

THE DOMINICAN STATE  
(acting through its State Secretary of the Treasury),  
as Borrower

and

ABN AMRO BANK N.V.,  
as Arranger, Agent and Original Lender

Dated as of  
April \_\_\_, 2007

---

USD 24,674,697.17  
TERM LOAN AGREEMENT/PINALITO PROJECT

---

## TABLE OF CONTENTS

CLAUSE I	DEFINITIONS AND INTERPRETATION
1.1	Definitions
1.2	Interpretation
1.3	Currency Symbols
1.4	Agreements and Statutes
1.5	Headings
1.6	Time
CLAUSE II	THE FACILITY
2.1	Grant of the Facility
2.2	Purpose and Application
2.3	Conditions Precedent
2.4	Rights Several
2.5	Independence of Loan Agreement
CLAUSE III	AVAILABILITY OF THE FACILITY
3.1	Drawdown Conditions
3.2	Irrevocable Authorisation
3.3	Reduction of Available Commitment
3.4	Cancellation
CLAUSE IV	INTEREST PERIODS
4.1	Interest Periods
4.2	Duration
4.3	Consolidation of an Advance
CLAUSE V	PAYMENT AND CALCULATION OF INTEREST
5.1	Payment of Interest
5.2	Calculation of Interest
CLAUSE VI	MARKET DISRUPTION AND ALTERNATIVE INTEREST RATES
6.1	Market Disruption
6.2	Substitute Interest Period and Interest Rate
6.3	Alternative Rate
CLAUSE VII	NOTIFICATION
7.1	Advances and Interest Periods
7.2	Interest Rate Determination
7.3	Changes to Interest Periods or Interest Rates

CLAUSE VIII	REPAYMENT
8.1	Repayment Instalments
8.2	Optional Prepayment
CLAUSE IX	TAXES
9.1	Tax Exemption
9.2	Tax Gross-up
9.3	Tax Indemnity
9.4	Claims by Bank
CLAUSE X	TAX RECEIPTS
10.1	Notification of Requirement to Deduct Tax
10.2	Evidence of Payment of Tax
CLAUSE XI	INCREASED COSTS
11.1	Increased Costs
11.2	Increased Costs Claims
11.3	Exclusions
CLAUSE XII	ILLEGALITY
CLAUSE XIII	REPRESENTATIONS
13.1	Status and Due Authorisation
13.2	Binding Obligations
13.3	Execution of this Agreement
13.4	No Material Defaults
13.5	No Material Proceedings
13.6	Written Information
13.7	Validity and Admissibility in Evidence
13.8	Claims Pari Passu
13.9	No Filing or Stamp Taxes
13.10	Encumbrances
13.11	No Deduction or Withholding
13.12	Environmental Claims
13.13	No Immunity
13.14	Private and Commercial Acts
13.15	Governing Law, Judgments and Exequatur Process
13.16	No Obligations to Create Security
13.17	Repetition of Representations
CLAUSE XIV	COVENANTS

14.1	Maintenance of Legal Validity
14.2	Environmental Compliance
14.3	Environmental Claims
14.4	Untrue Representations
14.5	Notification of Events of Default
14.6	Claims Pari Passu
14.7	Negative Pledge
14.8	Governing Law, Judgments and Exequatur Process
<b>CLAUSE XV</b>	<b>EVENTS OF DEFAULT</b>
15.1	Non-Payment
15.2	Misrepresentation
15.3	Specific Covenants
15.4	Other Obligations
15.5	Cross Default
15.6	Moratorium
15.7	Validity and Admissibility
15.8	Repudiation
15.9	Illegality
15.10	Performance of Obligations
15.11	Attachment
15.12	Material Adverse Change
15.13	Acceleration and Cancellation
15.14	Advances Due on Demand
<b>CLAUSE XVI</b>	<b>COMMITMENT COMMISSION AND FEES</b>
16.1	Commitment Commission
16.2	Arrangement Fee
<b>CLAUSE XVII</b>	<b>COSTS AND EXPENSES</b>
17.1	Transaction Expenses
17.2	Preservation and Enforcement of Rights
17.3	Stamp Taxes
17.4	Amendment Costs
17.5	Bank's Liabilities for Costs
<b>CLAUSE XVIII</b>	<b>DEFAULT INTEREST AND BREAK COSTS</b>
18.1	Default Interest Periods
18.2	Default Interest
18.3	Payment of Default Interest
18.4	Break Costs
<b>CLAUSE XIX</b>	<b>BORROWER'S INDEMNITIES</b>
19.1	Borrower's Indemnity

19.2	Currency Indemnity
<b>CLAUSE XX</b>	<b>CURRENCY OF ACCOUNT AND PAYMENT</b>
<b>CLAUSE XXI</b>	<b>PAYMENTS</b>
21.1	Notification of Payments
21.2	Payments to the Agent
21.3	Payments by the Agent
21.4	No Set-off
21.5	Clawback
21.6	Partial Payments
21.7	Business Days
<b>CLAUSE XXII</b>	<b>THE AGENT, THE ARRANGER AND THE BANK</b>
22.1	Appointment of the Agent
22.2	Agent's Discretions
22.3	Agent's Obligations
22.4	Excluded Obligations
22.5	Indemnification
22.6	Exclusion of Liabilities
22.7	No Actions
22.8	Business with Borrower
22.9	Resignation
22.10	Successor Agent
22.11	Rights and Obligations
22.12	Own Responsibility
22.13	Agency Division Separate
<b>CLAUSE XXIII</b>	<b>ASSIGNMENTS AND TRANSFERS</b>
23.1	Binding Agreement
23.2	No Assignments and Transfers by the Borrower
23.3	Assignments and Transfers by Bank
23.4	Assignments by Bank
23.5	Transfers by Bank
23.6	Transfer Fees
23.7	Disclosure of Information
23.8	Multiple Transfers
<b>CLAUSE XXIV</b>	<b>CALCULATIONS AND EVIDENCE OF DEBT</b>
24.1	Basis of Accrual
24.2	Quotations
24.3	Evidence of Debt
24.4	Control Accounts
24.5	Prima Facie Evidence

24.6	Certificates of Bank
<b>CLAUSE XXV</b>	<b>REMEDIES AND WAIVERS; PARTIAL INVALIDITY</b>
25.1	Remedies and Waivers
25.2	Partial Invalidity
<b>CLAUSE XXVI</b>	<b>NOTICES</b>
26.1	Communications in Writing
26.2	Addresses
26.3	Delivery
26.4	Notification of Changes
<b>CLAUSE XXVII</b>	<b>MISCELLANEOUS</b>
27.1	English Language
27.2	Counterparts
<b>CLAUSE XXVIII</b>	<b>AMENDMENTS</b>
28.1	Amendment
28.2	Exceptions
<b>CLAUSE XXIX</b>	<b>GOVERNING LAW</b>
<b>CLAUSE XXX</b>	<b>JURISDICTION</b>
30.1	English Courts
30.2	Convenient Forum
30.3	Service of Process
30.4	Waiver of Immunity
30.5	Waiver of Litigation Bond

THIS LOAN AGREEMENT is made on April \_\_\_, 2007 this being the Contract Date, between THE DOMINICAN STATE, acting through its State Secretary of the Treasury as borrower (the “*Borrower*”); ABN AMRO BANK N.V. as arranger of the Facility (the “*Arranger*”), as agent for the Bank (the “*Agent*”) and as original lender (the “*Original Lender*”).

IT IS AGREED as follows

## CLAUSE I

### DEFINITIONS AND INTERPRETATION

#### 1.1 *Definitions*

In this Agreement:

“*Advance*” means any advance (as from time to time reduced by repayment in accordance with terms hereof) made or to be made by the Bank hereunder, and “*Advances*” shall mean more than one Advance.

“*Authorised Signatory*” means, in relation to the Borrower, the Minister of the Treasury or any other person who is duly authorised (in such manner as may be reasonably acceptable to the Agent) and in respect of whom the Agent has received a certificate signed by a director or another Authorised Signatory of the Borrower setting out the name and signature of such person and confirming such person’s authority to act.

“*Available Commitment*” means, in relation to the Bank at any time and save as otherwise provided herein, the amount set opposite its name in Schedule 1 (*The Bank*) less the aggregate amount which it has advanced hereunder at such time.

“*Available Facility*” means, at any time, the aggregate amount of the Available Commitment adjusted in the case of any proposed drawdown so as to take into account any reduction in the Available Commitment of the Bank pursuant to the terms hereof.

“*Availability Period*” means the period which is one year from the date of the congressional approval of the Contract. The facility will be available in multiple drawings.

“*Bank*” means each of the Original Lender and any other bank or other financial institution which becomes a party hereto pursuant to a transfer in accordance with Clause 23.5 (*Transfers by Bank*) and which has not ceased to be a party hereto in accordance with the terms hereof.

“*Business Day*” means a day (other than a Saturday or Sunday) which is not a public holiday and on which banks are open for general business in Amsterdam, London, New York City and Santo Domingo.

“*Commercial Contract*” means the agreement signed on October 30, 2002 and modified between the Dominican State on the one hand and the Contractor on the other hand.

“*Contract Date*” means April \_\_\_, 2007.

“*Contractor*” means. Construtora Norberto Odebrecht, a company incorporated and organized under the Laws of Brazil.

“*Dispute*” means any dispute referred to in Clause 30 (*Jurisdiction*).

“*Dominican Republic*” means the territory of the Dominican Republic.

“*Dominican State*” means the sovereign state of the Dominican Republic.

“*Effective Date*” means the date the Agent has confirmed to the Borrower and the Bank that it has received all of the documents and other evidence listed in Schedule 3 (*Conditions Precedent*) after the date of registration of the Loan Agreement as evidencing External Indebtedness in the General Direction of Public Credit of the Ministry of the Treasury of the Dominican Republic.

“*Encumbrance*” means (a) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person, (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person or (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

“*Environmental Claim*” means any claim, proceeding or investigation by any person pursuant to any Environmental Law.

“*Environmental Law*” means any applicable law in any jurisdiction in which the Borrower or any of its agencies conducts business, which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

“*Environmental Permits*” means any permit, license, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Borrower or any of its agencies conducted on or from the properties owned or used by the Borrower or any of its agencies.

“*Event of Default*” means any circumstance described as such in Clause 15 (*Events of Default*).

“*Exporter*” means Construtora Norberto Odebrecht.

*“External Indebtedness”* means existing and future indebtedness for borrowed money of the Dominican State expressed or payable or optionally payable in a currency other than the lawful currency of the Dominican Republic (including any guarantees given by the Dominican State of any existing or future indebtedness for borrowed money of any other person which indebtedness is expressed or payable or optionally payable in a currency other than the lawful currency of the Dominican Republic).

