

Public Disclosure Authorized

CONFORMED COPY

CREDIT NUMBER 3924 UNI

Development Credit Agreement

(National Urban Water Sector Reform Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 10, 2004

Public Disclosure Authorized

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 10, 2004, between the FEDERAL REPUBLIC OF NIGERIA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter from the Borrower, dated February 23, 2004, describing a program designed to achieve and sustain water supply access and coverage for all state capitals, three quarters of urban and semi-urban areas, and two-thirds of rural communities in the territory of the Borrower by the year 2007 (the Program), and declaring the Borrower's commitment to the execution of such Program;

(B) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement has requested the Association to assist in the financing of the Project; and

(C) Parts A, B, C.2, and D.2 of the Project will be carried out by Kaduna, Kano, and Ogun States (the Participating States) in the territory of the Borrower with the Borrower's assistance and, as part of such assistance, the Borrower will make available to the Participating States part of the proceeds of the Credit as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, *inter alia*, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

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 October 6, 1999) (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) “Eligible Categories” means Categories (1) (a), (2) (a), (3) (a), (4) (a), and (5) (a) with respect to the Federal Special Account (as hereinafter defined), Categories (1) (b) (i), (2) (b) (i), (3) (b) (i), (4) (b) (i), and (5) (b) (i) with respect to State Special Account (as hereinafter defined) A, Categories (1) (b) (ii), (2) (b) (ii), (3) (b) (ii), (4) (b) (ii), and (5) (b) (ii) with respect to SSA B, and Categories (1) (b) (iii), (2) (b) (iii), (3) (b) (iii), (4) (b) (iii) and (5) (b) (iii) with respect to SSA C, set forth in the table in Part A.1 of Schedule 1 to this Agreement;

(b) “Eligible Expenditures” means the expenditures for goods, works and consultants’ services referred to in Section 2.02 of this Agreement;

(c) “Environmental and Social Management Framework” or “ESMF” means the framework dated January 2004, satisfactory to the Association, describing measures for the mitigation of the potential environmental and social impact of the Project, as the same may be updated from time to time with the approval of the Association, to be applied by the Borrower in accordance with the provisions of Paragraph 1 of Schedule 4 to this Agreement;

(d) “Federal Ministry of Water Resources” or “FMWR” is the ministry of the Borrower responsible for formulation and coordination of national water policies, management of shared water resources, including allocation between states, and approval of development projects;

(e) “Federal Project Account” or “FPA” means the account referred to in Section 3.02 of this Agreement;

(f) “Federal Project Implementation Unit” or “FPIU” means the unit to be established by the Borrower in accordance with paragraph 2 of Schedule 4 to this Agreement;

(g) “Federal Special Account” or “FSA” means the account referred to in Part B.1 of Schedule 1 to this Agreement;

(h) “Federation Account” means the account out of which, *inter alia*, the monthly statutory allocation due to each state of the Borrower is drawn;

(i) “Fiscal Year” or “FY” means the Borrower’s fiscal year, which runs from January 1 through December 31;

(j) “Naira” or “NGN” means the currency of the Borrower;

(k) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(l) “National Water Policy” or “NWP” means the Borrower’s National Water Supply and Sanitation Policy (First Edition, 2000), as the same may be amended or supplemented from time to time;

(m) “Participating State” means Kaduna, Kano, or Ogun State, all in the territory of the Borrower;

(n) “Project Financial Management Unit” or “PFMU” means the unit set up within the Office of the Accountant General of each Participating State and which shall be responsible for financial management of the Project in such Participating State;

(o) “Project Implementation Manual” or “PIM” means the manual containing details of financial and accounting procedures, procurement arrangements, environmental and social monitoring and mitigation arrangements, and other administrative and organizational arrangements, as shall have been agreed with the Association for purposes of Project implementation, as the same may be amended from time to time, and such term includes any schedules to the PIM;

(p) “Project Preparation Advances” means the two project preparation advances granted by the Association to the Borrower pursuant to: (i) the letter agreement signed on behalf of the Association on June 11, 2002 and on behalf of the Borrower on August 5, 2002; and (ii) the letter agreement signed on behalf of the Association on September 30, 2003 and on behalf of the Borrower on October 27, 2003.

