

CONFORMED COPY

CREDIT NUMBER 2109 GH

Project Agreement

(Sixth Power Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

VOLTA RIVER AUTHORITY

Dated May 7, 1990

CREDIT NUMBER 2109 GH

PROJECT AGREEMENT

AGREEMENT, dated May 7, 1990, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and VOLTA RIVER AUTHORITY (the Authority).

WHEREAS (A) by the Development Credit Agreement of even date between the 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 fifteen million two hundred thousand Special Drawing Rights (SDR 15,200,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that the Authority 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 the Authority, the proceeds of the credit provided for under the Development Credit Agreement will be made available to the Authority on the terms and conditions set forth in said Subsidiary Loan Agreement; and

(C) the Authority, 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, 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. The Authority 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 the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, environmental and public utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

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

Section 2.03. The Authority 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. The Authority shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, the Authority 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) The Authority 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) The Authority 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 the Authority of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of the Authority

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

Section 3.02. The Authority 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. The Authority 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.

ARTICLE IV

Financial Covenants

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

(b) The Authority shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) 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.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Authority 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 one year after the Association has received the audit report for the fiscal year in which the last disbursement from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

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

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

(c) If any such review shows that the Authority would not meet the requirements set forth in paragraph (a) for the Authority's fiscal years covered by such review, the Authority 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 purposes of this Section:

- (i) The annual return shall be calculated by dividing the Authority's net operating income for the fiscal year in question by one half of the sum of the current net value of the Authority'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 the Authority'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 the Authority's fixed assets in operation shall be calculated as one-half of the sum of the gross value of the Authority'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 the Authority's fixed assets in operation" means the gross value of the Authority'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, the Authority shall not incur any debt, unless the Authority's net revenues for the fiscal year 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 requirement on all of the Authority's debt (including the debt to be incurred) in any succeeding fiscal year (including the fiscal year in which such debt is incurred).

(b) For the purposes of this Section:

- (i) The term "debt" means all debt (including any indebtedness assumed or guaranteed by the Authority) but shall exclude:
 - (A) debt representing money borrowed in the ordinary course of business and maturing by its terms on demand or 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 the Authority'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 which is payable not more than one year after the original date of its incurrence.
- (ii) The term "incur" with reference to any debt shall include any modification of the terms of payment of such debt. Debt shall be deemed to be incurred on the date of execution and delivery of the loan, contract or agreement providing for such debt, and debt guaranteed by the Authority shall be deemed to be incurred by it on the date of execution and delivery of the agreement for such guarantee.
- (iii) The term "net revenue" shall mean gross operating revenue, adjusted to take account of rates for the sale of electricity in effect at the time of incurrence of

debt even though they were not in effect during the fiscal year or 12-month period to which such revenues relate, less all operating expenses, including adequate maintenance and taxes, if any, but before provision for depreciation and debt service requirements.

- (iv) The term "debt service requirements" shall mean the aggregate amount of principal repayments amortization (including sinking fund payments, if any), and interest and other charges on debt.
- (v) Whenever it shall be necessary to value in the currency of the Borrower debt payable in another currency, such valuation shall be made on the basis of exchange at which such other currency is obtainable by the Authority, at the time such valuation is made, for the purposes of servicing such debt or, if such other currency is not so obtainable, at the rate of exchange that will be reasonably determined by the Association.

Section 4.04. The Authority shall take all measures practicable to ensure that all bills for power supplied, or provided by the Authority to its customers, are settled in accordance with the terms of the respective power supply and other agreements.

Section 4.05. In order to ensure the ability of the Authority to meet at all times its foreign exchange debt service obligations, the Authority shall set aside, in foreign exchange, funds equivalent to not less than the Authority's annual foreign exchange debt service obligations.

Section 4.06. Until the completion of the Project, the Authority 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.

Section 4.07. (a) Except as the Association and the Authority shall otherwise agree, the Authority shall, to the extent that it has an interest therein and is obligated or entitled to do so, take all such reasonable action as may be necessary to maintain in full force and effect, and to secure the prompt and diligent performance by the parties thereto of, the Scheduled Documents, the Subscription Agreement, the Long Term Tolling Contracts, the Valco Current Accounts Trust, the Voting Trust Arrangements and the managing agreement relating thereto.

(b) The Association and the Authority shall exchange views as to any arbitration or any proceeding before the Referee contemplated or undertaken pursuant to any of the documents specified in paragraph (a) of this Section. The Authority shall promptly advise the Association of any such arbitration or other proceeding contemplated or undertaken and shall give the Association such information as the Association shall reasonably request to enable the Association if it so desires to make its views thereon known to the Authority in any such arbitration or other proceeding.

Section 4.08. Except as the Association and the Authority shall otherwise agree, the Authority shall not: (i) rescind or terminate the Power Contract; or (ii) enter into an agreement to sell power or energy so as to effect a reduction of the Contract Rate (as that term is defined in the Power Contract) under Article 25 of the Power Contract.

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 the Authority thereunder 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 20 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 the Authority 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:

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

For the Authority:

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 the Authority, or by the Authority 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 Authority shall designate in writing, and the Authority 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/ Eric K. Otoo

Authorized Representative

SCHEDULE

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

Goods and works 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 1985 (the Guidelines).

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A 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 hereof, the Authority 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 paragraph 5 of Appendix 2 thereto.

Part D: Review by the Association of Procurement Decisions

1. 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.

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

Section II: Employment of Consultants

In order to assist the Authority in carrying out the Project, the Authority 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.

