

Yen Loan to COFIDE No. 3

LOAN AGREEMENT

Dated May 20, 1999

BETWEEN

CORPORACIÓN FINANCIERA DE DESARROLLO, S.A.

and

**THE EXPORT-IMPORT BANK OF JAPAN
and the Participating Financial
Institution**

GUARANTEED BY THE REPUBLIC OF PERU

CONTENTS

Clause	Page
1. Definitions	1
2. Amount of Facility and Use of Loan	7
3. Approval of Contract	8
4. Disbursement	8
5. Repayment and Prepayment of Loan	8
6. Interest, Commitment Charge and Overdue Payment	10
7. Payments and Currency	12
8. Representations and Warranties	13
9. Covenants	17
10. Events of Default	21
11. Conditions Precedent	23
12. Taxes, Fees and Expenses	24
13. Governing Law and Jurisdiction	26
14. The Eximbank and the Agent	28
15. Miscellaneous	28

Schedules

1. Procedure for Approval of Contract	32
2. Disbursement Procedures	43
3. Form of Guarantee	52
4. Form of Legal Opinion of Legal Counsel to the Borrower	61
5. Matters to be certified by the Head of Legal Office of the Ministry of Economy and Finance of the Borrower's Country	65
6. Part 1 - Consents of Borrower's Agents for Service of Process (Tokyo Process Agent)	67
Part 2 - Consents of Borrower's Agents for Service of Process (New York Process Agent)....	68
Part 3 - Consents of Borrower's Agents for Service of Process (London Process Agent)	69
7. Part 1 - Consents of Guarantor's Agents for Service of Process (Tokyo Process Agent)	70
Part 2 - Consents of Guarantor's Agents for Service of Process (New York Process Agent) ..	71
Part 3 - Consents of Guarantor's Agents for Service of Process (London Process Agent)	72

THIS LOAN AGREEMENT is dated May 20, 1999 BETWEEN:

- (1) CORPORACIÓN FINANCIERA DE DESARROLLO, S.A. - COFIDE, a corporation duly incorporated and existing under the laws of the Republic of Peru having its principal office at Augusto Tamayo N°160, San Isidro, Lima 27, Peru, Casilla Postal 10377, Lima, Peru (hereinafter referred to as the "**Borrower**"); and
- (2) THE EXPORT-IMPORT BANK OF JAPAN (hereinafter referred to as the "**EXIMBANK**") and the Participating Financial Institution (as hereinafter defined) acting together as lenders (the EXIMBANK and the Participating Financial Institution are hereinafter collectively referred to as the "**Lenders**" and individually as a "**Lender**").

WHEREAS:

- (A) The Borrower has requested the EXIMBANK to arrange for funds to be made available to the Borrower for financing the importation of Japanese equipment, machinery and services incidental thereto by importers located in the Republic of Peru, such financing to be provided by the Borrower through sub-borrowers; and;
- (B) The EXIMBANK, with a view to promoting economic cooperation with, and the economic and industrial development of, the Republic of Peru has therefore agreed, together with the Participating Financial Institution, to extend a loan facility to the Borrower on the terms and conditions hereinafter set forth.

NOW THEREFORE, the parties hereto agree as follows:

1. **DEFINITIONS**

- (1) In this Agreement and in the Recitals and Schedules hereto, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Agent"

Paribas, acting out of its Tokyo Branch, or any other entity appointed by the EXIMBANK at its sole discretion, as agent to take such action expressly delegated to it under this Agreement on behalf of the Lenders;

"Agreement"

this Loan Agreement;

"Amortisation Schedule"

in respect of the Loan, any amortisation schedule drawn up, or to be drawn up, by the EXIMBANK in accordance with the provisions of this Agreement;

"Applicable Interest Rate"

has the meaning given to it in Clause 6(1).

"Approved Amount"

in respect of any Approved Contract, the maximum aggregate amount in Yen approved by the EXIMBANK in accordance with Clause 3 and Schedule 1 for financing hereunder;

"Approved Contract"

any Contract approved by the EXIMBANK in accordance with Clause 3 and Schedule 1 as being eligible for the benefit of financing hereunder;

"Approval Procedures "

the procedures set forth in Schedule 1;

"Availability Period"

the period commencing on the date of this Agreement and expiring on the earliest of (a) November 30, 2002, (b) the date on which the Facility is fully disbursed hereunder, (c) the date on which the Facility is cancelled pursuant to the terms hereof, and (d) such other date as the parties hereto may agree;

"Borrower's Country"

the Republic of Peru;

"Business Day"

a day on which banks and other financial institutions are open for foreign exchange business in Tokyo;

"Ceiling Amount"

¥5,000,000

"Contract"

any contract for the purchase of, *inter alia*, Japanese Goods and/or Services between an Importer and a Japanese supplier;

"Default"

any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default;

"Disbursement"

each disbursement of the Facility made in accordance with Clause 4, or, as the context may require, the principal amount of such disbursement from time to time outstanding;

"Disbursement Period"

in respect of any Approved Contract, the period during which one (1) or more Disbursements may be made in respect of the Loan in relation thereto. The duration of such period shall be fixed by the EXIMBANK with reference to the terms of such Approved Contract at the time of approval thereof in accordance with the provisions of Clause 3 and Schedule 1. In no event, shall any Disbursement Period extend beyond the Final Disbursement Date;

"Dollar(s)" or "\$"

the lawful currency of the United States of America from time to time;

"Encumbrance"

any mortgage, pledge, lien, charge, privilege, priority, encumbrance or other security interest of any kind or nature whatsoever and howsoever arising securing any obligation of any Person or any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;

"Event of Acceleration"

any of the events or circumstances specified in Clause 10(2) to be an Event of Acceleration;

"Event of Default"

any Event of Acceleration or Event of Suspension;

"Event of Suspension":

any of the events or circumstances specified in Clause 10(1) to be an Event of Suspension;

"Export Amount"

in respect of any Approved Contract, the total Yen amount payable by the relevant Importer to the relevant Japanese supplier in respect of all of the Japanese Goods and/or Services to be supplied thereunder;

"External Indebtedness"

Indebtedness for Borrowed Money which is denominated or payable or optionally payable in a currency other than the Local Currency;

"Facility"

the loan facility described in Clause 2;

"Final Application Date"

May 30, 2001;

"Final Disbursement Date"

the last day of the Availability Period;

"Guarantee"

the guarantee to be given by the Guarantor of all of the obligations of the Borrower hereunder in favour of the Lenders in the form set forth in Schedule 3;

"Guarantor"

the Republic of Peru acting by and through its Ministry of Economy and Finance;

"Guiding Principles"

has the meaning given to it in Clause 6(1).

"Importer"

any importer in the Borrower's Country acceptable to the EXIMBANK;

"Indebtedness"

any obligation (whether incurred as principal, guarantor or surety) for the payment or repayment of money, whether present or future, actual or contingent;

"Indebtedness for Borrowed Money"

any Indebtedness of any Person for or in respect of: (a) amounts borrowed or raised under any loan or credit facility; (b) the amount of any deferred purchase price of property or services, the payment of which has been deferred in excess of ninety (90) days; (c) all obligations under or in respect of letters of credit or banker's acceptances; (d) all obligations under or evidenced by bonds, debentures, notes or other similar instruments; (e) leases or hire purchase contracts, which would in accordance with generally accepted accounting standards in the Borrower's Country be treated as finance or capital leases; (f) all direct or indirect guarantees, endorsements, avals and similar obligations of such Person and all obligations (contingent or otherwise) of such Person to purchase or otherwise assure a creditor against loss in respect of indebtedness or the obligations of any other Person; or (g) amounts raised under any other transaction (including, without limitation, any forward sale or purchase agreement) having the commercial effect of a borrowing;

"Interest Payment Date"

each of February 15 and August 15 in each year;

"Japanese Goods and/or Services"

equipment, machinery and goods and/or services incidental thereto which are primarily of Japanese manufacture or origin but including those manufactured or originating in third countries other than Japan and the Borrower's Country to the extent approved by the

EXIMBANK, (to the exclusion of Local Goods and/or Services), of benefit to the industrial and economic development of the Borrower's Country and which are approved and accepted by the EXIMBANK as being eligible for the benefit of financing hereunder;

"Loan"

means the aggregate principal amount disbursed, or, as the context may require, to be disbursed, hereunder by the Lenders to the Borrower in respect of an Approved Contract and from time to time outstanding;

"Local Amount"

in respect of any Approved Contract, the total amount in the Local Currency payable by the relevant Importer to the relevant Japanese supplier in respect of all the Local Goods and/or Services to be supplied thereunder;

"Local Currency"

means the lawful currency of the Borrower's Country from time to time, being the New Sol as at the date of this Agreement;

"Local Goods and/or Services"

means equipment, machinery and goods and/or services incidental thereto which are manufactured or originating in the Borrower's Country, of benefit to the industrial and economic development of the Borrower's Country and which the Importer has contracted to purchase pursuant to the terms of an Approved Contract, and which are approved and accepted by the EXIMBANK as being eligible for the benefit of financing thereunder;

"London Process Agent"

has the meaning given to that term in Clause 13(4)(a)(ii);

"Month"

means a period commencing on a specific day in any calendar month and ending on and including the day immediately preceding the numerically corresponding day in the next succeeding calendar month, provided that if there is no such numerically corresponding day in the next succeeding calendar month, such period shall expire on and including the last day of such next succeeding calendar month, and references to **"Months"** shall be construed accordingly;

"New York Process Agent"

has the meaning given to that term in Clause 13(4)(a)(iii);

"Notice of Approval of Contract "

means written notice given by the EXIMBANK in the form of Form 2 attached to Schedule 1;

"Other JEXIM Agreement":

any agreement other than this Agreement involving the borrowing of money or the extension of credit or any guarantee or indemnity between the Borrower or the Guarantor, on the one part, and either the EXIMBANK alone or the EXIMBANK acting together with one or more banks or financial institutions, on the other part;

"Participating Financial Institution"

Paribas, acting out of its Tokyo Branch;

"Person"

an individual, corporation, partnership, joint venture, trust, unincorporated organisation, government, sovereign state or any agency, authority or political subdivision thereof, international organisation, agency or authority (in each case, whether or not having separate legal personality) or any two or more of the foregoing;

"Relending Agreement"

in respect of any Approved Contract, an agreement between the relevant financial intermediary and the relevant Importer for relending the proceeds of the relevant Sub-Loan;

"Relevant Currency":

the currency in which any tax, duty, penalty, fee, expense, charge, interest, loss cost or liability is denominated or, if the EXIMBANK shall so request, the amount of the same in any other currency at the then current rate of exchange specified by the EXIMBANK;

"Risk Premium"

has the meaning given to it in Clause 6(1).

"Sub-Borrower"

any financial intermediary in the Borrower's Country acceptable to the EXIMBANK;

"Sub-Loan"

any sub-loan by the Borrower to a Sub-Borrower exclusively from the proceeds of a Loan and for the purposes set out in Clause 2(2);

"Sub-Loan Agreement"

any agreement between the Borrower and a Sub-Borrower providing for a Sub-Loan;

"Tax"

any charge (whether described as a tax or duty or otherwise, whether measured by income or value or otherwise, whether collected by withholding or stamps or otherwise) imposed by any

governmental or taxing authority upon this Agreement or the Guarantee, upon a payment, or upon a Lender's receipt under or profit from this Agreement or the Guarantee (except a charge imposed because a Lender is organised under the laws of, or maintains an establishment within the territory of, the authority imposing that charge) and any interest on or penalty with respect to any Tax;

"Tokyo Process Agent"

has the meaning given to that term in Clause 13(4)(a)(i);

"Total Facility Amount"

the total facility amount as defined in Clause 2(1);

"Yen" or "¥":

the lawful currency of Japan from time to time.

- (2) Clause headings in this Agreement and the Table of Contents are inserted for ease of reference only and do not form a part of this Agreement and shall have no effect on the interpretation of any of the provisions hereof.
- (3) The Schedules to this Agreement shall form an integral part hereof.
- (4) Reference to **"this Agreement"** in this Agreement means this Agreement as it may be amended from time to time.
- (5) Where the context so requires, words importing the singular number shall include the plural and *vice versa*.

2. AMOUNT OF FACILITY AND USE OF LOAN

(1) Commitment

The Lenders hereby agree to make available to the Borrower, on and subject to the terms and conditions of this Agreement, a loan facility in Yen in an aggregate amount not exceeding Yen five billion (¥5,000,000,000), (hereinafter referred to as the **"Total Facility Amount"**).

(2) Use of Loan

The entire proceeds of the Loan shall be applied by the Borrower, by way of a Sub-Loan Agreement and a Relending Agreement, for the sole purpose of financing:

- (a) up to eighty-five per cent. (85%) of the Export Amount payable pursuant to the relevant Approved Contract; and
- (b) the Local Amount payable pursuant to the relevant Approved Contract, up to an amount not exceeding the lesser of (i) an amount in Yen equal to fifteen per cent. (15%) of the Export Amount under the relevant Approved Contract and (ii) the Yen equivalent (calculated pursuant to the provisions of the Disbursement Procedures) of

an amount equal to one hundred per cent. (100%) of the Local Amount under the relevant Approved Contract.

3. APPROVAL OF CONTRACT

(1) Application

In order to render a Contract eligible for the benefit of financing by way of Sub-Loan under the Facility, the Borrower shall first apply for the EXIMBANK's approval of such Contract and related Sub-Loan Agreement in accordance with the provisions set out in Schedule 1.

(2) Final Application Date

No application for approval as aforesaid shall be made after the Final Application Date, unless otherwise agreed in writing by the EXIMBANK.

(3) Approved Amount

Notwithstanding anything contained herein to the contrary, the aggregate of all Approved Amounts shall at no time exceed the Total Facility Amount.

4. DISBURSEMENT

(1) Disbursement Procedures

Once the conditions referred to in Clause 11 have been fulfilled and a Contract and related Sub-Loan Agreement have been approved by the EXIMBANK in accordance with the provisions set out in Clause 3 and Schedule 1, the Lenders shall disburse the Facility in relation to such Approved Contract and related Sub-Loan Agreement in accordance with, and subject to, the Disbursement Procedures set out in Schedule 2.

(2) Final Disbursement Date

No Disbursement shall be made hereunder by the Lenders after the Final Disbursement Date unless otherwise agreed in writing by the Lenders. No Disbursement shall be made in respect of the Loan in relation to any Approved Contract beyond the Disbursement Period in respect of such Approved Contract provided always that the parties hereto may agree in writing to the extension of such Disbursement Period.

5. REPAYMENT AND PREPAYMENT OF LOAN

(1) Repayment of Disbursement

(Repayment of Loan) The Borrower shall repay each Loan in accordance with the relevant Amortisation Schedule which shall be drawn up on the basis of the following criteria and attached to the relevant Notice of Approval of Contract. Each Amortisation Schedule shall form an integral part hereof and shall accordingly, irrevocably and unconditionally, bind the Borrower to repay the relevant Loan in accordance therewith:

- (i) Repayment of each Loan shall be made in the following number of equal consecutive six-monthly instalments according to the amount of the relevant Approved Amount or

the type of Approved Contract, as set out in the tables below (provided that the instalments other than the last instalment shall be rounded up to the nearest unit of one thousand Yen (¥1,000), with the aggregate amount of the resulting increase to such instalments being deducted from the last instalment):

Approved Amount		Number of Instalments
¥100,000,000.- to ¥499,999,999.-	(both figures inclusive)	Ten (10)
¥500,000,000.- to ¥999,999,999.-	(both figures inclusive)	Fourteen (14)
¥1,000,000,000.- to ¥2,499,999,999.-	(both figures inclusive)	Sixteen (16)
over ¥2,500,000,000	(figure inclusive)	Twenty (20)

Notwithstanding the above, Approved Contracts of the following types shall have the following number of repayment instalments regardless of the Approved Amount:

Type of Approved Contract	Number of Instalments
Contract relating to spare parts and/or intermediate goods:	Four (4)
Contracts relating to special automobiles:	Ten (10)

- (ii) The first (1st) instalment in respect of each Loan shall become due and payable on the immediately succeeding Interest Payment Date following the third (3rd) calendar month after the originally scheduled date of the last shipment, the commissioning, the provisional acceptance or equivalent expression as set out in the relevant Approved Contract (such scheduled date stated in the relevant Notice of Approval of Contract being the "Specified Date") and each subsequent consecutive six-monthly instalment in respect of such Loan shall become due and payable on each of the Interest Payment Dates falling after such first (1st) Interest Payment Date.
- (iii) In the event that on the day immediately following the Final Disbursement Date in respect of any Approved Amount, the Loan in respect thereof is less than such Approved Amount, the undisbursed balance of such Approved Amount shall be deducted **pro rata** from each of the instalments shown in the said amortisation schedule (provided that the instalment other than the last instalment shall be rounded up to the nearest unit of one thousand Yen (¥1,000), the aggregate amount of the resulting increases to such instalments being deducted from the last instalment), unless such undisbursed balance is less than the last instalment, in which case the whole amount thereof shall be deducted from such last instalment alone.

