

**Contract of Guarantee
for Non-Shareholder Loans**

**Non-Honoring of a Sovereign
Financial Obligation**

between the

**Multilateral Investment
Guarantee Agency**

and

[Guarantee Holder]

This draft document is subject to MIGA's approval and as such cannot be considered a contract or an offer to enter into a contract. Only the document executed by MIGA, as approved by MIGA's senior management and the Guarantee Holder, will contain the terms and conditions that shall bind them. Until this document is executed by MIGA and the Guarantee Holder, neither MIGA nor the Guarantee Holder intends to be bound by its terms and conditions.

Contract of Guarantee for Non-Shareholder Loans

Non-Honoring of a Sovereign Financial Obligation

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Part I – Special Conditions

SPECIAL NOTICE

**This Contract comprises:
Special Conditions (Part I),
General Conditions (Part II),
Amendments (Part III),
Standby Option (Part IV)
and the Annexes.**

**This Contract must not be read or interpreted without
considering all of Parts I through IV and the Annexes.**

Contract of Guarantee (“**Contract**”) between the Multilateral Investment Guarantee Agency (“**MIGA**”) and [_____] (the “**Guarantee Holder**”), a company organized and existing under the laws of [_____].

CLAUSE 1A. Project Enterprise: [_____].

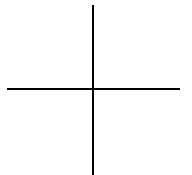
CLAUSE 1B. Governing Authority: [_____].

CLAUSE 2A. Investment Project: [_____].

CLAUSE 2B. Host Country: [_____].

CLAUSE 3. Guarantee Currency: [_____].

CLAUSE 4. Guaranteed Loan: The Guaranteed Loan consists of [Amount in Guarantee Currency] which has been lent by the Guarantee Holder to the Project Enterprise under a loan agreement dated as of [_____] between the Guarantee Holder and the Project Enterprise (the “**Loan Agreement**”) pursuant to which the Project Enterprise will make payments of principal [and interest] as set out in the Payment Schedule.



- CLAUSE 5. Contract Period:** The [___]-month periods ending on the [___] day of each [____], [____], [____], and [____]¹, commencing with the period starting on the Effective Date and ending on [____].

- CLAUSE 6. Guarantee Period:** The period commencing on the Effective Date and ending [____] years thereafter.

- CLAUSE 7. Covered Risk:** Non-Honoring of a Sovereign Financial Obligation.

- CLAUSE 8. Waiting Period:** [180] continuous days.

- CLAUSE 9A. Percentage of Cover:** [95]%
- CLAUSE 9B. Percentage of Self-Insurance:** [5]%
- Total:** 100%

- CLAUSE 10A. Current Amount of Guarantee:** [Amount in Guarantee Currency], as adjusted in accordance with Article 12 of the General Conditions, and reflected in a revised Special Conditions.

- CLAUSE 10B. Standby Option Amount:** [Amount in Guarantee Currency.]

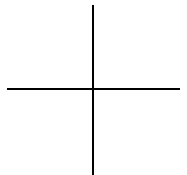
- CLAUSE 10C. Payments Covered:** Scheduled Payments of [principal and interest] [principal only] [interest only].

- CLAUSE 10D. Maximum Aggregate Liability:** [Amount in Guarantee Currency.]

- CLAUSE 11A. Annual Premium Rate:** [___]%

- CLAUSE 11B. Total Premium for the First Contract Period:** [Amount in Guarantee Currency], payable on or before the Initial Premium Due Date.

¹ To match repayment periods in the Loan Agreement.

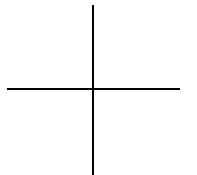


- CLAUSE 12A. Annual Standby Option Fee Rate:** [___]% [Not applicable.]
- CLAUSE 12B. Standby Option Fee for the First Contract Period:** [Amount in Guarantee Currency], payable on or before the Initial Premium Due Date. [Not applicable.]
- CLAUSE 13A. Annual Facility Fee Rate:** [___]% [Not applicable.]
- CLAUSE 13B. Facility Fraction:** [_____] [Not applicable.]
- CLAUSE 13C. Facility Fee for the First Contract Period:** [Amount in Guarantee Currency], payable on or before the Initial Premium Due Date. [Not applicable.]
- CLAUSE 14A. Total Amount Due for the First Contract Period:** [Amount in Guarantee Currency], payable on or before the Initial Premium Due Date.
- CLAUSE 14B. Initial Premium Due Date:** [Insert date no later than the date falling 15 calendar days after the Effective Date.]
- CLAUSE 15. Effective Date:** [_____.]

CLAUSE 16. Notice Addresses:

MULTILATERAL INVESTMENT GUARANTEE AGENCY 1818 H Street, NW Washington, DC 20433 United States of America Attention: Contract Management & Portfolio Services MIGA Operations Facsimile: +1 202-522-2630 Telephone: +1 202-473-0610	[GUARANTEE HOLDER] [Mailing Address] [City and Postal Code] [Country] Attention: [Name] [Title] Facsimile: [Number] Telephone: [Number]
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This Contract is based on the Guarantee Holder’s representations and warranties made to MIGA contained herein and in the Application for Guarantee, as well as on any written information provided by or on behalf of the Guarantee Holder to MIGA from time to time, including in connection with any Claim. The Guarantee Holder hereby represents and warrants to MIGA that such representations, warranties and information are true and correct in all material respects and do not contain any materially false or misleading statements or omissions.



IN WITNESS WHEREOF, MIGA and the Guarantee Holder, acting through their duly authorized representatives, have caused this Contract to be signed in their respective names. This Contract is deemed made in Washington, DC, United States of America, and will come into force on the Effective Date upon its execution by both parties, subject to: (a) receipt by MIGA of payment in full of the Total Amount Due for the first Contract Period on or before the Initial Premium Due Date; and (b) no later than seven (7) calendar days after the Effective Date, the receipt by MIGA of a counterpart of this Contract which shall have been executed by the Guarantee Holder on or before the Effective Date.

**MULTILATERAL INVESTMENT
GUARANTEE AGENCY**

[GUARANTEE HOLDER]

By: _____
(signature)

By: _____
(signature)

Izumi Kobayashi
Executive Vice President

Authorized Representative
(name and title)

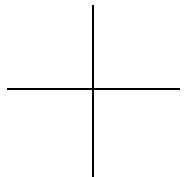
Authorized Representative
(name and title)

Washington, DC
[]

(place and date)

City

(place and date)



Part II – General Conditions

ARTICLE 1. APPLICATION AND INTERPRETATION

1.1 The Special Conditions (Part I), the General Conditions (Part II), the Amendments (Part III), if any, the Standby Option (Part IV) and the Annexes, if applicable, shall form the entire Contract of Guarantee for Non-Shareholder Loans, Non-Honoring of a Sovereign Financial Obligation.

1.2 The capitalized terms herein are used as they are defined under Article 2. Such defined terms in the singular shall include the plural and vice versa.

1.3 The terms “Corrupt Practice”, “Coercive Practice”, “Collusive Practice”, “Fraudulent Practice” and “Obstructive Practice” shall be interpreted in accordance with the Anti-Corruption Guidelines attached as Annex 1.

1.4 Unless otherwise stated, all references herein to Articles, Sections, Subsections and Annexes are to those of these General Conditions.

1.5 Notwithstanding any other provision herein, if any obligation to be performed under this Contract falls on a day that is not a Business Day, such obligation shall be performed on the next succeeding Business Day.

1.6 On or before the Effective Date, MIGA shall have received and approved in writing a true and complete copy of both the Loan Agreement and the Sovereign Financial Obligation executed by all parties thereto.

ARTICLE 2. DEFINITIONS

“**Anti-Corruption Guidelines**” means the document entitled “MIGA’s Anti-Corruption Guidelines” attached as Annex 1, which guidelines clarify how the terms Corrupt Practice, Coercive Practice, Collusive Practice, Fraudulent Practice and Obstructive Practice shall be interpreted and enforced.

“**Application for Guarantee**” means the Definitive Application for Guarantee, including all attachments and any updates thereto, delivered to and filed with MIGA by the Guarantee Holder before the Effective Date.

“**Banking Day**” means a day defined in the Loan Agreement as being a day on which the Project Enterprise is not excused from the requirement to make a Scheduled Payment, after taking into account Saturdays, Sundays and other days on which relevant banks through which a Scheduled Payment is to be made are not open for business.

“**Business Day**” means a day on which banks are open for business in New York, New York, USA, and the city where the principal office of the Guarantee Holder is located.

“**Claim**” means an application submitted in writing by the Guarantee Holder to MIGA for payment of compensation for a Loss under the Contract.

“**Coercive Practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of a person to influence improperly the actions of a person.

“**Collusive Practice**” means an arrangement between two or more persons designed to achieve an improper purpose, including to influence improperly the actions of another person.

