

No. 10829

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**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
MALAYSIA**

**Loan Agreement—*Second Jengka Triangle Land Settlement Project* (with annexed General Conditions Applicable to Loan and Guarantee Agreements and Project Agreement between the Bank and the Federal Land Development Authority). Signed at Washington on 20 May 1970**

*Authentic text: English.*

*Registered by the International Bank for Reconstruction and Development on 23 November 1970.*

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**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
MALAISIE**

**Contrat d'emprunt — *Deuxième projet relatif au peuplement du Triangle du Jengka* (avec, en annexe, les Conditions générales applicables aux contrats d'emprunt et de garantie et le Contrat relatif au Projet entre la Banque et la Federal Land Development Authority). Signé à Washington le 20 mai 1970**

*Texte authentique: anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement le 23 novembre 1970.*

## LOAN AGREEMENT<sup>1</sup>

AGREEMENT, dated May 20, 1970, between MALAYSIA (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS (A) The Borrower and the Bank entered into a loan agreement, and the Bank and the Federal Land Development Authority of the Borrower entered into a project agreement, both dated April 17, 1968,<sup>2</sup> (Loan No. 533 MA), *inter alia* for the purpose of providing assistance for the carrying out of the first stage of a program of settlement and regional development of the Jengka Triangle area;

(B) It is now proposed to proceed with work on the second stage of the said settlement and regional development program for which the Bank has been requested *inter alia* to provide additional assistance, and also to proceed with work on a forestry industries project in the same area for which purpose the Bank and the Borrower, and the Bank and the Majlis Amanah Ra' Ayat and its subsidiary the Sharikat Jengka Sendirian Berhad are entering into separate loan and project agreements (*Jengka Forestry Project*) of even date herewith;

(C) The Federal Land Development Authority of the Borrower agrees to carry out said second stage of the settlement and regional development program under the terms and conditions of this Agreement and of a Project Agreement (*Second Jengka Triangle Project*) of even date herewith<sup>3</sup> between the Bank and the said Authority;

(D) The Bank, on the basis *inter alia* of the foregoing, has agreed to make a loan to the Borrower on the conditions hereinafter set forth;  
NOW THEREFORE the parties hereto hereby agree as follows:

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<sup>1</sup> Came into force on 20 August 1970, upon notification by the Bank to the Government of Malaysia.

<sup>2</sup> United Nations, *Treaty Series*, vol. 653, p. 175.

<sup>3</sup> See p. 32 of this volume.

*Article I*

## GENERAL CONDITIONS; DEFINITIONS

*Section 1.01.* The parties to this Loan Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969,<sup>1</sup> with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, as so modified, being hereinafter called the General Conditions):

(a) The following sub-paragraph is added to Section 2.01 of the General Conditions:

20. The term Project Agreement has the meaning set forth in the Loan Agreement.

(b) Section 6.06 of the General Conditions is modified by inserting the words, "the Project Agreement" after the words "the Loan Agreement".

*Section 1.02.* Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Ordinance" means the Land Development Ordinance, No. 20 of 1956 of the Borrower, as amended from time to time;

(b) "Act" means the Land (Group Settlement Areas) Act, No. 13 of 1960 of the Borrower, as amended from time to time;

(c) "FLDA" means the Federal Land Development Authority, established and operating pursuant to the Ordinance;

(d) "State Authority" means the State of Pahang;

(e) "Project Area" means the northwest section of the Jengka Triangle (as such region is described in, and declared to be a group settlement area pursuant to, the agreement dated November 29, 1967 between the State Authority and the FLDA and to the Act);

(f) "Project Agreement" means the agreement between the Bank and the FLDA of even date herewith referred to in Recital (C) to this Agreement;

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<sup>1</sup> See p. 32 of this volume.

(g) "First Loan Agreement" means the agreement between the Borrower and the Bank dated April 17, 1968 referred to in Recital (A) to this Agreement;

(h) "First Project Agreement" means the agreement between the Bank and the FLDA dated April 17, 1968 referred to in Recital (A) to this Agreement;

(i) "Forestry Agreements"<sup>1</sup> means the agreements between the Borrower and the Bank, and the Bank and the Majlis Amanah Ra' Ayat and the Sharikat Jengka Sendirian Berhad, respectively, of even date herewith, referred to in Recital (B) to this Agreement; and

(j) "Settlers Agreements" means the agreements referred to in Section 2.10 of the Project Agreement.

