Development Credit Agreement

(Secondary Towns Project)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 22, 1983
DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 22, 1983, between REPUBLIC OF KENYA (hereinafter called the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association).

WHEREAS (A) the Borrower has requested the Association to assist in the financing of the Project described in Schedule 2 to this Agreement by extending the Credit as hereinafter provided;

(B) the Borrower has also requested the International Bank for Reconstruction and Development (the Bank) to provide additional assistance towards the financing of the Project and by an agreement of even date herewith between the Borrower and the Bank (hereinafter called the Loan Agreement) the Bank is agreeing to provide such assistance in an aggregate principal amount equivalent to seven million dollars ($7,000,000) (hereinafter called the Loan);

(C) the Borrower and the Association intend, to the extent practicable, that the proceeds of the Credit provided for in this Agreement be disbursed on account of expenditures on the Project before disbursements of the proceeds of the Loan provided for in the Loan Agreement are made; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Development Credit Agreements of the Association, dated June 30, 1980, with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Development Credit Agreements of the Association being hereinafter called the General Conditions).
Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Loan Agreement" means the agreement of even date herewith between the Borrower and the Bank for the purpose of the Project, as such agreement may be amended from time to time; and such term includes the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated October 27, 1980, as made applicable to such agreement, all agreements supplemental to the Loan Agreement and all schedules to the Loan Agreement;

(b) "Project Preparation Advance" means the project preparation advance granted by the Association to the Borrower pursuant to an exchange of letters dated August 12, 1982, and September 24, 1982, between the Borrower and the Association;

(c) "Construction Loan" means a loan from a Municipality to a tenant who has been allocated a Plot in a Project Area for the purpose of financing materials and services for constructing or improving (i) a dwelling on such Plot or (ii) a building on such Plot for a workshop or small scale industry;

(d) "Eldoret Joint Venture Agreement" means the agreement to be entered into between the Municipal Council of Eldoret and Rural Housing Estates Ltd;

(e) "KSh" means shillings in the currency of the Borrower;

(f) "Local Government Act" means the Borrower's Local Government Act (Cap. 265) of 1963, as may be amended from time to time;

(g) "LGLA" means the Local Government Loans Authority, a body established under the Borrower's Local Government Loans Act (Cap. 270) of 1953, as may be amended from time to time;

(h) "MLG" means the Borrower's Ministry of Local Government;

(i) "MWH" means the Borrower's Ministry of Works and Housing;

(j) "Municipalities" means any or all the Municipal Councils of Nakuru, Eldoret, Thika, Kitale and Nyeri as the context requires;
(k) "NHC" means the National Housing Corporation, a body established under the Borrower's Housing Act (Cap. 117) of 1953, as may be amended from time to time;

(l) "Onlending Agreements" means the agreements to be entered into between the Borrower and NHC and LGLA, respectively, pursuant to Section 3.02 of this Agreement;

(m) "Plot" means a defined area within a Project Area which has been set aside by the subdivision of a Project Area in accordance with applicable law and which is capable of being, or has been, allocated to, or acquired by, a tenant;

(n) "PMU" means the Program Management Unit established in the Borrower's Ministry for the time being responsible for housing, to provide project management support, in accordance with Section 3.06 of this Agreement;

(o) "Project Areas" means the areas, included in the Project, as shown on the Bank's maps numbered IBRD 16821 through 16825 where the development of Plots and commercial facilities and provision of infrastructure and community facilities under the Project is to take place;

(p) "Special Account" means an account to be opened and thereafter maintained pursuant to Section 2.02 (c) of this Agreement;

(q) "Services" means the provision to a Plot of water, sewerage connection, drainage of surface water, access to roads and refuse collection facilities; and "Partial Services" means one or more of these components; and surveying and demarcation;

(r) "Subsidiary Loan Agreements" means the agreements to be entered into between NHC and LGLA pursuant to Section 3.02 to this Agreement; and

(s) "TMCECS Agreement" means the agreement to be entered into between Municipal Council of Thika and the Thika Municipal Council Employees Cooperative Society.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions in the Development Credit
Agreement set forth or referred to, an amount in various currencies equivalent to twenty million four hundred thousand Special Drawing Rights (SDR 20,400,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and the Association, for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be cancelled.