“**Contract**” means the Contract of Guarantee, which includes the Special Conditions (Part I) and these General Conditions (Part II), and which may include the Amendments (Part III), the Standby Option (Part IV) and the Annexes.

“**Contract Period**” means:

- (a) the period commencing on the Effective Date and ending on the first date specified in Clause 5 of the Special Conditions; and
- (b) each successive period ending on the dates specified in Clause 5 of the Special Conditions or, if earlier, the end of the Guarantee Period; *provided, however*, that, if the last day of a Contract Period falls on a day that is not a Banking Day, the Contract Period shall extend to and include the next succeeding Banking Day.

“**Convention**” means the Convention Establishing the Multilateral Investment Guarantee Agency dated October 11, 1985, as amended, and as in force on the Effective Date.

“**Corrupt Practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another person.

“**Current Amount of Guarantee**” means, for any Contract Period, the sum of:

- (a) the amount specified in Clause 10A of the Special Conditions; and
- (b) the aggregate amounts validly transferred from the Standby Option prior to the commencement of such Contract Period in accordance with Section 12.3,

less the aggregate amounts reduced from the Current Amount of Guarantee in accordance with Section 12.2, which is the maximum aggregate amount of compensation payable by MIGA under the Contract during such Contract Period, irrespective of the number of Losses.

“**Date of Loss**” means the date by which the event listed under the definition of “Loss” shall have occurred.

“**Development Effectiveness Indicators**” means the set of development metrics to be provided by the Guarantee Holder to MIGA and specified in Annex 4B.

“**Excess Payment**” has the meaning set forth in Subsection 5.2(c).

“**Effective Date**” means 12:01 AM, Washington, DC time, on the date specified in Clause 15 of the Special Conditions as the date on which the Contract becomes effective.

“Facility Fee” means:

- (a) for the first Contract Period, the amount payable by the Guarantee Holder specified in Clause 13C of the Special Conditions; and
- (b) for each subsequent Contract Period, the amount payable by the Guarantee Holder calculated by taking the product of the following amounts:
 - (i) the sum of the Current Amount of Guarantee and the Standby Option Amount as of the first day of such Contract Period;
 - (ii) the Facility Fraction;
 - (iii) the annual Facility Fee rate specified in Clause 13A of the Special Conditions; and
 - (iv) the actual number of days in such Contract Period, calculated using a 365-day year,and dividing the product so obtained by 365.

“Facility Fraction” means the portion of the Maximum Aggregate Liability subject to reinsurance by MIGA, as specified in Clause 13B of the Special Conditions.

“Fraudulent Practice” means any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial or other benefit or to avoid an obligation.

“Governing Authority” means the present or any succeeding governing authority (without regard to the method of its succession or whether it is internationally recognized) in effective control of all or any part of the territory of the Host Country or any political or territorial subdivision thereof (including any dependent territory), specified in Clause 1B of the Special Conditions.

“Guarantee Currency” means the currency specified in Clause 3 of the Special Conditions.

“Guarantee Holder” means the natural or juridical person so designated in the Special Conditions and who is party to the Contract, which term shall include such person’s successors and permitted assigns that, in either case, meet the requirements of the Convention and the Operational Regulations.

“Guarantee Period” means the period specified in Clause 6 of the Special Conditions; *provided, however,* that, if the last day of the Guarantee Period falls on a day that is not a Banking Day, the Guarantee Period shall extend to and include the next succeeding Banking Day.

“Guaranteed Loan” means the loan in the original principal amount specified in Clause 4 of the Special Conditions made by the Guarantee Holder to the Project Enterprise under the Loan Agreement and denominated in Guarantee Currency or, where the context may require, the amount thereof from time to time outstanding.

“Host Country” means the country specified in Clause 2B of the Special Conditions, into which country the Guaranteed Loan is made.

“Initial Premium Due Date” means the date set forth in Clause 14B of the Special Conditions.

“**Interest**” means any interest under the Contract owed by or to MIGA, calculated from the date the relevant amount becomes due and payable up to the date payment is received by MIGA or the Guarantee Holder, as the case may be.

“**International Financial Reporting Standards**” means that set of accounting standards established and issued by the International Accounting Standards Board, as amended from time to time.

“**Investment Project**” means the project or set of projects to be undertaken by the Project Enterprise and to which the proceeds of the Guaranteed Loan shall be applied and specified in Clause 2A of the Special Conditions.

“**LIBOR**” means the London Interbank Offered Rate for the Guarantee Currency. For all purposes under the Contract, LIBOR shall be determined on any date (each such date, a “**Determination Date**”) by reference to:

- (a) the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1 percent) appearing on Bloomberg Page BBA or, as applicable, BBAM (or any successor page) as the London Interbank Offered Rate for deposits in Guarantee Currency at 11:00 AM (London time) two London business days before such Determination Date for the period commencing on such Determination Date and ending on a date six months after such Determination Date;
- (b) in the event of the unavailability of the applicable Bloomberg Page, by the rate per annum (rounded upwards, if necessary to the nearest 1/100 of 1 percent) appearing on the Reuters LIBOR page as the London Interbank Offered Rate for deposits of Guarantee Currency at approximately 11:00 AM (London time) two London business days before such Determination Date for the period commencing on such Determination Date and ending on a date six months after such Determination Date; or
- (c) in the event of the unavailability of both the applicable Bloomberg Page and the Reuters Page, six month “LIBOR BBA Interbank Fixing Rate” for the Guarantee Currency as published in the World Interest Rates section of the Financial Times newspaper two London business days before such Determination Date.

“**Loan Agreement**” has the meaning set forth in Clause 4 of the Special Conditions.

“**Local Currency**” means the national currency of the Host Country.

“**Loss**” means the failure of the Guarantee Holder to receive a Scheduled Payment on a Scheduled Payment Due Date, [due to][and] the failure of the Governing Authority to pay to the Guarantee Holder an amount due under the Sovereign Financial Obligation.

“**Maximum Aggregate Liability**” means the maximum aggregate amount of compensation payable by MIGA under the Contract over the term of the Guarantee Period, irrespective of the number of Losses, which shall be the amount specified in Clause 10D of the Special Conditions, as such amount may be reduced in accordance with Article 12.

“**Money Laundering**” means the acquisition, possession, use, conversion, transfer or concealment of the true nature of property of any description, and legal documents or instruments

evidencing title to, or interest in, such property, knowing that such property is an economic advantage from criminal offences, for the purpose of:

- (a) concealing or disguising the illicit origin of the property; or
- (b) assisting any person who is involved in the commission of the criminal offence as a result of which such property is generated, to evade the legal consequences of such actions.

“Non-Honoring of a Sovereign Financial Obligation” means the event described in Section 3.1.

“Notice of Termination” means a notice sent by MIGA or the Guarantee Holder to terminate the Contract following the procedures specified in Section 13.3, such notice to be effective at 11:59 PM, Washington, DC time, on the relevant date of termination.

“Obstructive Practice” means:

- (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation, or making false statements to investigators, in order to materially impede a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any person to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
- (b) acts intended to materially impede MIGA’s access to contractually required information in connection with a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice.

“Operational Regulations” means the Operational Regulations adopted by MIGA’s Board of Directors as in force on the Effective Date.

“Payment Schedule” means the schedule attached as Annex 2 itemizing the Scheduled Payment Due Date and amount of each Scheduled Payment.

“Percentage of Cover” means such percentage of each Loss for which the Guarantee Holder is entitled to compensation under the Contract specified in Clause 9A of the Special Conditions.

“Percentage of Self-Insurance” means such percentage of each Loss that the Guarantee Holder is required to bear for its own account specified in Clause 9B of the Special Conditions.

“Performance Standards and Environmental Guidelines” means with respect to the Investment Project and the Operator: (i) the Performance Standards listed on Annex 4A to the Contract; (ii) the General Environmental, Health and Safety Guidelines of the World Bank Group; and (iii) the Industry Sector Guidelines specified in Annex 4A to the Contract, in each case as in effect on the Effective Date.

“Premium” means:

- (a) for the first Contract Period, the amount payable by the Guarantee Holder specified in Clause 11B of the Special Conditions; and

- (b) for each subsequent Contract Period, the amount payable by the Guarantee Holder for the coverage provided by the Contract, calculated by taking the product of the following amounts:
- (i) the Current Amount of Guarantee as of the first day of such Contract Period;
 - (ii) the annual premium rate specified in Clause 11A of the Special Conditions; and
 - (iii) the actual number of days in such Contract Period, calculated using a 365-day year,
- and dividing the product so obtained by 365.

“Premium Due Date” means:

- (a) for the first Contract Period, the Effective Date; and
- (b) for each subsequent Contract Period, the first day of such Contract Period.

“Project Enterprise” means the enterprise specified in Clause 1A of the Special Conditions that is responsible for conducting the Investment Project and is the borrower of the Guaranteed Loan under the Loan Agreement.

