Financing Agreement

(Pacific Aviation Investment Program-
Samoa Aviation Investment Project)

between

INDEPENDENT STATE OF SAMOA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated 8 MAY, 2014
FINANCING AGREEMENT

AGREEMENT dated 8 May, 2014, 2014, entered into between INDEPENDENT STATE OF SAMOA ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association").

WHEREAS the Program Countries and PASO wish to carry out a regional program of aviation investments in a coordinated manner with financing provided by the Association and other donors.

The Recipient and the Association hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equivalent to sixteen million three hundred thousand Special Drawing Rights (SDR 16,300,000) (variously, "Grant" and "Financing") to assist in financing the project described in Schedule 1 to this Agreement ("Project").

2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Payment Dates are February 15 and August 15 in each year.

2.05. The Payment Currency is Dollars.

ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objective of the Program and the Project. To this end, the Recipient shall carry out the Project through Samoa Airport Authority ("SAA") in accordance with the provisions of Article IV of the General Conditions and the Project Implementation Agreement.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the
Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

**ARTICLE IV — REMEDIES OF THE ASSOCIATION**

4.01. The Additional Events of Suspension consist of the following:

   (a) The SAA Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of SAA to perform any of its obligations under the Project Implementation Agreement.

   (b) The PRIF Grant Agreement has failed to become effective by June 30, 2014.


**ARTICLE V — EFFECTIVENESS; TERMINATION**

5.01. The Additional Conditions of Effectiveness consist of the following:

   (a) The Project Implementation Agreement has been executed on behalf of the Recipient and SAA.

   (b) The Recipient, Samoa Airport Authority and Tonga Airport Limited entered into the Service Agreement referred to in Section 1.B of Schedule 2 to this Agreement, in form and substance acceptable to the Association.

5.02. The Additional Legal Matter consists of the following, namely that the Project Implementation Agreement has been duly authorized or ratified by the Recipient and SAA and is legally binding upon the parties thereto in accordance with its terms.

5.03. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

5.04. For purposes of Section 8.05(b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty (20) years after the date of this Agreement.

**ARTICLE VI — REPRESENTATIVE; ADDRESSES**

6.01. The Recipient’s Representative is the Minister of Finance.

6.02. The Recipient’s Address is:
Ministry of Finance  
Private Bag  
Apia, Independent State of Samoa  
Facsimile:  
685 21 312  

6.03. The Association’s Address is:  

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

Cable: INDEVAS  
Telex: 248423 (MCI)  
Facsimile: 1-202-477-6391  

AGREED at APIA, 8 May, 2014 as of the day and year first above written.  

INDEPENDENT STATE OF SAMOA  

By  

[Signature]  
Authorized Representative  

Name: Tuilaepa Sailele Malielegaoi  
Title: PM + MINISTER OF FINANCE  

INTERNATIONAL DEVELOPMENT ASSOCIATION  

By  

[Signature]  
Authorized Representative  

Name: Franz R. Drees-Gross  
Title: COUNTRY DIRECTOR, EACNF
SCHEDULE 1

Project Description

The objective of the Project is to improve operational safety and oversight of international air transport and associated infrastructure.

The Project is part of the Program and consists of the following parts:

Part 1: Aviation Infrastructure Investments

Carrying out of aviation infrastructure investments at the Faleolo airport, *inter alia*:

(a) rehabilitation of airport runways, taxiways, and aprons;
(b) installation of new navigation aids, automatic weather monitoring, safety and security equipment, and air traffic control equipment;
(c) upgrading of generator capacity and installation of energy efficient equipment such as terminal lighting;
(d) provision of water storage tanks;
(e) security improvements such as closed circuit television;
(f) upgrading of runway lighting;
(g) provision or upgrading of fire safety equipment;
(h) provision of the VSAT secure communications system; and
(i) provision of the design and supervision consulting services required for implementation of the infrastructure investments.

Part 2: Aviation Sector Reform and Training.