(c) The Borrower shall, for the purposes of making disbursements from Categories (1) (a), (1) (c), (2) and Categories (1) (b), (3) (a), and 4 (a), respectively, of paragraph 1 of Schedule 1 to this Agreement, open and thereafter maintain two Special Accounts in the Central Bank of Kenya, in the currency of the Borrower, on terms and conditions satisfactory to the Association. Deposits into, and payments out of said Special Accounts shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. Except as the Association shall otherwise agree, procurement of the goods and civil works required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 2.04. The Closing Date shall be December 31, 1990 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.05. (a) The Borrower shall pay to the Association a commitment charge at the rate of one-half of one per cent (1/2 of 1%) per annum on the principal amount of the Credit not withdrawn from time to time. The commitment charge shall accrue from
a date sixty days after the date of the Development Credit Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or shall be cancelled.

(b) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.06. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.07. Commitment charges and service charges shall be payable semiannually on March 15 and September 15 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Credit in semiannual installments payable on each March 15 and September 15, commencing September 15, 1993, and ending March 15, 2033, each installment to and including the installment payable on March 15, 2003, to be one-half of one per cent (1/2 of 1%) of such principal amount, and each installment thereafter to be one and one-half per cent (1-1/2%) of such principal amount.

Section 2.09. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower shall carry out Part D.2 of the Project and cause the Municipalities to carry out the rest of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.
(b) Without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, the Borrower shall cause each of the Municipalities, NHC and LGLA to perform in accordance with the provisions of its respective Subsidiary Loan Agreement and Onlending Agreement, as the case may be, which are applicable to it; shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable the Municipalities, NHC and LGLA to perform such obligations; and shall not take or permit to be taken any action which would prevent or interfere with such performance.

Section 3.02. (a) The Borrower shall onlend the proceeds of the Credit withdrawn under Categories (1) (a) and (2) and under Categories (1) (b), (3) (a), and (4) (a), respectively, of paragraph 1 of Schedule 1 to this Agreement, to NHC and LGLA, respectively, under Onlending Agreements to be entered into between the Borrower and NHC and LGLA, as the case may be, under terms and conditions acceptable to the Association, including, inter alia: (i) an amortization period of 27 years including four years' grace; (ii) interest at the rate of 11% per annum, which shall be capitalized into the loan amount during the four years' grace; and (iii) assumption by the Borrower of the risk of fluctuation in the values of various currencies.

(b) The Borrower shall exercise its rights under the Onlending Agreements to cause NHC and LGLA to onlend the proceeds of the Credit withdrawn under the Categories referred to in paragraph (a) above to the Municipalities under Subsidiary Loan Agreements to be entered into by NHC or LGLA, as the case may be, and the Municipalities, under terms and conditions acceptable to the Association, including, inter alia, (i) an amortization period of 27 years including four years' grace; (ii) interest at the rate of 11.25% per annum, which shall be capitalized into the loan amount during the four years' grace; and (iii) assumption by the Borrower of the risk of fluctuation in the values of various currencies.

(c) The Borrower shall onlend the proceeds of the Credit withdrawn under Category (1) (c) of paragraph 1 of Schedule 1 to this Agreement to NHC under the Onlending Agreement to be entered into between the Borrower and NHC, under terms and conditions acceptable to the Association, including, inter alia: (i) an amortization period of seven years including two years' grace; (ii) interest at the rate of 11% per annum, which shall be
capitalized into the loan amount during the two years' grace; and (iii) assumption by the Borrower of the risk of fluctuation in the values of various currencies.

(d) The Borrower shall exercise its rights under the Onlending Agreement referred to in (c) above to cause NHC to onlend the proceeds of the Credit withdrawn under Category (1) (c) to the Municipal Council of Eldoret under a Subsidiary Loan Agreement to be entered into by NHC and the Municipal Council of Eldoret, under terms and conditions acceptable to the Association, including, inter alia: (i) an amortization period of seven years including two years' grace; (ii) interest at the rate of 11.25% per annum, which shall be capitalized into the loan amount during the two years' grace; and (iii) assumption by the Borrower of the risk of fluctuation in the values of various currencies.

(e) The Borrower shall, or cause NHC, LGLA and the Municipalities to review from time to time the interest rates referred to in parts (a) through (d) above and introduce such modifications, acceptable to the Borrower and the Association, as shall be deemed necessary.

Section 3.03. In order to protect the interest of the Borrower and the Association and accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive any of the Onlending Agreements or any provision thereof.

Section. 3.04. Without limitation to its obligations under Section 3.01 (b), the Borrower shall, in case any of the Municipalities does not have adequate funds from local resources at their disposal to carry out the Project in a timely fashion, lend to such Municipality through NHC or LGLA, respectively, additional amounts equal to the expenditures of that Municipality for its part of the Project net of receipts arising out of the Project.