(2) **Voluntary Prepayment**

- (a) At any time after the day following the Final Disbursement Date, upon giving not less than thirty (30) days' prior irrevocable notice in writing to the Lenders, the Borrower may prepay in advance of maturity if acceptable to the EXIMBANK, all or any part (but if in part, the amount of any prepayment shall be at least equal to one (1) instalment of the relevant Loan or integral multiples thereof) of any Loan disbursed to the Borrower hereunder, together with all accrued interest thereon up to the date of such prepayment and any other amounts then payable under this Agreement in respect of the sum prepaid.
- (b) Any and all prepayments made under this Agreement shall be applied to the repayment instalments of the principal of the relevant Loan in the inverse order of their maturity and shall be in an amount equal to the repayment instalment or instalments against which such prepayment is to be applied pursuant to this Clause 5(2)(b).
- (c) The Borrower shall pay a prepayment premium of one half of one per cent (0.5%) of the amount of principal to be prepaid, which premium shall be paid simultaneously with such prepayment.
- (d) Once the date for any prepayment has been fixed, such date shall be deemed as the due date for the principal (and the interest thereon) to be paid and should the Borrower fail to pay any such principal and/or interest due on such date the Borrower shall pay interest on such overdue principal and/or interest in accordance with Clause 6(4) below.
- (e) Amounts prepaid pursuant hereto shall not be reborrowed.
- (f) If the Borrower receives any prepayment of a Sub-Loan from a Sub-Borrower, or if any Sub-Borrower receives any prepayment under a Relending Agreement from an Importer, the Borrower shall prepay to the Lenders the amount in Yen equivalent to such prepayment upon the first demand of the Lenders together with all interest accrued thereon up to and including the day immediately preceding the date of such prepayment made by the Borrower to the Lender.

6. **INTEREST, COMMITMENT CHARGE AND OVERDUE PAYMENT**

(1) **Interest Rate**

The Borrower shall pay interest on the principal amount of each Loan in accordance with the provisions hereof. The rate of interest applicable to each Loan shall be determined with reference to the date of the signing of the Approved Contract and such rate once determined shall be fixed for such Loan for the whole period during which such Loan is outstanding.

The interest rate applicable to a Loan made in relation to an Approved Contract shall be the sum of (i) the interest rate which is conclusively determined by the EXIMBANK as the minimum interest rate which would be applied by the EXIMBANK to Japanese officially supported export credits to the Borrower's Country in Yen (Commercial Interest Reference Rate (CIRR) as agreed among OECD member countries) on the date of signing of such Approved Contract and (ii) subject to this Clause 6(1), the minimum risk premium (the "**Risk Premium**") applicable to officially supported export credits to borrowers in the Borrower's Country under the OECD's Guiding Principles for Setting Premia Fees under the Arrangement on Guidelines for Officially Supported Export Credits (the "**Guiding Principles**"), provided

that the Risk Premium shall not apply to any Loan relating to an Approved Contract entered into between the relevant Importer and Japanese supplier before June 30, 1999. The EXIMBANK may from time to time and at its sole discretion adjust the Risk Premium applicable to any such Loan to reflect any adjustments thereto in respect of borrowers in the Borrower's Country from time to time in effect under the Guiding Principles, and shall notify the Borrower in writing of such adjustment and of the resulting revised Risk Premium, which shall be the Risk Premium comprising the Applicable Interest Rate for a Loan made in relation to each Approved Contract which is signed during the period for which such Risk Premium is applicable. The EXIMBANK shall, at the time of approval of each Contract in accordance with the provisions set out in Schedule 1, notify the Borrower in writing (as per attached Form 3 set out in Schedule 1) of the interest rate so determined as aforesaid with respect to the relevant Loan.

For the purposes of this Agreement, the term "**Applicable Interest Rate**" in relation to a Loan shall mean the interest rate applicable thereto pursuant to the foregoing provisions.

(2) Payment of Interest

- (a) The Borrower shall pay interest to the Lenders on the principal amount of each Loan at such Loan's Applicable Interest Rate. Such interest shall be paid in arrears on each Interest Payment Date for the period commencing on and including the date of the first Disbursement of each Loan or the immediately preceding Interest Payment Date, as the case may be, up to and including the day immediately preceding such Interest Payment Date.
- (b) Notwithstanding the foregoing, the due date for each such payment of interest which falls due during the period from and including the day on which the first Disbursement of each Loan is made hereunder up to and including the day of the last Disbursement of the relevant Loan in respect of each Approved Contract shall be the date falling one (1) Month after the Interest Payment Date on which such payment of interest would have been otherwise due and payable pursuant hereto but for this provision.

(3) Commitment Charge

The Borrower shall also pay a commitment charge to the Lenders at the rate of (i) one half of one per cent. (0.5%) per annum on the undisbursed amount of each Approved Amount in respect of which no Risk Premium is payable and (ii) one-fifth of one percent (0.2%) per annum on the undisbursed amount of each Approved Amount in respect of which Risk Premium is payable, in each case in accordance with Clause 6(1). Such commitment charge shall accrue from and including the date of approval of each Approved Contract by the EXIMBANK hereunder up to and including (i) the date immediately preceding the day of the last Disbursement of the relevant Loan in respect of such Approved Contract or (ii) the final date of the Disbursement Period in respect of the relevant Approved Contract, whichever is the earlier. The commitment charge shall be paid in arrears on the date falling one (1) Month after each Interest Payment Date for the period from and including the date of approval of the relevant Approved Contract or the immediately preceding Interest Payment Date, as the case may be, up to and including the day immediately preceding such Interest Payment Date, the date immediately preceding the day of the last Disbursement Period or the final date of the Disbursement Period, as the case may be.

(4) Overdue Payment

In case the Borrower fails to pay any principal or interest payable under this Agreement on the due date therefor, the Borrower shall pay to the Lenders on demand interest on such overdue principal or interest at a rate per annum equal to the aggregate of (i) two per cent. (2%) plus (ii) the rate of interest applicable to such overdue principal or, as the case may be, the principal amount on which such overdue interest was derived, for each day during the period from and including the due date thereof to but excluding the date of actual payment thereof. Such interest shall accrue after as well as before judgment and in accordance with Clause 6(5).

(5) Basis of Calculation

Interest and the commitment charge shall accrue on a day to day basis and be computed on the basis of a year of three hundred and sixty five (365) days and the actual number of days elapsed (fractional sums of less than one Yen (¥1.00) being disregarded).

7. PAYMENTS AND CURRENCY

(1) Place and Time of Payment

All payments to be made by the Borrower to the Lenders hereunder shall be paid in Yen in immediately available funds, to the account notified by the Lenders in writing, not later than 11.00 a.m., Tokyo time, on the due date for payment thereof and any such payment made on such due date but after such time shall be deemed to have been made on the immediately succeeding Business Day and interest pursuant to Clause 6(4) above shall accrue and be payable upon any payment so made.

(2) Payments on Business Day

If any payment to be made by the Borrower hereunder falls due on any day which is not a Business Day, such payment shall be made on the immediately succeeding Business Day.

(3) Payments to be Free of Claims and Taxes

No payment to be made by the Borrower hereunder shall be reduced by any set-off or counterclaim. If any payment (including one required by this sentence) is reduced by a Tax, there shall be due from the Borrower together with it a further payment equal to that reduction. If any Lender becomes liable for a Tax on account of a payment from which that Tax has not been deducted, or reasonably incurs a cost in connection with a Tax, there shall be due from the Borrower as an indemnity on demand by that Lender a payment equal to that Tax or cost.

(4) Payments in Yen

The obligation of the Borrower hereunder to make payments in Yen shall not be discharged or satisfied by any amount, tender or recovery (whether pursuant to any judgment or otherwise) expressed, paid or made in or converted into any currency other than Yen except to the extent to which such amount, tender or recovery so expressed, paid, made or converted shall result in the effective receipt by the Lenders of the full amount of Yen payable to the Lenders hereunder at any relevant time and accordingly the primary obligation of the Borrower shall be enforceable as an alternative or additional cause of action for the purpose of recovery in Yen of the amount (if any) by which such effective receipt shall fall short of the full amount of Yen

payable hereunder, and shall not be affected by judgment being obtained for any other sum due under this Agreement.

(5) Insufficient Payment

If the amount of any payment made by the Borrower under this Agreement is less than the total amount due and payable in respect of such payment, then the Borrower shall be deemed to have waived any right which it may have to make any appropriation thereof and the EXIMBANK (for itself and on behalf of the Lenders) shall apply and appropriate the payment so made in or towards the satisfaction of any or all of the amounts which are due or overdue for payment on such day in the following order (or in such other order as the EXIMBANK may agree with the Borrower from time to time to be appropriate in the circumstances): (i) costs and expenses (and amounts under indemnities in respect of costs and expenses) due under this Agreement (to the extent the EXIMBANK has been notified that such amounts are due) pursuant to this Agreement; (ii) commitment charge due; (iii) overdue interest, if any; (iv) interest due on the Loans; (v) the principal amount of the Loans then due and repayable; (vi) any amount due and not otherwise provided for in this Clause 7(5), provided that if any payment is insufficient to pay any such category in full, the EXIMBANK shall apply the payment received in the chronological order in which such sums in such category fell due and otherwise in the order decided by the EXIMBANK in its sole direction.

8. REPRESENTATIONS AND WARRANTIES

The Borrower makes the representations and warranties in this Clause 8 (Representations and Warranties) to and for the benefit of the Lenders to induce the Lenders to enter into this Agreement.

(1) Status of Borrower

The Borrower is a corporation duly incorporated and validly existing under the laws of the Borrower's Country and has full power and authority to own its assets and carry on its business as being conducted at the date of execution of this Agreement and is a legal entity with separate legal personality capable of being sued in its own name

(2) Authorisation

The Borrower has full power and authority to enter into this Agreement and any agreement, instrument or document to be executed by it hereunder and to perform and observe the terms and conditions hereof and thereof and it has taken and completed all legal action and procedures necessary to approve the transactions contemplated hereby and to authorise the Borrower to execute, deliver and perform this Agreement, and any agreement, instrument or document to be executed by it hereunder.

(3) Government Consents and Actions

All acts, conditions and things, which are necessary or advisable to be done, fulfilled or performed in connection with (i) the execution, delivery or performance of this Agreement or any agreement and instrument required hereunder or thereunder, (ii) the legality, validity and enforceability of this Agreement, the Guarantee or any agreement or instrument required hereunder or thereunder or (iii) the admissibility in evidence in the courts of the Borrower's Country of this Agreement, the Guarantee and any agreement or instrument required hereunder

or thereunder have been duly done, fulfilled and/or performed and are in full force and effect (except, and only in relation to this representation and warranty as made on the date of this Agreement, the registration of this Agreement and the Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Borrower's Country).

(4) Proper Legal Form

This Agreement and the Guarantee are in proper legal form under the Laws of the Borrower's Country for enforcement in the courts of the Borrower's Country.

(5) Registrations and consents

It is not necessary to file, register or otherwise record this Agreement or the Guarantee or any agreement or instrument required hereunder or thereunder in any court, public office or elsewhere in the Borrower's Country, or to pay any stamp, registration or similar tax on or in relation to this Agreement or the Guarantee or any agreement or instrument required hereunder or thereunder to ensure the validity, legality, effectiveness, enforceability or admissibility in evidence hereof and thereof, or the making of any payment required to be made hereunder or thereunder, other than registration of this Agreement and the Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Borrower's Country.

(6) Binding Effect

This Agreement has been duly executed and delivered by the duly authorised representative of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable against it in accordance with its terms.

(7) No Contravention

The execution, delivery and performance of this Agreement and all instruments or agreements required hereunder do not and would not contravene, violate or constitute a default under:

- (a) any provision of Law No.25694 of August 26, 1992, the charter, by-laws or other constitutive documents or the capital stock of the Borrower;
- (b) any provision of any agreement, mortgage, indenture, note or other instrument to which the Borrower is a party or by which the Borrower or any of its assets is or may be bound;
- (c) any treaty, law or regulation applicable to the Borrower; or
- (d) any judgment, injunction, order or decree binding upon the Borrower or any of its assets,

nor will the same result in the creation or imposition of any Encumbrance on any present or future asset or revenues of the Borrower.

(8) **No Default**

No event has occurred and is continuing or will result from the Borrower's entry into, and performance of its obligations under, this Agreement or would result from the making of a Disbursement under this Agreement, which constitutes or which, upon the lapse of time or the giving of notice or both, would become a default under any agreement, mortgage, indenture, note or other instrument to which the Borrower is a party or by which the Borrower or any of its assets is or may be bound.

(9) **Litigation**

There are no legal, administrative or other actions, claims or other proceedings current, pending or threatened against the Borrower, the Guarantor, or any Sub-Borrower or Importer, which, if decided adversely, would materially and adversely affect the financial condition, business or operations of the Borrower, the Guarantor, or such Sub-Borrower or Importer, or would materially and adversely affect the Borrower's ability to perform its obligations under this Agreement or any agreement, instrument or document provided hereunder, or any Sub-Borrower or Importer's ability to perform their obligations under a Sub-Loan Agreement or Relending Agreement, or which question the legality, validity or binding effect of any provision of this Agreement, any Sub-Loan Agreement or Relending Agreement, or any agreement, instrument or document provided hereunder or thereunder.

(10) **Commercial Activity**

The Borrower is subject to civil and commercial law with respect to its obligations under this Agreement. The execution and delivery of this Agreement and each agreement, instrument or document provided hereunder constitute and the Borrower's performance of, and compliance with, its obligations under this Agreement or such document will constitute, private and commercial acts rather than public or governmental acts. The Guarantor is subject to civil and commercial law with respect to its obligations under the Guarantee. The execution and delivery of the Guarantee and each agreement, instrument or document provided thereunder constitute and the Guarantor's performance of, and compliance with, its obligations under the Guarantee or such document will constitute, private and commercial acts rather than public or governmental acts.

(11) **Taxes**

Under the laws of the Borrower's Country, there is no Tax imposed (whether by withholding or otherwise) on or by virtue of the execution and delivery of this Agreement or the Guarantee or any document or instrument to be executed and delivered hereunder or thereunder, the performance hereof or the admissibility in evidence or enforcement hereof, or on any payment required to be made by the Borrower hereunder or thereunder.

(12) **Pari passu**

The obligations and liabilities of the Borrower (both actual and contingent) under this Agreement are the unconditional and general obligations of the Borrower and will at all times rank at least *pari passu* with the claims in respect of External Indebtedness of all other present and future unsecured creditors of the Borrower save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.

(13) No Immunity

The waiver of immunity by the Borrower in Clause 13(5) (Waiver of Immunity) and, the waiver of immunity by the Guarantor in paragraph 10 of the Guarantee, are legal, valid, binding and enforceable and neither the Borrower, the Guarantor, nor any of their respective assets has any right of immunity from suit, execution, attachment (whether in aid of execution before judgment or otherwise) or any other legal process with respect to its obligations under this Agreement in any jurisdiction, including, without limitation, the Borrower's Country (subject to Title VII of Law No. 24948 of the Borrower's Country), and except with respect to property which is (i) used by a diplomatic or consular mission of the Borrower's Country, (ii) property of a military character and under control of a military authority or defence agency or (iii) located in the Borrower's Country and dedicated to public or governmental use (as distinguished from property dedicated to commercial use).

(14) No Encumbrance

Except for Encumbrances permitted to exist pursuant to Clause 9(7) (No Encumbrances) of this Agreement, no Encumbrance exists over any or all of the present or future undertaking, revenues or assets of the Borrower and neither the execution and delivery of this Agreement nor the Borrower's performance of and compliance with the obligations expressed to be assumed by it in and the conditions imposed on it by this Agreement will result in the existence of or oblige the Borrower to create any Encumbrance over any of its present or future undertaking, revenue or assets to secure any External Indebtedness of any Person.

