

CHAPTER 128D
GRENADA CREDIT FACILITY AND CAISSE FRANCAISE DE
DEVELOPPEMENT APPROVAL ACT

• Act • Subsidiary Legislation •

ACT

Act No. 18 of 1995

ARRANGEMENT OF SECTIONS

1. Short title.
 2. Approval of Credit Facility Agreement.
 3. Charge on Consolidated Fund.
- Schedule Credit Facility Agreement

CHAPTER 128D
GRENADA CREDIT FACILITY AND CAISSE FRANCAISE DE
DEVELOPPEMENT APPROVAL ACT

**An Act for the approval by Parliament of a Credit Facility Agreement between
Grenada and Caisse Francaise De Developpement.**

[Act No. 18 of 1995.]

[5th April, 1995.]

1. Short title

This Act may be cited as the Grenada Credit Facility and Caisse Francaise De Developpement Approval Act.

2. Approval of Credit Facility Agreement

The approval of Parliament is hereby given to the Credit Facility Agreement set out in the Schedule hereto and it shall be lawful for the Minister of Finance to do everything that appears to him or her to be necessary or proper for carrying that Agreement into effect.

3. Charge on Consolidated Fund

The Credit raised under the said Credit Facility Agreement shall be a charge on and paid out of the Consolidated Fund.

Schedule

GRENADA CREDIT FACILITY AND CAISSE FRANCAISE DE DEVELOPPEMENT
APPROVAL ACT

CREDIT FACILITY AGREEMENT NO. 58 381 00 004 OP/CGD 1003 01

BETWEEN

the STATE OF GRENADA,

represented by Hon. Michael Andrews acting in his capacity as Minister of Finance pursuant to Cabinet decision of 13th March, 1995.

OF THE FIRST PART,

AND

CAISSE FRANCAISE DE DEVELOPPEMENT, formerly, Caisse Centrale de Coopération Economique,

a public establishment (*établissement public*) having its head office at Cité du Retiro, 35-37 rue Boissy d'Anglas, PARIS VIII^e,

represented by Mr. Xavier Blanchard its Regional Manager acting in that capacity and in accordance with the powers conferred on him for such purpose,

pursuant to Decision No. C 1994 0591 of the Director General of the said CFD made on 7 October, 1994, pursuant to the delegation given by the Supervisory Board on 3 March, 1993 (Resolution No. C19930035),

OF THE SECOND PART,

IT IS HEREBY AGREED AS FOLLOWS.

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AGREEMENT

PREAMBLE

It is the intention of the parties that their obligations hereunder be described by the “Specific Provisions” provided for hereinafter and in the schedules which form an integral part hereof as well as by the “General Provisions” set forth hereinbelow. The Specific Provisions and the General Provisions shall be deemed to form a single document hereinafter referred to as the “Present Agreement”.

In case of any discrepancy between the General Provisions and the Specific Provisions, the Specific Provisions will prevail over the General Provisions.

In the Present Agreement, the expression—

- “LENDER” shall mean CAISSE FRANCAISE DE DEVELOPPEMENT;
- “BORROWER” shall mean the STATE OF GRENADA;
- “PROJECT” shall mean the emergency programme for leakage detection and installation of meters on the Southern water network, the description and cost whereof are attached in the Appendix hereto;
- “CREDIT FACILITY” shall mean the credit facility made available to the STATE OF GRENADA by CAISSE FRANCAISE DE DEVELOPPEMENT, pursuant to the terms of the Present Agreement;
- “BENEFICIARY” shall mean the NATIONAL WATER AND SEWERAGE AUTHORITY (NAWASA) responsible for implementation of the PROJECT.

It is agreed that the provisions referring to CO-FINANCING ENTITIES are not applicable in the context of the Present Agreement.

The following appendices are attached to the Specific Provisions—

- APPENDIX I: Description, cost and financing plan of the PROJECT

- APPENDIX II: Legal opinion

SPECIFIC PROVISIONS

SECTION I – CONDITIONS OF THE CREDIT FACILITY

Clause 1 – Purpose of the Agreement

The LENDER provides the BORROWER, which accepts, with a CREDIT FACILITY for a maximum amount of:

1,500,000 (ONE MILLION FIVE HUNDRED THOUSAND) U.S. dollars.