Section 3.05. (a) In order to assist in carrying out the Project, the Borrower shall employ and shall cause NHC, LGLA and the Municipalities to employ financial, accounting, engineering and urban planning consultants and experts whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association, such consultants and experts to be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines

(b) As part of its obligations under paragraph (a) above, the Borrower shall: (i) not later than December 31, 1983, cause MWH to employ consultants to design a project monitoring system and thereafter to train local authority staff in the use of that system; and (ii) not later than June 30, 1984, cause MLG to employ consultants to undertake selection of electronic data processing equipment, development of software and training in its use for local authority staff of the Municipal Councils of Nakuru, Eldoret, Thika and Kisumu.

Section 3.06. The Borrower shall establish, and thereafter maintain during the execution of the Project, the following entities, with such composition, staffing, timetables for recruitment, functions and responsibilities as shall be acceptable to the Association:

(a) PMU, to be headed by a Program Coordinator;

(b) a Technical Steering Committee; and

(c) an Interministerial Review Committee.

Section 3.07. (a) The Borrower undertakes to insure, or to cause the appropriate Municipalities to insure, or make adequate provision for the insurance of, the imported goods to be financed out of the proceeds of the Credit against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower or the Municipalities, as the case may be, to replace or repair such goods.

(b) Except as the Association shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Credit to be used exclusively for the purposes of the Project.
Section 3.08. (a) The Borrower shall furnish and cause the Municipalities, NHC and LGLA to furnish to the Association, promptly upon their preparation, the plans, specifications, reports, contract documents and construction and procurement schedules for the Project, and any material modifications thereof or additions thereto, in such detail as the Association shall reasonably request.

(b) The Borrower shall itself, and shall cause the Municipalities, NHC and LGLA, in respect of the parts of the Project to be carried out by each of them, to: (i) maintain records and procedures adequate to record and monitor the progress of the Project (including its cost and the benefits to be derived from it), to identify the goods and services financed out of the proceeds of the Credit, and to disclose their use in the Project; (ii) enable the Association's representatives to visit the facilities and construction sites included in the Project and to examine the goods financed out of the proceeds of the Credit and any relevant records and documents; and (iii) send to PMU, not later than three weeks after the end of each calendar quarter, such information as the Association may reasonably request concerning the Project, its cost and, where appropriate, the benefits to be derived from it, the expenditure of the proceeds of the Credit and the goods and services financed out of such proceeds.

(c) The Borrower shall cause PMU to prepare, on the basis of the records sent to PMU pursuant to paragraph (b) (iii) above, quarterly status reports of such scope and in such detail as the Association shall reasonably request. Such quarterly status reports shall be furnished to the Association, not later than six weeks after the calendar quarter to which such reports relate.

(d) Upon the award of any contract for goods, works or services to be financed out of the proceeds of the Credit, the Association may publish a description thereof, the name and nationality of the party to whom the contract was awarded and the contract price.

(e) Promptly after completion of the Project, but in any event not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Borrower
and the Association, the Borrower shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution and initial operation of the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and the Association of their respective obligations under the Development Credit Agreement and the accomplishment of the purposes of the Credit.

Section 3.09. The Borrower shall take or cause the Municipalities to take all such action as shall be necessary to acquire as and when needed all such land and rights in respect of land and to subdivide the Project Areas as required for the construction and operation of the facilities included in the Project, and shall furnish to the Association, promptly after such acquisition or subdivision, evidence satisfactory to the Association that such land and rights in respect of land are available for purposes related to the Project.

Section 3.10. The Borrower shall cause MWH: (a) not later than December 31, 1983, to prepare in cooperation with NHC and furnish to the Association for its review and approval, terms of reference for a training program in community development methods for local authority staff who will be engaged in these activities in the framework of the Project; and (b) promptly thereafter carry out such training program, as approved by the Association.

Section 3.11. (a) The Borrower shall approve the annual budget of a Municipality only if it provides for a surplus in the General Rate Fund, as defined in Section 216 of the Local Government Act, for the fiscal years beginning January 1, 1985, in the case of the Municipal Councils of Nakuru, Eldoret and Thika, and January 1, 1987, in the case of the Municipal Councils of Nyeri and Kitale.

