



PD-AAA-990
60216
U.S. ECONOMIC ASSISTANCE PROGRAM IN EGYPT

A.I.D. Project Number 263-0140

Component No. 263-0140.04

Point of Contact Grant Agreements

FM/LMD (if Loan)

FM/PAFD

FM/CAD

GC/ANE

ANE/Desk

ANE/TR Officer

ANE/TD Officer & File

PPC/CDIE/DI

SUBGRANT AGREEMENT

BETWEEN

THE ARAB REPUBLIC OF EGYPT

AND THE

UNITED STATES OF AMERICA

FOR

ENERGY MANPOWER DEVELOPMENT

SCIENCE AND TECHNOLOGY

FOR DEVELOPMENT PROJECT

Dated: SEP 27 1988

**CONFORMED
COPY**

Table of Contents

Subproject Agreement

	<u>Page</u>
Article 1: The Subgrant Agreement	2
Article 2: The Subproject	2
SECTION 2.1. Definition of Subproject	2
SECTION 2.2. Incremental Nature of Subproject	2
Article 3: Financing	3
SECTION 3.1. The Subgrant	3
SECTION 3.2. Grantee Resources for the Subproject	3
SECTION 3.3. Subproject Assistance Completion Date	4
Article 4: Requirements Precedent to Disbursement	4
SECTION 4.1. First Disbursement	4
SECTION 4.2. Notification	5
SECTION 4.3. Terminal Dates for Conditions Precedent	5
Article 5: Special Covenants	5
SECTION 5.1. Subproject Evaluation	5
SECTION 5.2. Availability of Data	6
SECTION 5.3. Logistic Support	6
SECTION 5.4. Counterpart Contributions	6
SECTION 5.5. Salary Supplements	6
SECTION 5.6. Ratification	6
Article 6: Procurement Source	7
SECTION 6.1. Foreign Exchange Costs	7
SECTION 6.2. Local Currency Costs	7
Article 7: Disbursement	7
SECTION 7.1. Disbursement for Foreign Exchange Costs	7
SECTION 7.2. Disbursement for Local Currency Costs	8
SECTION 7.3. Other Forms of Disbursement	9
SECTION 7.4. Rate of Exchange	9

Table of Contents (continued)
Subproject Agreement

Article 8: Miscellaneous	9
SECTION 8.1. Communications	9
SECTION 8.2. Representatives	10
SECTION 8.3. Language of the Agreement	11
SECTION 8.4. Standard Provisions Annex	11

Annex 1

PROJECT DESCRIPTION

Annex 2

PROJECT GRANT STANDARD PROVISIONS

Table of Contents

Project Grant Standard Provisions Annex

	<u>Page</u>
Article A: Project Implementation Letters	1
Article B: General Covenants	1
SECTION B.1. Consultation	1
SECTION B.2. Execution of Project	1
SECTION B.3. Utilization of Goods and Services	2
SECTION B.4. Taxation	2
SECTION B.5. Reports, Records, Inspections, Audit	2
SECTION B.6. Completeness of Information	3
SECTION B.7. Other Payments	3
SECTION B.8. Information and Marking	3
Article C: Procurement Provisions	3
SECTION C.1. Special Rules	3
SECTION C.2. Eligibility Date	4
SECTION C.3. Plans, Specifications, & Contracts	4
SECTION C.4. Reasonable Price	5
SECTION C.5. Notification to Potential Suppliers	5
SECTION C.6. Shipping	5
SECTION C.7. Insurance	6
SECTION C.8. U.S. Government-Owned Excess Property	7
Article D: Termination; Remedies	7
SECTION D.1. Termination	7
SECTION D.2. Refunds	8
SECTION D.3. Nonwaiver of Remedies	8
SECTION D.4. Assignment	9

A.I.D. Project No. 263-0140
Component No. 263-0140.04

Subgrant Agreement

Dated SEP 27 1988

Between

The Arab Republic of Egypt ("Grantee")

And

The United States of America, acting through the
Agency for International Development ("A.I.D.").