It is agreed that all amounts mentioned in the Present Agreement are expressed in U.S. dollars, unless specific reference is made to another currency.

Clause 2 – Interest

All amounts payable by the BORROWER to the LENDER shall bear interest at the nominal rate of:

3.25% (THREE AND ONE-QUARTER PER CENT) per annum,

in accordance with the conditions set forth in Clause 1 of the General Provisions.

Such interest shall be due and payable on 30 April and 31 October each year.

Clause 3 – Repayments

The BORROWER will repay the LENDER the principal amounts made available to it in 24 (TWENTY-FOUR) equal semi-annual instalments, which shall be due and payable on 30 April and 31 October each year.

The first instalment shall be due and payable on 30 April, 2005, and the twenty-fourth and last on 31 October, 2016.

SECTION II – METHOD OF USING THE CREDIT FACILITY

Clause 4 – Application of funds

The proceeds shall be exclusively applied to financing the expenditures, net of any taxes, duties and levies whatsoever, incurred in connection with the PROJECT and up to the following amounts—

- equipment, up to 950,000 U.S. dollars;
- technical assistance, up to 140,000 U.S. dollars;
- personnel and transport, up to 105,000 U.S. dollars;
- supervision, up to 35,000 U.S. dollars;
- unforeseen expenses, up to 185,000 U.S. dollars;
- price revisions, up to 61,000 U.S. dollars.

Clause 5 – On-lending

The proceeds will be on-lent by the BORROWER to the BENEFICIARY in the form of a loan, at a rate and for a term at least as favourable as those set out in the Present Agreement.

The Borrower undertakes to provide the LENDER with all information concerning the on-lending, (including information on loan repayments). Such on-lending shall be registered in the accounts of the BENEFICIARY and the BORROWER shall ensure that the BENEFICIARY does not use the funds so on-lent for purposes other than financing the PROJECT in accordance with the conditions set out in Clause 4 hereinabove.

Clause 6 – Conditions precedent to disbursement of funds

Disbursement of funds may only be made if the conditions precedent provided for in Clause 4 of the General Provisions have been met, as well as the following conditions—

- presentation to the LENDER of a legal opinion from a qualified lawyer, chosen by agreement with the LENDER, in the form annexed hereto;
- prior agreement of the LENDER on the provisions of the deed or decision of on-lending.

Clause 7 – Methods of disbursement of funds

The BORROWER shall present disbursement requests to the Director of the CAISSE FRANCAISE DE DEVELOPPEMENT in FORT-DE-FRANCE. Such requests must have received the prior approval of the Engineering Consultant for the PROJECT.

Prior to each request, the BORROWER shall provide the LENDER with the name and position and the specimen signature of the person(s) who will be authorised to sign the disbursement requests on its behalf.

Disbursements to the BENEFICIARY shall be made in accordance with Clause 5 of the General Provisions for the BORROWER.

Clause 8 – Deadline for disbursement of funds

The deadline for disbursement of funds shall be 31 December, 1996.

SECTION III – GUARANTEES

Clause 9 – Transfer authorisation

1. The BORROWER confirms, as required, that all amounts payable to the LENDER pursuant to the Present Agreement, whether as to principal, default interest, costs or incidental expenses, will be transferred to France.

It is understood that such transfer authorisation also applies to any amounts which are payable to the LENDER, pursuant to the Present Agreement, for any reason whatsoever.

Such authorisation will remain in force until repayment in full of all amounts payable to the LENDER without the requirement of confirmation by separate deed where the LENDER has granted any extension of the repayment dates of the amounts lent.

2. The BORROWER undertakes to take all necessary steps to obtain the U.S. dollars required in due time for the performance of the present transfer authorisation.

3. The BORROWER authorises the LENDER to make direct disbursements in France or any other country in accordance with the conditions provided for in the Present Agreement.

SECTION IV – UNDERTAKINGS AND MISCELLANEOUS PROVISIONS

Clause 10 – Specific undertakings

In order to insure a better utilisation of the water resources and to yield revenues which will ensure the financial viability of NAWASA, the BORROWER undertakes to implement the rate reform as of 15th April, 1995.