(q) “Public-Private Partnership” or “PPP” means any management, lease, or concession contract entered into by or on behalf of a State Water Authority (as hereinafter defined) or Participating State with a private company to provide water and sanitation services, or to improve, rehabilitate, or expand SWA network capabilities within a Participating State;

(r) “Report-Based Disbursements” means the Borrower’s option for withdrawal of funds from the Credit Account referred to in Part A.5 of Schedule 1 to this Agreement;

(s) “Revenues” means earnings from fee-paying customers, and excludes any Federal or State government subsidies;

(t) “State Project Accounts” or “SPAs” means the accounts referred to in Section 3.03 of this Agreement;

(u) “State Project Implementation Unit” or “SPIU” means the unit to be established by each of the Participating States in accordance with paragraph 2 of Schedule 4 to this Agreement;

(v) “State Special Accounts” or “SSAs” means the accounts referred to in Part B.1 of Schedule 1 to this Agreement;

(w) “State Water Authority” or “SWA” means the agency of the Borrower established in each state under the laws of the Borrower for the purpose of development and management of water supply facilities within that state and responsible for provision of urban, semi-urban, and, in some cases, rural, water supply in that state;

(x) “State Water Regulatory Agency” or “SWRA” means the agency of the Borrower to be established under the laws of the Borrower in each Participating State in the course of Project implementation for the purpose of regulating water supply and sanitation in such Participating State;

(y) “Subsidiary Credit Agreement” means the agreement to be entered into between the Borrower and each of the Participating States pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Credit Agreement;

(z) “SWA Recurrent Costs” means all recurrent costs expended annually by or on behalf of an SWA, including power, fuel, chemicals, transport, equipment, maintenance, facilities rental, operations, and staff salaries, irrespective of whether the costs are incurred by the SWA or on its behalf by the state; and

(aa) “Water Investment, Mobilization, and Application Guidelines” or “WIMAG” means a contractual agreement or memorandum of understanding between the FMWR and a Participating State, with respect to funding that the Borrower may make available to the Participating State, conditioned upon compliance with such Guidelines, for purpose of improving sector planning and coordination in the Participating State.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to eighty-one million seven hundred thousand Special Drawing Rights (SDR 81,700,000).

Section 2.02. The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for: expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of works, goods, and services required for the Project and to be financed out of the proceeds of the Credit.

(b) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advances withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The un-withdrawn balance of the authorized amount of the Project Preparation Advances shall thereupon be canceled.

Section 2.03. The Closing Date shall be September 30, 2010 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit 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 (60) days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; 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 2.06 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 Borrower; 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 Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent ($3/4$ of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on November 1 and May 1 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each November 1 and May 1 commencing November 1, 2014 and ending May 1, 2039. Each installment to and including the installment payable on May 1, 2024 shall be one and one-fourth percent ($1-1/4\%$) of such principal amount, and each installment thereafter shall be two and one-half percent ($2-1/2\%$) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three (3) consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by:

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six (6) months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five (5) years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate

agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall, through the FMWR, carry out Parts C.1, C.2 only insofar as dams covered thereunder fall within the ownership of the Borrower, and D.1 of the Project, and cause the Participating States, through their respective SWAs, to carry out Parts A, B, C.2, and D.2 of the Project, all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, water supply, and environmental practices, and shall provide or cause the Participating States to provide, as the case may be, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall, through the FMWR, carry out, and cause the Participating States, through their SWAs, to carry out, the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

(c) The Borrower shall make the proceeds of the Credit available to the Participating States under a Subsidiary Credit Agreement to be entered into between the Borrower and each Participating State, under terms and conditions which shall have been approved by the Association.

(d) The Borrower shall exercise its rights under the Subsidiary Credit Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and, except as the Association shall

otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Credit Agreement or any provision thereof.

Section 3.02. Without limitation upon the provisions of paragraph (a) of Section 3.01 of this Agreement, and except as the Borrower and the Association shall otherwise agree, the Borrower shall:

(a) open and thereafter maintain, until completion of the Project, in NGN, in a commercial bank acceptable to the Association, an FPA, under terms and conditions acceptable to the Association, including appropriate protection against set-off, seizure or attachment;

(b) (i) deposit into the FPA an initial amount in accordance with the provisions of Article 6.01 (a); and (ii) thereafter, on a quarterly basis, replenish the FPA by an amount equivalent to \$50,000 to finance the Borrower's contribution for expenditures under the Project other than those financed from the proceeds of the Credit; and

(c) ensure that funds deposited into the FPA in accordance with the provisions of paragraph (b) of this Section shall be used exclusively to finance expenditures under the Project other than those financed from the proceeds of the Credit.

