

CONFORMED COPY

CREDIT NUMBER 2682 GH

VRA Project Agreement
(Thermal Power Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

VOLTA RIVER AUTHORITY

Dated June 30, 1995

CREDIT NUMBER 2682 GH

PROJECT AGREEMENT

AGREEMENT, dated June 30, 1995, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and VOLTA RIVER AUTHORITY (VRA).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Republic of Ghana (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred and twenty four million one hundred thousand Special Drawing Rights (SDR 124,100,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that VRA agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and VRA, a portion of the proceeds of the credit provided for under the Development Credit Agreement will be relent to VRA on the terms and conditions set forth in said subsidiary loan agreement; and

WHEREAS VRA, in consideration of the Association's entering into the 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 Development Credit 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. VRA declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and to this end, shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, and with due regard to ecological and environmental factors, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part A of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. VRA 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.

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

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

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

Section 2.06. VRA shall carry out Part A of the Project in accordance with annual work programs and annual training programs, and pursuant to implementation arrangements, satisfactory to the Association.

Section 2.07. VRA shall carry out in a timely manner an action plan, satisfactory to the Association, to implement the measures set out in the Environmental Assessment.

Section 2.08. (a) VRA shall carry out, jointly with the Association and the Borrower, not earlier than 12 months and not later than 16 months following the Effective Date, the mid-term review of the Project required under Section 3.09 of the Development Credit Agreement.

(b) VRA shall prepare and transmit to the Association, at least 30 days prior to such review, a report, in scope and detail satisfactory to the Association, describing the status

of progress regarding the items listed in the said Section 3.09 relating to Part A of the Project.

(c) Based on such review, VRA shall, jointly with the Borrower, promptly prepare an action plan, acceptable to the Association, for the further implementation of the Project, and shall thereafter implement such action plan.

ARTICLE III

Management and Operations of VRA

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

Section 3.02. VRA 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 public utility practices.

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

Section 3.04. VRA shall employ, for a period of at least three and half consecutive years, covering at least the six months immediately preceding the commissioning of the Power Plant and the three years following such commissioning, a utility management firm, satisfactory to the Association, to manage the Power Plant under terms and conditions satisfactory to the Association.

ARTICLE IV

Financial Covenants

Section 4.01. (a) VRA shall maintain records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part A of the Project and its operations and financial condition.

(b) VRA shall:

- (i) have the records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) referred to in paragraph (a) of this Section 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 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 Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) Except as the Association shall otherwise agree, VRA shall earn an annual return of not less than 8% of the average current net value of VRA's fixed assets in operation.

(b) Before October 1 in each of its fiscal years, VRA shall review, on the basis of forecasts prepared by VRA and satisfactory to the Association, 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 Association the results of such review upon its completion.

(c) If any such review shows that VRA would not meet the requirements set forth in paragraph (a) for VRA's fiscal years covered by such review, VRA 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 VRA's net operating income for the fiscal year in question by one half of the sum of the current net value of VRA's fixed assets in operation at the beginning and at the end of that fiscal year.
- (ii) The term "net operating income" means total operating revenues less total operating expenses.
- (iii) The term "total operating revenues" means revenues from all sources related to operations.
- (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 on a straight-line basis at a rate of not less than 2% per annum of the average current gross value of VRA's fixed assets in operation, or other basis acceptable to the Association, but excluding interest and other charges on debt.
- (v) The average current gross value of VRA's fixed assets in operation shall be calculated as one half of the sum of the gross value of VRA'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 sound and consistently maintained methods of valuation satisfactory to the Association.
- (vi) The term "current net value of VRA's fixed assets in operation" means the gross value of VRA's fixed assets in operation less the amount of accumulated depreciation, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

Section 4.03. (a) Except as the Association shall otherwise agree, VRA shall not incur any debt, unless the net revenues of VRA for the fiscal year immediately preceding the date of such incurrence or for a later twelve-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.5 times the estimated maximum debt service requirements of VRA for the fiscal year in which such debt was incurred and each succeeding fiscal year on all debt of VRA,

including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means all debt (including any indebtedness assumed or guaranteed by VRA) but shall exclude:
 - (A) debt for money borrowed in the ordinary course of business and payable on demand or maturing by its terms not more than one year after the original date of incurrence, provided that the amount of such debt at any time outstanding shall not exceed 10% of VRA's total operating expenses, excluding depreciation for the preceding fiscal year or any later 12-month period, whichever is greater; and
 - (B) debt which is incurred in the ordinary course of business other than for money borrowed, and payable on demand or maturing by its terms not more than one year after the original date of its incurrence.
- (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement 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 adjusted to take account of VRA's rates in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate 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 provision for depreciation, other 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 revenues in (A) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (vi) 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 prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable 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 Association.

Section 4.04. VRA shall settle all bills payable through the Clearing House System on a monthly basis.

Section 4.05. VRA shall set aside and maintain, in foreign exchange (freely convertible into the currency of repayment of VRA's foreign exchange debt service obligations), funds equivalent to not less than the smaller of (a) the amount of VRA's foreign exchange debt service obligation due during the succeeding twelve-month period, and (b) the equivalent of \$25,000,000.

Section 4.06. Until the completion of the Project, VRA shall, not later than December 1 of each year, review with the Association the composition of its capital expenditure program for the five fiscal years immediately following such review together with details of the financing plan prepared for such program.

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 Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of VRA hereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date 17 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify VRA 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:

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

Cable address:

INDEVAS
Washington, D.C.

Telex:

248423 (RCA)
82987 (FTCC)
64145 (WUI) or
197688 (TRT)

For VRA:

Chief Executive
Volta River Authority
P.O. Box M 77
Accra, Ghana

Cable address:

VOLTA
Accra

Telex:

2343 GH

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 VRA, or by VRA on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the Chief Executive or such other person or persons as the Chief Executive shall designate in writing, and VRA shall furnish to the Association 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

By /s/ Edward V. K. Jaycox

Regional Vice President
Africa

VOLTA RIVER AUTHORITY

By /s/ Ekwow Spio-Garbrah

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part D hereof, goods, works and Power Plant operation and management services shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines).

(a) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Association, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(b) In the procurement of goods and works in accordance with this Part A, the Borrower shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Association shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, the Borrower shall use bidding documents based on other internationally recognized standard forms agreed with the Association.

2. To the extent practicable, contracts for works for Part A.1 of the Project shall be grouped into two bid packages.

3. Goods to be procured through international competitive bidding shall be exempted from pre-shipment price inspection by third-party inspection firms.

4. Bidders for the works included in Part A.1 of the Project and bidders for Power Plant operation and management services shall be prequalified as described in paragraph 2.10 of the Guidelines.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in Ghana may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A.1 hereof, VRA may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 5 of Appendix 2 thereto.

Part D: Other Procurement Procedures

Items or groups of items for goods, up to an aggregate amount equivalent to \$300,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers from at least two different countries eligible under the Guidelines, in accordance with procedures acceptable to the Association.

Part E: Review by the Association of Procurement Decisions

1. Review of prequalification:

With respect to the prequalification of bidders as provided in Part A.4 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Credit Account are to be made on the basis of statements of expenditure.

3. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

1. In order to assist VRA in carrying out Part A of the Project, VRA 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 (the Consultant Guidelines).

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Association review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to contracts estimated to cost less than \$100,000 equivalent each. However, this exception to prior Association review or approval requirements shall not apply to the terms of reference for such contracts nor to the employment of individuals, to single-source hiring of firms, to assignments of a critical nature as reasonably determined by the Association, and to amendments of contracts raising the contract value to \$100,000 equivalent or above.

