

THIS AGREEMENT is made between the Government of the Republic of Indonesia, the Government of Malaysia, the Government of the Republic of the Philippines, the Government of the Republic of Singapore and the Kingdom of Thailand (hereinafter jointly called "the Principal") of the one part and Bumiputra Merchant Bankers Berhad a company incorporated in Malaysia and having its registered office at 12th Floor, Bangunan Ming, Jalan Bukit Nanas, Kuala Lumpur, Malaysia (hereinafter referred to as "the Manager") of the other part.

WHEREAS:

(1) The Principal desires to obtain investment management services for investments of the ASEAN Cultural Fund (hereinafter called "the Funds") and related custodianship for the investments in which the Funds are from time to time invested.

(2) The Manager is willing to provide such services subject to the terms and conditions hereinafter appearing.

(3) The Principal has duly authorised the Secretary-General of the ASEAN Secretariat to sign this Agreement on its behalf.

NOW IT IS AGREED as follows:

1. APPOINTMENT OF MANAGER

The Principal hereby appoints the Manager, and the Manager hereby accepts the appointment, as a manager of the Principal to manage the investment of the Funds, upon and subject to the terms and conditions hereinafter set forth.

2. TRANSFER OF FUNDS TO MANAGER

Immediately after the execution of this Agreement the Principal shall arrange for the Funds to be transferred to the Manager and thereafter the Manager will open an account or accounts with a bank or banks, such account or accounts to be designated by the Manager in the Principal's name but operable only by the Manager. All

interest, if any, received on such account or accounts shall be promptly credited to the account of the Principal and shall form part of the Funds. The Manager shall keep the Funds so transferred and any uninvested cash from time to time representing income from, or the proceeds of disposal of, the investments representing or otherwise forming part of the Funds, in one or more of such accounts.

3. DUTIES OF MANAGER

(1) Subject to the policies as set out in the Investment Policy Schedule attached hereto as Annex I which may from time to time be varied by written agreement between the Principal and the Manager and within the scope of such policies, the Manager shall during the continuance of this Agreement perform and manage the Funds, and/or the investments of the Funds or any part thereof and the Principal hereby grants to the Manager power to invest, realise and re-invest the Funds and the investments representing the Funds and discretion with regard thereto, including in particular discretion as to when to acquire and dispose of the investments and the types of investments to be acquired, held or disposed of, as if the cash to be applied in or towards such purchase of the investments to be sold, as the case may be, were held by the Manager for its own use and benefit absolutely.

(2) In addition to the aforesaid the Manager shall attend to the following:

- (a) keeping constantly under surveillance and review the investments representing the Funds and carrying out as the circumstances may require changes in such investments;
- (b) keeping or causing to be kept such books, record and statements as may be necessary to give a complete record of all transactions carried out by the Manager on behalf of the Principal and permitting the Principal or its duly authorised representative(s) to inspect such books, records and statement at all reasonable times;

- (c) providing the following reports to the Principal:
 - (i) Quarterly reports on general economic conditions and currency and security market analysis;
 - (ii) Monthly statement of accounts, i.e. the investment Funds' balance sheet and income report;
 - (iii) Quarterly performance report specifying all elements comprising total return on the portfolio of assets, including in particular movements in the various cash and currency accounts maintained for the Funds and listing of portfolio holdings and changes for all currencies and securities held including names of counterparties for all transactions in securities.
- (d) providing or procuring the provision of such statistical and other information on the investments representing the Funds or any part thereof and any changes therein as may be necessary to keep the Principal fully informed on the investment position;
- (e) taking of all custody and where necessary arranging for the registration of all securities acquired by the Manager on behalf of the Principal in the name of such nominees as the Manager may determine and for the bearer securities to be deposited with such authorised depositories as the Manager shall deem fit;
- (f) arrange for the collection of all dividends, interests, income and other distributions made in respect of any investment representing the Funds or any part thereof; and

- (g) advising the Principal generally in relation to investment trends, market movements and all other matters likely to affect or which might reasonably be considered to affect the investment policy of the Principal.

4. CUSTODIANSHIP OF SECURITIES

Save as provided in this Agreement the investments representing the Funds shall be held for account of the Principal in the custody of the Manager. The investments shall not be commingled with investments belonging to the Manager or other parties.

5. OBLIGATIONS OF THE MANAGER

In the performance and exercise of all or any of its powers and duties hereunder the Manager shall at all times and in all respects well and faithfully serve the interest of the Principal and shall comply with all reasonable requirements of the Principal.

