

**CONFORMED COPY**

**CREDIT NUMBER 3581 NEP**

# **Development Credit Agreement**

**(Telecommunications Sector Reform Project)**

**between**

**KINGDOM OF NEPAL**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated February 5, 2002**

**CREDIT NUMBER 3581 NEP**

## **DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated February 5, 2002, between the KINGDOM OF NEPAL (the Borrower) and the 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 (the Project), has requested the

Association to assist in the financing of the Project;

(B) Part B of the Project will be carried out by the Nepal Telecommunications Authority (NTA) with the Borrower's assistance and, as part of such assistance, the Borrower will make a portion of the proceeds of the credit provided for in Article II of this Agreement (the Credit) available to NTA, as set forth 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 and in the agreement of even date herewith between the Association and NTA (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 October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) through (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries."; and- 2 -

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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), (2), (3) and (4) set forth in the table in Part A.1 of Schedule 1 to this Agreement;

(b) "Eligible Expenditures" means the expenditures for goods and services referred

to in Section 2.02 of this Agreement;

(c) “Fiscal Year” and “FY” mean the twelve (12) month period corresponding to any of the Borrower’s fiscal years, which period commences approximately on July 16 and ends on July 15 in each calendar year;

(d) “Frequency Management Division” means the Frequency Management Division within the organization of the MOIC (as hereinafter defined in paragraph (f) of this Section) responsible for spectrum monitoring and management;

(e) “Grant Agreement” means the agreement to be entered into between the Borrower and the NTA pursuant to the provisions of Section 3.01 (c) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Grant Agreement;

(f) “MOIC” means the Borrower’s Ministry of Information and Communications;

(g) “MOIC Performance Indicators” mean the agreed performance indicators set forth in a letter of even date herewith to be utilized by the Borrower to measure the progress in the carrying out of Part A of the Project and the degree to which the objectives thereof are being achieved;

(h) “Nepal Rastra Bank” means the central bank of the Borrower established and operating pursuant to the provisions of the Borrower’s Nepal Rastra Bank Act, 2012 (1955), as the same may be amended from time to time;

(i) “Planning Section” means the Planning Section within the organization of the MOIC responsible for policy review and formulation;

(j) “Project Agreement” means the agreement between the Association and NTA 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;

(k) “Project Coordination Unit” and “PCU” mean the Project Coordination Unit established and to be maintained by the Borrower in accordance with the provisions of paragraph 1 of Schedule 4 to this Agreement;

(l) “Project Management Report” means each report prepared in accordance with Section 4.02 of this Agreement;

(m) “Project Management Unit” and “PMU” mean the Project Management Unit established and to be maintained by NTA in accordance with the provisions of paragraph 1 of Schedule 2 to the Project Agreement;

(n) “Regulations” means the Borrower’s Telecommunications Regulations, 2054 (1997) as amended by the Telecommunications (First Amendment) Regulations, 2055 (1999), setting forth the policy guidelines and procedures for NTA’s operations, as amended to the date of this Agreement;

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

(p) “Telecommunications Act” means the Borrower’s Telecommunications Act, 2053 (1997), pursuant to which the NTA has been established and is operating as an autonomous corporate body to regulate the telecommunications sector, as amended to the date of this Agreement; and

(q) “Village Development Committee” means the smallest territorial unit within any of the administrative districts of the Borrower.

## **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 Development Credit Agreement, an amount in various currencies equivalent to seventeen million five hundred thousand Special Drawing Rights (SDR 17,500,000).

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 September 1, 2007 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 June 1 and December 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 June 1 and December 1, commencing on June 1, 2012, and ending on December 1, 2041. Each installment to and including the installment payable on December 1, 2021 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 Part A 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: (i) shall carry out Part A of

the Project through the MOIC with due diligence and efficiency and in conformity with appropriate administrative, engineering, financial and telecommunications practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project; and (ii) without any limitation or restriction upon any of its other obligations under this Development Credit Agreement, shall cause NTA to perform in accordance with the provisions of the Project Agreement all the obligations of NTA therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable NTA to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(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 carry out Part A of the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

(c) The Borrower shall make available on a grant basis to NTA the proceeds of the Credit allocated from time to time to the Eligible Categories (1)(b), (2)(b) and (3)(b) under a Grant Agreement to be entered into between the Borrower and NTA under terms and conditions satisfactory to the Association.