## Article II

### THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in this Loan Agreement set forth or referred to, an amount in various currencies equivalent to thirteen million dollars (\$13,000,000).

*Section 2.02.* (a) The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan.

(b) The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, this Loan Agreement and in accordance with the allocation of the proceeds of the Loan set forth in Schedule 1 to this Agreement, as such allocation shall be modified from time to time pursuant to the provisions of such Schedule or by further agreement between the Borrower and the Bank.

*Section 2.03.* The Borrower, acting through the FLDA pursuant to Section 8.01 of this Agreement, shall be entitled to withdraw from the Loan Account in respect of the reasonable cost of goods or services required for the Project and to be financed under the Loan Agreement:

(a) the equivalent of one hundred per cent (100%) of such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to

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<sup>1</sup> United Nations, *Treaty Series*, vol. 754, p. 249.

- meet payments to be made) for goods or services included in Categories I and III of the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement; and
- (b) (i) such amounts as shall have been paid (or, if the Bank shall so agree, as shall be required to meet payments to be made) for goods included in Category II of the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement; or (ii) the equivalent of seventy per cent (70%) of such amounts as shall have been paid (or, if the Bank shall so agree, as shall be required to meet payments to be made) for on-site delivery of such goods as shall be purchased from local suppliers in the territories of the Borrower and invoiced and paid for in currency of the Borrower;

provided, however, that if there shall be an increase in the estimate of payments for goods or services included in Category I the Bank may by notice to the Borrower adjust the stated percentage applicable to such Category as required in order that withdrawals of the amount of the Loan then allocated to such Category and not withdrawn may continue *pro rata* with the payments remaining to be made for goods or services included in such Category.

- (c) such amounts as shall be required to meet payments to be made for interest and other charges on the Loan accrued on or before November 30, 1976, or such other date as may be agreed between the Borrower and the Bank.

*Section 2.04.* It is hereby agreed, pursuant to Section 5.01 of the General Conditions that withdrawals from the Loan Account under Categories I, II and III of the allocation of the proceeds of the Loan referred to in Section 2.03 (a) or (b) (ii) of this Agreement may be made on account of payments in the currency of the Borrower, or for goods produced in, or services supplied from, the territories of the Borrower, provided, however, that no withdrawals in respect of goods or services included in said Categories I and III of the allocation of the proceeds of the Loan shall be made on account of expenditures for taxes imposed by the Borrower or any of its political subdivisions on such goods or services.

*Section 2.05.* The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

*Section 2.06.* The Borrower shall pay interest at the rate of seven per

cent (7%) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

*Section 2.07.* Interest and other charges shall be payable semi-annually on June 1 and December 1 in each year.

*Section 2.08.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement.

### *Article III*

#### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall make the proceeds of the Loan available to the FLDA upon terms and conditions satisfactory to the Bank, and shall cause such proceeds to be applied in accordance with the provisions of this Loan Agreement to expenditures on the Project described in Schedule 3 to this Agreement.

*Section 3.02.* Except as the Bank shall otherwise agree, the goods and services to be financed out of the proceeds of the Loan shall be procured on the basis of international competitive bidding in accordance with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with such other procedures supplementary thereto as are set forth in Schedule 4 to this Agreement and as the same may be amended from time to time by agreement between the Borrower, the Bank and the FLDA.

*Section 3.03.* Except as the Bank may otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

### *Article IV*

#### BONDS

*Section 4.01.* If and as the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

*Section 4.02.* The Minister of Finance of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

*Article V*

## PARTICULAR COVENANTS

*Section 5.01.* (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound agricultural, engineering, economic, administrative and financial practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.

(b) The Borrower shall take all action which shall be necessary on its part to enable the FLDA to perform all of its obligations under (i) the Project Agreement and (ii) the Settlers Agreements and shall not take or permit any of its agencies or political subdivisions or any agency of any political subdivision to take any action which would prevent or interfere with the performance of any such obligations.