WHEREAS, the Arab Republic of Egypt ("Grantee") and the United States of America, acting through the Agency for International Development ("A.I.D.") are Parties to a Grant Agreement (the "Grant Agreement") dated March 31, 1986 for Science and Technology in Development; and

WHEREAS, that Grant Agreement envisioned the development by the Parties of substantive components for subsequent mutual agreement and funding by the Parties; and

WHEREAS, funding for the Energy Manpower Development Component is provided by the Second Amendment to the Grant Agreement, being executed concurrently with this component-specific Subgrant Agreement (the "Subgrant Agreement"); and

WHEREAS, the Parties wish by this Subgrant Agreement to record mutually agreed details concerning the Energy Manpower Development Component (the "Subproject" or the "Component");

NOW, THEREFORE, the Parties hereby record their agreement as follows:

Article 1: The Subgrant Agreement

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

Article 2: The Subproject

SECTION 2.1. Definition of Subproject. The Subproject, which is further described in Annex 1, consists of assistance toward improvement of Egyptian technical and managerial capabilities in the petroleum and electricity sectors through a manpower development program.

Annex 1, attached, amplifies the above definition of the Subproject. Within the limits of the above definition of the Subproject, elements of the amplified description stated in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2., without formal amendment of this Subgrant Agreement.

SECTION 2.2. Incremental Nature of Subproject.

(a) A.I.D.'s contribution to the subproject will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Subgrant 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 Subproject Assistance Completion Date stated in this Subgrant Agreement, A.I.D., based upon consultation with the Grantee, may specify in Subproject 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 Subgrant. To assist the Grantee to meet the costs of carrying out the Subproject, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees by the Second Amendment to the Grant Agreement to grant the Grantee, under the terms of this Subgrant Agreement, not to exceed Five Million United States ("U.S.") Dollars (\$5,000,000) ("Subgrant"). Subject to the conditions stated in Section 2.2. above, it is expected that an additional Three Million Six Hundred Thousand U.S. Dollars (\$3,600,000) will later be made available from A.I.D. Grant funds for the Energy Manpower Development Component.

Subgrant proceeds 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 Subproject.

SECTION 3.2. Grantee Resources for the Subproject.

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

(b) The resources provided by Grantee for the Subproject will be not less than Four Million Nine Hundred Thousand Egyptian Pounds (LE 4,900,000), including costs borne on an "in-kind" basis.

SECTION 3.3. Subproject Assistance Completion Date.

(a) The "Subproject Assistance Completion Date" (SACD), which is September 30, 1994, 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 Subgrant will have been performed and all goods financed under the Subgrant will have been furnished for the Subproject 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 SACD or for goods furnished for the Subproject, as contemplated in this Agreement, subsequent to the SACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Subproject 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 SACD, 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 Subgrant (and of the Grant itself) by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Subproject Implementation Letters, were not received before the expiration of said period.

Article 4: Requirement Precedent to Disbursement.

SECTION 4.1. First Disbursement. Prior to any disbursement or to the issuance by A.I.D. of any commitment documents under this Subproject Agreement, the Grantee shall, except as the Parties may otherwise agree

in writing, furnish to A.I.D., in satisfactory form and substance, a statement of the names and titles of the persons authorized pursuant to Section 8.2 to act as additional representatives of the Grantee for purposes of this Subproject, together with a specimen signature of each person specified in such statement.

SECTION 4.2. Notification. When A.I.D. has determined that the Requirement Precedent specified above have been met, it will promptly notify the Grantee.

SECTION 4.3. Terminal Dates for Requirements Precedent. If the requirement specified in Section 4.1 has not been met within ninety (90) days from the date of this Subgrant Agreement, or by such later dates as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Subgrant Agreement (and, to that extent, the broader Grant Agreement) by written notice to Grantee.

Article 5: Special Covenants.

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

(a) evaluation of progress toward attainment of the objectives of the Subproject;

(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 Subproject.

Subproject evaluation arrangements will be carried in a manner compatible with evaluation arrangements for the broader Science and Technology for Development Project.

SECTION 5.2. Availability of Data. The Grantee will ensure that energy institutions in the petroleum and electricity sectors, participating in the Energy Manpower Development Component, will provide manpower data for establishing a computerized database for manpower development and planning activities.

SECTION 5.3. Logistic Support. The Grantee will provide, on a timely basis, all local logistic support as may be required to ensure effective use of Component-financed goods and services.

SECTION 5.4. Counterpart Contribution. The Grantee will provide to A.I.D. the details of its counterpart contribution to the Component on a timely basis.

SECTION 5.5. Salary Supplements. Neither A.I.D. funds, nor funds derived from the Special Account generated under the Commodity Import Program, nor L.E. generated under this Project, will be used to pay salary supplements under the Component except pursuant to mutually agreeable criteria.