(d) The Borrower shall exercise its rights under the Grant 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 Grant Agreement or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods and consultants' services required for: (i) Part A of 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; and (ii) Part B of the Project and to be financed out of the proceeds of the Credit, shall be governed by the provisions of Schedule 1 to the Project Agreement.

Section 3.03. 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 future operation of the Project; and

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

Section 3.04. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 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 Part B of the Project shall be carried out by NTA pursuant to the provisions of Section 2.03 of the Project Agreement.

#### **ARTICLE IV**

## **Financial and Other Covenants**

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association adequate to reflect the operations, resources and expenditures related to Part A of the Project.

(b) The Borrower shall:

- (i) have the records, accounts and financial statements referred to in paragraph (a) of this Section and the records and accounts for the Special Account for each Fiscal Year audited, in accordance with auditing standards acceptable to the Association, consistently applied, 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: (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year as so audited; and (B) an opinion on such statements, records and accounts and report of such audit, by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning such records and accounts, and the audit thereof, 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 Project Management Reports or statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;
- (ii) retain, until at least one (1) year after the Association has received the audit report for 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;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the Project Management Reports or 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.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall carry out a time-bound action plan acceptable to the Association for the strengthening of the financial management system referred to in paragraph (a) of said Section 4.01 in order to enable the Borrower, not later than April 30, 2003, or such later date as the Association shall agree, to prepare trimesterly Project management reports, acceptable to the Association, each of which:

- (i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the eight-month period following the period covered by said report; and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the eight-month period following the period covered by said report;
- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report; and (B) explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, the Borrower shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than forty five (45) days after the end of each calendar trimester a Project Management Report for such period.

Section 4.03. The Borrower shall amend, not later than March 31, 2002, the Regulations so as to clearly vest on NTA the power to make its own financial administration Bye-Laws pursuant to the provisions of Section 62 of the Telecommunications Act.

## **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) NTA shall have failed to perform any of its obligations under the Project Agreement.

(b) As a result of events which have occurred after the date of this Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that NTA will be able to perform its obligations under the Project Agreement.

(c) The Telecommunications Act or the Regulations shall have been amended,



suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of NTA to perform any of its obligations under the 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 (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Association to the Borrower.

(b) The event specified in paragraph (c) of Section 5.01 of this Agreement shall occur.

## **ARTICLE VI**

### **Effective Date; Termination**

Section 6.01. The following event is specified as an additional condition to the effectiveness of this Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that the Grant Agreement has been executed on behalf of the Borrower and NTA.

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) the Project Agreement has been duly authorized or executed by NTA and is legally binding upon NTA in accordance with its terms; and

(b) the Grant Agreement has been duly authorized by the Borrower and NTA and is legally binding upon the Borrower and NTA 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 Secretary, Ministry of Finance of the Borrower, 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:

Ministry of Finance

Kathmandu  
Kingdom of Nepal

Cable address:                      Telex:                      Facsimile:

ARTHA                      2249-NEP                      (977-1) 259-891  
Kathmandu, Nepal

For the Association:

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

Cable address:                      Telex:                      Facsimile:

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

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Kathmandu, Kingdom of Nepal, as of the day and year first above written.

KINGDOM OF NEPAL

By /s/ Bimal Prasad Koirala

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Kenichi Ohashi

Country Director

**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) Goods:		100 % of foreign expenditures, 100% of local expenditures (ex-factory cost) and 70% of local items procured locally
	expenditures for other	
(a) under Part A of the Project	3,410,000	
(b) under Part B of the Project	9,540,000	
(2) Consultants' services:		85%
(a) under Part A of the Project	950,000	
(b) under Part B of the Project	1,340,000	
(3) Training:		100%
(a) under Part A of the Project	210,000	
(b) under Part B of the Project	110,000	
<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(4) Incremental Operating Costs	350,000	80% in the first and second FYs, 60% in the third and

fourth FYs, and 40%  
thereafter

(5) Unallocated	1,590,000
<b>TOTAL</b>	<b>17,500,000</b>

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 expenditures to finance office furniture and supplies and fuel for vehicles necessary for the daily operation and maintenance of the PCU.