*Section 5.02.* (a) The Borrower and the Bank shall cooperate fully to ensure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Borrower, such information shall include information with respect to the administration of the FLDA and of any other agency or agencies of the Borrower responsible for carrying out the Project or any part thereof and with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

(b) The Borrower and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan, the maintenance of the service thereof, or the performance by the FLDA of its obligations under the Project Agreement or the Settlers Agreements.

(c) The Borrower shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Borrower for purposes related to the Loan.

*Section 5.03.* It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Borrower undertakes

that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Borrower" as used in this Section includes: (i) assets of the Borrower; (ii) assets of any statutory authority of the Borrower, including assets of any state or political subdivision of the Borrower; (iii) assets of any agency of the Borrower, including the Bank Negara Malaysia or any other institution at any time performing the functions of a central bank for the Borrower; and (iv) any right, interest or share of the Borrower in the Currency Fund and Currency Surplus Fund administered under the Malaya British Borneo Currency Agreement, 1960.

*Section 5.04.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes, and free from all restrictions, imposed under the laws of the Borrower or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Borrower.

*Section 5.05.* This Agreement, the Project Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof, and the Borrower shall pay all such taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries.

*Section 5.06.* The Borrower shall promptly notify the Bank of any proposal to amend, supplement or repeal any provision of the Ordinance



or the Act and shall afford the Bank an opportunity to comment thereon prior to any action on such proposal.

*Section 5.07.* The Borrower shall at all times cause the FLDA to be staffed with qualified and experienced senior personnel, shall inform the Bank of any proposed change in the position of its Chairman, and shall afford the Bank an opportunity to comment thereon prior to effectuating any such change.

*Section 5.08.* The Borrower shall consult with the Bank on any plans for meeting the transport and storage requirements of the produce of the Project.

### *Article VI*

#### REMEDIES OF THE BANK

*Section 6.01.* If any event specified in Section 7.01 of the General Conditions or in Section 6.02 of this Agreement shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower declare the principal of the Loan and all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in this Loan Agreement or in the Bonds notwithstanding.

*Section 6.02.* For the purposes of Section 7.01 of the General Conditions, the following events are specified:

- (a) A default shall have occurred in the performance by the FLDA of any covenant or agreement on its part under the Project Agreement or the First Project Agreement.
- (b) A default shall have occurred in the performance by the Borrower of any covenant or agreement on its part under the Forestry Agreements.
- (c) A default shall have occurred in the performance by the Borrower of any covenant or agreement on its part under the First Loan Agreement.
- (d) The Ordinance, the Act or the agreement dated November 29, 1967, between the State Authority and the FLDA relating to the Project Area shall have been amended, repealed or supplemented so as to impair the successful carrying out of the Project.

*Section 6.03.* For the purposes of Section 6.02 of the General Conditions the following additional event is specified:

An extraordinary situation shall have arisen which shall make it improbable that the FLDA will be able to perform its obligations under the Project Agreement.

### *Article VII*

#### EFFECTIVE DATE; TERMINATION

*Section 7.01.* The following events are specified as additional conditions to the effectiveness of this Loan Agreement within the meaning of Section 11.01 (c) of the General Conditions:

- (a) the execution and delivery of the Project Agreement on behalf of the FLDA shall have been duly authorized or ratified by all necessary internal and governmental action;
- (b) the State of Pahang shall have provided assurances satisfactory to the Bank with respect to the carrying out of the Project; and
- (c) the FLDA shall have appointed, or failing such appointment, shall have taken measures satisfactory to the Bank to secure the appointment of, a Finance Director acceptable to the Bank.

*Section 7.02.* The following is specified as an additional matter, within the meaning of Section 11.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely, that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the FLDA and constitutes a valid and binding obligation of the FLDA according to its terms.

*Section 7.03.* The date of August 15, 1970 is hereby specified for the purposes of Section 11.04 of the General Conditions.

### *Article VIII*

#### ACTION BY THE FLDA

*Section 8.01.* The Borrower irrevocably designates the FLDA for the purposes of taking any action required or permitted under Section 2.03 of this Agreement and Article V of the General Conditions.