*“Facility”* means the dollar term loan facility granted to the Borrower in this Loan Agreement.

*“Facility Office”* means, in relation to the Agent, the office identified with its signature below or such other office as it may select by notice and, in relation to the Bank, the office notified by it to the Agent in writing prior to the Contract Date (or, in the case of a Transferee, at the end of the Transfer Certificate to which it is a party as Transferee) or such other office as it may from time to time select by notice to the Agent.

*“Final Maturity Date”* means the day, which is 108 months (9 years) after the Effective Date (or, if such date is not a Business Day, the immediately subsequent Business Day).

*“Finance Parties”* means the Agent, the Arranger and the Bank.

*“Financial Indebtedness”* means any indebtedness of the Borrower for or in respect of:

- (a) any moneys borrowed from any bank or financial institution;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instruments;
- (d) any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof or any other transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and the amount of the Financial Indebtedness in relation to any such transaction shall be calculated by reference to the mark-to-market valuation of such transaction at the relevant time); and
- (e) any guarantee or indemnity for any of the items referred to in paragraphs (a) to (d) above.

*“Foreign Currency”* means any currency other than Dominican pesos.

*“Interest Period”* means, save as otherwise provided herein:

- (a) any of those periods mentioned in Clause 4.1 (*Interest Periods*); and
- (b) in relation to an Unpaid Sum, any of those periods mentioned in Clause 18.1 (*Default Interest Periods*).

“*Invoice*” means any invoice issued by the Contractor in relation to works carried out by the Contractor pursuant to the Commercial Contract.

“*LIBOR*” means, in relation to any amount to be advanced to, or owing by, the Borrower under the Loan Agreement on which interest for a given period is to accrue:

- (a) the percentage rate per annum equal to the offered quotation which appears on the page of the Telerate Screen which displays the British Bankers Association Interest Settlement Rate for dollars (being currently “3750”) or the currency of any Unpaid Sum for such period as at 11:00 a.m. on the Quotation Date for such period or, if such page or such service shall cease to be available, such other page or such other service for the purpose of displaying the British Bankers Association Interest Settlement Rate for dollars (or the currency of such Unpaid Sum) as the Agent, after consultation with the Bank and the Borrower, shall select; or
- (b) if no quotation for dollars (or the currency of such Unpaid Sum) and the relevant period is displayed and the Agent has not selected an alternative service on which a quotation is displayed, the arithmetic mean (rounded upwards to four decimal places) of the rates as notified to the Agent at which each of the Reference Banks was offering to prime banks in the London interbank market deposits in dollars (or the currency of such Unpaid Sum) for such period as at 11:00 a.m. on the Quotation Date for such period.

“*Loan*” means the aggregate principal amount of Advances made and outstanding from time to time pursuant to the terms of this Loan Agreement.

“*Loan Agreement*” means this Term Loan Agreement.

“*Margin*” means 3.00 per cent per annum.

“*Notice of Drawdown*” means a notice substantially in the form set out in Schedule 4 (*Notice of Drawdown*).

“*Permitted Encumbrances*” means:

- (i) any Encumbrance on property to secure indebtedness arising in the ordinary course to finance export, import or other trade transactions, which indebtedness matures (after giving effect to all renewals and refinancing thereof) not more than one year after the date on which such indebtedness was originally incurred;

- (ii) any Encumbrance on property to secure indebtedness existing on such property at the time of its acquisition or incurred solely for the purpose of financing any acquisition by the Borrower of such property, and any renewal or extension of any such Encumbrance which is limited to the original property covered thereby and which secures any renewal or extension of the original financing without any increase in the amount thereof;
- (iii) any Encumbrance securing indebtedness incurred for the purpose of financing all or part of the costs of the acquisition, construction or development of a project, provided that the holders of such indebtedness agree to limit their recourse to the assets and revenues of such project as the principal source of repayment of such indebtedness and the property over which such Encumbrance is granted consists solely of such assets and revenues;
- (iv) any Encumbrance in existence as of the Contract Date; and
- (v) any Encumbrance securing indebtedness which, together with all other indebtedness secured by Encumbrances (excluding indebtedness secured by Encumbrances in (i) through (iv), above) does not exceed US\$25,000,000 principal amount (or its equivalent in other currencies) in the aggregate.

*“Potential Event of Default”* means any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof) an Event of Default.

*“Project”* means the 50 MW hydroelectric power plant in the upper basin of the Yuna river located in the northern region of the Dominican Republic.

*“Quotation Date”* means, in relation to any period for which an interest rate is to be determined under the Loan Agreement, the day on which quotations would ordinarily be given by prime banks in the London interbank market for deposits in dollars (or the currency of any Unpaid Sum) for delivery on the first day of that period, provided that, if, for any such period, quotations would ordinarily be given on more than one date, the Quotation Date for that period shall be the last of those dates.

*“Reference Bank”* means the principal London offices of HSBC Bank plc and Royal Bank of Scotland or such other bank or banks as may from time to time be agreed between the Borrower and the Agent.

*“Repayment Date”* means each of the dates which are 30, 36, 42, 48, 54, 60, 66, 72, 78, 84, 90 ,96, 102 and 108 months after the Effective Date, or if such date is not a Business day, the immediately subsequent Business Day if there is one in the same calendar month and the preceding Business Day if there is not in the same calendar month.

*“Repeated Representations”* means each of the representations set out in Clause 13.1 (*Status and Due Authorisation*) to 13.6 (*Written Information*).

*“Transfer Certificate”* means a certificate substantially in the form set out in Schedule 2 (*Form of Transfer Certificate*) signed by the Bank and a Transferee under which:

(a) the Bank seeks to procure the transfer to such Transferee of all or a part of the Bank’s rights, benefits and obligations under the Loan Agreement upon and subject to the terms and conditions set out in Clause 23.3 (*Assignments and Transfers by Bank*); and

(b) such Transferee undertakes to perform the obligations it will assume as a result of delivery of such certificate to the Agent as contemplated in Clause 23.5 (*Transfers by Bank*).

*“Transfer Date”* means, in relation to any Transfer Certificate, the date for the making of the transfer as specified in such Transfer Certificate.

*“Transferee”* means a person to which the Bank seeks to transfer by novation all or part of the Bank’s rights, benefits and obligations under the Loan Agreement.

*“Unpaid Sum”* means the unpaid balance of any of the sums referred to in Clause 18.1 (*Default Interest Periods*).

## 1.2 Interpretation.

Any reference in this Loan Agreement to:

an “*agency*” of a state shall be construed as a reference to any political sub-division, ministry, department, authority or statutory corporation of or any corporation or other entity which is controlled or (as to more than fifty per cent. of its issued share capital or the equivalent thereof) owned, directly or indirectly, by such state or its government and/or one or more such agencies;

the “*Agent*” or the “*Bank*” shall be construed so as to include its and any subsequent successors and permitted transferees in accordance with their respective interests;

“*continuing*”, in relation to an Event of Default, shall be construed as a reference to an Event of Default which has not been waived in accordance with the terms hereof and, in relation to a Potential Event of Default, one which has not been remedied within the relevant grace period or waived in accordance with the terms hereof;

the Borrower’s “*gold and foreign exchange reserves*” shall be construed as a reference to the gold and foreign exchange (which term includes securities denominated in Foreign Currencies) customarily regarded and held out as the official external reserves of the Dominican State;

a “*holding company*” of a company or corporation shall be construed as a reference to any company or corporation of which the first-mentioned company or corporation is a subsidiary;

“*indebtedness*” shall be construed so as to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

a “*law*” shall be construed as any law (including common or customary law), statute, constitution, decree, judgment, treaty, regulation, resolution, directive, bylaw, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court;

a “*month*” is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next succeeding calendar month save that:

(a) if any such numerically corresponding day is not a Business Day, such period shall end on the immediately succeeding Business Day to occur in that next succeeding calendar month or, if none, it shall end on the immediately preceding Business Day; and

(b) if there is no numerically corresponding day in that next succeeding calendar month, that period shall end on the last Business Day in that next succeeding calendar month,

(and references to “months” shall be construed accordingly);

“*person*” shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;

“*repay*” (or any derivative form thereof) shall, subject to any contrary indication, be construed to include “*prepay*” (or, as the case may be, the corresponding derivative form thereof);

a “*subsidiary*” of a company or corporation shall be construed as a reference to any company or corporation:

(a) which is controlled, directly or indirectly, by the first-mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or

(c) which is a subsidiary of another subsidiary of the first-mentioned company or corporation and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body;

a “*successor*” shall be construed so as to include an assignee or successor in title of such party and any person who under the laws of its jurisdiction of incorporation or domicile has assumed the rights and obligations of such party under this Loan Agreement or to which, under such laws, such rights and obligations have been transferred;

“*tax*” shall be construed so as to include any tax, levy, impost, duty or other charge of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“*VAT*” shall be construed as a reference to value added tax including any similar tax which may be imposed in place thereof from time to time; and

the “*winding-up*”, “*dissolution*” or “*administration*” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.

*1.3 Currency Symbols.* “\$”, “USD” and “*dollars*” denote lawful currency of the United States of America.

*1.4 Agreements and Statutes.* Any reference in this Loan Agreement to:

*1.4.1* this Loan Agreement or any other agreement or document shall be construed as a reference to this Loan Agreement or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated or supplemented; and

*1.4.2* a statute or treaty shall be construed as a reference to such statute or treaty as the same may have been, or may from time to time be, amended or, in the case of a statute, re-enacted.

*1.5 Headings.* Clause and Schedule headings are for ease of reference only.

*1.6 Time.* Any reference in this Loan Agreement to a time of day shall, unless a contrary indication appears, be a reference to New York time.

## **CLAUSE II**

### **THE FACILITY**

*2.1 Grant of the Facility.* The Bank grants to the Borrower, upon the terms and subject to the conditions hereof, a dollar term loan facility in an aggregate amount of up to USD 24,674,697.17.

*2.2 Purpose and Application.* The Facility is intended to finance payments to be made by the Borrower under and pursuant to the Commercial Contract for financing of a further expansion of the Project and, accordingly, the Borrower shall apply all amounts borrowed by it

hereunder in or towards satisfaction of such purposes and none of the Finance Parties shall be obliged to concern themselves with such application.

*2.3 Conditions Precedent.* Save as the Bank may otherwise agree, the Borrower may not deliver any Notice of Drawdown unless the Agent has confirmed to the Borrower and the Bank that it has received all of the documents and other evidence listed in Schedule 3 (Conditions Precedent) and that each is, in form and substance, satisfactory to the Agent.

*2.4 Rights Several.* Each of the Agent and the Bank shall be entitled to protect and enforce its individual rights arising out of this Loan Agreement independently of any other party (so that it shall not be necessary for any party hereto to be joined as an additional party in any proceedings for this purpose).