(15) Proceedings to Enforce Agreement

In any proceedings in the Borrower's Country to enforce this Agreement or the Guarantee:

- (a) the choice of Japanese law as the governing law hereof or thereof will be recognised and such law will be applied;
- (b) the irrevocable submission of the Borrower to the non-exclusive jurisdiction of the Tokyo District Court and/or the courts of England and/or the courts of the State of New York in New York City and the courts of the United States of America in New York City and the appointment by the Borrower of the Tokyo Process Agent, the London Process Agent and the New York Process Agent are legal, valid, binding and enforceable;
- (c) any judgment obtained in Japan, England or New York will be recognised and enforced in the Borrower's Country by suit on the judgment without re-examination of its merits.

(16) Information

- (a) All information which has been given by the Borrower or the representatives or agents thereof to the EXIMBANK or the representatives, agents or legal counsel thereof in connection with this Agreement was when given, and is on the date of execution of this Agreement and on each date upon which this representation is (or is deemed to be) repeated, true and accurate in all material respects and the Borrower has not failed to provide the EXIMBANK with any information the omission of which would make any information provided to the EXIMBANK misleading.

- (b) All facts concerning the business and affairs of the Borrower which might reasonably be expected to be material for disclosure to a person entering into a transaction similar to the transaction provided for in this Agreement have been disclosed to EXIMBANK.

(17) Financial statements

The financial statements of the Borrower for the period ending December 31, 1998 which have been delivered to the EXIMBANK are complete and accurate and fairly present the financial position and the results of the operations of the Borrower as at the date thereof and for the period then ended and have been prepared in conformity with generally accepted accounting principles in the Borrower's Country, consistently applied. There are no liabilities, direct or indirect, fixed or contingent, of the Borrower as of the date of such financial statements that are not reflected therein except as heretofore disclosed in writing to the EXIMBANK. Since the date of such financial statements there has been no material adverse change in the financial position or operations of the Borrower.

(18) No place of business

The execution, delivery and performance of this Agreement or the Guarantee shall not result in the creation of a permanent establishment or place of business of any Lender in the Borrower's Country.

The representations and warranties set out in this Clause 8 (Representations and Warranties) are continuing representations and warranties and shall survive the execution of this Agreement and are made by the Borrower on the date of this Agreement and shall be deemed to be repeated on the date of each Disbursement under this Agreement and on each Interest Payment Date, in each case, with references to the facts and circumstances then existing.

9. COVENANTS

The Borrower covenants and agrees that as from the date of this Agreement and so long as any amount payable thereunder remains outstanding:

(1) Use of Sub-Loan

The Borrower shall ensure that each Sub-Borrower applies the funds made available to it by the Borrower under any Sub-Loan Agreement solely for the purposes of relending under the Relending Agreement and purchasing Japanese Goods and/or Services and/or Local Goods and/or Services (in accordance with Clause 2(1)) under the relevant Approved Contract. Each Sub-Loan Agreement shall contain terms and conditions satisfactory to the EXIMBANK.

(2) Consultation and Visit

The Borrower shall, from time to time, at the request of the EXIMBANK, consult with the EXIMBANK with respect to the implementation and administration of this Agreement and/or any Approved Contract and/or any Sub-Loan Agreement and/or any Relending Agreement. The Borrower shall afford all reasonable opportunity for representatives of the EXIMBANK to visit any part of its premises (and/or territory as the case may be) for purposes related to this Agreement and/or any Approved Contract and/or any Sub-Loan Agreement and/or any Relending Agreement.

(3) Information

- (a) The Borrower shall furnish the EXIMBANK upon request with such information as the EXIMBANK shall reasonably request regarding the economy of the Borrower's Country including, but without limitation, the balance of payments, trade balance, external debt and foreign exchange reserves, such information to be kept strictly confidential by the EXIMBANK.
- (b) The Borrower shall furnish the EXIMBANK with copies of the annual reports and audited financial statements of the Borrower promptly after they are prepared, and in any event not later than one hundred and eighty (180) days after the close of each of the Borrower's financial years. Such financial statements shall be prepared in accordance with generally accepted accounting principles of the Borrower's Country consistently applied.
- (c) The Borrower shall furnish the EXIMBANK with such other information (financial or otherwise) as the EXIMBANK may reasonably request from time to time in relation to the implementation and administration of this Agreement and/or any Approved Contract and/or any Sub-Loan Agreement and/or any Relending Agreement.

(4) Notifications

- (a) The Borrower shall immediately inform the EXIMBANK of (i) the imposition of any laws, decrees or regulations materially affecting the Borrower and (ii) the occurrence of any event or circumstance which interferes or threatens to interfere with the implementation, completion or operation of any Approved Contract.
- (b) The Borrower shall immediately inform the EXIMBANK of any material amendment to the constitutive documents of the Borrower, any substantial change in the business activities of the Borrower, any proposed change in the shareholders of the Borrower or the occurrence of any other matter which materially affects the corporate or business activities or existence of the Borrower.
- (c) The Borrower shall notify the EXIMBANK as soon as it becomes aware of the occurrence of any Event of Default or of any event or circumstance which, upon the lapse of time, the giving of notice, the making of a determination or any combination of any of the foregoing, would become an Event of Default, or any event which interferes, or threatens to interfere, with the performance by the Borrower or the Guarantor of their respective obligations under this Agreement or the Guarantee.

(5) Financial Statements

The Borrower shall furnish the EXIMBANK with reports of the commercial operation in the precedent fiscal year and preliminary (but not audited) financial statements of the precedent fiscal year, not later than ninety (90) days after the close of each of the Borrower's fiscal years. The annual report and the audited financial statements shall be sent immediately not later than thirty (30) days after they shall be prepared and approved by the Board of Directors and the General Assembly as the case may be.

(6) **Environmental Consideration**

The Borrower shall pay, and shall cause each Sub-Borrower and Importer to pay, due attention to the protection and conservation of the environment and ecology, including, but not limited to, giving due consideration to such issues as air pollution, water pollution, industrial waste treatment and ecological changes to the environment generally in connection with the use of the proceeds of any Sub-Loan or Relending Agreement.

(7) **No Encumbrance**

The Borrower undertakes that, unless the EXIMBANK shall otherwise agree:

- (a) if such Borrower shall create any Encumbrance upon all or any part of the assets (including properties, revenues and claims of any kind) of the Borrower to secure any present or future Indebtedness for Borrowed Money, the Borrower undertakes that such Encumbrance shall equally and rateably secure the payment of the principal of, and interest, commitment charge and other charges on, the Loan and in the creation of any such Encumbrance express provision shall be made to that effect at no cost to the Lenders; and
- (b) if any Encumbrance arises by operation of law on any assets (including properties, revenues and claims of any kind) of the Borrower, the Borrower shall grant at no cost to the Lenders an equivalent Encumbrance satisfactory to the EXIMBANK to secure the payment of the principal of, and interest, commitment charge and other charges on, the Loan.
- (c) The foregoing provisions of this Clause shall not apply to (i) any Encumbrance created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property or solely as security for Indebtedness for Borrowed Money incurred for the purpose of financing the purchase of such property, or (ii) any Encumbrance arising in the ordinary course of banking transactions and securing Indebtedness for Borrowed Money maturing not more than one (1) year after the date on which it is originally incurred, or (iii) Encumbrances in existence on the date hereof and which have been disclosed to the EXIMBANK in writing prior to the date hereof or (iv) where disclosed to the EXIMBANK in writing prior to the date thereof, Encumbrances in the form of deposits (up to a maximum aggregate amount of \$30,000,000 only) as collateral securing the Borrower's obligations to swap counterparties in relation only to yen - dollar swap agreements entered into by the Borrower in connection with yen sub-loans made to it by the Guarantor under and in accordance with any loan agreement between the EXIMBANK and the Guarantor.

(8) **Pari Passu**

The Borrower shall ensure that the obligations and liabilities of the Borrower under this Agreement shall rank at least pari passu with the claims in respect of External Indebtedness of all other unsecured creditors of the Borrower save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.

(9) Disposal of Assets

The Borrower shall not, without the prior written consent of the EXIMBANK, sell or otherwise dispose of, whether by a single transaction or a series of transactions, related or not, assets or properties (other than sales or disposals in the ordinary course of business and for full consideration) which in aggregate in the reasonable opinion of the EXIMBANK is material in relation to the business carried on by the Borrower or to the total assets or properties owned by the Borrower.

(10) No Merger

The Borrower shall not consent to, enter into or become a party to any merger or amalgamation with any other Person without the prior written consent of the EXIMBANK; provided that the Borrower may merge with another Person if, in the reasonable opinion of the EXIMBANK, such merger will not (i) materially and adversely affect the financial condition of the Borrower and (ii) significantly change the nature of the Borrower's business.

(11) Sub-Loan Agreement and Relending Agreement

The Borrower shall not alter the Sub-Loan Agreement in any manner whatsoever without the prior written consent of the EXIMBANK, and shall procure that no Sub-Borrower alters any Relending Agreement in any manner whatsoever without the prior written consent of the EXIMBANK. The Borrower shall not assign any or all of its rights or obligations under the Sub-Loan Agreement to any Person in any manner whatsoever without the prior written consent of the EXIMBANK, and shall procure that no Sub-Borrower assigns any or all of its rights or obligations under any Relending Agreement to any Person in any manner whatsoever without the prior written consent of the EXIMBANK. The terms and conditions of the Sub-Loan Agreement and the Relending Agreement shall be substantially the same as those of this Agreement and must be satisfactory to the EXIMBANK.

(12) Parity with other Creditors

The Borrower shall afford the Lenders any rights as least equal to those given to any other creditors with regards to the Events of Default which would be more beneficial than those provided hereunder.

(13) OECD Guidelines

Should the terms of the Arrangement on Guidelines for Officially Supported Export Credit which are agreed upon from time to time by and among the participants in the Organisation for Economic Cooperation and Development be amended after the date of this Agreement, the terms and conditions set forth in this Agreement shall be reviewed and amended accordingly, if necessary, by (a) separate agreement(s) between the Lenders and the Borrower, provided that the Loans already established shall not be affected by the new conditions set forth in the said separate agreement(s).

10. EVENTS OF DEFAULT

(1) Events of Suspension

Upon the occurrence of any of the following, then, in each and every case, the EXIMBANK (on behalf of the Lenders) may at any time thereafter by notice to the Borrower immediately suspend any Disbursement (both prior to and after a request for Disbursement being made):

- (a) the Borrower is in breach of or default under any term, condition or provision of this Agreement (except in the case of a breach of any of Clause 9(7), (8), (9) or (10), which shall be an Event of Acceleration) or the Guarantor is in breach of or default under any term, condition or provision of the Guarantee; or
- (b) the EXIMBANK becomes entitled to suspend any disbursement in respect of any Other JEXIM Agreement; or
- (c) any representation or warranty made or given by the Borrower in this Agreement or by the Guarantor in the Guarantee or any other statement made in any certificate, opinion or other document furnished in connection with this Agreement proves to have been incorrect or untrue in any material respect when made or given or deemed made or given; or
- (d) (i) any payment is not made when due under any External Indebtedness of the Borrower or of the Guarantor or (ii) any disbursement under any agreement (other than this Agreement and any Other JEXIM Agreement) involving the creation of any Indebtedness for Borrowed Money or the extension of credit to which the Borrower or the Guarantor is a party is suspended, cancelled or terminated pursuant to terms thereof or (iii) the Borrower or the Guarantor commences negotiations with any one or more of its foreign creditors with a view to the general readjustment or rescheduling of its External Indebtedness, provided that the provisions of this paragraph shall not apply if the Borrower or the Guarantor establishes to the satisfaction of the EXIMBANK that such event shall not prevent or interfere with the performance by the Borrower or by the Guarantor of their respective obligations under this Agreement or under the Guarantee; or
- (e) any Event of Acceleration occurs; or
- (f) any situation arises or event occurs or, if appropriate, fails to arise or occur which, in the reasonable opinion of the EXIMBANK, materially and adversely changes the circumstances in which this Agreement was made, or may materially prevent or interfere with (i) the successful implementation, completion or operation of the an Approved Contract or (ii) the performance by the Borrower or by the Guarantor of their respective obligations under this Agreement or under the Guarantee.

(2) Events of Acceleration

Upon the occurrence of any of the following, then, in each and every case, the EXIMBANK (on behalf of the Lenders) may at any time thereafter by notice to the Borrower immediately cancel the undrawn portion of the Facility and/or declare the Loan, together with all accrued interest, commitment charges and other amounts due under this Agreement to be forthwith due

and payable, whereupon the Facility and/or the Loan shall forthwith be cancelled or become immediately due and payable (as the case may be) without further notice or formality:

- (a) any Event of Suspension occurs and continues for a period of forty-five (45) days; or
- (b) the Borrower or the Guarantor fails to pay when due any amount payable under this Agreement or the Guarantor, in the currency and in the manner required thereunder; or
- (c) the Borrower is in breach of any term, condition or provision of Clause 9(7), (8), (9) or (10) of this Loan Agreement; or
- (d) the EXIMBANK becomes entitled to declare any Indebtedness under any Other JEXIM Agreement immediately due and payable prior to the stated maturity thereof; or
- (e) any External Indebtedness of the Borrower or of the Guarantor or any of its agencies becomes due and payable prior to the stated maturity thereof by reason of an event of default, howsoever described; or
- (f) the Borrower ceases to carry on its business or the Borrower or the Guarantor or any of its agencies is unable to pay, or admits to its creditors an inability to pay, its debts generally as they fall due; or
- (g) the Borrower takes any corporate action or other steps are taken or legal proceedings are started for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its revenues and assets; or
- (h) the Borrower's Country or any other authority having jurisdiction takes any action for the dissolution or disestablishment of the Borrower or for the suspension of its operations; or
- (i) the Guarantee ceases to be in full force and effect or the Guarantor is in breach of any term, condition or provision of the Guarantee; or
- (j) the validity of this Agreement is contested by the Borrower or the validity of the Guarantee or the applicability thereof to any Indebtedness or any other obligation of the Borrower under this Agreement is contested by the Guarantor, or the Borrower or the Guarantor denies generally liability under this Agreement or the Guarantee; or
- (k) any execution or distress is levied against, or any encumbrancer takes possession of the whole or any part of the property, undertaking or assets of the Borrower or the Guarantor; or
- (l) this Agreement ceases to be a valid and binding obligation of the Borrower, or the Guarantee ceases to be a valid and binding obligation of the Guarantor; or
- (m) there is any change in any treaty to which the Borrower's Country is a party or any law, regulation or policy of the Borrower's Country or any order of any competent authority or decision of any court of competent jurisdiction which renders or purports to render any provision of this Agreement or the Guarantee unlawful, invalid or

unenforceable or which would prevent or delay the performance or observance by the Borrower or the Guarantor of their respective obligations thereunder; or

- (n) any licence, consent, approval or authorisation of, or any filing or registration with, any governmental authority or agency necessary for the validity or enforceability of this Agreement or the Guarantee or the performance by the Borrower or the Guarantor of their respective obligations thereunder or under any agreement or instrument required thereunder or for the admissibility in evidence of this Agreement or the Guarantee is revoked, not issued or timely renewed, or ceases to remain in full force and effect.

