

CONFORMED COPY

CREDIT NUMBER 1858 GH

(Transport Rehabilitation Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

GHANA RAILWAY CORPORATION

Dated February 18, 1988

PROJECT AGREEMENT

AGREEMENT, dated February 18, 1988, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and GHANA RAILWAY CORPORATION (GRC).

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 forty-six million nine hundred thousand Special Drawing Rights (SDR 46,900,000) on the terms and conditions set forth in the Development Credit Agreement, but only on condition that GRC agrees 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 GRC (the GRC Subsidiary Loan Agreement) part of the proceeds of the credit provided for under the Development Credit Agreement will be made available to GRC on the terms and conditions set forth in the GRC Subsidiary Loan

Agreement; and

WHEREAS GRC, 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, whenever used in this Agreement, 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. (a) GRC 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 B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and railway management practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project.

(b) No later than one month before the start of each year, GRC shall prepare and furnish to the Association annual and quarterly estimates of project expenditures, and no later than one month before the start of each quarter of the year, GRC shall furnish to the Association data and other information updating the said annual and quarterly estimates.

(c) Deposits into, and payments out of, the Special Account to be maintained for Part B of the Project shall be made in accordance with the provisions of Schedule 1 to this Agreement.

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 Schedule 4 to the Development Credit Agreement.

Section 2.03. GRC 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 Part B of the Project.

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

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

(b) GRC shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Part B of the Project, the accomplishment of the pur-

poses of the Credit, or the performance by GRC of its obligations under this Agreement and under the GRC Subsidiary Loan Agreement.

### ARTICLE III

#### Management and Operations of GRC

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

Section 3.02. GRC 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 transportation practices.

Section 3.03. GRC 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 and Other Covenants

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

(b) GRC 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.

Section 4.02. (a) For all expenditures with respect to which withdrawals from the Credit Account were made for Part B of the Project on the basis of statements of expenditures, GRC shall:

- (i) maintain or cause to be maintained in accordance with sound accounting practices, separate records and accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained 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 was made;
- (iii) enable the Association's representatives to examine such records.

(b) GRC shall:

- (i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account for Part B of the Project 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 such year the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including 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; and
- (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

(c) Without limitation or restriction on its obligations under Section 4.01 (b) of this Agreement, GRC shall furnish to the Association no later than June 30, 1988, certified copies of GRC's audited financial statements for fiscal year 1986.

Section 4.03. (a) Except as the Association shall otherwise agree, GRC shall maintain, for each of its fiscal years after its fiscal year ending on December 31, 1987, a ratio of total working expenses to total operating revenues not higher than the percentages specified below in respect of the following fiscal years:

- (i) 140% in fiscal year 1988;
- (ii) 135% in fiscal year 1989;
- (iii) 115% in fiscal year 1990;
- (iv) 93% in fiscal year 1991;
- (v) 86% in fiscal year 1992;
- (vi) 81% in fiscal year 1993;
- (vii) 80% in fiscal year 1994; and
- (viii) 76% in fiscal year 1995 and each following fiscal year.

(b) Before May 31 in each of its fiscal years, GRC shall, on the basis of forecasts prepared by GRC and satisfactory to the Association, ascertain whether it would meet the requirements set forth in paragraph (a) of this Section in respect of such year. Before October 31 in each of its fiscal years, GRC shall on the basis of the said forecasts, ascertain whether it would meet the said requirements in respect of the next following fiscal year. GRC shall furnish to the Association the results of each such review upon its completion.

(c) If any such review shows that GRC would not meet the requirements set forth in said paragraph (a) for GRC's fiscal year covered by the review, GRC shall promptly take all necessary measures (including adjustments of the structure or levels of its tariffs) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "total working expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation and interest and other charges on debt.
- (ii) The term "total operating revenues" means revenues from all sources related to operations.

