

CONFORMED COPY

LOAN NUMBER 7212 PAK

Loan Agreement

(Highways Rehabilitation Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated January 26, 2004

LOAN NUMBER 7212 PAK

LOAN AGREEMENT

AGREEMENT dated January 26, 2004, between ISLAMIC REPUBLIC OF PAKISTAN, acting by its President (the Borrower) and the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the project (the Project) described in Schedule 2 to the Development Credit Agreement (the Development Credit Agreement) of even date herewith between the Borrower and the International Development Association (the Association), has requested the Bank to assist in financing the Project;

(B) the Project will be carried out by the National Highway Authority (NHA) with the Borrower's assistance and, as part of such assistance, the Borrower will make the proceeds of the loan as provided in Article II of this Agreement (the Loan) available to NHA, as provided in this Agreement;

(C) the Borrower has also requested the Association to provide additional financial assistance towards the financing of the Project and, by the Development Credit Agreement, the Association has agreed to provide such assistance in an aggregate principal amount equivalent to one hundred five million nine hundred thousand Special Drawing Rights (SDR 105,900,000) (the Credit); and

(D) the Borrower, the Association and the Bank intend, to the extent practicable, that the proceeds of the Credit be disbursed on account of expenditures for the Project before disbursements of the proceeds of the Loan are made;

WHEREAS the Bank has agreed, on the basis, *inter alia*, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement and in the agreement of even date herewith among the Association, the Bank and NHA (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 Loan and Guarantee Agreements for Fixed-Spread Loans” of the Bank dated September 1, 1999 (the IBRD General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the IBRD General Conditions, in the Development Credit Agreement, in the IDA General Conditions (as so defined) and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Disbursed Amount” means, in respect of each Interest Period, the aggregate principal amount of the Loan withdrawn from the Loan Account in said Interest Period;

(b) “Loan Special Account” means the account referred to in Section 2.02(b) of this Agreement; and

(c) “Maturity Fixing Date” means, for each Disbursed Amount, the date on which the amortization schedule for said Disbursed Amount is established, such date being the first day of the Interest Period next following the Interest Period in which said Disbursed Amount is withdrawn.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, an amount equal to five billion six hundred five million five hundred thousand Japanese Yen (¥5,605,500,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.09 of this Agreement.

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to the Development Credit Agreement for expenditures made (or, if the Bank 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 Loan and in respect of the front-end fee referred to in Section 2.04 of this Agreement.

(b) The Borrower may, for the purposes of the Project, open and maintain in dollars a special deposit account in the National Bank of Pakistan on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Loan Special Account shall be made in accordance with the provisions of the Schedule to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2009, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a front-end fee in an amount equal to one percent (1%) of the amount of the Loan. On or promptly after the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount of such fee.

Section 2.05. The Borrower shall pay to the Bank a commitment charge on the principal amount of the Loan not withdrawn from time to time, at a rate equal to: (i) eighty five one-hundredths of one per cent (0.85%) per annum from the date on which such charge commences to accrue in accordance with the provisions of Section 3.02 of the General Conditions to but not including the fourth anniversary of such date; and (ii) seventy five one-hundredths of one per cent (0.75%) per annum thereafter.

Section 2.06. The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, in respect of each Interest Period at the Variable Rate; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the Borrower shall, during the Conversion Period, pay interest on such amount in accordance with the relevant provisions of Article IV of the General Conditions.

Section 2.07. Interest and commitment charges shall be payable semiannually in arrears on March 15 and September 15 in each year.

Section 2.08. (a) Subject to the provisions of paragraph (b) of this Section, the Borrower shall repay each Disbursed Amount in semiannual installments payable on each March 15 and September 15, the first such installment to be payable on the eleventh (11th) Interest Payment Date following the Maturity Fixing Date for said Disbursed Amount and the last such installment to be payable on the thirty-first (31st) Interest Payment Date following the Maturity Fixing Date for said Disbursed Amount. Each installment except for the last one shall be equal to one twenty-oneth (1/21th) of said Disbursed Amount. The last installment shall be equal to the remaining outstanding amount of said Disbursed Amount.

(b) Notwithstanding the provisions of paragraph (a) of this Section, if any one or more installments of principal of any Disbursed Amount would, pursuant to the provisions of such paragraph (a), be payable after September 15, 2024, the Borrower shall also pay on such date the aggregate amount of all such installments.

(c) The Bank shall notify the Borrower of the amortization schedule for each Disbursed Amount promptly after the Maturity Fixing Date for said Disbursed Amount.

(d) Notwithstanding the provisions of paragraphs (a) through (c) of this Section, in the event of a Currency Conversion of all or any portion of a Disbursed Amount to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by the Bank under the Currency Hedge Transaction relating to said Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

Section 2.09. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Variable Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Variable Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a "Conversion", as defined in Section 2.01(7) of the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.

(c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar in respect of which the Borrower has requested that the premium be paid out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay any premium payable in accordance with Section 4.04(c) of the General Conditions up to the amount allocated from time to time for such purpose in the table in paragraph 1 of Schedule 1 to the Development Credit Agreement.