11. CONDITIONS PRECEDENT

(1) Conditions to First Disbursement

This Agreement shall come into effect on the date hereof provided, however, that the Lenders shall have no obligation hereunder and no Disbursement by the Lenders hereunder shall be made unless and until the EXIMBANK has notified the Borrower that the EXIMBANK has received all of the following documents, each in form and substance satisfactory to it:

- (a) the Guarantee duly executed by the Guarantor and in full force and effect;
- (b) such legal opinions as the EXIMBANK may reasonably request, including, in particular a legal opinion of independent legal counsel to the Borrower acceptable to the EXIMBANK in the form set out in Schedule 4 and a legal opinion from the Head of Legal Office of the Ministry of Economy and Finance of the Borrower's Country acceptable to the EXIMBANK certifying the matters set out in Schedule 5 (provided that if any qualifications are made to any of such legal opinion, it shall contain a reasonably detailed explanation of the legal basis thereof which shall be satisfactory to the EXIMBANK);
- (c) documentary evidence of the authority of each person who (i) has signed this Agreement on behalf of the Borrower and the Guarantee on behalf of the Guarantor and (ii) will sign the statements, reports, certificates and other documents required by this Agreement and the Guarantee and will otherwise act as a representative of the Borrower and the Guarantor in relation to the implementation and administration of this Agreement and the Guarantee respectively (such documentary evidence to include certified copies of all corporate actions and consents taken or obtained in order to authorise the execution, delivery and performance by the Borrower of this Agreement and the Guarantor of the Guarantee and the transactions contemplated hereby and the authenticated specimen signature of and certificate of incumbency in respect of each person);
- (d) certified copies of the constitutional documents of the Borrower and all relevant laws relating to the power and authority of the Borrower and the performance of its obligations hereunder;
- (e) the written consent of the Tokyo Process Agent, the New York Process Agent and the London Process Agent in the form set out in Schedule 6, Parts 1, 2 and 3, respectively, and the written consent of the process agents of the Guarantor under Chapter VI of the Guarantee, in the form set out in Schedule 7, Parts 1, 2 and 3;

- (f) documentary evidence that the registration of this Agreement and the Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Borrower's Country has been duly effected;
- (g) such other documents, evidence, materials and information (financial or otherwise) which the EXIMBANK may reasonably request in relation to this Agreement, the Guarantee, or any Approved Contract, Sub-Loan Agreement or Relending Agreement;

The Borrower hereby undertakes to use its best efforts to deliver or procure that there is delivered to the EXIMBANK all of the above documents in the shortest possible time from the date hereof.

(2) Conditions to Each Disbursement

Moreover, notwithstanding anything contained herein to the contrary, the obligation of the Lenders to make each and every Disbursement hereunder shall at all times be subject to the conditions that:

- (a) as of the date of such Disbursement, neither an Event of Default nor an event which, with the lapse of time or the giving of notice or both, would constitute an Event of Default has occurred and is continuing or would result from the making of such Disbursement; and
- (b) all the representations and warranties made or given by the Borrower herein remain true and accurate in all material respects on and as of the date of such Disbursement.

12. TAXES, FEES AND EXPENSES

(1) Tax Gross-up

If the Borrower is required to make a payment to any Person under this Agreement subject to the deduction or withholding of Tax, the sum payable by the Borrower in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, such Person receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

(2) Tax Indemnity

Without prejudice to the provisions of Clause 12(1), if any Person (or any agent on its behalf) is required to make any payment on account of Tax or otherwise on or in relation to any sum received or receivable under this Agreement by such Person (or agent on its behalf) or any liability in respect of any such payment is asserted, imposed, levied or assessed against such Person (or agent on its behalf), the Borrower shall, upon demand of the EXIMBANK, promptly indemnify such Person against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.

(3) Indemnification for Taxes and Banking Charges

The Borrower shall pay or cause to be paid and shall indemnify the Lenders and each of them against:

- (a) all court taxes, stamp or registration or filing duties or analogous fees, expenses or taxes and any penalty or interest with respect thereto which may be imposed by any law or governmental authority in connection with the execution, delivery, performance, admissibility in evidence or enforcement of this Agreement or the Guarantee or obtaining or enforcing any judgment or award given in respect thereof;
- (b) all banking charges or fees, if any, incurred in connection with the Disbursements hereunder and the payment, repayment or prepayment of principal, interest, commitment charges or any other amount due to the Lenders under this Agreement; and
- (c) the costs and expenses related to the obtaining and delivery of the opinions, documents and evidence referred to in subclauses (a) to (g) of Clause 11(1).

(4) Agency Fee

The Borrower shall pay to the Agent in respect of this Agreement an agency fee, the amount and method of payment of which shall be agreed separately between the Borrower and the Agent.

(5) Expenses

- (a) The Borrower shall pay to the Lenders on demand all legal fees and expenses of counsel incurred by the Lenders in connection with the preparation and negotiation of, and satisfaction of conditions precedent in respect of, this Agreement and the Guarantee.
- (b) Without prejudice to the provisions of sub clause (a), the Borrower shall, whether or not any Disbursement is made, pay to the Lenders on demand by the EXIMBANK all expenses incurred by the Lenders but not exceeding the Ceiling Amount in connection with the negotiation, preparation, execution, delivery, administration and implementation of this Agreement and the Guarantee including, but not limited to, translation, communication, travel, accommodation and all other out-of-pocket expenses.
- (c) The Borrower shall reimburse the Lenders on demand, for all expenses, including but not limited to legal fees and expenses of counsel, incurred by the Lenders in contemplation of, or in connection with (i) the administration of this Agreement and the Guarantee but not being expenses of a recurring type which were quantifiable at the time of execution of this Agreement and the Guarantee, (ii) any amendment of this Agreement or the Guarantee which is implemented at the request of or as a result of a material change in the circumstances of the Borrower or the Guarantor or (iii) the enforcement of, or the preservation or perfection of any rights of the Lenders under, this Agreement or the Guarantee.
- (d) The Lenders shall provide to the Borrower a reasonably detailed statement of expenses mentioned above.

(6) **Relevant Currency**

All amounts payable by the Borrower under this Clause 12 shall be payable and paid in the Relevant Currency.

13. **GOVERNING LAW AND JURISDICTION**

(1) **Governing Law**

This Agreement shall be governed by, and construed in accordance with, the laws of Japan.

(2) **Good Faith Consultation**

The parties undertake to use their best efforts to resolve any dispute arising out of or in connection with this Agreement through consultation in good faith and mutual understanding, provided that such consultation shall not prejudice the exercise of any right or remedy of either party hereto by any such party in respect of any such dispute, nor prevent a party from taking the necessary steps to prevent the expiry of any time limitation for bringing any process, suit, action or proceedings.

(3) **Jurisdiction**

- (a) The Borrower irrevocably agrees that the Tokyo District Court, the courts of England and the New York State and/or Federal Courts sitting in New York City shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- (b) The Borrower irrevocably waives any objection which it might now or hereafter have to the courts referred to in paragraph (a) of this subclause (3) being nominated as the forum to hear and determine any suit, action or proceedings and to settle any disputes, which may arise out of or in connection with this Agreement and agrees not to claim that any such court is not a convenient or appropriate forum.
- (c) The submission to the jurisdiction of the courts referred to in paragraph (a) of this subclause (3) shall not (and shall not be construed so as to) limit the right of the Lenders, to take proceedings against the Borrower in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.
- (d) The Borrower hereby consents generally in respect of any legal action or proceedings arising out of or in connection with this Agreement to the giving of any relief or the issue of any process in connection with such action or proceeding including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such action or proceedings.

(4) **Process Agent**

- (a) The Borrower agrees that without limiting any other means available to the Lenders, the process by which any suit, action or proceedings is begun, or any other document, may be validly served on the Borrower by being delivered:

- (i) in Japan, to the Consulate General of Peru (the "**Tokyo Process Agent**") for the time being presently located at Shibuya-Ku, Higashi 4-4-27, Tokyo 150; or
 - (ii) in England, to the Consulate General of Peru (the "**London Process Agent**") at for the time being presently located at 52, Sloane Street, London, SW 1 X-9SP, U.K.; and
 - (iii) in New York, to the Consulate General of Peru (the "**New York Process Agent**") for the time being presently located at 215 Lexington Av., 21st Floor, New York 10016, U.S.A.
- (b) The Borrower acknowledges that service upon the Process Agent appointed under Clause 13 shall not constitute a breach of the Vienna Convention or Diplomatic Relations and/or the Vienna Convention on Consular Relations.
 - (c) If for any reason any of the Tokyo Process Agent, the London Process Agent and the New York Process Agent shall cease, or shall not be capable, so to act, the Borrower shall promptly and irrevocably designate and appoint another agent acceptable to the Lenders. Failure by the Borrower to designate and appoint another agent acceptable to the EXIMBANK within fifteen (15) days shall entitle the EXIMBANK to appoint a Person as agent of the Borrower by notice to the Borrower.
 - (d) The Borrower undertakes to maintain at all times the foregoing at its own cost to act on its behalf in such manner in each of Tokyo, London and New York throughout the period the Loans are outstanding or any other sums remain due and owing hereunder and further undertakes to take, from time to time and so long as any amount payable hereunder remains outstanding, any and all action (including the execution and filing of any and all documents and instruments) that may be necessary to effect and to continue the foregoing appointment and designation in full force and effect.
- (5) **Waiver of Immunity**
- (a) To the extent that the Borrower may in any jurisdiction claim for itself or its assets immunity from process, suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Borrower hereby irrevocably consents generally to the giving of relief by way of process of enforcement (including the arrest, detention or sale of any state property).
 - (b) For the avoidance of doubt, the Borrower further irrevocably agrees not to claim and hereby irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction, provided that the forgoing waiver shall not apply to property which is (i) used by a diplomatic or consular mission of the Borrower's Country, (ii) property of a military character and under control of a military authority or defence agency or (iii) located in the Borrower's Country and dedicated to public or governmental use (as distinguished from property dedicated to commercial use).

- (c) For the avoidance of doubt:
 - (i) in relation to any proceedings that may be taken in England, the foregoing waiver of immunity shall have effect under, and be construed in accordance with, the United Kingdom State Immunity Act 1978; and
 - (ii) in relation to any proceedings that may be taken in the United States, the foregoing waiver of immunity shall have effect under, and be construed in accordance with the United States of America Foreign Sovereign Immunities Act of 1976.
- (d) The waiver of immunity by the Borrower set out in this Clause 13(5) shall be subject to Title VII of Law No. 24948 of the Borrower's Country in respect to any proceeding in the Borrower's Country for attachment prior to judgment or attachment in aid of execution against assets of the Borrower located in the Borrower's Country.

14. THE EXIMBANK AND THE AGENT

The EXIMBANK shall execute this Agreement and take all action necessary for the implementation, administration and enforcement of this Agreement on behalf of all the Lenders. The Agent is hereby appointed by the EXIMBANK in such capacity to take such action as is expressly delegated to the Agent hereunder. In acting as provided hereunder, each of the EXIMBANK and the Agent shall act on its own behalf and on behalf of the Lenders and neither the EXIMBANK nor the Agent assumes or shall be deemed to have assumed any obligation towards, or relationship of agency or trust with, the Borrower or any relationship of trust for any other Lender.

15. MISCELLANEOUS

(1) No Assignment

This Agreement shall be binding upon and enure to the benefit of the Borrower and each of the Lenders and their respective successors and assigns, provided that the Borrower may not assign any or all of its rights or obligations hereunder to any Person in any manner whatsoever without the prior written consent of the EXIMBANK.

The EXIMBANK may assign or transfer any and all of its rights or obligations hereunder to any other entity owned or controlled by the Government of Japan, giving notice of such assignment to the Borrower, and to any other third party with the prior express written consent of the Borrower, which consent shall not be unreasonably withheld. The consent of the other Lenders shall not be required.

(2) No Release

No claim or dispute arising out of or in connection with any other contract or agreement shall have any effect upon the Borrower's obligations under this Agreement nor in any way be deemed to release the Borrower therefrom, such obligations being absolute and unconditional.

(3) No Waiver, Remedies Cumulative

No failure or delay on the part of the EXIMBANK or any other Lender in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right

preclude any other or further exercise thereof, or the exercise of any other right. No waiver by the EXIMBANK or any other Lender hereunder shall be effective unless it is in writing. The rights and remedies herein provided are cumulative and not exclusive of any other right or remedy provided by law.

(4) Partial Illegality

If at any time any provision hereof becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity nor enforceability of any other provisions hereof shall in any way be affected or impaired thereby.

(5) Change of Evidence of Authority

In the event of any change in the matters referred to in the documentary evidence provided for in Clause 11(1)(c), the Borrower shall promptly notify the EXIMBANK in writing of such change and, at the same time furnish to the EXIMBANK relevant documentary evidence in respect of such change as well as authenticated specimen signatures of and certificates of incumbency in respect of any person(s) who are referred to in such documentary evidence as changed, if such change involves replacement of or addition to the person(s) referred to in the said Clause 11(1)(c). The EXIMBANK and the other Lenders may rely upon and refer to the documentary evidence, authenticated specimen signatures and certificates of incumbency previously received by the EXIMBANK until such time as the EXIMBANK receives notice from the Borrower of such change as well as the relevant documentary evidence as aforesaid.

(6) Communications

Unless otherwise specified herein, all notices, requests, demands and other communications to or upon the parties hereto shall be given or made by registered air mail (or by telex, telegram, facsimile or cable promptly confirmed by registered air mail) addressed as follows:

If to the Borrower:

Corporación Financiera de Desarrollo, S.A.
(for the attention of General Manager)
Augusto Tamayo N°160
San Isidro, Lima 27, Peru,
Casilla Postal 10377, Lima 27, Peru
Telex Number: 21516 PE
Answerback: PE-COFIDE
Cable Address: CIFIDE
Facsimile: 42-2804

If to the Agent:

Paribas, Tokyo Branch
(for the attention of the Head of International Structured Finance)
Yurakucho Denki Building N-19F
1-7, Yurakucho 1-chome
Chiyoda-ku, (postal number 100-0006) Tokyo
Telex Number: 2228241
Answerback: BANPAR J
Facsimile: 81-3-5222-6150
SWIFT Code: PARBJPJT

If to the EXIMBANK
or to the Lenders:

The Export-Import Bank of Japan
(for the attention of the Director General of Loan
Department III (The Americas, Ships and Aircraft))
4-1, Ohtemachi 1-chome, Chiyoda-ku
Tokyo 100, Japan

Telex Number: 222-3728
Answerback: YUGIN J
Cable Address: EXPORTBANK TOKYO
Facsimile: 81-3-3287-9542

or in each case to such other address as any party hereto may designate by written notice to each of the other parties hereto.

Notices, requests, demands or other communications given or made as aforesaid by registered air mail shall be deemed to have been duly given or made fifteen (15) days after being deposited in the mails, provided that those given or made by telex, telegram, cable or facsimile and confirmed by registered air mail as aforesaid shall be deemed to have been duly given or made when such telegram or cable is sent or, in the case of telex, when the answerback code of the recipient thereof is duly received by the sender or, in the case of facsimile, when such facsimile is duly received by the recipient, provided that the EXIMBANK shall not be deemed to have received any of the documents listed in Clause 11(1) of this Agreement unless and until it has actually received the same.

(7) Use of English Language

All documents, information and materials to be furnished under this Agreement shall be in the English language or in the Peruvian language accompanied by certified English translations, provided that, in the latter case, the English translation alone shall be the governing version which the EXIMBANK shall be entitled to rely upon and refer to.

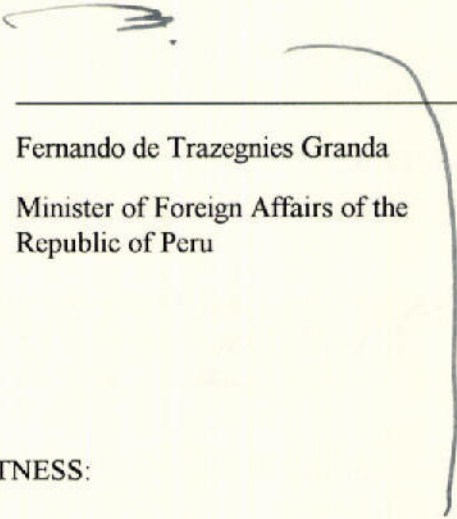
(8) Abbreviation

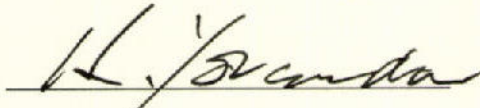
This Agreement may be referred to as "Yen Loan to COFIDE No. 3" in communications between the Borrower and the Lenders, as well as in relevant documents.

IN WITNESS WHEREOF, the Borrower and the Lenders, acting through their duly authorised representatives, have caused this Agreement to be duly executed in duplicate in the English language and signed in their respective names on the several dates and at the several places herein below written. The date of signature by the EXIMBANK in Tokyo, Japan shall be deemed to be the date of conclusion of this Agreement and the office of the EXIMBANK in Tokyo, Japan shall be deemed to be the place of signing of this Agreement.

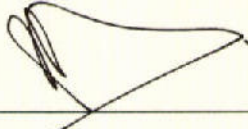
The Minister of Foreign Affairs of
the Republic of Peru on behalf of
Corporación Financiera
de Desarrollo, S.A.