*2.5 Independence of Loan Agreement.* Neither the Bank nor the Agent shall be responsible for the Project and shall have any obligations to intervene in any dispute arising out of the Project or the performance or enforcement of the Commercial Contract. Any claim which the Borrower may have against any party (other than the Borrower) and/or its successors or assigns to the Commercial Contract or in relation to such party's failure to fulfill its obligations under the Commercial Contract shall not affect the obligations of the Borrower to make payments under the Loan Agreement and shall not be used as a defense against set-off, counterclaim or cross-complaint to its obligations to make such payments under the Loan Agreement.

## CLAUSE III

### AVAILABILITY OF THE FACILITY

*3.1 Drawdown Conditions.* An Advance will be made available by the Bank to the Borrower if:

*3.1.1* not more than ten nor less than three Business Days before the proposed date for the making of such Advance, the Agent has received a completed Notice of Drawdown from the Borrower, specifying the account to which payment of such Advance is to be made, as specified in paragraph 5 of the form of Notice of Drawdown set out in Schedule 4 or such other account as the Agent may agree together with evidence of the written authorization issued by the Director General of Public Credit of the Ministry of the Treasury of the Dominican State;

*3.1.2* the proposed date for the making of such Advance is a Business Day which is within the Availability Period;

*3.1.3* the proposed amount of such Advance is equal to or an integral multiple of \$1,000,000

3.1.4 the interest rate applicable to such Advance during its first Interest Period would not fail to be determined pursuant to Clause 6.1 (*Market Disruption*); and

3.1.5 on and as of the proposed date for the making of such Advance no Event of Default or Potential Event of Default is continuing.

3.2 *Irrevocable Authorisation.* The Borrower hereby irrevocably authorises the Agent and the Bank to pay the amount of any Advance directly to the Exporter in accordance with the payment instructions set out in the Notice of Drawdown relative to such Advance, such payment instructions to be in accordance with the requirements of Clause 3.1.1 above, and the Borrower agrees that any payment so made by the Agent and the Bank shall constitute an Advance for the purpose of this Loan Agreement and shall discharge the Agent and the Bank from any further obligations in respect of such Advance hereunder.

3.3 *Reduction of Available Commitment.* If the Bank's Available Commitment is reduced in accordance with the terms hereof after the Agent has received the Notice of Drawdown for an Advance and such reduction was not taken into account in the Available Facility, then the amount of such Advance shall be reduced accordingly.

3.4 *Cancellation.*

3.4.1 If the Agent has not received, in form and substance satisfactory to it, all of the documents and other evidence listed in Schedule 3 (*Conditions Precedent*) on or before the end of the Availability Period, the Available Facility shall immediately be cancelled. The Availability Period may be extended with the prior written consent of the Agent (which consent may be granted in the Agent's sole discretion) subject to the Facility continuing on such new terms as may be required by the Agent (in its sole discretion). For the avoidance of doubt, the Borrower commits to promptly pay in full the commitment commission pursuant to Clause 16.1 (*Commitment Commission*), the arrangement fee pursuant to Clause 16.2 (*Arrangement Fee*), and the transaction expenses pursuant to Clause 17.1 (*Transaction Expenses*) notwithstanding cancellation of the Available Facility pursuant to this Clause 3.4.

3.4.2 The Borrower may, by giving to the Agent not less than thirty days prior written notice to that effect, cancel the whole or any part (being a minimum amount and an integral multiple of \$1,000,000) of the Available Facility. Any such cancellation shall reduce the Available Commitment of the Bank and the Borrower shall not be entitled to reinstate any amounts so cancelled.

3.4.3 Any notice of cancellation given by the Borrower pursuant to this Clause 3.4 shall be irrevocable, shall specify the date upon which such cancellation is to be made and the amount of such cancellation and shall oblige the Borrower to make such cancellation on such date.

## **CLAUSE IV**

### **INTEREST PERIODS**

*4.1 Interest Periods.* The period for which any Advance is outstanding shall be divided into successive periods each of which (other than the first, which shall begin on the day such Advance is made) shall start on the last day of the preceding such period.

*4.2 Duration.* The duration of each Interest Period shall, save as otherwise provided herein, be six months, provided that any Interest Period which would otherwise end during the month preceding, or extend beyond, the first Repayment Date shall be of such duration that it shall end on that Repayment Date.

*4.3 Consolidation of an Advance.* If two or more Interest Periods end at the same time, then, on the last day of those Interest Periods, the Advances to which they relate shall be consolidated into and treated as a single Advance.

## **CLAUSE V**

### **PAYMENT AND CALCULATION OF INTEREST**

*5.1 Payment of Interest.* On the last day of each Interest Period the Borrower shall pay accrued interest on each Advance.

*5.2 Calculation of Interest.* The rate of interest applicable to each Advance from time to time during an Interest Period relating thereto shall be a floating rate determined by reference to 6 months USD LIBOR plus the Margin . Interest is payable by the Borrower semi-annually in arrears.

## **CLAUSE VI**

### **MARKET DISRUPTION AND ALTERNATIVE INTEREST RATES**

*6.1 Market Disruption.* If, in relation to any Advance:

*6.1.1* LIBOR is to be determined by the *Reference Banks* and at or about 11.00 a.m. on the Quotation Date for the relevant Interest Period and none or only one of the *Reference Banks* supplies a rate for the purpose of determining LIBOR for the relevant Interest Period; or

*6.1.2* before the close of business in London on the Quotation Date for such Advance the Agent has been notified by the Bank that the LIBOR rate does not accurately reflect the cost of funding such Advance, then, the Agent shall notify

the other parties hereto of such event and, notwithstanding anything to the contrary in this Loan Agreement, Clause 6.2 (*Substitute Interest Period and Interest Rate*) shall apply to such Advance (if it is already outstanding). If sub-clause 6.1.1 or 6.1.2 applies prior to the making of any Advance, such Advance shall not be made.

**6.2 Substitute Interest Period and Interest Rate.** If sub-clause 6.1.1 of Clause 6.1 (*Market Disruption*) applies to any Advance, the duration of the relevant Interest Period shall be one month or, if less, such that it shall end on the next succeeding Repayment Date. If either sub-clause 6.1.1 or 6.1.2 of Clause 6.1 (*Market Disruption*) applies to any Advance, the rate of interest applicable to such Advance during the relevant Interest Period shall (subject to any agreement reached pursuant to Clause 6.3 (*Alternative Rate*)) be the rate per annum, which is the sum of:

**6.2.1** the Margin; and

**6.2.2** the rate per annum notified to the Agent by the Bank before the last day of such Interest Period to be that which expresses as a percentage rate per annum the cost to the Bank of funding from whatever sources it may select its portion of such Advance during such Interest Period.

**6.3 Alternative Rate.** If (a) either of those events mentioned in sub-clauses 6.1.1 and 6.1.2 of Clause 6.1 (*Market Disruption*) occurs in relation to any Advance or (b) by reason of circumstances affecting the London interbank market during any period of three consecutive Business Days LIBOR is not available for dollars to prime banks in the London interbank market, then if the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations with a view to agreeing a substitute basis (i) for determining the rates of interest from time to time applicable to such Advance and/or (ii) upon which such Advance may be maintained (whether in dollars or some other currency) thereafter and any such substitute basis that is agreed shall take effect in accordance with its terms and be binding on each party hereto, provided that the Agent may not agree any such substitute basis without the prior consent of the Bank.

## **CLAUSE VII**

### **NOTIFICATION**

**7.1 Advances and Interest Periods.** Not less than three Business Days before the first day of an Interest Period, the Agent shall notify the Bank of the proposed amount of an Advance and the proposed length of such Interest Period fixed pursuant to Clause IV.

**7.2 Interest Rate Determination.** The Agent shall promptly notify the Borrower and the Bank of each determination of LIBOR.

*7.3 Changes to Interest Periods or Interest Rates.* The Agent shall promptly notify the Borrower and the Bank of any change to the proposed length of an Interest Period or any interest rate occasioned by the operation of Clause 6 (*Market Disruption and Alternative Interest Rates*).

## CLAUSE VIII

### REPAYMENT

*8.1 Repayment Instalments.* The Borrower shall repay the Loan in installments by repaying on each Repayment Date an amount equal to 1/14<sup>th</sup> of the amount of the Loan as at close of business in New York on the last day of the Availability Period.

*8.2 Optional Prepayment.* The Borrower may from time to time prepay, without premium or penalty on any Repayment Date, all or part of the principal amount of the Loans, *provided*, that: (i) any partial prepayment shall be in a minimum principal amount of U.S.\$1,000,000.00 and integral multiples thereof or, if less, the remaining principal balance of the Loan; (ii) the Borrower shall have given the Agent at least thirty (30) days' prior written notice of the prepayment (which notice shall be irrevocable); and (iii) the Borrower shall have paid in full all amounts due under this Loan Agreement as of the date of such prepayment, including interest which has accrued to the date of prepayment on the amount prepaid.

Prepayments shall be applied to the installments of principal of the Loan in the order of their maturity.

## CLAUSE IX

### TAXES

*9.1 Tax Exemption.* Each payment by the Borrower under this Loan Agreement shall, except as required by law, be made without withholding or deduction for or on account of any taxes imposed by the Dominican State or any political subdivision or taxing authority thereof or therein.

*9.2 Tax Gross-up.* If any such taxes are required to be withheld or deducted from any such payment, the Borrower shall pay such additional amounts as may be necessary to ensure that the net amount actually received by the Bank after such withholding or deduction is equal to the amount that the Bank would have received had no such withholding or deduction been required, *provided, however,* that no such additional amounts shall be payable in respect of (i) any taxes imposed on a Bank by reason of any connection between the Bank and the taxing jurisdiction other than entering into this Loan Agreement and receiving payments hereunder or (ii) any taxes imposed by reason of the Bank's failure to comply with any certification, identification, information, documentation, or other reporting requirement that is required by law, regulation, administrative practice or an applicable treaty as a precondition to exemption

from, or reduction in the rate of, deduction or withholding of any taxes for which the Borrower is required to pay additional amounts pursuant to this Clause 9.

**9.3 Tax Indemnity.** If a Bank pays any taxes or other amounts that the Borrower is required to pay pursuant to this Clause 9, the Borrower shall reimburse it on demand in full in the currency in which such taxes or other amounts are paid, together with interest thereon from and including the date of payment to but excluding the date of reimbursement at a rate per annum determined in accordance with Clause 5.2.

**9.4 Claims by Bank.** If the Bank intends to make a claim pursuant to Clause 9.3 (*Tax Indemnity*) it shall notify the Agent of the event giving rise to the claim, whereupon the Agent shall notify the Borrower thereof.