Section 4.04. (a) Except as the Association shall otherwise agree, GRC shall not, as from fiscal year 1994, incur any debt, if after the incurrence of such debt the ratio of debt to equity shall be greater than 50 to 50.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of GRC maturing 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 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 "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of GRC not allocated to cover specific liabilities.
- (iv) 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 4.05. (a) Except as the Association shall otherwise agree, GRC shall not incur any debt unless a reasonable forecast of the revenues and expenditures of GRC shows that the estimated net revenues of GRC for each fiscal year during the term of the debt to be incurred shall be at least 1.4 times the estimated debt service requirements of GRC in such year on all debt of GRC including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of GRC maturing 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 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 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 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 GRC not earlier than twelve months prior to the incurrence of the debt in question, which both the Association and GRC accept as reasonable and as to which the Association has notified GRC of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of the Association.
- (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 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 4.06. GRC shall observe the financial, operational and traffic targets set out in Schedule 2 to this Agreement, subject to such modifications as GRC and the Association may agree from time to time.

Section 4.07. (a) GRC shall: (i) as from 1989 make any adjustments required in its tariffs in order to meet its obligations under Sections 4.03, 4.04 and 4.05 of this Agreement in respect of a fiscal year no later than January 1 of such year; (ii) put into effect a cost accounting system satisfactory to the Association by September 30, 1988; and (iii) thereafter, on the basis of the costs of services and market conditions, revise, as necessary, its tariff structure to the satisfaction of the Association.

(b) GRC shall no later than May 31 and October 31 of each year furnish to the Association as from October 31, 1988, semiannually: (i) GRC's investment plan, financial projections and monitoring targets for the current fiscal year and the next following three fiscal years, together with an explanation of any failure or inability on the part of GRC to attain the said targets; and (ii) details of any measures GRC proposes to take in order to attain the performance and financial targets required by this Agreement.

Section 4.08. GRC shall: (i) not later than January 31, 1988, review and update the current valuation of its renewable fixed assets; (ii) thereafter revalue such assets annually by indexation according to procedures or formula satisfactory to GRC and the Association; and (iii) take a physical inventory annually whenever the Association or GRC shall consider it necessary.

#### 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 GRC 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 GRC 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:

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

For GRC:

The Managing Director  
Ghana Railway Corporation  
Post Box 251  
Takoradi  
Ghana

Cable address:

Telex:

RAILCHIEF  
Takoradi, Ghana

2437 RAILTK

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 GRC, or by GRC on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the Managing Director or such other person or persons as GRC shall designate in writing, and GRC 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

GHANA RAILWAY CORPORATION

By /s/ Eric Otoo  
Authorized Representative

#### SCHEDULE 1

##### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Category" means Category (2) set forth in the table in paragraph 1 of Schedule 1 to the Development Credit Agreement;

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

(c) the term "Authorized Allocation" means an amount equivalent to \$600,000 to be withdrawn from the Credit Account and deposited in the Special Account for Part B of the Project pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Association shall otherwise agree, 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 may be made as follows:

(a) On the basis of a request or requests by GRC acting on behalf of the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit in the Special Account such amount or amounts as GRC shall have requested.

(b) GRC shall furnish to the Association requests for replenishment of the Special Account at such intervals as the Association shall specify. On the basis of such requests, the Association shall withdraw from the Credit Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for eligible expenditures; provided that the Association may refrain from making deposits into the Special Account for Part B of the Project upon failure by the Borrower to make for a period longer than one month any of the payments required under Section 3.01 (b) (i) of the Development Credit Agreement. All such deposits shall be withdrawn by the Association from the Credit Account under the eligible Category, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by GRC out of the Special Account for which GRC requests replenishment pursuant to paragraph 3 (b) of this Schedule, GRC shall furnish to the Association, prior to or at the time of such request, such and other evidence as the Association shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Association when either of the following situations first arises:

- (i) the Association shall have determined that all further withdrawals should be made by GRC acting on behalf of 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
- (ii) the total unwithdrawn amount of the Credit allocated to the eligible Category 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 B of the Project, shall be equal to an amount equivalent to twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Category shall follow such procedures as the Association shall specify by notice to GRC. 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 any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence furnished pursuant to paragraph 4 of this Schedule, GRC shall,

promptly upon notice from the Association 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. No further deposit by the Association into the Special Account shall be made until GRC has made such deposit or refund.

(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, GRC shall, promptly upon notice from the Association, refund to the Association such outstanding amount for crediting to the Credit Account.

SCHEDULE 2

FILE ON A SEPARATE DOCUMENT