Section 3.03. The Borrower shall, until completion of the Project, cause each Participating State to:

(a) open and thereafter maintain, until completion of the Project, in NGN, in a commercial bank acceptable to the Association, an SPA (SPA A, B, and C, respectively, for Kaduna, Kano, and Ogun States), under terms and conditions acceptable to the Association, including appropriate protection against, set-off, seizure or attachment;

(b) (i) deposit into its respective SPA an initial amount in accordance with the provisions of Article 6.01 (c); and (ii) thereafter, on a quarterly basis, replenish its respective SPA by the amount required to finance the respective Participating State's contribution for expenditures under the Project other than those financed from the proceeds of the Credit by issuing an irrevocable letter of authority to the Federal Ministry of Finance to deduct such amount from the allocation due to the respective Participating State out of the Federation Account and to transfer such amount into the respective SPA; and

(c) ensure that funds deposited into the respective SPA in accordance with the provisions of paragraph (b) of this Section shall be used exclusively to finance each Participating State's contribution for expenditures under the Project.

3.04. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.05. The Borrower shall, by Midterm Review, ensure that each Participating State has either:

- (i) entered into a PPP contract; or
- (ii) demonstrated a high degree of operational capacity and efficiency and financial autonomy through satisfaction of the following criteria with regard to its SWA:
 - (a) Recovery from Revenues of at least 90% of its SWA Recurrent Costs for a continuous period of at least 24 months;
 - (b) Implementation of a monthly water sampling testing program collecting at least 200 end user samples per month for a continuous period of at least 24 months;
 - (c) Achievement of a rate of no more than 1% of end user samples per month failing to meet state water quality laws and regulations; and
 - (d) Achievement of water production at a level not less than 90% of design production capacity for a continuous period of at least nine (9) months following January 1, 2003.

3.06. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

- (a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan for the sustainability of the Project; and
- (b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall establish, and cause to be established, and maintain, and cause to be maintained, a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Borrower shall:

- (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Association), commencing with the fiscal year in which the first withdrawal under the Project Preparation Advances was made, audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six (6) months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or other period agreed to by the Association), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and
- (iii) furnish to the Association such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of reports referred to in Part A.4 of Schedule 1 to this Agreement (Report-Based Disbursements) or on the basis of statements of expenditure, the Borrower shall:

- (i) retain, until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Credit Account was made, all records

(contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such reports and statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Association), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations set out in Section C of Schedule 4 to this Agreement, the Borrower shall prepare, and cause the Participating States to prepare, and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than sixty (60) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

- (a) an extraordinary situation shall have arisen which shall make it improbable that the Program or a significant part thereof will be carried out;
- (b) any of the Participating States have failed to perform any material obligation under the Subsidiary Credit Agreements; or
- (c) any law of the Borrower or the Participating States governing the establishment, organization, powers, financial structure and operations of any SWA has been amended, so as to materially and adversely affect the future operations of the said SWA.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 12.01 (b) of the General Conditions:

- (a) the Borrower has, through the FMWR, deposited into the FPA an initial amount equivalent to \$200,000;
- (b) Subsidiary Credit Agreements have been executed on behalf of the Borrower and the Participating States; and
- (c) the Participating States have, through their SWAs, deposited into the SPA A, B, and C, respectively, an initial amount equivalent to \$200,000, \$200,000, and \$250,000, respectively.

Section 6.02. The following is specified as an additional matter, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association, namely, that the Subsidiary Credit Agreements have been duly authorized or ratified by the Borrower and the Participating

States and are legally binding upon the Borrower and the Participating States in accordance with their terms.

Section 6.03. 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 VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of the Borrower at the time responsible for finance is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

The Honorable Minister
Federal Ministry of Finance
PMB 14
Ahmadu Bello Way
Central Area
Garki
Abuja
Nigeria

Cable address:

FEDMINFIN
Abuja

For the Association:

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

Cable address:

INDEVAS
Washington, D.C.

Telex:

248423 (MCI) or
64145 (MCI)

Facsimile:

(202) 477 6391

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 Abuja, Federal Republic of Nigeria, as of the day and year first above written.