The Export-Import Bank of Japan
acting on its own behalf and as
attorney-in-fact for the Participating
Financial Institution

By 
Fernando de Trazegnies Granda
Minister of Foreign Affairs of the
Republic of Peru

By 
Hiroshi Yasuda
Governor

WITNESS:

By 
Alberto Fujimori
President of the Republic of Peru

SCHEDULE 1

PROCEDURE FOR APPROVAL OF CONTRACT

The provisions referred to in Clause 3 of this Agreement are as follows:

1. (1) The Borrower shall, before the date of shipment or supply from Japan of the corresponding Japanese Goods and/or Services and Local Goods and/or Services, if any, send to the EXIMBANK for its review and approval two (2) duly completed and signed original copies of the Application for Approval of Contract (as per attached Form 1).

The Application shall be accompanied by a copy of the Contract and a summary of the Contract and the Sub-Loan Agreements in accordance with attached Form 1. In case the Contract is expressed in a language other than English, a certified translation thereof shall be attached.

- (2) For the purposes of determining the Yen equivalent of the Local Amount, evidence of the opening T/T buying exchange rate for the conversion of Local Currency into Dollars quoted by the Central Bank of the Borrower's Country on the business day immediately preceding the date of the Application shall be attached to the Application.
- (3) Any Contract for which approval is applied as aforesaid shall comply with the following conditions (unless otherwise agreed in writing by the EXIMBANK):
- (a) the supplier shall be a Japanese national or a Japanese juridical person;
 - (b) the importer shall be a national of the Borrower's Country or a juridical person incorporated and having its principal place of business in the Borrower's Country;
 - (c) the Contract shall relate exclusively to the purchase of Japanese Goods and/or Services and Local Goods and/or Services, if any, provided that, if the Contract also relates to other equipment, machinery, goods and/or services which are in the sole discretion of the EXIMBANK determined not to be eligible for financing hereunder (hereinafter "**Non-eligible Items**", a non-exhaustive list of such Non-eligible Items being set out in Annex A to this Schedule 1), the Non-eligible Items and the price and other terms and conditions of the Contract relating solely to Non-eligible Items shall be disregarded for the purposes of this Agreement;
 - (d) the Approved Amount shall be not less than one hundred million Yen (¥100,000,000);
 - (e) at least fifteen per cent. (15%) of the Export Amount shall be paid by the importer to the supplier on or before the date of shipment and/or supply from resources other than funds made or to be made available by the Borrower and

the Sub-Borrower to the Importer from proceeds disbursed or to be disbursed to the Borrower and the Sub-Borrower under the Facility;

- (f) the Export Amount shall be fixed and payable in Yen and the Local Amount shall be fixed and payable in Local Currency;
- (g) it shall be stipulated that, in the event that the Japanese supplier becomes liable to pay to the Importer any amount of compensation or any penalty for failure or delay in implementation of the Contract, such amount or penalty shall be payable by direct remittance by the supplier to the Importer and shall not be deductible by way of set-off or otherwise from the Export Amount; and
- (h) all other terms and conditions of the Contract shall in the opinion of the EXIMBANK be normal and customary in international trade.

2. (1) Upon receipt of a duly completed Application for Approval of Contract from the Borrower together with all supporting documents, the EXIMBANK shall review the same, whereafter the EXIMBANK shall, at its sole discretion, either accept or reject the Contract as being eligible for financing under this Agreement or specify changes which must be made thereto in order to render the same eligible for financing under this Agreement. Once approval has been given, the EXIMBANK shall fix the Approved Amount in respect of the relevant Approved Contract, the relevant Disbursement Period, and the terms and conditions of the corresponding Loan, and inform the Borrower by sending the Notice of Approval of Contract (as per attached Form 2).
- (2) For the purposes of the Application and for any Disbursement hereunder, (i) the approved Local Amount shall be expressed in Yen and calculated by the EXIMBANK by applying to the portion of the Local Amount approved for financing hereunder first the exchange rate referred to in Section 1(2) of this Schedule 1 and secondly the opening T/T selling rate for the conversion of Dollars into Yen quoted by any Japanese authorised foreign exchange bank in Tokyo on the date of receipt by the EXIMBANK of the said Application, and (ii) the approved Export Amount shall be expressed in Yen and, where the Export Amount is expressed in Dollars in the relevant Contract, the Yen equivalent shall be calculated by applying to the portion of such Export Amount approved for financing hereunder, the opening T/T selling rate between Yen and Dollars quoted by any authorised foreign exchange bank in Tokyo on the date of receipt of the said Application.
- (3) Once any Application for Approval of Contract has been submitted to the EXIMBANK, the Borrower shall ensure and hereby undertakes that thereafter, subject to such Contract being approved hereunder by the EXIMBANK, no material change, amendment or supplement shall be made to such Contract without the express prior written consent of the EXIMBANK.
- (4) Pursuant to Clause 3(3) of this Agreement, the aggregate amount of all Approved Amounts shall at no time exceed the Total Facility Amount.

ANNEX A

Non-Exhaustive List of Non-eligible Items

The following is a non-exhaustive list of Non-eligible Items which are not eligible for financing hereunder:

- (i) weapons and goods directly for the use of military purposes;
- (ii) consumer goods including durable goods;
- (iii) passenger automobiles;
- (iv) light trucks and vans to be purchased for private use;
- (v) raw materials and intermediate goods with low value added;
- (vi) buses, trucks and special automobiles to be purchased for private use;
- (vii) ships of 100 g.r.t. or more and tugs of 500 BHP or more; and
- (viii) used equipment, machinery and goods.

(Form 1)

**Application for Approval of Contract
(Yen Loan to COFIDE No. 3)**

Date: []
Serial No: []

The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku
Tokyo 100,
Japan

Attn: Director General
Loan Department III (The Americas; Ships and Aircraft)

Dear Sirs,

In accordance with Clause 3 of the Loan Agreement dated [], 19[] (Yen Loan to COFIDE No. 2), we hereby apply for your approval of the following Contract (terms used herein have the same meanings as those given to such terms in Clause 1 of the said Loan Agreement):

- (1) Contract No. and date;
- (2) Name and address of Japanese supplier;
- (3) Name and address of Importer;

We hereby certify that the information given in this Application is true and correct.

Kindly obtain a copy of the Contract from the exporter concerned. You may proceed to examine eligibility of the Contract, upon receipt of it from the exporter.

Furthermore, we hereby apply for your approval of the use of the [Letter of Credit Method of Disbursement (Advising Bank of this Contract: Paribas, acting out of its Tokyo Branch)/Reimbursement Method of Disbursement].

We hereby agree to furnish upon the EXIMBANK's request any additional information or document which may be necessary for the purpose of determining that the transaction corresponds to the information set out above in this Application and in the enclosed documents.

Yours faithfully,

By:
(authorised signatory)

(Note) In case the Contract is not in the English language, its English translation shall be attached.

(Attachment to Form 1)

Application Number: _____

Application Date: _____

Summary of the Contract and the Sub-Loan Agreement**I. Contract**

1. Number and Date of the Contract

2. Name and Address of the Importer

3. Name and Address of the Japanese Supplier

4. Contract Amount

(a) Foreign Currency Portion ¥ or \$ _____
(b) Local Currency Portion (New Sol _____)
(Local Currency Portion Dollar Equivalent) (\$ _____)

5. Payment Terms

(Ex: 100% L/C at sight, etc.)

6. Amount Applied for Financing

(a) Foreign Currency Portion ¥ or \$ _____
(b) Local Currency Portion (New Sol _____)
(Local Currency Portion Dollar Equivalent) (\$ _____)

7. Schedule Date of Shipment
or Schedule Date of Completion
of Instalment or Commissioning8. Brief Description of the Items
of Japanese Goods and/or
Services and Local Goods and/or
Services as well as Contract
Prices thereof**II. Sub-Loan Agreement**1. Name and Address of the
Financial Intermediary

2. Loan Amount

3. Interest Rate and Other
Financial Charges, if any

4. Repayment Schedule	First Instalment:	, 19
	Last Instalment	, 19

5. Security

6. Date of Signature and
Date of Effectuation

(authorised signature)

(Form 2)

**Notice of Approval of Contract
(Yen Loan to COFIDE No.3)**

Date: _____

Approval No.: _____

To: Corporación Financiera de Desarrollo, S.A.

Re: Application for Approval of Contract dated [], 199[]

- Contract No. and date: []

- Name of Japanese supplier: []

- Name of importer: []

In response to the above Application for Approval of Contract, we are pleased to inform you that The Export-Import Bank of Japan hereby approves the above-mentioned Contract as follows:

Approval Date: []

Approval No.: []

Approved Amount: ¥[]

Approved Export Amount: ¥[] \$[]

Approved Local Amount: ¥[] \$[]

(1 New Sol = ¥[])

Advising Bank: Paribas, acting out of its Tokyo Branch

Disbursement Period: from (the date of approval of contract)
to []

Repayment: to be made in [] equal consecutive six-monthly instalments

Interest Rate: [] per cent (%)

Exchange Rates applied;

Export Amount: []

Local Amount: []

Method of Disbursement of Approved Export Amount: Letter of Credit Method of Disbursement/Reimbursement Method of Disbursement

Any and all terms and conditions of the Loan Agreement dated [], 199[] between The Export-Import Bank of Japan and the Participating Financial Institution and Corporación Financiera de Desarrollo, S.A. except in so far as otherwise expressly provided of in this Approval of Contract, shall be deemed to be incorporated as part of this Approval of Contract.

In confirmation of this Notice, please return immediately the duplicate hereof duly signed by the authorised person.

The Export-Import Bank of Japan

By: _____

Attachment: Appendix
Copies to: The Export-Import Bank of Japan Representative Office for the Andean Region
Exporter

Date: []

We hereby acknowledge receipt of this Notice and confirm the Contents hereof including the Amortisation Schedule in the Appendix to this Notice.

(authorised signature)

Appendix

Amortisation Schedule

Number of Instalments

Due Date

Amount in Yen

1

2

3

4

5

6

7

8

9

10

•

•

•

•

•

Total

(Form 3)

**Notice of Applicable Interest Rate
(Yen Loan to COFIDE No.3)**

Date: []

(Address to principal office of the Borrower)

Attn:

Dear Sirs:

In accordance with Clause 6(1) of the Loan Agreement dated [], 199[] (Yen Loan to COFIDE No.3), we hereby notify you of the interest rate applicable to the Loan made in relation to any Approved Contract pursuant to the signing date of such Approved Contract as per the attached Table hereto.

The above interest rate is fixed for the whole period during which each such Loan is outstanding.

This Notice of Applicable Interest Rate shall supersede any all earlier Notices of Applicable Interest Rate given to you.

Terms defined in the said Loan Agreement shall bear the same respective meanings attributed to them when used herein.

Yours faithfully,
The Export-Import Bank of Japan

By: _____

(Attachment to Form 3)

Table of Applicable Interest Rate

Yen Loan to COFIDE No.3
Date: []

Signing date of Approved Contract		Corresponding Applicable Interest Rate
(each period to include beginning) (and ending dates thereof)		(% per annum)
from:	, 199	(insert figure)
to:	, 199	
from:	, 199	(insert figure)
to:	, 199	
•		•
•		•
•		•
•		•

SCHEDULE 2
DISBURSEMENT PROCEDURES

Disbursements under Clause 4 of this Agreement shall be made in accordance with and subject to the following procedures:

I. Reimbursement Method

- (1) The Borrower may request reimbursement by the Lenders (through the Agent) of any part of the relevant Approved Amount paid by the Borrower to the relevant supplier pursuant to the Approved Contract by sending to the EXIMBANK by registered airmail a duly completed and signed Request for Reimbursement in the form of Form 4 (including the attachment thereto) (the "**Request for Reimbursement**").
- (2) Each Request for Reimbursement shall be supported by originals or photostatic certified copies satisfactory to the EXIMBANK of the following documents:
 - (i) commercial invoice(s);
 - (ii) evidence of payment(s) in the form of the supplier's formal receipt(s) or cancelled bank check(s) or draft(s) tested telex(es) or swift message(s); and
 - (iii) where appropriate, evidence of the opening T/T buying exchange rate for the conversion of the Local Currency into Dollars quoted by the Central Bank of the Borrower's Country on the business day immediately preceding the date of such Request for Reimbursement..

Upon receipt by the EXIMBANK of each such Request for Reimbursement in form and substance satisfactory to it, the EXIMBANK shall fix the amount to be disbursed in Yen hereunder in relation to each such Request for Reimbursement, in the case of Local Amount by applying firstly the exchange rate referred to in this Section (2)(iii) of Part I of this Schedule 2 and secondly the opening T/T selling rate for the conversion of Dollars into Yen quoted by any Japanese the EXIMBANK of the said Request for Reimbursement and, in the case of any Export Amount fixed and payable in Dollars, by applying the latter rate only.

- (3) If the EXIMBANK is satisfied that the Request for Reimbursement conforms to the requirements stipulated in this Agreement, the EXIMBANK shall notify the Lenders of the Request for Reimbursement, the requested amount to be advanced and the EXIMBANK's satisfaction with the documents provided pursuant to Section (2) of Part I above, provided that:
 - (a) no Event of Default under this Agreement nor an event which, with the lapse of time, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute an Event of Default has occurred and is continuing; and

- (b) as at such time, all representations and warranties made or given by the Borrower in this Agreement are true and accurate in all material respects.
- (4) if the EXIMBANK notifies the Lenders that it is so satisfied, the Lenders shall subject to the terms of this Agreement, make the corresponding reimbursement to the Borrower by payment of the amount thereof into the account in Japan specified by the Borrower in a separate agreement between the Borrower and the Agent. Each such reimbursement shall be a Disbursement to the Borrower of the Facility and shall constitute a valid and binding obligation of the Borrower in respect of the repayment of the amount thereof and payment of interest thereon and any other amounts payable in relation thereto under this Agreement.
- (5) Notwithstanding any Request for Reimbursement made by the Borrower, the aggregate amount of the corresponding reimbursement(s) to be made by the Lenders shall not exceed the Approved Amount. Consequently, if the Yen equivalent of the aggregate amount requested for reimbursement by the Borrower hereunder, after applying the exchange rates as referred to in Section (4) of Part I above, exceeds the Approved Amount, the Lenders shall only make the corresponding reimbursement in Yen to the extent that it does not exceed the Approved Amount.

