Construction		135	135
c. Salary Support	1,150	1,420	2,570
d. Other Operating Expenses		100	100
- Info Dissemination	<u>125</u>		<u>125</u>
Total	<u>\$ 4,000</u>	<u>\$2,120</u>	<u>\$6,120</u>

Initial year obligation of US\$1,340,000 for the Project will be allocated approximately as follows:

Table B

<u>Project Component</u>	<u>Amount</u>
Training	\$ 400,000
Technical Assistance	250,000
Institutional Support:	
(a) Commodities	165,000
(b) Staff Support	400,000
(c) Info Dissemination	<u>125,000</u>
	<u>\$1,340,000</u>

As noted in Section 4 of the Agreement, there are Conditions Precedent to the disbursement of AID funds. These pertain to disbursement for training and for institutional support.

Adjustments of A.I.D. funding levels for each project component of up to 20% is permitted without amendment to Section 3 of Annex I, provided that the total A.I.D. financing in Section 3.1 of the Project Agreement is not exceeded.

4. Project Administration

This Phase II Project will be administered by PLANTI at Serdang, Selangor, Malaysia. AID administration will be provided by the AID/ASEAN Regional Office in Manila.

Throughout Project implementation various evaluative and planning documents will be referred to for background and guidance purposes. Principal among such documents are a) Report of the Joint Evaluation of Phase I PLANTI performance dated 12-17 February 1985 and b) the ASEAN Human Resources Project Paper dated March, 1987.

In this connection, the Special Covenants of Section 5 of the Agreement are pertinent administrative considerations. These refer to the need for PLANTI to develop an institutional finance plan by year three of the Project -- in collaboration with appropriate ASEAN, GOM, donor and other entities -- and the commitment to seek increasing contributions from benefitting ASEAN countries for costs such as participant travel.

In this connection, funds to support evaluation and audit services will be made available from the contingency portion of the overall ASEAN HRD Project, the financing of which includes a total planned AID contribution of \$14 Million. It is planned such funds will be made available through obligation with the Asian Institute of Technology, subject to the availability of funds to AID for the purpose.

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ANNEX II
PROJECT GRANT STANDARD PROVISIONS ANNEX

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

Article A: Project Implementation Letters.

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

Article B: General Covenants.

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

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

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

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

Section B.3. Utilization of Goods and Services.

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

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

Section B.4. Taxation - Customs Duties/Excise and Sales Tax.

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

(b) The ASEAN Plant Quarantine Centre and Training Institute (PLANTI) will be exempted from customs duties and sales tax in respect of the importation of all equipment and motor vehicles which are actually needed or required for its official activities or use. Local purchases of such equipment or motor vehicles will be exempted from excise duty and sales tax if orders are placed with the licensed manufacturers and delivery made from bonded warehouses. The Director of the Institute will ensure that a certificate for exemption from duties under this category is extended to the Treasury. A condition of this exemption is that the equipment and motor vehicles are not to be sold or otherwise disposed of except as sanctioned by the Secretary General of the Treasury.

(c) Subject to the conditions enumerated in subparagraph (f), the foreign personnel whose duration of appointment exceeds six months with the Institute will be exempted from the payment of customs/excise duties and sales tax in respect of bona fide personal effects and essential basic household goods brought into or purchased locally within the period of six months from the date of his arrival in Malaysia. For the purpose of facilitating customs clearance of the said personal effects and equipment, a list thereof must be presented to the Director of the Institute.

(d) In addition and also subject to the conditions in subparagraph (f), the foreign personnel as stated earlier is exempted from the payment of customs/excise duties and sales tax in respect of one motor car only brought into Malaysia or purchased locally in Malaysia, provided that:

- (i) such imported motor car has been used by the personnel concerned in his country of origin or the country of last posting; or
- (ii) the motor car is purchased locally within the period of six months from the date of his arrival in Malaysia.

(e) Any foreign personnel desiring to make purchase of duty-free locally manufactured/assembled items must be in the first instance apply for the approval of the Customs through the Director of the Institute. Such purchases are only permitted if orders are placed with the manufacturers and delivery made from bonded warehouses. These purchases are allowed only in the first six months of the personnel's stay in the country.

(f) The exemptions in subparagraphs (c), (d) and (e) are given subject to the following conditions:

- (i) the aforesaid exemptions are given only once irrespective of whether the personnel's assignment in Malaysia is extended beyond the original period of his assignment;
- (ii) each personnel is confined to only one unit or set or a reasonable number of any bona fide personal effects to be imported or purchased locally;
- (iii) the personal effects and household equipment for which the aforesaid exemptions are given, if imported, should be from the country of origin or acquired from any other country while in transit to Malaysia;
- (iv) the personal effects and household equipment or motor car in respect of which the aforesaid exemptions are given will be cleared by and delivered from the Customs upon presentation thereto of a certificate of exemption prepared and duly signed by the Director of the Institute and the Secretary General of the Ministry of Agriculture;
- (v) the Director of the Institute shall maintain a complete record of all the personal effects, household equipment and motor car so cleared and shall make such records available upon request for inspection by the Customs or other appropriate Government authority;
- (vi) the goods of which the aforesaid exemptions are given cannot be sold or otherwise disposed of within a period of 3 months from the date of import, or 6 months from the date of (local) purchase provided that in the case

of a motor car if sold or otherwise disposed of shall be subject to the normal duties at the rate in force on the date the exemption was given and on the value at the time of disposal.

B.4.1.

(a) PLANTI will be exempted from income tax on all income arising to it.

(b) The foreign personnel of the Institute who are residents of Malaysia during the basic year for the year of assessment solely for the purpose of serving with the Institute, will be exempted from income tax in respect of their official emoluments but the Government of Malaysia shall retain the right to take the emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

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

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

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

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

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

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

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

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

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

Article C: Procurement Provisions.

Section C.1. Special Rules.

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

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

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

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

Section C.2. Eligibility Date. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts finally 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; and

(2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services, which, though not financed under the Grant, are deemed by A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this subsection (a)(2) will be identified in Project Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Grant will be approved by A.I.D. in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Grant for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Project Implementation Letters, will be approved by A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution; and

(d) Consulting firms used by the Grantee for the Project but not financed under the Grant, the scope of their services and such of their personnel assigned to the Project as A.I.D. may specify, and construction contractors used by the Grantee for the Project but not financed under the Grant, shall be acceptable to A.I.D.

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

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

Section C.6. Shipping.

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

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

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

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

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

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

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

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

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

Article D: Termination; Remedies.

Section D.1. Termination. Either Party may terminate this Agreement by giving the other Party 30 days written notice. Termination of this Agreement will terminate any obligations of the Parties to provide financial or other resources to the Project pursuant to this Agreement, except for payment which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the termination of this Agreement. In addition, upon such termination A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Grantee's country, are in a deliverable state and have not been off-loaded in ports of entry of Grantee's country.

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Section D.2. Refunds.

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

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

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

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

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

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

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