

**No. 14975**

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**UNITED STATES OF AMERICA  
and  
ISRAEL**

**Joint Agreement for the design, construction, testing and  
operation of a large-scale prototype desalting plant in  
Israel. Signed at Washington on 27 June 1975**

*Authentic text: English.*

*Registered by the United States of America on 19 August 1976.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
ISRAËL**

**Accord relatif à l'étude, la construction, l'essai et l'exploita-  
tion d'une grande usine prototype de dessalement de  
l'eau en Israël. Signé à Washington le 27 juin 1975**

*Texte authentique : anglais.*

*Enregistré par les États-Unis d'Amérique le 19 août 1976.*

JOINT AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF ISRAEL  
AND THE GOVERNMENT OF THE UNITED STATES OF  
AMERICA FOR THE DESIGN, CONSTRUCTION, TESTING AND  
OPERATION OF A LARGE-SCALE PROTOTYPE DESALTING  
PLANT IN ISRAEL

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AGREEMENT, dated June 27, 1975, the 18th day of Tammuz 5735, between the GOVERNMENT OF ISRAEL ("Israel"), acting through and represented by the NATIONAL COUNCIL FOR RESEARCH AND DEVELOPMENT, and the GOVERNMENT OF THE UNITED STATES OF AMERICA ("United States"), acting through and represented by the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

As parties to this Agreement, Israel and the United States do hereby agree as follows:

*Article I. PURPOSES OF THIS AGREEMENT*

*Section 1.01. PURPOSES.* The parties seek to promote the following common purposes:

- (a) To improve existing technology, to develop and advance new technology, and to gain experience and the design and construction of large-scale desalting plants of advanced concepts, so as to contribute materially to low-cost desalination in all countries;
- (b) To deepen and extend cooperative working relations and to facilitate the exchange of desalting and related technology between the technical and scientific communities in the two countries; and
- (c) To make feasible through improvements in technology the large-scale production of desalted water for use in arid and semi-arid areas of the two countries.

*Article II. THE PROJECT*

*Section 2.01. THE PROJECT.* (a) The parties undertake to carry out the "Project", which throughout this agreement shall be understood as including each of the following elements:

1. The development of conceptual and detailed designs for a prototype desalting plant with a production capacity of approximately 10 million gallons per day, to be constructed at Ashdod, Israel, including various collateral tests;
2. The design, construction and operation at Ashdod of a seven-effect intermediate test module for subsequent incorporation into the prototype plant;
3. Construction of the prototype plant at Ashdod;
4. Operation and maintenance of the prototype plant for a period to be mutually agreed upon, but not to exceed five years following the completion of construction; and
5. Evaluation and reporting of data and results achieved in the construction and operation of the prototype plant to determine the technological and cost feasibility of constructing and operating larger-scale desalting plants which shall meet the respective needs of the parties in the next decade.

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<sup>1</sup> Came into force on 27 June 1975 by signature.

(b) The Project shall utilize the “IDE Process” as that process is described in the *Proposal for a Prototype Plant in Israel*, published by the State of Israel, Prime Minister’s Office, February 1971, and in supplementary materials supplied from time to time since 1971 by Israel to the United States.

(c) By means of the intermediate test module the parties expect to test and verify the design characteristics of the prototype plant. The number of effects in the intermediate test module may be modified by subsequent agreement of the parties in writing.

**Section 2.02. PROJECT ORGANIZATION AND MANAGEMENT.** (a) Israel shall act as owner in the Project and shall secure and retain title to the physical plant and its appurtenances.

(b) Israel shall select as general contractor and shall enter into a contract with a firm having the capacity and experience to use the IDE Process successfully. The United States shall review and approve the selection and the terms of the contract.

(c) Israel shall select a person or entity to act as Project Manager for the Project. The United States shall review and approve the selection and the terms of the contract. With each other’s consent, the parties shall appoint technical experts to serve on the staff of the Project Manager. The Project Manager and his staff shall have full and free access to the one million gallon per day desalting plant at Elat, Israel, as well as to any contributions to the Project by Israel under Section 3.02 (b).

(d) *Annual Report on Technology.* The Project Manager shall prepare and deliver to the parties on an annual basis a report containing a description of the technology developed under the Project as of the date of the report. The form and content of such report shall be mutually agreed upon by the parties.

