

Public Disclosure Authorized

**CONFORMED COPY**

**CREDIT NUMBER 4168-NI**

# **Financing Agreement**

**(Rural Telecommunications Project)**

**between**

**REPUBLIC OF NICARAGUA**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated June 1, 2006**

Public Disclosure Authorized



**CREDIT NUMBER 4168-NI**

**FINANCING AGREEMENT**

AGREEMENT dated June 1, 2006, between REPUBLIC OF NICARAGUA (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association hereby agree as follows:

**ARTICLE I – GENERAL CONDITIONS; DEFINITIONS**

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

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

**ARTICLE II —FINANCING**

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to four million nine hundred thousand Special Drawing Rights (SDR 4,900,000) (“Credit”) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).

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

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

2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.

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

2.06. The principal amount of the Credit shall be repaid in accordance with repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is USD.

### **ARTICLE III —PROJECT**

3.01. The Recipient declares its commitment to the objective of the Project. To this end, the Recipient shall cause TELCOR to carry out the Project in accordance with the provisions of Article IV of the General Conditions.

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

### **ARTICLE IV — REMEDIES OF THE ASSOCIATION**

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

(a) Law No. 200 or any provision thereof shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely, in the opinion of the Association, the ability of TELCOR to perform any of its obligations under this Agreement or under the Implementation Agreement.

(b) TELCOR shall have failed to perform any of its obligations under the Implementation Agreement to an extent that, in the opinion of the Association, would materially and adversely affect the achievement of the Project objective.

(c) The Recipient, or any other authority having jurisdiction shall have taken any action that may result in the dissolution or disestablishment of TELCOR or in the suspension of its operations, without replacing TELCOR with a successor thereto satisfactory to the Association.

4.02. The Additional Events of Acceleration consists of the following, namely that:

(a) The event specified in paragraph (b) of Section 4.01 of this Agreement occurs and is continuing for a period of 60 days after notice of the event has been given by the Association to the Recipient.

(b) Any event specified in paragraphs (a) or (c) of Section 4.01 of this Agreement occurs.

**ARTICLE V – EFFECTIVENESS; TERMINATION**

5.01. The Additional Condition of Effectiveness consists of the following, namely that the Implementation Agreement has been executed on behalf of the Recipient, through its Ministry of Finance and Public Credit, and TELCOR.

5.02. Without prejudice to the provisions of the General Conditions, the Effectiveness Deadline is the date ninety (90) days after the date of this Agreement, but in no case later than the eighteen (18) months after the Association's approval of the Credit which expire on October 26, 2007.

**ARTICLE VI – REPRESENTATIVE; ADDRESSES**

6.01. The Recipient's Representative is the Minister of Finance and Public Credit.

6.02. The Recipient's Address is:

Ministerio de Hacienda y Crédito Público  
Frente al Edificio de la Asamblea Nacional  
Managua  
Nicaragua

Facsimile: 505-222-3033

6.03. The Association's Address is:

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

Cable:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	1-202-477-6391

AGREED at the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF NICARAGUA

By /s/ Salvador Stadthagen

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Jane Armitage

Authorized Representative

## **SCHEDULE 1**

### **Project Description**

The objective of the Project is to increase access to, and to reduce costs of, telecommunications services in the Recipient's rural areas.

The Project consists of the following parts:

#### Part 1: Expansion of Telecommunication Infrastructure in Rural Areas

A. Assistance in connection with the rollout and provision of public payphones and establishment of a mobile cellular telephone network and services in the rural and underserved areas of Recipient through the installation of base stations and requisite related network elements (collectively, the OBA Networks) which will be connected to other public telecommunications networks through microwave links, repeater stations, fiber optic cables and other network elements, as necessary.

B. Establishment of a network of POPs in the Recipient's municipalities to be selected in accordance with the criteria set forth in the Operational Manual, which do not have access to the internet, including the establishment of telecenters in the public schools therein.