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.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (i) goods and services of consulting firms, under contracts costing less than \$50,000 equivalent each; (ii) services of individual consultants, under contracts costing less than \$10,000 equivalent each; and (iii) incremental operating costs, all under such terms and conditions as the Association shall specify by notice to the Borrower.

B. Special Account

1. The Borrower shall open and maintain in Dollars a separate special deposit account in the Nepal Rastra Bank, on terms and conditions satisfactory to the Association.

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

(a) until the Association shall have received: (i) the first Project Management Report referred to in Section 4.02 (b) of this Agreement; and (ii) a request from the Borrower for withdrawal on the basis of Project Management Reports, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) upon receipt by the Association of a Project Management Report pursuant to Section 4.02 (b) of this Agreement, accompanied by a request from the Borrower for withdrawal

on the basis of Project Management Reports, all further withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the Special Account, the Borrower 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 Special Account:

(a) if the Association determines at any time that any Project Management Report does not adequately provide the information required pursuant to Section 4.02 of this Agreement;

(b) if the Association determines at any time that all further withdrawals should be made by the Borrower directly from the Credit Account; or

(c) if the Borrower 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 Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were made on the basis of Project Management Reports.

5. The Association shall not be required to make further deposits into the 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 Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the 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 shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or deposit into the 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 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 Association determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

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

(d) Refunds to the Association made pursuant to sub-paragraph (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 Development Credit Agreement.

**Annex A**  
**to**  
**SCHEDULE 1**

**Operation of Special Account**  
**When Withdrawals Are Not Made**  
**On the Basis of Project Management Reports**

1. For the purposes of this Annex:

The term “Authorized Allocation” means an amount equivalent to \$1,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$500,000 until the aggregate amount of withdrawals from the Credit Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall equal or exceed the equivalent of SDR 2,500,000.

2. Withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower 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 the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested.

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. Prior to or at the time of each such request, the Borrower 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, withdraw from the Credit Account and deposit into the 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 Special Account for Eligible Expenditures. Each such deposit into the 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 the Borrower. 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 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 Made**  
**On the Basis of Project Management Reports**

1. Except as the Association may otherwise specify by notice to the Borrower, all withdrawals from the Credit Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Eligible Categories.
2. Each application for withdrawal from the Credit Account for deposit into the Special Account shall be supported by a Project Management Report.
3. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account an amount equal to the lesser of: (i) the amount so requested; and (ii) the amount which the Association has determined, based on the Project Management Report accompanying said application, is required to be deposited in order to finance Eligible Expenditures during the eight-month period following the date of such report; provided, however, that the amount so deposited, when added to the amount indicated by said Project Management Report to be remaining in the Special Account, shall not exceed the equivalent of \$2,000,000.

**SCHEDULE 2**

**Description of the Project**

The objective of the Project is to assist the Borrower in strengthening and implementing the policy, legal and regulatory framework of its telecommunications sector to facilitate competition and private participation, including increasing rural access to services by encouraging private investment and operations.

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:

**Part A:**            **Strengthening of the MOIC**

Strengthening of the MOIC's policy and spectrum management functions, with a focused support to: (i) its Planning Section so as to allow it to carry out effectively its policy function; (ii) its Frequency Management Division in order to allow it to manage efficiently and monitor the radio spectrum; and (iii) the PCU, including capacity building and equipment as required therefor. Specifically, this Part A encompasses the following activities:

1. Strengthening of MOIC's Planning Section, consisting of capacity building activities including: (i) the review and the formulation of institutional changes; (ii) advice for implementing its policy agenda; (iii) the carrying out of an assessment and the issuance of recommendations on options to accelerate the provision of rural communications connectivity, in particular, approaches to deliver new modes of service delivery and government programs to the rural population; (iv) advice on, and implementation of, further liberalization of the sector; (v) the conclusion of technical cooperation arrangements with relevant policy agencies in other countries, information sharing and formal and informal contacts and advice; (vi) the attendance of professional training courses on specialized policy issues; and (vii) organization of seminars and workshops in the Borrower's country to address key policy issues.