(e) *Annual Project Budget.* No later than January 1 of each calendar year, a project budget shall be prepared by the Project Manager and submitted to the two parties for their review and approval. Among other things, such budget shall provide a basis for allocating the contributions of the parties to specific procurement activities.

### *Article III. CONTRIBUTION OF RESOURCES TO THE PROJECT*

**Section 3.01. CONTRIBUTIONS BY THE UNITED STATES.** The United States will contribute the following resources to the Project:

- (a) Financial assistance on a grant basis for items relating to the Project and eligible for A.I.D. financing in an amount which shall not exceed either fifty per centum (50%) of the total capital costs of the facilities associated with the production of water, and fifty per centum (50%) of the operation and maintenance costs for the operating demonstration period, or twenty million United States dollars (\$20,000,000), whichever is less; and
- (b) Technical and administrative expertise to be made available through appointments to the staff of the Project Manager, as described in Subsection 2.02(c), through review and approval functions which the United States shall exercise, and through continuing discussions and communications with Israel and its designees, so as to monitor implementation of the Project and thereby to assist in the realization of the purposes of the Project. The contribution described in this subsection shall not serve to increase total financial assistance set forth in the foregoing subsection.

**Section 3.02. CONTRIBUTIONS BY ISRAEL.** Israel will contribute the following to the Project:

- (a) The use of land and the existing power plant and related facilities at Ashdod, Israel;
- (b) The use of all designs, drawings, uses, processes, licenses, patents (subject, process and background), specifications, developments and information as may be required to utilize the IDE Process for the Project;
- (c) A financial grant contribution (estimated at approximately \$35,000,000 equivalent) which, when added to the contributions of the United States, will assure adequate funding for the Project to its completion. Israel undertakes to finance all costs above the maximum contribution of the United States described in Subsection 3.01(a); and
- (d) Such other resources as may reasonably be required to complete the Project successfully.

#### *Article IV. CONDITIONS PRECEDENT TO DISBURSEMENT BY THE UNITED STATES*

*Section 4.01. CONDITIONS PRECEDENT.* Prior to the first disbursement or to the issuance of the first letter of commitment by the United States, Israel shall, except as the United States may otherwise agree in writing, furnish to the United States in form and substance satisfactory to the United States:

- (a) An opinion from the Ministry of Justice of Israel that this agreement has been duly authorized and/or ratified by, and executed on behalf of Israel, and that it constitutes a valid and legally binding obligation of Israel in accordance with all of its terms;
- (b) A statement of the names of the persons holding or acting in the office of Israel specified in Section 11.02 and a specimen signature of each person specified in such statement; and
- (c) A financial plan for the Project indicating planned costs, the source of funds to cover such costs, and the budget for the first year.

*Section 4.02. TERMINAL DATE FOR MEETING CONDITIONS PRECEDENT.* If all the conditions specified in Section 4.01 shall not have been met within one hundred twenty (120) days from the date of execution of this Agreement or such later date as the United States may agree to in writing, the United States at its option may terminate this Agreement by giving notice to this effect. Following such notice this Agreement and all obligations of the parties hereto shall terminate.

*Section 4.03. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT.* The United States shall notify Israel upon its determination that the conditions precedent to disbursement specified in Section 4.01 have been met.

#### *Article V. REPRESENTATIONS*

*Section 5.01. THE "PROPOSAL".* Israel represents and warrants to the United States to the best of its knowledge as follows:

- (a) Facts and representations contained in the *Proposal for a Prototype Desalting Plant in Israel*, referred to in Article II above, and in additional documents which Israel has submitted to the United States in negotiations which concluded with the execution of this Agreement, are accurate and complete;
- (b) Israel had disclosed to the United States all known facts and circumstances that might materially affect the success of the Project;
- (c) Except as indicated in the records of the negotiations, there has been no conveyance or assignment to date of patents and know-how, as defined in

Section 6.01(b), so as to restrict materially or circumscribe rights in or to patents and know-how to be made available pursuant to Sections 6.02 and 6.03;

- (d) The list and description (previously delivered to the United States) of background patents and licenses relating to the IDE Process and in effect on the dates indicated in such list is accurate and complete as of the date hereof.

#### Article VI. PATENTS

*Section 6.01. PATENTS, KNOW-HOW, AND THE DISSEMINATION OF TECHNOLOGY.* (a) The United States and Israel shall share in the technology derived from the design, construction and operation of the prototype plant in the manner provided in Sections 6.01 through 6.04.