## **CLAUSE X**

### **TAX RECEIPTS**

**10.1 Notification of Requirement to Deduct Tax.** If, at any time, the Borrower is required by law to make any deduction or withholding from any sum payable by it under the Loan Agreement (or if thereafter there is any change in the rates at which or the manner in which such deductions or withholdings are calculated), the Borrower shall promptly notify the Agent.

**10.2 Evidence of Payment of Tax.** If the Borrower makes any payment under the Loan Agreement in respect of which it is required to make any deduction or withholding, it shall pay the full amount required to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Agent for the Bank, within thirty days after it has made such payment to the applicable authority, an original receipt (or a certified copy thereof) issued by such authority evidencing the payment to such authority of all amounts so required to be deducted or withheld in respect of that Bank's share of such payment.

## **CLAUSE XI**

### **INCREASED COSTS**

*11.1 Increased Costs.* If, by reason of (a) any change in law or in its interpretation or administration and/or (b) compliance with any request or requirement relating to the maintenance of capital or any other request from or requirement of any central bank or other fiscal, monetary or other authority, the Bank or any holding company of the Bank incurs costs or suffers a reduction in amounts received or receivable that are attributable to the Bank maintaining a commitment or performing its obligations under this Loan Agreement, then the Borrower shall, from time to time on demand of the Agent, promptly pay to the Agent for the account of the Bank amounts sufficient to indemnify the Bank or to enable the Bank to indemnify its holding company from and against, such cost or reduction.

*11.2 Increased Costs Claims.* If the Bank intends to make a claim pursuant to Clause 11.1 (*Increased Costs*) it shall notify the Agent of the event giving rise to such claim and provide reasonable detail as to the amounts and the assumptions used by the Bank in determining such amounts to be paid hereunder, whereupon the Agent shall notify the Borrower thereof.

*11.3 Exclusions.* Notwithstanding the foregoing provisions of this Clause 11, the Bank shall not be entitled to make any claim under this Clause 11 in respect of any cost, increased cost or liability compensated by Clause 9 (Taxes) (or that would be so compensated but for an exception set forth in Clause 9).

## **CLAUSE XII**

### **ILLEGALITY**

(a) If, as a result of a change in or introduction of any law, regulation or treaty, in the opinion of legal counsel to the Bank, it becomes or will become unlawful for the Bank to maintain its Advances under the Loan Agreement, the Borrower shall repay all amounts outstanding under the Loan Agreement and the amount of the Available Commitment shall be reduced to zero on the earlier of (i) the date that is 30 days after the date on which the Bank notifies the Borrower that it will become unlawful for the Bank to continue with its obligations under the Loan Agreement and (ii) the date on which it has become unlawful for the Bank to continue with its obligations under the Loan Agreement, provided, however, that if it is lawful for the Bank to maintain any Advance through the last Repayment Date before such Advance becomes unlawful, such repayment shall be made on such date, and in all cases payment shall be due no sooner than the tenth Business Day after the date the Bank notifies the Borrower.

(b) Before giving notice to the Borrower pursuant to this Section, (i) first, the Bank shall designate a different lending office if such designation will avoid the need for giving such notice and will not, in the judgment of the Bank, be otherwise disadvantageous (economically or in any

other respect) to the Bank and (ii) second, if designating a different lending office will, in the judgment of the Bank, be disadvantageous (economically or in any other respect) to the Bank, the Bank shall assign all its rights and obligations under the Loan Agreement to another financial institution if such assignment will avoid the need for giving such notice and will not, in the judgment of the Bank, be disadvantageous (economically or in any other respect) to the Bank.

## CLAUSE XIII

### REPRESENTATIONS

The Borrower makes the representations and warranties set out in Clause 13.1 (*Status*) to Clause 13.17 (*No Obligations to Create Security*) and acknowledges that the Finance Parties have entered into this Loan Agreement in reliance on those representations and warranties.

#### *13.1 Status and Due Authorisation.*

*13.1.1* It has power to enter into the Loan Agreement.

*13.1.2* It will have the power to exercise all its rights and perform all its obligations under the Loan Agreement after the following requirements:

- (a) ratification of the Loan Agreement by resolution (the “*Resolution*”) of the Congress of the Dominican Republic;
- (b) promulgation of the Resolution by the President of the Dominican Republic;
- (c) publication of said resolution in the official gazette (*Gaceta Oficial*) or in a newspaper that circulates throughout the Dominican Republic;
- (d) allocation of funds in the national budget of 2007 for the repayment of the Facility; and,
- (e) registration of the Loan Agreement with the General Direction of Public Credit of the Ministry of the Treasury of the Dominican Republic as evidencing External Indebtedness.

*13.2 Binding Obligations.* Subject to Clause 13.1 (*Status and Due Authorisation*), the obligations expressed to be assumed by it in the Loan Agreement are legal and valid obligations binding on it in accordance with the terms thereof.

*13.3 Execution of this Agreement.* Its execution of the Loan Agreement and its exercise of its rights and performance of its obligations thereunder do not and will not:

13.3.1 conflict with any Loan Agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets; or

13.3.2 conflict with any applicable law, regulation or official or judicial order.

*13.4 No Material Defaults.* Neither it nor any of its agencies is in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner, which might have a material adverse effect on its financial condition.

*13.5 No Material Proceedings.* No action or administrative proceeding of or before any court or agency which might have a material adverse effect on its, or any of its agencies', financial condition has been started or threatened.

*13.6 Written Information.* All written information supplied by the Borrower or any of its agencies is true, complete and accurate in all material respects as at the date it was given and is not misleading in any respect.

*13.7 Validity and Admissibility in Evidence.* All acts, conditions and things required to be done, fulfilled and performed in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in the Loan Agreement, (b) to ensure that the obligations expressed to be assumed by it in the Loan Agreement are legal, valid, binding and enforceable and (c) to make the Loan Agreement admissible in evidence in the Dominican Republic have been done, fulfilled and performed.

*13.8 Claims Pari Passu.* Under the laws of the Dominican State in force at the Contract Date, the claims of the Finance Parties against it under the Loan Agreement will rank at least pari passu in priority of payment with all its other unsecured External Indebtedness.

*13.9 No Filing or Stamp Taxes.* Save as may be required to effect registration of the Facility with the Director General of Public Credit of the Ministry of the Treasury of the Dominican Republic as referred to in paragraph 9 of Schedule 3 (*Conditions Precedent*), under the laws of the Dominican Republic in force at the Contract Date, it is not necessary that the Loan Agreement be filed, recorded or enrolled with any court or other authority in the Dominican Republic or that any stamp, registration or similar tax be paid on or in relation to the Loan Agreement.

*13.10 Encumbrances.* Save as permitted by Clause 14.7 (*Negative Pledge*), no Encumbrance exists over all or any of the present or future revenues or assets of the Borrower or any of its agencies.

*13.11 No Deduction or Withholding.* Subject to ratification by the Congress of the Dominican Republic (as referred to in Clause 10 of Schedule 3 (*Conditions Precedent*)), the

Borrower will not be required to make any deduction or withholding from any payment it may make under the Loan Agreement.

*13.12 Environmental Claims.* No Environmental Claim has been commenced against it or any of its agencies is threatened against it or (to the best of the Borrower's knowledge and belief) any of its agencies where such claim would be reasonably likely, if determined against it or any such agency, to have a material adverse effect on its financial condition.

*13.13 No Immunity.* In any proceedings taken in the Dominican Republic in relation to the Loan Agreement, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process other than specified in clause 30.4 of this Loan Agreement.

*13.14 Private and Commercial Acts.* Its execution of this Loan Agreement constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

*13.15 Governing Law, Judgments and Exequatur Process.* In any proceedings taken in the Dominican Republic in relation to the Loan Agreement, the choice of England law as the governing law thereof and any judgment obtained in England will be recognized and enforceable in the Dominican Republic.

*13.16 No Obligations to Create Security.* Its execution of the Loan Agreement and its exercise of its rights and performance of its obligations thereunder will not result in the existence of nor oblige it or any of its agencies to create any Encumbrance over all or any of its present or future revenues or assets.

*13.17 Repetition of Representations.* The Repeated Representations shall be deemed to be repeated by the Borrower by reference to the facts and circumstances then existing, on the date on which any Advance is or is to be made.

## **CLAUSE XIV**

### **COVENANTS**

*14.1 Maintenance of Legal Validity.* The Borrower shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required in or by the laws of the Dominican Republic to enable it lawfully to enter into and perform its obligations under the Loan Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in the Dominican Republic of the Loan Agreement.

*14.2 Environmental Compliance.* The Borrower shall and shall ensure that each of its agencies shall comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or

expected future changes to or obligations under the same, breach of which (or failure to obtain, maintain or take which) might reasonably be expected to have a material adverse effect on its financial condition.

*14.3 Environmental Claims.* The Borrower shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same if any Environmental Claim has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against it or any of its agencies in any case where such claim would be reasonably likely, if determined against it or such agency, to have a material adverse effect on its financial condition or of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against it or any of its agencies in any case where such claim would be reasonably likely, if determined against it, to have a material adverse effect.

*14.4 Untrue Representations.* After the delivery of any Notice of Drawdown and before the making of any Advance requested therein, the Borrower shall notify the Agent of the occurrence of any event which results in or may reasonably be expected to result in any of the representations contained in Clause 13 (*Representations*) being materially untrue at or before the time of the making of such Advance.

*14.5 Notification of Events of Default.* The Borrower shall promptly inform the Agent of the occurrence of any Event of Default or Potential Event of Default and, upon receipt of a written request to that effect from the Agent, confirm to the Agent that, save as previously notified to the Agent or as notified in such confirmation, no Event of Default or Potential Event of Default has occurred.

*14.6 Claims Pari Passu.* The Borrower shall ensure that at all times the claims of the Finance Parties against it under the Loan Agreement rank at least *pari passu* in priority of payment with all its other unsecured External Indebtedness.

*14.7 Negative Pledge.* The Borrower shall not and shall ensure each of its agencies shall not create or permit to subsist any Encumbrance other than Permitted Encumbrances or Encumbrances created with the prior written consent of the Lender.

*14.8 Governing Law, Judgments and Exequatur Process.* If any proceedings are taken in the Dominican Republic in relation to the Loan Agreement, the Borrower shall use its best endeavours to ensure that the choice of English law as the governing law thereof and any judgment obtained in England will be recognized in the Dominican Republic and, after complying with the "*Exequatur*" process requirements imposed in the Dominican Republic, will be enforced.

## **CLAUSE XV**

### **EVENTS OF DEFAULT**

Each of Clause 15.1 (*Non-Payment*) to Clause 15.14 (*Advances Due on Demand*) describes circumstances which constitute an Event of Default for the purposes of this Loan Agreement.

