

**No. 16833**

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**UNITED STATES OF AMERICA  
and  
INDONESIA**

**Loan Agreement relating to the Citanduy River Basin  
Development. Signed at Jakarta on 28 October 1976**

*Authentic text: English.*

*Registered by the United States of America on 10 July 1978.*

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

**Accord de prêt relatif à l'aménagement du bassin du fleuve  
Citanduy. Signé à Jakarta le 28 octobre 1976**

*Texte authentique: anglais.*

*Enregistré par les États-Unis d'Amérique le 10 juillet 1978.*

LOAN AGREEMENT<sup>1</sup> (INDONESIA: CITANDUY RIVER BASIN DEVELOPMENT) BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

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Dated: October 28, 1976

A.I.D. Loan No. 497-H-039

LOAN AGREEMENT dated October 28, 1976, between the REPUBLIC OF INDONESIA ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

*Article I. THE LOAN*

*Section 1.01. 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 twelve million five hundred thousand United States dollars (\$12,500,000) ("Loan") to assist the Borrower in carrying out the Project referred to in Section 1.02 ("Project"). The Loan shall be used exclusively to finance the United States dollar costs ("Dollar Costs") of goods and services to be listed in Implementation Letters referred to in Section 8.03 ("Implementation Letters"), and part of the local currency costs of goods and services required for the Project ("Local Currency Costs"). The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal."

*Section 1.02. THE PROJECT.* The Project shall consist of assistance to the Ministry of Public Works and Electric Power in carrying out a program of development in the Citanduy Basin. The first stage is the elimination of annual flooding by the Citanduy and Ciseel Rivers to increase production of rice and other crops. The Project shall consist of (1) construction of levees on the Citanduy and Ciseel Rivers and their tributaries, including a cutoff of the Ciseel River into the Citanduy River, (2) rehabilitation of seven existing irrigation systems, (3) construction of one new irrigation system, (4) rehabilitation and construction of primary and secondary drains, (5) design of the terminal portion of the eight irrigation systems to be rehabilitated or constructed and construction of the difficult structures of these terminal portions, (6) consulting engineering services for the supervision of construction, operations and maintenance of the flood control and irrigation systems, (7) equipment for construction and operations, (8) feasibility studies and designs for additional projects in the Citanduy Basin, and (9) in country and overseas training.

*Article II. LOAN TERMS*

*Section 2.01. 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

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<sup>1</sup> Came into force on 28 October 1976 by signature.

each respective disbursement (as such date is defined in Section 6.04), and shall be computed on the basis of a 365-day year. Interest shall be payable semi-annually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement for Dollar Costs or reimbursement for Local Costs hereunder, on a date to be specified by A.I.D.

*Section 2.02. REPAYMENT.* The Borrower shall repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement or reimbursement hereunder in sixty-one (61) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be payable nine and one half (9 1/2) years after the date on which the first interest payment is due in accordance with Section 2.01. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement or reimbursement under the Loan.

*Section 2.03. APPLICATION, CURRENCY AND PLACE OF PAYMENT.* All payments of interest and Principal hereunder shall be made in United States dollars and shall be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, all such payments shall be made to the Controller, Agency for International Development, Washington, D.C., U.S.A., and shall be deemed made when received by the Office of the Controller.

*Section 2.04. PREPAYMENT.* Upon payment of all interest and refunds then due, the Borrower may 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 2.05. 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 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 the Republic of Indonesia.

### *Article III. CONDITIONS PRECEDENT TO DISBURSEMENT OR REIMBURSEMENT*

*Section 3.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT OR REIMBURSEMENT.* Prior to the first disbursement of reimbursement 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 Minister of Justice of the Borrower 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 8.02, and a specimen signature of each person specified in such statement;
- (c) A list of construction equipment, including specifications and estimated costs, approved by A.I.D., needed for the Project and to be financed under the Loan;

- (d) (1) A budgetary allocation for the Project for the Indonesian Fiscal Year 1976-77, and (2) an approved payment authorization for payment of Indonesian currency in the amount required for the first three months of Project operations; and
- (e) A fully negotiated draft contract for engineering or other type of consulting services financed under the Loan for the Project with the terms of such contract and the selection of such consultant acceptable to A.I.D.