(b) For purposes of this Article the following definitions shall apply:

1. "Patents and know-how" means all patents (subject, process and background); descriptions of process, designs, drawings, copyrights, test results, licenses, operating manuals, specifications, developments and information hereafter developed or pertaining to the Project; and background patents utilized in the Project.

2. "Appropriated funds" means funds appropriated by the Congress of the United States and expended in first instance from the Treasury of the United States to procure goods and services.

3. "Political subdivisions" means States of the United States, municipal bodies within States, territories and possessions of the United States, and agencies and instrumentalities of the foregoing. As the term may be applied in connection with the licensing of patents and know-how to political subdivisions, it shall be understood that such licensing shall refer to the use by political subdivisions of patents and know-how within their specific jurisdictions only for public, non-proprietary purposes.

4. "Use by the United States" means utilization of patents and know-how in connection with the construction or planned construction of any desalting facility (i) in the United States where the United States or any of its political subdivisions will become the owner of such facility or will receive the benefits of water production associated with such facility; or (ii) outside the United States or its political subdivisions where the facility is to be constructed with appropriated funds. If during the course of the Project, patents and know-how become useful in areas of application other than the construction of desalting facilities, "use by the United States" shall encompass, in a manner corresponding to the previous definition of the term, such other applications both within and outside the United States.

*Sections 6.02. SHARING TECHNOLOGY WITH THE UNITED STATES.* (a) Israel shall be the principal owner of all patents and know-how. It shall, however, make available to the United States by license or other appropriate means on a non-exclusive royalty-free basis all patents and know-how for use by the United States. Upon request by the United States, Israel shall upon the same terms above directly license (or shall cause to be licensed or shall otherwise make available through appropriate means) to political subdivisions all patents and know-how; the United States may, in the alternative, sub-license on the same terms the use of patents and know-how to political subdivisions under its license from Israel.

(b) Patents and know-how which the United States makes available to its subdivisions shall be accompanied by admonitions to authorized recipients to safeguard the confidentiality of patent and know-how information against unauthorized

dissemination or use. Such admonitions shall be jointly formulated by the parties to this agreement in a manner which will grant Israel, or its designee, enforcement rights in the event of breach by a recipient of patents and know-how of the limitation against unauthorized use or dissemination. Private contractors performing work for the United States or its political subdivisions shall be afforded access to patents and know-how to the extent necessary to make effective use of such material.

(c) In connection with any authorized dissemination of patents and know-how the origin of such material shall be clearly described as the product of the joint effort between the parties to this agreement.

(d) On request by the United States, Israel agrees to execute and deliver such instruments of conveyance of patents and know-how as may best effectuate the provisions of this Article.

*Section 6.03. SHARING TECHNOLOGY WITH PRIVATE PARTIES.* (a) Israel shall license, convey, or otherwise make available patents and know-how to United States citizens and corporations on reasonable terms and conditions. Any such arrangement which it concludes with private United States entities shall be on a non-exclusive and non-discriminatory basis and any royalty fee which it charges shall take into account, among other things, the overall financial contribution (which has been made or which is planned) by the United States under this agreement.

(b) Israel may refuse to make patents and know-how available to private United States entities if a requesting party does not possess competence necessary to utilize such material effectively or does not have a bona fide interest in such material directly related to an actual or intended use or application thereof.

(c) If Israel rejects a request from a private United States entity for patent or know-how information, it shall inform the private party of the reasons for the rejection. It shall also furnish the private party information about this agreement and the undertakings which it has made to the United States in this Section. If the United States after review and consultation with Israel thereafter requests Israel, despite the prior rejection, to make such materials available to the private United States entity, Israel shall comply with such request.

*Section 6.04. SPECIAL PROVISIONS RELATING TO DISSEMINATION OF TECHNOLOGY.* (a) Israel shall grant no license or right to or in patents and know-how to any third party which would or which might tend to restrict materially or to circumscribe rights in patents and know-how to be made available pursuant to this Article. The parties agree that the granting of any exclusive right or license would restrict materially the rights referred to immediately above.

(b) The parties shall make available to each other, through the design life of the prototype plant (to the extent each party has authority to do so), improvements, new inventions, and patents directly flowing from efforts on this Project and which arise or become known through activities of licensees of either party or persons or entities to whom patents and know-how have been made available as contemplated by this Article.

(c) Whenever Israel licenses or otherwise makes available patents and know-how, it may request reimbursement for direct, out-of-pocket costs incurred in such transaction.