(b) For the purposes of this Section, a surplus in such a Fund means, for any particular year and taken by itself, an excess of revenues from taxes, fees and charges over all expenditures normally chargeable to the General Rate Fund for the recurrent operations of the Municipality. Such revenues shall exclude (i) loans and other receipts intended for capital expenditures, and (ii) transfers into the General Rate Fund of surpluses
arising from activities of the Municipality, the funds for which do not form part of the General Rate Fund.

ARTICLE IV

Other Covenants

Section 4.01. (a) The Borrower shall maintain, or cause to be maintained, separate accounts adequate to reflect in accordance with consistently maintained appropriate accounting practices the operations, resources and expenditures, in respect of the Project, of the departments or agencies of the Borrower.

(b) Without limitation to the foregoing, the Borrower shall cause NHC, LGLA, PMU and the Municipalities to: (i) maintain or cause to be maintained separate accounts reflecting all expenditures on account of which withdrawals are requested from the Credit Account on the basis of statements of expenditure; (ii) retain, until one year after the Closing Date, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing the expenditures on account of which withdrawals are requested from the Credit Account on the basis of statements of expenditure; and (iii) enable the Association's representatives to examine such records.

(c) The Borrower shall: (i) have the accounts of NHC, LGLA, PMU and the Municipalities for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association; (ii) furnish to the Association, as soon as available, but in any case not later than eight months after the end of each such year, a certified copy of the report of such audit by such auditors, of such scope and in such detail as the Association shall have reasonably requested including, without limitation to the foregoing, a separate opinion by said auditors in respect of the expenditures and records referred to in paragraph (b) of this Section as to whether the proceeds of the Credit withdrawn from the Credit Account on the basis of statements of expenditure have been used for the purpose for which they were provided; and (iii) furnish to the Association such other information concerning said accounts, records and expenditures and the audit thereof as the Association shall from time to time reasonably request.

(d) The Borrower shall cause NHC and LGLA each to have its accounts and financial statements (balance sheets, statements of
income and expenses and related statements) for each fiscal year audited in accordance with appropriate auditing principles consistently applied by independent auditors acceptable to the Association and shall submit such accounts to the Association not later than eight months after the end of each such year.

(e) The Borrower shall cause the Municipalities each to furnish to the Association, not later than nine months after the end of each fiscal year, certified copies of their unaudited abstracts of accounts for each such fiscal year.

Section 4.02. The Borrower shall, for the purposes of the Project, cause NHC and the Municipalities each:

(a) to take out and maintain with responsible insurers, or to make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice;

(b) to carry on its operations and conduct its affairs in accordance with sound administrative, financial and engineering practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers; and

(c) at all times to operate and to maintain its plants, machinery, equipment and other property, and from time to time, promptly as needed, to make all necessary repairs and renewals thereof, all in accordance with sound engineering and financial practices.

Section 4.03. The Borrower shall cause LGLA to furnish to the Association, not later than December 31, 1983, a complete audit of LGLA's loan accounts as of June 30, 1982 carried out by independent auditors acceptable to the Association.

Section 4.04. The Borrower shall, not later than June 30, 1984, cause NHC, LGLA, and the Municipal Council of Kitale to enter into agreements, acceptable to the Association, for the reduction and eventual elimination of overdue repayments on outstanding loans made to said Municipality by NHC and LGLA, respectively.
ARTICLE V

Remedies of the Association

Section 5.01. For the purposes of Section 6.02 of the General Conditions, the following additional events are specified pursuant to paragraph (h) thereof:

(a) any Municipality, NHC or LGLA shall have failed to perform any of its obligations under an Onlending Agreement or Subsidiary Loan Agreement to which it is a party;

(b) an extraordinary situation shall have arisen which shall make it improbable that a Municipality, NHC or LGLA will be able to perform any of its obligations under an Onlending Agreement or Subsidiary Loan Agreement to which it is a party; and

(c) the Borrower or any other authority having jurisdiction shall have taken any action without the consent of the Association for the dissolution or disestablishment of any Municipality, NHC or LGLA or for the suspension of their respective operations.

Section 5.02. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified pursuant to paragraph (d) thereof, namely that the events specified in paragraphs (a) or (c) of Section 5.01 of this Agreement shall have occurred and continued for a period of 90 days after notice thereof shall have been given by the Association.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Special Accounts referred to in Section 2.02 (c) of this Agreement shall have been opened;

(b) PMU has been duly established and the Program Coordinator has been appointed, as provided in Section 3.06 (a) of this Agreement; and
(c) the Onlending Agreements referred to in Section 3.02 (a) of this Agreement have been executed on behalf of the Borrower, NHC and LGLA, respectively.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association, namely, that each of the Onlending Agreements referred to in Section 6.01 (c) above has been duly executed and authorized or ratified by the Borrower and by NHC and LGLA, respectively, and is legally binding upon the Borrower, NHC and LGLA, respectively, in accordance with its terms.