*Section 3.02* CONDITIONS PRECEDENT TO DISBURSEMENT OR REIMBURSEMENT FOR PURPOSES OTHER THAN PROCUREMENT FOR EQUIPMENT AND SERVICES. Prior to the first disbursement or reimbursement or to the issuance of the first Letter of Commitment under the Loan for any purpose other than the procurement of equipment or consulting services, 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 operations and maintenance plan for the flood control system;
- (b) An operations and maintenance plan for the irrigation systems consisting of major works, including primary and secondary canals;
- (c) A plan and cost estimates for each irrigation system to be rehabilitated or constructed by the Project including: (i) the construction of terminal irrigation systems, and (ii) the provision of agricultural support services (establishment of water users associations, assistance for on-farm water management, and operations and maintenance of the terminal irrigation systems); and
- (d) Evidence of adequate budgetary support and a commitment by the Borrower to carry out the plans described in Section 3.02 (c).

*Section 3.03.* TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT OR REIMBURSEMENT. If all of the conditions specified in Section 3.01 have not been met within 120 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by giving written notice to the Borrower. Upon the giving of such notice, this Agreement and all obligations of the Parties hereunder shall terminate.

*Section 3.04.* NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT OR REIMBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions specified in Sections 3.01 and 3.02 have been met.

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

*Section 4.01.* GENERAL EXECUTION COVENANTS. (a) The Borrower shall cause the MPWEP to carry out the Project with due diligence and efficiency, and in conformity with acceptable engineering, construction, environmental, financial, administrative, technical and management practices.

(b) The Borrower shall cause the MPWEP to carry out the Project in conformity with all of the plans, specifications, contracts, schedules, and other arrangements, and with all modifications thereto.

(c) Except as A.I.D. may otherwise agree, the Borrower shall ensure that at all times during the execution of the Project appropriate contracts, acceptable to

A.I.D., with consulting firms acceptable to A.I.D., are in force and effect for the provision of technical advisory services, including construction supervision, needed for the Project.

*Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER.* (a) The Borrower shall ensure that the annually estimated expenditures (other than United States dollar costs to be financed under the Loan) for each year during which the Project is being conducted will be made available to permit the work of the Project to proceed on a timely basis.

(b) 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, completion, maintenance, repair, and operation of the Project.

(c) Notwithstanding any other provision of this Loan Agreement, Borrower shall provide not less than 25% of the total cost of goods and services to be used in the Project which shall not be disbursed or reimbursed by A.I.D. in any form.

(d) In addition to the funds and resources of Borrower referred to in Sections 4.02 (a), (b) and (c), the Borrower shall cause to be carried out the construction of terminal irrigation systems and the establishment of the agricultural support service elements contained in the plans submitted under Sections 3.02 (c) and (d).

*Section 4.03. COMMENCEMENT OF CONSTRUCTION FOR REIMBURSABLE UNITS OF WORK.* Prior to the commencement of construction for any unit of work, including both flood control and irrigation, for which reimbursement will be sought by the Borrower under the Loan, the Borrower shall provide to A.I.D., and A.I.D. shall review and approve in writing, the final plans, specifications and cost estimate for the unit of work, and names of the contractors and the provisions of the standard contracts and any modifications thereof under which the work is to be performed. A.I.D. shall determine that the cost estimate is reasonable. When approved by A.I.D., the cost estimate shall become the predetermined cost for the unit of work to which it applies and on which reimbursement may be made pursuant to Section 6.02.

*Section 4.04. COMMENCEMENT OF TRAINING PROGRAMS.* Prior to the commencement of any training activity, including in-country training for which disbursement will be sought by the Borrower under the Loan, the Borrower shall provide to A.I.D., and A.I.D. shall review and approve in writing, the plan for the training activity. Such plan shall include a brief course description, names of personnel to receive training and cost estimates. A.I.D. shall determine that the cost estimates are reasonable. One hundred percent of the costs of the training referred to in this section shall be paid from Loan funds. The Borrower may cause the training program to be carried out pursuant to the terms of the contract referred to in Section 3.01, paragraph (e).

*Section 4.05. CONTINUING CONSULTATION.* The Borrower, MPWEP and A.I.D. shall cooperate fully to assure that the purposes of the Loan will be accomplished. To this end, the Borrower, MPWEP, the consultants and A.I.D. shall from time to time, at the request of any party, exchange views through their representatives with regard to the progress of the Project and its effectiveness, the performance by the Borrower and MPWEP, of their obligations under this Agreement, the performance of the consultants, contractors, and suppliers engaged in the Project, and other matters relating to the Project.

*Section 4.06. OPERATION AND MAINTENANCE.* The Borrower and MPWEP shall cause the Project when completed to be operated, maintained, and repaired in conformity with acceptable engineering, financial and administrative practices, in such manner as to insure the continuing and successful achievement of the purposes of the Project, and in accordance with the approved operations and maintenance plans.