#### Part 2: Institutional Strengthening of Sector Regulator and Technical Assistance to Communities

A. Provision of technical assistance to TELCOR to support its restructuring and in the areas of competition, interconnection, price regulation, resolution of disputes, consumer rights and complaints, accounting for costs and new trends of regulation, including:

1. the review of the current legal and regulatory framework applicable to Recipient's telecommunications sector to support market liberalization in general and specifically to give effect to the implementation of the OBA Networks referred to in Part 1.A, above;

2. the development of a modernized organizational structure for TELCOR and the carrying out of an assessment of its staff needs; and

3. the provision of technical assistance to carry out feasibility studies for additional universal services projects, including the preparation of bidding documents therefor.

B. Carrying out of training for TELCOR's staff to improve their skills, including the identification and preparation of training plans based on skills assessments and in accordance with the new organizational structure.

C. Provision of internet applications and technical assistance to users of the POPs in the Recipient's rural communities, including, *inter alia*: MECD, MHCP, MAG-FOR, MINSA, and the Recipient's municipalities.

Part 3: Project Management

A. Strengthening the technical capacity of TELCOR's development division to implement the Project, including monitoring and evaluation, through the provision of technical assistance, training, operating costs and equipment.

B. Carrying out of the audits referred to in Part B.3 of Section II of Schedule 2 to this Agreement.



## SCHEDULE 2

### Project Execution

#### Section I. Institutional Arrangements

##### A. Implementation Agreement

1. To facilitate the carrying out of the Project, the Recipient, through MHCP, shall enter into an agreement with TELCOR (the Implementation Agreement), under terms and conditions approved by the Association, including those set forth in the Operational Manual and including, *inter alia*: (a) TELCOR's obligation to carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, procurement, auditing, environmental and social standards and practices; and (b) the Borrower's obligation to relend the proceeds of the Credit to TELCOR including, *inter alia*, financial terms *mutatis mutandi* to those applicable to the Credit under this Agreement.

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

##### B. Institutional Arrangements

At all times during the execution of the Project, the Recipient shall cause TELCOR to maintain a unit responsible for Project implementation with staffing, functions and responsibilities satisfactory to the Association, including the following responsibilities:

(a) overall planning, coordination and monitoring of Project activities; and

(b) the updating of the Procurement Plan, the preparation of consolidated financial reports and the contracting of external audits.

##### C. Manuals

1. The Recipient shall cause TELCOR to carry out the Project in accordance with the terms of a manual satisfactory to the Association (the Operational Manual). Except as the Association shall otherwise agree, the Recipient shall not amend, waive or fail to enforce the Operational Manual, or any provision thereof. In case of any conflict between the terms of this Agreement and those of the Operational Manual, the terms of this Agreement shall prevail.

2. The Operational Manual shall include provisions detailing procedures and guidelines for the carrying out of the Project, including, *inter alia*:

(a) the procedures for the preparation, review and approval of reports pursuant to the Project's financial management arrangements;

(b) procurement and contracting procedures consistent with Schedule 2 to this Agreement, to be applicable to the contracts for the works, goods, consultants' services, and services (other than consultants' services) required for the Project and to be financed out of the proceeds of the Financing;

(c) project performance indicators and the procedures for the monitoring and evaluation of the Project, including the provisions of Section II of Schedule 2 to this Agreement; and

(d) the procedures for the review and approval of Credit proceeds withdrawal applications to the Association, in conformity with the instructions that the Association may give to the Recipient in this respect.

D. Environmental Provisions

Without limitation to the provisions of Section 4.01 (b) of the General Conditions, the Recipient shall cause TELCOR to ensure that the Project be carried out in accordance with the provisions of the EA.

Section II. Project Monitoring, Reporting, Evaluation

A. Project Reports

1. The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of performance indicators set forth in the Operational Manual. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Bank not later than sixty days after the end of the period covered by such report.

2. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than December 31, 2011.

