

CONFORMED COPY

CREDIT NUMBER 4085-UNI

Development Credit Agreement

(National Energy Development Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 15, 2005



DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated July 15, 2005, between the FEDERAL REPUBLIC OF NIGERIA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) 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;

(B) the Electric Power Sector Reform Act of the Borrower, as hereinafter referred to, describes a program of objectives, policies and actions for the power sector designed to restructure National Electric Power Authority (NEPA) into separate companies for the generation, transmission and distribution of power, to privatize the generation and distribution companies, to establish a transmission and system operation company operating on a commercial basis and to establish an independent regulatory commission to regulate the power sector and to introduce competition (the Program);

(C) Part E of the Project will be carried out by BPE; and Parts A, B, C, and D of the Project will be carried out by NEPA until NEPA's functions have been unbundled under the Program;

(D) upon unbundling of NEPA, the GENCOS, DISCOS, TransysCo, (all as hereinafter defined) and a successor holding company will assume the obligations of NEPA under the Project; 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 and in the agreement of even date herewith between the Association and NEPA (the Project 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 May 1, 2004), with the modifications set forth below (the General Conditions), with the following modification constitute an integral part of this Agreement, namely:

Section 5.08 of the General Conditions is amended to read as follows:

“Section 5.08. *Treatment of Taxes*

Except as otherwise provided in the Development Credit Agreement, the proceeds of the Credit may be withdrawn to pay for taxes levied by, or in the territory of, the Borrower on the goods or services to be financed under the Credit, or on their importation, manufacture, procurement or supply. Financing of such taxes is subject to the Association’s policy of requiring economy and efficiency in the use of the proceeds of its credits. To that end, if the Association shall at any time determine that the amount of any taxes levied on or in respect of any item to be financed out of the proceeds of the Credit is excessive or otherwise unreasonable, the Association may, by notice to the Borrower, adjust the percentage for withdrawal set forth or referred to in respect of such item in the Development Credit Agreement as required to be consistent with such policy of the Association.”

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) “Affected Person” means a person who on account of the acquisition of land, including farm land, for purposes of establishing relocation sites under the Project had or would have his or her: (i) standard of living adversely affected; or (ii) right, title or interest in any house, or interest in or right to use any land (including premises, agricultural and grazing land) or right in annual or perennial crops and trees or any other fixed or movable asset, acquired or possessed, temporarily or permanently; or (iii) business, occupation, work or place of residence or habitat adversely affected, temporarily or permanently, and “Affected Persons” means, collectively, all persons who qualify as an Affected Person;

(b) “BPE” means the Bureau of Public Enterprises of the Borrower established pursuant to Public Enterprises (Privatization and Commercialization) Act No. 28, 1999;

(c) “BPE Special Account” means the account referred to in Part B.1 of Schedule 1 to this Agreement allocated to BPE;

(d) “CREST” means the Commercial Reorientation of the Electricity Sector Toolkit, designed to speed up electricity access by improving distribution efficiency, customer interface and commercial character and consisting of a short-term strategy to commercialize business, improve services, and build value through increased private sector participation;

(e) “DISCOS” means companies for the distribution of electricity to be established under the Program;

(f) “Electric Power Sector Reform Act” means the Act dated March 11, 2005;

(g) “Eligible Categories” means Categories (1) through (6) set forth in the table in Part A.1 of Schedule 1 to this Agreement;

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

(i) “Environmental and Social Management Framework” means the Borrower’s framework dated April 26, 2005 for the implementation of the Project in accordance with appropriate environmental standards and guidelines, and including, *inter alia*, the preparation of plans of action to mitigate adverse environmental effects;

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

(k) “Financial Procedures Manual” means the manual to be adopted by the Borrower and containing detailed arrangements regarding the financial procedures to be used for the purpose of implementation of the Project, and such term includes any schedules to the Financial Procedures Manual;