FEDERAL REPUBLIC OF NIGERIA

By

/s/ Ngozi Okonjo-Iweala
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

/s/ Hafez M.H. Ghanem

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

A. General

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Works		100% of foreign expenditures and 45% of local expenditures
(a) FSA	35,000	
(b) SSAs		
(i) SSA A	15,300,000	
(ii) SSA B	18,100,000	
(iii) SSA C	16,883,000	
(2) Goods		100% of foreign expenditures and 45% of local expenditures
(a) FSA	70,000	
(b) SSAs		
(i) SSA A	1,408,000	
(ii) SSA B	930,000	

	(iii) SSA C	1,140,000	
(3)	Consultants' services		90%
	(a) FSA	3,920,000	
	(b) SSAs		
	(i) SSA A	6,280,000	
	(ii) SSA B	6,645,000	
	(iii) SSA C	6,335,000	
(4)	Training, study tours, and workshops		100%
	(a) FSA	420,000	
	(b) SSAs		
	(i) SSA A	550,000	
	(ii) SSA B	480,000	
	(iii) SSA C	550,000	
(5)	Incremental operating costs		80%
	(a) FSA	200,000	
	(b) SSAs		
	(i) SSA A	215,000	
	(ii) SSA B	215,000	
	(iii) SSA C	214,000	
(6)	Refunding of Project Preparation Advances	1,021,000	Amount due pursuant to Section 2.02 (b) of this Agreement

(7) Unallocated	789,000
	<hr/>
	81,700,000
TOTAL	<hr/> <hr/>

2. For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower;

(b) the term “local expenditures” means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower; and

(c) the term “incremental operating costs” means the incremental expenses incurred by the FPIU and each SPIU on account of Project implementation, management and monitoring, including office space rental and utilities, office supplies, bank charges, communications, vehicle operation, maintenance and insurance, building and equipment maintenance costs, travel and supervision costs, and salaries of supporting staff, but excluding salaries of officials of the Borrower’s civil service.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures:

(a) prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 4,080,000, may be made on account of payments made for expenditures under Categories (1) and (3) before that date but after December 31, 2003; and

(b) under Parts A, B, C.2, and D.2 of the Project unless a PFMU has been established in the respective Participating State; and (ii) the respective Participating State’s counterpart contributions to the costs of the Project have been authorized by issuance of an irrevocable letter of authority to the Federal Ministry of Finance to deduct on a quarterly basis an amount equivalent to \$200,000 (SPA A), \$200,000 (SPA B), and \$250,000 (SPA C), respectively, from the allocation due to the respective Participating State out of the Federation Account and to transfer such amount into the respective SPA.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods costing less than \$250,000 equivalent per contract; (b) works costing less than \$1,000,000 equivalent per contract; (c) for services of individual consultants costing less than \$50,000 equivalent per contract; and (d) for services of consulting firms under

contracts costing less than \$200,000 equivalent per contract; (e) training costing less than \$15,000 equivalent per contract, study tours, and workshops; and (f) incremental operating costs, all under such terms and conditions as the Association shall specify by notice to the Borrower.

5. The Borrower may request withdrawals from the Credit Account to be made on the basis of reports to be submitted to the Association in form and substance satisfactory to the Association, such reports to include the FMR and any other information as the Association shall specify by notice to the Borrower (Report-Based Disbursements). In the case of the first such request submitted to the Association before any withdrawal has been made from the Credit Account, the Borrower shall submit to the Association only a statement with the projected sources and applications of funds for the Project for the six-month period following the date of such request.

B. Special Accounts

1. The Borrower and the Participating States which have established their respective PFMU may each open and maintain in Dollars a special deposit account (Federal Special Account and State Special Accounts A, B, and C, respectively) in a commercial Bank acceptable to the Association, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment.

2. After the Association has received evidence satisfactory to it that the respective Special Account has been opened, withdrawals from the Credit Account of amounts to be deposited into the respective Special Account shall be made as follows:

(a) if the Borrower is not making Report-Based Disbursements, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) if the Borrower is making Report-Based Disbursements, withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the respective Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower or a Participating State out of the Federal Special Account or its State Special Account, respectively, the Borrower or the Participating State shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the respective Special Account if:

(a) the Association, at any time, is not satisfied that the reports referred to in Part A.5 of this Schedule 1 adequately provide the information required for Report-Based Disbursements;

(b) the Association determines at any time that all further withdrawals for payment of Eligible Expenditures should be made by the Borrower or a Participating State directly from the Credit Account; or

(c) the Borrower or a Participating State shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of: (A) the records and accounts for the respective Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were Report-based Disbursements or were made on the basis of statements of expenditure, as the case may be.

