

**No. 16275**

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**UNITED STATES OF AMERICA  
and  
BOTSWANA**

**Loan Agreement relating to construction and equipping of  
the Northern Abattoir (with annex). Signed at  
Gaborone on 19 September 1975**

*Authentic text: English.*

*Registered by the United States of America on 27 January 1978.*

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

**Accord de prêt relatif à la construction et à l'équipement  
d'un abattoir dans le nord du pays (avec annexe). Signé  
à Gaborone le 19 septembre 1975**

*Texte authentique : anglais.*

*Enregistré par les États-Unis d'Amérique le 27 janvier 1978.*

# LOAN AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF BOTSWANA AND THE UNITED STATES OF AMERICA FOR THE NORTHERN ABATTOIR

Date: 19 September 1975

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<sup>1</sup> Came into force on 19 September 1975 by signature.

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LOAN AGREEMENT dated this nineteenth day of September 1975, between the GOVERNMENT OF BOTSWANA ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

### *Article I. THE LOAN*

*Section 1.1. THE LOAN.* A.I.D. agrees to lend to the Borrower pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed one million United States dollars (\$1,000,000) (the "Loan"), to assist the Borrower in carrying out the Project referred to in section 1.2 ("Project"). The Borrower shall relend (the "Reloan") the amounts provided under the Loan to the Botswana Meat Commission (hereinafter referred to as the "BMC"), or its successor, in accordance with the terms of this Agreement. The Loan shall be used exclusively to finance the foreign exchange and local currency costs of certain goods and services required for the Project. Goods and services financed hereunder are hereinafter referred to as "eligible items." The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal."

*Section 1.2. THE PROJECT.* The Project shall consist of the provision of goods and services for the architectural and engineering design for the construction and equipping of an abattoir and access roads to be located in Dukwe, Botswana, and shall include, *inter alia*, the preparation of plans, specifications, bidding documents and contracts for such construction and equipping. The architectural and engineering design services shall also address the water and electrical power requirements, the sewage treatment and disposal systems and all other appropriate considerations incident to the design and plans for the construction and equipping of the abattoir. The goods and services to be financed under the Loan may be further described in the Implementation Letters referred to in section 9.3.

*Section 1.3. USE OF FUNDS GENERATED BY OTHER UNITED STATES ASSISTANCE.* The Borrower shall use for the Project, in lieu of any United States dollars that would otherwise be disbursed under the Loan to finance the Local Currency Costs of the Project, any currencies other than United States dollars that may become available to the Borrower after the date of this Agreement in connection with assistance (other than the Loan) provided by the United States of America to the Borrower to the extent and for the purposes that A.I.D. and the Borrower may agree in writing. Any such funds used for the Project shall reduce the amount of the Loan (to the extent that it shall not then have been disbursed) by an equivalent amount of United States dollars computed, as of the date of the agreement between A.I.D. and the Borrower as to the use of such funds, using the most favorable exchange rate to the United States dollar then lawfully existing in Botswana.

### *Article II. LOAN TERMS*

*Section 2.1. INTEREST.* The Borrower shall pay to A.I.D. interest which shall accrue at the rate of two percent (2%) per annum for ten years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid

interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement as such date is defined in section 7.4, and shall be computed on the basis of a 365-day year. Interest shall be payable semiannually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by A.I.D.

*Section 2.2. REPAYMENT.* The Borrower shall repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement hereunder in sixty-one (61) approximately equal semiannual installments of Principal and interest. The first installment of Principal shall be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with section 2.1. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this section after the final disbursement under the Loan.

*Section 2.3. APPLICATION, CURRENCY, AND PLACE OF PAYMENT.* All payments by Borrower shall be made in United States dollars and shall be applied first to the payment of interest due and payable and then to the repayment of Principal. Except as A.I.D. may otherwise agree in writing, all such payments shall be made to the Office of Financial Management, Agency for International Development, Washington, D.C., and shall be deemed to have been made when received by the Office of Financial Management.