“Rules of Arbitration” means the Rules of Arbitration for disputes under Contracts of Guarantee of the Multilateral Investment Guarantee Agency dated January 1990.

“Scheduled Payment” means, to the extent specified in Clause 10C of the Special Conditions, each repayment of principal of the Guaranteed Loan, and each payment of interest thereon, including as the context requires any portion of such payments, scheduled to be due and payable by the Project Enterprise on the Scheduled Payment Due Dates in the amounts (or, with respect to variable rate interest, based on the rates) specified in the Payment Schedule.

“Scheduled Payment Due Date” means the date specified in the Payment Schedule on which the applicable Scheduled Payment is due and payable in accordance with the Loan Agreement.

“Sovereign Financial Obligation” means an unconditional financial obligation of the Governing Authority to pay a sum certain, either on a date certain or on demand, which obligation is either:

- (a) in favor of the Guarantee Holder; or
- (b) in favor of the Project Enterprise (whose rights against the Governing Authority have been collaterally assigned to the Guarantee Holder),

and which is not subject to any defenses other than payment, and may include without limitation an unconditional guarantee of a third party’s financial obligations or an obligation to invest or contribute funds, either on a date certain or on demand. The Sovereign Financial Obligation(s) covered by this Contract are specified in Annex 3.

“Standby Option Amount” means, for any Contract Period, the initial amount specified in Clause 10B of the Special Conditions, minus the aggregate amount transferred from the Standby Option to the Current Amount of Guarantee in accordance with Section 12.3 of the General Conditions prior to the commencement of such Contract Period.

“Standby Option Fee” means:

- (a) for the first Contract Period, the amount payable by the Guarantee Holder specified in Clause 12B of the Special Conditions; and
- (b) for each subsequent Contract Period, the amount payable by the Guarantee Holder for the coverage provided in relation to the Standby Option Amount, calculated by taking the product of the following amounts:
 - (i) the Standby Option Amount as of the first day of such Contract Period;
 - (ii) the annual Standby Option Fee rate specified in Clause 12A of the Special Conditions; and
 - (iii) the actual number of days in such Contract Period, calculated using a 365-day year,and dividing the product so obtained by 365.

“Total Amount Due” means:

- (a) for the first Contract Period, the amount payable by the Guarantee Holder specified in Clause 14A of the Special Conditions; and
- (b) for each subsequent Contract Period, the sum of the Premium, the Standby Option Fee, and the Facility Fee for such Contract Period.

“Unguaranteed Loan” has the meaning set forth in Subsection 5.2(c).

“Waiting Period” means the period of time which must elapse before MIGA may deem a Claim to be complete, commencing on the Date of Loss and ending no later than the subsequent Scheduled Payment Due Date, and which shall be specified in Clause 8 of the Special Conditions.

“World Bank Group” means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation and MIGA.

ARTICLE 3. NON-HONORING OF A SOVEREIGN FINANCIAL OBLIGATION

Covered Risk

3.1 The guarantee against Non-Honoring of a Sovereign Financial Obligation shall cover a Loss, provided that:

- (a) the Sovereign Financial Obligation is for a specified monetary amount which is due and payable or, if the Sovereign Financial Obligation is a guarantee or obligation to invest or contribute funds on demand, demand for payment has been made under such guarantee or obligation in accordance with its terms; and
- (b) each of the failure of the Governing Authority to pay the Sovereign Financial Obligation and the failure of the Guarantee Holder to receive a Scheduled Payment remains uncured for the duration of the Waiting Period.

Compensation

3.2 Subject to Articles 5, 6 and 7, compensation payable under Non-Honoring of a Sovereign Financial Obligation shall be the Percentage of Cover in Guarantee Currency, calculated as of the Date of Loss, of the lesser of: (i) the amount of the Sovereign Financial Obligation owed to the Guarantee Holder (or, in the case of a Sovereign Financial Obligation owed to the Project Enterprise, the Guarantee Holder's interest therein) which is due but unpaid, and (ii) the aggregate amount of the Scheduled Payments then in default.

Filing of Claims

3.3 The Guarantee Holder may file a Claim for Non-Honoring of a Sovereign Financial Obligation at any time from the Date of Loss to the date 180 days after the end of the Waiting Period. The Guarantee Holder shall submit to MIGA promptly all material evidence available to it from time to time as may be necessary to support such Claim for Non-Honoring of a Sovereign Financial Obligation, including evidence of the failure of the Project Enterprise to pay the Scheduled Payment when due in accordance with the Loan Agreement and the failure of the Governing Authority to pay the Sovereign Financial Obligation when due.

3.4 A Claim shall be deemed by MIGA to be complete when MIGA is reasonably satisfied that it has received from the Guarantee Holder all material evidence of the Loss, including the amount of Loss and the Date of Loss. For purposes of this Section 3.4, submission of an affidavit in the form of Annex 6 shall be sufficient evidence of the Loss. MIGA shall make a determination with respect to such Claim in accordance with Article 7.

Transfer and Assignment

3.5 As a condition to payment by MIGA of compensation for a Loss, the Guarantee Holder shall assign and transfer to and for the benefit of MIGA, the Percentage of Cover of:

- (a) the Guarantee Holder's interest, or that portion of the Project Enterprise's interest which has been collaterally assigned to the Guarantee Holder, in the rights and causes of action against the Governing Authority in respect of that portion of the Sovereign Financial Obligation in relation to which compensation is to be paid in accordance with Section 3.2; and
- (b) the Guarantee Holder's right, title and interest, including all rights to security therewith, in the Scheduled Payments for which compensation is to be paid.

3.6 Any such assignment and transfer pursuant to Section 3.5 shall, with respect to the Guarantee Holder's interests, be free and clear of any claim, defense, counterclaim, right of set off, liens or other encumbrances, and with respect to the Project Enterprise's interest, be free and clear of any claim, defense, counterclaim, right of set off, liens or other encumbrances to the extent within the control of the Guarantee Holder.

ARTICLE 4. PERCENTAGE OF SELF-INSURANCE

4.1 As a condition to payment by MIGA of compensation for a Loss, the Guarantee Holder shall bear for its own account at least the Percentage of Self-Insurance of each potential Loss throughout the Guarantee Period.

ARTICLE 5. DEDUCTIONS AND ADJUSTMENTS

5.1 MIGA shall:

- (a) deduct from any compensation due under the Contract the Guarantee Holder's share of any other payment, recovery, or benefit received or due to be received by or for the benefit of the Guarantee Holder (including amounts received by the Project Enterprise which have been collaterally assigned to the Guarantee Holder) from any source, including the ratable portion of the Loss payable by any other insurer or guarantor, as a result of the Non-Honoring of a Sovereign Financial Obligation;
- (b) only be liable in respect of a Scheduled Payment then in default:
 - (i) as and when originally scheduled to be due in accordance with the Payment Schedule, irrespective of whether Scheduled Payments on the Guaranteed Loan have been accelerated or mandatory prepayments have been made; and
 - (ii) if the Guarantee Holder shall have complied with all terms and conditions of the Contract, including paying the Total Amount Due, with respect to the corresponding Contract Period within which such Scheduled Payment falls due; and
- (c) notwithstanding Subsection 5.1(b) above, have the option, in its sole discretion and at any time, to accept liability for accelerated payments of all or a portion of the Guaranteed Loan by prepaying the Guarantee Holder:
 - (i) the Percentage of Cover of the amount of outstanding principal of the Guaranteed Loan; plus
 - (ii) the Percentage of Cover of all corresponding accrued and unpaid Scheduled Payments of interest that were due on Scheduled Payment Due Dates occurring on or prior to the date of such prepayment by MIGA, but in no event exceeding the Current Amount of Guarantee during the Contract Period in which such payment is made.

Any such payment shall be conditional upon the simultaneous payment by the Guarantee Holder to MIGA of the amount of Premium payable over the corresponding balance of the Guarantee Period, calculated based on the outstanding principal of the Guaranteed Loan and any accrued but unpaid interest for which compensation is being made.