5. The Association shall not be required to make further deposits into the respective Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Association shall have notified the Borrower or a Participating State its intention to suspend in whole or in part the right of the Borrower or Participating State to make withdrawals from the Credit Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the respective Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower and the Participating State of its determination.

6. (a) If the Association determines at any time that any payment out of the respective Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower or Participating State shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or deposit into the respective Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment. Unless the Association shall otherwise agree, no further deposit by the Association into the respective Special Account shall be made until the Borrower or Participating State has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association determines at any time that any amount outstanding in the respective Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, the Borrower or Participating State shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower or Participating State may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the respective Special Account.

(d) Refunds to the Association made pursuant to subparagraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the provisions of this Agreement.

**Annex A
to
SCHEDULE 1**

**Operation of Special Account
When Withdrawals Are Not
Report-based Disbursements**

1. For the purposes of this Annex:
 - (a) the term “Authorized Allocation” means:
 - (i) in respect of the FSA, an amount equivalent to \$900,000 to be withdrawn from the Credit Account and deposited into said Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, said Authorized Allocation shall be limited to an amount equivalent to \$500,000, until the aggregate amount of withdrawals from the Credit Account of amounts allocated to said Special Account’s Eligible Categories, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of amounts allocated to said Categories, shall equal or exceed the equivalent of \$1,500,000; and
 - (ii) in respect of each SSA, an amount equivalent to \$3,500,000 to be withdrawn from the Credit Account and deposited into said Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, said Authorized Allocation shall be limited to an amount equivalent to \$1,500,000 until the aggregate amount of withdrawals from the Credit Account of amounts allocated to said Special Account’s Eligible Categories, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of amounts allocated to such Participating State for said Categories, shall equal or exceed the equivalent of \$4,500,000.
2. Withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower or Participating State shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts, which in the aggregate do not exceed the Authorized Allocation. On the basis of each such request, the Association shall, on behalf of the Borrower or Participating State, withdraw from the Credit Account and deposit into the respective Special Account such amount, as the Borrower or Participating State shall have requested.

(b) For replenishment of the respective Special Account, the Borrower or Participating State shall furnish to the Association requests for deposit into the respective Special Account at such intervals, as the Association shall specify. Prior to or at the time of each such request, the Borrower or Participating State shall furnish to the Association the documents and other evidence required pursuant to Part B.3 of Schedule 1 to this Agreement for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower or Participating State, withdraw from the Credit Account and deposit into the respective Special Account such amount as the Borrower or Participating State shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for Eligible Expenditures. Each such deposit into the respective Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Eligible Categories.

3. The Association shall not be required to make further deposits into the respective Special Account, once the total un-withdrawn amount of the Credit minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Credit Account of the remaining un-withdrawn amount of the Credit shall follow such procedures, as the Association shall specify by notice to the Borrower or Participating State. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the respective Special Account as of the date of such notice will be utilized in making payments for Eligible Expenditures.

**Annex B
to
SCHEDULE 1**

**Operation of Special Account
When Withdrawals Are
Report-based Disbursements**

1. Withdrawals from the Credit Account shall be deposited by the Association into the respective Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the respective Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Eligible Categories.

2. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower or Participating State, withdraw from the Credit Account and deposit into the respective Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the reports referred to in Part A.4 of this Schedule 1 applicable to such withdrawal application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the date of such reports.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) increase access to piped water networks in selected urban areas; and (ii) improve reliability and financial viability of selected urban water utilities, in Kaduna, Kano, and Ogun States.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

A. Rehabilitation and Network Expansion

1. (a) Rehabilitation of Water Supply System:

- (i) Kaduna State: Kaduna City (Kaduna North New, Kaduna North Old, and Kaduna South), Kafanchan, Kogoro, Saminaka, Zaria, and Zonkwa;
- (ii) Kano State: Kano City (Challawa, Joda, Tamburawa, and Wudil) and Watari; and
- (iii) Ogun State: Abeokuta, Apoje, Ifo, Ijebu/Itamapako/Erurunwon, Ogere, Ota, and Sagamu.