II. Letter of Credit Method

Notwithstanding the foregoing, disbursement of the Approved Export Amount of a Contract for which the Export Amount is fixed and payable in Yen may, where deemed appropriate by the EXIMBANK and the Borrower, and requested by the Borrower in the Application, be made as follows:

- (1) If the EXIMBANK, in its absolute discretion, determines that the Letter of Credit is in order, the Borrower shall issue, as issuing bank (hereinafter referred to as the "**Issuing Bank**"), an irrevocable letter of credit in the form set out in Form 5 attached hereto (hereinafter referred to as the "**Letter of Credit**") in favour of the relevant supplier, as beneficiary (hereinafter referred to as the "**Beneficiary**").
- (2) Paribas acting through its Tokyo Branch at Yurakucho Denki Building N-19F, 1-7, Yurakucho 1-chome, Chiyoda-ku, Tokyo shall be designated in the Letter of Credit as the advising bank (the "**Advising Bank**").
- (3) The Advising Bank shall send to all Lenders a certified copy of the Letter of Credit. Following receipt by the EXIMBANK and each other Lender of a certified copy of the Letter of Credit through the Advising Bank, each of the Lenders shall issue to the Advising Bank an irrevocable letter of undertaking in the form of Form 6 attached hereto (the "**Letter of Undertaking**"), in respect of that portion of the total amount available under the Letter of Credit as is equivalent to such Lender's percentage participation in the aggregate amount of the Facility, provided that:
 - (a) such Letter of Credit complies with the provisions hereof and of the Approved Contract;
 - (b) no Event of Default under this Agreement nor an event which, with the lapse of time, the giving of notice, the making of any determination or any

combination of any of the foregoing, would constitute an Event of Default has occurred and is continuing; and

- (c) as at such time, all the representations and warranties made or given by the Borrower in this Agreement are true and accurate in all material respects.
- (4) The Advising Bank shall promptly advise the Beneficiary of the Letter of Credit.
- (5) The Advising Bank shall be entitled, but shall be under no obligation, to make payment to the Beneficiary upon presentation of documents in compliance with the Letter of Credit.
- (6) Subject to and in accordance with the provisions of this Agreement and of the Letters of Undertaking, the Lenders shall put the Advising Bank in funds or, if the Advising Bank has made payment against presentation of documents in compliance with the Letter of Credit, reimburse the Advising Bank in Yen for payment(s) made or to be made by the Advising Bank to the Beneficiary pursuant to the Letter of Credit.
- (7) Each such funding or reimbursement (as the case may be) to the Advising Bank shall (from the later of the date of such reimbursement to the Advising Bank and the date of the corresponding payment by the Advising Bank to the Beneficiary) constitute a Disbursement to the Borrower under the Facility and shall constitute a valid and binding obligation upon the Borrower in respect of repayment of the amount thereof and payment of interest thereon and any other amounts payable in relation thereto under this Agreement.
- (8) Upon each occasion that the Lenders fund or reimburse the Advising Bank (as the case may be) for a payment by the Advising Bank under the Letter of Credit, the Issuing Bank's obligation under the Letter of Credit shall be reduced accordingly and funding or reimbursement in full by the Lenders to the Advising Bank pursuant to the Letters of Undertaking shall release the Issuing Bank from its obligation to make the corresponding payment to the Supplier and/or the Advising Bank pursuant to such Letter of Credit.
- (9) The Borrower agrees that the Advising Bank shall at all times be entitled to make any payment under the Letter of Credit in respect of which documents appearing on their face to be the required documents have been presented by the Beneficiary and that the Lenders shall fund and reimburse the Advising Bank for any such payment pursuant to the Letters of Undertaking, in each case without further investigation or enquiry and without any need to concern themselves with the propriety of any such documents presented under the Letter of Credit and it shall not be a defence to the liability of the Borrower under this Agreement nor shall the obligations of the Borrower thereunder be affected or impaired by the fact (if it be the case) that the Advising Bank or the Lenders or any of them was or were or might have been justified in refusing payment of any amount to the Beneficiary (in the case of the Advising Bank) or to the Advising Bank (in the case of the Lenders).

III. Monthly Table of Disbursements

Within each calendar month, the EXIMBANK shall notify the Borrower in writing of the dates and amounts of disbursements hereunder made as aforesaid by the EXIMBANK during the previous month by sending to the Borrower a monthly table of disbursements each of which shall be conclusive and binding in the absence of manifest error.

(Form 4)

**Request for Reimbursement
(Yen Loan to COFIDE No.3)**

Date: _____

Contract Approval No.: _____

Serial No.: _____

The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Attn: Director General
Loan Department III (The Americas; Ships and Aircraft)

Dear Sirs:

In accordance with Part I of Annex B to the Loan Agreement dated _____, 199 (Yen Loan to COFIDE No. 3), we hereby request the EXIMBANK to reimburse the Yen equivalent of the amount specified below (of which particulars are shown in the attached list) to us by way of a disbursement under the Facility (terms used herein have the same meanings as those given to such terms in Clause 1 of the said Loan Agreement):

Amount requested for reimbursement:

- (a) Export Amount Portion: ¥ or \$[]
(b) Local Amount Portion: \$[]
(Amount in Local Currency [])

Kindly arrange for the EXIMBANK to make reimbursement of the Yen equivalent of the above-mentioned amount by payment to our account No. [] at (name of the relevant bank).

Once made, such reimbursement, being a disbursement under the said Loan Agreement, shall constitute a valid and binding obligation upon us to repay the same and to pay interest thereon, as well as any other amounts related thereto, in accordance with the provisions of the said Loan Agreement.

We enclose the following supporting documents:

- (i) copies of commercial invoice(s);
- (ii) copies of evidence of payment(s) (in the form of supplier's formal receipt(s), cancelled bank check(s) or draft(s) tested formal receipt(s), cancelled bank check(s) or draft(s) tested telex(es) or swift message(s), etc.); and
- (iii) where appropriate, evidence of the opening T/T buying exchange rate for the conversion of the Local Currency into Dollars quoted by the Central Bank of the Borrower's Country on the business day immediately preceding the date of such Request for Reimbursement.

We hereby certify that the said enclosed supporting documents are true and accurate in all respects and that the Export Amount and/or Local Amount requested for financing hereunder has been paid in full by us to the relevant supplier.

Yours faithfully,
Corporación Financiera de Desarrollo, S.A.

By: _____
(authorised signature)

(Form 5)

Letter of Credit

This Letter of Credit has been issued pursuant to paragraph (1) of Part II of Annex B to the Loan Agreement dated [], 199[], between the Export-Import Bank of Japan (the "EXIMBANK") and Corporación Financiera de Desarrollo, S.A. (the "Borrower") with respect to the Approved Contract defined therein (Approval No. []).

To: (the Japanese Supplier) (herein the "Beneficiary")

And: (the Designated Japanese Foreign Exchange Bank) (herein the "Advising Bank")

Dear Sirs:

We hereby open this irrevocable documentary credit No. [] in favour of the Beneficiary covering [] for a sum or sums not exceeding in the aggregate [] Yen (¥) available by payment of the Beneficiary's draft(s) at sight for []% (not exceeding 85%) of invoice value drawn on the Advising Bank and presented to the Advising Bank (without any engagement or undertaking of liability on its part) accompanied by the following documents:

- (i)
- (ii)
- (iii)
-
-
-

All documents must indicate the import permit No. [] and the Approval No. [] issued by the EXIMBANK of the above Approved Contract. Partial shipments are [] permitted. Transshipment is [] prohibited. Shipment must be effected not later than []. Drafts must be presented for payment not later than [].

All drafts drawn hereunder must be marked "Drawn under irrevocable credit No. [] dated [], 199[]".

We hereby engage with the Beneficiary and/or the Advising Bank that drafts drawn and/or paid in conformity with the terms of this credit will be duly honoured on presentation.

We hereby request the Advising Bank to advise the EXIMBANK of our opening of this Letter of Credit and to deliver a copy duly certified by it to the EXIMBANK.

Special Instructions:

1. This Letter of Credit does not become available unless and until a Letter of Undertaking provided for in Section (3) of Part II of Schedule 2 to the above Loan Agreement is issued by

each of the Lenders in respect hereof, such issuance to be confirmed and certified by the Advising Bank on the face of the advice of this credit to the Beneficiary.

2. This Letter of Credit shall cease to be available in respect of any draft drawn on us hereunder if and only if, and to the extent that, the Advising Bank has been reimbursed in full by the Lenders pursuant to the said Letter of Undertaking for the payment duly made by the Advising Bank to the Beneficiary in respect of such draft, however once any such reimbursement has been made, the aggregate principal amount of and available under this Letter of Credit shall be reduced by such amount.
3. This Letter of Credit shall be cancelled as regards the Beneficiary and the Beneficiary shall return the original hereof to us on the day immediately succeeding the Final Disbursement Date (as defined in the said Loan Agreement) provided that we shall remain liable after such cancellation date for drafts drawn hereunder prior thereto and we shall remain liable to reimburse the Advising Bank for all amounts it pays against drafts drawn hereunder which are not reimbursed to it by the Lenders under the Letter of Undertaking, such obligations to be absolute and unconditional and without reference to the propriety of any failure by the Lenders to so reimburse the Advising Bank.
4. The Advising Bank shall notify the EXIMBANK and the other Lenders of the disbursement forth-eight hours prior to the disbursement to the Beneficiary.

Except so far as otherwise expressly stated, this documentary credit is subject to the "Uniform Customs and Practice for Documentary Credits" (1993 Revision) International Chamber of Commerce (Publication No.500).

Yours faithfully,

(The relevant Borrower)

(Form 6)

Letter of Undertaking
Concerning Yen Loan to COFIDE No. 3 dated [], 199[]
(Approval No. [])

Date: []

To: Paribas, acting through its Tokyo Branch (herein the "Advising Bank")

Re: Letter of Credit No. [] dated [], 199[]
 issued by [] (herein the "Issuing Bank"), in
 favour of [] (herein the "Beneficiary"), in an
 amount of Yen [] covering [] and expiring
 on [] with Yen Loan to COFIDE No.3 (the "Yen Loan")

Dear Sirs:

We refer to the Yen Loan and the Letter of Credit referred to above.

In the event that your bank agrees to make payment against presentation of any draft duly drawn and presented by the above Beneficiary in accordance with the said Letter of Credit, we hereby irrevocably undertake to reimburse to you, upon request, an amount in yen equal to the corresponding amount duly paid to the said Beneficiary by you in accordance with the said Letter of Credit, provided that in no event shall the sum or sums reimbursed hereunder exceed in the aggregate [] Yen (¥), on the condition of such disbursement being effected at the rate of [] per cent. ([] %) of the amount of each payment effected by you in relation to the Loan Agreement. Provided further that our irrevocable undertaking to you hereunder shall be automatically suspended and/or terminated in the event that you have received notice from us to the effect that disbursements under the Loan Agreement have been suspended and/or terminated pursuant to the terms thereof or that the Facility (as defined therein) has been cancelled.

Notwithstanding any reimbursement hereunder or anything contained herein or therein to the contrary, we shall in no way be liable or responsible for, and shall not be under any obligation to check to verify, any or all of the acts or omissions of the Issuing Bank, the Advising Bank, the Beneficiary and/or any other party whatsoever in connection with the issuance or notification of, or the making of any payment under, the said Letter of Credit or otherwise.

This Letter of Undertaking shall expire on [], 199[] (unless terminated earlier as aforesaid) and all requests for reimbursement hereunder must be received by us during normal banking hours on a day on which banks are generally open for business in Japan prior to such expiration date and shall be governed by and construed in accordance with the laws of Japan.

Yours faithfully,

By: _____

SCHEDULE 3**FORM OF GUARANTEE**

Date: _____

To: THE EXPORT-IMPORT BANK OF JAPAN
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan,
both for itself and on behalf of
the LENDERS (as defined below)

Dear Sirs:

Reference is made to the loan agreement of even date herewith (the "Agreement") between CORPORACIÓN FINANCIERA DE DESARROLLO, S.A. - COFIDE (the "Borrower") and THE EXPORT-IMPORT BANK OF JAPAN (the "EXIMBANK") and the other financial institution named therein (together with the EXIMBANK, the "LENDERS" and each a "LENDER") whereunder the LENDERS have agreed to make available a loan facility to the Borrower upon the terms and conditions set out therein which include, inter alia, a requirement that the REPUBLIC OF PERU issues this guarantee of all the obligations of the Borrower under the Agreement. Terms and expressions defined in the Agreement shall, except where inconsistent with the provisions hereof, have the same respective meanings when used herein.

**Chapter I
Guarantee**

In order to induce the LENDERS to enter into the Agreement with the Borrower and make available the Facility thereunder and at the request of the Borrower, the REPUBLIC OF PERU (the "Guarantor") acting by and through its Ministry of Economy and Finance at its address at Jr. Junin 319, Lima, Peru hereby ABSOLUTELY, IRREVOCABLY and UNCONDITIONALLY:

- (a) GUARANTEES, jointly and severally with the Borrower, the due and punctual payment to the LENDERS of all sums that may from time to time fall due (whether at stated maturity, upon acceleration or otherwise) from the Borrower to the LENDERS pursuant to the Agreement (all such sums being hereinafter referred to as the "Guaranteed Obligations"); and
- (b) AGREES, as primary obligor and not merely as surety, on a full indemnity basis, to indemnify the LENDERS as a result of the whole or any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective as against the Borrower for any reason whatsoever irrespective of whether such reason or any related fact or circumstance was known or ought to have been known to the LENDERS or any of their officers, employees, agents or advisers. The amount of such loss shall be equal to the amount which the LENDERS would otherwise have been entitled to recover from the Borrower in respect of the Guaranteed Obligations.

If and whenever the Borrower shall fail to pay any of the Guaranteed Obligations, the Guarantor shall forthwith on first demand by the EXIMBANK pay the same to the EXIMBANK for the account of the LENDERS.

This Guarantee is subject to the following provisions:-

Chapter II Effectiveness

1. (Demand by EXIMBANK) Any demand given by the EXIMBANK to the Guarantor shall be conclusive evidence that the Guarantor's liability hereunder has accrued and that the extent of such liability is the amount shown therein.

2. (No Requirement to Exhaust Remedies) Prior to making any demand hereunder neither the EXIMBANK nor the LENDERS nor any of them shall be required to take any step, make any demand upon, exercise any remedies or obtain any judgment against the Borrower, give notice to the Borrower or any other person under the Agreement or otherwise and howsoever arising, make or file any claim or proof in the dissolution or winding-up of the Borrower or enforce or seek to enforce any security now or hereafter held by any LENDER in respect of the Guaranteed Obligations.

3. (No Release of Guarantor) Without impairing or discharging in any way the Guarantor's obligations hereunder or incurring liability to the Guarantor, the EXIMBANK, acting on behalf of the LENDERS, may at any time without consent of or notice to the Guarantor:
 - (a) extend (i) the Final Disbursement Date or (ii) the time of payment by the Borrower of any of the Guaranteed Obligations;
 - (b) modify, vary, waive, release or amend in any manner any of the provisions of the Agreement or any of the instruments or agreements (other than this Guarantee) referred to therein;
 - (c) exercise or refrain from exercising any rights against the Borrower or others (including the Guarantor); or
 - (d) settle, release or compromise any of the Guaranteed Obligations, any security therefor or any liability (including hereunder) incurred directly or indirectly in respect thereof or hereof.

4. (Continuing Guarantee) This Guarantee shall be a continuing guarantee valid and in full force and effect in respect of the Guaranteed Obligations until the same have been discharged and satisfied in full irrespective of:-
 - (a) any intermediate payment or satisfaction of any part of the Guaranteed Obligations;
 - (b) any illegality, invalidity, irregularity or unenforceability of all or any part of the Guaranteed Obligations;
 - (c) any change in the corporate existence, structure or ownership of the Borrower;
 - (d) any insolvency, liquidation, bankruptcy or similar situation or proceeding in respect of the Borrower; without limiting the generality of the foregoing this Guarantee shall continue to be effective and be re-instated should the EXIMBANK or the LENDERS be required as a result of any applicable law to return to the Borrower or any other person any payment made by the Borrower to them;
 - (e) the granting of any time or other indulgence to the Borrower or any other person; and
 - (f) any other act, thing or omission whereby the liability of the Guarantor under this Guarantee would or may, but for this Paragraph 4, have been discharged, impaired or otherwise affected.

5. (No Exercise of Rights) Whilst this Guarantee continues, the Guarantor shall not (without the consent of the EXIMBANK) exercise any rights to claim any sum from the Borrower, including

those of subrogation and of proof in the Borrower's insolvency, and shall hold the benefit of any such rights on trust for the LENDERS.

Chapter III Payments; Tax Gross-up; Taxes and Expenses

1. (Payments)
 - (a) All payments to be made hereunder shall be made in the manner, at the place and in the currency in which the Borrower is required to make payments under the Agreement and further the provisions of Clause 7 of the Agreement shall apply to all payments to be made by the Guarantor hereunder and the same are hereby expressly incorporated herein mutatis mutandis as if all references therein to the "Borrower" and "this Agreement" are references to the "Guarantor" and this "Guarantee".
 - (b) Any money received, recovered or realized by any LENDER by virtue of or in connection with this Guarantee may, at the discretion of such LENDER, be credited to a suspense or impersonal account and may be held in such account for so long as such LENDER thinks fit pending the application from time to time (as such LENDER may think fit) of such moneys in or towards the payment and discharge of any of the Guaranteed Obligations owing to the LENDERS.
2. (Tax Gross-up)
 - (a) If the Guarantor is required to make a payment to any Person hereunder subject to the deduction or withholding of Tax, the sum payable by the Guarantor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, such Person receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.
 - (b) Without prejudice to the provisions of Sub-Paragraph (a) above, if any Person (or any agent on its behalf) is required to make any payment on account of Tax or otherwise on or in relation to any sum received or receivable hereunder by such Person (or agent on its behalf) or any liability in respect of any such payment is asserted, imposed, levied or assessed against such Person (or agent on its behalf), the Guarantor shall, upon demand of the EXIMBANK, promptly indemnify such Person against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.
3. (Taxes and Expenses) The Guarantor hereby agrees to indemnify the LENDERS and each of them against all or any taxes (including stamp or documentary taxes or recording or filing fees) levies, costs, losses, expenses or charges incurred in connection with this Guarantee, any failure by the Borrower to make any payment due under the Agreement or in respect of the Guaranteed Obligations and the preservation or enforcement of the rights of the LENDERS hereunder and under the Agreement.