*Section 4.07. 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 of fees imposed under the laws in effect within Indonesia. To the extent that (a) any expatriate contractor, including any expatriate consulting firm, any expatriate personnel of such expatriate contractor financed hereunder, and any property or transactions relating to such contracts and (b) any foreign commodity procurement transaction financed hereunder, are not exempt from identifiable taxes, tariffs, duties, and other levies imposed under laws in effect in Indonesia, the Borrower shall pay or reimburse the same under Section 4.02 (b) of this Agreement with funds other than those provided under the Loan. Taxes, tariffs, duties, and other levies imposed under laws in effect in Indonesia on Indonesian contractors, consultants and commodity procurement transactions shall not be financed with funds provided under the Loan.

*Section 4.08. 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. Upon completion of the Project, or at such other time as goods financed under the Loan can no longer be usefully employed for the Project, the Borrower may use such goods in such manner as to further development objectives.

(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.

*Section 4.09. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES.* The Borrower represents and warrants 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 and 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 4.10. COMMISSIONS, FEES AND OTHER PAYMENTS.* (a) 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 it is a party or of which it has knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by A.I.D., the 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 of the Borrower, in connection with the procurement of goods and services financed hereunder, except fees, taxes, or similar payments legally established in Indonesia.

*Section 4.11. MAINTENANCE AND AUDIT OF RECORDS.* The Borrower and MWEP 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 or reimbursed 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 Borrower and A.I.D. may agree in Implementation Letters, and shall be maintained for five years after the date of the last disbursement or reimbursement by A.I.D. or until all sums due A.I.D. under this Agreement have been paid, whichever date shall first occur.

*Section 4.12. 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 reasonably request.

*Section 4.13. INSPECTIONS.* The authorized representatives of the Borrower and 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 and MPWEP's books, records and other documents relating to the Project and the Loan. The Borrower and A.I.D. shall cooperate to facilitate inspections and travel of their authorized representatives and the Borrower shall permit representatives of A.I.D. to visit the Project area or any part of Indonesia for any purpose relating to the Loan.

## *Article V. PROCUREMENT*

*Section 5.01. PROCUREMENT WITH LOAN FUNDS.* Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 6.01 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 for such goods.

*Section 5.02. ELIGIBILITY DATE.* Except as A.I.D. may otherwise agree in writing, no disbursements for goods or services may be made under the Loan,

and no reimbursements made for units of training completed, pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement. Provided, however, that reimbursement may be made for units of work completed where (a) such units of work are completed pursuant to orders or contracts firmly placed or entered into after December 31, 1975, and (b) the requirements of Section 4.03 have been satisfied in advance of commencement of construction and the requirements of Section 6.02 satisfied in advance of reimbursement.

*Section 5.03.* IMPLEMENTATION OF PROCUREMENT AND REIMBURSEMENT REQUIREMENTS. The definitions applicable to the eligibility requirements of Section 5.01 will be set forth in detail in Implementation Letters.

*Section 5.04.* 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 Borrower will furnish to A.I.D. upon preparation:
- (1) Any plans, specifications, procurement or construction schedules, standard construction contracts or other contracts and documentation relating to goods or services to be financed by A.I.D., 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 by A.I.D., are deemed by it to be of major importance to the Project. Aspects of the Project involving matters under this subsection (a) (2) will be identified in Implementation Letters;
- (b) Bid documents related to the prequalification of contractors, and documents related to the solicitation of proposals for goods and services financed under the Loan will be duly approved by A.I.D. in writing prior to their issuance;
- (c) The following contracts, including material modifications thereof, and contractors financed by A.I.D. and utilized for procurement of the goods and services referred to below will be approved by A.I.D. in writing prior to execution of the contracts:
- (i) Contracts and contractors for engineering and other professional services;
  - (ii) Standard contracts and contractors for construction services under fixed amount reimbursement (FAR) procedures;
  - (iii) Contracts and contractors for construction services when FAR procedures are not utilized; and
  - (iv) Contracts and contractors for commodities;
- (d) 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, shall be provided to A.I.D.

*Section 5.05.* 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 on a competitive basis in accordance with procedures therefor prescribed in Implementation Letters.