Carrying out of sector reform and training activities, *inter alia*:

(a) provision of technical assistance and training designed to improve aviation sector management, policy, safety and security oversight;
(b) development of a national aviation policy; and
(c) safety and security oversight audits.

Part 3: Strengthening Airport Operations and Management Capacity

Carrying out of activities to strengthen airport operations and management capacity, *inter alia*:
(a) studies to assess the current conditions of the aviation sector and airports;

(b) development of a strategic business plan based on the studies referred to in (a) above; and

(c) training on aviation policy, management, and operations.

Part 4: Project Management

Provision of technical, advisory and administrative support to the TFSU and the Project Support Team, *inter alia*, financing of annual subscriptions for the operation of the VSAT infrastructure during Project implementation period.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. Program Steering Committee

To ensure proper oversight and implementation of the Program at regional level, the Recipient shall, in collaboration with the other Program Countries, ensure that the Program Steering Committee is maintained, throughout the Project implementation period: (a) comprised of, inter alia, the chairmen of the National Steering Committees (or their designated representatives) from each of the Program Countries, a designated representative from PASO, and the director of the TFSU; (b) with terms of reference satisfactory to the Association; and (c) with responsibility for reviewing and evaluating Program implementation progress. To this end, the Recipient shall, in collaboration with the other Program Countries, ensure that the Program Steering Committee shall meet at least once every calendar quarter.

2. National Steering Committee

The Recipient shall, not later than sixty (60) days after the Effective Date, establish and thereafter maintain at all times throughout the Project implementation period, the National Steering Committee with composition and terms of reference satisfactory to the Association, with responsibility for Project oversight, including ensuring consistency of the Project with the national goals and objectives of the Recipient for its aviation sector, as well as making recommendations regarding the resolution of Project-related implementation issues and proposing remedial actions.

3. Regional Procurement Evaluation Committee

The Recipient shall, in collaboration with the other Program Countries, ensure that the Regional Procurement Evaluation Committee is maintained throughout the Project implementation period, comprised of representatives of the Program Countries, TAL (through TFSU), and PASO, to be responsible for, among other things, evaluating regional level procurement activities under the Project.

B. Service Agreement

1. To facilitate proper and efficient implementation of the Project, the Recipient shall procure the services of TFSU, through TAL, to assist the Recipient and SAA with implementation of the Project, under a Service Agreement with terms and conditions acceptable to the Association, including:
(a) the obligation of TFSU to provide to the Recipient and SAA technical, fiduciary, and safeguards monitoring support for the Project, including preparation and evaluation of bids with the assistance of the Regional Procurement Evaluation Committee;

(b) the obligation of TAL to maintain the TFSU, throughout the Project implementation period, with responsibility for day to day coordination of Program activities and implementation support at regional level;

(c) the obligation of the Recipient, SAA, and TAL, in collaboration with the other Program Countries, to ensure that that the Program Steering Committee is maintained throughout the Project implementation period, with composition and terms of reference satisfactory to the Association; and

(d) the Recipient’s obligation to pay its share of the TFSU Costs out of the proceeds of the Financing;

all in accordance with the provisions of this Agreement.

2. The Recipient shall exercise its rights under the Service Agreement in such manner as to protect the interests of the Recipient and the Association and accomplish the purposes of the Financing, and except as the Association shall otherwise agree in writing, not assign, amend, abrogate or waive the Service Agreement or any provision thereof.