Clause 11 – Exceptions to the General Provisions

1. Clause 2 of the General Provisions is replaced by the following clause—

“Clause 2 – Incidental expenses – (NEW)

1. The following shall be considered to be incidental expenses payable by the BORROWER—

- (a) expenses paid by the BORROWER resulting from signature and performance of the Present Agreement, including stamp and registration duties and the cost of registration of the guarantees;
- (b) the fees and transfer costs, if any, of the funds disbursed to the BORROWER or on behalf of the BORROWER, or paid by the BORROWER between Paris any other place determined by agreement with the LENDER;
- (c) the cost of proceedings and lawyers' fees, if any, incurred for the purpose of recovering amounts payable by the BORROWER;
- (d) all taxes, levies or duties whatsoever payable in the State of Grenada, existing at the signature date of the Present Agreement or imposed subsequently, which the LENDER may have to pay by reason of granting the CREDIT FACILITY and receipt of interest.

Any taxes, duties or levies whatsoever payable in France shall not be considered to be incidental expenses payable by the BORROWER.

2. Incidental expenses payable by the BORROWER which are paid by the LENDER shall be debited to the account of the BORROWER. Notice thereof shall be given to the BORROWER by transmission to it of documentary evidence thereof. The due date for payment of incidental expenses shall be the end of the month which includes the date falling sixty days from the date of transmission.”

2. Clause 7 of the General Provisions is replaced by the following clause—

“Clause 7 – Place of performance and service of the Credit Facility – (NEW)

1. The currency of payment is the U.S. dollar.
2. The place of performance and service of the CREDIT FACILITY is PARIS—
 - (a) Proceeds shall be remitted by the LENDER to any bank account in PARIS designated for such purpose by the BORROWER.
 - (b) Amounts payable by the BORROWER shall be remitted to account no. 1405 U RIB 15 opened by the LENDER with Crédit Lyonnais, AL 437 Agency, 14, rue Royale, 75008 PARIS.
 - (c) As an exception to the preceding paragraphs and subject to the prior approval of the LENDER, proceeds may be disbursed to the BORROWER at a place in the country in which the project is being undertaken or in any other place determined by agreement with the LENDER. Such disbursements will be made to any financial institution in such place designated by the BORROWER with which the BORROWER has opened a U.S. Dollar account.”

3. Clause 8 of the General Provisions is replaced by the following clause—

“Clause 8 – Accounting rules – (NEW)

1. Where movements of funds take place in PARIS, they shall be entered to the BORROWER's account in the LENDER's books according to the following methods—

- (a) The principal amounts disbursed by the LENDER shall be debited for value the business day preceding the date of operation; the incidental expenses paid by the LENDER shall be debited for value the due date defined in Clause 2, paragraph 2 (new) above.
- (b) Amounts paid to the LENDER shall be credited for value the business day following receipt of funds.

2. The principal amounts disbursed by the LENDER in Saint George's shall be entered as a debit to the BORROWER's account in the LENDER's books for value the business day preceding the date of performance of the transfer by the Banque de France.

3. In all cases, interest due and payable shall be entered as a debit for value on the due date."

Clause 12 – Choice of domicile

For the performance of the provisions and conditions of the Present Agreement, the parties have chosen the following domiciles—

- the LENDER at its head office in PARIS;
- the BORROWER in SAINT GEORGE'S,

wherein all proceedings may be duly notified to them.

Clause 13 – Stamp and registration duties

All stamp and registration duties applicable to the Present Agreement shall be paid by the BORROWER if such formalities are required by the parties or by either of them.

Made in TWO originals, in SAINT GEORGE'S, on 16th March, 1995.

Read and approved by the LENDER, Mr. XAVIER BLANCHARD.

Read and approved by the BORROWER, Hon. MICHAEL ANDREWS.

APPENDIX I

Description, Cost and Financing Plan of the Project

The island of GRENADA is equipped with 3 autonomous water supply networks which respectively serve the South, North-East and North-West sectors. The SOUTHERN network, which supplies water to the capital and the principal economic zone of the country, is the most important. It is subject to serious water shortage particularly at the end of the dry season, which is not due to the reduction in resources but rather to a rate of loss of 65% which results both from leakage in the network and from waste. With the assistance of the French consultant OTH, the BENEFICIARY identified the priorities and requested that an emergency programme consisting of leakage detection and the installation of counters be immediately financed.