*Section 2.4. PREPAYMENT.* Upon payment of all interest and refunds then due, Borrower shall have the right to prepay, without penalty, all or any part of the Principal. Any such prepayment shall be applied to the installments of Principal in the inverse order of their maturity.

*Section 2.5. RENEGOTIATION OF THE TERMS OF THE LOAN.* The Borrower agrees to negotiate with A.I.D., at such time or times as A.I.D. may request, an acceleration on mutually acceptable terms of the repayment of the Loan in the event that there is any significant improvement in the internal and external economic and financial position and prospects of Botswana.

### *Article III. RELOAN*

*Section 3.1. RELOAN.* The Borrower agrees to relend the funds made available under the Loan to the BMC. The Reloan shall be made and utilized to carry out the Project and in accordance with the terms of this Agreement and a Reloan Agreement to be approved by A.I.D. as hereinafter specified. The BMC shall repay the Reloan and pay interest thereon to the Borrower in such currency as is at the time of payment legal tender in Botswana. BMC will pay the Borrower interest at a rate of not less than eight and one-half percent (8½%) per annum on the outstanding balance of Principal and on any due and unpaid interest accrued thereon. Interest on the outstanding balance shall accrue from the date of each respective disbursement. Interest shall be payable semiannually. The first payment of interest shall be payable no later than six months after the first disbursement. BMC shall repay the Principal and shall pay all accrued interest by December 31, 1988. The first installment of Principal shall be due January 1, 1978, thus giving BMC a grace period on the repayment of Principal.

*Section 3.2. RELOAN AGREEMENT.* All terms and conditions governing or applicable to the Reloan shall be set forth or incorporated in the Reloan Agreement to be approved by A.I.D. pursuant to section 4.1. The Reloan Agreement shall be made subject to all of the terms and conditions of this Agreement. The Borrower shall fully enforce and assure full compliance with the Reloan Agreement in accordance with the terms of this Agreement. No amendments, modifications or changes shall be made in the Reloan Agreement without the prior written approval of A.I.D.

*Section 3.3. BOTSWANA MEAT COMMISSION.* The Borrower warrants and agrees that the BMC is an agency, adjunct and instrumentality of the Borrower and is under the full control and direction of the Borrower, and that the BMC is and will remain fully capable of performing its obligations under the Reloan Agreement in accordance with the terms of this Agreement. The Borrower warrants and agrees that no changes will be made or permitted in the nature of BMC's operations, control, direction or ownership or in the documents and authorities governing BMC, including, *inter alia*, applicable statutes, ordinances, regulations, charters, by-laws, licenses and policies, if such changes would adversely affect the willingness or ability of the Borrower or BMC to fulfill their respective obligations under this Agreement and the Reloan Agreement.

*Section 3.4. DISPOSITION OF BORROWER INTEREST PAYMENTS.* Except as A.I.D. may otherwise agree in writing, that portion of any interest payment by BMC to the Borrower which is attributable to the differential, existing at the time of such payment, between the Reloan interest rate and the Loan interest rate shall be utilized and disbursed for development projects in Botswana.

*Article IV. CONDITIONS PRECEDENT TO DISBURSEMENT*

*Section 4.1. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT.* Prior to the first disbursement or to the issuance of the first Letter of Commitment under the Loan, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) an opinion of the Attorney General of Borrower or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms;
- (b) a statement of the names of the persons holding or acting in the office of the Borrower specified in section 9.2, and a specimen signature of each person specified in such statement;
- (c) evidence of the source and availability on a timely basis of funds for Borrower's contribution to the Project required by section 5.10 (a);
- (d) an executed contract for architectural and engineering services for the proposed abattoir with a firm acceptable to A.I.D.;
- (e) evidence that Borrower has initiated actions required to acquire all land and easements necessary to carry out construction of the abattoir;
- (f) an executed Reloan Agreement in accordance with the terms of this Agreement between the Borrower and the Botswana Meat Commission (BMC) pursuant to which Borrower shall onlend the Principal to the Botswana Meat Commission;
- (g) evidence, substantiated by an independent hydro-geological consulting firm or consultant, of a dependable source of water of sufficient quantity and quality to meet all requirements for project construction and the operation of the abattoir and associated facilities at maximum design capacity;
- (h) an opinion of legal counsel satisfactory to A.I.D. that BMC has been duly organized or created under the laws of Botswana, that BMC has taken all necessary legal actions under the laws and regulations of Botswana and has full power without legal inhibition, but subject to the control and direction of the Borrower, to carry out its obligations under the Reloan Agreement in accordance with this Agreement and that the performance of such obligations will not conflict with any statute, ordinance, regulation, charter, by-law, license or other authority;