5.2 Amounts of compensation determined to be payable by MIGA for any Loss shall:

- (a) in no event exceed:
 - (i) the Current Amount of Guarantee during the relevant Contract Period; and
 - (ii) the Maximum Aggregate Liability over the term of the Guarantee Period;
- (b) not include the difference between interest covered and any additional interest accruing at a penalty or default rate (including such interest payable in connection with any political risk event), mandatory prepayments of principal or acceleration of principal (except as provided in Section 5.1(b)), make-whole premiums, break-funding costs, voluntary prepayments of principal, interest rate swaps and other

derivatives transactions associated with the Guaranteed Loan, payments with respect to withholding taxes and other taxes, increased costs provisions, unpaid fees, costs and expenses, or any amounts other than Scheduled Payments due with respect to the Guaranteed Loan; and

- (c) be subject to reduction if the Guarantee Holders have made or guaranteed loans to the Governing Authority and/or the Project Enterprise which MIGA has not guaranteed (any such loan, an “**Unguaranteed Loan**”), and the Governing Authority or the Project Enterprise has, after the date of default of the Scheduled Payment that is the basis of the Claim, as a direct or indirect result of any action or omission of the Guarantee Holders or any party acting on their behalf, paid a greater proportion of the amount due and payable (without taking into account any payment of arrears and interest on arrears due and unpaid at the time of such default) on any Unguaranteed Loan than of the Scheduled Payment (any such payment, an “**Excess Payment**”). Where there has been one or more Excess Payments, MIGA will determine the compensation it pays for a Loss as if the percentages paid of amounts due and payable on the Scheduled Payment and on all Unguaranteed Loans due and payable during the Waiting Period had been equal. (As MIGA’s compensation is limited by the Percentage of Cover, the Percentage of Cover shall also apply to any reduction in MIGA’s compensation.) Unguaranteed Loans shall exclude loans (i) payable in Local Currency; (ii) with a duration of less than one year (excluding loans guaranteed by any export credit agency); or (iii) made by relending funds to the central bank of the Host Country in connection with the rescheduling of its external debt. Further, no reduction shall be made if any Excess Payment was made pursuant to any law, order, decree or regulation of the Host Country. The Guarantee Holders covenant that they shall promptly notify MIGA (x) upon becoming aware of any payment made by the Governing Authority or the Project Enterprise during the Waiting Period in a greater proportion of the amount due and payable on any Unguaranteed Loan than of the Scheduled Payment and (y) whether such payment was the direct or indirect result of its action or omission or that of any party acting on its behalf. Absent such notice, by filing a Claim pursuant to Section 3.3 of this Contract, the Guarantee Holders shall be deemed to have represented and warranted to MIGA that, to the best of their knowledge, there has been no Excess Payment.

5.3 If there is an increase in the amount of the loan under the Loan Agreement in excess of the Guaranteed Loan as of the Effective Date and such amounts are not guaranteed by MIGA as of the Date of Loss, the Guarantee Holder shall only be entitled to recover compensation hereunder for the portion of any missed payment corresponding to the portion which the Current Amount of Guarantee bears to the Percentage of Cover of outstanding amount of such loan as of the Date of Loss.

ARTICLE 6. EXCLUSIONS

6.1 MIGA shall in no case be liable for any Loss which is due to:

- (a) (i) the application of any law, decree or regulation in force in the Host Country as of the Effective Date, which law, decree or regulation could have been ascertained by the Guarantee Holder, or (ii) material violation of the laws and regulations of the Host Country by the Guarantee Holder with respect to the Guaranteed Loan or, to the extent attributable to the Guarantee Holder, the Investment Project, other than

laws, decrees or regulations that effectively deprive the Guarantee Holder of its rights as a creditor against the Governing Authority or the Project Enterprise, as applicable;

- (b) conduct of the Guarantee Holder constituting Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Obstructive Practices, or Money Laundering, in each case in connection with the Guaranteed Loan or the Investment Project;
- (c) the non-compliance by the Guarantee Holder with: (i) its obligations hereunder in respect of the Performance Standards and Environmental Guidelines; and (ii) to the extent the Guarantee Holder controls the Investment Project, the Performance Standards and Environmental Guidelines;
- (d) the failure of the Guarantee Holder to ensure that all documentation relating to the Guaranteed Loan has been duly authorized, executed and delivered and that the obligations contained therein are legal, valid, binding, and enforceable in accordance with their terms; *provided, however*, that if the Guarantee Holder provides a legal opinion(s) acceptable to MIGA to this effect then the exclusion under this subparagraph shall not apply;
- (e) the breach by the Guarantee Holder in any material respect of its obligations to the Governing Authority in connection with the Guaranteed Loan or, to the extent applicable, the Investment Project; or
- (f) any action or inaction of the Governing Authority that was agreed to, absent MIGA's prior written consent, by the Guarantee Holder in connection with the Guaranteed Loan or, to the extent applicable, the Investment Project.

ARTICLE 7. CLAIMS DETERMINATION AND PAYMENT

7.1 A Claim shall demonstrate to MIGA's reasonable satisfaction the Guarantee Holder's right to compensation under the Contract.

7.2 So long as MIGA has received a Claim at least 10 days prior to the end of the Waiting Period, MIGA shall determine its liability to pay compensation for a Loss and shall notify the Guarantee Holder of such determination prior to the end of the Waiting Period, provided that MIGA, acting reasonably, deems the Guarantee Holder's Claim to be complete (but for the elapsing of the Waiting Period). In such case, MIGA shall pay compensation calculated in accordance with Section 3.2 on the last day of the Waiting Period or, if such day is not a Business Day, then the next succeeding Business Day.

7.3 If MIGA deems the Guarantee Holder's Claim submitted prior to the end of the Waiting Period to be incomplete, MIGA shall notify the Guarantee Holder accordingly by the end of the Waiting Period, and shall pay compensation for a Loss within 30 days from the date it determines that it is liable to pay a Claim. With respect to Claims submitted after the Waiting Period has elapsed, MIGA shall pay compensation for a Loss within 30 days from the date it determines that it is liable to pay a Claim.

7.4 MIGA shall pay Interest at LIBOR on any amount of compensation determined to be due but not paid at the end of the period specified in Sections 7.2 or 7.3, as applicable, such liability being in lieu of any other liability as a result of such late payment.

7.5 As a condition to payment by MIGA of compensation for a Loss, the Guarantee Holder must file a complete Claim within 180 days from the end of the Waiting Period.

7.6 If MIGA has paid compensation with respect to a Scheduled Payment, MIGA shall only be liable for subsequent Scheduled Payments, payable in accordance with Section 3.2, where the Guarantee Holder files a separate Claim demonstrating a subsequent Loss with respect to each such subsequent Scheduled Payment.

ARTICLE 8. SUBROGATION

8.1 Upon payment of compensation by MIGA, MIGA shall be fully subrogated, up to the amount of such compensation, to all claims, causes of action, recoveries and other rights the Guarantee Holder has against the Governing Authority, the Project Enterprise or any obligor in respect of the event causing the Loss, and the Guarantee Holder shall take no action whatsoever to prejudice MIGA's rights of subrogation.

8.2 Nothing in the Contract shall in any way be deemed to be a waiver of, or otherwise affect, any independent right of MIGA to effect salvage or other recoveries under the Contract (without any obligation to share the proceeds thereof) through agreements between MIGA and the Governing Authority or any obligor.

8.3 If MIGA pays compensation with respect to any Scheduled Payment and the Guarantee Holder subsequently receives all or a portion of such Scheduled Payment from the Project Enterprise, the Governing Authority, or any other source, the Percentage of Cover of such Scheduled Payment or portion thereof received shall be held in trust (as property of MIGA) for the benefit of MIGA, and the Guarantee Holder shall promptly upon receipt thereof pay over such amount to MIGA.

ARTICLE 9. REPRESENTATIONS, WARRANTIES AND DUTIES OF GUARANTEE HOLDER

9.1 The Guarantee Holder represents and warrants, as of the Effective Date that:

- (a) both the Loan Agreement and the Sovereign Financial Obligation are legal, valid, binding, and enforceable in accordance with their terms and the laws in force in the Host Country as of the Effective Date, *provided, however*, that if the Guarantee Holder provides a legal opinion or opinions acceptable to MIGA to this effect, then such opinion(s) shall be regarded by MIGA as conclusive evidence of such legality, validity, binding nature, and enforceability;
- (b) it has ensured that MIGA shall be exempt from any provisions regarding the sharing of recoveries to which the Guarantee Holder may be subject, pursuant to intercreditor arrangements or otherwise;
- (c) it is entitled under the Loan Agreement to require the Project Enterprise to:

- (i) maintain and preserve:
 - a. audited accounts in accordance with International Financial Reporting Standards; and
 - b. any other material information relating to the Investment Project;
- (ii) promptly furnish MIGA with such accounts and information as MIGA may reasonably request from time to time and permit MIGA's duly authorized representatives to examine and make copies of audits, accounts, books, financial statements and any other material information relating to the Investment Project whenever required or wherever located;
- (iii) submit all material evidence reasonably available to it as MIGA may reasonably request from time to time to evaluate and process a Claim within 30 days of such request;
- (iv) comply with and abide by all laws and regulations of the Host Country in implementing the Investment Project, including environmental laws and regulations and those that protect core labor standards, and comply with its obligations to the Host Country in connection with the Investment Project;
- (v) operate the Investment Project in compliance with the requirements of the Performance Standards and Environmental Guidelines;
- (vi) refrain from, in connection with the Investment Project, engaging in Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Obstructive Practices, or Money Laundering;
- (vii) use all reasonable efforts to preserve and protect the Investment Project;
- (viii) permit MIGA, or any authorized representative of MIGA, to examine the Investment Project;
- (ix) waive no right, claim, cause of action or other remedy or accept any offer of compensation in respect of any Loss;
- (x) at MIGA's reasonable expense, cooperate fully in the administration, preservation and protection of assets acquired by MIGA, and in the prosecution of any rights, claims, causes of action and other interests obtained by MIGA, pursuant to Article 8;
- (xi) allow MIGA to conduct environmental and developmental monitoring of the Investment Project and the Project Enterprise, at MIGA's request; and
- (xii) within 30 days after the third anniversary of the Effective Date, provide MIGA with the Development Effectiveness Indicators set forth in Annex 4B.