SECTION 5.6. Ratification. The Grantee will take all necessary action to complete all legal procedures, if any, necessary to ratification of this Subgrant Agreement and will notify A.I.D. as promptly as possible of the fact of such ratification.

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 Subproject having their source and origin in the United States (Code 000 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services) ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Grant Standard Provisions Annex, Section C.1(b) with respect to marine insurance.

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 Subproject having their source and, except as the parties may otherwise agree in writing, their origin in Egypt ("Local Currency Costs").

Article 7: Disbursement

SECTION 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of Requirements Precedent, the Grantee may obtain disbursements of funds under the Subgrant for the Foreign Exchange Costs of goods or services required for the Subproject 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 Subproject Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services on Grantee's behalf for the Subproject; or,

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

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

SECTION 7.2 Disbursement for Local Currency Costs.

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

(b) The local currency needed for such disbursements may be obtained by acquisition by A.I.D. with U.S. dollars by purchase. The U.S. dollar equivalent of the local currency made available hereunder will be the amount of U.S. dollars required by A.I.D. to obtain the local currency.

SECTION 7.3. Other Forms of Disbursement. Disbursements of the Subgrant 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 Subgrant are introduced into Egypt 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 funds may be converted into currency of the Arab Republic of Egypt at the highest rate of exchange prevailing and declared for foreign exchange currency by the competent authorities of the Arab Republic of Egypt.

Article 8: Miscellaneous

SECTION 8.1. Communications. Any notice, request, document, or other communication submitted by A.I.D. or the Grantee 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:

Ministry for International Cooperation
8 Adly Street
7th Floor
Cairo, Egypt

To A.I.D.:

A.I.D.
U.S. Embassy
Cairo, Egypt

To the Implementing Organizations:

- (1) Egyptian General Petroleum Corporation
Osman Abdel Hafiz Street
Nasr City
Cairo, Egypt
- (2) Egyptian Electrical Authority
Nasr City, Abbassia
Cairo, Egypt
- (3) Electrical Distribution Authority
Mosa Abu Nosair Street
Nasr City
Cairo, Egypt

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 Subgrant Agreement, the Grantee will be represented by (a) the Minister of State for International Cooperation; and (b) the Administrator of the Department for Economic Cooperation with U.S.A. In addition, for activities related to the Egyptian General Petroleum Corporation, the Grantee will be represented by the Minister of Petroleum and Mineral

Wealth; and for activities related to the Egyptian Electrical Authority or the Electrical Distribution Authority, the Grantee will be represented by the Minister of Electricity and Energy. A.I.D. will be represented by the individual holding or acting in the office of Director, A.I.D. Mission to Egypt. Each of those representatives, by written notice, may designate additional representatives, as appropriate, for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex 1. The names of such additional representatives of the Grantee, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

SECTION 8.3. Language or Subgrant Agreement. This Agreement is prepared in both English and Arabic. In the event of ambiguity or conflict between the two versions, the English language version shall control.

SECTION 8.4. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex 2) is attached to and forms part of this Subgrant Agreement. It is understood that references in that Annex to "the Project" and "the Grant" refer equally to this Subproject and Subgrant.

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

ARAB REPUBLIC OF EGYPT

BY : M. W. Makramallah

NAME : Dr. Maurice Makramallah

TITLE: Minister of State for International Cooperation

BY : Ahmad Abdel Salam

NAME : Mr. Ahmad Abdel Salam Zaki

TITLE: Administrator of the Department for Economic Cooperation with U.S.A.

UNITED STATES OF AMERICA

BY : Frank G. Wisner

NAME : Frank G. Wisner

TITLE: American Ambassador

BY: Marshall D. Brown

NAME: Marshall D. Brown

TITLE: Director, USAID/Egypt

Implementing Organizations

In acknowledgement of the foregoing Agreement, the following Ministers, on behalf of the respective implementing organizations, have subscribed their names:

BY : 

NAME : Abdel Hadi Mohamed Kandil

TITLE: Minister of Petroleum and
Mineral Wealth

BY : 

NAME : Maher Osman Abaza

TITLE: Minister of Electricity
and Energy

ANNEX I

Energy Manpower Development (EMD)

Subproject Design

(AID Subproject No. 263-0140.04)

1. Subproject Purpose:

The subproject purpose is to improve the technical and managerial capabilities of the petroleum and electricity sectors through a manpower development program.

