

CONFORMED COPY

LOAN NUMBER 3764 PAK

Project Agreement

(Power Sector Development Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

WATER AND POWER DEVELOPMENT AUTHORITY OF PAKISTAN

Dated September 14, 1994

LOAN NUMBER 3764 PAK

PROJECT AGREEMENT

AGREEMENT, dated September 14, 1994, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and WATER AND POWER DEVELOPMENT AUTHORITY OF PAKISTAN (WAPDA).

WHEREAS (A) by the Loan Agreement of even date herewith between the Islamic Republic of Pakistan (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to two hundred thirty million dollars (\$230,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that WAPDA agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and WAPDA, a portion of the proceeds of the loan provided for under the Loan Agreement will be made available to WAPDA on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS WAPDA, in consideration of the Bank's entering into the Loan 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 Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) WAPDA declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out Parts A(1), A(4), A(5), B and C of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and power utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Parts A(1), A(4), A(5), B and C of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and WAPDA shall otherwise agree, WAPDA shall carry out Parts A(1), A(4), A(5), B and C of the Project in accordance with the Implementation Program set forth in Schedule 5 to the Loan Agreement.

(c) WAPDA shall, for the purposes of Parts A(1), A(4), A(5), B and C of the Project, open and maintain in dollars a special deposit account in the National Bank of Pakistan on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the WAPDA Special Account shall be made in accordance with the provisions of Schedule 4 to the Loan Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A(1), A(4), A(5), B and C of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of the Schedule to this Agreement.

Section 2.03. WAPDA shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Parts A(1), A(4), A(5), B and C of the Project.

Section 2.04. WAPDA shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, WAPDA 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) WAPDA shall, at the request of the Bank, exchange views with the Bank with regard to progress of Parts A(1), A(4), A(5), B and C 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 Loan.

(b) WAPDA shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Parts A(1), A(4), A(5), B and C of the Project, the accomplishment of the purposes of Loan, or the performance by WAPDA of its obligations under this Agreement and under the Subsidiary Loan Agreement.

## ARTICLE III

### Management and Operations of WAPDA

Section 3.01. WAPDA shall carry on its operations and conduct its affairs in accordance with sound administrative, financial and power utility

practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. WAPDA 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 power utility practices.

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

Section 3.04. Except in the ordinary course of its business, WAPDA shall not, without the prior consent of the Bank, sell, lease, transfer, distribute or otherwise dispose of any of its property or assets which shall be required for the efficient operation of its Power Wing.

#### ARTICLE IV

##### Financial Covenants

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

(b) WAPDA shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) and the records and accounts for the WAPDA Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank 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 Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, WAPDA 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 at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank'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 Bank shall otherwise agree, WAPDA shall produce, for each of its fiscal years after its fiscal year ending on June 30, 1993, funds from internal sources related to electricity operations equivalent to not less than 40% of the annual average of WAPDA's capital expenditures incurred, or expected to be incurred, for that fiscal year, the previous fiscal year and the next following fiscal year.

(b) Before April 15 in each of its fiscal years, WAPDA shall, on the basis of forecasts prepared by WAPDA and satisfactory to the Bank, review whether it would meet the requirements set forth in paragraph (a) and shall furnish to the Bank a copy of such review upon its completion.

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

(d) For the purposes of this Section:

- (i) The term "funds from internal sources related to electricity operations" means the difference between:
  - (A) the sum of gross revenues from all sources related to electricity operations, consumer deposits, cash contributions from consumers in aid of construction, and net non-operating income and any reduction in working capital other than cash; and
  - (B) the sum of all expenses related to electricity operations of operation, maintenance and administration (excluding depreciation and other non-cash operating charges), interest and other charges on debt (including interest and other charges on debt charged to construction irrespective of whether they constitute cash or non-cash expenses) repayment of loans (including sinking fund payments, if any), all taxes or payments in lieu of taxes, all cash dividends and other cash distribution of surplus, increase in working capital other than cash and any other cash outflows other than capital expenditures for electricity operations.
- (ii) 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.
- (iii) The term "capital expenditures" shall include all investments related to WAPDA's electricity operations. Interest and other charges charged to construction shall be excluded.
- (iv) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (v) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next fiscal year.

- (vi) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.