#### *Article VII. GENERAL COVENANTS AND WARRANTIES*

*Section 7.01. EXECUTION OF THE PROJECT.* (a) Israel shall carry out the Project with due diligence and efficiency, and in conformity with sound engineering, construction, financial, and administrative practices.

(b) Israel shall cause the Project to be carried out in conformity with plans, specifications, contracts, schedules, and arrangements, and with modifications thereto, as approved by the United States pursuant to this Agreement.

*Section 7.02. CONSULTATION.* The parties shall cooperate to assure that the purposes of this Agreement will be accomplished. Upon request, the parties shall exchange views with regard to any aspect affecting the Project.

*Section 7.03. OPERATION AND MAINTENANCE.* Israel shall operate, maintain, and repair the prototype plant in conformity with sound engineering, financial and administrative practices and in such a manner as to insure the continuing and successful achievement of the purposes of the Project.

*Section 7.04. TAXATION.* (a) Materials and equipment imported for the Project and financed by the United States under this Agreement shall be exempt from identifiable taxes imposed under the laws of Israel.

(b) United States entities (citizens and firms) which enter and which are present in Israel solely to perform services in connection with the Project shall be exempt from taxes on income financed by the United States under this Agreement.

(c) United States citizens who enter and reside in Israel solely to perform services financed by the United States under this Agreement shall be exempted from taxation for household effects and personal items imported for their own use.

(d) If exemptions set forth in this Section are not given effect in the application of the laws of Israel, the United States may demand, pursuant to provisions set forth in Implementation Letters, reimbursement from Israel of amounts improperly collected as taxes.

*Section 7.05. UTILIZATION OF GOODS AND SERVICES.* Except as the United States may otherwise agree in writing, goods and services financed by the United States under this Agreement shall be used exclusively for the Project. Upon completion of the Project or upon determination by the Project Manager that goods can no longer usefully be employed for the Project, Israel may use or dispose of goods on hand in a manner approved in writing by the United States.

*Section 7.06. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES.* The parties shall inform each other promptly of facts and circumstances which might materially affect the Project or the discharge of their obligations under this Agreement.

*Section 7.07. MAINTENANCE AND AUDIT OF BOOKS AND RECORDS.* (a) Israel shall maintain and cause contractors and major subcontractors to maintain books and records relating to the Project and to this Agreement in accordance with sound accounting principles and practices consistently applied. Such books and records shall be adequate to show:

1. The receipt and use made of goods and services acquired with funds disbursed pursuant to this Agreement;
2. The nature and extent of solicitations of prospective suppliers of goods and services acquired;
3. The basis of award of contracts and orders to successful bidders and offerors; and
4. The financial and physical progress of the Project.

(b) Books and records shall be available for audit in accordance with sound auditing standards as may be required in Implementation Letters. Books and records shall be maintained for three years after the termination of the Project.

*Section 7.08.* MAINTENANCE OF PROJECT DATA AND DRAWINGS. Israel shall maintain all drawings, test results, specifications, descriptions of processes, operating manuals, and other evidences of work product produced throughout the Project. Such materials shall be maintained for three years after termination of the Project.

*Section 7.09.* REPORTS. The parties shall furnish to each other such information and reports relating to this Agreement and to the Project as may be reasonably requested.

*Section 7.10.* INSPECTIONS. Authorized representatives of the United States shall have the right at all reasonable times to inspect the Project, the utilization of goods and services financed under this Agreement, and books, records, work product and other documents relating to the Project or to the Agreement. Israel shall assure access to the foregoing and shall cooperate with the United States to facilitate such inspections. It shall permit representatives of the United States to visit any part of the country for any purpose relating to this Agreement or to the Project. Representatives of the United States shall have a permanent right of access to the prototype plant to observe its operations.

#### Article VIII. PROCUREMENT

*Section 8.01.* PROCUREMENT FROM THE UNITED STATES. Except as the United States may otherwise agree in writing, disbursements made pursuant to Section 9.01 shall be used to finance the procurement for the Project of goods and services having their source and origin in the United States.

*Section 8.02.* PROCUREMENT FROM ISRAEL. Except as the United States may otherwise agree in writing, disbursement made pursuant to Section 9.02 shall be used to finance the procurement for the Project of goods and services having their source and origin in Israel.

*Section 8.03.* GOODS AND SERVICES NOT FINANCED BY THE UNITED STATES. Goods and services not financed by the United States 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 orders are placed.