The cost of such emergency programme is estimated at 1,800,000 U.S. dollars. It consists of two parts—

- the installation of 3,567 domestic meters and 560 non-domestic meters with the necessary equipment (meter box, linking device and stop-gate);
- the supply of leakage detection material and the corresponding technical assistance.

The cost of the PROJECT is 1,800,000 U.S. dollars and is made up as follows (in thousands of U.S. dollars)—

	CFD	BENEFICIARY
Equipment	950	
Vehicles		80
Technical assistance	140	
Personnel and transport	105	190
Supervision	35	
Unforeseen expenses (15%)	185	40

Price revisions	61	14
	1476	324

APPENDIX II

Legal Opinion

SUBJECT: THE EXAMINATION OF THE VALIDITY—

- of the credit facility agreement no. 58 381 00 004 OP/CGD 1003 01 in an amount of 1,500,000 U.S. dollars to be made between the Caisse Francaise de Développement and the State of Grenada for the purpose of financing an emergency programme for leakage detection and the installation of counters on the Southern water network,

I, the undersigned acting in my capacity as having examined the credit facility agreement referred to above, give the following legal opinion:

1. The authorising the obtaining of the above-mentioned loan has been duly adopted. All provisions of the credit facility agreement are in conformity with the international public policy rules of Grenada, and the absence of registration of such agreement does not affect the validity thereof.
Consequently, the obligations assumed by the State of Grenada pursuant to the said agreement are fully valid and binding on it without restriction or limitation.
2. The authorising Mr. to sign the credit facility agreement on behalf of the State of Grenada, in his capacity as has been duly adopted. Consequently, the signature of Mr. is binding on the State of Grenada without restriction or limitation, for the purposes of the said agreement and all matters arising pursuant thereto.

GENERAL PROVISIONS

SECTION I – CONDITIONS OF THE CREDIT FACILITY

Clause 1 – Interest

Throughout the term of the CREDIT FACILITY, interest will be payable on all amounts debited to the BORROWER’s account. Such interest will be payable semi-annually on the payment dates set forth in the Specific Provisions.

For the purpose of calculating such interest, a year shall be considered, in accordance with banking practice, as consisting of 360 days, and the period during which interest shall accrue on amounts in the said accounts shall be determined by the actual number of days elapsed until payment.

Furthermore, interest shall be payable on overdue amounts at the rates provided for in the Present Agreement commencing on the payment dates of such amounts.

Clause 2 – Incidental expenses

1. The BORROWER shall pay the following incidental expenses—
 - (a) All costs and other expenses relating to the signature and performance of the Present Agreement, including the cost of proceedings, fees paid to lawyers retained for the recovery of amounts payable by the BORROWER and, where applicable, fees and costs related to the transfer of funds disbursed to, or paid by the BORROWER between PARIS and any other place determined by agreement with the LENDER.
 - (b) All taxes, duties and levies whatsoever, whether in force on the date of signature of the Present Agreement or subsequently imposed, which are

incurred by the LENDER by reason of making the CREDIT FACILITY available or the receipt of interest.

2. If incidental expenses to be paid by the BORROWER are paid by the LENDER, they shall be debited to the account of the BORROWER and shall bear interest at the rates provided for in the Present Agreement.

Clause 3 – Default interest

The BORROWER shall pay to the LENDER default interest on all unpaid amounts at the rate of 3.5% (THREE AND ONE-HALF PER CENT) per annum. Such default interest will be in addition to the interest provided for in Clause 1 of the General Provisions.

Such interest shall begin to accrue, without formal demand from the LENDER, one month after the payment date of the amounts overdue and shall be paid forthwith upon receipt of a detailed statement thereof.