(i) certified copies of the statutes, ordinances, regulations, charters, by-laws, licenses and other authorities or documents governing the operations of BMC.

*Section 4.2. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT.* If all of the conditions specified in section 4.1 shall not have 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 giving written notice to the Borrower. Upon the giving of such notice, this Agreement and all obligations of the Parties hereunder shall terminate.

*Section 4.3. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT.* A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement specified in section 4.1 have been met.

#### *Article V. COVENANTS AND WARRANTIES*

*Section 5.1. EXECUTION OF THE PROJECT.* The Borrower shall carry out the Project with due diligence and efficiency, in conformity with sound financial, engineering, construction, administrative and procurement practices and in accordance with its obligations described in annex A to this Agreement. In this connection, the Borrower shall at all times employ suitably qualified and experienced consultants to be professionally responsible for the design and execution of the Project. It is the understanding of the Parties hereto that the Borrower is obligated to fulfill and ensure compliance with all representations, warranties and covenants herein, despite the fact that BMC may be in a position to affect the performance of such undertakings. Accordingly, the Borrower agrees to take such steps in regard to BMC as may be necessary to cause full and faithful compliance with all the terms and conditions of this Agreement.

*Section 5.2. CONTINUING CONSULTATION.* Borrower and A.I.D. shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower and A.I.D. shall from time to time, at the request of either Party, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower of its obligations under this Agreement, the performance of the consultants, contractors, and suppliers engaged on the Project, and other matters relating to the Project.

*Section 5.3. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES.* The Borrower represents and warrants to the best of its knowledge and belief that all facts and circumstances that it has disclosed or caused to be disclosed to A.I.D. in the course of obtaining the Loan are accurate and complete, and that it has disclosed to A.I.D., accurately and completely, all facts and circumstances that might materially affect the Project and the discharge of its obligations under this Agreement. The Borrower shall promptly inform A.I.D. of any facts and circumstances that may hereafter arise that might materially affect, or that it is reasonable to believe might materially affect, the Project or the discharge of the Borrower's obligations under this Agreement.

*Section 5.4. COMMISSIONS, FEES, AND OTHER PAYMENTS.* (a) The Borrower warrants and covenants that in connection with obtaining the Loan, or taking any action under or with respect to this Agreement, it has not paid, and will not pay or agree to pay, nor to the best of its knowledge has there been paid nor will there be paid or agreed to be paid by any other person or entity, commissions, fees, or other payments of any kind, except as regular compensation to the Borrower's full-time officers and employees or as compensation for bona fide professional, technical, or comparable services. The Borrower shall promptly report to A.I.D. any payment or agreement to pay for such bona fide professional, technical, or comparable services

to which they are a Party or of which they have knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by A.I.D., the same shall be adjusted in a manner satisfactory to A.I.D.

(b) The Borrower warrants and covenants that no payments have been or will be received by the Borrower, or any official thereof, in connection with the procurement of goods and services financed hereunder, except fees, taxes, or similar payments legally established in Botswana.

*Section 5.5. MAINTENANCE AND AUDIT OF RECORDS.* The Borrower shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating both to the Project and to this Agreement. Such books and records shall, without limitation, be adequate to show:

- (a) the receipt and use made of goods and services acquired with funds disbursed pursuant to this Agreement;
- (b) the nature and extent of solicitations of prospective suppliers of goods and services acquired;
- (c) the basis of the award of contracts and orders to successful bidders; and
- (d) the progress of the Project.