2. Strengthening of MOIC's Frequency Management Division, consisting of:

(a) Capacity building aimed at strengthening the said Division in the discharge of all its functions regarding radio spectrum management and the regulatory process in a way consistent with international best practice, comprising: (i) the preparation of a national frequency allocation plan and relevant radio regulations; (ii) the establishment of spectrum management and monitoring processes and procedures, and an appropriate spectrum pricing policy; (iii) advice and assistance in the implementation of institutional changes; (iv) services for the procurement process under the Project and the supervision of the implementation of the spectrum management and monitoring system awarded under the Project; (v) the conclusion of technical cooperation arrangements with foreign spectrum management agencies for purposes of information sharing and advice; (vi) the attendance by members of the FMD of professional training courses; and (vii) training in the operation and maintenance of the equipment for spectrum management and monitoring.

(b) Installation and commissioning of a national frequency management and monitoring system.

3. Support to the Project Coordination Unit to enable it to successfully implement its responsibilities in the implementation and overall coordination of the Project, including the provision of computer equipment and vehicles as required therefor.

Part B: Strengthening of the NTA

Strengthening of NTA's capacity for institutional building and for responding to regulatory issues in the sector, through the carrying out of studies, the provision of consultants' services and training, and support to its award of a rural license to a private operator to provide services in rural areas. In particular, this Part B includes the following activities:

1. Strengthening of NTA's regulatory capacity, encompassing a program of capacity building conducive to: (i) assisting NTA in the licensing process of Rural Telecommunications Services (RTS); (ii) facilitating the supervision of the implementation of the rural private licenses awarded under the Project; (iii) carrying out consultative studies on NTA's rules of business, interconnection issues, numbering plan, monitoring carrier performance, tariffs, service quality, licensing regime, consumer protection and new/emerging regulatory issues in the sector; (iv) supporting the supervision and certification of the rural telecommunications service provider; (v) carrying out technical cooperation arrangements involving staff exchanges with relevant foreign regulatory agencies, information sharing, and seminars and courses; (vi) providing in-house training in the Borrower's territory; and (vii) organizing seminars in the



country to address key regulatory issues.

2. Support to NTA in the implementation of the Borrower's strategy for provision of telecommunications services in rural areas, by the financing of a one-time up-front minimum capital subsidy to a private operator which shall provide RTS in the Eastern Development Region of the Borrower's territory.

3. Assistance to NTA in the implementation of the Borrower's policy for expanding access to information and telecommunication services, through the establishment, on a pilot basis, of public information access centers in district headquarters and Village Development Committees.

4. Support to the PMU to enable it to successfully implement and carry out its functions under Part B of the Project.

\* \* \*

The Project is expected to be completed by March 1, 2007.

### **SCHEDULE 3**

#### **Procurement and Consultants' Services under Part A of the Project**

##### Section I. Procurement of Goods

##### Part A: General

1. Goods shall be procured in accordance with the provisions of: (i) 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 (ii) the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

##### Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods 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 provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

##### (a) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated to cost \$100,000 equivalent or more each.

(b) Preference for domestically manufactured goods

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.

(c) Notification and Advertising

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

Part C: Other Procurement Procedures

1. National Competitive Bidding

(a) Goods estimated to cost less than \$200,000 equivalent per contract, up to an aggregate amount not to exceed \$300,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(b) In order to ensure economy, efficiency, transparency and broad consistency with the provisions of Section 1 of the Guidelines:

(i) invitations to bid shall be advertised in at least (1) one widely circulated national daily newspaper, at least thirty (30) days prior to the deadline for the submission of bids;

(ii) bid documents shall be made available, by mail or in person, to all who are willing to pay the required fee;

(iii) evaluation of bids shall be made in strict adherence to the criteria disclosed in the bidding documents, in a format and specified period agreed with the Association;

(iv) bids shall be opened in public in one (1) place, immediately after the deadline for submission of bids;

(v) foreign bidders shall not be precluded from bidding and no preference of any kind shall be given to national bidders;

(vi) qualification criteria (in case pre-qualifications were not carried out) shall be stated in the bidding documents, and if a registration process is required, a foreign firm declared as the lowest evaluated bidder shall be given a reasonable opportunity of registering, without let or hindrance;

(vii) contracts shall be awarded to the lowest evaluated bidders;

(viii) post-bidding negotiations shall not be allowed with the lowest evaluated bidders or any other bidders;

(ix) bids shall not be rejected merely on the basis of a comparison with an

official estimate without the prior concurrence of the Association;

(x) contracts shall not be awarded on the basis of nationally negotiated rates;

(xi) re-bidding shall not be carried out without the prior concurrence of the Association;