*Article IX*

## MISCELLANEOUS

*Section 9.01.* The Closing Date shall be May 31, 1977, or such other date as shall be agreed between the Borrower and the Bank.

*Section 9.02.* Except as otherwise provided in Section 8.01 of this Agreement, the Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 10.03 of the General Conditions.

*Section 9.03.* The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Borrower:

The Treasury  
Kuala Lumpur  
Malaysia

Alternative address for cables:

Treasury  
Kuala Lumpur

For the Bank:

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Alternative address for cables:

Intbafrad  
Washington, D.C.

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

Malaysia:

By TAN SRI ONG YOKE LIN  
Authorized Representative

International Bank for Reconstruction and Development:

By J. BURKE KNAPP  
Vice President

## SCHEDULE 1

## ALLOCATION OF THE PROCEEDS OF THE LOAN

<i>Category</i>	<i>Amounts Expressed in Dollar Equivalent</i>
<i>I. Agriculture and Civil Works</i>	
1. Land clearing and planting . . . . .	3,200,000
2. Planting and other materials . . . . .	1,000,000
3. Construction (buildings and housing) . . . . .	1,800,000
4. Construction of palm oil mill . . . . .	1,500,000
<i>II. Equipment, Materials and Supplies</i>	
1. Fertilizers and pesticides . . . . .	1,300,000
2. Vehicles and equipment for management . . . . .	100,000
<i>III. Salary and Recruitment of Finance Director . . . . .</i>	<i>100,000</i>
<i>IV. Interest and Other Charges Accrued Prior to December 1, 1976 . . . . .</i>	<i>3,000,000</i>
<i>V. Unallocated . . . . .</i>	<i>1,000,000</i>
TOTAL	<u><u>13,000,000</u></u>

## REALLOCATION UPON CHANGE IN COST ESTIMATES

1. If the estimate of the cost of the items included in any of the Categories I to IV shall decrease, the amount of the Loan then allocated to, and no longer required for, such Category will be reallocated by the Bank to Category V.

2. If the estimate of the cost of the items included in any of the Categories I to IV shall increase, an amount equal to the portion, if any, of such increase to be financed out of the proceeds of the Loan will be allocated by the Bank, at the request of the Borrower, to such Category from Category V, subject, however, to (i) the requirements for contingencies, as determined by the Bank, in respect of the cost of the items in the other Categories, and (ii) the right of the Bank set forth in the proviso to Section 2.03 (b) of this Agreement.

SCHEDULE 2  
AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
June 1, 1977	185,000	June 1, 1986	345,000
December 1, 1977	190,000	December 1, 1986	355,000
June 1, 1978	200,000	June 1, 1987	370,000
December 1, 1978	205,000	December 1, 1987	380,000
June 1, 1979	215,000	June 1, 1988	395,000
December 1, 1979	220,000	December 1, 1988	410,000
June 1, 1980	230,000	June 1, 1989	425,000
December 1, 1980	235,000	December 1, 1989	440,000
June 1, 1981	245,000	June 1, 1990	455,000
December 1, 1981	255,000	December 1, 1990	470,000
June 1, 1982	260,000	June 1, 1991	485,000
December 1, 1982	270,000	December 1, 1991	505,000
June 1, 1983	280,000	June 1, 1992	520,000
December 1, 1983	290,000	December 1, 1992	540,000
June 1, 1984	300,000	June 1, 1993	560,000
December 1, 1984	310,000	December 1, 1993	580,000
June 1, 1985	320,000	June 1, 1994	600,000
December 1, 1985	335,000	December 1, 1994	620,000

\* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	$3\frac{3}{4}\%$
More than three years but not more than six years before maturity	$2\%$
More than six years but not more than eleven years before maturity	$2\frac{3}{4}\%$
More than eleven years but not more than sixteen years before maturity	$4\frac{1}{4}\%$
More than sixteen years but not more than twenty-one years before maturity	$5\frac{1}{2}\%$
More than twenty-one years but not more than twenty-three years before maturity	$6\frac{1}{2}\%$
More than twenty-three years before maturity	$7\%$

### SCHEDULE 3

#### DESCRIPTION OF THE PROJECT

The Project consists of the development of about 32,000 acres of land in the Project Area and its settlement by about 3,000 families, and includes:

1. The clearing of about 32,000 acres and the establishment thereon of about 16,800 acres of oil palms, and about 13,600 acres of rubber.
2. The provision within the Project Area of villages to house the settler families and management and support staff, together with appropriate roads, water systems and educational, health and other social service facilities as well as office accommodations, stores and other management facilities. A block of about 1,400 acres will be selected and reserved for the development of a regional center in the Project Area.
3. The construction of a palm oil mill with an initial capacity of 24 long tons of fresh fruit bunches an hour, and the subsequent expansion of this capacity to 42 long tons of fresh fruit bunches an hour.
4. The use of about 700 acres at the FLDA Research Center, Tekam, for crop diversification trials on a commercial scale.

The Project is expected to be completed by December 31, 1976.

### SCHEDULE 4

#### PROCUREMENT PROCEDURES

1. All contracts for land clearing and planting, construction of houses and buildings and construction or expansion of palm oil mills for the equivalent of US \$50,000 or more, as well as all contracts for the procurement of machinery, equipment or supplies for the equivalent of US \$20,000 or more, will be awarded on the basis of international competitive bidding.
2. With respect to land clearing and planting contracts, invitations to tenders will be issued whenever feasible in respect of units of work estimated to cost in the aggregate a minimum of US \$500,000 equivalent, except as provided in paragraph 7 below. Tenders resulting from the invitations will be acceptable for the whole or any part of the work which costs more than US \$50,000 equivalent.
3. With respect to contracts for the construction of buildings and houses, invitations to tenders will be issued, whenever feasible, in respect of units of work estimated to cost in the aggregate a minimum of US \$200,000 equivalent, except as provided in paragraph 7 below. Tenders resulting from the invitations will be acceptable for the whole or any part of the work which costs more than US \$50,000 equivalent.

4. With respect to contracts for land clearing and planting, the construction of buildings and houses and construction and expansion of palm oil mills of US \$50,000 equivalent or more, the following procedures will be observed:

- (a) Contractors will be pre-qualified. For pre-qualification of contractors a period of not less than 90 days will be allowed for submission of pre-qualification documents, such period to be counted from the date on which the invitation to pre-qualify is published in the Official Gazette.
- (b) Unless the Bank shall otherwise agree, the FLDA will send to the Bank a copy of the tender documents and a list of pre-qualified contractors prior to the issuance of such documents to the prospective tenderers.
- (c) Before a contract is awarded, the FLDA will forward to the Bank a copy of the *procès-verbal* of the public opening of the tenders, an analysis of the tenders, and the FLDA's tentative decision for the award for approval by the Bank.
- (d) The Bank will be furnished with signed copies of any such contract as soon as possible after its execution and prior to the submission to the Bank of the first withdrawal application in respect thereof.

5. With respect to contracts for procurement of equipment for US \$20,000 equivalent or more, the following procedures will be observed:

- (a) The FLDA will send to the Bank a copy of the tender documents, including specifications, at the same time as such documents are issued to prospective tenderers.
- (b) Before a contract is awarded, the FLDA will forward to the Bank a copy of the *procès-verbal* of the public opening of the tenders, and an analysis of the bids received, together with the FLDA's tentative decision for award for approval by the Bank before such award.

6. If it is proposed to award a contract either under paragraph 4 or paragraph 5 hereof to a contractor other than the lowest bidder, or to permit substantial modification of tender documents, the FLDA will submit to the Bank its reasons for doing so prior to any action on such proposal.

7. With respect to (i) contracts for land clearing, oil palm and rubber planting or the construction of buildings and houses which, for reasons of location or required work schedule cannot practically be included in units of the sizes specified in paragraphs 2 and 3 above, and which must therefore be for less, (ii) contracts for the expansion or construction of palm oil mills for less than US \$50,000, as well as (iii) contracts for the procurement of goods and equipment of less than US \$20,000:

- (a) The FLDA will submit to the Bank at the time the award is made a

summary of bids or quotations, an analysis report and recommendations, and a brief justification for making the award.

- (b) As soon as any such contract has been signed, the FLDA will send a copy thereof to the Bank together with a copy of the *procès-verbal* of the public opening of the tenders.

