

Public Disclosure Authorized

CONFORMED COPY

CREDIT NUMBER 4086-UNI

Development Credit Agreement

(Second National Urban Water Sector Reform Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 15, 2005

Public Disclosure Authorized



CREDIT NUMBER 4086-UNI

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) Parts A(1), A(2)(i) through (iii), B, C(2), C(4), C(5), D(i), D(vi) and D(vii) of the Project will be carried out by Cross River and Lagos States (the Participating States) in the territory of the Borrower with the Borrower's assistance and, as part of such assistance, the Borrower will make available to the Participating States part of the proceeds of the Credit as provided in this Agreement; and

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through May 1, 2004), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) 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Except as otherwise provided in the Development Credit Agreement, the proceeds of the Credit may be withdrawn to pay for taxes levied by, or in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 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) "Cross River State Water Board Limited" means a company limited by shares, registered under Certificate No. 281.169 pursuant to the Companies and Allied Matters under Decree 1990 of Cross River State;

(c) "Dam Safety Report" means the Dam Safety Report, approved by FMWR, dated May 15, 2005;

(d) "Eligible Categories" means Categories (1)(a), (2)(a), (3)(a), (4)(a), and (5)(a) with respect to the Federal Special Account (as hereinafter defined), Categories (1)(b)(i), (2)(b)(i), (3)(b)(i), (4)(b)(i), (5)(b)(i), and (6)(a) with respect to the Lagos State Special Account (as hereinafter defined), and Categories (1)(b)(ii), (2)(b)(ii), (3)(b)(ii), (4)(b)(ii), (5)(b)(ii), and (6)(b) with respect to the Cross River State Special Account, set forth in the table in Part A.1 of Schedule 1 to this Agreement;

(e) "Eligible Expenditures" means the expenditures for goods, works and consultants' services referred to in Section 2.02 of this Agreement;

(f) “Environmental Management and Social Framework” or “EMSF” means the framework dated April 2005, satisfactory to the Association, describing measures for the mitigation of the potential environmental impact of the Project, as the same may be updated from time to time with the approval of the Association, to be applied by the Borrower in accordance with the provisions of Section 3.06 to this Agreement;

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

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

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

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

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

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

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

(n) “Lagos State Water Law” means the Lagos State’s Law No. 24 of 2004;

(o) “LSWC” means Lagos Water Corporation, established and operating pursuant to the Lagos State Water Law;

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

(q) “Participating State” means Lagos or Cross River States, all in the territory of the Borrower;

(r) “Procurement Plan” means with respect to Lagos State, the procurement plan, dated April, 2005, and with respect to Cross River State, the procurement plan dated April, 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;

(s) “Project Financial Management Unit” or “PFMU” means the unit set up within the Office of the Accountant General of Cross River State and the Finance and Accountants Department of LSWC, responsible for financial management of the Project in such Participating State;

(t) “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;

(u) “Project Preparation Advance” means the project preparation advance granted by the Association to the Borrower pursuant to two letter agreements, the first signed on behalf of the Association on April 21, 2004 and on behalf of the Borrower on May 14, 2004; and the second signed on behalf of the Association on March 22, 2005 and on behalf of the Borrower on April 11, 2005;

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

(w) “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;

(x) “Resettlement Policy Framework” means the Policy Framework for Land Acquisition, Resettlement and Rehabilitation of Affected Persons, satisfactory to the Association, approved by the Borrower dated April, 2005;

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

(z) “State Project Implementation Unit” or “SPIU” means the project implementation unit to be established by Lagos Water Corporation and by Cross River State Water Board Limited;

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

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

(cc) “State Water Regulatory Agency” or “SWRA” means the agency of Lagos State established under the laws of Lagos State, and the agency of Cross River State that may be established in the course of Project implementation for the purpose of regulating water supply and sanitation; and

(dd) “Subsidiary Credit Agreement” means the agreement to be entered into between the Borrower and each of the Participating States pursuant to 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 Subsidiary Credit Agreement.

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 thirty-two million seven hundred thousand Special Drawing Rights (SDR 132,700,000).

Section 2.02. (a) 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, works and services required for the Project and to be financed out of the proceeds of the Credit.

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

balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be June 30, 2011 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 May 1 and November 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 May 1 and November 1 commencing November 1, 2015 and ending May 1, 2045. Each installment to and including the installment payable on May 1, 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, shall carry out Parts A(2)(iv), C(1), C(3), C(5), D(i) through D(v) of the Project through FMWR, and cause the Participating States, through their respective SWAs, to carry out Parts A(1), A(2)(i) through (iii), B, C(2), C(4), C(5), D(i), D(vi) and D(vii) of the Project, all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, water supply, and environmental practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

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

(c) The Borrower shall make the proceeds of the Credit available to the Participating States under a Subsidiary Credit Agreement to be entered into between the Borrower and each Participating State, under terms and conditions which shall have been approved by the Association, including with respect to Lagos State a covenant requiring Lagos State to carry out the Project in accordance with the Lagos State Water Law and with respect to Cross River State a covenant requiring Cross River State to carry out the Project in accordance with the Letter of Sector Policy dated June 5, 2005.

