Development Grant Agreement

(Transitional Economic Recovery Support Grant)

between

THE DEMOCRATIC REPUBLIC OF CONGO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated December 9, 2005
AGREEMENT, dated December 9, 2005, between the DEMOCRATIC REPUBLIC OF CONGO (the Recipient) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received from the Recipient a letter dated November 4, 2005 (the Letter of Development Policy), describing a program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty (hereinafter called the Program), declaring the Recipient’s commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during the execution thereof;

(B) the Recipient has carried out the measures and taken the actions described in Schedule 2 of this Agreement to the satisfaction of the Association and has maintained a macroeconomic policy framework satisfactory to the Association; and

(C) on the basis, inter alia, of the foregoing, the Association has decided in support of the Program to provide such assistance to the Recipient by making the Grant in one tranche as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The “General Conditions Applicable to Development Credit Agreements” of the Association, dated January 1, 1985 (as amended through May 1, 2004), with the modifications set forth in Schedule 3 to this Agreement (the General Conditions), constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:
(a) “Advance Funds Mechanism” means the procedure for granting Public Entities (as hereinafter defined) advances of funds allowing operating expenditures of a clearly known nature to be covered;

(b) “Budget Execution Report” means the report on the execution of the budget (état de suivi budgétaire) prepared by the Recipient’s Ministry of Budget;

(c) “Education Bloc Grant” means budget allocation to be made available quarterly to publicly administered schools pursuant to the Education Bloc Grants Program (as hereinafter defined);

(d) “Education Bloc Grants Program” means the program adopted by the inter-ministerial decree No. 17 dated June 14, 2005, relating schools operating costs;

(e) “Gecamines” means Générale de Carrières et Mines, a mining company established and operating pursuant to the laws of the Recipient;

(f) “Mining Titles Validation Commission” means the commission established and operating pursuant to Article 338 of the Mining Code (Code Minier) in charge of reviewing the existing mining titles (Commission de Validation des Titres Miniers);

(g) “Province” means any of the 11 administrative areas within the territory of the Recipient established pursuant to Décret-Loi No. 081 du 2 juillet 1998 portant Organisation Territoriale et Administrative de la République Démocratique du Congo tel que modifié et complété par le Décret-Loi No. 018/2001 du 28 septembre 2001;

(h) “Provincial Medical Inspectors” means the authority established by the Recipient’s Ministry of Health at the Province level in charge of managing the delivery of health services (médecin inspecteur de province); and

(i) “Public Entities” means the Recipient’s ministries, services, Provinces, and other public institutions authorized to use the Advance Funds Mechanism.

ARTICLE II

The Grant
Section 2.01 The Association agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to sixty-two million one hundred thousand Special Drawing Rights (SDR 62,100,000).

Section 2.02 (a) Subject to the provisions of paragraphs (b) and (c) of this Section, the Recipient shall be entitled to withdraw the proceeds of the Grant from the Grant Account in support of the Program.

(b) Except as the Association may otherwise agree: (i) all withdrawals from the Grant Account shall be deposited by the Association into an account of the Central Bank opened in Dollars designated by the Recipient; and (ii) the Recipient shall ensure that upon each deposit of an amount of the Grant into said account, an equivalent amount is accounted for in the Recipient’s budget management system, in a manner acceptable to the Association.

(c) The Recipient undertakes that the proceeds of the Grant shall not be used to finance expenditures excluded pursuant to the provisions of Schedule 1 to this Agreement. If the Association determines at any time that an amount of the Grant was used to make a payment for an expenditure so excluded, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of said payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.

Section 2.03 The Closing Date shall be December 31, 2006 or such later date as the Association shall establish. The Association shall promptly notify the Recipient of such later date.

Section 2.04 (a) The Recipient shall pay to the Association a commitment charge on the principal amount of the Grant not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Recipient from the Grant Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.04 of this Agreement.
(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Recipient; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05 The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Particular Covenants

Section 3.01 (a) The Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program.

(b) Prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Recipient shall exchange views with the Association on any proposed action to be taken after the disbursement of the Grant which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program, including any action specified in Schedule 2 to this Agreement.