6. REMUNERATION

In consideration of the Principal's business relationship with the Manager and the payment of United States dollars one thousand (US\$1,000/=) payable to the Manager on the execution of this Agreement, the Manager hereby agrees to perform its obligations in accordance with the terms of this Agreement.

7. REIMBURSEMENT OF EXPENSES

All expenses incurred by the Manager in the performance of its duties hereunder shall be forthwith reimbursed by the Principal to the Manager but the Manager shall be entitled to debit the Principal's account maintained by it. Such expenses shall include:

- (a) all taxes which may be due or payable on the investments and the income of the Principal;
- (b) usual registration and other fees, stamp duty, brokerage and other charges payable in respect of the acquisition and sale of securities;

- (c) custodian fee, the registration and transfer fees;
- (d) reasonable travelling and accommodation expenses on official meetings in connection with the Funds;
- (e) solicitors and auditors charges;
- (f) bank charges and communication expenses; and
- (g) all other costs and expenses reasonably incurred.

Claims for reimbursement of the above items of expenditure shall be supported by a statement of such expenditure.

8. TERMINATION

(1) Either party hereto may without prejudice to its right and remedies against the other terminate this Agreement forthwith by thirty (30) days notice in writing to the other.

(2) Upon the termination of this Agreement howsoever occasioned the Principal shall reimburse the Manager for all reasonable costs, expenses and disbursements as may be due at the date of termination. The Manager shall forthwith deliver up and hand over to the Principal or its duly authorised representative(s) any books and papers in its possession or control relating to any of the affairs of the Principal and the Funds, or investments representing the same, deposited with or held by it hereunder.

9. EXEMPTION FROM LIABILITY

(1) The Manager shall exercise the utmost good faith and due care and diligence in the performance of its duties hereunder and so long as it exercises such good faith, care and diligence the Manager shall not be liable to the Principal for any loss or damage howsoever caused or arising out of the performance of its duties hereunder and in parti-

cular but without prejudice to the generality of the foregoing and provided the Manager exercises such good faith, care and diligence it shall not be liable to the Principal for any loss, liability or expense suffered or incurred by the Principal or in respect of any profit or advantage of which the Principal may be deprived, nor shall the Manager be liable as a result of the effect of any fiscal revenue or taxation laws or as a result of the combined effect of such laws and the Manager's performance of or failure to perform its duties hereunder.

(2) Without prejudice to the foregoing, the Manager shall not be responsible for the solvency of any bank, clearing house, broker, agent, intermediary, nominee, or other agent appointed or employed by the Manager in good faith and with due care and diligence for the performance of its obligations and duties but the Manager will make available to the Principal such rights as the Manager may have against such person.

10. INDEMNITY

The Principal agrees to indemnify and hold harmless the Manager and its Directors and Officers from any and all costs, liabilities and expenses resulting directly or indirectly from acts duly performed or omitted in accordance with the provisions of this Agreement.

11. DELEGATION

(1) The Manager may appoint agents or other third parties for the performance of any of its duties related to the custodianship and management of the investments and may:

- (a) deposit the investments or any of them with any bank or with EUROCLEAR, CEDEL, or other securities clearing house in the name of the Manager; and
- (b) employ the services of brokers or other agents for the transaction of any dealings in the investments in any market.

(2) The Manager may in relation to investments represented by registered documents of title register the same in the name of the Manager or its nominees and the Principal hereby agrees to be responsible for and to indemnify the Manager or its nominees against any liability in respect of such investments as holder of record thereof.

(3) The Manager will itself or through its agent present investments (or the relevant coupons) for payment of principal, interest or dividends falling due.

12. DEALING AS PRINCIPAL

The Manager may act as principal in sales to and/or purchases from the Funds provided that in its reasonable judgement the total cost or net proceeds will be not less advantageous to the Funds than the total cost or net proceeds that it would have secured if it had dealt in the market as agent on behalf of the Funds alone.

13. CONFIDENTIAL INFORMATION

The Manager shall not during the continuance of this Agreement or after its termination disclose to any person firm or company whatsoever (except with the authority of the Principal or unless ordered to do so by a court of competent jurisdiction in which case the Principal should be so informed) any information relating to the business investments, finances or other matters of a confidential nature of the Principal of which the Manager may in the course of its duties hereunder become possessed.

14. PROHIBITION AGAINST ASSIGNMENT

The Manager shall not be entitled to assign or otherwise part with any interest in this Agreement unless prior written consent of the Principal has been obtained.

15. POWER OF ATTORNEY

The Principal shall forthwith upon the execution of this Agreement deliver to the Manager a duly executed Power of Attorney in the form set out in Annex II hereto attached and it is hereby agreed that the said Power of Attorney shall, when executed, have full force and effect as if the same were incorporated herein. The Principal hereby undertakes

not to revoke the said Power of Attorney except upon the termination of this Agreement.