(d) The Borrower shall exercise its rights under the Subsidiary Credit Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Credit Agreement or any provision thereof.

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

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

(b) (i) deposit into the FPA an initial amount equivalent to \$100,000; and (ii) thereafter, on a quarterly basis, replenish the FPA by the amount required to finance the Borrower's contribution for expenditures under the Project other than those financed from the proceeds of the Credit; and

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

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

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

(b) (i) deposit into the SPA for Lagos State, an initial amount equivalent to \$1.1 million, and into the SPA for Cross River State, an initial amount equivalent to \$0.4 million; and (ii) thereafter, on a quarterly basis, replenish its respective SPA by the amount required to finance the respective Participating State's contribution for expenditures under the Project other than those financed from the proceeds of the Credit by issuing an irrevocable letter of authority to the Federal Ministry of Finance to deduct such amount from the allocation due to the respective Participating State out of the Federation Account and to transfer such amount into the respective SPA; and

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

Section 3.04. (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 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 3.05. In order to ensure the safety of any dams to be constructed or rehabilitated under Part A of the Project, the Borrower through FMWR shall cause SWA's to:

(a) ensure that engineering experts, with qualifications, experience, terms of reference and resources acceptable to the Association, remain responsible for reviewing the adequacy of the design and construction of said dam and its associated structures, and for inspecting said dam and structures periodically following the construction thereof;

(b) ensure that said engineering experts shall, on the basis of guidelines acceptable to the Association: (i) undertake periodic reviews of said dam and its associated structures and their design, throughout the period of design and construction thereof; (ii) prepare and furnish to the Association upon completion of each said review, a report on the results of said review, together with any proposed changes to be introduced in the design or construction of said dam or its associated structures; and (iii) promptly introduce such changes, taking into account the comments of the Association on the matter; and

(c) (i) with the assistance of independent engineering experts whose qualifications and experience shall be agreed with the Association, ensure that: (A) said dam (including waterways, earthworks and reservoir banks) and its associated structures shall be periodically inspected, in accordance with sound engineering and dam safety practices and under arrangements agreed with the Association, in order to identify any deficiencies in the condition of said dam and its associated structures, or in the quality and adequacy of their maintenance or methods of operation, which may endanger their safety; (B) the results of each such inspection, together with the recommendations of said engineering experts based on said inspection, shall be furnished to the Association promptly upon the completion of such inspection; and (C) all necessary repairs of said dam and its associated structures, modifications to the maintenance or method of operation of the same and other measures based on said recommendations and the comments of the Association thereon shall be promptly taken in order to rectify any such deficiencies; and

(ii) to this end, prepare a program for the appropriate maintenance, operation and inspection of said dam and its associated structures, and furnish the same to the Association not later than June 30, 2006 and thereafter, promptly implement said program and arrangements, taking into account the Association's views on the matter.

Section 3.06. The Borrower shall, prior to commencing work on any water supply system and prior to any displacement of any Affected Persons from such works:

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

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

(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 3.07. 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.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower through FMWR shall establish and maintain and cause to be maintained, a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting

standards acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

- (b) The Borrower through FMWR shall:
 - (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Association), commencing with the fiscal year in which the first withdrawal under the Project Preparation Advance was made, audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
 - (ii) furnish to the Association as soon as available, but in any case not later than six 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;
 - (iii) 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 financial statements of the State Water Authorities adequate to reflect the operations, resources and expenditures related to the Project 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
 - (iv) furnish to the Association such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.
- (c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of reports referred to in Part A.5 of Schedule 1 to this Agreement (Report-based Disbursements) or on the basis of statements of expenditure, the Borrower through FMWR shall:

- (i) retain, until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such reports and statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Association), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations set out in Section B.1 of Schedule 4 to this Agreement, the Borrower shall prepare, and cause the Participating States to prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

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

(b) The first FMR shall be furnished to the Association not later than 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 (l) of the General Conditions, the following additional events are specified:

(a) any of the Participating States shall have failed to perform any material obligation under its respective Subsidiary Credit Agreement; and

(b) any law of the Borrower or the Participating States governing the establishment, organization, powers, financial structure and operation of any SWA has been amended, suspended, abrogated, repealed or waived so as to materially and adversely affect the future operations of the said SWA.