*15.1 Non-Payment.* The Borrower fails to pay any sum due from it under the Loan Agreement at the time, in the currency and in the manner specified therein and such failure shall continue unremedied for a period of thirty (30) days.

*15.2 Misrepresentation.* Any representation or statement made or deemed to be made by the Borrower in the Loan Agreement or in any notice or other document, certificate or statement delivered by it pursuant thereto or in connection therewith is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

*15.3 Specific Covenants.* The Borrower fails duly to perform or comply with any of the obligations expressed to be assumed by it Clause 14 (*Covenants*).

*15.4 Other Obligations.* The Borrower fails duly to perform or comply with any other obligation expressed to be assumed by it in the Loan Agreement and such failure, if capable of remedy, is not remedied within thirty days after the Agent has given notice thereof to the Borrower.

*15.5 Cross Default.* Any External Indebtedness of the Borrower is not paid when due, any External Indebtedness of the Borrower is declared to be or otherwise becomes due and payable prior to its specified maturity, any commitment for any External Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower or any creditor of the Borrower becomes entitled to declare any External Indebtedness of the Borrower due and payable prior to its specified maturity, provided that it shall not constitute an Event of Default if the aggregate amount (or its equivalent in dollars) of all such External Indebtedness is less than \$25,000,000.

*15.6 Moratorium.* A moratorium is declared on the payment of any External Indebtedness of the Borrower or any of its agencies or the Borrower or any of its agencies is unable to pay its external debts as they fall due or commences negotiations with any one or more of its foreign creditors with a view to the general readjustment or rescheduling of its External Indebtedness.

*15.7 Validity and Admissibility.* At any time any act, condition or thing required to be done, fulfilled or performed in order (a) to enable the Borrower lawfully to enter into, exercise its rights under and perform the obligations expressed to be assumed by it in the Loan Agreement, (b) to ensure that the obligations expressed to be assumed by the Borrower in the Loan Agreement are legal, valid and binding or (c) to make the Loan Agreement admissible in evidence in the Dominican Republic is not done, fulfilled or performed.

*15.8 Repudiation.* The Borrower repudiates the Loan Agreement or does or causes to be done any act or thing evidencing an intention to repudiate any Loan Agreement.

*15.9 Illegality.* At any time it is or becomes unlawful for the Borrower to perform or comply with any or all of its obligations under the Loan Agreement or any of the obligations of the Borrower thereunder are not or cease to be legal, valid, binding and enforceable.

*15.10 Performance of Obligations.* Any circumstances arise which give reasonable grounds in the opinion of the Bank for belief that the Borrower may not (or may be unable to) perform or comply with its obligations under the Loan Agreement in any material respect.

*15.11 Attachment.* All or any substantial part of the assets of the Borrower or the Ministry of the Treasury of the Dominican Republic in connection with External Indebtedness are attached or distrained upon or become subject to any order of court or other process and such attachment, restraint, order or process remains in effect and undischarged for one hundred and eighty (180) days or such longer period as the Bank may agree is reasonable having regard to the ability of and the steps taken by the Borrower or the Ministry of the Treasury of the Dominican Republic to obtain the dismissal or discharge as aforesaid.

*15.12 Material Adverse Change.* Any material adverse change occurs in the political, social or macro-economic conditions either in or in relation to the Dominican Republic including, without limitation, any material devaluation in the lawful currency of the Dominican Republic, which in the reasonable belief of the Bank would affect the Borrower's ability to perform its obligations under this Loan Agreement in any material respect.

*15.13 Acceleration and Cancellation.* Upon the occurrence of an Event of Default and at any time thereafter whilst it is continuing, the Agent may (and, if so instructed by the Bank shall) by notice to the Borrower:

15.13.1 declare all or any part of any Advance to be immediately due and payable (whereupon the same shall become so payable together with accrued interest thereon and any other sums then owed by the Borrower hereunder) or declare all or any part of any Advance to be due and payable on demand of the Agent; and/or

15.13.2 declare that any undrawn portion of the Facility shall be cancelled, whereupon the same shall be cancelled and the Available Commitment of the Bank shall be reduced to zero.

*15.14 Advances Due on Demand.* If, pursuant to Clause 15.13 (*Acceleration and Cancellation*), the Agent declares all or any part of any Advance to be due and payable on demand of the Agent, then, and at any time thereafter, the Agent may (and, if so instructed by the Bank, shall) by notice to the Borrower:

*15.14.1* require repayment of all or any part of any Advance on such date as it may specify in such notice (whereupon the same shall become due and payable on the date specified together with accrued interest thereon and any other sums then owed by the Borrower under the Loan Agreement) or withdraw its declaration with effect from such date as it may specify; and/or

*15.14.2* select as the duration of any Interest Period which begins whilst such declaration remains in effect a period of six months or less.

## CLAUSE XVI

### COMMITMENT COMMISSION AND FEES

*16.1 Commitment Commission.* The Borrower shall pay to the Agent for account of the Bank a commitment commission on the amount of the Bank's Available Commitment from day to day during the Availability Period, such commitment commission to be calculated at the rate of 1.20 per cent.

*16.2 Arrangement Fee.* The Borrower shall pay to the Arranger an arrangement fee in an amount equal to 0.75 per cent.

## CLAUSE XVII

### COSTS AND EXPENSES

*17.1 Transaction Expenses.* The Borrower shall, from time to time on demand of the Agent, reimburse the Agent and the Arranger for all reasonable costs and expenses (including legal fees, translation fees, travel costs and expenses and all other out-of-pocket costs and expenses not to exceed an aggregate of US\$20,000) together with any VAT thereon incurred by it in connection with the negotiation, preparation, completion and execution of the Loan Agreement, any other document referred to in the Loan Agreement and the completion of the transactions therein contemplated.

*17.2 Preservation and Enforcement of Rights.* The Borrower shall, from time to time on demand of the Agent, reimburse the Finance Parties for all reasonable costs and expenses (including legal fees) on a full indemnity basis together with any VAT thereon incurred in or in connection with the preservation and/or enforcement of any of the rights of the Finance Parties under the Loan Agreement and any other document referred to in this Loan Agreement (including, without limitation, any costs and expenses relating to any investigation as to whether or not an Event of Default might have occurred or is likely to occur or any steps necessary or desirable in connection with any proposal for remedying or otherwise resolving an Event of Default or Potential Event of Default).

*17.3 Stamp Taxes.* The Borrower shall pay all Dominican stamp, registration and other taxes and fees to which the Loan Agreement, any other document referred to in this Loan

Agreement or any judgment given in connection therewith is or at any time may be subject and shall, from time to time on demand of the Agent, indemnify the Finance Parties against any liabilities, costs, claims and expenses resulting from any failure to pay or any delay in paying any such tax.

*17.4 Amendment Costs.* If the Borrower requests any amendment, waiver or consent then the Borrower shall, within five Business Days of demand by the Agent, reimburse the Finance Parties for all reasonable costs and expenses (including legal fees) together with any VAT thereon incurred by such person in responding to or complying with such request.

*17.5 Bank's Liabilities for Costs.* If the Borrower fails to perform any of its obligations under this Clause 18, the Bank shall indemnify each of the Agent and the Arranger against any loss incurred by any of them as a result of such failure.

## CLAUSE XVIII

### DEFAULT INTEREST AND BREAK COSTS

*18.1 Default Interest Periods.* If any sum due and payable by the Borrower hereunder is not paid on the due date therefor in accordance with Clause 21 (*Payments*) or if any sum due and payable by the Borrower under any judgment of any court in connection herewith is not paid on the date of such judgment, the period beginning on such due date or, as the case may be, the date of such judgment and ending on the date upon which the obligation of the Borrower to pay such sum is discharged shall be divided into successive periods, each of which (other than the first) shall start on the last day of the preceding such period and the duration of each of which shall (except as otherwise provided in this Clause 18) be selected by the Agent.

*18.2 Default Interest.* An Unpaid Sum shall bear interest during each Interest Period in respect thereof at the rate per annum which is two per cent. per annum above the percentage rate which would apply if such Unpaid Sum had been an Advance in the amount and currency of such Unpaid Sum and for the same Interest Period, provided that if any Advance has become due and payable on a day other than the last day of an Interest Period:

18.2.1 the first Interest Period applicable to such Unpaid Sum shall be of a duration equal to the unexpired portion of the current Interest Period of such Advance; and

18.2.2 the percentage rate of interest applicable thereto from time to time during such period shall be that which exceeds by two per cent the rate which would have been applicable to it had it not so fallen due.

*18.3 Payment of Default Interest.* Any interest which shall have accrued under Clause 18.2 (*Default Interest*) in respect of an Unpaid Sum shall be due and payable and shall be

paid by the Borrower on the last day of each Interest Period in respect thereof or on such other dates as the Agent may specify by notice to the Borrower.

*18.4 Break Costs.* If the Bank or the Agent on its behalf receives or recovers all or any part of the Bank's share of any Advance or Unpaid Sum otherwise than on the last day of an Interest Period relating thereto, the Borrower shall pay to the Agent on demand for account of the Bank an amount equal to the amount (if any) by which (a) the additional interest which would have been payable on the amount so received or recovered had it been received or recovered on the last day of that Interest Period exceeds (b) the amount of interest which in the opinion of the Agent would have been payable to the Agent on the last day of that Interest Period in respect of a dollar deposit equal to the amount so received or recovered placed by it with a prime bank in London for a period starting on the third Business Day following the date of such receipt or recovery and ending on the last day of that Interest Period.

## CLAUSE XIX

### BORROWER'S INDEMNITIES

*19.1 Borrower's Indemnity.* The Borrower undertakes to indemnify:

*19.1.1* each Bank against any reasonable cost, claim, loss, expense (including legal fees) or liability together with any VAT thereon, which it may sustain or incur as a consequence of the occurrence of any Event of Default or any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in the Loan Agreement;

*19.1.2* the Bank against any reasonable cost or loss it may suffer under Clause 17.5 (*Bank's Liabilities for Costs*) or Clause 22.5 (*Indemnification*); and,

*19.1.3* the Bank against any reasonable cost or loss it may suffer or incur as a result of its funding or making arrangements to fund its portion of any Advance requested by the Borrower but not made by reason of the operation of any one or more of the provisions hereof.

*19.2 Currency Indemnity.* If any sum (a "Sum") due from the Borrower under this Loan Agreement or any order, judgment, award or decision given or made in relation hereto has to be converted from the currency (the "First Currency") in which such Sum is payable into another currency (the "Second Currency") for the purpose of:

*19.2.1* making or filing a claim or proof against the Borrower; or

*19.2.2* obtaining or enforcing an order, judgment, award or decision in any court, arbitral proceedings or other tribunal, the Borrower shall indemnify each person to

whom such Sum is due from and against any loss suffered or incurred as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to such person at the time of receipt of such Sum.