ARTICLE III

Execution of the Project

Section 3.01. Subject to the provisions of Section 3.02 of this Agreement, Sections 3.01 and 3.02 of, and Schedules 1 and 2 to, the Development Credit Agreement are hereby incorporated to this Agreement, and shall remain in full force and effect irrespective of the termination of the Development Credit Agreement, with the following modifications in said Articles and Schedules (unless the context otherwise requires):

- (a) the term “Association” shall be read as “Bank”;
- (b) the term “Credit” and “Credit Account” shall be read as “Loan” and “Loan Account” other than in paragraph 1 of Schedule 1 to the Development Credit Agreement; and
- (c) the term “this Agreement” and “the Development Credit Agreement” shall be read as “the Loan Agreement”.

Section 3.02. So long as any part of the Credit provided for under the Development Credit Agreement shall remain outstanding and unless the Borrower has been notified otherwise by the Bank:

- (a) all actions taken, including approvals given, by the Association with respect to any Project-related matter under the Development Credit Agreement shall be deemed to be taken or given in the name and on behalf of both the Association and the Bank; and
- (b) all information or documentation furnished by the Borrower to the Association or to the Bank with respect to any Project-related matter pursuant to the provisions of the Development Credit Agreement, including the General Conditions Applicable to Development Credit Agreements referred to therein, or of the Loan Agreement, shall be deemed to have been furnished to both the Association and the Bank.

Section 3.03. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project shall be carried out by NHA pursuant to Section 2.03 of the Project Agreement.

ARTICLE IV

Financial and Other Covenants

Section 4.01. (a) For all expenditures with respect to which withdrawals from the Loan Account are made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained in accordance with sound accounting practices, records and separate accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made; and
- (iii) enable the Bank's representatives to examine such records.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a)(i) of this Section and those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested, including a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals; and
- (iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

Section 4.02. Except as the Bank shall otherwise agree, the Borrower shall ensure that, during Project implementation, NHA will: (a) carry out its investment and maintenance program in compliance with the MTBF; (b) consult with the Bank on a timely basis each year on its annual investment and maintenance plan, giving due consideration to any comments and suggestions made by the Bank on such plan in the

course of such consultation; and (c) in particular, fully implement the National Highway Improvement Program.

Section 4.03. The Borrower shall:

(a) at the beginning of FY2004/05, take a decision regarding; (i) the treatment of existing stock of NHA debt; and (ii) the mode of all future NHA funding provided through the Borrower's annual Public Sector Development Program, all with a view to making NHA financially sustainable commencing FY 2004/05; and

(b) to those ends and not later than April 30, 2004, carry out a review of available options for financing NHA's investment program on a sustainable basis, under terms of reference satisfactory to the Bank, and provide the Bank with a prior opportunity to comment on the findings and recommendations of such review.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional event is specified, namely, that any event specified in Section 5.01 of the Development Credit Agreement shall have occurred.

Section 5.02. Pursuant to Section 7.01(k) of the General Conditions, the following additional event is specified, namely, that any event specified in Section 5.02 of the Development Credit Agreement shall have occurred.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of this Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely, that all conditions precedent to the effectiveness of the Development Credit Agreement, other than those related to the effectiveness of this Agreement, have been fulfilled.

Section 6.02. 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 Secretary to the Government of Pakistan, Economic Affairs Division, or any Additional Secretary, Joint Secretary, Deputy Secretary or Section Officer in that Division 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 Secretary to the Government
of Pakistan
Economic Affairs Division
Ministry of Economic Affairs and Statistics
Islamabad, Pakistan

Cable address:	Telex:	Facsimile:
ECONOMIC Islamabad	ECDIV-05-634	(9251) 9205971 (9251) 9210734

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(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 Islamabad, Pakistan, as of the day and year first above written.

ISLAMIC REPUBLIC OF PAKISTAN

By /s/ Waqar Masood Khan

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Abid Hasan

Acting Country Director
Pakistan

SCHEDULE

Loan Special Account

1. For the purposes of this Schedule:
 - (a) the term “eligible Category” means Category (1) set forth in the table in paragraph 1 of Schedule 1 to the Development Credit Agreement;
 - (b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Category in accordance with the provisions of Schedule 1 to the Development Credit Agreement; and
 - (c) the term “Authorized Allocation” means the amount of \$5,000,000 to be withdrawn from the Loan Account and deposited into the Loan Special Account pursuant to paragraph 3 (a) of this Schedule.
2. Payments out of the Loan Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.
3. After the Bank has received evidence satisfactory to it that the Loan Special Account has been duly opened in a commercial bank acceptable to the Bank, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Loan Special Account shall be made as follows:
 - (a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for deposit into the Loan Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Loan Special Account such amount or amounts as the Borrower shall have requested.
 - (b)
 - (i) For replenishment of the Loan Special Account, the Borrower shall furnish to the Bank requests for deposits into the Loan Special Account at such intervals as the Bank shall specify.
 - (ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Loan Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and

other evidence to have been paid out of the Loan Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Category, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Loan Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Loan Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Borrower shall have failed to furnish to the Bank, 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 Bank pursuant to said Section in respect of the audit of the records and accounts for the Loan Special Account;

(c) if, at any time, the Bank 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 Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Category, minus the total amount of all outstanding special commitments entered into by the Bank 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 Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Category shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Loan Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Loan Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A)

provide such additional evidence as the Bank may request; or (B) deposit into the Loan Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Loan Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Loan Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

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

(d) Refunds to the Bank made pursuant to paragraphs 6(a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the IBRD General Conditions.