ARTICLE VI

Termination

Section 6.01. 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		95% of foreign expenditures, and 95% of local expenditures
(a) FSA	1,390,000	
(b) SSAs		
(i) Lagos	63,010,000	
(ii) Cross River	21,050,000	
(2) Goods		95% of foreign expenditures, and 95% of local expenditures
(a) FSA	630,000	
(b) SSAs		
(i) Lagos	1,300,000	
(ii) Cross River	1,080,000	
(3) Consultants' services		95% of foreign expenditures, and 95% of local expenditures

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(a) FSA	2,780,000	
(b) SSAs		
(i) Lagos	16,860,000	
(ii) Cross River	4,510,000	
(4) Training, study tours, and workshops		95% of foreign expenditures, and 95% of local expenditures
(a) FSA	380,000	
(b) SSAs		
(i) Lagos	630,000	
(ii) Cross River	315,000	
(5) Incremental operating Costs		95% of foreign expenditures, and 95% of local expenditures
(a) FSA	630,000	
(b) SSAs		
(i) Lagos	630,000	
(ii) Cross River	480,000	
(6) Critical Treatment Plant Inputs		95% of foreign expenditures, and 95% of local expenditures
(a) Lagos	2,520,000	
(b) Cross River	630,000	

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(7) Refunding of Project Preparation Advances	1,330,000	Amount due pursuant to Section 2.02 (b) of this Agreement
(8) Unallocated	12,545,000	
TOTAL	<u>132,700,000</u> =====	

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;

(c) the term “incremental operating costs” means the incremental expenses incurred by the FPIU and each SPIU on account of Project implementation, management and monitoring, including office space rental and utilities, office supplies, bank charges, advertising expenditures, 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; and

(d) the term “Critical Treatment Plant Inputs” means recurrent costs expended by or on behalf of an SWA, including power, fuel, chemicals, consumable spares costing not more than \$2,000 equivalent, for the purposes of operating the water treatment plants, or for pumping or storage of treated water.

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 (SDR equivalent of \$20 million), may be made on account of payments made for expenditures before that date but after August 1, 2004.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods costing less than \$250,000 equivalent per contract; (b) works costing less than \$1,000,000 equivalent per contract; (c) services of individual consultants costing less than \$50,000 equivalent per contract; (d) services of consulting firms under contracts costing less than \$200,000 equivalent per contract; (e) training costing less than \$15,000 equivalent per contract, study tours, and workshops; (f) incremental operating costs; and (g) Critical Treatment Plant Inputs, all under such terms and conditions as the Association shall specify by notice to the Borrower.

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

B. Special Accounts

1. The Borrower and the Participating States may each open and maintain in Dollars a special deposit account in a commercial Bank acceptable to the Association, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment.

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

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

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

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

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

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

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

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

(b) If the Association determines at any time that any amount outstanding in the respective Special Account will not be required to cover payments for Eligible

Expenditures during the six-month period following such determination, the Borrower or Participating State shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

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

(d) Refunds to the Association made pursuant to subparagraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the provisions of 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,
 - (a) The term “Authorized Allocation” means:
 - (i) in respect of the FSA, an amount equivalent to \$900,000 to be withdrawn from the Credit Account and deposited into said Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, said Authorized Allocation shall be limited to an amount equivalent to \$500,000, until the aggregate amount of withdrawals from the Credit Account of amounts allocated to said Special Account’s Eligible Categories, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of amounts allocated to said Categories, shall equal or exceed the equivalent of \$2,000,000; and
 - (ii) in respect of the Lagos and Cross Rivers SSA’s, amounts equivalent to \$7,500,000 and \$3,000,000, respectively to be withdrawn from the Credit Account and deposited into the respective Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, said Authorized Allocations shall be limited to an amount equivalent to \$4,000,000 and \$1,500,000, respectively until the aggregate amount of withdrawals from the Credit Account of amounts allocated to said Special Account’s Eligible Categories, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of amounts allocated to such Participating State for said Categories, shall equal or exceed the equivalent of \$15,000,000 and \$6,000,000, respectively.

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

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

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

3. The Association shall not be required to make further deposits into the respective Special Account, once the total 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 or Participating State. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the respective Special Account as of the date of such notice will be utilized in making payments for Eligible Expenditures.

Annex B

to

SCHEDULE 1

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

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

2. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower or Participating State, withdraw from the Credit Account and deposit into the respective Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the reports referred to in Part A.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 to: (i) improve the reliability of water supply produced by the water treatment works in Lagos State; (ii) increase access to piped water networks in Cross River State; and (iii) improve the commercial viability of urban water utilities in Participating States.