*Section 8.04.* IMPLEMENTATION OF PROCUREMENT REQUIREMENTS. Definitions applicable to source and origin requirements contained in Sections 8.01, and 8.02, and 8.03 will be set forth in detail in Implementation Letters.

*Section 8.05.* ELIGIBILITY DATE. Except as the United States may otherwise agree in writing, goods or services are ineligible for financing by the United States if procured for the Project pursuant to orders or contracts firmly placed or entered into prior to the date of the Agreement.

*Section 8.06.* MAXIMIZING UNITED STATES PROCUREMENT. The parties agree to use every reasonable effort to maximize the procurement from the United States of goods and services used for the Project and financed by the United States.

*Section 8.07.* PLANS, SPECIFICATIONS AND CONTRACTS. (a) Except as the United States may otherwise agree in writing, Israel shall, upon request and pursuant to instructions contained in Implementation Letters, furnish to the United States plans, specifications, construction schedules, bid documents, and contracts relating to the Project, as well as revisions thereto, whether or not goods and services to which they relate are financed by the United States.

(b) To the extent so requested, plans, specifications and construction schedules furnished pursuant to the foregoing subsection shall be approved by the United States in writing prior to their use.

(c) Except as the United States may otherwise agree in writing, all bid documents and contracts relating to engineering, procurement and construction services financed by the United States shall be approved by the United States in writing prior to their issuance. In the case of any of the above contracts for services, the United States shall also approve in writing the contractor. Proposed amendments to any of such contracts shall also be approved by the United States in writing prior to their becoming effective.

(d) Except as the United States may otherwise agree in writing, all bid documents and contracts to be financed by the United States involving an amount in excess of \$50,000 equivalent and relating to goods, materials or equipment shall be approved by the United States in writing prior to their becoming effective.

(e) Bid documents and contracts financed by the United States but not specifically approved by the United States shall nevertheless conform to standards and forms mutually agreed upon.

*Section 8.08. REASONABLE PRICE.* Goods or services financed in whole or in part by the United States shall be procured at no more than reasonable prices. Except for professional services, such goods and services involving more than \$10,000 shall be procured on a competitive basis in accordance with procedures prescribed in Implementation Letters.

*Section 8.09. THIRD COUNTRY NATIONALS ON CONSTRUCTION CONTRACTS.* The employment of personnel to perform services under construction contracts financed by the United States may be subject to certain limitations with respect to nationals of countries other than Israel and the United States. These requirements will be indicated, as may be necessary, in Implementation Letters.

*Section 8.10. SHIPPING.* (a) Goods financed by the United States and imported by vessel into Israel shall be transported on flag carriers of any country included in Code 935 of the A.I.D. *Geographic Code Book* as in effect at the time of shipment: Provided, however, that

1. At least fifty per centum (50%) of the gross tonnage of all commodities (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by the United States and transported on ocean vessels shall be transported on privately-owned United States flag commercial vessels; and
2. At least fifty per centum (50%) of the gross freight revenue generated by all shipments financed by the United States and transported to Israel on dry cargo liners shall be paid to or for the benefit of privately-owned United States flag commercial vessels.

(b) Compliance with the requirements of the foregoing subsections shall be computed separately for (1) cargo transported from U.S. ports; and (2) cargo transported from non-U.S. ports.

(c) Within ninety (90) days following the end of each calendar quarter (or such other period as the United States may specify in writing) Israel shall report upon compliance with the requirements of this section in form and substance satisfactory to the United States.

(d) No goods financed by the United States may be transported on any ocean vessel (or aircraft) which (1) the United States in a notice to Israel has designated ineligible to carry goods; or (2) has been chartered under a charter not approved by the United States.

*Section 8.11. INSURANCE.* (a) If, in connection with the placement of marine insurance on shipments to be financed by the United States, Israel, by statute,

decree, rule, or regulation discriminates in favor of a marine insurance company of any country over a marine insurance company authorized to do business in any state of the United States, goods procured from and financed by the United States shall, during the continuance of such discrimination, be insured against marine risk in the United States with a company authorized to do a marine insurance business in any state of the United States.