Section 6.03. The date December 22, 1983, is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.04. The obligations of the Borrower under Articles III and IV of this Agreement and the provisions of Section 5.02 of this Agreement shall cease and determine on the date on which the Development Credit Agreement shall terminate or on a date 25 years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Minister for the time being responsible for Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance
P.O. Box 30007
Nairobi, Kenya

Cable address: FINANCE

Telex: 96322003

Nairobi FOREIGN NAIROBI
For the Association:

International Development Association  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address: INDEVAS  
Telex: 440098 (ITT)  
Washington, D.C.  
248423 (RCA) or  
64145 (WUI)

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF KENYA

By  
Gideon W. Uku  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By  
Willi Wagenhans  
Regional Vice President  
Eastern Africa
SCHEDULE 1
Withdrawal of the Proceeds of the Credit and the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit and of the Loan, the allocation of the amounts of the Credit and of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (Expressed in SDR Equivalent)</th>
<th>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</th>
<th>% of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Civil works for:</td>
<td></td>
<td></td>
<td>95%</td>
</tr>
<tr>
<td>(a) On-site infrastructure</td>
<td>5,940,000</td>
<td>2,000,000</td>
<td></td>
</tr>
<tr>
<td>(b) Off-site infrastructure and community facilities</td>
<td>2,240,000</td>
<td>800,000</td>
<td></td>
</tr>
<tr>
<td>(c) Eldoret joint venture</td>
<td>1,930,000</td>
<td>650,000</td>
<td></td>
</tr>
<tr>
<td>(2) Construction Loans</td>
<td>1,740,000</td>
<td>1,600,000</td>
<td>95%</td>
</tr>
<tr>
<td>Category</td>
<td>Amount of the Loan Allocated (Expressed in SDR Equivalent)</td>
<td>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</td>
<td>% of Expenditures to be Financed</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>------------------------------------------------------------</td>
<td>----------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>(3) Equipment and vehicles for:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Municipalities</td>
<td>720,000</td>
<td>250,000</td>
<td>100% of foreign expenditures and 80% of local expenditures</td>
</tr>
<tr>
<td>(b) The Borrower</td>
<td>220,000</td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td>(4) Consultants’ services for:</td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>(a) Municipalities</td>
<td>790,000</td>
<td>250,000</td>
<td></td>
</tr>
<tr>
<td>(b) the Borrower</td>
<td>1,400,000</td>
<td>500,000</td>
<td></td>
</tr>
<tr>
<td>(5) Operating expenses for PMU</td>
<td>350,000</td>
<td>100,000</td>
<td>100%</td>
</tr>
<tr>
<td>(6) Refunding of Project Preparation Advance</td>
<td>930,000</td>
<td></td>
<td>Amount due under Section 2.02 (b) of this Agreement</td>
</tr>
<tr>
<td>(7) Initial deposits in Special Accounts</td>
<td>2,800,000</td>
<td></td>
<td>Amount due under Section 2.02 (c) of this Agreement</td>
</tr>
<tr>
<td>(8) Fee</td>
<td></td>
<td>17,456</td>
<td>Amount due under Section 2.04 of the Loan Agreement</td>
</tr>
<tr>
<td>(9) Unallocated</td>
<td>1,340,000</td>
<td>757,544</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>20,400,000</td>
<td>7,000,000</td>
<td></td>
</tr>
</tbody>
</table>
2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. The disbursement percentages have been calculated in compliance with the policy of the Association that the proceeds of the Credit shall not be disbursed on account of payments for taxes levied by, or in the territory of, the Borrower on goods or services, or on the importation, manufacture, procurement or supply thereof; on this basis, if the amount of any such taxes levied on or in respect of items in any Category decreases or increases, the Association may, by notice to the Borrower, increase or decrease the disbursement percentage then applicable to such Category as required to be consistent with the aforementioned policy of the Association.

4. Disbursements under Categories 2 and 5 may be made against statements of expenditure which shall be in form and substance satisfactory to the Association.

5. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures incurred prior to the date of this Agreement;

(b) expenditures incurred by any Municipality under the Project until such Municipality shall have entered into a Subsidiary Loan Agreement, satisfactory to the Association, with NHC or LGLA as the case may be;

(c) expenditures for infrastructure on the site of Rural Housing Estates Ltd. in Eldoret until the Eldoret Joint Venture Agreement, satisfactory to the Association, has been executed by the parties thereto; and

(d) expenditures for infrastructure on the site of the Thika Municipal Council Employees Cooperative Society until the
TMCECS Agreement, satisfactory to the Association, has been executed by the parties thereto.

6. Notwithstanding the allocation of an amount of the Credit or the disbursement percentages set forth in the table in paragraph 1 above, if the Association has reasonably estimated that the amount of the Credit then allocated to any Category will be insufficient to finance the agreed percentage of all expenditures in that Category, the Association may, by notice to the Borrower: (i) reallocate to such Category, to the extent required to meet the estimated shortfall, proceeds of the Credit which are then allocated to another Category and which in the opinion of the Association are not needed to meet other expenditures; and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the disbursement percentage then applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made.

7. If the Association shall have reasonably determined that the procurement of any item in any Category is inconsistent with the procedures set forth or referred to in this Agreement, no expenditure for such item shall be financed out of the proceeds of the Credit, and the Association may, without in any way restricting or limiting any other right, power or remedy of the Association under the Development Credit Agreement, by notice to the Borrower, cancel such amount of the Credit as, in the Association's reasonable opinion, represents the amount of such expenditures which would otherwise have been eligible for financing out of the proceeds of the Credit.
SCHEDULE 2

Description of the Project

The Project is part of the Borrower's program to assist five secondary towns: Nakuru, Eldoret, Thika, Kitale and Nyeri, to develop into urban growth centers and consists of the following main Parts:

Part A: Servicing of Urban Land for Residential and Small Enterprise Development

1. Provision of full or Partial Services on about 1,850 plots of mainly unoccupied, publicly-owned land.

2. Provision of full or Partial Services on about 3,612 plots of mainly unoccupied, privately-owned land.

3. Upgrading of Services on about 1,934 plots of occupied land.

4. Provision of full Services on a privately-owned site in Eldoret and construction thereon of about 831 medium-cost houses for sale to the public.

5. Connections to off-site infrastructure service networks, as required.

Part B: Construction Loans

Sub-loans for shelter and workshop construction.

Part C: Community Facilities

Construction of markets, workshops, lorry parks, schools and health centers.

Part D: Financial and Project Management Assistance

1. For the Municipalities

Provision of technical assistance and equipment to the Municipalities and the Municipal Council of Kisumu for financial, project management and maintenance support.
2. For the Borrower

Provision of technical assistance and equipment for financial and project management support, urban policy studies, and the operating expenses of PMU.

*   *   *

The Project is expected to be completed by June 30, 1990.
SCHEDULE 3

Procurement

A. **International Competitive Bidding**

1. Except as provided in Part C hereof, equipment and vehicles shall be procured under contracts awarded in accordance with procedures consistent with those set forth in the current edition of the "Guidelines for Procurement under World Bank Loans and IDA Credits" published by the Bank in March 1977 (hereinafter called the Guidelines), on the basis of international competitive bidding as described in Part A of the Guidelines.

2. For equipment and vehicles to be procured on the basis of international competitive bidding, in addition to the requirements of paragraph 1.2 of the Guidelines, the Borrower shall prepare and forward to the Association as soon as possible, and in any event not later than 60 days prior to the date of availability to the public of the first tender documents relating thereto, a general procurement notice, in such form and detail and containing such information as the Association shall reasonably request; the Association will arrange for the publication of such notice in order to provide timely notification to prospective bidders of the opportunity to bid for the equipment and vehicles in question. The Borrower shall provide the necessary information to update such notice annually so long as any equipment and vehicles remain to be procured on the basis of international competitive bidding.

3. To the extent practicable, identical or similar items shall be grouped for purposes of bidding so as to permit bulk procurement.

4. For the purpose of evaluation and comparison of bids for the supply of equipment and vehicles to be procured on the basis of international competitive bidding: (i) bidders shall be required to state in their bid the c.i.f. (port of entry) price for the imported equipment and vehicles, or the ex-factory price or off-the-shelf price of other equipment and vehicles, offered in such bid; (ii) customs duties and other import taxes levied in connection with the importation, or the sales and similar taxes levied in connection with the sale or delivery, pursuant to the bid, of the equipment and vehicles shall not be taken into account in the evaluation of the bids; and (iii) the cost of inland freight and
other expenditures incidental to the delivery of the equipment and vehicles to the place of their use or installation shall be included.

