

CONFORMED COPY

CREDIT NUMBER 2061 GH

(Fifth Power Project)

between

REPUBLIC OF GHANA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 26, 1989

CREDIT NUMBER 2061 GH

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 26, 1989, between the REPUBLIC OF GHANA (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) the Overseas Development Administration of the Government of the United Kingdom (ODA) intends to make a grant (the ODA ATP Grant) to the Borrower in an amount equivalent to \$13,000,000 to assist in the financing of the Project on the terms and conditions set forth in an agreement (the ODA ATP Grant Agreement) to be entered into between the Borrower and ODA;

(C) the Commonwealth Development Corporation (CDC) intends to make a loan (the CDC Loan) to the Electricity Corporation of Ghana (ECG) with the guarantee of the Borrower in an amount equivalent to \$15,000,000 to assist in the financing of the Project on the terms and conditions set forth in an agreement (the CDC Loan Agreement) between ECG and CDC;

(D) the Borrower intends to contract from the Government of the Republic of Austria and the Caisse Centrale de Cooperation Economique loans in an aggregate amount equivalent to about \$28,000,000 to assist in financing the Project;

(E) the Project will be carried out by ECG with the Borrower's assistance and, as part of such assistance, the Borrower will make available to ECG 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 Agreement of even date herewith between the Association and ECG;

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) "ECG" means Electricity Corporation of Ghana, a corporate entity established and operating pursuant to the Electricity Corporation of Ghana Decree, 1967 (N.L.C.D. 125), as amended;

(b) "Project Agreement" means the agreement between the Association and ECG 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 Agreement;

(c) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and ECG pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Loan Agreement;

(d) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement;

(e) "Project Preparation Advance" means the project preparation advance granted by the Association to the Borrower pursuant to an exchange of letters dated July 26, 1988 and August 12, 1988 between the Borrower and the Association; and

(f) "Performance Agreement" means the agreement to be entered into between the Borrower and ECG pursuant to Section 3.04 (a) of this Agreement, as the same may be amended from time to time.

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 Development Credit Agreement, an amount in various currencies equivalent to thirty million three hundred thousand Special Drawing Rights (SDR 30,300,000).

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 the Project, open and maintain in dollars a special account in a commercial bank on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

(c) 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 cancelled.

Section 2.03. The Closing Date shall be December 31, 1993 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 a 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; (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 as of 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 per cent (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 June 15 and December 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 June 15 and December 15 commencing December 15, 1999 and ending June 15, 2029. Each installment to and including the installment payable on June 15, 2009 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 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. ECG is designated as representative of the Borrower 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, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause ECG to perform in accordance with the provisions of the Project Agreement all the obligations of ECG therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable ECG to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall relend the proceeds of the Credit to ECG under a subsidiary loan agreement to be entered into between the Borrower and ECG under terms and conditions which shall have been approved by the Association.

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

Section 3.02. 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 the Project Agreement.

Section 3.03. 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) shall be carried out by ECG pursuant to Section 2.03 of the Project Agreement.

Section 3.04. The Borrower shall:

(a) enter into a performance agreement with ECG acceptable to the Association which shall include annual performance targets and indicators to be used as the basis of monitoring ECG's institutional progress;

(b) duly perform all its obligations under the Performance Agreement; and

(c) exchange views annually with the Association with regard to the performance of its obligations and ECG's obligations under the Performance Agreement.

Section 3.05. The Borrower shall:

(a) exchange views with the Association on the findings of the study to prepare the plans referred to in Part F.1 of the Project; and

(b) based on the findings of this study, adopt economic and financial criteria acceptable to the Association for future electrification programs.

ARTICLE IV

Remedies of the Association

Section 4.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

(a) ECG shall have failed to perform any of its obligations under the Project Agreement.

(b) As a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that ECG will be able to perform its obligations under the Project Agreement.

(c) Decree No. N.L.C.D. 125 of the Borrower shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of ECG to perform any of its obligations under the Project Agreement.

(d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of ECG or for the suspension of its operations.