No compensation for a Loss shall be payable hereunder in the event that any of the representations in this Section 9.1 proves to be untrue in any material respect.

9.2 At all times during the Guarantee Period and any period thereafter in which the Guarantee Holder has a pending Claim, the Guarantee Holder shall diligently enforce its rights pursuant to the Loan Agreement and consistent with local law to cause the Project Enterprise to perform the obligations listed in subsection 9.1(c). In the event of breach of any of such obligations, the Guarantee Holder shall diligently enforce its remedies against the Project

Enterprise and shall take no steps to prejudice its rights to enforce such remedies without MIGA's prior written consent.

9.3 The Guarantee Holder further covenants that it shall:

- (a) maintain and preserve:
 - (i) audited accounts in accordance with International Financial Reporting Standards; and
 - (ii) any other material information relating to the Guaranteed Loan;
- (b) upon MIGA's reasonable request, promptly furnish MIGA with such accounts and information relating to the Guaranteed Loan, the Sovereign Financial Obligation, and, to the extent in its possession, the Investment Project, and permit MIGA's duly authorized representatives to examine and make copies of audits, accounts, books, financial statements and any other material information in its possession relating to the Guaranteed Loan, the Sovereign Financial Obligation, and, to the extent in its possession, the Investment Project;
- (c) submit all material evidence reasonably available to it as MIGA may reasonably request from time to time to evaluate and process a Claim within 30 days of such request;
- (d) (i) comply with and abide by all laws and regulations of the Host Country in implementing the Guaranteed Loan;
 - (ii) to the extent applicable to the Guarantee Holder in connection with the Investment Project: (x) comply with and abide by all laws and regulations of the Host Country in respect of which it is capable of compliance in connection with the Investment Project, including environmental laws and regulations and those that protect core labor standards, and (y) comply with any of its obligations towards or assurances given to the Host Country in connection with the Investment Project; and
 - (iii) comply with (x) its obligations hereunder in respect of the Performance Standards and Environmental Guidelines; and (y) to the extent the Guarantee Holder controls the Investment Project, the Performance Standards and Environmental Guidelines;
- (e) in connection with the Investment Project, the Guaranteed Loan, and the Sovereign Financial Obligation, refrain from engaging in Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Obstructive Practices, or Money Laundering;
- (f) immediately notify MIGA in writing upon learning of any event or circumstance that could reasonably be expected to cause, or materially increase the likelihood of, a Loss and any defaults (regardless of cause) on a Scheduled Payment, such notification to be provided no later than five (5) days following the date of non-payment of the Sovereign Financial Obligation by the Governing Authority;
- (g) waive no right, claim, cause of action or other remedy or accept any offer of compensation in respect of any Loss;

- (h) at MIGA's reasonable expense, cooperate fully with MIGA in the administration, preservation and protection of assets acquired by MIGA, and in the prosecution of any rights, claims, causes of action and other interests obtained by MIGA, pursuant to Article 8; and
- (i) to the extent within its control, allow MIGA to conduct environmental and developmental monitoring of the Investment Project and the Project Enterprise, at MIGA's request.

9.4 The Guarantee Holder shall, throughout the Guarantee Period, remain eligible to receive coverage from MIGA in accordance with the Convention.

9.5 The Guarantee Holder shall not without the prior written consent of MIGA, which consent shall not be unreasonably withheld:

- (a) assign, transfer, or encumber any rights under the Contract;
- (b) amend, modify, supplement or waive any conditions precedent to disbursement or any material rights or obligations with respect to the Loan Agreement or a Sovereign Financial Obligation, including the amount, time of payment thereof or transfer or assign any rights under the Loan Agreement or the Sovereign Financial Obligation;
- (c) enforce any rights or remedies it may have pursuant to the Loan Agreement or the Sovereign Financial Obligation, including without limitation acceleration of the Guaranteed Loan; or
- (d) take any steps to change or prejudice MIGA's rights to the Loan Agreement or the Sovereign Financial Obligation.

9.6 To the best of its knowledge after due inquiry, the Guarantee Holder is not aware of:

- (a) any Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Obstructive Practices, or Money Laundering engaged in by the Project Enterprise or any of its shareholders in connection with the Investment Project; or
- (b) any non-compliance by the Project Enterprise with Performance Standards and Environmental Guidelines.

9.7 In the event the Guarantee Holder becomes aware that the Project Enterprise or any shareholder thereof has in connection with the Investment Project engaged in Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Obstructive Practices, or Money Laundering, or violated Performance Standards and Environmental Guidelines, the Guarantee Holder shall:

- (a) immediately notify MIGA thereof; and
- (b) diligently enforce its contractual remedies under the Loan Agreement and any related documentation against the Project Enterprise, including if requested by MIGA cancellation of undrawn commitments, acceleration of the Guaranteed Loan and/or enforcement of security.

9.8 In connection with and subsequent to payment of (but not as a condition to payment) compensation by MIGA under this Contract, the Guarantee Holder shall, and shall use all reasonable efforts within its control to cause the Project Enterprise to, when requested by and in consultation with MIGA, take all commercially reasonable measures to:

- (a) pursue available administrative and judicial remedies arising under the Sovereign Financial Obligation or under law, in cooperation with or on behalf of MIGA, against the Governing Authority;
- (b) negotiate in good faith with the Governing Authority, in cooperation with or on behalf of MIGA; and
- (c) pursue other potential sources of recovery for the Loss.

ARTICLE 10. CONDITIONS FOR TERMINATION

10.1 Except as provided for under Sections 10.2, 10.3, 10.4, and 10.5, the Contract shall terminate at 11:59 PM, Washington, DC time, on the last day of the Guarantee Period. The rights and obligations under the Contract shall, however, extend to cover events of Loss commencing before the end of the Guarantee Period, if the Date of Loss occurred during the Guarantee Period, even if a Claim is made after the Guarantee Period. Any Loss occurring after the expiry of the Guarantee Period shall not be covered under the Contract.

Termination by Guarantee Holder

10.2 The Guarantee Holder may terminate the Contract on any anniversary of the Effective Date by submitting to MIGA a Notice of Termination at least 30 days prior to such anniversary of the Effective Date.

Termination by MIGA

10.3 If the Guarantee Holder fails to pay the full amount of the Total Amount Due on the Initial Premium Due Date, MIGA may by notice to the Guarantee Holder terminate the Contract immediately, retroactively to the Effective Date and without any obligation whatsoever, rendering the Contract null and void and, irrespective of whether a Notice of Termination has been delivered, MIGA shall have no liability to pay compensation for any Loss arising during any period between the Effective Date and the Initial Premium Due Date. With respect to each subsequent Contract Period, if the Guarantee Holder fails to pay the full amount of the Total Amount Due (including any Interest thereon) on the applicable Premium Due Date, and such failure continues for a period of 30 days after written notice to the Guarantee Holder of such nonpayment, MIGA may by Notice of Termination terminate the Contract as of 12:01 AM retroactively to the first day of the Contract Period for which the Total Amount Due has not been paid, it being agreed that, irrespective of whether a Notice of Termination has been delivered, MIGA shall have no liability to pay compensation for any Loss arising during any period in which any portion of the Total Amount Due then due and payable was unpaid.

Cessation of Liability

10.4 MIGA's liability under this Contract will cease, and MIGA will have no further obligation hereunder in relation to any outstanding or future Claim and, subject to Section 13.2, will have no ongoing contractual relationship with the Guarantee Holder if:

- (a) (i) any representation or warranty made by the Guarantee Holder in this Contract proves to be untrue in any material respect;
- (ii) the Guarantee Holder intentionally omits information material to the Investment Project, the Guaranteed Loan, or the Sovereign Financial Obligation; or
- (iii) any representation or warranty made or information provided (x) by the Guarantee Holder in the Application for Guarantee or (y) in any other written information provided to MIGA in connection with this Contract (including any information material to the risks covered) proves to be untrue in any material respect,

provided, however, that, in the case of subsection (iii) above, MIGA acknowledges that such representation, warranty or information shall be regarded as having been made or provided to MIGA to the best of the Guarantee Holder's knowledge as to its truth and accuracy after due inquiry.