SECTION II – METHODS OF USING THE CREDIT FACILITY

Clause 4 – Conditions precedent to disbursement of funds

Disbursement of funds is conditional upon the delivery of the following documents to the LENDER—

1. With respect to the first disbursement—
 - evidence that the guarantees provided for in the Specific Provisions have been duly created;
 - evidence that the corporate organs of the CO-FINANCING ENTITIES have agreed to make available the funds provided for in the financing plan referred to in the Specific Provisions;
 - a copy of the deed of retrocession where the CREDIT FACILITY is retroceded to any BENEFICIARY; such deed shall, in particular, include the undertaking of the BENEFICIARY to comply with the provisions of Articles 11, 12 and 13 of the General Provisions.
2. With respect to each disbursement, including the first—
 - plans, estimates, orders and contracts previously approved by the LENDER as provided for in Clause 11 of the General Provisions which are related to the disbursements requested.

Clause 5 – Methods of disbursement of funds

Funds shall be disbursed to the BORROWER in accordance with the following methods—

1. Refinancing of expenditures paid by the BORROWER.

Funds shall be made available to the BORROWER, at its request, by successive disbursements and upon proof of expenditures paid by the BORROWER. Each such disbursement request shall be accompanied by documentary evidence of payment of such expenditures.

Documentary evidence, such as bills of costs or paid invoices, may be presented in the form of a photocopy or a duplicate certified by the BORROWER to conform to the original thereof and shall specify the references and the dates of the payment orders. The BORROWER hereby undertakes not to part with the originals and to make them available at all times to the LENDER at its request.

The LENDER may also request the BORROWER to supply documentary evidence that the investment corresponding to such expenditure has been duly made.

2. Direct disbursements by the LENDER to contractors—

- (a) The BORROWER may request the LENDER to make direct disbursements to the contractors involved in carrying out the PROJECT.

For such purpose, the BORROWER shall provide the LENDER with all necessary instructions to enable it to make the requested direct disbursements.

Such instructions shall be accompanied by bills of costs, invoices or requests for payment on account which may be presented by means of photocopies or duplicates certified by the BORROWER to conform to the originals thereof.

- (b) It is agreed that the LENDER will act as an agent of the BORROWER and will have no obligation to ascertain whether any legal impediment exists to making the requested disbursements. The LENDER shall be entitled to reject such disbursement requests if it determines that such an impediment exists, as well as in the circumstances mentioned in Clause 6, paragraph 1 of the General Provisions.

The BORROWER discharges the LENDER from all liability in relation to disbursements so effected and waives all recourse against the LENDER. The BORROWER shall assume all liability for any consequences arising from proceedings taken by third parties against the LENDER in connection with its performance of this mandate.

The BORROWER acknowledges its indebtedness to the LENDER for the amounts disbursed in the said circumstances as well as for interest on such amounts from the value date of such disbursements.

- (c) The LENDER shall be entitled to require that in all contracts made for implementation of the PROJECT, which provide for the payment by the LENDER of down-payments or advances in accordance with the procedure for direct payments defined hereinabove, it also be provided that a bank guarantee be given for restitution of such down-payments or advances if the respective services have not been provided.

The BORROWER hereby undertakes to delegate in such case the benefit of such guarantee to the LENDER should the LENDER so request.

Clause 6 – Postponement or rejection of disbursement requests – Reduction of the Credit Facility

1. The LENDER shall be entitled to postpone and even to reject outright a disbursement request if an event giving rise to acceleration of the CREDIT FACILITY occurs or if a CO-FINANCING ENTITY suspends disbursements in connection with the PROJECT.

Furthermore, in those countries where there are exchange controls, the LENDER shall also be entitled so to act if the exchange control authorities do not take the measures necessary to assure, on the due date, the transfer of all amounts payable to the LENDER under the CREDIT FACILITY, or any other facility granted by the LENDER to the BORROWER or any borrower which is a national of such country.

The LENDER shall be entitled to inform the contractors participating in implementation of the PROJECT of such postponement of disbursements.

2. The LENDER shall be entitled to reduce the amount of the CREDIT FACILITY where the expenditures incurred for the PROJECT prove to be less than those provided for in Specific Provisions.

The LENDER shall inform the BORROWER of its decision by registered letter and the CREDIT FACILITY shall forthwith be reduced in proportion to the reduction in such expenditure.

3. The BORROWER may cancel all or part of the CREDIT FACILITY. In such event it shall inform the LEADER of its decision by registered letter.