Chapter IV Representations and Warranties

The Guarantor hereby represents and warrants that:

1. (Authorisation) The Guarantor has full power and authority to enter into this Guarantee and any agreement, instrument or document to be executed by it hereunder and to perform and observe the terms and conditions hereof and thereof and it has taken

and completed all legal action and procedures necessary to approve the transactions contemplated hereby and to authorise the Guarantor to execute, deliver and perform this Guarantee, and any agreement, instrument or document to be executed by it hereunder.

2. (Government Consents and Actions) All acts, conditions and things, which are necessary or advisable to be done, fulfilled or performed in connection with (i) the execution, delivery or performance of this Guarantee or any agreement and instrument required hereunder or thereunder, (ii) the legality, validity and enforceability of this Guarantee or any agreement or instrument required hereunder or (iii) the admissibility in evidence in the courts of the Borrower's Country of this Guarantee and any agreement or instrument required hereunder have been duly done, fulfilled and/or performed and are in full force and effect (except, and only in relation to this representation and warranty as made on the date of this Guarantee, the registration of this Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Borrower's Country).
3. (Proper Legal Form) This Guarantee is in proper legal form under the Laws of the Borrower's Country for enforcement in the courts of the Borrower's Country.
4. (Registrations and consents) It is not necessary to file, register or otherwise record this Guarantee or any agreement or instrument required hereunder or thereunder in any court, public office or elsewhere in the Borrower's Country, or to pay any stamp, registration or similar tax on or in relation to this Guarantee or any agreement or instrument required hereunder to ensure the validity, legality, effectiveness, enforceability or admissibility in evidence hereof, or the making of any payment required to be made hereunder, other than registration of this Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Borrower's Country.
5. (Binding Effect) This Guarantee has been duly executed and delivered by the duly authorised representative of the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor enforceable against it in accordance with its terms.
6. (No Contravention) The execution, delivery and performance of this Guarantee and all instruments or agreements required hereunder do not and would not contravene, violate or constitute a default under:
 - (a) any provision of the constitution of the Guarantor;
 - (b) any provision of any agreement, mortgage, indenture, note or other instrument to which the Guarantor is a party or by which the Guarantor or any of its assets is or may be bound;
 - (c) any treaty, law or regulation applicable to the Guarantor; or
 - (d) any judgment, injunction, order or decree binding upon the Guarantor or any of its assets,
 nor will the same result in the creation or imposition of any Encumbrance on any present or future asset or revenues of the Guarantor.
7. (Litigation) There are no legal, administrative or other actions, claims or other proceedings current, pending or threatened against the Guarantor, which, if decided adversely, would materially and adversely affect the financial condition, business or operations of the Guarantor, or would materially and adversely affect the Guarantor's ability to perform its obligations under this Guarantee or any agreement, instrument or document provided hereunder, or which question the legality, validity or binding effect of any provision of this Guarantee, or any agreement, instrument or document provided hereunder.
8. (Commercial Activity) The Guarantor is subject to civil and commercial law with respect to its obligations under this Guarantee. The execution and delivery of this

Guarantee and each agreement, instrument or document provided thereunder constitute and the Guarantor's performance of, and compliance with, its obligations under this Guarantee or such document will constitute, private and commercial acts rather than public or governmental acts.

9. (Taxes) Under the laws of the Borrower's Country, there is no Tax imposed (whether by withholding or otherwise) on or by virtue of the execution and delivery of this Guarantee or any document or instrument to be executed and delivered hereunder, the performance hereof or the admissibility in evidence or enforcement hereof, or on any payment required to be made by the Guarantor hereunder or thereunder.
10. (No Immunity) The waiver of immunity by the Guarantor in Chapter VI Paragraph 2(f) of this Guarantee is legal, valid, binding and enforceable and neither the Guarantor, nor any of its assets has any right of immunity from suit, execution, attachment (whether in aid of execution before judgment or otherwise) or any other legal process with respect to its obligations under this Guarantee in any jurisdiction, including, without limitation, the Borrower's Country (subject to Title VII of Law No. 24948 of the Borrower's Country), and except with respect to property which is (i) used by a diplomatic or consular mission of the Borrower's Country, (ii) property of a military character and under control of a military authority or defence agency or (iii) located in the Borrower's Country and dedicated to public or governmental use (as distinguished from property dedicated to commercial use).
11. (Proceedings to Enforce Agreement) In any proceedings in the Borrower's Country to enforce this Guarantee:
 - (a) the choice of Japanese law as the governing law hereof or thereof will be recognised and such law will be applied;
 - (b) the irrevocable submission of the Guarantor to the non-exclusive jurisdiction of the Tokyo District Court and/or the courts of England and/or the courts of the State of New York in New York City and the courts of the United States of America in New York City and the appointment by the Guarantor of the Guarantor's Tokyo Process Agent, the Guarantor's London Process Agent and the Guarantor's New York Process Agent are legal, valid, binding and enforceable;
 - (c) any judgment obtained in Japan, England or New York will be recognised and enforced in the Borrower's Country by suit on the judgment without re-examination of its merits.
12. (Time for making representations and warranties) The representations and warranties set out in this Chapter IV are continuing representations and warranties and shall survive the execution of this Guarantee and are made by the Guarantor on the date of this Guarantee and shall be deemed to be repeated on the date of each Disbursement under the Agreement and on each Interest Payment Date, in each case, with references to the facts and circumstances then existing.

Chapter V Covenants

The Guarantor covenants and agrees that from the date of this Guarantee and for so long as any of the Guaranteed Obligations remain outstanding it shall:

1. obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all approvals, authorizations, consents and licences required by applicable law to enable it lawfully to enter into and perform its obligations under this Guarantee or to ensure the legality, validity, priority, enforceability or admissibility in evidence of this Guarantee in the Borrower's Country;

2. furnish the EXIMBANK upon request with such information as the EXIMBANK shall reasonably request regarding the economy of the Borrower's Country including, but without limitation, the balance of payments, trade balance, external debt and foreign exchange reserves, such information to be kept strictly confidential by the EXIMBANK;
3. ensure that at all times the claims of the EXIMBANK against it under this Guarantee rank at least pari passu with the claims in respect of External Indebtedness of all its other unsecured creditors save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application; and
4. if any Encumbrance shall be created on any Public Assets, as security for any External Indebtedness, which will or might result in a priority for the benefit of the creditor of such External Indebtedness in the allocation, realization or distribution of foreign exchange, the Guarantor shall ensure that such Encumbrance shall, unless the EXIMBANK shall otherwise agree, ipso facto and at no cost to the LENDERS, equally and ratably, secure the Guaranteed Obligations and the Guarantor in creating or permitting the creation of such Encumbrance shall make express provision to that effect; provided, however, that if for any constitutional or other legal reason such provision cannot be made with respect to any Encumbrance created on assets of any of its political or administrative subdivisions, the Guarantor shall promptly and at no cost to the LENDERS secure the Guaranteed Obligations by an equivalent Encumbrance on other Public Assets satisfactory to the EXIMBANK.

This paragraph 4 of Chapter V shall not apply to (i) any Encumbrance created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property or solely as security for Indebtedness for Borrowed Money incurred for the purpose of financing the purchase of such property, or (ii) any Encumbrance arising in the ordinary course of banking transactions and securing Indebtedness for Borrowed Money maturing not more than one (1) year after the date on which it is originally incurred.

For the purposes of this paragraph 4 of Chapter V, "Public Assets" shall mean any assets of the Guarantor, or of any political or administrative subdivision thereof and of any entity owned or controlled by, or operating for the account or benefit of the Guarantor or any such subdivision, including gold and foreign exchange assets held by any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for the Guarantor and, for the avoidance of doubt, the term "assets" includes property revenue and claims of any kind;

Chapter VI

Governing Law and Jurisdiction

1. (Governing Law) This Guarantee shall be governed by and constructed in accordance with the laws of Japan.
2. (Submission to Jurisdiction)
 - (a) The Guarantor irrevocably agrees that each of the Tokyo District Court and the courts of England and the New York State and/or Federal Courts sitting in New York City shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any dispute, which may arise out of or in connection with this Guarantee and, for such purposes, irrevocably submits to the jurisdiction of such courts.
 - (b) The Guarantor irrevocably waives any objection which it might at any time have to the courts referred to in Sub-Paragraph (a) above being nominated as the forum to hear and determine any suit, action or proceedings, and to settle any dispute, which may arise out

of or in connection with this Guarantee and agrees not to claim that any such court is not a convenient or appropriate forum.

- (c) The submission to the jurisdiction of the courts referred to in Sub-Paragraph (a) above shall not (and shall not be construed so as to) limit the right of the LENDERS to take proceedings against the Guarantor in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.
- (d) The Guarantor consents generally in respect of any legal action or proceedings arising out of or in connection with this Guarantee to the giving of any relief or the issue of any process in connection with such action or proceedings including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such action or proceedings.
- (e) The Guarantor agrees that without limiting any other means available to the LENDERS, the process by which any suit, action or proceedings is begun, or any other document, may be validly served on the Guarantor by being delivered:
 - (i) in Japan, to the Consulate General of Peru (the "Guarantor's Tokyo Process Agent") for the time being presently located at Shibuya-Ku, Higashi 4-4-27, Tokyo 150; or
 - (ii) in England, to the Consulate General of Peru (the "Guarantor's London Process Agent") for the time being presently located at 52, Sloane Street, London, SW 1 X-9SP, U.K; or
 - (iii) in New York, to the Consulate General of Peru (the "Guarantor's New York Process Agent") for the time being presently located at 215 Lexington Av., 21st Floor, New York 10016, U.S.A.

The Guarantor acknowledges that such service shall not constitute a breach of the Vienna Convention on Diplomatic Relations and/or the Vienna Convention on Consular Relations. If for any reason any of the Guarantor's Tokyo Process Agent or the Guarantor's London Process Agent or the Guarantor's New York Process Agent shall cease, or shall not be capable, so to act, the Guarantor shall promptly and irrevocably designate and appoint another agent acceptable to the LENDERS. Failure by the Guarantor to designate and appoint another agent acceptable to the LENDERS within fifteen (15) days shall entitle the EXIMBANK to appoint a Person as agent of the Guarantor by notice to the Guarantor.

- (f) To the extent that the Guarantor may in any jurisdiction claim for itself or its assets immunity from process, suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to the Guarantor or its assets such immunity (whether or not claimed), the Guarantor hereby irrevocably consents generally to the giving of relief by way of process of enforcement (including the arrest, detention or sale of any state property) and for the avoidance of doubt the Guarantor further irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction and, in particular, in relation to any proceedings that may be taken in England the foregoing waiver of immunity shall have effect under, and be construed in accordance with, the United Kingdom State Immunity Act 1978, and in relation to any proceedings that may be taken in New York the foregoing waiver of immunity shall have effect under and be construed in accordance with the United States Foreign Sovereign Immunities Act of 1976, and in relation to any proceedings that may be taken in the Borrower's Country, the foregoing waiver of immunity shall be subject to Title VII of Law No. 24948 of the Borrower's Country,

provided that the forgoing waiver shall not be subject to property which is (i) used by a diplomatic or consular mission of the Borrower's Country, (ii) property of a military character and under control of a military authority or defence agency or (iii) located in the Borrower's Country and dedicated to public or governmental use (as distinguished from property dedicated to commercial use).

Chapter VII Miscellaneous

1. (Successors and Assigns) This Guarantee shall inure to the benefit of the LENDERS' successors and assigns and the Guarantor hereby agrees that each such successor and assign shall have the full benefit of this Guarantee as if the Guarantee had been originally addressed to it and accordingly all references herein to the LENDERS shall be deemed to include references to their successors and assigns.
2. (Partial Illegality) If at any time any provision hereof becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of any other provisions hereof nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.
3. (No Waiver, Remedies Cumulative) No failure to exercise and no delay in exercising on the part of the LENDERS any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No waiver by the LENDERS shall be effective unless in writing. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
4. (Communication) Any demands or other communications by the LENDERS upon the Guarantor shall be given or made by registered mail, internationally recognized courier services, telex, or facsimile (promptly confirmed by registered air mail or by internationally recognized courier services, although receipt of the confirmation shall not be necessary for effective receipt of the relevant telex or facsimile communication) addressed to the Guarantor at the following address (or such other address as the Guarantor may hereafter notify to the EXIMBANK in writing):

The Republic of Peru
(for the attention of Director General de
Crédito Público, Ministerio de Economía y Finanzas)
Jr. Junin 319, Lima, Peru
Cable Address: MINECONOMIA LIMA
Facsimile: 328500

Notices, requests, demands or other communications given or made in the case of registered air mail shall be deemed to have been duly given or made ten (10) days after being deposited in the mails, in the case of telex, when the answerback code of the recipient thereof is duly received by the sender and in the case of internationally recognized courier services or facsimile, when such internationally recognized courier service or facsimile is duly received by the recipient.

IN WITNESS WHEREOF, the Guarantor, acting through its duly authorized representative, has caused this Guarantee to be duly executed and delivered in Tokyo, Japan as of the day and year first above written.

The Minister of Foreign Affairs of
the Republic of Peru on behalf of
the Republic of Peru

By _____

Fernando de Trazegnies Granda

Minister of Foreign Affairs of the
Republic of Peru

- (1) The Borrower is a corporation duly incorporated and validly existing under the laws of the Borrower's Country and has full power and authority to carry on its business as now being conducted and to do so in any jurisdiction in which it is so conducted.
- (2) The Borrower has full power and authority to enter into the Agreement, to borrow thereunder and to perform and observe the terms and conditions thereof. The Borrower has taken and completed all corporate and legal actions or procedures necessary to approve the transactions contemplated thereby and to authorise the Borrower to execute, deliver and perform the Agreement and any agreements and instruments required thereunder, to borrow thereunder, and to perform and observe the terms and conditions thereof, and the same are in full force and effect.
- (3) All authorisations, licences, approvals or consents of, or registrations or filings with, the Borrower's Country, or of any agency, department or commission thereof or therein which are necessary or advisable for (i) the execution, delivery or performance of the Agreement or any agreement and instrument required thereunder for the validity and enforceability thereof and (ii) the borrowings thereunder (iii) admissibility in evidence in the courts of the Borrower's Country of the Agreement and any agreement or instrument required thereunder and/or (iv) the payment

by the Borrower of all sums which it may or will be liable to pay under the Agreement in Yen and/or for the conversion of requisite amounts of other currencies, including that of Borrower's Country, into Yen to effect the same, (if any), have been duly effected, completed and/or obtained and are in full force and effect.

- (4) It is not necessary to file, register or otherwise record the Agreement or any agreement or instrument required thereunder in any court, public office or elsewhere in the Borrower's Country, or to pay any stamp, registration or similar tax on or in relation to the Agreement or any agreement or instrument required thereunder, to ensure the validity, legality, effectiveness, enforceability or admissibility in evidence thereof, except for the registration of the Agreement with the Director General de Credito public of the Ministry of Economy and Finance of the Republic of Peru which has been duly effected.
- (5) The Agreement has been duly executed and delivered by the duly authorised representative of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms. The obligations of the Borrower under the Agreement are direct, unconditional and general obligation and the Borrower.
- (6) The execution, delivery and performance of the Agreement and all instruments or agreements required thereunder do not and would not contravene, violate or constitute a default under (a) any provision of the charter, articles of incorporation, by-laws, statutes or other constituent documents of the Borrower; (b) any provision of any agreement or other instrument to which the Borrower is a party or by which the Borrower or any of its assets is or may be bound; (c) any treaty, law or regulation applicable to the Borrower; or (d) any judgment, injunction, order or decree binding upon the Borrower or any of its assets, nor would the same result in the creation or imposition of any Encumbrance on any present or future asset of the Borrower.
- (7) No Default has occurred and is continuing or would result from the making of any Disbursement thereunder and no event has occurred and is continuing or would result from the making of any Disbursement thereunder which constitutes or which, upon the lapse of time or the giving of notice, the making of any determination or any combination of any of the foregoing or both, would become an Event of Default or a default under any agreement, mortgage, indenture, note or other instrument to which the Borrower is a party or by which the Borrower or any of its assets is or may be bound.
- (8) There are no legal, administrative or other actions, claims or other proceedings current, pending or threatened against the Borrower in which there is a reasonable possibility of an adverse decision which could materially and adversely affect the financial condition or business of the Borrower or operations or could materially and adversely affect the Borrower's ability to perform its obligations under the Agreement or which in any manner draws into question the legality, validity or binding effect of any provision of the Agreement.
- (9) Under the laws of the Borrower's Country, there is no Tax imposed (whether by withholding or otherwise) on or by virtue of the execution and delivery of the Agreement or any other agreement, document or instrument to be executed and delivered thereunder, the performance thereof or the admissibility in evidence or enforcement thereof, or on any payment required to be made thereunder.