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

- (m) “FMPS” means the Federal Ministry of Power and Steel;
- (n) “GENCOS” means companies for the generation of electricity to be established under the Program;
- (o) “ISO” means the Independent System Operator, which will be responsible for managing the dispatch of power and system management under the Program;
- (p) “Market Rules and Grid Code” means the commercial and technical procedures by which GENCOS and DISCOS may use the transmission system and trade energy imbalances arising from differences between bilateral contract arrangements and actual production and consumption of energy;
- (q) “Naira” or “NAIRA” means the currency of the Borrower;
- (r) “NEPA” means the National Electric Power Authority, established and operating pursuant to the National Electric Power Authority Act 1972 (Act No. 24) of the Borrower, as amended to the date of this Agreement;
- (s) “NEPA Project Account” or “NPA” means the account referred to in Section 2.03 of the Project Agreement;
- (t) “NEPA Special Account” means the account referred to in Part B.1 of Schedule 1 to this Agreement allocated to NEPA;
- (u) “NERC” means the Nigerian Electricity Regulatory Commission, the agency for regulation of the distribution of power to be established under the Program;
- (v) “Procurement Plan” means the Borrower’s procurement plan, dated May 3, 2005 covering the initial 18 month period (or longer) of Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 to this Agreement, to cover succeeding 18 month periods (or longer) of Project implementation;
- (w) “Procurement Procedures Manual” means the manual to be adopted by the Borrower and containing detailed arrangements regarding the procurement procedures to be used for the purpose of implementation of the Project, and such term includes any schedules to the Procurement Procedures Manual;

(x) “Project Agreements” mean the respective agreements between the Association and BPE and between the Association and NEPA of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(y) “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;

(z) “PMU” means the Project Management Unit established within NEPA for purposes of procurement, funds administration, contracting and supervision of consultants and contractors, and coordination within NEPA and with stakeholders in the power sector;

(aa) “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;

(bb) “Resettlement Policy Framework” means the Policy Framework for Land Acquisition, Resettlement and Rehabilitation of Affected Persons, satisfactory to the Association, approved by NEPA dated April 26, 2005, and amended May 4, 2005;

(cc) “Rural Electrification Agency” means the agency for the regulation of electricity in rural areas, to be established under the Program;

(dd) “SCADA” means Supervisory Control and Data Acquisition telecommunication system;

(ee) “Subsidiary Credit Agreement” means the agreement to be entered into between the Borrower and NEPA 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;

(ff) “Subsidiary Grant Agreement” means the agreement to be entered into between the Borrower and BPE 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 Grant Agreement; and

(gg) "TransysCo" means the transmission and system operation company to be established under the Program.

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 the Development Credit Agreement, an amount in various currencies equivalent to one hundred thirteen million, eight hundred thousand Special Drawing Rights (SDR 113,800,000).

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 goods and services required for the Project and to be financed out of the proceeds of the Credit.

Section 2.03. The Closing Date shall be July 31, 2008 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 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 April 15 and October 15 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 April 15 and October 15 commencing October 15, 2015 and ending April 15, 2045. Each installment to and including the installment payable on April 15, 2025 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (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 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 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 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, without any limitation or restriction upon any of its other obligations under the Credit Agreement, shall within the limits of its constitutional powers through FMPS cause BPE and NEPA to perform in accordance with the provisions of their respective Project Agreements all the obligations of BPE and NEPA therein set forth, and shall take or cause to be taken all actions, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable BPE and NEPA to perform the obligations set forth in their respective Project Agreements; and upon unbundling of NEPA, to enable TransysCo and the respective GENCOS and DISCOS to perform their respective obligations to be set forth in the respective Project Agreements to be entered into with the Association upon establishment of TransysCo and the respective GENCOS and DISCOS, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall grant to BPE the proceeds of the Credit allocated to Categories (2) (a), (3) (a), and (4) (a) set forth in the table in Part A.1 of Schedule 1 to this Agreement under a Subsidiary Grant Agreement, and shall lend to NEPA the proceeds of the Credit allocated to Categories (1), (2) (b), (3) (b), (4) (b), and (5) set forth in the table in Part A.1 of Schedule 1 to NEPA under a Subsidiary Credit Agreement, all under terms and conditions which shall have been approved by the Association;

(c) The Borrower shall exercise its rights under the Subsidiary Grant Agreement and 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, upon unbundling of NEPA, the Borrower shall assign the NEPA Subsidiary

Credit Agreement to a holding company to be established as successor to NEPA, upon terms and conditions satisfactory to the Association; and

(d) 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 FMPS carry out the Project in accordance with the Program, Project Implementation Manual, CREST, Market Rules and Grid Code, Procurement Procedures Manual, the Environmental and Social Management Framework, the Resettlement Policy Framework, and the Implementation Program set forth in Schedule 4 to this Agreement.

Section 3.02. (a) Except as the Association shall otherwise agree, procurement of the goods, works and 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, as said provisions may be further elaborated in the Procurement Plan.