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

*Section 5.6. REPORTS.* The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Project as A.I.D. may request.

*Section 5.7. INSPECTIONS.* The authorized representatives of A.I.D. shall have the right at all reasonable times to inspect the Project, the utilization of all goods and services financed under the Loan, and the Borrower's books, records, and other documents relating to the Project and the Loan. The Borrower shall cooperate with A.I.D. to facilitate such inspections and shall permit representatives of A.I.D. to visit any part of Botswana for any purpose relating to the Loan.

*Section 5.8. CONTINUANCE OF REPRESENTATION AND MATTERS FURNISHED TO SATISFY CONDITIONS PRECEDENT.* Unless A.I.D. otherwise agrees in writing, the Borrower shall continue in force and effect for the life of this Agreement, exactly as originally made or furnished, any representation made or opinion or agreement furnished to satisfy a condition precedent under this Agreement.

*Section 5.9. TAXATION.* This Agreement, the Loan, and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal and interest shall be paid without deduction for and free from, any taxation or fees imposed under the laws in effect within Botswana. To the extent that (i) any contractor, including any consulting firm, any personnel of such contractor financed hereunder, and any property or transactions relating to such contracts and (ii) any commodity procurement transaction financed hereunder are not exempt from identifiable taxes, tariffs, duties and other levies imposed under laws in effect in Botswana, the Borrower shall, as and to the extent prescribed in and pursuant to Implementation Letters, pay or reimburse the same under section 5.10(b) of this Agreement with funds other than those provided under the Loan.

*Section 5.10. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER.* (a) The Borrower agrees to make contributions to the Project in cash or kind equal in value to at least three hundred thirty-five thousand United States dollars (\$335,000).

(b) In addition to its required contribution under section 5.10(a), the Borrower shall provide promptly as needed all funds, in addition to the Loan, and all other resources required for the punctual and effective carrying out and operation of the Project.

*Section 5.11. MANAGEMENT.* The Borrower shall provide qualified and experienced management for the Project, and it shall train such staff as may be appropriate for the maintenance and operation of the Project.

*Section 5.12. UTILIZATION OF GOODS AND SERVICES.* (a) Goods and services financed under the Loan shall be used exclusively for the Project, except as A.I.D. may otherwise agree in writing.

(b) Except as A.I.D. may otherwise agree in writing, no goods or services financed under the Loan shall be used to promote or assist any foreign aid project or activity associated with or financed by any country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

#### Article VI. PROCUREMENT

*Section 6.1 PROCUREMENT FROM CODE 941 COUNTRIES.* Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to section 7.1 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts are entered into therefor. Ocean shipping shall qualify as an eligible service provided the vessel furnishing the transportation services is registered in a country included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of shipment.

*Section 6.2. PROCUREMENT FROM BOTSWANA.* Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to section 7.2 shall be used exclusively to finance the procurement for the Project of goods and services having their source in Botswana and their origin in Botswana or any country included in A.I.D. Geographic Code 941.

*Section 6.3. ELIGIBILITY DATE.* Except as A.I.D. may otherwise agree in writing, no goods or services may be financed under the Loan which are procured pursuant to orders firmly placed or contracts entered into prior to the date of this Agreement.

*Section 6.4. GOODS AND SERVICES NOT FINANCED UNDER LOAN.* Goods and services procured for the Project, but not financed under the Loan, 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 for such goods and services.

*Section 6.5. IMPLEMENTATION OF PROCUREMENT REQUIREMENTS.* The definitions applicable to the eligibility requirements of sections 6.1, 6.2, and 6.4 will be set forth in detail in Implementation Letters.

*Section 6.6. PLANS, SPECIFICATIONS, AND CONTRACTS.* (a) Except as A.I.D. may otherwise agree in writing, the Borrower shall furnish to A.I.D., promptly upon preparation, all plans, specifications, bid documents, contracts, and agreements relating to the Project, and any modifications therein, whether or not the goods and services to which they relate are financed under the Loan.



