

CONFORMED

---

---

CREDIT NUMBER 3945 SL

# Project Agreement

(Power and Water Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

NATIONAL POWER AUTHORITY

Dated July 6, 2004

---

---

**CREDIT NUMBER 3945 SL**

**PROJECT AGREEMENT**

AGREEMENT, dated July 6, 2004, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and NATIONAL POWER AUTHORITY (NPA).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Republic of Sierra Leone (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to twenty four million two hundred thousand Special Drawing Rights (SDR 24,200,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that NPA agree to undertake certain of 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 NPA (the NPA Subsidiary Loan Agreement), part of the proceeds of the Credit as provided for under the Development Credit Agreement will be made available to NPA on the terms and conditions set forth in said NPA Subsidiary Loan Agreement; and

WHEREAS NPA, 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. (a) NPA declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end it shall carry out Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, provide or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the carrying out of Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and NPA shall otherwise agree, NPA shall carry out Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project in accordance with the Implementation Program set forth in Schedule 4 to the Development Credit Agreement, including the monitoring and reporting obligations set forth therein.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Development Credit Agreement, as said provisions may be further elaborated in the Procurement Plan.

Section 2.03. (a) NPA 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 Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project.

(b) For the purposes of Section 9.06 of the General Conditions and without limitation thereto, NPA shall:

- (i) prepare, on the basis of guidelines acceptable to the Association and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Association and NPA, a plan designed to ensure the continued achievement of the Project objectives; and

- (ii) afford the Association a reasonable opportunity to exchange views with NPA on said plan.

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

Section 2.05. (a) NPA shall, at the request of the Association, exchange views with the Association with regard to the progress of Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project, the performance of its obligations under this Agreement and under the NPA Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) NPA shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Parts A.1 (d), A.2 (a), (b), (c) and (d), A.3 and A.4 of the Project, the accomplishment of the purposes of the Credit, or the performance by NPA of its obligations under this Agreement and under the NPA Subsidiary Loan Agreement.

### **ARTICLE III**

#### **Management and Operations of NPA**

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

Section 3.02. NPA shall at all times operate and maintain its buildings, office space, 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. NPA 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) NPA shall establish and maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part A of the Project and NPA's general operations.

(b) NPA shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each FY audited, in accordance with auditing standards acceptable to the Association, 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 the financial statements referred to in paragraph (a) of this Section, for such year as so audited, and (B) an opinion on such statements and 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 such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon NPA's reporting obligations set out in Schedule 4 to the Development Credit Agreement, NPA shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds

provided under the Credit, and explains variances between the actual and planned uses of such funds;

- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

Section 4.03. NPA shall:

(a) Reduce its accounts receivables to at least: (i) 90 days in 2005; and (ii) 60 days in 2006 and thereafter.

(b) As of January 1, 2005, reevaluate its assets, on an annual basis, in accordance with consistently maintained methods of valuation satisfactory to the Association.

(c) By September 1 of each fiscal year, provide to the Association for its review and comments, its rolling multi-year investment program.

(d) Not enter into any investment of \$1,000,000 equivalent or more without undertaking consultations with the Association.

Section 4.04. (a) Except as the Association shall otherwise agree, NPA shall produce for: (i) its fiscal year ending December 31, 2005, total revenues equivalent to not less than the sum of its total cash operating expenses (excluding interest and other charges on debt); and (ii) its fiscal year ending December 31, 2006, and thereafter, total revenues equivalent to not less than the sum of its total cash operating expenses and interest and other charges on debt.

- (b) Before December 31, 2005, NPA shall, on the basis of forecasts prepared by NPA and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) (i) of this Section in respect of fiscal year 2006 and shall furnish to the Association the results of such review upon its completion.
  
- (c) (c) For the purposes of this Section:
  - (i) the term "total revenues" means the sum of total operating revenues and net non-operating income;
  
  - (ii) the term "total operating revenues" means revenues from all sources related to operations;
  
  - (iii) the term "net non-operating income" means the difference between: (A) revenues from all sources not related to operations; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above; and
  
  - (iv) the term "total cash operating expenses" means all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes but excluding provision for depreciation.

Section 4.05. (a) Except as the Association shall otherwise agree, NPA shall produce for its fiscal year ending December 31, 2004 and each of its fiscal years following thereafter total revenues equivalent to not less than the sum of its total operating expenses and interest and other charges on debt.