*Section 5.06. SHIPPING AND INSURANCE.* (a) Goods procured from the United States and financed under the Loan pursuant to Section 6.01 shall be transported to Indonesia 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) (1) *Gross Tonnage.* At least fifty percent (50%) of the gross tonnage of all commodities (computed separately for dry bulk carriers, dry cargo liners and tankers) financed hereunder pursuant to Section 6.01 which may be transported on ocean vessels shall be transported on privately-owned United States-flag commercial vessels. (2) *Revenue.* Additionally, at least fifty percent (50%) of the gross freight revenue generated by all shipments financed hereunder pursuant to Section 6.01 and transported to Indonesia on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels unless A.I.D. shall determine that such vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels. (3) *Compliance.* Compliance with the requirements of (1) and (2) above must be achieved with respect to cargo transported from U.S. ports and also to cargo transported from non-U.S. ports, computed separately. (4) *Reporting.* Within ninety (90) days following the end of each calendar quarter, or such other period as A.I.D. may specify in writing, Borrower shall furnish A.I.D. with a statement, in form and substance satisfactory to A.I.D., reporting on compliance with the requirements of this Section.

(c) No such goods may be transported on any ocean vessel (or aircraft): (1) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods, or (2) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(d) Marine insurance on goods financed under the Loan may also be financed under the Loan with disbursements made pursuant to Section 6.01, provided (i) such insurance is placed at the lowest available competitive rate in Indonesia or in a country included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of placement, and (ii) claims thereunder are payable in the currency in which such goods were financed. If the Government of the Borrower, 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 country of the Borrower financed under the Loan shall be insured against marine risks and such insurance shall 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.

(e) Except as the Borrower and A.I.D. shall otherwise agree 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 and conditions consistent with sound commercial practice, shall insure the full value of the goods, and shall be payable in the currency in which such goods were financed. Any indemnification received by the 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 the Borrower for the replacement or repair of such goods. Any such replacements shall have both their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book and shall be otherwise subject to the provisions of this Agreement.

*Section 5.07. PORT CHARGES.* With respect to ocean freight costs which qualify as eligible for financing under the Loan, and except as A.I.D. may otherwise agree in writing, A.I.D. will finance ninety percent (90%) of all ocean freight costs of each shipment, and ninety-eight percent (98%) of such costs on any shipment under free-out terms. The remaining ten percent (10%), or two percent (2%) of free-out shipments, represent port charges in Indonesia and Borrower covenants that it shall make available foreign exchange to finance said port charges in accordance with procedures which may be prescribed by A.I.D. in Implementation Letters.

*Section 5.08. NOTIFICATION TO POTENTIAL SUPPLIERS.* In order that all United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan as Dollar Costs as defined in Section 6.01, 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 5.09. INFORMATION AND MARKING.* Borrower shall give publicity to the Loan and the Project as being assisted by United States aid, identify the work sites, and mark goods financed under the Loan, as prescribed in Implementation Letters.

#### *Article VI. DISBURSEMENT AND REIMBURSEMENT*

*Section 6.01. DISBURSEMENT FOR UNITED STATES DOLLAR COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANKS.* Upon satisfaction of conditions precedent pursuant to Sections 3.01 and 3.02, the Borrower may, from time to time, request A.I.D. to 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 consultants 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 consultant 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 6.02. REIMBURSEMENT FOR PREDETERMINED COSTS FOR UNITS OF WORK COMPLETED.* (a) Upon satisfaction by the Borrower of the conditions precedent contained in Sections 3.01 and 3.02, and 4.03 as appropriate, the Borrower may, from time to time, submit a request to A.I.D. for reimbursement of an agreed upon portion of the predetermined Local Currency Costs for units of work completed, pursuant to Section 4.03. Such reimbursement shall be made in United States dollars.

(b) Each request for reimbursement shall contain certifications that (i) the units of work have been completed according to approved plans, specifications and contracts pursuant to Section 4.03, and (ii) that reimbursement has not and will not be obtained from any other source.

(c) All certifications submitted with such requests are subject to verification by A.I.D. If any units of work are found not satisfactorily completed in accordance with previously approved plans and specifications pursuant to

Section 4.03 or have been reimbursed from another source, A.I.D. will deduct the requested amount for that unit of work from the reimbursement request before approving the request.

*Section 6.03. OTHER FORMS OF DISBURSEMENT.* Disbursements of the Loan may be made through such other means as the Borrower and A.I.D. may agree to in writing.

*Section 6.04. DATE OF DISBURSEMENT.* Disbursements by A.I.D. shall be deemed to occur (a) on the date on which A.I.D. makes disbursement pursuant to Section 6.01 to the Borrower, to its designee, or to a banking institution pursuant to a Letter of Commitment; (b) in the case of disbursements made pursuant to Section 6.02 (a), on the date on which A.I.D. disburses the local currency to the Borrower or its designee; (c) on the date on which A.I.D. opens or amends the Special Letter of Credit pursuant to Section 6.02 (a), or (d) in the case of disbursements made pursuant to Section 6.03, on the date on which A.I.D. makes disbursement pursuant to the terms of such other disbursement documents.