8. With respect to goods and services for which bids are submitted by local suppliers or manufacturers, the following rules will be observed for the purpose of comparing any such bids to any competing bids of the foreign manufacturers:

- (a) The total of the bids submitted by local manufacturers or suppliers shall be reduced by the amount of any customs duties and similar levies on imported components in excess of 15%.
- (b) All customs duties and similar levies shall be deducted from the total of the foreign bids and the portion of such foreign bids representing the c.i.f. landed price of the goods shall then be increased by 15% thereof or the actual rate of such duties, whichever is lower. The resulting figure plus the portion of such foreign bids representing inland freight, insurance and other costs of delivery of the goods to the Project site shall be deemed to be the delivery price of the imported goods.
- (c) If the prices of goods delivered to such site offered by the competing local bidder arrived at under (a) above is equal to or lower than the delivered price of the imported goods arrived at under (b) above and other terms and conditions are satisfactory, then the local bids may be considered the lowest evaluated bids.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[*Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.*]

### PROJECT AGREEMENT

AGREEMENT, dated May 20, 1970, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and THE FEDERAL LAND DEVELOPMENT AUTHORITY (hereinafter called the FLDA).

WHEREAS by an agreement of even date herewith (hereinafter called the Loan Agreement<sup>1</sup>) between Malaysia (hereinafter called the Borrower) and the

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<sup>1</sup> See p. 4 of this volume.



Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to thirteen million dollars (\$13,000,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that the FLDA agrees to undertake certain obligations toward the Bank as hereinafter provided; and

WHEREAS the FLDA is willing to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

### *Article I*

#### DEFINITIONS

*Section 1.01.* Whenever used in this Agreement, unless the context shall otherwise require, the several terms defined in the Loan Agreement and in the General Conditions<sup>1</sup> (as so defined) shall have the respective meanings therein set forth.

### *Article II*

#### PARTICULAR COVENANTS OF THE FLDA

*Section 2.01.* The FLDA shall carry out the Project, described in Schedule 3 to the Loan Agreement, with due diligence and efficiency and in conformity with sound agricultural, engineering, economic, administrative and financial practices, and under the supervision of competent and experienced management.

*Section 2.02. (a)* In carrying out that part of the Project described in Part 3 of Schedule 3 to the Loan Agreement, the FLDA shall employ competent and experienced consultants acceptable to the Bank, upon terms and conditions satisfactory to the Bank.

*(b)* The FLDA shall employ competent and experienced (i) contractors acceptable to the Bank, upon terms and conditions satisfactory to the Bank, for the purpose of carrying out the agricultural and civil works included in the Project, and (ii) consultants acceptable to the Bank, on terms and conditions satisfactory to the Bank, for the design and construction of processing facilities required for rubber produced in the Project Area and to advise on the operation thereof.

*Section 2.03. (a)* Upon request from time to time by the Bank, the FLDA shall promptly furnish to the Bank upon their preparation, the plans, specifications and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

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<sup>1</sup> See p. 32 of this volume.

(b) The FLDA shall maintain separate accounts in respect of the Project.

*Section 2.04.* The FLDA shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices its operations, receipts and expenditures; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, and the administration, operations, and financial condition of the FLDA.

*Section 2.05.* (a) The Bank and the FLDA shall cooperate fully to ensure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request.

(b) The Bank and the FLDA shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan. The FLDA shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the performance by the FLDA of its obligations under this Agreement, or the Settlers Agreements or which shall increase or threaten to increase materially the estimated cost of the Project.

*Section 2.06.* The FLDA shall satisfy the Bank that adequate arrangements have been made to insure the goods financed out of the proceeds of the Loan against risks incident to their purchase, importation into the territories of the Borrower and delivery to the Project Area. Any indemnity under such insurance shall be payable in a currency freely usable to replace or repair such goods.

*Section 2.07.* Except as shall be otherwise agreed by the Bank, the FLDA shall use all goods purchased in whole or in part with the proceeds of the Loan exclusively in the carrying out of the Project.