(b) Except as A.I.D. may otherwise agree in writing, all of the plans and specifications furnished pursuant to subsection (a) above shall be approved by A.I.D. in writing.

(c) Except as A.I.D. may otherwise agree in writing, all bid documents and documents related to the solicitation of proposals relating to goods and services financed under the Loan shall be approved by A.I.D. in writing prior to their issuance. All plans, specifications, and other documents relating to goods and services financed under the Loan shall be in terms of United States' standards and measurements, except as A.I.D. may otherwise agree in writing.

(d) The following contracts financed under the Loan shall be approved by A.I.D. in writing prior to their execution:

- (i) contracts for engineering and other professional services;
- (ii) contracts for such other services as A.I.D. may specify;
- (iii) contracts for such equipment and materials as A.I.D. may specify.

In the case of any of the above contracts for services, A.I.D. shall also approve in writing the contractor and such contractor personnel as A.I.D. may specify. Material modifications in any of such contracts and changes in any of such personnel shall also be approved by A.I.D. in writing prior to their becoming effective.

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

**Section 6.7. REASONABLE PRICE.** No more than reasonable prices shall be paid for any goods or services financed, in whole or in part, under the Loan, as more fully described in Implementation Letters. Such items shall be procured on a fair and, except for professional services, on a competitive basis in accordance with procedures therefor prescribed in Implementation Letters.

**Section 6.8. SHIPPING AND INSURANCE.** (a) Goods financed under the Loan shall be transported to Botswana 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.

(b) Unless A.I.D. shall determine that privately owned United States-flag commercial vessels are not available at fair and reasonable rates for such vessels, (i) at least fifty percent (50%) of the gross tonnage of all goods financed under the Loan (computed separately for dry bulk carriers, dry cargo liners, and tankers) and transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, and (ii) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed under the Loan and transported on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels.

(c) No such goods may be transported on any ocean vessel (or aircraft) (i) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods, or (ii) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(d) If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, Botswana, by statute, decree, rule or regulation, favors any marine insurance company of any country over any marine insurance company authorized to do business in any state of the United States of America, goods procured from the United States and financed under the Loan shall during the continuance of such *discrimination be*

insured against marine risk in the United States of America with a company or companies authorized to do a marine insurance business in any state of the United States of America.

(e) Unless A.I.D. otherwise agrees in writing, the Borrower shall insure, or cause to be insured, all goods financed under the Loan against risks incident to their transit to the point of their use in the Project. Such insurance shall be issued upon terms consistent with sound commercial practice and cover the full value of the goods, and the proceeds thereof shall be payable in United States dollars or in any other freely convertible currency. Any indemnification received by Borrower under such insurance shall be used to replace or repair any material damage or any loss of the goods insured or shall be used to reimburse Borrower for the replacement or repair of such goods. Except as A.I.D. may otherwise agree in writing, any such replacements shall have their source and origin as specified in section 6.1, and otherwise be subject to the provisions of this Agreement.

*Section 6.9. NOTIFICATION TO POTENTIAL SUPPLIERS AND CONTRACTORS.* In order that all United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan, the Borrower shall furnish to A.I.D. such information with regard thereto, and at such times as A.I.D. may request in Implementation Letters.

*Section 6.10. INFORMATION AND MARKING.* The Borrower shall give publicity to the Loan and the Project as a program of United States aid, identify the Project site, and mark goods financed under the Loan, as prescribed in Implementation Letters.

#### *Article VII. DISBURSEMENTS*

*Section 7.1. DISBURSEMENT FOR FOREIGN EXCHANGE COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANKS.* Upon satisfaction of conditions precedent and compliance with all other sections of this Agreement, A.I.D. shall, at the request of the Borrower, issue Letters of Commitment for specified amounts to one or more United States 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, 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 documentation as A.I.D. 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 the Borrower and may be financed under the Loan.