(b) The Borrower shall through FMPS update the Procurement Plan in accordance with guidelines acceptable to the Association, and furnish such update to the Association not later than 12 months after the date of the preceding Procurement Plan, for the Association's approval.

Section 3.03. The Borrower shall cause NEPA to:

(a) open and maintain an account (the "Project Account") in Naira in a commercial bank acceptable to the Association and the Borrower on terms and conditions satisfactory to the Association and the Borrower;

(b) promptly thereafter, make an initial deposit into such account, in an amount equivalent to \$1,000,000, to finance NEPA's contribution to the costs of the Project;

(c) thereafter deposit into the Project Account, semi-annually, the amount required to replenish the Project Account up to NEPA's contribution to the costs of the Project; and

(d) use the funds in the Project Account exclusively to finance expenditures under the Project and not otherwise financed out of the proceeds of the Credit.

Section 3.04. The Borrower shall through FMPS, prior to any displacement of any Affected Persons from works to be carried out under the Project:

(a) undertake the acquisition of all necessary land and other property, compensation therefore and resettlement for such works in accordance with the principles and institutional procedures established in the Resettlement Policy Framework;

(b) ensure that Affected Persons from such works shall be compensated, resettled and rehabilitated in accordance with the Resettlement Policy Framework;

(c) prepare and furnish to the Association, a detailed resettlement action plan acceptable to the Association documenting the implementation arrangements for resettlement arising from such works, including compensation, relocation and rehabilitation of Affected Persons;

(d) complete the implementation of such resettlement action plan in a manner satisfactory to the Association; and

(e) prepare and furnish to the Association, an Environmental Management Plan, satisfactory to the Association, and thereafter implement such Plan accordingly.

Section 3.05. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall through FMPS:

(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 future operation of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.06. Upon incorporation of the distribution business units into separate companies, upon incorporation of the generation companies, and upon incorporation of the transmission and operation company, the Borrower through FMPS will cause the DISCOS, GENCOS and TransysCo to enter into Project Agreements with the Association thereby assuming NEPA's respective obligations for implementation of the Project set forth in the Project Agreement of even date herewith between NEPA and the Association.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower through FMPS shall cause BPE and NEPA to maintain 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 its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

- (b) The Borrower shall through FMPS cause NEPA and BPE:
- (i) to have the financial statements referred to in paragraph (a) of this Section including those for the Special Accounts for each fiscal year (or other period agreed to by the Association), audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
 - (ii) to furnish to the Association as soon as available, but in any case not later than six 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) to furnish to the Association such other information concerning said 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.5 of Schedule 1 to this Agreement (Report-based Disbursements) or on the basis of statements of expenditure, the Borrower shall through FMPS:

- (i) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained 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;

- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such reports or statements of expenditure are included in any audit that the Association may have requested pursuant to paragraph (b) of this Section.

Section 4.02. (a) The Borrower shall through FMPS 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 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 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 (1) of the General Conditions, the following additional events are specified:

(a) A situation shall have arisen which shall make it improbable that the Program or a significant part thereof will be carried out.

(b) BPE or NEPA, and upon unbundling of NEPA, TransysCo, the GENCOS and DISCOS shall have failed to perform any of their respective obligations under their respective Project Agreement.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (b) of Section 5.01 of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Association to the Borrower.

(b) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following event is specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely that the Borrower and BPE have executed the Subsidiary Grant Agreement and the Borrower and NEPA have executed the Subsidiary Credit Agreement.

Section 6.02. The following are specified as additional matters, 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:

(a) that the BPE Project Agreement has been duly authorized or ratified by BPE, and is legally binding upon BPE in accordance with its terms; and

(b) that the NEPA Project Agreement has been duly authorized or ratified by NEPA, and is legally binding upon NEPA in accordance with its 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 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 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/ Supply and Installation	86,900,000	100% of foreign ex- penditures; 100% of local expenditures, ex-factory cost; and 90% of other local expenditures
(2) Goods		100% of foreign ex- penditures; 100% of local expenditures, ex-factory cost; and 90% of other local expenditures
(a) BPE	330,000	
(b) NEPA	2,650,000	
(3) Consultants' Services		100%
(a) BPE	1,990,000	
(b) NEPA	10,980,000	

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(4) Training, study tours, and workshops		100%
(a) BPE	270,000	
(b) NEPA	270,000	
(5) Incremental operating costs	670,000	100%
(6) Unallocated	9,740,000	
TOTAL	<hr style="width: 100%;"/> 113,800,000 =====	

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 PMU on account of Project implementation, management and monitoring, including office space rental and utilities, office supplies, bank charges, advertising, 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 prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 1,000,000 may be made on account of payments made for expenditures before that date but after May 5, 2005.