C. Project Implementation Agreement

1. To facilitate the carrying out of the Project, the Recipient shall enter into an agreement, under terms and conditions satisfactory to the Association, with SAA ("Project Implementation Agreement"), which shall include the following:

(a) SAA’s obligation to carry out the day-to-day activities of the Project with due diligence and efficiency, and in accordance with the EMP, so as to ensure timely implementation of the Project in accordance with the provisions of this Agreement;

(b) SAA’s obligation to prepare, in accordance with terms of reference acceptable to the Association, and furnish to the Recipient not later than thirty (30) days after the end of each quarterly period, for incorporation in the Project Reports under Section II.A of this Schedule 2, quarterly reports on the progress in the implementation of the Project during said period;

(c) SAA’s obligation to maintain, at all times during the Project implementation period, competent and qualified staff in adequate numbers required for implementation of the Project;
(d) SAA’s obligation to prepare, in accordance with term of reference acceptable to the Association, and furnish to the Recipient not later than thirty (30) days after each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association;

(e) SAA’s obligation to establish, by not later than sixty (60) days after Effective Date, and thereafter maintain, at all times during the Project implementation period, the Project Support Team;

(f) SAA’s obligation to collect, on behalf of the Recipient, the safety and security levy referred to in Section I.G of this Schedule 2;

(g) SAA’s obligation to maintain and implement the Service Agreement in a manner satisfactory to the Recipient and the Association; and

(h) the Recipient’s obligation to provide all such resources as may be necessary for SAA to carry out the aforesaid responsibilities.

2. The Recipient shall carry out its obligations and exercise its rights under the Project Implementation Agreement in such manner as to protect the interests of the Recipient and the Association and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree in writing, the Recipient shall not assign, amend, abrogate or waive the Project Implementation Agreement or any of its provisions.

D. Program Operations Manual

The Recipient shall ensure that the Project is carried out in accordance with the Program Operations Manual, and except as the Association shall otherwise agree in writing, the Recipient shall not amend, abrogate, or waive any provision of the Program Operations Manual without the prior written agreement of the Association. In case of any discrepancies between the provisions of the Program Operations Manual and those of this Agreement, the provisions of this Agreement shall prevail.

E. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

F. Safeguards

1. The Recipient shall, through SAA, carry out the Project in accordance with the provisions of the EMP.

2. Without limitation upon its other reporting obligations under this Agreement, the Recipient, through SAA, shall, in accordance with terms of reference satisfactory to the Association: (a) monitor the status of compliance with the EMP; and (b) prepare quarterly reports and furnish the same to the
Association, as part of the Project Reports, on the results of such monitoring activities, giving details of:

(a) measures taken in furtherance of the EMP;

(b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of the EMP; and

(c) remedial measures taken or required to be taken to address such conditions.

3. The Recipient shall afford the Association a reasonable opportunity to review the reports prepared under paragraph 2 of this Part F, and thereafter shall carry out or cause to be carried out, with due diligence, all remedial measures agreed with the Association so as to ensure the proper implementation of the Project in accordance with the EMP.

4. Except as the Association shall otherwise agree in writing, the Recipient shall not amend or waive any provision of the provisions of the EMP. In the event of a conflict between the provisions of the Safeguard Instruments and those of this Agreement, the latter shall prevail.

G. Safety and Security Levy

The Recipient, through SAA, shall, not later than September 30, 2014, and thereafter at all times throughout the Project implementation period, collect from departing international air passengers a levy in a minimum amount equivalent to five Australian Dollars (AU$5) to recover aviation safety and security expenditures incurred by the Recipient, as such amount may be revised with prior written agreement of the Association.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of indicators acceptable to the Association and set forth in the Program Operations Manual. Each Project Report shall cover the period of one (1) calendar quarter, and shall be furnished to the Association not later than forty-five (45) days after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. The Recipient shall prepare and furnish to the Association not later than forty-five (45) days after the end of each calendar quarter, interim unaudited
financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Recipient, commencing with the fiscal year in which the first withdrawal was made under the Preparation Advance for the Project. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.