16. FORM AND PROCEDURES FOR INSTRUCTIONS

Instructions from the Principal to the Manager in connection with anything to be done with the Agreement should be made in writing or by telex or by cable. The names of persons authorised to give instructions on behalf of the Principal together with specimen signatures are set up in the list of authorised signatories dated October, nineteenth. The Manager shall forward to the Principal a set of test keys for authenticating payment instructions by telex or cable from the Principal to the Manager. The test keys shall be addressed to the ASEAN Secretary General and marked for his personal attention. The Manager is authorised to honour and act on any instruction, confirmation, or authority in writing or by telex, or by cable signed or sent or purporting to be signed or sent on behalf of the Principal's authorised signatories so that the Manager shall not be liable for so acting in good faith upon any such instruction, confirmation or authority notwithstanding that it shall subsequently be shown that the same was not given or signed or sent by any such persons.

17. NOTICES

- (1) Any notice to be given by the Manager to the Principal shall be by letter, telegram or telex messages. Any such notice shall be deemed to have been duly given if sent to it addressed to the Secretary-General, or any other place at which the Principal may have its registered office.
- (2) Any notice to be given by the Principal to the Manager shall be deemed to have been duly given if sent to it addressed to the address above-mentioned or any other place at which the Manager may have its registered office.
- (3) Any notice so served or sent by post shall be deemed to have been served or received seven (7) days after that on which the same was posted. In proving such service it shall be sufficient to prove that the envelope or wrapper containing such notice was properly addressed, stamped and posted.

(4) The Manager shall advise the Principal and vice-versa of any change in the address of its registered office.

18. CONSULTATIONS

Any problem which may arise as regards interpretation or implementation of this Agreement may be resolved through mutual consultation.

19. GOVERNING LAW

This Agreement shall be subject to and construed in accordance with the laws of Malaysia.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands on this Agreement.

Done atKuala Lumpur.....in a single copy in the English language this nineteenth day of October..... 1979.

SIGNED BY

For and on behalf of
ASEAN SECRETARIAT



(DATUK ALI BIN ABDULLAH)

in the presence of:-



(KASSIM MOHD. HUSSEIN)

SIGNED BY

For and on behalf of
BUMIPUTERA MERCHANT
BANKERS BERHAD



(LORRAINE E. OSMAN)

in the presence of:-



(KASSIM MOHD. HUSSEIN)

INVESTMENT POLICY SCHEDULE

1. The primary investment policy objective should be to maximize earnings while ensuring the safety and stability in value of the capital fund. Consideration should also be given to the cash-flow requirements of the Funds.
2. In order to protect the capital fund against the volatility of exchange rates and of monetary conditions in the international capital markets, there should be a policy of diversification in the choice of currencies and securities for investment. On the basis of historical experience in exchange rate movements and since the unit of account and the currency of disbursement of the Funds is the U.S. Dollar, 50 per cent of the Funds should be invested in U.S. dollars and 50 per cent in a group of currencies comprising the Deutsche Mark, the Japanese Yen and the Swiss Franc. This distribution may be re-examined and changed by the ASEAN Secretary General on the advice of the Advisory Group if circumstances warrant it.
3. Investment should be restricted to placement of deposits with banks and the purchase of fixed income securities including floating rate certificates of deposit and floating rate notes.
4. Deposits with banks and purchases of certificates of deposit including floating rate certificates of deposit should be restricted to the top 50 banks in the world ranked according to total assets. Such investments should have a remaining period to maturity not exceeding three years.
5. To minimize the risk of loss of capital through default of a borrower, purchases of fixed-income securities should be confined to the following:

- (a) securities issued or fully guaranteed by the governments or central banks and monetary authorities of the member countries of the organization for Economic Cooperation and Development (OECD) and of the Association of South-East Asian Nations (ASEAN);
- (b) Securities issued by international financial institutions, such as the International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank and entities of the European Communities; and
- (c) other securities which have been rated as top grade securities by well-known rating agencies provided that holdings of such securities do not exceed 10% of the Funds at any time.

The purchases of these securities should be restricted to those having a remaining period to maturity not exceeding five years except where market conditions make it difficult to observe this restriction, in which case purchases of securities of a longer maturity may be permitted provided that the remaining period of maturity does not exceed fifteen years. Holding of each security should not exceed two per cent of the amount outstanding. To assist in monitoring the value of investments and ensuring the liquidity of investments, preference should be given to securities which are listed on stock exchanges and which are readily marketable.