## **CLAUSE XX**

### **CURRENCY OF ACCOUNT AND PAYMENT**

The dollar is the currency of account and payment for each and every sum at any time due from the Borrower hereunder, provided that:

*20.1.1* each payment in respect of costs and expenses shall be made in the currency in which the same were incurred; and

*20.1.2* each payment pursuant to Clause 9.3 (*Tax Indemnity*), Clause 11.1 (*Increased Costs*) or Clause 19.1 (*Borrower's Indemnity*) shall be made in the currency specified by the party claiming thereunder.

## **CLAUSE XXI**

### **PAYMENTS**

*21.1 Notification of Payments.* Without prejudice to the liability of each party hereto promptly to pay each amount owing by it hereunder on the due date therefor, whenever a payment is expected to be made by any of the parties hereto, the Agent shall, at least two Business Days prior to the expected date for such payment, notify all the parties hereto of the amount, currency and timing of such payment and the identity of the party liable to make such payment.

*21.2 Payments to the Agent.* On each date on which this Loan Agreement requires an amount to be paid by the Borrower or the Bank, the Borrower or, as the case may be, the Bank shall make the same available to the Agent for value on the due date at such time and in such funds and to such account with such bank as the Agent shall specify from time to time.

*21.3 Payments by the Agent.*

*21.3.1* Save as otherwise provided herein, each payment received by the Agent pursuant to Clause 21.2 (*Payments to the Agent*) shall be made available by the Agent to the person entitled to receive such payment in accordance with this Loan Agreement (in the case of a Bank, for the account of its Facility Office) for value

the same day by transfer to such account of such person with such bank in New York City as such person shall have previously notified to the Agent.

21.3.2 A payment will be deemed to have been made by the Agent on the date on which it is required to be made under this Loan Agreement if the Agent has, on or before that date, taken steps to make that payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Agent in order to make the payment.

21.4 *No Set-off.* All payments required to be made by the Borrower hereunder shall be calculated without reference to any set-off or counterclaim and shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim.

21.5 *Clawback.* Where a sum is to be paid hereunder to the Agent for account of another person, the Agent shall not be obliged to make the same available to that other person until it has been able to establish to its satisfaction that it has actually received such sum, but if it does so and it proves to be the case that it had not actually received such sum, then the person to whom such sum was so made available shall on request refund the same to the Agent together with an amount sufficient to indemnify the Agent against any cost or loss it may have suffered or incurred by reason of its having paid out such sum prior to its having received such sum.

21.6 *Partial Payments.* If and whenever a payment is made by the Borrower hereunder the Agent may apply the amount received towards the obligations of the Borrower under this Loan Agreement in the following order:

21.6.1 first, in or towards payment of any unpaid costs and expenses of each of the Agent and the Arranger;

21.6.2 secondly, in or towards payment *pro rata* of any accrued interest due but unpaid;

21.6.3 thirdly, in or towards payment *pro rata* of any principal due but unpaid; and

21.6.4 fourthly, in or towards payment *pro rata* of any other sum due under this Loan Agreement but unpaid.

**21.7 Business Days.**

**21.7.1** Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

**21.7.2** During any extension of the due date for payment of any principal or an Unpaid Sum under this Loan Agreement interest is payable on the principal at the rate payable on the original due date.

**CLAUSE XXII**

**THE AGENT, THE ARRANGER AND THE BANK**

**22.1 Appointment of the Agent.** Each of the Arranger and the Bank hereby appoints the Agent to act as its agent in connection herewith and authorises the Agent to exercise such rights, powers, authorities and discretions as are specifically delegated to the Agent by the terms hereof together with all such rights, powers, authorities and discretions as are reasonably incidental thereto.

**22.2 Agent's Discretions.** The Agent may:

**22.2.1** assume, unless it has, in its capacity as agent for the Bank, received notice to the contrary from any other party hereto, that (a) any representation made or deemed to be made by the Borrower in connection with the Loan Agreement is true, (b) no Event of Default or Potential Event of Default has occurred, (c) the Borrower is not in breach of or default under its obligations under the Loan Agreement and (d) any right, power, authority or discretion vested herein upon the Bank or any other person or group of persons has not been exercised;

**22.2.2** assume that (a) the Facility Office of the Bank is that notified to it by the Bank in writing and (b) the information provided by the Bank pursuant to Clause 26 (*Notices*) is true and correct in all respects until it has received from the Bank notice of a change to its Facility Office or any such information and act upon any such notice until the same is superseded by a further such notice;

**22.2.3** engage and pay for the advice or services of any lawyers, accountants, surveyors or other experts whose advice or services may to it seem necessary, expedient or desirable and rely upon any advice so obtained;

**22.2.4** rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Borrower upon a certificate signed by or on behalf of the Borrower;

22.2.5 rely upon any communication or document believed by it to be genuine;

22.2.6 refrain from exercising any right, power or discretion vested in it as agent hereunder unless and until instructed by the Bank as to whether or not such right, power or discretion is to be exercised and, if it is to be exercised, as to the manner in which it should be exercised; and

22.2.7 refrain from acting in accordance with any instructions of the Bank to begin any legal action or proceeding arising out of or in connection with this Loan Agreement until it shall have received such security as it may require (whether by way of payment in advance or otherwise) for all costs, claims, losses, expenses (including legal fees) and liabilities together with any VAT thereon which it will or may expend or incur in complying with such instructions.

22.3 *Agent's Obligations.* The Agent shall:

22.3.1 promptly inform the Bank of the contents of any notice or document received by it in its capacity as Agent from the Borrower under the Loan Agreement;

22.3.2 promptly notify the Bank of the occurrence of any Event of Default or any default by the Borrower in the due performance of or compliance with its obligations under the Loan Agreement of which the Agent has notice from any other party hereto;

22.3.3 save as otherwise provided herein, act as agent hereunder in accordance with any instructions given to it by the Bank, which instructions shall be binding on the Arranger and the Bank;

22.3.4 if so instructed by the Bank, refrain from exercising any right, power or discretion vested in it as agent hereunder; and

The Agent's duties under the Loan Agreement are solely mechanical and administrative in nature.

22.4 *Excluded Obligations.* Notwithstanding anything to the contrary expressed or implied herein, neither the Agent nor the Arranger shall:

22.4.1 be bound to enquire as to (a) whether or not any representation made or deemed to be made by the Borrower in connection with the Loan Agreement is true, (b) the occurrence or otherwise of any Event of Default or Potential Event of Default, (c) the performance by the Borrower of its obligations under the Loan Agreement or (d) any breach of or default by the Borrower of or under its obligations under the Loan Agreement;

22.4.2 be bound to account to the Bank for any sum or the profit element of any sum received by it for its own account;

22.4.3 be bound to disclose to any other person any information relating to the Borrower or any of its agencies if (a) such person, on providing such information, expressly stated to the Agent or, as the case may be, the Arranger, that such information was confidential or (b) such disclosure would or might in its opinion constitute a breach of any law or be otherwise actionable at the suit of any person;

22.4.4 be under any obligations other than those for which express provision is made herein; or

22.4.5 be or be deemed to be a fiduciary for any other party hereto.

22.5 *Indemnification.* The Bank shall, from time to time on demand by the Agent, indemnify the Agent against any and all costs, claims, losses, expenses (including legal fees) and liabilities together with any VAT thereon which the Agent may incur, otherwise than by reason of its own gross negligence or willful misconduct, in acting in its capacity as agent hereunder (other than any which have been reimbursed by the Borrower pursuant to Clause 19.1 (*Borrower's Indemnity*)).

22.6 *Exclusion of Liabilities.* Except in the case of gross negligence or willful misconduct, none of the Agent and the Arranger accepts any responsibility:

22.6.1 for the adequacy, accuracy and/or completeness of any information supplied by the Agent or the Arranger, by the Borrower or by any other person in connection with the Loan Agreement , the transactions therein contemplated or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement ;

22.6.2 for the legality, validity, effectiveness, adequacy or enforceability of the Loan Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement ; or

22.6.3 for the exercise of, or the failure to exercise, any judgment, discretion or power given to any of them by or in connection with the Loan Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement .

Accordingly, none of the Agent and the Arranger shall be under any liability (whether in negligence or otherwise) in respect of such matters, save in the case of gross negligence or willful misconduct.

**22.7 No Actions.** The Bank agrees that it will not assert or seek to assert against any director, officer or employee of the Agent or the Arranger any claim it might have against any of them in respect of the matters referred to in Clause 22.6 (*Exclusion of Liabilities*).

**22.8 Business with Borrower.** The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

**22.9 Resignation.** The Agent may resign its appointment hereunder at any time without assigning any reason therefor by giving not less than thirty days' prior notice to that effect to each of the other parties hereto, *provided* that no such resignation shall be effective until a successor for the Agent is appointed in accordance with the succeeding provisions of this Clause 22.

**22.10 Successor Agent.** If the Agent gives notice of its resignation pursuant to Clause 22.9 (*Resignation*), then any reputable and experienced bank or other financial institution may be appointed as a successor to the Agent by the Bank during the period of such notice but, if no such successor is so appointed, the Agent may appoint such a successor itself.

**22.11 Rights and Obligations.** If a successor to the Agent is appointed under the provisions of Clause 22.10 (*Successor Agent*), then (a) the retiring Agent shall be discharged from any further obligation hereunder but shall remain entitled to the benefit of the provisions of this Clause 22 and (b) its successor and each of the other parties hereto shall have the same rights and obligations amongst themselves as they would have had if such successor had been a party hereto.

**22.12 Own Responsibility.** It is understood and agreed by the Bank that at all times it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigation into all risks arising under or in connection with the Loan Agreement including, but not limited to:

22.12.1 the financial condition, creditworthiness, condition, affairs, status and nature of the Borrower;

22.12.2 the legality, validity, effectiveness, adequacy and enforceability of the Loan Agreement and any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement ;

22.12.3 whether the Bank has recourse, and the nature and extent of that recourse, against the Borrower or any other person or any of their respective assets under or in connection with the Loan Agreement, the transactions therein contemplated or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement ; and

22.12.4 the adequacy, accuracy and/or completeness of any information provided by the Agent or the Arranger, the Borrower, or by any other person in connection with the Loan Agreement, the transactions contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Loan Agreement.

Accordingly, the Bank acknowledges to the Agent and the Arranger that it has not relied on and will not hereafter rely on the Agent and the Arranger or any of them in respect of any of these matters.