B. Preference for Domestic Manufacturers

In the procurement of equipment and vehicles in accordance with the procedures described in Part A of this Schedule, equipment and vehicles manufactured in the Republic of Kenya may be granted a margin of preference in accordance with, and subject to, the following provisions:

1. All bidding documents for the procurement of equipment and vehicles shall clearly indicate any preference which will be granted, the information required to establish the eligibility of a bid for such preference and the following methods and stages that will be followed in the evaluation and comparison of bids.

2. After evaluation, responsive bids will be classified in one of the following three groups:

(1) Group A: bids offering equipment and vehicles manufactured in the Republic of Kenya if the bidder shall have established to the satisfaction of the Borrower and the Association that the manufacturing cost of such equipment and vehicles includes a value added in the Republic of Kenya equal to at least 20% of the ex-factor bid price of such equipment and vehicles.

(2) Group B: all other domestic bids.

(3) Group C: bids offering any other equipment and vehicles.

3. In order to determine the lowest evaluated bid of each group, all evaluated bids in each group shall first be compared among themselves, without taking into account customs duties and other import taxes levied in connection with the importation, and sales and similar taxes levied in connection with the sale or delivery, pursuant to the bids, of the equipment and vehicles. Such lowest evaluated bids shall then be compared with each other, and if, as a result of this comparison, a bid from group A or group B is the lowest, it shall be selected for the award.
4. If, as a result of the comparison under paragraph 3 above, the lowest bid is a bid from group C, all group C bids shall be further compared with the lowest evaluated bid from group A after adding to the evaluated bid price of the imported equipment and vehicles offered in each group C bid, for the purpose of this further comparison only, an amount equal to: (i) the amount of customs duties and other import taxes which a non-exempt importer would have to pay for the importation of the equipment and vehicles offered in such group C bid; or (ii) 15% of the c.i.f. bid price of such equipment and vehicles if said customs duties and taxes exceed 15% of such price. If the group A bid in such further comparison is the lowest, it shall be selected for the award; if not, the bid from group C which as a result of the comparison under paragraph 3 is the lowest evaluated bid shall be selected.

C. Other Procurement Procedures

1. Civil works

All Contracts for civil works may be awarded in accordance with local competitive bidding procedures acceptable to the Association.

2. Equipment and Vehicles

(a) To the extent practicable, contracts for maintenance equipment shall be grouped for purposes of bidding into lots worth at least $100,000 equivalent so as to permit their procurement through international competitive bidding in accordance with Part A of this Schedule.

(b) Equipment and vehicles worth: (i) between $50,000 and $100,000 equivalent may be procured in accordance with local competitive bidding procedures acceptable to the Association; and (ii) less than $50,000 equivalent may be procured on the basis of price quotations from at least three reliable local suppliers in accordance with procedures acceptable to the Association.

D. Review of Procurement Decisions by the Association

1. Review of prequalification. The Borrower shall, before qualification for civil works contracts in excess of $250,000 equivalent is invited, inform the Association in detail of the procedure to be followed, and shall introduce such modifications in
said procedure as the Association shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification shall be furnished by the Borrower to the Association for its comments before the applicants are notified of the Borrower's decision, and the Borrower shall make such additions to, deletions from, or modifications in, the said list as the Association shall reasonably request.

2. Awards of final contracts. With respect to all contracts for civil works estimated to cost the equivalent of $250,000 or more; and all contracts for equipment and vehicles estimated to cost the equivalent of $50,000 or more:

(a) Before bids are invited, the Borrower shall furnish to the Association, for its comments, the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedures as the Association shall reasonably request. Any further modification to the bidding documents shall require the Association's concurrence before it is issued to the prospective bidders.

(b) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Association of the name of the bidder to which it intends to award the contract and shall furnish to the Association, in sufficient time for its review, a detailed report on the evaluation and comparison of the bids received, and such other information as the Association shall reasonably request. The Association shall, if it determines that the intended award would be inconsistent with the Guidelines or this Schedule, promptly inform the Borrower and state the reasons for such determination.

(c) The terms and conditions of the contract shall not, without the Association's concurrence, materially differ from those on which bids were asked or prequalification was invited.