Section III.  Procurement

A. General

1. Goods, Works, and Non-consulting Services. All goods, works, and non-consulting services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants' Services. All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be selected in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. Definitions. The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in Section II and III of the Procurement Guidelines, or Section II, III, IV and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works, and Non-consulting Services

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, goods, works, and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. Other Methods of Procurement of Goods, Works, and Non-consulting Services. The following methods, other than International Competitive Bidding, may be used for procurement of goods, works, and non-consulting services for those contracts specified in the Procurement Plan: (a) Shopping; (b) Direct Contracting; and (c) Force Account.
C. Particular Methods of Selection of Consultants' Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

2. Other Methods of Selection of Consultants' Services. The following methods, other than Quality- and Cost-based Selection, may be used for procurement of consultants' services for those contracts which are specified in the Procurement Plan: (a) Selection Based on Consultants' Qualifications; (b) Quality Based Selection; (c) Least Cost Selection; (d) Single Source Selection; (e) Procedures set forth in paragraphs 5.2, and 5.3, of the Consultant Guidelines for the Selection of Individual Consultants; (f) Single-source procedures for the Selection of Individual Consultants; and (g) Selection of UN Agencies.

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing ("Category"), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category.
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Financing Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (exclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, works, non-consulting services, consultants’ services,</td>
<td>16,070,000</td>
<td>100% of the TFSU Costs paid as per the terms of the Service Agreement; and 100% of all other Eligible Expenditures</td>
</tr>
<tr>
<td>Training, TFSU Costs and Operating Costs for the Project, excluding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parts 2(b) and 3(b)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Refund of Preparation Advance</td>
<td>230,000</td>
<td>Amount payable pursuant to Section 2.07 of the General Conditions</td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>16,300,000</td>
<td></td>
</tr>
</tbody>
</table>

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed SDR 130,000 equivalent may be made for payments made prior to this date but on or after July 1, 2013, for Eligible Expenditures.

2. The Closing Date is June 30, 2019.
APPENDIX

Definitions


2. "AU$" means Australian Dollars, the lawful currency of Australia.

3. "Category" means the category set forth in the table in Section IV of Schedule 2 to this Agreement.


5. "Co-financing" means, for purposes of paragraph 11 of the Appendix to the General Conditions, an amount of at least eight million three hundred forty thousand Dollars ($8,340,000), to be provided by the Co-financier to assist in financing the Project, as such amount may be amended from time to time by agreement between the Recipient and the Co-financier.

6. "Co-financing Agreement" means the agreement to be entered into between the Recipient and the Co-financier providing for financing for Part 1, Part 2(b), and Part 3(b) of the Project, and referred to in Section 4.02 of this Agreement.


8. "EMP" means the environmental management plan dated October 7, 2013, prepared by the Recipient, setting forth, with respect to the Project, measures to be implemented in the Recipient’s territory, details of measures to manage potential environmental risks and mitigate, reduce and/or offset adverse environmental impacts associated with the implementation of the Project, together with adequate institutional, monitoring and reporting arrangements capable of ensuring proper implementation of, and regular feedback on compliance with, its terms, as any such plan may be amended and/or supplemented from time to time with prior written approval of the Association; and "EMPs" means, collectively, all or several such plans.


11. "MWTI" means the Recipient’s Ministry of Works, Transport and Infrastructure, or any successor thereto.
12. "National Steering Committee" means the committee established by the Recipient and maintained until completion of the Project at the national level, with responsibility for overall Project direction and oversight, in accordance with Section I.A.2 of Schedule 2 to this Agreement.

13. "Operating Costs" means incremental expenses (other than TFSU Operating Costs) incurred by the Recipient and SAA on account of the implementation, management, and monitoring and evaluation of the Project, based on the annual budgets approved by the Association, including bank charges, communications, utilities, stationery, vehicle operation, maintenance, and insurance, transportation costs, accommodations and allowances of SAA’s and the MWTI’s staff but excluding salaries, fees, honoraria, bonuses, and any other salary supplements of the Recipient’s civil servants.

14. "PASO" means Pacific Aviation Safety Office, the office established under the terms of the Pacific Islands Civil Aviation Safety and Security Treaty (PICASSST), which was ratified by the Recipient’s Parliament on October 12, 2004, and which entered into force on June 11, 2005, or any successor thereto.