22.13 *Agency Division Separate.* In acting as agent hereunder for the Bank, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments and, notwithstanding the foregoing provisions of this Clause 22, any information received by some other division or department of the Agent may be treated as confidential and shall not be regarded as having been given to the Agent's agency division.

## CLAUSE XXIII

### ASSIGNMENTS AND TRANSFERS

23.1 *Binding Agreement.* This Loan Agreement shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors and Transferees.

23.2 *No Assignments and Transfers by the Borrower.* The Borrower shall not be entitled to assign or transfer all or any of its rights, benefits and obligations under the Loan Agreement.

23.3 *Assignments and Transfers by Bank.* The Bank may, at any time subject to at least five Business Days' prior written notice to the Borrower, assign all or any of its rights and benefits under the Loan Agreement or transfer in accordance with Clause 23.5 (*Transfers by Bank*) all or any of its rights, benefits and obligations under the Loan Agreement to a bank or other financial institution.

23.4 *Assignments by Bank.* If the Bank assigns all or any of its rights and benefits under the Loan Agreement in accordance with Clause 23.3 (*Assignments and Transfers by Bank*), then, unless and until the assignee has delivered a notice to the Agent confirming in favour of the Agent and the Arranger that it shall be under the same obligations towards each of them as it would have been under if it had been an original party hereto as the Bank (whereupon such assignee shall become a party hereto as the "Bank"), the Agent and the Arranger shall not be obliged to recognise such assignee as having the rights against each of them which it would have had if it had been such a party hereto.

23.5 *Transfers by Bank.* If the Bank wishes to transfer all or any of its rights, benefits and/or obligations under the Loan Agreement as contemplated in Clause 23.3 (*Assignments and Transfers by Bank*), then such transfer may be effected by the delivery to the Agent of a duly

completed Transfer Certificate executed by the Bank and the relevant Transferee in which event, on the later of the Transfer Date specified in such Transfer Certificate and the fifth Business Day after (or such earlier Business Day endorsed by the Agent on such Transfer Certificate falling on or after) the date of delivery of such Transfer Certificate to the Agent:

23.5.1 to the extent that in such Transfer Certificate the Bank party thereto seeks to transfer by novation its rights, benefits and obligations under the Loan Agreement, the Borrower and such Bank shall be released from further obligations towards one another under the Loan Agreement and their respective rights against one another shall be cancelled (such rights and obligations being referred to in this Clause 23.5 as "*discharged rights and obligations*");

23.5.2 the Borrower and the Transferee party thereto shall assume obligations towards one another and/or acquire rights against one another which differ from such discharged rights and obligations only insofar as the Borrower and such Transferee have assumed and/or acquired the same in place of the Borrower and such Bank;

23.5.3 the Agent, the Arranger and such Transferee shall acquire the same rights and benefits and assume the same obligations between themselves as they would have acquired and assumed had such Transferee been an original party hereto as a Bank with the rights, benefits and/or obligations acquired or assumed by it as a result of such transfer and to that extent the Agent, the Arranger and the selling Bank shall each be released from further obligations to each other hereunder; and

23.5.4 such Transferee shall become a party hereto as a "Bank".

23.6 *Transfer Fees.* On the date upon a transfer takes effect pursuant to Clause 23.5 (*Transfers by Bank*) the relevant Transferee shall pay to the Agent for its own account a fee of \$1,000.

23.7 *Disclosure of Information.* The Bank may disclose to any person:

23.7.1 to (or through) whom the Bank assigns or transfers (or may potentially assign or transfer) all or any of its rights, benefits and obligations under the Loan Agreement;

23.7.2 with (or through) whom the Bank enters into (or may potentially enter into) any sub-participation or any other arrangement pursuant to which such person assumes any of the risks undertaken by the Bank hereunder in relation to, or any other transaction under which payments are to be made by reference to, this Loan Agreement or the Borrower; or

23.7.3 to whom information may be required to be disclosed by any applicable law, such information about the Borrower and the Loan Agreement as such Bank shall consider appropriate.

23.8 *Multiple Transfers.*

23.8.1 In the event the Bank wishes to transfer by novation a portion of its rights, benefits and obligations under the Loan Agreement to more than one *Bank*, then (i) each Transferee shall be deemed a *Bank* hereunder to the extent of its *pro rata* transfer and shall be entitled to all of the benefits of the *Bank* under the Loan Agreement and (ii) each of the Agent, the Bank, the Borrower and each Transferee agree that the term *Bank* as used herein shall be interpreted to refer collectively to all such *Banks* or to each *Bank* individually, as the context shall require, as determined by the Agent in its sole discretion.

23.8.2 If at any time there are two or more Banks party to this Loan Agreement, the Borrower shall pay to the Agent for its own account an agency fee in the amount agreed between the Borrower and the Agent. The first such payment shall be made on the first date on which there are two or more Banks party to this Loan Agreement and each subsequent payment shall be made on each anniversary of such date (or, if not a Business Day, the immediately subsequent Business Day).

## CLAUSE XXIV

### CALCULATIONS AND EVIDENCE OF DEBT

24.1 *Basis of Accrual.* Interest, commitment commission and fees shall accrue from day to day and shall be calculated on the basis of a year of 360 days (or, in any case where market practice differs, in accordance with market practice) and the actual number of days elapsed.

24.2 *Quotations.* If on any occasion the Bank fails to supply the Agent with a quotation required of it under the foregoing provisions of this Loan Agreement, the rate for which such quotation was required shall be determined from those quotations, which are supplied to the Agent.

24.3 *Evidence of Debt.* The Bank shall maintain in accordance with its usual practice accounts evidencing the amounts from time to time lent by and owing to it hereunder.

24.4 *Control Accounts.* The Agent shall maintain on its books a control account or accounts in which shall be recorded (a) the amount of each Advance or any Unpaid Sum made by or owing to the Bank, (b) the amount of all principal, interest and other sums due or to become due from the Borrower to the Bank and (c) the amount of any sum received or recovered by the Agent hereunder and the Bank's share therein.

*24.5 Prima Facie Evidence.* In any legal action or proceeding arising out of or in connection with this Loan Agreement, the entries made in the accounts maintained pursuant to Clause 24.3 (*Evidence of Debt*) and Clause 24.4 (*Control Accounts*) shall be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

*24.6 Certificates of Bank.* A certificate of the Bank as to (a) the amount by which a sum payable to it hereunder is to be increased under Clause 9.2 (*Tax Gross-up*) or (b) the amount for the time being required to indemnify it against any such cost, payment or liability as is mentioned in Clause 9.3 (*Tax Indemnity*), Clause 11.1 (*Increased Costs*) or Clause 19.1 (*Borrower's Indemnity*) shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

## **CLAUSE XXV**

### **REMEDIES AND WAIVERS; PARTIAL INVALIDITY**

*25.1 Remedies and Waivers.* No failure to exercise, nor any delay in exercising, on the part of any Bank, any right or remedy under the Loan Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

*25.2 Partial Invalidity.* If, at any time, any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

## **CLAUSE XXVI**

### **NOTICES**

*26.1 Communications in Writing.* Each communication to be made under the Loan Agreement shall be made in writing and, unless otherwise stated, shall be made by letter.

*26.2 Addresses.* Any communication or document to be made or delivered pursuant to the Loan Agreement shall (unless the recipient of such communication or document has, by fifteen days' written notice to the Agent, specified another address or fax number) be made or delivered to the address or fax number:

26.2.1 in the case of the Borrower and the Agent, identified with its name below;  
and

26.2.2 in the case of the Bank, notified in writing to the Agent prior to the Contract Date (or, in the case of a Transferee, at the end of the Transfer Certificate to which it is a party as Transferee) provided that not more than one address may be specified by each party pursuant to this Clause 26.2 at any time.

26.3 *Delivery.* Any communication or document to be made or delivered by one person to another pursuant to this Loan Agreement shall be by way of letter, be deemed to have been delivered (whether by courier or otherwise) when received at the relevant address, with a copy by way of fax, *provided* that any communication or document to be made or delivered to the Agent shall be effective only when received by its agency division and then only if the same is expressly marked for the attention of the department or officer identified with the Agent's signature below (or such other department or officer as the Agent shall from time to time specify for this purpose).

26.4 *Notification of Changes.* Promptly upon receipt of notification of a change of address or fax number pursuant to Clause 26.2 (*Addresses*) or upon changing its own address or fax number the Agent shall notify the other parties hereto of such change.

## **CLAUSE XXVII**

### **MISCELLANEOUS**

27.1 *English Language.* The parties hereto shall only execute an English language version (in duplicate) of this Loan Agreement, which shall be the controlling version in the event of any dispute arising between the parties. The parties agree that a translation of the Loan Agreement into the Spanish language shall be prepared solely for the purposes of ratification of the Facility, as such ratification is referred to in paragraph 10 of Schedule 3 (*Conditions Precedent*). Each communication and document made or delivered by one party to another pursuant to this Loan Agreement shall be in the English language or accompanied by a translation thereof into English certified (by an officer of the person making or delivering the same) as being a true and accurate translation thereof.

27.2 *Counterparts.* This Loan Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

## **CLAUSE XXVIII**

### **AMENDMENTS**

28.1 *Amendments.* The Agent, if it has the prior consent of the Bank, and the Borrower may from time to time agree in writing to amend this Loan Agreement or to waive, prospectively or retrospectively, any of the requirements of this Loan Agreement and any amendments or waivers so agreed shall be binding on all the Finance Parties and the Borrower, provided that no

such waiver or amendment shall subject any party hereto to any new or additional obligations without the consent of such party.

28.2 *Exceptions.* Notwithstanding any other provisions hereof, the Agent shall not be obliged to agree to any such amendment or waiver if the same would:

28.2.1 amend or waive this Clause 28, Clause 17 (*Costs and Expenses*) or Clause 22 (*The Agent, the Arranger and the Bank*); or

28.2.2 otherwise amend or waive any of the Agent's rights hereunder or subject the Agent or the Arranger to any additional obligations hereunder.

## **CLAUSE XXIX**

### **GOVERNING LAW**

This Loan Agreement shall be governed by the laws of England.

## **CLAUSE XXX**

### **JURISDICTION**

30.1 *English Courts.* The courts of England have exclusive jurisdiction to settle any disputes.

30.2 *Convenient Forum.* The parties agree that the courts of England are appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

30.3 *Service of Process.* The Borrower agrees that the process by which any Proceedings are begun may be served on it by being delivered in connection with any Proceedings in England, to the Consul General of the Dominican Republic in London, Attention: General Consul, at 139 Inverness Terrace, London, WZ-6JF, United Kingdom, telephone number +44 207 727 6285, fax number +44 207 927 3693. If the appointment of the person mentioned in this paragraph ceases to be effective the Borrower shall immediately appoint a further person in England to accept service of process on its behalf in England and, failing such appointment within 15 days, the Agent shall be entitled to appoint such a person by notice to the Borrower. Nothing contained herein shall affect the right to serve process in any other manner permitted by law. This Clause 30.3 applies to Proceedings in England.