(xii) all bidders/contractors shall provide bid/performance security as indicated in the bidding/contract documents;

(xiii) a bidder's bid security shall apply only to a specific bid, and a contractor's performance security shall apply only to the specific contract under which it was furnished;

(xiv) split award or lottery in award of contracts shall not be carried out. When two or more bidders quote the same lowest price, an investigation shall be made to determine any evidence of collusion, following which: (A) if collusion is determined, the parties involved shall be disqualified and the award shall then be made to the next lowest evaluated and qualified bidder; and (B) if no evidence of collusion can be confirmed, then fresh bids shall be invited after receiving the concurrence of the Association;

(xv) extension of bid validity shall not be allowed without the prior concurrence of the Association: (A) for the first request for extension if it is longer than eight weeks, and (B) for all subsequent requests for extension irrespective of the period;

(xvi) bids shall not be invited on the basis of percentage premium or discount over the estimated cost; and

(xvii) there shall not be any restrictions on the means of delivery of the bids.

## 2. National Shopping

Goods estimated to cost less than \$25,000 equivalent per contract, up to an aggregate amount not to exceed \$50,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

### Part 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 under Part A of 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 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: (i) goods awarded in accordance to the provisions of

Part B of this Schedule; and (ii) goods awarded in accordance with the provisions of paragraph 1 of Part C of this Schedule and estimated to cost the equivalent of \$50,000 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.

Section II. Employment of Consultants

Part A: General

1. Consultants' services shall be procured in accordance with the provisions of: (i) the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association in January 1997 and revised in September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines), and (ii) the following Parts of this Section II.

2. In paragraph 1.10 of the Consultant Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part 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, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions 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 for strengthening of the PCU under Part A.3 of the Project, estimated to cost less than \$200,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

(i) Training; and (ii) services for strengthening of the MOIC's Planning Section and FMD under Parts A.1 (i), (v), (vi) and (vii) and A.2 (a) (iv), (v), (vi) and (vii) of the Project estimated to cost the equivalent of \$50,000 or more per contract, but less than the equivalent of \$100,000, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance

with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under Part A of 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 Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to: (i) training; and (ii) each contract for the employment of consulting firms estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$10,000 or more, 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.

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. Notwithstanding this provision, prior review by the Association shall still apply to: (i) the terms of reference for such contracts; (ii) assignments of a critical nature, as reasonably determined by the Association; (iii) amendments to contracts for the employment of consulting firms subject to the prior review provisions of paragraph 2 (a) of this Part D and raising the contract value to \$100,000 equivalent or above; (iv) amendments to contracts for the employment of consulting firms subject to the prior review provisions of paragraph 2 (b) of this Part D and raising the contract value to \$50,000 equivalent or above; or (v) amendments to contracts for the employment of individual consultants raising the contract value to \$10,000 equivalent or above.

**SCHEDULE 4**

**Implementation Program**

1. Overall Project Coordination and Management: the PCU

The PCU shall be vested with the main responsibility for the overall Project coordination and management, including coordination of those activities falling under Part B of the Project and to be carried out by NTA. To this end, the Borrower shall maintain the PCU within the MOIC throughout Project implementation under terms of reference and with human and financial resources adequate to enable it to carry out its responsibilities under the Project in a suitable and prompt manner. The PCU shall be led by a senior official of the MOIC acting as Project Coordinator and shall include in its composition as core staff senior officials from NTA, the Planning Section and the FMD, a senior financial officer and a procurement specialist. The said financial officer and procurement specialist shall be appointed by the PCU to perform analogous functions and responsibilities within the PMU, the Borrower making such staff available to the PMU with prompt and adequate frequency. The PCU shall be specifically responsible for overall reporting on Project implementation progress and the preparation of consolidated Project accounts and, when ready, of Project Management Reports, both for consolidation and submission to the Association not later than April 30, August 31 and December 31 in each Fiscal Year.

2. Mid-Term Review

The Borrower shall cause the MOIC:

(a) to maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the MOIC Performance Indicators, the carrying out of Part A 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, on or about September 30, 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 Part A of the Project during the period preceding the date of said report, the continued validity of the Project design assumptions in light of the implementation experience and the evolving environment, and setting out the measures recommended to ensure the efficient carrying out of Part A of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association and NTA, by November 15, 2004, 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.