(b) Acquisition of vehicles, specialized rolling stock, and equipment, including pumps, tools, and production and zonal meters, for SWAs.

2. Expansion of distribution network and water production systems:

Extension of treatment works and extension, infill, and improvement of distribution systems, including installation of new service connections and customer meters, in each Participating State.

B. PPP Development

Design, tender, and fees of private sector operator contracts for rebuilding of technical and commercial capacity of and execution of contractual operation and maintenance arrangements in each SWA.

C. Capacity Building and Project Management

1. Technical assistance, including in relation to dam safety; training and workshops for FPIU and FMWR staff; and FPIU incremental operating costs.
2. Technical assistance, including in relation to dam safety; PPP preparatory studies and advice; stakeholder communication programs; training and workshops for SPIU, SWA, and SWRA staff; and SPIU incremental operating costs.

D. Policy Reform and Institutional Development

1. Provision of technical and financial assistance to the FPIU and FMWR in the following areas:
 - (a) development of national low-income household service strategy;
 - (b) formulation of model, first-time WIMAG, and implementation of annual WIMAG conferences;
 - (c) completion and implementation of National Water Policy; and
 - (d) completion of Water Services Act.
2. Provision of technical and financial assistance to the SPIUs and SWAs in the following areas:
 - (a) establishment of SWRAs; and
 - (b) training of and study tours for SWRA staff.

* * *

The Project is expected to be completed by March 31, 2010.

SCHEDULE 3

Procurement

I. Procurement of Goods and Works

A. General

Goods and works shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

B. International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provision shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(i) Preference for domestically manufactured goods and domestic contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

(ii) Notification and Advertising

The invitation to bid for each contract procured under this Section B shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

C. Other Procurement Procedures

1. National Competitive Bidding

Goods estimated to cost less than \$250,000 equivalent per contract and works estimated to cost less than \$1,000,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. International or National Shopping

Goods estimated to cost less than \$30,000 equivalent per contract may be procured under contracts awarded on the basis of international or national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Procurement of small works

Works estimated to cost less than \$100,000 equivalent per contract may be procured under lump-sum, fixed-price contracts awarded on the basis of quotations obtained from three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Association, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to complete the contract successfully.

4. Force Account

Works which meet the requirements of paragraph 3.8 of the Guidelines and costing \$50,000 equivalent or less per contract may, with the Association's prior agreement, be carried out by force account in accordance with the provisions of said paragraph of the Guidelines.

D. Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the

Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for goods estimated to cost \$250,000 equivalent or more and each contract for works estimated to cost \$1,000,000 equivalent or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

II. Employment of Consultants

A. General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions of Section II of this Schedule.

B. Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provision shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph: the short list of consultants for services estimated to cost less than \$200,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 and footnote 8 of the Consultant Guidelines.

C. Other Procedures for the Selection of Consultants

1. Least-cost Selection

Services for standard and routine assignments may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications

Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Single Source Selection

Services for tasks in circumstances, which meet the requirements of paragraphs 3.9 and 3.10 of the Consultant Guidelines for single source selection, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

4. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines; and individual consultants may be selected on a sole source basis in accordance with the provisions of paragraphs 5.3 and 5.4 of the Consultant Guidelines, subject to prior approval of the Association.

D. Review by the Association of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Association for its review and approval prior to the issuance to consultants of any requests for proposals. Selection of all consultants' services shall be undertaken in accordance with such selection plan (as updated from time to time) as shall have been approved by the Association.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants to be selected on a sole source basis, or estimated to cost the equivalent of \$50,000 or more, the report on the comparison of the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

SCHEDULE 4

Implementation Program

A. Overall Project Oversight and Implementation Arrangements

1. Except as the Association shall otherwise agree, the Borrower shall, through the FMWR: (a) apply, and shall also cause the Participating States, through their SWAs, to apply, the criteria, policies, procedures, and arrangements set out in the PIM; and (b) not amend or waive, or permit to be amended or waived, the PIM or any provision thereto, in a manner which, in the opinion of the Association, may materially and adversely affect Project implementation.

