

CONFORMED COPY

INTERIM FUND CREDIT NUMBER NO17 GUI

Project Agreement

(Third Water Supply and Sanitation Project)

between

the INTERNATIONAL DEVELOPMENT ASSOCIATION as Administrator of the interim trust fund established with funds contributed by certain members of International Development Association pursuant to Resolution No. IDA 184 of the Board of Governors of the International Development Association

and

the SOCIÉTÉ NATIONALE DES EAUX DE GUINÉE

Dated May 5, 1997

INTERIM FUND CREDIT NUMBER NO17 GUI

PROJECT AGREEMENT

AGREEMENT, dated May 5, 1997, between the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) as administrator (the Administrator) of the interim trust fund (Interim Fund) established with funds contributed by certain members of the Association pursuant to Resolution No. IDA 184 (the Interim Fund Resolution) of the Board of Governors of the Association, adopted on June 26, 1996, and the SOCIÉTÉ NATIONALE DES EAUX DE GUINÉE (SONEG).

WHEREAS (A) by the Interim Fund Development Credit Agreement of even date herewith between the REPUBLIC OF GUINEA (the Borrower) and the Administrator, the Administrator has agreed to make available to the Borrower an Interim Fund Credit in an amount in various currencies equivalent to eighteen million Special Drawing Rights (SDR 18,000,000), on the terms and conditions set forth in the Interim Fund Development Credit Agreement, but only on conditions that SONEG agree to undertake such obligations toward the Administrator as are set forth in this Agreement;

(B) by a subsidiary financing agreement to be entered into between the Borrower and SONEG, a portion of the proceeds of the Interim Fund Credit provided for under the Interim Fund Development Credit Agreement will be made available to SONEG on the terms and conditions set forth in the Subsidiary Financing Agreement; and

WHEREAS SONEG, in consideration of the Administrator's entering into the Interim Fund Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Interim Fund Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) SONEG declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Interim Fund Development Credit Agreement and, to this end, shall carry out Parts A and C.2 of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, public utility and environmental practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for such Parts of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Administrator and SONEG shall otherwise agree, SONEG shall carry out Parts A and C.2 of the Project in accordance with the Implementation Program set forth in Schedule 4 to the Interim Fund Development Credit Agreement.

Section 2.02. Except as the Administrator shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A and C.2 of the Project and to be financed out of the proceeds of the Interim Fund Credit shall be governed by the provisions of Schedule 3 to the Interim Fund Development Credit Agreement.

Section 2.03. (a) SONEG shall carry out 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 the Project Agreement and Parts A and C.2 of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, SONEG shall:

(i) prepare, on the basis of guidelines acceptable to the Administrator and furnish to the Administrator not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Administrator and SONEG, a plan for the future operation of Parts A and C.2 of the Project; and

(ii) afford the Administrator a reasonable opportunity to exchange views with SONEG and the Borrower on said plan.

Section 2.04. SONEG shall duly perform all its obligations under the Subsidiary Financing Agreement. Except as the Administrator shall otherwise agree, SONEG shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Financing Agreement or any provision thereof.

Section 2.05. (a) SONEG shall, at the request of the Administrator, exchange views with the Administrator with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Financing Agreement, and other matters relating to the purposes of the Interim Fund Credit.

(b) SONEG shall promptly inform the Administrator of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Interim Fund Credit, or the performance by SONEG of its obligations under this Agreement and under the Subsidiary Financing Agreement.

Section 2.06. SONEG shall: (a) not later than October 31 of each year, starting with the year 1997, submit to the Administrator for its review and comments: (i) its

proposed operating and capital expenditures budgets for the following year; (ii) its financial forecasts for the following five years; and (iii) a draft revised version of the Contrat-Plan for the following three years; and (b) promptly finalize the said draft documents taking into account the comments and recommendations made by the Administrator.

Section 2.07. SONEG shall participate in the mid-term review referred to in Schedule 4 to the Interim Fund Development Credit Agreement and shall thereafter implement the recommendations resulting therefrom with respect to Parts A and C.2 of the Project.

Section 2.08. SONEG shall duly perform all its obligations under the Contrat-Plan and the Lease Contract. Except as the Administrator shall otherwise agree, SONEG shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Contrat-Plan or the Lease Contract.

Section 2.09. SONEG shall: (a) by December 31, 1997, submit to the Administrator for its review and comments, a draft paper based on lessons learned from the ongoing implementation of the Lease Contract and formulating the measures to be taken to improve the performance of the Borrower's water sector;

(b) not later than July 31, 1998, submit a new draft Lease Contract to the Administrator for its review and comments; and

(c) not later than March 31, 1999, submit to the Administrator a new Lease Contract satisfactory to the Administrator.

Section 2.10. SONEG shall submit to the Administrator not later than June 30 of each year: (a) SEEG's financial statements audited in accordance with the provisions of the Lease Contract; and (b) all relevant data showing the quantity of water sold by SEEG to all private and public consumers in accordance with the terms of the Lease Contract.

### ARTICLE III

#### Management and Operations of SONEG

Section 3.01. SONEG shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental and water utility practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. SONEG shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and water utility practices.

Section 3.03. SONEG shall take out and maintain with responsible insurers, or make other provision satisfactory to the Administrator for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

### ARTICLE IV

#### Financial Covenants

Section 4.01. (a) SONEG shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) SONEG shall:

(i) have its records, accounts and financial statements (balance sheets, statements) audited for each appropriate auditing principles consistently applied, by independent auditors acceptable to the Administrator; statements of income and expenses and related fiscal year in accordance with applied, by independent

(ii) furnish to the Administrator as soon as available, but in any case

not later than six months after the end of each such year (A) certified copies of its financial statements for such year as so audited, and (B) the report of such audit by said auditors of such scope and in such detail as the Administrator shall have reasonably requested; and

(iii) furnish to the Administrator such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Administrator shall from time to time reasonably request.