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 \$500,000 equivalent per contract; (b) works costing less than \$1,000,000 equivalent per contract; (c) services of individual consultants costing less than \$100,000 equivalent per contract; (d) services of consulting firms under contracts costing less than \$200,000 equivalent per contract, (e) training, 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. NEPA and BPE may each open and maintain in Dollars a special deposit account in a commercial bank acceptable to the Association and the Borrower, on terms and conditions satisfactory to the Association and the Borrower, 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) with respect to the BPE component where 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) with respect to the NEPA components where 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 BPE or NEPA out of the BPE Special Account or the NEPA Special Account, BPE or NEPA 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:

(a) if 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) if 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) if BPE or NEPA 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 of its intention to suspend in whole or in part the right of the Borrower 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 BPE and NEPA 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, BPE or NEPA, 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 BPE or NEPA 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, BPE or NEPA shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) BPE or NEPA 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 the Credit Agreement.

Annex A

to

SCHEDULE 1

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

1. For the purposes of this Annex, the term “Authorized Allocation” means in respect of the BPE Special Account, an amount equivalent to \$380,000 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 \$200,000, 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 \$700,000.

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, BPE shall furnish to the Association a request or requests for deposit into the 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 BPE, withdraw from the Credit Account and deposit into the Special Account such amount as BPE shall have requested.

(b) For replenishment of the Special Account, the Borrower 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, BPE 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 BPE, withdraw from the Credit Account and deposit into the Special Account such amount as BPE 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 Special Account, once the total unwithdrawn 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 unwithdrawn amount of the Credit shall follow such procedures as the Association shall specify by notice to BPE. 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 NEPA 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 NEPA, 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.5 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: (i) to continue support for the Borrower's energy sector reform to facilitate a smooth transition to the new market and institutional structure; (ii) to increase efficiency in the power sector and to improve the supply of electricity and service delivery; (iii) to demonstrate possible models to scale-up electricity access; and (iv) to continue support for the Borrower's gas sector reform to develop natural gas resources and related electricity projects.

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. Transmission System Development

1. Carrying out investments in substation extensions and capacity upgrades, including in the Lagos area and selected 330 kV and 132 kV feeders, and rehabilitation of selected Substations, resulting in the potential to earn additional performance-based carbon finance revenues.
2. Introducing reactive power compensation equipment including capacitor banks, reactors and static-Var compensation units at strategic locations in the 132 kV and 33 kV part of the network, resulting in increased efficiency and in the potential to earn additional performance-based carbon finance revenues.
3. Improving reliability of service to customers by reducing upstream constraints to strengthen the transmission supply, including refurbishing of substations, restringing of lines, and increasing localized grid capacity, resulting in increased efficiency and in the potential to earn additional performance-based carbon finance revenues.
4. Carrying out feasibility and detailed engineering studies of an extension of the backbone 330 kV transmission system to an eastern route, preparation of bidding documents for rehabilitation of the Kainji Hydro Power Station, carrying out a load/demand study, and preparation of a transmission system development plan for the National Grid.
5. Provision of bulk metering equipment and extension of the National Dispatching Center and the SCADA control system.

6. Bid preparation and financing fees for an operations and maintenance contract for TransysCo resulting in increased efficiency and in the potential to earn additional performance-based carbon finance revenues.

7. Site supervision, engineering and implementation support, and executing safeguard requirements for managing hazardous solid wastes.

B. Distribution Efficiency Enhancement

Carrying out the CREST program to improve distribution, including investments to improve quality and continuity of supply, curb pilferage of electricity, and raise the standards of customer service, including:

1. Provision of High Voltage Distribution Systems, resulting in increased efficiency and in the potential to earn additional performance-based carbon finance revenues.

2. Installation of online capacitors and meters, resulting in increased efficiency and in the potential to earn additional performance-based carbon finance revenues.

3. Introduction of customer service centers, rapid response vehicles.

4. Development of a universal billing system and software.

5. Introduction of improved accounting and financial systems and related hardware and software.

6. Provision of wide area networks and information technology infrastructure.

7. Development of capacity in technical, commercial and personnel systems distribution.

C. Access Expansion, Intensification and Renewables

1. (a) Demonstrate viable models for expansion of access to electricity through the implementation of pilot electrification projects in selected States so as: (i) to achieve lower distribution costs through improved technology; (ii) to intensify distribution in peri-urban areas; and (iii) to expand distribution to rural areas, including grid extensions and renewable energy development.