2. The Borrower shall maintain within the FMWR at all times during Project implementation the FPIU in form and with functions satisfactory to the Association, and with staff having experience and qualifications satisfactory to the Association. The Borrower shall cause each Participating State, through its SWA, to maintain at all times during Project implementation an SPIU in form and with functions satisfactory to the Association, and with staff having experience and qualifications satisfactory to the Association.

3. The FPIU shall be responsible for overall coordination of the Project in accordance with the provisions of this Agreement and the PIM. Each SPIU shall be responsible for implementation of Parts A, B, C.2, and D.2 of the Project in its respective state in accordance with the provisions of this Agreement and the PIM. The FPIU shall be responsible for implementation of Parts C.1, C.2 only insofar as dams covered thereunder fall within the ownership of the Borrower, and D.1 of the Project in accordance with the provisions of this Agreement and the PIM. The FPIU shall also serve as a resource and information help desk for SPIUs, SWAs, and SWRAs.

4. The FPIU and each SPIU shall be headed by a senior coordinator, who shall manage an inter-disciplinary staff comprising engineers, a procurement specialist, core communications staff, and such other qualified staff as may be required from time to time.

5. Each PFMU shall be responsible in its respective state for financial management of the Project and for preparation of budgets, financial monitoring reports, financial statements, and progress reports. The FPIU shall be responsible at the federal level for financial management of the Project and for preparation of budgets, financial monitoring reports, financial statements, and progress reports.

B. Safeguard Policies

1. The Borrower shall, through the FMWR, ensure, and cause the Participating States, through their SWAs, to ensure, that the Project is implemented in accordance with the provisions of the ESMF, and except as the Association shall otherwise agree, the Borrower shall not amend or waive any provision of the aforementioned if such amendment or waiver may, in the opinion of the Association, materially or adversely affect Project implementation.

2. The Borrower shall, through the FMWR, ensure, and cause the Participating States, through their SWAs, to ensure, that resettlement actions plans are prepared as needed for each state in accordance with the RPF and submitted to the Association for its approval prior to implementation of such plans.

3. The Borrower shall, through the FMWR, ensure, and cause the Participating States, through their SWAs, to ensure, that the Project is implemented in accordance with practices applicable to dam safety that are satisfactory to the Association.

C. Monitoring and Evaluation

Annual Work Plans and Budgets

1. The Borrower shall furnish to the Association as soon as available, but in any case not later than April 15 of each year, the annual work plan and budget for each subsequent Fiscal Year following FY 2004, of such scope and in such detail as the Association shall have reasonably requested, with confirmation of availability of the Borrower's contribution for expenditures under the Project for that Fiscal Year.

Annual Reviews

2. The Borrower shall:

(a) maintain, and cause the Participating States to maintain, policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators referred to in Schedule 5 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, no later than three (3) months after the close of each fiscal year, commencing FY 2004, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress

achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Participating States and the Association, no later than six (6) months after close of each Fiscal Year, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

Midterm Review

3. The Borrower shall:

(a) carry out jointly with the Participating States and the Association, no later than December 31, 2007, a midterm review to assess the status of Project implementation, as measured against the project development indicators referred to in Schedule 5 to this Agreement. Such review shall include an assessment of the following: (i) overall progress in the implementation of the Project; (ii) results of monitoring and evaluation activities; and (iii) progress on procurement and disbursements; and make adjustments to the Project and reallocate funds to improve performance, if needed. Such review shall also consider the following in accordance with Section 3.05 of this Agreement: (i) whether a PPP contract is in place for each Participating State; and (ii) whether the SWA of each Participating State demonstrates a high degree of operational capacity and efficiency and financial autonomy;

(b) prepare and furnish to the Association, three (3) months before such review, a report, in scope and detail satisfactory to the Association, needed to undertake the review, integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section on the progress achieved in the carrying out of the Project during the period preceding the date of the said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review, jointly with the Participating States and the Association, the report referred to in Paragraph (b) of this Section and thereafter take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

SCHEDULE 5

Performance Indicators

The Borrower shall, through the FMWR, implement, and cause the Participating States, through their SWAs, to implement, the Project in accordance with the performance indicators set forth below:

1. At least one (1) Participating State has entered into a PPP contract by Midterm Review;
2. At least 50,000 new connections have been established by the Closing Date;
3. The SWAs in all three (3) Participating States are recovering 100% of SWA Recurrent Costs from their Revenues by the Closing Date; and
4. At least three (3) SWRAs have been established and are operational by the Closing Date.