Section 4.02. SONEG shall not, until Part A of the Project shall have been completed, make any new investment estimated to cost the equivalent of more than \$5,000,000 each, unless such investment shall, in the opinion of the Administrator, be technically, financially and economically viable based on detailed financing plans and forecasts submitted to the Administrator.

Section 4.03. (a) Except as the Administrator shall otherwise agree, SONEG shall not incur any debt unless a reasonable forecast of the revenues and expenses of SONEG shows that the estimated net revenues of SONEG for each fiscal year during the term of the debt to be incurred shall be at least equal to the estimated debt service requirements of SONEG in such year on all debt of SONEG including the debt to be incurred, but excluding the debt borne by the Borrower pursuant to the Contract-Plan.

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of SONEG by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred: (A) under a contract or agreement or other instrument for such debt or for the modification of its terms of payment on the date of such contract, or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues" means the difference between:

(A) the sum of revenues from all sources related to operations and net non-operating income; and

(B) the sum of all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provisions for depreciation, non-cash operating charges and interest and other charges on debt.

(iv) The term "net non-operating income" means the difference between: (A) revenues from all sources other than those related to operations; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of such revenues.

(v) The term "debt service requirements" means the aggregate of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(vi) The term "reasonable forecast" means a forecast prepared by SONEG not earlier than twelve months prior to the incurrence of the debt in question, which both the Administrator and SONEG accept as reasonable and as to which the Administrator has notified SONEG of its acceptability, provided that no event has occurred since such notification which may have, or may reasonably be expected in the future to have, a material adverse effect on the financial or future operating results of SONEG.

(vii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in

another currency, such valuation shall be made on the basis of the lawful rate of exchange at which such other currency is, at the time of such valuation, available for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Administrator.

Section 4.04. SONEG shall carry out each year a pro forma revaluation of the net value of its fixed assets, to such extent as shall be necessary to reflect adequately, at the time of each such revaluation, the current value thereof in accordance with a sound and consistently applied method of valuation acceptable to the Administrator.

Section 4.05. (a) Except as the Administrator shall otherwise agree, SONEG shall earn, for its 1998 and 1999 fiscal years, an annual return of not less than 4% of the average current net value of SONEG's fixed assets in operation, and for each of its fiscal years thereafter an annual return of not less than 5% of said value.

(b) Before September 30 in each of its fiscal years, SONEG shall, on the basis of forecasts prepared by SONEG and satisfactory to the Administrator, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Administrator the results of such review upon its completion.

(c) If any such review shows that SONEG would not meet the requirements set forth in paragraph (a) for SONEG's fiscal years covered by such review, SONEG shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its rates) in order to meet such requirements.

(d) For the purposes of this Section:

(i) the annual return shall be calculated by dividing SONEG's net income for the fiscal year in question by one half of the sum of the current net value of fixed assets in operation at the beginning and at the end of that fiscal year;

(ii) the term "net income" means total revenues less total operating expenses;

(iii) the term "total revenues" means the sum of revenues from all sources related to operations plus contributions to debt service from the national budget;

(iv) the term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation in accordance with accounting methods generally accepted in water supply, or on any other basis acceptable to the Administrator, of the average current gross value of SONEG's fixed assets in operation, but excluding interest and other charges on debt;

(v) the average current gross value of SONEG's fixed assets in operation shall be calculated as one half of the sum of the gross value of SONEG's fixed assets in operation at the beginning and at the end of the fiscal year, as valued from time to time in accordance with the methods of valuation referred to in Section 4.05 of this Agreement; and

(vi) the term "current net value of SONEG's fixed assets in operation" means the gross value of SONEG's fixed assets in operation less the amount of accumulated depreciation, as valued from time to time in accordance with the methods of valuation referred to in Section 4.05 of this Agreement.

#### ARTICLE V

Effective Date; Termination;  
Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Interim Fund Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Administrator and of SONEG thereunder shall terminate on the earlier of the following two dates:

(i) the date on which the Interim Fund Development Credit Agreement shall terminate in accordance with its terms; or

(ii) the date twenty five (25) years after the date of this Agreement.

(b) If the Interim Fund Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Administrator shall promptly notify SONEG of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

## ARTICLE VI

### Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Association and the Administrator:

International Development Association  
1818 H Street, NW  
Washington, DC 20433  
United States of America

Cable address:

Telex:

INDEXES  
Washington, D.C.

248423 (NCI) or  
64145 (MCI)

For SONEG:

Société Nationale des Eaux de Guinée  
BP 150  
Conakry  
Republic of Guinea

Cable address:

Telex:

(0995) 23265 GESONEG

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of SONEG, or by SONEG on behalf of the Borrower under the Interim Fund Development Credit Agreement, may be taken or executed by SONEG's Director General or such other person or persons as SONEG shall designate in writing, and SONEG shall furnish to the Administrator sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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.

INTERNATIONAL DEVELOPMENT ASSOCIATION as Administrator  
of the interim trust fund established with funds  
contributed by certain members of the International  
Development Association pursuant to Resolution  
No. IDA 184 of the Board of Governors of the  
International Development Association

By /s/ Jean-Louis Sarbib

Regional Vice President  
Africa

SOCIÉTÉ NATIONALE DES EAUX DE GUINÉE

By /s/ Mohammed Aly Thiam

Authorized Representative