30.4 *Waiver of Immunity.* To the extent that the Borrower or any of its assets has or hereinafter may in any jurisdiction acquire any immunity (including sovereign immunity) from jurisdiction of any court, from set off or any legal process arising out of this Loan Agreement

(including without limitation, immunity from pre-judgment proceedings, freezing orders and attachment prior to judgment), the Borrower hereby irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction, (including, without limitation in relation to any jurisdiction which is part of the United Kingdom and in relation to the jurisdiction of the Dominican Republic, Article 45 of Law No. 1, 494 of August 2, 1947, of the Dominican Republic, which prohibits the Government from waiving immunity from attachment prior to judgment and attachment in aid of execution under Dominican law) and consents generally in respect of any such proceedings to the giving of any relief or the issue of any process in connection with those proceedings, including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in those proceedings.

*30.5 Waiver of Litigation Bond.* In the event that the Bank institutes proceedings relating to the execution, interpretation or enforceability of this Loan Agreement, the Borrower hereby irrevocably agrees not to demand the posting of security for litigation costs and damages, and the Borrower hereby irrevocably waives to the extent permitted by law its rights under Article 16 of the Civil Code of the Dominican Republic, and Articles 166 and 167 of the Code of Civil Procedure of the Dominican Republic, and hereby acknowledges that the Constitution of the Dominican Republic recognizes the rights of such Bank to access and bring proceedings in the Dominican courts and to obtain a timely decision on any such proceedings by the Dominican courts.

As WITNESS the hands of the duly authorised representatives of the parties hereto.

**SCHEDULE 1**

**THE BANK**

Bank	Commitment (\$)
ABN AMRO Bank N.V.	24,674,697.17

**SCHEDULE 2**  
**FORM OF TRANSFER CERTIFICATE**

To: The Agent

**TRANSFER CERTIFICATE**

relating to the Loan Agreement (as from time to time amended, varied, novated or supplemented, the “Facility Agreement”) dated on the Contract Date as defined therein whereby a USD 24,674,697.17 term loan facility was made available to the Dominican State (acting through its State Secretary of the Treasury) as borrower by the financial institution named therein as Bank on whose behalf ABN AMRO Bank N.V. is acting as agent in connection therewith.

1. Terms defined in the Loan Agreement shall, subject to any contrary indication, have the same meanings herein. The terms Bank, Transferee, Bank’s Participation and Amount Transferred are defined in the schedule hereto.
2. The Bank confirms that the Bank’s Participation is an accurate summary of its participation in the Facility Agreement and requests the Transferee to accept and procure the transfer by novation to the Transferee of a percentage of the Bank’s Participation (equal to the percentage that the Amount Transferred is of the aggregate of the component amounts (as set out in the schedule hereto) of the Bank’s Participation) by counter-signing and delivering this Transfer Certificate to the Agent at its address for the service of notices specified in the Facility Agreement.
3. The Transferee hereby requests the Agent to accept this Transfer Certificate as being delivered to the Agent pursuant to and for the purposes of Clause 23.5 (*Transfers by Bank*) of the Facility Agreement so as to take effect in accordance with the terms thereof on the Transfer Date or on such later date as may be determined in accordance with the terms thereof.
4. The Transferee confirms that it has received a copy of the Facility Agreement together with such other information as it has required in connection with this transaction and that it has not relied and will not hereafter rely on the Bank or Agent to check or enquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information and further agrees that it has not relied and will not rely on the Bank or Agent to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of the Borrower.
5. The Transferee hereby undertakes with the Bank and each of the other parties to the Facility Agreement that it will perform in accordance with their terms all those obligations which by the terms of the Facility Agreement will be assumed by it after delivery of this Transfer Certificate to the Agent and satisfaction of the conditions (if any) subject to which this Transfer Certificate is expressed to take effect.

6. The Bank makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Loan Agreement or any document relating thereto and assumes no responsibility for the financial condition of the Borrower or for the performance and observance by the Borrower of any of its obligations under the Loan Agreement or any document relating thereto and any and all such conditions and warranties, whether express or implied by law or otherwise, are hereby excluded.
7. The Bank hereby gives notice that nothing herein or in the Facility Agreement (or any document relating thereto) shall oblige the Bank to (a) accept a re-transfer from the Transferee of the whole or any part of its rights, benefits and/or obligations under the Loan Agreement transferred pursuant hereto or (b) support any losses directly or indirectly sustained or incurred by the Transferee for any reason whatsoever including the non-performance by the Borrower, or any other party to the Loan Agreement (or any document relating thereto) of its obligations under any such document. The Transferee hereby acknowledges the absence of any such obligation as is referred to in (a) or (b) above.
8. This Transfer Certificate and the rights, benefits and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of England.

## **THE SCHEDULE**

1. Bank:
2. Transferee:
3. Transfer Date:
4. Bank's Participation

Bank's Available Commitment Bank's Portion of the Loan

5. Amount Transferred:

[Transferor Bank]

[Transferee Bank]

By:

By:

Date:

Date:

---

**ADMINISTRATIVE DETAILS OF TRANSFeree**

Address:

Contact Name:

Account for Payments:

Fax:

Telephone:

---

\* Details of the Bank's Available Commitment should not be completed after the last day of the Availability Period

## **SCHEDULE 3**

### **CONDITIONS PRECEDENT**

1. A copy, certified as a true copy by or on behalf of the Borrower, of a power of attorney granted by the President of the Dominican Republic in favour of its State Secretary of the Treasury authorising its State Secretary of the Treasury, to sign and deliver, on behalf of the Borrower, the Loan Agreement and any documents to be delivered by the Borrower pursuant thereto.
2. A copy, certified as a true copy by or on behalf of the Borrower, of each such law, decree, consent, licence, approval, registration or declaration as is, in the opinion of counsel to the Bank, necessary to render this Loan Agreement legal, valid, binding and enforceable, to make this Loan Agreement admissible in evidence in the Dominican Republic and to enable the Borrower to perform its obligations hereunder.
3. An opinion of Pellerano & Herrera, the Bank's Dominican Counsel, satisfactory in form and substance to the Agent and in substantially the form distributed to the Bank prior to the signing of this Loan Agreement.
4. An opinion of the Legal Counsel to the Executive Branch, in substantially the form distributed to the Bank prior to the signing of this Loan Agreement.
5. Evidence that the fees, costs and expenses required to be paid by the Borrower pursuant to Clause 17.1 (*Transaction Expenses*) and Clause 17.3 (*Stamp Taxes*) have been paid.
6. Evidence that the Consul General of the Dominican Republic in London has agreed to act as the agent of the Borrower for the service of process in England.
7. Evidence of the allocation of funds in the national budget of 2007 for the repayment of the Facility
8. A copy, certified as a true copy by or on behalf of the Borrower, of the Commercial Contract duly executed by the parties thereto.
9. Evidence that the Loan Agreement has been duly registered as evidencing External Indebtedness with the General Direction of Public Credit of the Ministry of the Treasury of the Dominican Republic.
10. Evidence that the Loan Agreement has been ratified by the Congress of the Dominican Republic
11. Evidence that the Resolution has been promulgated by the President of the Dominican Republic.

12. Evidence that the Resolution has been published in the official gazette (*Gaceta Oficial*) or in a newspaper that circulates throughout the Dominican Republic.
13. Evidence that the Borrower has complied with and performed all existing payment obligations it has in favour of ABN AMRO Bank N.V. and that it is not in breach of any agreement or instrument which it may have entered into with ABN AMRO Bank N.V. prior to the date of this Loan Agreement.
14. Availability of a risk mitigation instrument in form and substance acceptable to the Agent and the Bank.
15. Evidence of a firm offer from BNDES for the granting of a credit facility in the amount of US\$20,000,000.00 for the financing of a further expansion of the Project.

## SCHEDULE 4

### NOTICE OF DRAWDOWN

From: The Dominican State, acting through its State Secretary of the Treasury

To: ABN AMRO Bank N.V., as Agent

Dated:

Dear Sirs,

1. We refer to the Loan Agreement (the "*Facility Agreement*") dated on the Contract Date as defined therein and made between the Dominican State (acting through its State Secretary of the Treasury) as borrower, ABN AMRO Bank N.V. as agent and the financial institution named therein as Bank. Terms defined in the Facility Agreement shall have the same meaning in this notice.
2. This notice is irrevocable.
3. We hereby give you notice that, pursuant to the Facility Agreement and on [date of the proposed Advance], we wish to borrow an Advance in the amount of \$• upon the terms and subject to the conditions contained therein.
4. We confirm that, at the date hereof, the representations set out in Clause 13 (Representations) are true in all material respects and that no Event of Default or Potential Event of Default has occurred.
5. The proceeds of this drawdown should be credited to [account number].
6. In support of this Notice of Drawdown we attach an original copy of the Invoice from the Contractor for the amount now due in our favour under the terms of the Commercial Contract.

Yours faithfully

.....

for and on behalf of  
The Dominican State  
(acting through its State Secretary of the Treasury)

## SIGNATURES

The Borrower

THE DOMINICAN STATE

(acting through its State Secretary of the Treasury)

By: \_\_\_\_\_

Date: \_\_\_\_\_

Address: Mexico Ave. #45,  
Gazcue, Santo Domingo, D.N.  
República Dominicana

Tel: (809) 697 5131 ext. 2030

Fax: (809) 688 8838

Attention: Minister of the Treasury

The Arranger, the Agent and the Original Lender

ABN AMRO BANK N.V.

By: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_

Address: ABN AMRO Bank N.V.  
Cross Border Structured Finance  
Gustav Mahlerlaan 10 (HQ6044)  
1082 PP Amsterdam  
The Netherlands

Attn: Nynke Haardt  
Tel: 31 20 6284502  
Fax: 31 20 6286317  
E-Mail: [nynke.haardt@nl.abnamro.com](mailto:nynke.haardt@nl.abnamro.com)

(With a copy of any communication or documentation to:)

(1)

Address: ABN AMRO Bank N.V.  
Credit Administration  
Gustav Mahlerlaan 10 (HQ6044)  
1082 PP Amsterdam  
The Netherlands

Attn: Lex Segers  
Tel: 31 20 6291877  
Fax: 31 20 383 5552  
E-Mail: lex.segers@nl.abnamro.com

(2)

Address: Ministry of the Treasury of the Dominican Republic  
Mexico Ave. #45,  
Gazcue, Santo Domingo, D.N.  
Republica Dominicana

---

Tel:

Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: creditopublico@finanzas.gov.do

Attention: