

CONFORMED COPY

CREDIT NUMBER 2485 UNI

Development Credit Agreement

(Second Multi-State Roads Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 30, 1993

CREDIT NUMBER 2485 UNI

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated July 30, 1993, between 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, B, C.1, C.2 and C.3 of the Project will be carried out by Oyo and Osun States of Nigeria (the Project States) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to each of the Project States a portion 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 and in the Project Agreements of even date herewith between the Association and each of the Project States;

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, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Special Accounts" means the accounts referred to in Section 2.02 (b) of this Agreement and in Section 2.01 (c) of the Project Agreements;

(b) "Subsidiary Loan Agreements" means the agreements entered into between the Borrower and each of the Project States pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes any schedules to the Subsidiary Loan Agreement;

(c) "Project Agreements" means the agreements between the Association and the Project States, 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 Agreements;

(d) "FMWH" means the Federal Ministry of Works and Housing of the Borrower;

(e) "SMOW" means the Ministry charged with the responsibility for Works in the Project States;

(f) "Technology Transfer Centers" means the Technology Transfer Centers referred to in Part C.3 of the Project; and

(g) "Project Account" means the Project Account referred to in Section 2.01 (b)(ii) of each Project 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 this Agreement, an amount in various currencies equivalent to sixty-one million four hundred thousand Special Drawing Rights (SDR 61,400,000).

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

(b) The Borrower shall, for the purposes of Part C.4 of the Project, open and maintain in dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1999 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 cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date or 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 payment 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 15 and November 15 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each May 15 and November 15 commencing May 15, 2003 and ending November 15, 2027. Each installment to and including the installment payable on May 15, 2012 shall be one and one-fourth percent (1-1/4%) of such principal amount, and each installment thereafter shall be two and one-half percent (2-1/2%) of such principal amount.

(b) Whenever (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years 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 terms of repayment of installments under paragraph (a) above by 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. If so requested by the Borrower, the Association may revise such modification 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.

(c) 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.

Section 2.09. Oyo State and Osun State are designated as representatives of the Borrower in respect of Parts A, B, C.1, C.2

and C.3 of the Project for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V 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:

- (i) shall carry out Part C.4 of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and road engineering and maintenance practices and shall provide, promptly as needed, the funds, facilities, services and other resources required for such Part of the Project;
- (ii) without limitation or restriction upon any of its other obligations under this Agreement, shall, within the limits of its constitutional powers, cause the Project States to perform all their obligations set forth in the Project Agreements, shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable the Project States to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance; and
- (iii) without limitation or restriction upon any of its obligations under paragraph (i) above with respect to the provision of funds, shall provide in its budget amounts adequate to meet the Borrower's counterpart contributions to the costs of the Project as said contributions shall be determined for each fiscal year in agreement with the Association. The said contributions are estimated to amount to \$40,000 equivalent per year.

(b) The Borrower shall relend to the Project States the proceeds of the Credit allocated to the Project States in Schedule 1 to this Agreement under Subsidiary Loan Agreements to be entered into between the Borrower and each Project State, under terms and conditions which shall have been approved by the Association which shall include: (i) interest at the prevailing variable rate applicable to loans made by the Bank; (ii) repayment of principal in 20 years, including five years of grace; and (iii) assumption by the Project States of the foreign exchange risk pertaining to the money so relent to them.

(c) The Borrower shall exercise its rights under the Subsidiary Loan Agreements 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 Loan Agreements or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part C.4 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.

Section 3.03. The Borrower shall carry out jointly with the Association:

- (a) an annual review of the Project no later than October 31

of each year to: (i) assess progress made in the execution of the Project; and (ii) review the work program including the manpower development and training plan and budgetary allocations proposed for the following fiscal year; and

(b) a mid-term review of the Project no later than June 30, 1996 to assess: (i) the overall progress made in carrying out the Project including the status of road user charges and cost recovery; (ii) the use of private contractors; (iii) training; (iv) the performance of FMWH in coordinating Project activities; (v) the performance of SMOWs as Project executing agencies; (vi) the impact of road works on the surrounding environment; (vii) the results of axle load surveys conducted under the Project and any follow-up measures required; and (viii) the need for redesign and/or restructuring of the Project or any part thereof in the light of performance indicators agreed upon with the Association.

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 Parts A, B, C.1, C.2 and C.3 of the Project shall be carried out by each Project State pursuant to Section 2.03 of its respective Project Agreement.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part C.4 of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles 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 months after the end of each such year, a certified copy of the 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 said records, accounts and the audit thereof as the Association shall 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 statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account or payment out of the Special 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 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.

#### ARTICLE V

##### Remedies of the Association

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

- (a) any of the Project States shall have failed to perform any of its obligations under the respective Project Agreement;
- (b) the Borrower or a Project State shall have failed to perform any of its obligations under the respective Subsidiary Loan Agreement; and
- (c) as a result of events which have occurred after the date of this Agreement, an extraordinary situation shall have arisen which shall make it improbable that any of the Project States will be able to perform its obligations under the respective Project Agreement.

Section 5.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional event is specified, namely that any of the events specified in paragraphs (a) and (b) of Section 5.01 of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Association to the Borrower.

#### ARTICLE VI

##### Effective Date; Termination

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

- (a) Either Oyo State or Osun State has fulfilled all the conditions referred to in subparagraphs (i), (ii) and (iii) of this Section:
  - (i) a Subsidiary Loan Agreement has been executed on behalf of the Borrower and either one of the Project States;
  - (ii) appropriate measures satisfactory to the Association have been taken by at least one Project State to increase the level of road user charges collected at the state level so as to enable the Project State to finance at least the recurrent costs of routine maintenance; and
  - (iii) the project management consultants with qualifications and professional experience satisfactory to the Association have been recruited by either one of the Project States to assist it in the execution of the Project.
- (b) Each Project State has opened a Project Account and has

deposited therein an initial amount equivalent to \$280,000 in accordance with the provisions of Section 2.01 (b) of the respective Project Agreement.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreements have been duly authorized or ratified by the Project States and are legally binding upon the Project States in accordance with their terms; and

(b) that at least one Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and one Project State and is legally binding upon the Borrower and said Project State in accordance with its terms.

Section 6.03. The date one hundred twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

#### ARTICLE VII

##### Representatives of the Borrower; Addresses

Section 7.01. Except as provided in Section 2.09 of this Agreement, the Federal Minister responsible for 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:

The Honourable Minister  
Federal Ministry of Finance  
PMB 14  
Garki Abuja  
Nigeria

Cable address:	Telex:
FEDMINFIN Abuja	21248

For the Association:

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

Cable address:	Telex:
INDEVAS Washington, D.C.	248423 (RCA) 82987 (FTCC) 64145 (WUI) or 197688 (TRT)

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

FEDERAL REPUBLIC OF NIGERIA

By /s/ Zubair M. Kazaure  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Edward V. K. Jaycox  
Regional Vice President  
Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

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:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Civil works		
(a) Oyo State	21,600,000	100% of foreign expenditures and 30% of local expenditures
(b) Osun State	20,600,000	100% of foreign expenditures and 30% of local expenditures
(2) Equipment and vehicles		
(a) Oyo State	1,260,000	100% of foreign expenditures and 75% of local expenditures
(b) Osun State	1,260,000	100% of foreign expenditures and 75% of local expenditures
(3) Consulting services		
(a) Oyo State	3,600,000	100%
(b) Osun State	4,000,000	100%
(c) FMWH	1,600,000	100%
Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(4) Training		
(a) Oyo State	800,000	100%
(b) Osun State	800,000	100%



(c) FMWH	80,000	100%
(5) Unallocated		
(a) Oyo State	2,900,000	
(b) Osun State	2,900,000	
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TOTAL	61,400,000	
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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; and

(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.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of: (a) payments made for expenditures prior to the date of this Agreement; and (b) expenditures made by any Project State under Categories (1) through (4) unless: (i) the Project State concerned has concluded with the Borrower a Subsidiary Loan Agreement satisfactory to the Association; (ii) the Project State has taken the measures referred to in Section 6.01 (a) (ii) of this Agreement; and (c) the Project State has recruited the consultants referred to in Section 6.01 (a) (iii) of this Agreement.

#### SCHEDULE 2

##### Description of the Project

The objectives of the Project are to assist Oyo and Osun States to: (i) develop and sustain a program of rehabilitation and maintenance of their high priority roads; (ii) train staff of SMOWs to plan and oversee road works undertaken for the States by private contractors; (iii) encourage private contractors to execute road sector infrastructure works; (iv) establish reliable mechanisms to mobilize local funding for the road sector; and (v) select and design road works in conformity with the most appropriate administrative, financial and engineering practices and procedures.

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: Civil Works

Construction, upgrading, maintenance, rehabilitation and strengthening of high priority roads in Oyo State (about 480 km) and Osun State (about 510 km) and construction of a building in Osun State to house its materials testing laboratory.

##### Part B: Road Maintenance Equipment and Machinery

Acquisition of equipment, vehicles and machinery required for an efficient management and maintenance of road infrastructure.

##### Part C: Institutional Development

1. (a) Training of the staff of the SMOWs in planning, design and supervision of construction and maintenance of roads and in contract management.

(b) Formulation and execution of a manpower development

plan.

2. (a) Establishment of a computerized data base to collect and regularly update relevant data on road inventory and the condition of the road network in Oyo and Osun States.

(b) Execution of axle load survey with a view to developing and implementing appropriate load control measures.

3. Establishment in Oyo and Osun States of a Technology Transfer Center to assist inter alia in: (i) the transfer into the Project States of highway technology from abroad; (ii) the dissemination to private contractors of technical information on roads including information on contract management; and (iii) the establishment and maintenance of channels of communication between the SMOWS and the road construction industries.

4. Strengthening FMWH's capability to coordinate the implementation of road works being carried out at the State level and to carry out feasibility studies and other relevant studies for the road sector in selected States.

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The Project is expected to be completed by December 31, 1998.

### SCHEDULE 3

#### Procurement of Consultants' Services

In order to assist the Borrower in carrying out Part C.4 of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

### SCHEDULE 4

#### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (3) (c) and (4) (c) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for Part C.4 of the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$200,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, 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 a deposit or deposits which do not exceed the aggregate amount of

the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

- (b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.
- (ii) 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 paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the 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.

All such deposits shall be withdrawn by the Association from the Credit Account under the eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the 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.

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

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

(b) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for Part C.4 of the Project, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to Part C.4 of the Project, 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 allocated to the eligible Categories for Part C.4 of the Project 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.

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

not so eligible or justified. 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 shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, 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 paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