(e) (i) Subject to subparagraph (ii) of this paragraph:

(A) The right of the Borrower to withdraw the proceeds of any grant or loan made to the Borrower for the financing of the Project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor, or

(B) any such loan shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Association that (A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of

its obligations under such agreement, and (B) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 4.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 4.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower;

(b) the events specified in paragraphs (c) and (d) of Section 4.01 of this Agreement shall occur; and

(c) the event specified in paragraph (e) (i) (B) of Section 4.01 of this Agreement shall occur, subject to the proviso of paragraph (e) (ii) of that Section.

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and ECG;

(b) the Performance Agreement referred to in Section 3.04 of this Agreement has been signed on behalf of the Borrower and ECG; and

(c) all conditions precedent to the effectiveness of the ODA ATP Grant Agreement and the CDC Loan Agreement, respectively, have been fulfilled, except for the effectiveness of this Agreement.

Section 5.02. 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 Agreement has been duly authorized or ratified by ECG, and is legally binding upon ECG in accordance with its terms; and

(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and ECG and is legally binding upon the Borrower and ECG in accordance with its terms.

Section 5.03. 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 VI

Representative of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.09 of this Agreement, the PNDC Secretary for Finance and Economic Planning of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

PNDC Secretary for Finance and Economic
Planning
Ministry of Finance and Economic Planning
P.O. Box M40
Accra, Ghana

Cable address:

ECONOMICON
Accra

Telex:

2205 MIFAEP GH

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:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

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.

REPUBLIC OF GHANA

By /s/ Kwesi Botchwey

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) Subtransmission and distribution system equip- ment and materials (including instal- lation) under Parts A and B of the Project | 5,300,000 | 100% of foreign expenditures |

| | | | |
|-----|--|--|---|
| (2) | Equipment, tools and spare parts under Part D of the Project | 8,400,000 | 100% of foreign expenditures |
| (3) | Vehicles | 2,500,000 | 100% of foreign expenditures |
| (4) | Civil works under Part D of the Project | 1,670,000 | 40% |
| | | | |
| | Category | Amount of the Credit Allocated (Expressed in SDR Equivalent) | % of Expenditures to be Financed |
| (5) | Consultants' services | 6,360,000 | 80% for services of consultants domiciled within the territory of the Borrower and 100% of foreign expenditures for services of other consultants |
| (6) | Training and related equipment | 1,670,000 | 100% of foreign expenditures |
| (7) | Refunding of Project Preparation Advance | 760,000 | Amount due pursuant to Section 2.02 (c) of this Agreement |
| (8) | Unallocated | 3,640,000 | |
| | | <hr/> | |
| | TOTAL | 30,300,000 | |

2. For the purposes of this Schedule, 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.

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.

SCHEDULE 2

Description of the Project

The objectives of the Project are: (i) to improve ECG's power distribution system; (ii) to strengthen ECG's management capabilities; and (iii) to improve the Borrower's long-term planning efforts for the power sector.

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: Subtransmission Systems

Rehabilitation, reinforcement and extension of the subtransmission systems in Accra, Kumasi, Secondi/Takoradi Koforidua, Tema and Cape Coast.

Part B: Distribution Systems

Rehabilitation, reinforcement and extension of the distribution systems in:

1. Accra, Kumasi, Secondi/Takoradi, Koforidua, Tema, Cape Coast, and Ho; and
2. selected districts.

Part C: Supervisory Control Center

Acquisition and installation of equipment for the supervisory control system for Accra/Tema.

Part D: Infrastructure

Acquisition of equipment, tools, spare parts and vehicles and construction of staff houses and office buildings.

Part E: Institutional Development

1. Continuation of the program of management reorganization and improvement.
2. Preparation and implementation of:
 - (a) a staff development and training program;
 - (b) a staff redundancy program; and
 - (c) computer-based management information systems.
3. Preparation of technical manuals for, inter alia, planning, design and procurement.
4. Computerization of stocks and stores accounting.

Part F: Sector Development and Strategy

Preparation of:

1. a national electrification plan;
2. a long-range distribution and subtransmission master plan; and
3. the next five-year investment program.

* * * *

The Project is expected to be completed by June 30, 1993.

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (6) 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 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 \$2,000,000 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 in 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 made out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Association from the Credit Account under the respective 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 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 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 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; (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.