*Section 2.08.* The FLDA shall cause all facilities under its jurisdiction in the Project Area to be operated, maintained and renewed in accordance with sound agricultural, engineering and financial practices.

*Section 2.09.* (a) The accounts of (i) the FLDA and (ii) the FLDA's activities relating to the Project and to its operations in the Project Area shall be audited at least once each year by independent auditors acceptable to the Bank. The accounts and audit report shall be prepared in a form satisfactory to the Bank and, except as the Bank shall otherwise agree, the FLDA shall furnish to the Bank within six months following the close of its fiscal year signed copies of such auditors' reports.

(b) By a date not later than June 30, 1971, the FLDA shall cause to be prepared a forecast of its cash flows in order to enable it to assess its future

financial requirements, and shall, promptly upon the preparation thereof, submit such forecast to the Bank for review and comment.

(c) Settlers' accounts for phases in respect of which settlers had, by December 31, 1968, commenced loan repayments to the FLDA shall be completed in accordance with a time table agreed to with the Bank. All other settlers' accounts shall be completed promptly thereafter.

*Section 2.10.* The standard form of agreement between the FLDA and settlers in the Project Area as agreed to by the Bank shall not be amended without the prior approval of the Bank.

*Section 2.11.* The FLDA shall cooperate fully with the State Authority in the carrying out of the Project in accordance with the Act, with other applicable laws and regulations and pursuant to the agreement referred to in Section 1.02 (e) of the Loan Agreement, and shall consult with the Bank on any proposal to amend such agreement prior to any action on such proposal.

*Section 2.12.* (a) The FLDA shall appoint a qualified and experienced planting officer, acceptable to the Bank, to be responsible to the Jengka Division Director of the FLDA for plantings to be carried out under the Project, and shall not appoint any replacement of such officer without prior consultation with the Bank.

(b) The FLDA shall at all times be staffed with qualified and experienced senior personnel, shall inform the Bank of any proposed change in the position of (i) Director-General or (ii) Finance Director or of personnel filling such positions, and shall afford the Bank an opportunity to comment thereon prior to effectuating any such change.

*Section 2.13.* The FLDA shall not use oil palm planting material for the Project before adequate tests, acceptable to the Bank, indicating its suitability, have been conducted in respect thereof.

*Section 2.14.* The FLDA shall not introduce any changes in its rubber marketing arrangements, as the same are in force and effect on the date of this Agreement, in respect of rubber produced in the Project Area, without prior consultation with the Bank.

*Section 2.15.* Except as the Bank shall otherwise agree, the FLDA shall by a date not later than September 30, 1970, levy and maintain a cess at a level acceptable to the Bank on settlers on all FLDA schemes, such cess to be applied by the FLDA to recovery of its management costs.

### Article III

#### EFFECTIVE DATE; TERMINATION

*Section 3.01.* This Agreement shall come into force and effect on the date when the Loan Agreement shall become effective as provided therein. The Bank shall promptly notify the FLDA of such date. If the Loan Agreement shall terminate

pursuant to Section 11.04 of the General Conditions, the Bank shall promptly notify the FLDA of this event and, upon the giving of such notice, this Project Agreement and all obligations of the parties hereunder shall forthwith terminate.

*Section 3.02.* This Agreement shall terminate and the obligations of the parties hereunder shall cease and [terminate] on the date when the Loan Agreement shall terminate in accordance with its terms.

#### *Article IV*

##### MISCELLANEOUS PROVISIONS

*Section 4.01.* No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

*Section 4.02.* Any notice, demand or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram or cable to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such demand or request. The addresses so specified are:

For the FLDA :

The Federal Land Development Authority  
Jalan Maktab  
Kuala Lumpur, Malaysia  
Alternative address for cables :  
Tanahmaju  
Kuala Lumpur

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America  
Alternative address for cables :  
Intbafrad  
Washington, D.C.

*Section 4.03.* Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement or under Section 8.01 of the Loan Agreement on behalf of the FLDA may be taken or executed by its Chairman or such other person or persons as the FLDA shall designate in writing.

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

International Bank for Reconstruction and Development :

By J. BURKE KNAPP  
Vice President

The Federal Land Development Authority:

By TAN SRI ONG YOKE LIN  
Authorized Representative

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