2. Subproject Description:

To achieve its purpose, the EMD subproject will fund during its estimated six year life of subproject an integrated program directed toward specific production objectives set by the Egyptian General Petroleum Corporation (EGPC), the Egyptian Electricity Authority (EEA) and the Electricity Distribution Authority (EDA). The subproject is divided into two interrelated components -- capacity building and manpower planning and development systems. These two components will be started in parallel.

a. Capacity Building:

This component addresses an immediate need to improve technical and management skills in the petroleum and electricity industries based on manpower development plans to improve job performance and increase production. The

14

component consists of three elements: (1) a focused technical and management training program; (2) training of trainers; and (3) upgrading training facilities.

(1) Focused technical training program:

Training in specialized technical and management disciplines will take place in Egypt in the training centers of EGPC and EEA. Training will be practical directly related to improving job performance and oriented toward career development. Approximately 77 courses (42 for petroleum and 35 for electricity) will be offered in sequences or modules that build on prior skills, experience and training. In the petroleum sector, the focus will be primarily on technical courses. In the electricity sector, the focus will be on utility management. Approximately 1,600 participants (850 in the petroleum sector and 750 in the electricity sector) will receive training in Egypt. The subproject will also provide highly specialized training in the U.S. for approximately 110 selected participants (69 for petroleum and 41 for electricity). Training could be academic, industrial or on-the-job.

(2) Training of trainers:

Egyptian trainers will be trained in instructional methods and technical disciplines. Approximately 50 instructors (30 for the petroleum sector and 20 in the electricity sector) will be selected from appropriate technical departments for special training in instructional methods to upgrade their teaching skills. After participating with U.S. instructors in several course presentations, the Egyptian instructors will take over the full training responsibilities in Egypt.

(3) Improving training facilities:

This activity will improve the capability of three-to-five selected training centers to conduct industry-wide training in Egypt. Several existing training centers, such as the El Manar Training Center for petroleum exploration and

production, the new Suez refinery training center, the Ras Ghareb drilling training center, and the Shoubra El Kheima training center for electricity generation could serve as sites for most of the training courses. The subproject will provide technical assistance for improving the management and organization of these facilities. It will also provide training commodities, including training and laboratory equipment, personal computers, software, textbooks, and other training aids to upgrade the facilities.

b. Manpower Planning and Development Systems:

This component will introduce manpower planning and development systems at the three implementing agencies; the Egyptian General Petroleum Corporation (EGPC); the Egyptian Electricity Authority (EEA) and the Electrical Distribution Authority (EDA). It will adapt, design and use human resource and career development systems for manpower planning. Services will include assistance in: preparing methods for and conducting annual training needs assessments; refining and updating training plans; and designing and installing a manpower development and training database establishing a training information network between EGPC, EEA and their respective training institutes. Two companies under EGPC (the General Petroleum Company [GPC] and Cairo Petroleum Refinery [CPR]) were selected and one electrical company will be selected during the second subproject year, to apply and test the manpower development systems on a pilot basis.

3. Subproject Implementation:

The chairmen of EGPC, EEA and EDA will each assign one senior-level subproject manager responsible for day-to-day management of the subproject activities. Their responsibilities will include: directing the subproject components; coordinating the various training activities; and selecting and nominating participants for in-country and U.S. training.

Each of the Egyptian training centers will also nominate a technical manager who will be responsible for:

1. Arranging for the various training courses.
2. Participating in selecting instructors and trainers.
3. Implementing the courses and training modules with the Technical Services Contractor.
4. Participating in monitoring and evaluating the training component.

4. Procurement Services:

Subproject goods and services will be procured by AID. AID will contract the services of:

- a. A joint U.S.-Egyptian consulting firm as a Technical Services Contractor (TSC) to assist the participating agencies in implementing this subproject. His responsibilities are to assist in: (1) providing technical services to the implementing agencies, pilot companies and training centers; (2) conducting in-country training; (3) arranging for U.S. training; (4) upgrading the training centers; (5) monitoring the assessment of the training; and (6) procuring the training commodities. In order to proceed quickly with subproject implementation, AID will use the services, on an interim basis, of a contractor who was competitively selected during the original Agreement, in order to start training and finalize the training plans at EGPC, EEA and EDA.
- b. AID will also contract for monitoring and for interim and final subproject evaluations.