(d) Two conformed copies of the contract shall be furnished to the Association promptly after its execution and prior to the submission to the Association of the first application for withdrawal of funds from the Credit Account in respect of such contract.
3. With respect to each contract not governed by the preceding paragraph, the Borrower shall furnish to the Association, promptly after its execution and prior to the submission to the Association of the first application for withdrawal of funds from the Credit Account in respect of such contract, two conformed copies of such contract, together with the analysis of the respective bids, recommendations for award and such other information as the Association shall reasonably request. The Association shall, if it determines that the award of the contract was not consistent with the Guidelines or this Schedule, promptly inform the Borrower and state the reasons for such determination.

4. Before agreeing to any material modification or waiver of the terms and conditions of a contract, or granting an extension of the stipulated time for performance of such contract, or issuing any change order under such contract (except in cases of extreme urgency) which would increase the cost of the contract by more than 10% of the original price, the Borrower shall inform the Association of the proposed modification, waiver, extension or change order and the reasons therefor. The Association, if it determines that the proposal would be inconsistent with the provisions of this Agreement, shall promptly inform the Borrower and state the reasons for its determination.
SCHEDULE 4

Special Accounts

1. For the purposes of this Schedule:

(a) the term "Category" means a category of items to be financed out of the proceeds of the Credit as set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for Parts A, B, C and D.1 of the Project and to be financed out of the proceeds of the Credit allocated from time to time to Categories (1) (a), (1) (b), (1) (c), (2), (3) (a), and (4) (a) in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "initial deposits" means amounts equivalent in total to the amount allocated to Category 7 and to be withdrawn from the Credit Account and deposited in the Special Accounts pursuant to the first sentence of paragraph 3 to this Schedule.

2. Payments out of a Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. The Association shall, at the request of the Borrower, withdraw on behalf of the Borrower from the Credit Account and deposit into the Special Accounts the initial deposits. Thereafter and on the basis of requests by NHC or LGLA on behalf of the Borrower furnished to the Association at such intervals as the Association shall specify, the Association shall further so withdraw from the Credit Account and deposit into a Special Account such amounts as shall be required to replenish the Special Account with amounts equal to payments made out of the Special Account for eligible expenditures, but only to the extent that the amount of any such deposit, together with any amount remaining on deposit in the Special Account as of the date of such request, shall not exceed in the aggregate the equivalent of the initial deposit. Except as the Association may otherwise agree, each such deposit after the initial deposit shall be withdrawn by the Association from the Credit Account under the respective Categories mentioned in paragraph 1 (b) above, and in the respective equivalent amounts, as shall have been justified by the
evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. Prior to or at the time of each request by NHC or LGLA on behalf of the Borrower for a deposit by the Association into a Special Account after the initial deposit, the Borrower shall cause NHC or LGLA, as the case may be, to furnish to the Association in respect of each payment made by NHC or LGLA out of the Special Account such documents and other evidence as the Association shall reasonably request, showing that such payment was made for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Accounts shall be made by the Association (a) when the Association shall have determined at any time that all further withdrawals can be made directly by the Borrower from the Credit Account in accordance with the provisions of paragraph (a) of Section 2.02 of this Agreement, or (b) when the total unwithdrawn amount of the Credit allocated to the Categories mentioned in paragraph 1 (b) above, minus the amount of any qualified agreement to reimburse made by the Association and of any special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to Parts A, B, C and D.1 of the Project, shall be equal to the equivalent of twice the amount of the initial deposit, whichever shall be sooner. Withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the Categories mentioned in paragraph 1 (b) above shall follow such procedures as the Association shall specify by notice to the Borrower and shall, except as the Association shall otherwise agree, be made only after and to the extent the Association shall have been satisfied that all such amounts remaining on deposit in the Special Accounts as of the date of such notice have been or will be utilized in making payments for eligible expenditures.

6. If the Association shall have determined at any time that:

(a) any payment out of a Special Account (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished pursuant to paragraph 4 of this Schedule, the Borrower shall, promptly upon notice from the Association and, unless otherwise agreed by the Association, prior to any further deposit into the Special Account by the Association, deposit into the Special Account or, if the Association shall so request,
refund to the Association an amount equal to the amount of such payment or the portion thereof not so eligible or justified; or

(b) any amount outstanding in a Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, and unless otherwise agreed by the Association, refund to the Association such amount then outstanding in the Special Account.
INTERNATIONAL DEVELOPMENT ASSOCIATION

CERTIFICATE

I hereby certify that the foregoing is a true copy of the original in the archives of the International Development Association.

In witness whereof I have signed this Certificate and affixed the Seal of the Association thereunto the 22nd day of September 1983.

[Signature]
FOR SECRETARY