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

A. Rehabilitation and Network Expansion

1. Rehabilitation of Water Supply System in Lagos State, including:
 - (i) Intake facilities and treatment plants at Adiyen, Iju and Isashi;
 - (ii) Rehabilitation and extension of ground water treatment works, the system's primary transmission main, and selected transmission and distribution systems in Lagos City;
 - (iii) Rehabilitation and strengthening of distribution systems, including establishment of a centralized operational system for monitoring and controlling water flows, water pressure and water allocation;
 - (iv) Carrying out feasibility studies and detailed engineering design to update network analysis for individual service areas; and
 - (v) Provision of equipment required for water quality analysis, quality control, maintenance and other operational duties, including communication and IT equipment for commercial operations.
2. Rehabilitation of Water System in Cross River State, including:
 - (i) Strengthening and expansion of network infrastructure in Calabar including improvements of the intake facilities, water treatment plants, storage, pumping, transmission and distribution system;

- (ii) Strengthening and expansion of network infrastructure in Ikom, Ogoja, and Obudu, including rehabilitation and improvements in the intake works water treatment plants, storage, pumping, transmission and distribution system and development of groundwater sources;
- (iii) Provision of equipment required for water quality analysis, quality control, maintenance and other operational duties, including communication and IT equipment for commercial operations; and
- (iv) Assessments of dam safety and carrying out requisite strengthening.

B. Public Private Partnership Development

- 1. Design, tender, and fees of private sector operator contracts for: (i) operation of the Lagos treatment works; and (ii) the Cross River private operator.
- 2. Setting up and staffing a “help desk” for the distribution service area operators in Participating States.

C. Service Sustainability and Project Management

- 1. Technical assistance, including in relation to dam safety; training and workshops for FPIU and FMWR staff; and FPIU incremental operating costs, including provision of vehicles and office equipment.
- 2. Technical assistance, including: PPP preparatory studies and advice; stakeholder communication programs; training and workshops for SPIU, SWA, and SWRA staff; and SPIU incremental operating costs, including provision of equipment and vehicles.
- 3. Technical assistance and utility planning for water boards in core states under the Country Partnership Strategy.
- 4. Subsidies for electricity, chemicals, consumable spares and diesel fuel to be used in Participating States for the purposes of operating the water treatment plants and for pumping or storage of treated water.
- 5. Carrying out a public communication program, together with a customer feedback system to promote citizens’ participation and transparency.

D. Policy Reform and Institutional Development

Provision of technical and financial assistance to the FPIU, FMWR, SPIUs and SWAs in the following areas:

- (i) staff training, workshops and development of a national training network for water supply and sanitation;
- (ii) development of water resources management and river basin planning;
- (iii) establishment of national millennium development goal tracking capacity for water supply and sanitation;
- (iv) selected technical, commercial and management issues;
- (v) provision of technical assistance to selected States of the Borrower;
- (vi) establishment and provision of regulatory support; and
- (vii) institutional reform for Lagos Water Corporation.

* * *

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

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. National Competitive Bidding. Goods estimated to cost less than \$250,000 equivalent per contract and works estimated to cost less than \$1,000,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding.

2. Shopping. Goods estimated to cost less than \$30,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping.

3. Procurement of small works

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

4. Force Account (Direct Labor). Works which the Association agrees meet the requirements for Force Account and costing \$50,000 equivalent or less per contract may be carried out in accordance with the provisions of said procurement method.

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 \$100,000 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 \$250,000 or more; (b) each contract for works estimated to cost \$1,000,000 equivalent 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 \$50,000 or more. All other contracts shall be subject to Post Review by the Association.

SCHEDULE 4

Implementation Program

A. Overall Project Oversight and Implementation Arrangements

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

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

3. The FPIU shall be responsible for monitoring and evaluation of the Project in accordance with the provisions of this Agreement and the PIM. Each SPIU shall be responsible for implementation of Parts A(1), A(2)(i) through (iii), B, C, and D(i) through (iv) of the Project in its respective state in accordance with the provisions of this Agreement and the PIM. The FPIU shall be responsible for implementation of Part A(2)(iv) and Part D of the Project in accordance with the provisions of this Agreement and the PIM. The FPIU shall also serve as a resource and information help desk for SPIUs, SWAs, and SWRAs.

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

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

B. Monitoring and Evaluation

Annual Work Plans and Budgets

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

Annual Reviews

2. The Borrower through FMWR shall:

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

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, no later than three (3) months after the close of each fiscal year, commencing FY 2005, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

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

Midterm Review

3. The Borrower through FMWR shall:

(a) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about September 1, 2008, a report integrating the results

of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(b) review with the Association, by December 15, 2008, 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.