- (b) the Guarantee Holder violates the confidentiality provisions of Section 13.4;
- (c) the Guarantee Holder is in non-compliance with any other responsibility or obligation specified under the Contract, except:
 - (i) a default for non-payment of any portion of the Total Amount Due under Section 10.3, for which the remedy set forth in Section 10.3 shall apply; and
 - (ii) failure of the Guarantee Holder to enforce compliance with the obligation set forth in Subsection 9.1(c)(xii);
- (d) the Guarantee Holder is in material violation of the laws and regulations of the Host Country as of the Effective Date with respect to the Guaranteed Loan, the Sovereign Financial Obligation, or, to the extent attributable to the Guarantee Holder, the Investment Project, other than laws and regulations that effectively deprive the Guarantee Holder of its rights as a creditor against the Governing Authority;
- (e) the non-compliance by the Guarantee Holder with: (i) its obligations hereunder in respect of the Performance Standards and Environmental Guidelines; and (ii) to the extent the Guarantee Holder controls the Investment Project, the Performance Standards and Environmental Guidelines;
- (f) the Guarantee Holder is engaging in Money Laundering in connection with the Guaranteed Loan or the Investment Project; or
- (g) the Guarantee Holder is engaging in Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices or Obstructive Practices in connection with the Guaranteed Loan or the Investment Project,

provided, however, that MIGA may grant, at its sole discretion, a reasonable period of time to cure the situations listed in Subsections (c) through (g) above. No other remedy shall be available to MIGA for any of the situations listed in this Section 10.4.

Early Termination Fee; Amounts Previously Paid

10.5 If there is any termination of or cessation of liability under the Contract during the first three years of the Guarantee Period, the Guarantee Holder shall pay to MIGA 50 percent of the Total Amount Due and Standby Option Fee, based on the Current Amount of Guarantee and Standby Option Amount, that the Guarantee Holder would otherwise have paid during the remaining Contract Periods falling within the first three years of the Contract, had it not been for such termination or cessation of liability. This payment shall not apply in cases of:

- (a) liquidation, bankruptcy or legal sale of the Project Enterprise;
- (b) prepayment of the Guaranteed Loan (other than in connection with a refinancing by the Guarantee Holder); or
- (c) refinancing of the Guaranteed Loan, or sale or assignment of the Guaranteed Loan to an unrelated third party.

10.6 MIGA shall not be liable to return to the Guarantee Holder any portion of the Total Amount Due previously paid to MIGA if the Guarantee Holder terminates the Contract at any time over the term of the Guarantee Period.

ARTICLE 11. DISPUTE RESOLUTION AND APPLICABLE LAW

11.1 Any dispute between the Guarantee Holder and MIGA arising out of or in connection with the Contract shall be settled by final and binding arbitration in accordance with the Rules of Arbitration.

11.2 The arbitral tribunal constituted under the Rules of Arbitration shall apply the Contract, the Convention and, to the extent that issues in dispute are not covered by the Contract or the Convention, the arbitral tribunal shall apply general principles of law. The seat of arbitration shall be The Hague, Netherlands and the language of the arbitration shall be English.

11.3 The award of the arbitral tribunal shall be final and binding and shall be carried out without delay.

ARTICLE 12. COVERAGE ADJUSTMENTS AND PREMIUM PAYMENTS

12.1 The Current Amount of Guarantee shall be reduced for the remainder of the Guarantee Period by the amount of compensation paid by MIGA pursuant to any Claim.

12.2 Both the Current Amount of Guarantee and the Maximum Aggregate Liability shall be reduced for the remainder of the Guarantee Period by:

- (a) the Percentage of Cover of the amount of each repayment of principal of the Guaranteed Loan specified in Annex 2; and
- (b) the amount of any additional reduction irrevocably elected by the Guarantee Holder by delivery to MIGA not less than 30 days before the first day of any Contract Period of a notice in the form of Annex 5A; *provided, however*, that such election may not reduce the Current Amount of Guarantee to below the Percentage of Cover

of the outstanding principal amount of the Guaranteed Loan on the first day of such Contract Period specified in Annex 2.

12.3 Where the Guaranteed Loan is disbursed over a period of time, so long as no event giving rise to a Loss has occurred, the Guarantee Holder may, by delivery to MIGA not less than 30 days before the first day of any Contract Period of a notice in the form of Annex 5B, irrevocably elect to increase the Current Amount of Guarantee for such Contract Period and each successive Contract Period during the Guarantee Period by transferring amounts from the Standby Option Amount to the Current Amount of Guarantee. At any time after an event giving rise to a Loss has occurred, the Standby Option Amount shall be immediately suspended until reinstated at MIGA's sole discretion.

12.4 The Guarantee Holder shall pay to MIGA:

- (a) the Total Amount Due on each Premium Due Date; and
- (b) with respect to any amount thereof not paid on the Premium Due Date, such amount plus Interest thereon at LIBOR plus 3 percent.

ARTICLE 13. MISCELLANEOUS

Survival

13.1 The rights and obligations contained in Articles 7, 8 and 11, and in Sections 9.2, 9.3, 9.8, 10.1, 10.4, and 13.3 shall survive the termination of this Contract pursuant to Sections 10.2 and Section 10.3.

13.2 The rights and obligations contained in Articles 11 and Section 13.3 shall survive the cessation of MIGA's liability pursuant to Section 10.4.

Notice

13.3 Every notice, request, application, consent, approval, or waiver, including the Notice of Termination, concerning the Contract shall be in writing and shall be made when it is delivered by hand, courier, certified mail, or facsimile when transmission has been completed, to the address for such party specified in Clause 16 of the Special Conditions.

Confidentiality

- 13.4
- (a) The Guarantee Holder shall not, without MIGA's prior written consent, at any time disclose any terms or conditions of the Contract, or any information made available by MIGA to the Guarantee Holder with respect thereto and designated as confidential, to any third party, other than government regulators in the country of the Guarantee Holder and the Guarantee Holder's lawyers, auditors, accountants, financial advisors, syndicate and prospective lenders and rating agencies.
 - (b) Disclosure of the Contract to government regulators of the Host Country, unless required by enforcement of a law or regulation, will require MIGA's prior written consent, such consent not to be unreasonably withheld.
 - (c) MIGA shall take all practicable measures to comply with any reasonable request of the Guarantee Holder to safeguard the confidentiality of all documents, data and

other information received by MIGA and which are identified at the time of receipt as being confidential. Notwithstanding the foregoing, in accordance with the policies specified in the Operational Regulations MIGA may disclose certain information, including: (i) summary information relating to the Investment Project, including name and country of Guarantee Holder, the Host Country, the Guaranteed Loan, the Maximum Aggregate Liability and the risks covered for purposes of MIGA's annual and quarterly reports; and (ii) any environmental impact assessment reports provided to MIGA with respect to the Investment Project.

- (d) Subsection (c) of this Section 13.4 shall not apply as regards:
- (i) information that is or becomes a matter of public knowledge or is obtained by MIGA from any source other than the Guarantee Holder or any of the Guarantee Holder's respective agents or representatives, including employees, attorneys and financial advisors; and
 - (ii) information disclosed to directors, officers, employees, accountants, consultants, and counsel of MIGA, or of other members of the World Bank Group, and reinsurers, insurers under MIGA's Cooperative Underwriting Program and brokers, agents and finders representing MIGA in connection with the Investment Project, who may require such material for the purpose of evaluating the Investment Project.
- (e) In the event that MIGA is requested or required in the context of administrative or judicial proceedings to disclose any confidential information, it is agreed that MIGA will provide the Guarantee Holder with prompt notice of such request(s) so that the Guarantee Holder may seek an appropriate protective order or other appropriate remedy or waive MIGA's compliance with the provisions of this Section 13.4. In the event that such protective order or other remedy is not obtained, MIGA will furnish that portion of the confidential information which, in the opinion of MIGA, it is legally compelled to disclose.

Amendments and Waivers

13.5 No provision of the Contract may be amended, modified, supplemented, or waived except in a written agreement executed by authorized representatives of the Guarantee Holder and MIGA.

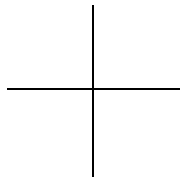
13.6 Without prejudice to Article 34 of the Arbitration Rules, neither MIGA nor the Guarantee Holder shall be deemed to have waived any of its rights under the Contract unless expressly so stated in a notice by the party waiving such right to the other party.

Part III – Amendments

[NOT APPLICABLE TO THIS CONTRACT.]

[The following additional provisions and amendments to the General Conditions of Guarantee for Non-Shareholder Loans, Non-Honoring of a Sovereign Financial Obligation (Part II of the Contract) are hereby incorporated as Part III of the Contract:]

SAMPLE



Part IV – Standby Option (Commitment for Additional Coverage)

[NOT APPLICABLE TO THIS CONTRACT.]

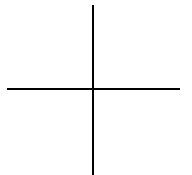
ARTICLE 1.