4. That portion of the CREDIT FACILITY which remains undisbursed at the latest date for disbursement of funds mentioned in the Specific Provisions shall be automatically cancelled.

5. The undisbursed portion of the CREDIT FACILITY shall be applied to reduction of each instalment of the CREDIT FACILITY, the term thereof remaining unchanged.

Clause 7 – Place of disbursement and service of the Credit Facility

1. The currency of payment of the CREDIT FACILITY is the U.S. dollars.

2. The place of performance and service of the CREDIT FACILITY is PARIS.

Proceeds shall be remitted by the LENDER to any bank account in PARIS designated for such purpose by the BORROWER.

Amounts payable by the BORROWER shall be remitted to account no. 30002/00790/0000002909U/40 opened by the LENDER with the CREDIT LYONNAIS (Central Agency) Bd des Italiens – UAC Richelieu in PARIS.

3. As an exception to the preceding paragraphs and subject to the prior approval of the LENDER—

- (a) Proceeds of the CREDIT FACILITY may be disbursed to the BORROWER at a place in the country in which the PROJECT is being undertaken or in any other place determined by agreement with the LENDER. Such disbursements will be made to any financial institution in such place designated by the BORROWER and in the equivalent amount in the currency of such place on the date of disbursement.
- (b) If the BORROWER is a State forming part of the *Zone Franc*, it may make payment in such country of amounts payable in the currency of the CREDIT FACILITY, of the equivalent amount on the date of payment in freely convertible and transferable currency. Such amounts will be remitted to any financial institution in such country designated by the LENDER.

Clause 8 – Accounting rules

1. Where movements of funds take place in PARIS they shall be entered to the BORROWER's account in the LENDER's books according to the following methods—

- (a) the principal amounts disbursed and incidental expenses paid by the LENDER shall be debited to the BORROWER's account for value the business day preceding such disbursement date;
- (b) amounts paid to the LENDER shall be credited—
 - for value the business day after the date of receipt of funds by the LENDER, if payment is made by bank transfer;
 - for value two business days thereafter, if payment is made by cheque payable in PARIS;
 - for value five business days following the receipt of the cheque by the LENDER, in the case of cheques payable in France other than in PARIS.

2. Where movements of funds take place in a member country of the *Zone Franc*, they will be entered to the BORROWER's account in the LENDER's books in accordance with the following methods—

- (a) the principal amounts disbursed by the LENDER and incidental expenses paid by the LENDER will be entered as a debit for value four days before the date of such payment;
- (b) amounts paid to the LENDER will be entered as a credit for value four days after the date of such payment.

3. Where disbursements are made by the LENDER in a country which is not a member of the *Zone Franc*, the principal amounts disbursed by the LENDER and incidental expenses paid by the LENDER will be entered as a debt to the BORROWER's account in the LENDER's books for value the business day preceding that on which the transfer order is given by the LENDER.

4. In all cases, interest and fees due and payable shall be entered as a debit for value on the due date.

Clause 9 – Application of repayments

Payments made by the BORROWER to the LENDER shall be applied to the amounts due, in the following order—

- (1) incidental expenses;
- (2) default interest;
- (3) interest;
- (4) principal.

Payments made by the BORROWER will be applied in priority to amounts payable under the CREDIT FACILITY or to other credits granted by the LENDER which the LENDER considers would be in its best interest to have repaid, and in the order specified in the preceding paragraph.

Clause 10 – Prepayments

1. Prepayments

The BORROWER may prepay all or part of amounts payable to the LENDER pursuant to the CREDIT FACILITY upon giving notice of at least 30 calendar days. The amount of each prepayment shall be equal to a whole multiple of instalments of principal.

Amounts prepaid shall be applied to the last instalments determined in the Specific Provisions in the reverse order of their maturities.

2. Prepayment to a CO-FINANCING ENTITY or from the BENEFICIARY

Where the BORROWER has prepaid all or part of the amounts payable to a CO-FINANCING ENTITY or where the BENEFICIARY has prepaid all or part of the amounts payable to the BORROWER to the latter, the LENDER shall be entitled to require that all outstanding amounts payable to it under the CREDIT FACILITY be repaid to it in an equivalent proportion.