(b) Before January 1, in each fiscal year referred to in paragraph (a) above, NPA shall, on the basis of forecasts prepared by NPA and satisfactory to the Association, review whether it would meet the requirements set forth in said paragraph 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) For the purposes of this Section:
  - (i) the term "total revenues" means the sum of total operating revenues and net non-operating income;

- (ii) the term "total operating revenues" means revenues from all sources related to operations;
- (iii) the term "net non-operating income" means the difference between:
  - (A) revenues from all sources not related to operations; and
  - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (iv) the term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes, and provision for depreciation calculated on the basis of NPA's fixed assets in operation as revalued under terms and conditions satisfactory to the Association.

Section 4.06. (a) Except as the Association shall otherwise agree, NPA shall take all necessary action to earn for its fiscal year ending December 31, 2005 and each of its fiscal years following thereafter, an annual return for: (i) fiscal year 2005 of not less than 1% of the average current net value of NPA's fixed assets in operation; (i) fiscal year 2006 of not less than 3% of the average current net value of NPA's fixed assets in operation; and (ii) each of the fiscal years following thereafter not less than 4% of the average current net value of said fixed assets.

(b) Before January 1 in each fiscal year referred to in paragraph (a) above, NPA shall, on the basis of forecasts prepared by NPA and satisfactory to the Association, review whether it would meet the requirements set forth in said paragraph 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) For the purposes of this Section:

- (i) The annual return shall be calculated by dividing NPA's net operating income for the fiscal year in question by one half of the sum of the current net value of NPA'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: (i) for fiscal year 2005, not less than 1% of the average current net value of NPA's fixed assets in operation; (ii) for fiscal year 2006, not less than 3% of the average current net value of NPA's fixed assets in operation; and (iii) for each of the fiscal years following thereafter not less than 4% of the average current net value of said 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 NPA's fixed assets in operation shall be calculated as one-half of the sum of the gross value of NPA'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; and
- (vi) the term "current net value of NPA's fixed assets in operation" means the gross value of NPA'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 4.07. (a) Except as the Association shall otherwise agree, NPA shall not, for each of its fiscal years following next after its fiscal year ending on March 31, 2005, incur any debt unless a reasonable forecast of the revenues and expenditures of NPA 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 NPA in such year on all debt of NPA including the debt to be incurred.

- (b) For the purposes of this Section:
  - (i) the term "debt" means any indebtedness of NPA 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; and

- (vi) the term "reasonable forecast" means a forecast prepared by NPA not earlier than twelve months prior to the incurrence of the debt in question, which both the Association and NPA accept as reasonable and as to which the Association has notified NPA 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 NPA.

Section 4.08. Whenever for the purposes of Sections 4.03, 4.04, 4.05, 4.06 and 4.07 of this Agreement, 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 4.09. (a) NPA shall provide in its tariff structure for the adjustment, under a formula satisfactory to the Association, of its electricity rates to levels appropriate to changes that may occur: (i) in the rates of exchange between the dollar and the Leone; (ii) in fuel costs; and (iii) taking into account the thermal-hydro mix of power generation.

(b) NPA shall: (i) review the levels and structure of its tariffs; and (ii) furnish to the Association semi-annually by June 30 and December 31 of each year a report on (A) the adequacy of its tariffs to meet NPA's financial objectives under the Project, and (B) the effects of its tariffs on autogeneration of electricity by consumers.

Section 4.10. If any such review as is referred to in paragraph (b) of Sections 4.04, 4.05, 4.06 and 4.09 above shows that NPA would not meet the requirements set forth in the said paragraph of the said Sections, NPA shall promptly take all necessary measures (including adjustments of the structure or levels of its tariffs) in order to meet such requirements.

## 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 NPA 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 fifteen 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 NPA 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, telex or facsimile 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. Deliveries made by facsimile transmission shall also be confirmed by mail. 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:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

For National Power Authority (NPA):

National Power Authority  
Electricity House  
36 Siaka Stevens Street, Freetown  
Republic of sierra Leone

Cable address:	Telex:	Facsimile:
ELECTRON FREETOWN	3268 or	(232) 22-224067

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

Authorized Representative

NATIONAL POWER AUTHORITY

By

Authorized Representative