B. Financial Management, Financial Reports and Audits

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

2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association not later than forty-five days (45) after the end of each semester, interim un-audited financial reports for the Project covering this semester, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

### Section III. Procurement

#### A. General

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

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

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

#### B. Particular Methods of Procurement of Goods and Works

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

2. Other Methods of Procurement of Goods and Works. The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<u>Procurement Method</u>
(a) National Competitive Bidding
(b) Shopping

C. Particular Methods of Procurement of Consultants’ Services

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

2. Other Methods of Procurement of Consultants’ Services. The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) Quality-Based Selection
(b) Selection Based on Consultant’s Qualifications
(c) Least-Cost Selection
(d) Single Source Selection
(e) Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the selection of Individual Consultants

D. Review by the Association of Procurement Decisions

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

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Bank may specify by notice to the Recipient.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Credit (“Category”), the allocations of the amounts of the Credit to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<u>Category</u>	<u>Amount of the Credit Allocated (expressed in SDR)</u>	<u>Percentage of Expenditures to be Financed</u>
(1) Consultants’ Services	700,000	100%
(2) Goods, Works and Services under Part 1 of the Project	3,700,000	100%
(3) Goods except for those provided in Category 2 above	50,000	100%
(4) Training	70,000	100%
(5) Operating Costs	70,000	100%
(4) Unallocated	<u>310,000</u>	
TOTAL AMOUNT	<u>4,900,000</u>	

3. For the purposes of this Schedule, the terms: (a) “Training” means reasonable expenditures incurred by the Recipient for the carrying out of training activities under the Project, including reasonable costs of travel and per diem of trainers and trainees, rental of training facilities and equipment and training materials; and (b) “Operating Costs” means the cost of operation and maintenance of: (i) computers; (ii) office and audiovisual equipment; and (iii) vehicles of the PCU, related to the administration of the Project.

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed \$700,000 equivalent may be made for payments made prior to this date but on or after January 1, 2006 for Eligible Expenditures.
2. The Closing Date is June 30, 2011.

**SCHEDULE 3****Repayment Schedule**

<u>Date Payment Due</u>	Principal Amount of the Credit repayable (expressed as a percentage)*
On each February 15 and August 15:	
commencing August 15, 2016 to and including February 15, 2026	1%
commencing August 15, 2026 to and including February 15, 2046	2%

\*The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03 (b) of the General Conditions.

**APPENDIX**Section I. Definitions

1. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement;
2. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004;
3. “EA” means the Recipient’s Environmental Assessment dated April 18, 2005, describing, *inter alia*, the environmental mitigation measures to be applied during Project implementation;
4. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005;
5. “Implementation Agreement” means the agreement between MHCP and TELCOR, referred to in Section I.A of Schedule 2 to this Agreement, as the same may be amended from time to time;
6. “*La Gaceta*” means the Recipient’s Official Gazzete;
7. “Law No. 200” means *Ley General de Telecomunicaciones y Servicios Postales*, published in *La Gaceta* on August 18, 1995;
8. “MAG-FOR” means *Ministerio Agropecuario y Forestal*, the Recipient’s Ministry of Agriculture, Livestock and Forestry and its successor or successors thereto;
9. “MECD” means *Ministerio de Educación, Cultura y Deportes*, the Recipient’s Ministry of Education;
10. “MHCP” means *Ministerio de Hacienda y Crédito Público*, the Recipient’s Ministry for Finance and Public Credit, and any of its successor or successors thereto;
11. “MINSA” means *Ministerio de Salud*, the Recipient’s Ministry of Health;
12. “OBA Networks” shall have the meaning ascribed to it in Part 1 of Schedule 1 to this Agreement;
13. “Operational Manual” means the manual referred to in Section I.C of Schedule 2 to this Agreement;



14. “PCU” means TELCOR’s institutional development unit (*Unidad de Desarrollo Institucional*), referred to in Part B of Section I of Schedule 2 to this Agreement;
15. “POP” means internet points of presence;
16. “Procurement Guidelines” means the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004;
17. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated January 23, 2006 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs; and
18. “TELCOR” means *Instituto Nicaragüense de Telecomunicaciones y Correos*, the Recipient’s telecommunications regulatory agency, or its sucesor thereto.