SECTION III – PERFORMANCE AND FOLLOW-UP

Clause 11 – Performance of contracts

1. Subject to the provisions of the following paragraph and of Clause 12 of the General Provisions on rules of origin, any contractor may participate in calls for tender, awards and contracts organised or made for the implementation of the PROJECT.

2. The BORROWER undertakes to entrust performance of the works or services necessary for the implementation of the PROJECT to contractors presenting sufficient evidence of their capacity to satisfactorily perform their obligations. No exception pertaining to such contracts and orders may be raised by the BORROWER against the LENDER.

3. At the request of the LENDER, the organisation of contractor's (*maîtrise d'oeuvre*) and owner/employer's (*maîtrise d'oeuvre*) services for implementation of the PROJECT, as well as the procedure for selection of the enterprises which are requested to submit tenders therefor, shall be presented to it for its prior approval.

4. The BORROWER undertakes to submit to the LENDER plans and estimates, written orders, contracts entered into with contractors and amendments thereto relating to the implementation of the PROJECT for the prior approval of the LENDER.

Clause 12 – Rules of origin

The BORROWER covenants that the goods and services financed by the LENDER shall originate from the *Zone Franc* countries or from the country in which the PROJECT is being undertaken.

Goods and services whose price includes a majority of added value produced in one or more *Zone Franc* countries or in the country in which the PROJECT is being undertaken shall be considered to meet this requirement.

All documents which demonstrate to the satisfaction of the LENDER that the said requirement has been met shall be provided to the LENDER.

The LENDER may, in exceptional circumstances, waive all or part of such requirements.

Clause 13 – Performance and follow-up of the Project

The BORROWER undertakes—

- (a) to seek the prior approval of the LENDER for all amendments to the financing plan set forth in the Specific Provisions;
- (b) to take all necessary steps to procure financing on conditions satisfactory to the LENDER for all costs which are not financed from the CREDIT FACILITY, including those resulting from any overruns from the forecasts contained in the Specific Provisions;
- (c) to inform the LENDER of any decision or occurrence which could have a material effect on the implementation or operation of the PROJECT;
- (d) to provide the LENDER throughout the implementation of the PROJECT with quarterly technical and financial reports within two months following the end of the relevant quarter;
- (e) after the PROJECT has been completed, to provide the LENDER with an overall report on its implementation;
- (f) to authorise the LENDER to carry out follow-up and inspection activities in order to examine the conditions in which the PROJECT is being implemented and operated.

For such purpose, the BORROWER undertakes to authorise such visits of the LENDER to inspect the site and all documents related thereto which will take place at such times and in such conditions as shall be determined by the LENDER after consultation with the BORROWER.

Clause 14 – Undertakings of Borrower

The BORROWER undertakes—

- not to constitute any privileged or priority claims in relation to the LENDER's claims, in favour of lenders from which it borrows money or to which it gives its guarantee and to extend to the LENDER, if it so requests, the benefit of any additional guarantee which the BORROWER gives to any other lender;

- to provide the LENDER with all information which the LENDER may reasonably request on the position of its internal and external public debt as well as on the position of the loans guaranteed by the BORROWER.

Clause 15 – Follow-up of Borrower

Where the CREDIT FACILITY is retroceded to any BENEFICIARY, the BORROWER shall take all steps necessary in order that the BENEFICIARY, throughout the implementation and operation of the PROJECT—

- (a) provide the LENDER with a copy of its annual financial statements (balance sheet and profit and loss account) as soon as they are approved as well as all information which the LENDER may reasonably require on its financial position;
- (b) present the LENDER, at its request, with the minutes of the meetings and reports of the corporate organs as well as the internal and external audit reports;
- (c) take out insurance against risks of fire and explosion with respect to the property financed by the LENDER until repayment in full of all amounts payable by the BORROWER under the CREDIT FACILITY.