- (10) The obligations and liabilities of the Borrower under the Agreement constitute and will continue to constitute the direct, irrevocable, unconditional and general obligations of the Borrower and rank and will continue to rank at least *pari passu* with all other present or future claims in respect of External Indebtedness of all other unsecured creditors of the Borrower save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.
- (11) The Borrower is a legal entity with separate legal personality capable of being sued in its own name. The Borrower is subject to civil and commercial law with respect to its obligations under the Agreement. The execution and delivery of the Agreement constitute, and the Borrower's performance of and compliance with its obligations under the agreement will constitute, private and commercial acts done and performed for private and commercial purposes under the laws of the Borrower's Country and neither the Borrower nor any of its assets has any right of immunity from suit, execution, attachment prior to judgment, attachment in aid of execution or any other legal process with respect to its obligations under the Agreement in any jurisdiction, including, without limitation, the Borrower's Country, except with respect to prepayments which is exempt by Lender from attachment execution pursuant to Title VII of No. 24948 of the Borrower's Country.
- (12) In any proceeding in the Borrower's Country to enforce the Agreement, (i) the choice of Japanese law as the governing law thereof will be recognised and such law will be applied, (ii) any judgment obtained in Japan, New York or England will be recognised and enforceable against the Borrower and its assets in the Borrower's Country and (iii) the irrevocable submissions of the Borrower to the non-exclusive jurisdiction of the Tokyo District Court, the New York State and/or Federal Courts sitting in New York City and the courts of England and the appointment by the Borrower of the Tokyo Process Agent, the New York Process Agent and the London Process Agent are legal, valid, binding and enforceable.
- (13) The waiver of immunity by the Borrower set forth in Clause 13(5) of the Agreement is legal, valid, binding and enforceable, and neither the Borrower nor any of its assets has any right of immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or any other legal process with respect to its obligations under the Agreement in any jurisdiction, including, without limitation, the Borrower's Country, except with respect to prepayments which is exempt by Lender from attachment execution pursuant to Title VII of No. 24948 of the Borrower's Country.
- (14) Neither the EXIMBANK or the Participating Financial Institution are or will be deemed to be resident, domiciled or carrying on business or subject to taxation or have a permanent establishment, in each case, in the Borrower's Country by reason only of the negotiation, preparation, execution, delivery, performance, enforcement of and/or receipt of any payment due under the Agreement.
- (15) No consent or approval of any trustee or holder of or beneficiary under any External Indebtedness or obligation of the Borrower is required in connection with the execution and delivery of the Agreement or any instrument or agreement required thereunder or any transaction contemplated thereby.
- (16) The transactions contemplated by the Agreement are not subject to any currency deposit requirements or any reserve requirements of whatsoever nature under the laws of the Borrower's Country.

- (17) It is not necessary (i) in order to enable the EXIMBANK to enforce its rights under the Agreement or the Guarantee, or (ii) by reason of the execution, delivery and performance of the Agreement that the EXIMBANK should be licensed, qualified or otherwise entitled to carry on business in the Borrower's Country.
- (18) The Agreement is in proper legal form under the laws of the Borrower's Country and is capable of enforcement in the courts of the Borrower's Country.

Yours faithfully,

.....

SCHEDULE 5

**Matters to be certified by
the Head of Legal Office of the Ministry of Economy and Finance
of the Borrower's Country**

- (1) The Guarantor has all requisite power to enter into and perform the Guarantee and has taken all necessary action to authorise the making and performance of the Guarantee in accordance with its terms.
- (2) The Guarantee has been duly executed and delivered by the Guarantor and fully constitutes the legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms.
- (3) By virtue of the Guarantee the Guarantor is liable to the EXIMBANK in respect of the Guaranteed Obligations as primary obligor.
- (4) All authorisations, licences, approvals or consents of, or registrations, recordations of filings with, the Borrower's Country, or any agency, department or commission thereof or therein, which are necessary or advisable for (i) the execution, delivery or performance of the Guarantee or any agreement and instrument required thereunder or the validity and enforceability thereof or (ii) the payment by the Guarantor of all sums which it maybe liable to pay under the Guarantee in Yen, have been duly effected, completed and/or obtained and are in full force and effect.
- (5) The execution, delivery and performance of the Guarantee and all instruments or agreements required thereunder do not and would not contravene, violate or constitute a default under (a) any provision of any agreement, mortgage, indenture and (a) any provision of any agreement, mortgage, indenture, debenture or note to which the Guarantor is a party or by which the Guarantor or any of its assets is or may be bound; or (b) any treaty, statute, law, rule or regulation applicable to the Guarantor; or (c) any judgment, injunction, order or decree binding upon the Guarantor or any of its assets, nor would the same result in the creation or imposition of any Encumbrance on any asset of the Guarantor.
- (6) There are no legal, administrative or other actions, claims or other proceedings current, pending or threatened against the Guarantor which if decided adversely would materially and adversely affect the Guarantor's ability to perform its obligations under the Guarantee or which question the legality, validity or binding effect of any provision of the Guarantee, except for the cases disclosed to the EXIMBANK on the date hereof.
- (7) Under the laws of the Borrower's Country, there is no Tax imposed on or by virtue of the execution and delivery of the Guarantee, or any document or instrument to be executed and delivered thereunder, the performance thereof or the admissibility in evidence or enforcement thereof, or on any payment required to be made thereunder, and all payments to be made by the Guarantor thereunder may be made in full and free and clear of, and without deduction or withholding for or on account of, any Taxes imposed under the laws of the Borrower's Country.
- (8) The Guarantor is subject to civil and commercial law with respect to its obligations under the Guarantee. The execution and delivery of the Guarantee constitute, and the Guarantor's

performance of and compliance with its obligations under the Guarantee will constitute, acts *jure gestionis* and accordingly, such execution and delivery, performance and compliance constitute private and commercial acts rather than public or governmental acts and neither the Guarantor nor any of its assets has any right of immunity from suit, executive, attachment or any other legal process with respect to its obligations under the Guarantee in any jurisdiction, including the Borrower's Country and pursuant to Chapter VI of the Guarantee the Guarantor has effectively waived any such right of immunity to which it or its assets may at any time become entitled, except for respect to property which is (i) used by a diplomatic or consular mission of the Borrower's Country, (ii) property of a military character and under control of a military authority or defence agency or (iii) located in Peru and dedicated to a public or governmental use (as distinguished from property dedicated to commercial use).

- (9) From the date of the Guarantee and so long as the Guarantee remains in effect, the obligations and liabilities of the Guarantor (both actual and contingent) under the Guarantee constitute the irrevocable, direct, unconditional and general obligations of the Guarantor entitled to the full faith and credit of the Guarantor and shall rank at least *pari passu* with all other present and future claims in respect of External Indebtedness of all other unsecured creditors of the Guarantor save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.
- (10) In any proceedings in the Borrower's Country for the enforcement of the Guarantee, the choice of Japanese law as the governing law thereof will be recognised and such law will be applied and any judgment obtained in Japan, London or New York will be recognised and enforceable against the Guarantor and its assets in the Borrower's Country. The Guarantor's designation and appointment of agents for service of process in Tokyo, London and New York pursuant to Chapter VI of the Guarantee are legal, valid and binding under the laws of the Borrower's Country. The Guarantee is in proper legal form under the laws of the Borrower's Country and is capable of enforcement in the courts of the Borrower's Country and there is no requirement to file, register or otherwise record the Guarantee or any instrument or agreement required thereunder in any public office or elsewhere in the Borrower's Country to ensure the validity, legality, effectiveness, enforceability or admissibility in evidence thereof, except for the registration of the Guarantee with the Dirección General de Crédito Público of the Ministry of Economy and Finance of the Republic of Peru, which has been duly effected.

SCHEDULE 6

Part 1

**CONSENTS OF BORROWER'S AGENTS FOR SERVICE OF PROCESS
(TOKYO PROCESS AGENT)
(Yen Loan to COFIDE No.3)**

Date: []

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: Corporación Financiera de Desarrollo, S.A. ("COFIDE")

Gentlemen,

Reference is made to the Loan Agreement dated [] (such Loan Agreement, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Agreement") between COFIDE and The Export-Import Bank of Japan and the financial institutions named therein.

Pursuant to Clause 13 of the Agreement, COFIDE has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at Shibuya-Ku, Higashi 4-4-27, Tokyo 150, Japan as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the Tokyo District Court and any appellate court therefrom in connection with the Agreement.

The undersigned hereby (a) informs you that it has received a copy of the Agreement and accepts such appointment by COFIDE as is set forth in such Clause 13 of the Agreement and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Agreement, (ii) it will maintain an office in Tokyo until the termination of the Agreement and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Clause 13 of the Agreement, and (vi) it will promptly forward to COFIDE at its address as specified in Clause 15 of the Agreement any summons, complaint or other legal process which it receives in connection with this appointment as such agent of COFIDE.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Agreement, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru

SCHEDULE 6

Part 2

**CONSENTS OF BORROWER'S AGENTS FOR SERVICE OF PROCESS
(NEW YORK PROCESS AGENT)
(Yen Loan to COFIDE No.3)**

Date: []

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: Corporación Financiera de Desarrollo, S.A. ("COFIDE")

Gentlemen,

Reference is made to the Loan Agreement dated [] (such Loan Agreement, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Agreement") between COFIDE and The Export-Import Bank of Japan and the financial institutions named therein.

Pursuant to Clause 13 of the Agreement, COFIDE has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at 215 Lexington Av., 21st Floor, New York 10016, U.S.A. as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the New York State and/or Federal Courts sitting in New York City and any appellate court therefrom in connection with the Agreement.

The undersigned hereby (a) informs you that it has received a copy of the Agreement and accepts such appointment by COFIDE as is set forth in such Clause 13 of the Agreement and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Agreement, (ii) it will maintain an office in New York until the termination of the Agreement and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Clause 13 of the Agreement, and (vi) it will promptly forward to COFIDE at its address as specified in Clause 15 of the Agreement any summons, complaint or other legal process which it receives in connection with this appointment as such agent of COFIDE.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Agreement, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru

SCHEDULE 6

Part 3

**CONSENTS OF BORROWER'S AGENTS FOR SERVICE OF PROCESS
(LONDON PROCESS AGENT)
(Yen Loan to COFIDE No.3)**

Date:[]

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: Corporación Financiera de Desarrollo, S.A. ("COFIDE")

Gentlemen,

Reference is made to the Loan Agreement dated [] (such Loan Agreement, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Agreement") between COFIDE and The Export-Import Bank of Japan and the financial institutions named therein.

Pursuant to Clause 13 of the Agreement, COFIDE has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at 52, Sloane Street, London, SW 1 X-9SP, U.K. as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the courts of England and any appellate court therefrom in connection with the Agreement.

The undersigned hereby (a) informs you that it has received a copy of the Agreement and accepts such appointment by COFIDE as is set forth in such Clause 13 of the Agreement and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Agreement, (ii) it will maintain an office in London until the termination of the Agreement and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Clause 13 of the Agreement, and (vi) it will promptly forward to COFIDE at its address as specified in Clause 15 of the Agreement any summons, complaint or other legal process which it receives in connection with this appointment as such agent of COFIDE.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Agreement, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru

SCHEDULE 7

Part 1

CONSENTS OF GUARANTOR'S AGENTS FOR SERVICE OF PROCESS
(TOKYO PROCESS AGENT)
(Yen Loan to COFIDE No.3)

Date: []

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: The Republic of Peru ("Peru")

Gentlemen,

Reference is made to the Guarantee dated [] (such Guarantee, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Guarantee") by Peru in favour of The Export-Import Bank of Japan and the financial institution identified therein.

Pursuant to Chapter VI of the Guarantee, Peru has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at Shibuya-Ku, Higashi 4-4-27, Tokyo 150, Japan as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the Tokyo District Court and any appellate court therefrom in connection with the Guarantee.

The undersigned hereby (a) informs you that it has received a copy of the Guarantee and accepts such appointment by Peru as is set forth in such Chapter VI of the Guarantee and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Guarantee, (ii) it will maintain an office in Tokyo until the termination of the Guarantee and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Chapter VI of the Guarantee, and (vi) it will promptly forward to Peru at its address as specified in Clause 15 of the Loan Agreement referred to in the Guarantee any summons, complaint or other legal process which it receives in connection with this appointment as such agent of Peru.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Guarantee, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru

SCHEDULE 7

Part 2

CONSENTS OF GUARANTOR'S AGENTS FOR SERVICE OF PROCESS
(NEW YORK PROCESS AGENT)
(Yen Loan to COFIDE No.3)

Date: []

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: The Republic of Peru ("Peru")

Gentlemen,

Reference is made to the Guarantee dated [] (such Guarantee, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Guarantee") by Peru in favour of The Export-Import Bank of Japan and the financial institution identified therein.

Pursuant to Chapter VI of the Guarantee, Peru has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at 215 Lexington Av., 21st Floor, New York 10016, U.S.A. as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the New York State and/or Federal Courts sitting in New York City and any appellate court therefrom in connection with the Guarantee.

The undersigned hereby (a) informs you that it has received a copy of the Guarantee and accepts such appointment by Peru as is set forth in such Chapter VI of the Guarantee and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Guarantee, (ii) it will maintain an office in New York until the termination of the Guarantee and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Chapter VI of the Guarantee, and (vi) it will promptly forward to Peru at its address as specified in Clause 15 of the Loan Agreement referred to in the Guarantee any summons, complaint or other legal process which it receives in connection with this appointment as such agent of Peru.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Guarantee, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru

SCHEDULE 7

Part 3

CONSENTS OF GUARANTOR'S AGENTS FOR SERVICE OF PROCESS
(LONDON PROCESS AGENT)
(Yen Loan to COFIDE No.3)

Date:[]

To: The Export-Import Bank of Japan
4-1, Ohtemachi 1-chome
Chiyoda-ku, Tokyo 100, Japan

Re: The Republic of Peru ("Peru")

Gentlemen,

Reference is made to the Guarantee dated [] (such Guarantee, as the same may be amended, supplemented or otherwise modified from time to time, being hereinafter the "Guarantee") by Peru in favour of The Export-Import Bank of Japan and the financial institution identified therein.

Pursuant to Chapter VI of the Guarantee, Peru has irrevocably and unconditionally appointed the undersigned at the undersigned's office presently located at 52, Sloane Street, London, SW 1 X-9SP, U.K. as its agent to accept service of legal process in connection with legal actions or proceedings commenced in the courts of England and any appellate court therefrom in connection with the Guarantee.

The undersigned hereby (a) informs you that it has received a copy of the Guarantee and accepts such appointment by Peru as is set forth in such Chapter VI of the Guarantee and (b) agrees with you that (i) it will not terminate such agency relationship prior to the termination of the Guarantee, (ii) it will maintain an office in London until the termination of the Guarantee and will give you prompt notice of any change of address, (iii) it will perform its duties in accordance with such Chapter VI of the Guarantee, and (vi) it will promptly forward to Peru at its address as specified in Clause 15 of the Loan Agreement referred to in the Guarantee any summons, complaint or other legal process which it receives in connection with this appointment as such agent of COFIDE.

To the extent that the undersigned has or hereafter may acquire any immunity in respect of the above appointment of the undersigned as process agent or in connection with the performance of its duties as process agent hereunder the Guarantee, the undersigned waives such immunity.

This acceptance and agreement shall be binding upon the undersigned and all successors of the undersigned including all persons hereafter acting in the capacity of the undersigned or otherwise in charge of the office of the undersigned.

Very truly yours,

.....
Consulate General of Peru
K:\BK\19254\00097\0001_5.DOC