*Section 6.05. TERMINAL DATE FOR DISBURSEMENT.* Except as A.I.D. may otherwise agree in writing, no Letter of Commitment or other document making a commitment for payment will be issued or amended pursuant to requests received by A.I.D. after four years and nine months next succeeding the date of execution of this Agreement, and no disbursements or reimbursements will be made against documentation received by A.I.D. or any bank making payments hereunder after five years next succeeding the date of execution of this Agreement. After the latter date, A.I.D. may at any time or times reduce the amount of the Loan by all or any part thereof for which documentation was not received by such date.

## *Article VII. CANCELLATION AND SUSPENSION*

*Section 7.01. 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 been utilized through reimbursement or through payments made through other procedures.

*Section 7.02. 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 or MPWEP shall have failed to comply with any other provision of this Agreement, including, but without limitation, the obligation to carry out the Project with due diligence and efficiency; or
- (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 the Government of the United States, or any of its agencies,

then A.I.D. may, at its option, give to the Borrower notice that all or any part of the unrepaid 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 unrepaid Principal and any accrued interest hereunder shall be due and payable immediately; and
- (ii) The amount of any further disbursements made under then outstanding Letters of Credit or any reimbursement or otherwise shall become due and payable as soon as made.

*Section 7.03. SUSPENSION OF DISBURSEMENT OR REIMBURSEMENT.* In the event that at any time:

- (a) An Event of Default has occurred;
- (b) An event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower or MPWEP will be able to perform their obligations under this Agreement;
- (c) A.I.D. determines that the overall Project is not being carried out satisfactorily in accordance with agreed upon standards and criteria; or
- (d) Any disbursement or reimbursement by A.I.D. would be in violation of the legislation governing A.I.D.,

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 or make additional reimbursements; and
- (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 Indonesia, are in a deliverable state and have not been offloaded in ports of entry of Indonesia. Any disbursements or reimbursements made or to be made under the Loan with respect to such transferred goods shall be deducted from Principal.

*Section 7.04 CANCELLATION BY A.I.D.* Following any suspension of disbursements or reimbursements pursuant to Section 7.03, if the cause or causes for such suspension of disbursements or reimbursements 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 7.05. CONTINUED EFFECTIVENESS OF AGREEMENT.* Notwithstanding any cancellation, suspension of disbursement or reimbursement, 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 7.06. REFUNDS. (a)* In the case of any disbursement or reimbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursements or reimbursements 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 sixty (60) days after receipt of a request therefor. Such amount shall be made available first for the cost of goods and services procured and reimbursement for acceptably completed units of work or training 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 or reimbursement under the Loan shall continue for five years following the date of such disbursement or reimbursement.

*(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 and reimbursement for acceptably completed units of work or training 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 shall be reduced by the amount of such remainder.

*Section 7.07. 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 7.02 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

*Section 7.08. 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 of such rights, powers, or remedies.

#### *Article VIII. MISCELLANEOUS*

*Section 8.01. COMMUNICATIONS.* Any notice, request, document, or other communication given, made, or sent by the Borrower, MPWEP 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 address:

## To Borrower:

Mail Address: Departemen Luar Negeri  
Taman Pejambon 6  
Jakarta Pusat  
Indonesia

Cable Address: DEPLU Jakarta

## To A.I.D.:

Mail Address: United States Agency for International Development  
American Embassy  
Jakarta, Indonesia

Cable Address: USAID AMEMB Jakarta

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 8.02. REPRESENTATIVES.* For all purposes relative to this Agreement, the Borrower shall be represented by the individuals holding or acting in the offices of Chairman or Vice Chairman, National Development Planning Agency (“BAPPENAS”) and A.I.D. will be represented by the individual holding or acting in the office of Mission Director, USAID Mission to Indonesia. 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 affected by such instrument is duly authorized.

*Section 8.03. 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 Agreement.

*Section 8.04. PROMISSORY NOTES.* At such time or times as A.I.D. may request, the Borrower shall issue promissory notes or such other evidence of indebtedness with respect to this Loan, in such form, containing such terms and supported by such legal opinions as A.I.D. may reasonably request.

*Section 8.05. TERMINATION UPON FULL PAYMENT.* Upon payment in full of the Principal and of any accrued interest, this Agreement and all obligations of the Borrower, MPWEP and A.I.D. under this Loan Agreement shall terminate.

IN WITNESS WHEREOF, the 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.

United States of America:  
[Signed]  
DAVID D. NEWSOM  
Ambassador to Indonesia

Republic of Indonesia:  
[Signed]  
ADAM MALIK  
Minister for Foreign Affairs  
of the Republic of Indonesia