SECTION IV – ACCELERATION AND OVERDUE AMOUNTS

Clause 16 – Acceleration of the Credit Facility

The LENDER may declare the outstanding amounts under the CREDIT FACILITY immediately due and payable by the BORROWER in any of the following circumstances—

1. The BORROWER does not fulfil one or more of its contractual obligations under the Present Agreement and in particular—
 - (a) the funds disbursed under the CREDIT FACILITY are not used for their intended purpose;
 - (b) any or all amounts of principal, interest, fees, default interest or incidental expenses are not paid when due and payable.
2. Any of the following circumstances affects the PROJECT—
 - (a) the implementation of the PROJECT is suspended or postponed for a period exceeding three months;
 - (b) the implementation of the PROJECT is not completed by the deadline for disbursement of funds under the CREDIT FACILITY except where the LENDER agrees to postpone such date;
 - (c) the installations financed by the LENDER cease to be operated.
3. Any of the following events occurs—
 - (a) the BORROWER is obliged, following an event of default thereunder, to make an accelerated payment of any other credit extended by the LENDER or by any other lender;
 - (b) default by the BORROWER with respect to any other obligation contracted with the LENDER.

Where any of the above events giving rise to acceleration occurs, and where the LENDER intends to insist on accelerated repayment by the BORROWER of amounts payable pursuant to the CREDIT FACILITY, notice of such intention will be properly given if sent by registered mail.

The requirement of full and immediate payment of all outstanding amounts pursuant to the CREDIT FACILITY will be fully effective from the date on which the registered letter is sent to the BORROWER without any further formality being required.

Clause 17 – Overdue amounts

Without prejudice to the provisions of Clause 16 of the General Provisions on the acceleration of the CREDIT FACILITY, where the BORROWER does not repay in full the principal, interest, fees, default interest and incidental expenses pursuant to the CREDIT FACILITY, the LENDER shall be entitled—

- (a) to suspend review of projects proposed by the BORROWER;
- (b) to suspend completion of formalities with respect to agreements relating to financing offers notified by the LENDER to the BORROWER;
- (c) to suspend all decisions approving contracts to be financed from the CREDIT FACILITY or any other credit facility granted by the LENDER to the BORROWER;
- (d) to cease all disbursements pursuant to the Present Agreement and all other credit facility agreements now or hereafter signed with the BORROWER.

The LENDER shall be entitled to inform enterprises participating in implementation of the PROJECT financed by the LENDER of the steps mentioned in paragraphs (c) and (d) above.

SECTION V – MISCELLANEOUS PROVISIONS

Clause 18 – Translation

The Present Agreement has been originally drawn up and signed in the French language.

If any translation is made hereof, the French version shall exclusively govern in case of a difference in interpretation of the provisions of the Present Agreement or of litigation between the parties.

Clause 19 – Governing law

The Present Agreement is governed by French law.

Clause 20 – Arbitration

All disputes arising from the Present Agreement shall be finally settled in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce in force at the date of commencement of the arbitration proceedings, by one or more arbitrators to be appointed in accordance with the said rules.

The party wishing to resort to arbitration shall inform the other party by registered letter.

The parties shall agree on the choice of the place of arbitration and the nationality of the sole arbitrator or the President of the arbitration tribunal.

In the absence of an agreement between the parties within one month from the sending of the aforementioned registered letter, the arbitration proceedings will take place in LAUSANNE (SWITZERLAND) and the sole arbitrator, or the President, shall be a Swiss national.

French law shall be applied in all proceedings pursuant to this arbitration clause.

Arbitration proceedings shall be conducted in the French language.

The present arbitration clause shall remain valid in the event of the nullity, termination, cancellation or expiration of the Present Agreement.

Commencement of proceedings by either party against the other shall not in itself suspend its contractual obligations pursuant to the Present Agreement.

The signature by the BORROWER of this arbitration clause shall be deemed, by the express consent of the parties, to be a waiver of any immunity from jurisdiction or enforcement which it may otherwise be entitled to invoke.

Clause 21 – Termination

Where signature of the annexed documents or the fulfillment of the conditions precedent provided for in the Present Agreement does not occur within a period of one year from the date on which notice of the offer of the CREDIT FACILITY is sent to the BORROWER, the LENDER shall be entitled to terminate the Present Agreement without the requirement of using any particular formalities.

CHAPTER 128D GRENADA CREDIT FACILITY AND CAISSE FRANCAISE DE DEVELOPPEMENT APPROVAL ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