(b) Israel shall insure, or cause to be insured, all goods financed by the United States against risks incident to their transit to the point of use. Such insurance shall be secured upon terms and conditions consistent with commercial practice, shall insure the full value of the goods, and shall be payable in the currency in which such goods were financed. Indemnification received by Israel under such insurance shall be used to replace or repair damage to or loss of goods insured or shall be used to reimburse Israel for replacement or repair of such goods. Replacement goods shall have their source and origin in the United States unless the United States and Israel shall otherwise agree in writing and the procurement of such goods shall otherwise be governed by provisions of this Agreement.

*Section 8.12. NOTIFICATION TO POTENTIAL SUPPLIERS.* To assure that United States firms have an opportunity to participate in furnishing goods and services to be financed by the United States, Israel shall furnish information concerning intended procurement as the United States may request in Implementation Letters.

*Section 8.13. INFORMATION AND MARKING.* The parties shall publicize this Agreement and the Project as a joint undertaking. Israel shall identify the Project site in a manner to be mutually agreed.

#### *Article IX. DISBURSEMENTS BY THE UNITED STATES*

*Section 9.01. DISBURSEMENTS FOR UNITED STATES DOLLAR COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANKS.* Upon satisfaction of the conditions precedent, Israel may, from time to time, request the United States to issue Letters of Commitment for specified amounts to one or more United States banks, satisfactory to the United States, committing the United States to reimburse such banks for payments made by them to contractors or suppliers, through the use of Letters of Credit or otherwise, for dollar costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement. Payment by a bank to a contractor or supplier will be made by the bank upon presentation of such supporting documents as the United States may prescribe in Letters of Commitment and Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of Israel and may be financed by the United States under this Agreement.

*Section 9.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS.* Upon satisfaction of the conditions precedent, Israel may, from time to time, request disbursement by the United States of Israeli currency for Israeli currency costs of goods and services procured for the Project by submitting to the United States such supporting documentation as the United States may prescribe in Implementation Letters. The United States may make such disbursements in Israeli currency purchased by the United States in Israel with United States dollars from a banking facility authorized to purchase United States dollars. For purposes of satisfying the financial contribution of the United States (which is expressed in dollars), the United States dollar equivalent of the Israeli currency made available hereunder will be the amount of the United States dollars required by the United States to obtain the currency of Israel on the date the documents requesting disbursement are submitted to the United States for payment.

*Section 9.03. OTHER FORMS OF DISBURSEMENT.* Disbursements by the United States may also be made through such other means, including reimbursement, as may be agreed upon in writing.

*Section 9.04. RATE OF DISBURSEMENT.* With adjustment for the expected greater financial contribution by Israel to the Project and with consideration to the desire of the United States to be significantly involved both in the operation as well as the construction phases of the Project, the parties shall exert their best efforts to maintain roughly comparable rates of disbursement throughout the Project.

*Section 9.05. TERMINAL DATE FOR DISBURSEMENT.* Except as the United States may otherwise agree in writing, no request for the issuance of a Letter of Commitment will be entertained after October 1, 1984; and after April 1, 1985, no request for disbursement by the United States shall be submitted. Any sum remaining undischarged after April 1, 1985 shall be deducted from the financial contribution of the United States referred to in Section 3.01.

#### *Article X. SUSPENSION AND CANCELLATION*

*Section 10.01. SUSPENSION OF DISBURSEMENT BY THE UNITED STATES.* (a) The United States may, at its option and upon notice to Israel, suspend its obligations under Section 3.01 in the following circumstances:

1. Israel shall have failed to comply with any provision of this Agreement, including, without limitation, the obligation to carry out the Project with due diligence and efficiency;
2. An event occurs that the United States determines to be an extraordinary situation that makes it improbable either that the purposes of the Agreement will be attained or that Israel will be able to perform its obligations under this Agreement;
3. Any disbursement by the United States would be inconsistent with legislation governing A.I.D.;
4. Israel shall have failed to pay when due any payment required under any loan, guaranty, or other agreement between Israel or any of its agencies and the United States or any of its agencies; or
5. Israel shall have exercised its right of suspension or cancellation under Section 10.05.

(b) Upon suspension of its obligations the United States may:

1. Suspend or cancel outstanding commitment documents to the extent such commitments have not been utilized through issuance of irrevocable letters of credit or through payments other than under irrevocable letters of credit (in which event the United States shall give notice to Israel promptly thereafter);
2. Decline to make disbursement other than under outstanding commitment documents;
3. Decline to issue additional commitment documents; and
4. At the expense of the United States, direct that title to goods financed by the United States under this Agreement be transferred to the United States, if the goods are from a source outside Israel, are in a deliverable state, and have not been offloaded in Israel.