(b) Development of standard Power Purchase arrangements for Grid-connected small hydro projects, and development of replicable business delivery models for solar PV.

2. Provision of support for the National Renewable Energy Master Plan and design of cross-sectoral energy applications.

D. Project Management Unit

1. Provision of technical assistance for development of gas pipeline and gas to power projects, including: (i) implementation of the Gas Act; (ii) carrying out a transmission pipeline project and associated power projects; (iii) establishment of a Regulatory Commission; and (iv) assessment of electricity demand and load and development of rational energy pricing and taxation regimes for the complete energy supply chain and appropriate dissemination.

2. Strengthening the capacity of the environmental, resettlement and social unit.

3. Project implementation support, including provision of support to the PMU for transformation of some functions of the PMU to a Corporate Planning and Strategy Unit in the FMPS; and (ii) transformation of other functions of the PMU to a Rural Electrification Agency.

4. Carrying out a communication campaign for prevention of HIV/AIDS transmission.

E. Policy Reform and Private Participation

Provision of technical and financial assistance to BPE in the following areas:

1. Support for establishment, operation and capacity building of various institutions under the Program including the NERC, Rural Electrification Agency, ISO, Market Operator.

2. Advisory services to privatize the electricity sector distribution business under two options: (i) CREST distribution business outsourcing; and (ii) CREST distribution function outsourcing.

3. Design of customized privatization risk mitigation instruments for achieving positive, sustainable privatization outcomes.

4. Formulation and implementation of communication and outreach initiatives for energy sector stakeholders to build consensus and facilitate the implementation of the Program.

* * *

The Project is expected to be completed by January 31, 2008.

SCHEDULE 3

Procurement

Section I. General

A. All goods, works and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines; Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Association of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants' Services)

A. International Competitive Bidding. Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

B. Other Procurement Procedures

1. Limited International Bidding. Goods estimated to cost less than \$1,000,000 equivalent per contract may be procured under contracts awarded on the basis of Limited International Bidding.

2. National Competitive Bidding. Goods estimated to cost less than \$500,000 equivalent per contract and works estimated to cost less than \$1,000,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding.

3. Shopping. Goods estimated to cost less than \$50,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping.

4. 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.

Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than \$200,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Least-cost Selection. Services for assignments which the Association agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection 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 \$200,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

3. Single Source Selection. Services for tasks in circumstances which meet the requirements of paragraph 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 3.9 through 3.13 of the Consultant Guidelines.

4. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the

circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

Section IV. Review by the Association of Procurement Decisions

Except as the Association shall otherwise determine by notice to the Borrower, the following contracts shall be subject to Prior Review by the Association:

(a) each contract for goods estimated to cost the equivalent of \$500,000 or more and all contracts procured under direct contracting; (b) each contract for works/supply and installation contracts estimated to cost the equivalent of \$1,000,000 or more; (c) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$200,000 or more; and (d) each contract for the employment of individual consultants estimated to cost the equivalent of \$100,000 or more and all contracts procured under single source and annual training plan. All other contracts shall be subject to Post Review by the Association.

SCHEDULE 4

Implementation Program

1. The Borrower shall through FMPS cause NEPA to continue to maintain the PMU in a form and with functions and staffing necessary for successful Project implementation. The PMU shall be responsible for coordinating and monitoring Project activities under NEPA's Managing Director.
2. NEPA shall carry out Parts A, B, C, and D, and BPE shall carry out Part E of the Project in accordance with the procedures set out in the Project Implementation Manual, and shall not, except as the Association shall otherwise agree, amend or waive any provision thereof.
3. The Borrower and the Association shall, from time to time, at the request of either party, exchange views with regard to the tariff pricing policies and plans in respect of the overall development of the power sector.
4. Upon the establishment of the special holding company, GENCOS, DISCOS, and TransysCo, the Borrower shall agree on necessary revisions to the Subsidiary Credit Agreement for the assumption by the special holding company, GENCOS, DISCOS, and TransysCo in a manner satisfactory to the Association of NEPA's obligations thereunder in order to take account of the transfer of NEPA's generation assets, distribution assets, transmission lines, system operations undertaking, system operation dispatch facilities; and containing adequate provisions to protect the interest of the Association and the Borrower.

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