Section 3.02 (a) Without limitation upon the provisions of Section 9.01 (a) of the General Conditions, the Recipient shall promptly furnish to the Association such information relating to the provisions of Article II of this Agreement as the Association may, from time to time, reasonably request.

(b) Upon the Association’s request, the Recipient shall:

(i) have the account and the recording of amounts of the Grant into the Recipient’s budget management system referred to in Section 2.02 (b) audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association;
(ii) furnish to the Association as soon as available, but in any case not later than four months after the date of the Association’s request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning the said account and recording of Grant amounts into the budget management system, and the audit thereof, as the Association shall have reasonably requested.

ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional event is specified, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE V

Termination

Section 5.01. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.
ARTICLE VI

Representative of the Recipient; Addresses

Section 6.01 The Minister Finance of the Recipient is designated as the representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

Minister of Finance
Ministry of Finance
BP 12997
Kinshasa I
Democratic Republic of Congo

Facsimile:

243 88 02 381

For the Association:

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

Cable address: Telex: Facsimile:

INDEVAS 248423 (MCI) or (202) 477 6391
Washington, D.C. 64145 (MCI)
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

THE DEMOCRATIC REPUBLIC OF CONGO

By /s/ Faïda Mitifu
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Nils O. Tcheyan
Authorized Representative
Region
SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Grant shall not be used to finance any of the following expenditures:

1. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Association or the Bank shall have financed or agreed to finance under another credit, loan, or grant;

2. expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

<table>
<thead>
<tr>
<th>Group</th>
<th>Subgroup</th>
<th>Description of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>112</td>
<td>-</td>
<td>Alcoholic beverages</td>
</tr>
<tr>
<td>121</td>
<td>-</td>
<td>Tobacco, unmanufactured, tobacco refuse</td>
</tr>
<tr>
<td>122</td>
<td>-</td>
<td>Tobacco, manufactured</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(whether or not containing tobacco substitutes)</td>
</tr>
<tr>
<td>525</td>
<td>-</td>
<td>Radioactive and associated materials</td>
</tr>
<tr>
<td>667</td>
<td>-</td>
<td>Pearls, precious and semiprecious stones, unworked or worked</td>
</tr>
<tr>
<td>Group</td>
<td>Subgroup</td>
<td>Description of Items</td>
</tr>
<tr>
<td>-------</td>
<td>----------</td>
<td>----------------------</td>
</tr>
<tr>
<td>718</td>
<td>718.7</td>
<td>Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors</td>
</tr>
<tr>
<td>728</td>
<td>728.43</td>
<td>Tobacco processing machinery</td>
</tr>
<tr>
<td>897</td>
<td>897.3</td>
<td>Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths’ or silversmiths’ wares (including set gems)</td>
</tr>
<tr>
<td>971</td>
<td></td>
<td>Gold, non-monetary (excluding gold ores and concentrates)</td>
</tr>
</tbody>
</table>

3. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

4. expenditures for environmentally hazardous goods (for purposes of this paragraph the term “environmentally hazardous goods” means goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party);

5. expenditures on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

6. expenditures under a contract in respect of which the Association determines that corrupt, fraudulent, collusive, or coercive practices were engaged in by representatives of the Recipient or of a beneficiary of the Grant during the procurement or execution of
such contract, without the Recipient having taken timely and appropriate action satisfactory to the Association to remedy the situation.

SCHEDULE 2

Actions Referred to in Recital (B) of the Preamble to this Agreement

1. The Recipient has produced the Budget Execution Report every month since January 2005 and has issued an instruction on the procedure to justify expenditures executed by Public Entities using the Advance Funds Mechanism, in accordance with paragraph 36 of the Letter of Development Policy.

2. The first group of civil service retirees defined in the strategy adopted by the Recipient’s Council of Ministers has been identified, in accordance with paragraph 59 of the Letter of Development Policy.

3. A presidential decree dated October 24, 2005, has been adopted and published in the Journal Officiel defining criteria and transparent procedures to review all existing forestry titles, and extending the moratorium on issuing new titles until the legal review is completed, new auction procedures are adopted, and a 3-year plan for future concession is adopted; the list of existing titles providing the basis for the legal review has been published jointly by the Ministry of Environment and Ministry of Finance on November 1, 2005; and an independent expert has been recruited to assist the legal review and assess compliance with the procedures, all in accordance with paragraphs 94 and 95 of the Letter of Development Policy.