*Section 10.02. CANCELLATION BY THE UNITED STATES.* After any suspension of disbursements pursuant to Section 10.01, if the cause for such suspension shall not have been eliminated or corrected within sixty (60) days from the date of suspension, the United States may, at its option, at any time thereafter cancel all or any part of its

financial contribution that has not already been disbursed or that has not been committed under irrevocable letters of credit.

*Section 10.03. REFUNDS.* (a) The United States may require Israel to refund an appropriate amount, within thirty (30) days after receipt of a request therefor, for any disbursement by the United States not supported by valid documentation or not made in accordance with the terms of this Agreement. Proceeds from such a refund shall be made available first for the cost of other goods and services procured for the Project (to the extent justified); the remainder, if any, shall be deducted from the face amount of the financial contribution of the United States. The right of the United States to require a refund under this section shall continue for five years following the date of any disbursement to which the refund relates.

(b) If the United States receives a refund from any contractor, supplier, or banking institution, or from any other party performing work on the Project with respect to goods or services which the United States has financed, and if such refund relates to an unreasonable price for goods or services or to goods that did not conform to specifications or to services that were inadequate, the United States shall first make the proceeds of such refund available to cover the cost of goods and services procured for the Project (to the extent justified); the remainder of such proceeds shall be deducted from the face amount of the financial contribution of the United States.

*Section 10.04. NON-WAIVER OF REMEDIES.* Delay or failure to exercise any right, power or remedy accruing to the United States under this Agreement shall not be construed as a waiver of such right, power or remedy.

*Section 10.05. SUSPENSION AND CANCELLATION BY ISRAEL.* (a) Israel may, at its option and upon notice to the United States suspend its obligations under Section 3.02, in the following circumstances:

1. The United States materially breaches this Agreement;
2. An event occurs which makes it impossible or highly improbable that the purposes of this Agreement will be attained; or
3. It appears beyond doubt that further advancement of the Project would not serve any meaningful purpose in promoting useful technological applications.

(b) If a cause for suspension shall not have been eliminated within sixty (60) days from the date of suspension, Israel may at any time thereafter cancel all or any part of its financial contribution that has not already been disbursed.

#### *Article XI. MISCELLANEOUS*

*Section 11.01. COMMUNICATIONS.* Any notice, request, document, or other communication given, made, or sent by Israel or the United States pursuant to this Agreement shall be in writing or by telegram, cable, or radiogram 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 to such party by hand, or by mail, telegram, cable or radiogram at the following addresses:

To Israel:

Mail Address: National Council for Research and Development  
Prime Minister's Office  
Kiryat Ben Gurion, Building 3  
Jerusalem, Israel

Cable Address: RECO JERUSALEM

To the United States:

Mail Address: Office of Capital Development  
Bureau for Near East/South Asia  
Agency for International Development  
Washington, D. C. 20523

Cable Address: A.I.D.  
Washington, D. C.

Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications, and documents submitted to the United States shall be in English except as the United States may otherwise agree in writing.

*Section 11.02.* REPRESENTATIVES. For all purposes relating to this Agreement, Israel will be represented by the individual holding, or acting in, the office of the Director, National Council for Research and Development, Prime Minister's Office, and the United States will be represented by the individual holding, or acting in, the office of the Director, Office of Capital Development, Bureau for Near East/South Asia, Agency for International Development. Such individuals shall have the authority to designate additional representatives by written notice. In the event of any replacement or other designation of a representative hereunder, one party shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to the other party. Either party may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

*Section 11.03.* IMPLEMENTATION LETTERS. The United States shall from time to time issue Implementation Letters that will prescribe procedures applicable hereunder in connection with implementation of this Agreement.

*Section 11.04.* TERMINATION OF THE PROJECT. The "Termination Date" of the Project shall be April 1, 1985 or sooner, upon mutual agreement of the parties, or upon cancellation of this Agreement pursuant to the terms of Article X hereof. Notwithstanding an early termination of the Project, the rights of the United States pursuant to Article VI (patents) shall survive as if no early termination had occurred.

IN WITNESS WHEREOF, Israel and the United States, 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.

State of Israel:

By: [*Signed*]

SIMCHA DINITZ

*Title:* Ambassador of Israel to the United States

United States of America:

By: [*Signed*]

DANIEL PARKER

*Title:* Administrator

Agency for International Development