Section 4.03. (a) Except as the Bank shall otherwise agree, WAPDA shall not incur any debt unless a reasonable forecast of the revenues and expenditures of WAPDA shows that the estimated net revenues of WAPDA for each fiscal year during the term of the debt to be incurred shall be at least 1.5 times the estimated debt service requirements of WAPDA in such year on all debt of WAPDA, including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of WAPDA 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 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 WAPDA, 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 rates on the basis of a rate of exchange acceptable to the Bank.
- (vii) The term "reasonable forecast" means a forecast prepared by WAPDA not earlier than twelve months prior to the incurrence of the debt in question, which the Bank and WAPDA accept as reasonable and as to which the Bank has notified WAPDA 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 WAPDA.

Section 4.04. WAPDA shall:

(a) not later than September 30 in each year, carry out a comprehensive aging analysis of its accounts receivable; and

(b) thereafter but not later than December 31 in each year, adjust the accounts receivable on its balance sheet to reflect only those receivables which are overdue for less than three years and which are determined by such analysis to be collectible.

Section 4.05. WAPDA shall, not later than June 30 in each year, review with the Bank WAPDA's arrangements for setting aside annually amounts in a sinking fund to be used to retire and/or to make payments on premature encashment of any bonds issued by WAPDA from time to time.

Section 4.06. WAPDA shall ensure that the accounts of the parts of WAPDA which shall have been corporatized under Part A(1) of the Project will be audited by independent private auditors acceptable to the Bank.

Section 4.07. WAPDA shall, with effect from September 30, 1995, include a metered energy charge component in all flat tariffs charged for tubewells.

#### 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 Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of WAPDA thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify WAPDA thereof.

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 Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

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

For WAPDA:

Water and Power Development  
Authority of Pakistan

WAPDA House  
Lahore, Pakistan

Cable address:

WAPDA  
Lahore

Telex:

44869  
WAPDA PAK

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 WAPDA, or by WAPDA on behalf of the Borrower under the Loan Agreement, may be taken or executed by the Chairman of WAPDA or such other person or persons as the Chairman of WAPDA shall designate in writing, and the Chairman of WAPDA shall furnish to the Bank 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 BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ D. Joseph Wood  
Regional Vice President  
South Asia

WATER AND POWER DEVELOPMENT AUTHORITY  
OF PAKISTAN

By /s/ Agha Ghazanfar  
Authorized Representative

#### SCHEDULE

##### 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 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 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 Bank, 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 and WAPDA shall use the relevant standard bidding documents

issued by the Bank, with such modifications thereto as the Bank 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 and WAPDA shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

2. To the extent practicable, contracts for the construction and erection of Project facilities shall be grouped in bid packages estimated to cost the equivalent of \$1,500,000 or more each.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A hereof, goods manufactured in the Islamic Republic of Pakistan 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, WAPDA 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: Other Procurement Procedures

1. Except as provided in paragraph D.2 hereof, equipment and materials estimated to cost less than the equivalent of \$400,000 per contract, up to an aggregate amount not to exceed the equivalent of \$8,000,000, may be procured under contracts awarded through limited international bidding procedures on the basis of evaluation and comparison of bids invited from a list of at least three qualified suppliers eligible under the Guidelines and in accordance with the procedures set forth in Sections I and II of the Guidelines (excluding paragraphs 2.8, 2.9, 2.55 and 2.56 thereof).

2. The following items, estimated to cost an aggregate amount not to exceed the equivalent of \$2,000,000, may be procured as follows, subject to prior review and approval by the Bank of lists of the specific items in each case:

(a) specialized environment monitoring instruments and control equipment, under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank; and

(b) items of a proprietary nature, under contracts placed directly with the suppliers.

Part E: Review by the Bank 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 \$1,000,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of a Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of a Special Account in respect of such contract.

(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. Where payments for such contract are to be made out of the WAPDA Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 3 to the Loan Agreement.

(c) The provisions of the preceding subparagraphs (a) and (b) shall not apply to contracts on account of which the Bank has authorized



withdrawals from the Loan Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c) (ii) of this Agreement.

2. 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 the Borrower and WAPDA in carrying out the Project, the Borrower and WAPDA shall, respectively, employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank 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). For complex, time-based assignments, the Borrower and WAPDA shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, the Borrower and WAPDA shall use other standard forms agreed with the Bank.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank 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 Bank review shall not apply to the terms of reference for such contracts or to the employment of individuals, to single source selection of firms, to assignments of a critical nature as reasonably determined by the Bank or to amendments of contracts raising the contract value to \$100,000 equivalent or above.