*Section 7.2. DISBURSEMENT FOR LOCAL CURRENCY COSTS.* Upon satisfaction of conditions precedent and compliance with all other sections of this Agreement, A.I.D. shall at the request of the Borrower, disburse local currency for Local Currency Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documentation as A.I.D. may prescribe in Implementation Letters. A.I.D., at its option, may make such disbursements from Botswana local currency owned by the U.S. Government and obtained by A.I.D. with United States dollars, or obtained with United States dollars. The United States dollar equivalent of the local currency made available hereunder will be the amount of United States dollars required by A.I.D. to obtain the Botswana currency if purchased; or, if otherwise obtained, the dollar equivalent of the funds disbursed, on the date of disbursement using the most favorable exchange rate to the dollar then lawfully existing in Botswana.

*Section 7.3. OTHER FORMS OF DISBURSEMENT.* Disbursements of the Loan may also be made through such other means as the Borrower and A.I.D. may agree to in writing.

*Section 7.4. DATE OF DISBURSEMENT.* Disbursements by A.I.D. shall be deemed to occur (i) in the case of disbursements pursuant to section 7.1, on the date on which A.I.D. makes a disbursement to the Borrower, to its designee, or to a banking institution pursuant to a Letter of Commitment, and (ii) in the case of disbursements pursuant to section 7.2, on the date on which A.I.D. disburses the local currency to the Borrower or its designee.

*Section 7.5. TERMINAL DATE FOR COMMITMENT AND DISBURSEMENT.* Except as A.I.D. may otherwise agree in writing, no Letter of Commitment, or other commitment document which may be called for by another form of disbursement under section 7.3 or amendment thereto shall be issued in response to requests received by A.I.D. after June 30, 1977, and no disbursement shall be made against documentation received by A.I.D. or any bank described in section 7.1 after December 31, 1977. A.I.D., at its option, may at any time or times after December 31, 1977, reduce the Loan by all or any part thereof for which documentation was not received by such date.

#### *Article VIII. CANCELLATION AND SUSPENSION*

*Section 8.1. CANCELLATION BY THE BORROWER.* The Borrower may, with the prior written consent of A.I.D., by written notice to A.I.D., cancel any part of the Loan (i) which, prior to the giving of such notice, A.I.D. has not disbursed or committed itself to disburse or (ii) which has not then been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit.

*Section 8.2. EVENTS OF DEFAULT; ACCELERATION.* If any one or more of the following events ("Events of Default") shall occur:

- (a) the Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement,
- (b) the Borrower shall have failed to comply with any other provision of this Agreement, including, but without limitation, its obligation under this Agreement in regard to carrying out the Project,
- (c) the Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and A.I.D., or any of its predecessor agencies,

then A.I.D. may, at its option, give to the Borrower notice that all or any part of the unpaid Principal shall be due and payable sixty (60) days thereafter, and, unless the Event of Default is cured within such sixty (60) days:

- (i) such unpaid Principal and any accrued interest hereunder shall be due and payable immediately; and
- (ii) the amount of any further disbursements made under then outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

*Section 8.3. SUSPENSION OF DISBURSEMENT.* In the event that at any time:

- (a) an Event of Default has occurred,
- (b) an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement,

- (c) any disbursement by A.I.D. would be in violation of the legislation governing A.I.D., or
- (d) the Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies,

then A.I.D. may, at its option:

- (i) suspend or cancel outstanding commitment documents to the extent that they have not been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit, in which event A.I.D. shall give notice to the Borrower promptly thereafter;
- (ii) decline to make disbursements other than under outstanding commitment documents;
- (iii) decline to issue additional commitment documents;
- (iv) at A.I.D.'s expense, direct that title to goods financed under the Loan shall be transferred to A.I.D. if the goods are from a source outside the country of the Borrower, are in a deliverable state and have not been offloaded in ports of entry of the country of the Borrower. Any disbursement made or to be made under the Loan with respect to such transferred goods shall be deducted from Principal.

*Section 8.4. CANCELLATION BY A.I.D.* Following any suspension of disbursements pursuant to section 8.03, if the cause or causes for such suspension of disbursements shall not have been eliminated or corrected within sixty (60) days from the date of such suspension, A.I.D. may, at its option, at any time or times thereafter, cancel all or any part of the Loan that is not then either disbursed or subject to irrevocable Letters of Credit.