4. The Recipient has entered into a management contract for Gecamines with a competitively selected company; the Mining Titles Validation Commission has been established in accordance with Article 338 of the Mining Code, in accordance with paragraphs 105 and 107 of the Letter of Development Policy.

5. The Recipient has disbursed the first quarterly Education Bloc Grants; an effective publicizing of the Education Bloc Grant Program has been carried out, in accordance with paragraph 123 of the Letter of Development Policy.

6. The Ministry of Health has presented the budget for 2005 for each Province, indicating clearly the funds to be made available to Provincial Medical
Inspectors; and each Province has been informed of the approved allocation, in accordance with paragraph 118 of the Letter of Development Policy.
SCHEDULE 3

Modifications to the General Conditions

For the purpose of this Agreement, the provisions of the General Conditions are modified as follows:

1. Sections 3.02, 3.03, 3.04 (a), 3.04 (b), 3.05, 6.05, and Article VII, are deleted in their entirety.

2. Wherever used in the General Conditions, the following terms are modified to read as follows:

   (a) The term “Borrower” is modified to read “Recipient”.

   (b) The term “Credit” is modified to read “Grant”.

   (c) The term “credit” is modified to read “grant”; except that where used in Sections 6.02 (a) (ii) and 6.02 (c) (i), as modified below, the term “credit” shall continue to read “credit”.

   (d) The term “Credit Account” is modified to read “Grant Account”.

   (e) The term “Development Credit Agreement” is modified to read “Development Grant Agreement”.

3. Paragraph 12 of Section 2.01 is modified to read:

   12. ‘‘Project’’ means the program, referred to in the Preamble to the Development Grant Agreement, in support of which the Grant is made.”

4. Article IV is modified as follows:

   (a) Section 4.01 is modified to read:

   “Except as the Recipient and the Association shall otherwise agree, withdrawals from the Grant Account shall be made in the currency
specified in Section 2.02 (b) of the Development Grant Agreement; provided, however, that withdrawals in the currency of the Recipient shall be made in such currency or currencies as the Association shall from time to time reasonably select.”;

(b) Section 4.02 (a) and its heading are modified to read as follows:

“Section 4.02 Currencies in which Commitment Charges are Payable

(a) The Recipient shall pay the commitment charge on the Grant in the currency specified in the Development Grant Agreement or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to paragraph (c) or (e) of this Section.”

(c) Wherever used in Section 4.02 (c) and (e) of the General Conditions the words “principal and service charges” are modified to read “commitment charge”.

(d) Section 4.03 and its heading are modified to read as follows:

“Section 4.03. Amount of the Grant

The amount of the Grant withdrawn from time to time shall be the equivalent in terms of SDR (determined as of the date or respective dates of withdrawal from the Grant Account) of the value of the currency or currencies so withdrawn.”

5. Section 5.01 is modified to read:

“The Recipient shall be entitled to withdraw the proceeds of the Grant from the Grant Account in accordance with the provisions of the Development Grant Agreement and of these General Conditions.”

6. The last sentence of Section 5.03 is deleted.

7. Section 6.02 is modified as follows:

(a) The phrase “any other development credit agreement” in Section 6.02 (a) (ii) is modified to read: “any other development grant, credit or financing agreement”.

- 13 -
(b) The phrase “any development credit agreement” in Section 6.02 (c) (i) is modified to read: “any development grant, credit or financing agreement”.

8. The words “The principal of, and any other charges on” in paragraph (a) of Section 8.01 are modified to read “The commitment charge on”.

9. Section 9.06 (c) is modified to read:

“(c) Not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Association, the Recipient shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution of the program referred to in the Preamble to the Development Grant Agreement, the performance by the Recipient and the Association of their respective obligations under the Development Grant Agreement and the accomplishment of the purposes of the Grant.”

10. Section 9.04 is deleted in its entirety and Sections 9.05, 9.06 (as modified above), 9.07 and 9.08 are renumbered, respectively, Sections 9.04, 9.05, 9.06 and 9.07.