15. "PRIF" means the Pacific Regional Infrastructure Facility, a multi-donor trust fund administered by the Association.

16. "PRIF Grant" means an amount of at least $300,000, to be provided by PRIF to assist in financing the Project, as such amount may be amended from time to time by agreement between the Recipient and PRIF.

17. "PRIF Grant Agreement" means the agreement to be entered into between the Recipient and the Association providing for the PRIF Grant.


19. "Procurement Plan" means the procurement plan for the Program, dated January 20, 2014, and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

20. "Program" means the regional aviation program to be carried out by the Recipient, Tonga, Kiribati, Tuvalu, and other program countries, as presented to such countries at PASO’s council meeting held at Noumea, New Caledonia, on October 13, 2011, and as set forth in minutes of such meeting dated October 21, 2011.

22. "Program Operations Manual" means the operations manual of the Program, most recently updated on January 20, 2014, setting forth detailed guidelines and procedures for the implementation of the Project, including in the areas of monitoring and evaluation, procurement, coordination, social and environmental safeguards, financial, administrative and accounting procedures, corruption and fraud mitigation measures, and such other arrangements and procedures as shall be required for the Project, as the same may be amended and/or supplemented from time to time with the prior written agreement of the Association.

23. "Program Steering Committee" means the committee established at the regional level by the Program Countries and maintained until completion of the Project, with responsibility for overall Program direction and oversight, in accordance Section I.A.1 of Schedule 2 to this Agreement.

24. "Project Implementation Agreement" means the agreement referred to in Section I.C of Schedule 2 to this Agreement, as said agreement may be revised from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such agreement.

25. "Project Support Team" means the team to be established pursuant to the Project Implementation Agreement to assist the Project Implementing Entity with Project implementation.

26. "Regional Procurement Evaluation Committee" means the committee maintained by the Program Countries pursuant to Section I.A.3 of Schedule 2 to this Agreement, with terms of reference and composition satisfactory to the Association, to conduct bid and proposal evaluations and make recommendations regarding the award of civil works contracts.

27. "SAA Legislation" means the Recipient’s Airport Authority Act of 2012.

28. "Samoa Airport Authority" or "SAA" means the corporation established and operating in the Recipient’s territory pursuant to the SAA Legislation.

29. "Service Agreement" means the agreement to be entered into by the Recipient, SAA, and TAL concerning Project and Program implementation, as such agreement may be revised from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such agreements; "Service Agreements" also includes similar agreements between TAL and Kiribati, Tonga, and Tuvalu respectively.

31. "Technical and Fiduciary Services Unit" or "TFSU" means the unit within TAL responsible for regional coordination and Project implementation support.

32. "TFSU Costs" means:

(a) the costs of consultants services of the TFSU providing services:

(i) to the Program Countries, prorated between each of the said countries based on the percentage of financing for the Program provided by the Association to each country relative to the Projects' total costs which are as set forth in the Service Agreement; and

(ii) for specific activities related to the Project in the Recipient's territory, at full cost to the Recipient; and

(b) the applicable TFSU Operating Costs.

33. "TFSU Operating Costs" means incremental expenses incurred by TAL through the TFSU on account of the delivery of services under each of the Service Agreements, based on the annual budgets approved by the Association, including rental of office space, bank charges, communications, utilities, stationery, vehicle operation, maintenance, and insurance, transportation costs, and accommodations and allowances of TAL's staff, but excluding salaries, fees, honoraria, bonuses, and any other salary supplements.

34. "Tonga" means the Kingdom of Tonga.

35. "Training" means the reasonable costs of training under the Project, based on the annual budgets approved by the Association, and attributable to seminars, workshops, and study tours, along with domestic and international travel and subsistence allowances for training participants, services of trainers, rental of training facilities, preparation and reproduction of training materials, and other activities directly related to course preparation and implementation.

36. "VSAT" means very small aperture terminal, a two-way secure communication system.