*Section 8.5. CONTINUED EFFECTIVENESS OF AGREEMENT.* Notwithstanding any cancellation, suspension of disbursement, or acceleration of repayment, the provisions of this Agreement shall continue in full force and effect until the payment in full of all Principal and any accrued interest hereunder.

*Section 8.6. REFUNDS.* (a) In the case of any disbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursement not made or used in accordance with the terms of this Agreement, A.I.D., notwithstanding the availability or exercise of any of the other remedies provided for under this Agreement, may require the Borrower to refund such amount in United States dollars to A.I.D. within thirty (30) days after receipt of a request therefor. However, in the event that such disbursement was originally made in local currency and if A.I.D. determines that the amount of such refund can be used to pay the Local Currency Costs of other goods and services approved for financing under the Loan, A.I.D. will accept such refund in local currency. Refunds under this section shall be made available first for the cost of goods and services procured for the Project hereunder, to the extent justified, the remainder, if any, shall be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder. Notwithstanding any other provision in this Agreement, A.I.D.'s right to require a refund with respect to any disbursement under the Loan shall continue for five years following the date of such disbursement.

(b) In the event that A.I.D. receives a refund from any contractor, supplier, or banking institution, or from any other third Party connected with the Loan, with respect to goods or services financed under the Loan, and 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, A.I.D. shall first make such refund available for the cost of goods and services procured for the Project hereunder, to the extent justified, the remainder to be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan will be reduced by the amount of such remainder.

*Section 8.7. EXPENSES OF COLLECTION.* All reasonable costs incurred by A.I.D., other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due A.I.D. by reason of the occurrence of any of the events specified in section 8.2 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

*Section 8.8. NONWAIVER OF REMEDIES.* No delay in exercising or omission to exercise any right, power, or remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of any such rights, powers, or remedies.

#### *Article IX. MISCELLANEOUS*

*Section 9.1. COMMUNICATIONS.* Any notice, request, document, or other communication given, made, or sent by the Borrower or A.I.D. 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 Borrower:

Mail address:

Ministry of Finance and  
Development Planning  
Private Bag 8  
Gaborone, Botswana

Cable address:

To A.I.D.:

Mail address:

Director  
East Africa Regional Economic  
Development Services Office  
P.O. Box 30261  
Nairobi, Kenya

Cable address:

AMEMBASSY NAIROBI

Borrower, in addition, shall provide the U.S. Embassy in Botswana with a copy of each communication sent to A.I.D. Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications, and documents submitted to A.I.D. hereunder shall be in English, except as A.I.D. may otherwise agree in writing.

*Section 9.2. REPRESENTATIVES.* For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of Permanent Secretary, Ministry of Finance and Development Planning, and A.I.D. will be represented by the individual holding or acting in the office of Director, East Africa Regional Economic Development Services Office (REDSO/EA). 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, Borrower shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to A.I.D. Until receipt by A.I.D. of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower designated pursuant to this section, it 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 9.3. IMPLEMENTATION LETTERS.* A.I.D. shall from time to time issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Loan Agreement.

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

Government of Botswana:

*By:* Q. K. J. MASIRE

*Title:* Vice-President and Minister  
of Finance and Development Planning

United States of America:

*By:* DAVID B. BOLEN

*Title:* American Ambassador

## A N N E X A

### BOTSWANA NORTHERN ABATTOIR

#### COORDINATION WITH DUKWE NEW TOWN DEVELOPMENT

The Borrower represents and agrees that all Governmental agencies and organizations concerned with New Town Development at Dukwe will be regularly consulted during the preparation of the design and plans for the construction of the abattoir and that the design and plans will adequately provide for the interests and concerns, related to New Town Development, of such agencies and organizations. The Borrower further agrees that the procedures and methods to be used for such consultation and coordination shall be subject to the approval of A.I.D. and to the provisions of Implementation Letters.

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