1.1 This Standby Option (Commitment for Additional Coverage) to commit coverage for future disbursements of the Guaranteed Loan (“Standby Option”) is incorporated into the Contract as Part IV.

1.2 In accordance with Section 12.3 of the General Conditions, upon a written request by the Guarantee Holder and in accordance with the conditions hereinafter specified, MIGA hereby agrees that the Guarantee Holder may increase the Current Amount of Guarantee under the Contract, using the Standby Option Amount elected by the Guarantee Holder hereunder.

ARTICLE 2.

2.1 In accordance with Section 12.3 of the General Conditions, the Current Amount of Guarantee under the Contract may be increased during the Guarantee Period by a maximum amount of [Amount in Guarantee Currency].



Annex 1 – MIGA’s Anti-Corruption Guidelines

(as in effect on October 15, 2006)

The purpose of these Guidelines is to clarify the meaning of the terms “Corrupt Practices”, “Fraudulent Practices”, “Coercive Practices”, “Collusive Practices” and “Obstructive Practices” in the context of MIGA operations.

CORRUPT PRACTICES

A “Corrupt Practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another person.

Interpretation

1. Corrupt Practices are understood as kickbacks and bribery. The conduct in question must involve the use of improper means (such as bribery) to violate or derogate a duty owed by the recipient in order for the payor to obtain an undue advantage or to avoid an obligation. Antitrust, securities and other violations of law that are not of this nature are excluded from the definition of Corrupt Practices.
2. It is acknowledged that foreign investment agreements, concessions and other types of contracts commonly require investors to make contributions for bona fide social development purposes or to provide funding for infrastructure unrelated to the project. Similarly, investors are often required or expected to make contributions to bona fide local charities. These practices are not viewed as Corrupt Practices for purposes of these definitions, so long as they are permitted under local law and fully disclosed in the payor’s books and records. Similarly, an investor will not be held liable for Corrupt or Fraudulent Practices committed by entities that administer bona fide social development funds or charitable contributions.
3. In the context of conduct between private parties, the offering, giving, receiving or soliciting of corporate hospitality and gifts that are customary by internationally-accepted industry standards shall not constitute Corrupt Practices unless the action violates applicable law.
4. Payment by private sector persons of the reasonable travel and entertainment expenses of public officials that are consistent with existing practice under relevant law and international conventions will not be viewed as Corrupt Practices.
5. The World Bank Group does not condone facilitation payments. For the purposes of implementation, the interpretation of “Corrupt Practices” relating to facilitation payments will take into account relevant law and international conventions pertaining to corruption.

FRAUDULENT PRACTICES

A “Fraudulent Practice” is any action or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial benefit or to avoid an obligation.

Interpretation

1. An action, omission, or misrepresentation will be regarded as made recklessly if it is made with reckless indifference as to whether it is true or false. Mere inaccuracy in such information, committed through simple negligence, is not enough to constitute a “Fraudulent Practice” for purposes of World Bank Group sanctions.

2. Fraudulent Practices are intended to cover actions or omissions that are directed to or against a World Bank Group entity. It also covers Fraudulent Practices directed to or against a World Bank Group member country in connection with the award or implementation of a government contract or concession in a project financed by the World Bank Group. Frauds on other third parties are not condoned but are not specifically sanctioned in IFC², MIGA, or PRG³ operations. Similarly, other illegal behavior is not condoned but will not be sanctioned as a Fraudulent Practice under the World Bank sanctions program as applicable to IFC, MIGA and PRG operations.

COERCIVE PRACTICES

A “Coercive Practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of a person to influence improperly the actions of a person.

Interpretation

1. Coercive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

2. Coercive Practices are threatened or actual illegal actions such as personal injury or abduction, damage to property, or injury to legally recognizable interests, in order to obtain an undue advantage or to avoid an obligation. It is not intended to cover hard bargaining, the exercise of legal or contractual remedies or litigation.

COLLUSIVE PRACTICES

A “Collusive Practice” is an arrangement between two or more persons designed to achieve an improper purpose, including to influence improperly the actions of another person.

² “IFC” means the International Finance Corporation, a member of the World Bank Group.

³ “PRG” means the Partial Risk Guarantee operations conducted by the Project Finance Group of the International Bank for Reconstruction and Development.

Interpretation

Collusive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

OBSTRUCTIVE PRACTICES

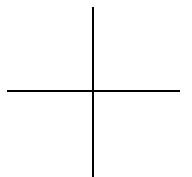
An “Obstructive Practice” is: (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any person to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (b) acts intended to materially impede MIGA’s access to contractually required information in connection with a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice.

Interpretation

Any action legally or otherwise properly taken by a person to maintain or preserve its regulatory, legal or constitutional rights such as the attorney-client privilege, regardless of whether such action had the effect of impeding an investigation, does not constitute an Obstructive Practice.

General Interpretation

A person should not be liable for actions taken by unrelated third parties unless the first person participated in the prohibited act in question.



Annex 2 – Payment Schedule

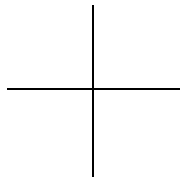
All capitalized terms used in this Annex 2 and not otherwise defined shall have their respective meanings specified in the Loan Agreement.

Specified below under the columns headed “Principal Payment” and “Interest Payment” are the Scheduled Payments with respect to the Guaranteed Loan in the amounts (or, with respect to variable rate interest, based on the rates) due on each Scheduled Payment Due Date, in Guarantee Currency:

Scheduled Payment Due Date	Principal Payment	Principal Balance	Interest Payment	
, 20__	[]	[]	[]	[Variable]
, 20__	[]	[]	[]	[Variable]
, 20__	[]	[]	[]	[Variable]
, 20__	[]	[]	[]	[Variable]

[Add for variable interest rate loans:]

(Note: Interest amounts are to be determined for each Contract Period in accordance with the Loan Agreement).

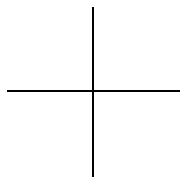


Annex 3 – Sovereign Financial Obligations

[Document evidencing Sovereign Financial Obligation:]

[Underlying obligation and obligor, if applicable:]

SAMPLE



Annex 4A – Performance Standards and Environmental Guidelines

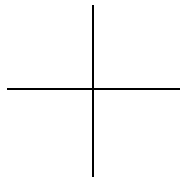
- Performance Standard 1: Social and Environmental Assessment and Management System
- Performance Standard 2: Labor and Working Conditions
- Performance Standard 3: Pollution Prevention and Abatement
- Performance Standard 4: Community Health, Safety and Security
- Performance Standard 5: Land Acquisition and Involuntary Resettlement
- Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management
- Performance Standard 7: Indigenous Peoples
- Performance Standard 8: Cultural Heritage

Please select one of the following:

For Banking Contracts:
The General Environmental, Health and Safety Guidelines and Industry Sector Guidelines may apply.

For All Other Contracts:
The General Environmental, Health and Safety Guidelines and Industry Sector Guidelines for [insert applicable industry], but also including any other sector guideline that may apply.

MIGA’s Performance Standards on Social and Environmental Sustainability and Environmental Guidelines may be found at:
http://www.miga.org/documents/performance_standards_social_and_env_sustainability.pdf



Annex 4B – Development Effectiveness Indicators

This Annex serves as a means for updating data estimates that were previously provided by the Guarantee Holder to MIGA during the underwriting process. MIGA requires that the development effectiveness indicators listed below be submitted on the third anniversary of the Effective Date in order to monitor and track the Project Enterprise’s development outcomes in the years following the implementation of the Investment Project.

The Guarantee Holder or Project Enterprise is to complete Section One and Section Two below. Indicator definitions are included for reference purposes. All financial values should be denominated in Guarantee Currency.

Where the requested information depends on annual reports, the Project Enterprise may use data obtained during its fiscal year (rather than the anniversary of the Effective Date), providing partial data for Year 1 and full data for Years 2 and 3.

Section One: General Indicators

Indicator	Unit	Total
Investment Mobilized	Guarantee Currency	

Indicator	Unit	Year 1	Year 2	Year 3	Total
Taxes and Fees	Guarantee Currency				
Locally Procured Goods	Guarantee Currency				
Training Outlays	Guarantee Currency				
Direct Employment (#)	number				
Permanent	number				
Temporary	number				
Community Development Outlays	Guarantee Currency				

Definitions

Investment Mobilized

The planned amount of equity and debt financing (both foreign and local) invested in the Project Enterprise.

For greenfield investments, Investment Mobilized is represented by the total amount of equity and debt (with a maturity exceeding one year) contributed to the Project Enterprise in each year.

For expansion projects, Investment Mobilized refers to the incremental amount of equity and debt (with a maturity exceeding one year) contributed to the Project Enterprise in each year.

For financial sector projects, Investment Mobilized refers to the amount of equity and debt (with a maturity exceeding one year), contributed to the Project Enterprise in each year, including but not limited to equity investments, time deposits, bonds, commercial borrowing, and shareholder loans.