5. Financial Plan:

Tables 1 and 2 summarize the illustrative financial plan for AID's and the Ministries of Electricity and Petroleum's contributions. Subproject financing involves an initial obligation of \$5 million in AID funds, and subsequent obligations totalling an additional \$3.0 million for subsequent years. The

subproject will help finance the foreign exchange and local currency costs of goods and services required for the subproject.

The funding split between the Ministries of Electricity and Petroleum was made on the basis of the number of courses to be offered, and the number of participants and training centers to be upgraded. In subsequent obligations, AID and the Ministry of International Cooperation will review the funding split on the basis of the number of courses actually offered, the number of planned courses to be funded and the number of participants who actually attended training courses. If one ministry does not use the funds and/or did not meet their training targets, the remaining funds from one ministry may be transferred to the other.

AID will fund technical services, training and commodities, local instructor fees, evaluation, monitoring and audit services.

The GOE, represented by the Ministries of Electricity and Petroleum, will fund the basic salaries of: a) implementing agencies and companies participating in this subproject; b) the salaries of the teaching instructors belonging to the implementing agencies; and c) participants' salaries while in training. The GOE will also make use of training facilities for classrooms and workshops international airtare, local travel and per diem of participants, and normal operating costs, including customs clearance and duties.

In order to provide flexibility in subproject implementation, funds may be adjusted between sub-line item categories by AID for an amount not to exceed 15% of any individual sub-line item.

Illustrative Budget

Table 1
AID Contribution
\$(000)

	Ministry of Petroleum			Ministry of Electricity			Total AID Contribution		
	FX	LC	Total	FX	LC	Total	FX	LC	Total
Manpower Support									
- Technical Services	850	250	1,100	550	175	725	1,400	425	1,825
- Training	1,350	50	1,400	950	25	975	2,300	75	2,375
- Commodities	450	50	500	250	50	300	700	100	800
	-----	-----	-----	-----	-----	-----	-----	-----	-----
TOTAL Manpower Support	2,650	350	3,000	1,750	250	2,000	4,400	600	5,000

Table 2
GOE Contribution (Life of Project)
LE(000)

	Ministry of Petroleum			Ministry of Electricity			Total AID Contribution		
	In Kind	Cash	Total	In Kind	Cash	Total	In Kind	Cash	Total
1. Technical Services	150	-	150	100	-	100	250	-	250
2. Training	1,700	515	2,215	1,550	300	1,850	3,250	815	4,065
3. Commodities	250	85	335	200	50	250	450	135	585
	-----	-----	-----	-----	-----	-----	-----	-----	-----
Total	2,100	600	2,700	1,850	350	2,200	3,950	950	4,900

Project Grant StandardProvisions Annex

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

Article A: Project Implementation Letters.

To assist Grantee in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex 1.

Article B: General Covenants

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

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

- (a) carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial and management practices, and in conformity with those documents, plans, specifications, contracts, schedules or other arrangements, and with any modifications therein, approved by A.I.D. pursuant to this Agreement; and
- (b) provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

SECTION B.3 Utilization of Goods and Services.

- (a) Any resources financed under the Grant will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.
- (b) Goods or services financed under the Grant, except as A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

SECTION B.4 Taxation.

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

SECTION B.5. Reports, Records, Inspections, Audit.

The Grantee will:

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

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

SECTION B.6. Completeness of Information.

The Grantee confirms:

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

JK

- (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 (and their personal effects) will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

SECTION C.2 Eligibility Date

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

SECTION C.3 Plans, Specifications and Contracts.

In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

- (a) The Grantee will furnish to A.I.D. on preparation,
 - (1) any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Grant, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished A.I.D. on preparation;
 - (2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services which, though not financed under the Grant, are deemed by A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this 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

(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.

25-

(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 payments which they are committed to make pursuant to non-cancellable commitments entered into with third parties prior to the termination of this Agreement. In addition, upon such termination A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Guarantee's country, are in a deliverable state and have not been offloaded in ports of entry of Guarantee's country.

SECTION D.2. Refunds

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

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement,

A.I.D. may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. Dollars to A.I.D. written 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 refund under subsection (a) or (b); or (2) any refund to A.I.D. from a contractor, supplier, bank or other third party with respect to goods or services financed under the Grant, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will: (A) be made available first for the cost of goods and services required for the Project, to the extent justified; and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

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

SECTION D.3. Nonwaiver of Remedies.

No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

SECTION D.4. Assignment.

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