Taxes and Fees

All transfers to all levels of the Host Government made by the Project Enterprise, its parent company, or its operating subsidiary on behalf the Project Enterprise, including: income or profit taxes, sales, and excise taxes, and VAT receipts. Other payments collected by the Host Government include royalties, bonuses, dividends, management/concession fees, value of profit oil and product-sharing, construction activities, licensing, permitting, etc. Amounts should be reported on an annual basis.

Locally Procured Goods and Services

The Project Enterprise’s annual purchase of goods and services from local suppliers (including raw materials, civil works, engineering and installation, security, gardening and marketing and research from local companies), but excluding utility bills and government-provided services.

Training Outlays

The Project Enterprise’s yearly expenditures on training activities carried out for the Project Enterprise that directly benefits its employees. This may include funding from the Project Enterprise directly, its parent company, or a third party.

Direct Employment (#)

Total number of employees working directly for the Project Enterprise. Subcontractor employment should not be reported.

Permanent Employment

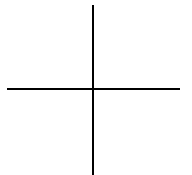
Total number of direct employees of the Project Enterprise who have contracts exceeding one year in length.

Temporary Employment

Total number of direct employees of the Project Enterprise who have contracts equal to or less than one year in length.

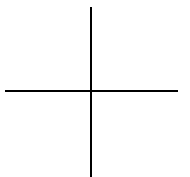
Community Development Outlays

Expenditures made by the Project Enterprise, its parent company, or its operating subsidiaries either in whole or in part to help local communities.



Section Two: Sector-Specific Indicators
[To be provided for each Investment Project]

SAMPLE



Annex 5A – Form of Notice of Reduction in Amount of Guarantee

*Must be dated and received by MIGA not less than 30 days
before the first day of applicable Contract Period.*

[Date]

By Facsimile: +1 202-522-2630

Multilateral Investment Guarantee Agency
1818 H Street, NW
Washington, DC 20433
United States of America

Attn: Contract Management & Portfolio Services
MIGA Operations

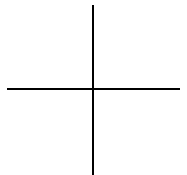
Ladies and Gentlemen:

*Re: Contract of Guarantee No. [_____] dated [_____] 20[___], (the “Contract of
Guarantee”) between the Multilateral Investment Guarantee Agency (“MIGA”)
and [_____] (the “Guarantee Holder”).*

All capitalized terms used herein and not otherwise defined shall have their respective meanings specified in the Contract of Guarantee.

The Guarantee Holder hereby certifies as follows:

1. The Maximum Aggregate Liability as of the date hereof is [Amount in Guarantee Currency]. The Current Amount of Guarantee as of the date hereof is [Amount in Guarantee Currency].
2. The next Scheduled Payment of principal of the Guaranteed Loan is due on [_____] 20[___], in the principal amount of [Amount in Guarantee Currency].
3. The first day of the upcoming Contract Period is [_____] 20[___], on which date the outstanding principal amount of the Guaranteed Loan (assuming that the principal payment specified above is made) will be [Amount in Guarantee Currency]. **[Must be consistent with principal balance shown in Payment Schedule.]**



4. In accordance with Section 12.2 of the General Conditions, the Guarantee Holder irrevocably elects to reduce the Current Amount of Guarantee and the Maximum Aggregate Liability as of the first day of the upcoming Contract Period, for such Contract Period and the remainder of the Guarantee Period, so that as of such first day of the upcoming Contract Period: (a) the Current Amount of Guarantee shall be [Amount in Guarantee Currency]; (b) the remaining Standby Option Amount shall be [Amount in Guarantee Currency]; and (c) the Maximum Aggregate Liability shall be [Amount in Guarantee Currency] [sum of (a) and (b)]. ***[Must be not less than principal amount shown in Section 3 above.]***

Sincerely,

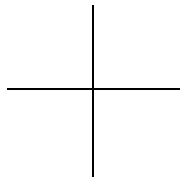
[GUARANTEE HOLDER]

By:

(signature)

Authorized Representative
(name and title)

(place and date)



Annex 5B – Form of Notice of Increase in Current Amount of Guarantee

[NOT APPLICABLE TO THIS CONTRACT.]

*Must be dated and received by MIGA not less than 30 days
before the first day of applicable Contract Period.*

[Date]

By Facsimile: +1 202-522-2630

Multilateral Investment Guarantee Agency
1818 H Street, NW
Washington, DC 20433
United States of America

Attn: Contract Management & Portfolio Services
MIGA Operations

Ladies and Gentlemen:

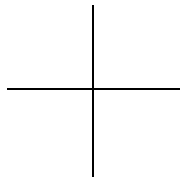
*Re: Contract of Guarantee No. [_____] dated [_____] 20[___], (the “**Contract of Guarantee**”) between the Multilateral Investment Guarantee Agency (“**MIGA**”) and [_____] (the “**Guarantee Holder**”).*

All capitalized terms used herein and not otherwise defined shall have their respective meanings specified in the Contract of Guarantee.

The Guarantee Holder hereby certifies as follows:

1. The Current Amount of Guarantee as of the date hereof is [Amount in Guarantee Currency]. The outstanding principal amount of the Guaranteed Loan as of the date hereof is [Amount in Guarantee Currency].

2. The first day of the upcoming Contract Period is [_____] 20[___]. Additional disbursements of the Guaranteed Loan have been made or will be made such that the outstanding principal amount of the Guaranteed Loan as of such first day of such upcoming Contract Period will be [Amount in Guarantee Currency]. Attached hereto is a revised Annex 2 itemizing with respect to the Guaranteed Loan the Scheduled Payment Due Dates and amounts of each Scheduled Payment, reflecting such additional disbursements.



3. No event giving rise to a Loss has occurred as of the date hereof, and in accordance with Subsection 9.3(g) of the General Conditions the Guarantee Holder has notified MIGA in writing upon learning of any event or circumstance prior to the date hereof that could cause, or materially increase, the likelihood of a Loss, and any defaults (regardless of cause) on a Scheduled Payment.

4. In accordance with Section 12.3 of the General Conditions, the Guarantee Holder irrevocably elects to increase the Current Amount of Guarantee as of the first day of the upcoming Contract Period, for such Contract Period and each successive Contract Period during the Guarantee Period, by transferring [Amount in Guarantee Currency] from the Standby Option Amount to the Current Amount of Guarantee, so that as of such first day of the upcoming Contract Period: (a) the Current Amount of Guarantee shall be [Amount in Guarantee Currency]; and (b) the remaining Standby Option Amount shall be [Amount in Guarantee Currency].

Sincerely,

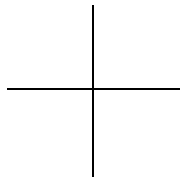
[GUARANTEE HOLDER]

By:

(signature)

Authorized Representative
(name and title)

(place and date)



Annex 6 – Form of Affidavit for Non-Honoring of a Sovereign Financial Obligation

[LETTERHEAD OF GUARANTEE HOLDER]

[Date]

By Facsimile: +1 202-522-2630

Multilateral Investment Guarantee Agency
1818 H Street, NW
Washington, DC 20433
United States of America

Attn: Contract Management & Portfolio Services
MIGA Operations

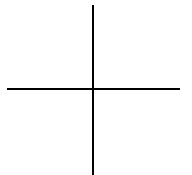
Ladies and Gentlemen:

*Re: Contract of Guarantee No. [_____] dated [_____] 20[___], (the “Contract of
Guarantee”) between the Multilateral Investment Guarantee Agency (“MIGA”) and [_____] (the “Guarantee Holder”).*

All capitalized terms used herein and not otherwise defined shall have their respective meanings specified in the Contract of Guarantee.

The Guarantee Holder hereby certifies, represents, and warrants to MIGA that the following events occurred:

1. On [date], the Governing Authority failed to pay the Guarantee Holder in accordance with the terms of the Sovereign Financial Obligation. [If the Sovereign Financial Obligation is on demand, a copy of the demand is attached.]
2. The Guarantee Holder immediately notified MIGA of such event pursuant to Section 9.3(g).
3. [On [date], the Guarantee Holder failed to receive the full amount of the Scheduled Payment due on the Scheduled Payment Due Date: [Amount in Guarantee Currency], of which the Guarantee Holder received [Amount in Guarantee Currency] and of which [Amount in Guarantee Currency] is still outstanding.]



The Guarantee Holder hereby requests that MIGA pay to the Guarantee Holder the Scheduled Payment or unpaid portion thereof on the last day of the Waiting Period the amount of [Amount in Guarantee Currency] in accordance with the terms of the Contract of Guarantee.

Sincerely,

[GUARANTEE HOLDER]

By:

(signature)

Authorized Representative
(name and title)

(place and date)

SAMPLE

