

CONFORMED COPY

CREDIT NUMBER 2958 GE

Project Agreement

(Power Rehabilitation Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

JOINT STOCK COMPANY "TBILSRESI"

Dated June 19, 1997

CREDIT NUMBER 2958 GE

PROJECT AGREEMENT

AGREEMENT, dated June 19, 1997, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and JOINT STOCK COMPANY "TBILSRESI" (Tbilsresi).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Georgia (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to thirty seven million seven hundred thousand Special Drawing Rights (SDR 37,700,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that Tbilsresi agree to undertake such obligations toward the Association as are set forth in this Agreement; and

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

WHEREAS Tbilsresi, 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, in the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth and the following terms have the following meanings:

- (a) "FY" means the fiscal year of Tbilisresesi being the calendar year;
- (b) "PMU" means the management unit for the Project, established for the purpose of implementation of the Project and referred to in Section 1 of Schedule 2 to this Agreement; and
- (c) "IAS" means International Accounting Standards.

ARTICLE II

Execution of the Project

Section 2.01. (a) Tbilisresesi declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, environmental and public utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and Tbilisresesi shall otherwise agree, Tbilisresesi shall carry out the Project in accordance with the implementation program set forth in Schedule 2 to this Agreement.

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

Section 2.03. Tbilisresesi 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.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, Tbilisresesi 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 Tbilisresesi a plan for the future operation of the Project; and

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

Section 2.04. Tbilisresesi shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, Tbilisresesi 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) Tbilisresesi shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) Tbilisresesi shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by Tbilisresesi of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of Tbilrsesi

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

Section 3.02. Tbilrsesi shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and public utility practices and in accordance with the provisions of its Operational Plan.

Section 3.03. Tbilrsesi 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) Tbilrsesi shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) Tbilrsesi 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 (6) months after the end of each such year: (A) certified copies of its financial statements for such year as so audited (and, if such statements have not been prepared in accordance with IAS, they shall be supplemented by the statements revised in accordance with IAS); 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. Tbilrsesi shall take all actions required on its part to ensure that its accounts receivable and accounts payable, accrued on or after January 1, 1997, shall not exceed the equivalent of: (i) 90 days of accrual by December 31, 1997; (ii) 60 days of accrual by December 31, 1998; and (iii) 60 days of accrual by December 31, 1999.

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

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of Tbilrsesi 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) The term "reasonable forecast" means a forecast prepared by Tbiltsresi not earlier than twelve months prior to the incidence of the debt in question, which both the Association and Tbiltsresi accept as reasonable and as to which the Association has notified Tbiltsresi 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 Tbiltsresi.

(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 4.04. (a) Except as the Association shall otherwise agree, the Borrower shall maintain a ratio of current assets to current liabilities of not less than 1.3.

(b) Before October 1 in each of its fiscal years, Tbiltsresi shall, on the basis of forecasts prepared by Tbiltsresi and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that Tbiltsresi would not meet the requirements set forth in paragraph (a), for fiscal years covered by such review, Tbiltsresi shall promptly take all necessary measures (including, without limitation, 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 "current assets" means cash, all assets which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal years.

(ii) 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 payments in lieu of taxes, and dividends.

service requirements, taxes and

(iii) 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.

(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. Tbilisresesi shall: (a) prepare its business and investment plan for 1997-1999 in accordance with the guidelines agreed with the Association, and shall submit it for the Association's approval by June 30, 1997;

(b) thereafter, take all measures necessary for effective implementation of such plan; and

(c) shall consult with the Association prior to any modification of such plan.

Section 4.06. (a) Not later than October 1 of each year of Project implementation, Tbilisresesi shall submit to the Association Tbilisresesi's financial projections for the current and following fiscal years (balance sheet, income statement and cash-flow statement) showing the company's expected financial condition, particularly its debt-service ratio, current ratio, and days of accounts receivable and payable.

(b) Not later than October 1, 1997 and 1998, Tbilisresesi shall submit to the Association the sales prices which shall become effective on January 1, 1998 and 1999 respectively, and which shall be sufficient to cover at least the reasonable operating costs, depreciation, interest payments, and bad debts (defined as accounts receivable in excess of 90 days), and would allow the company to satisfy financial covenants set forth in this Agreement.

(c) Not later than October 1 of each year of Project implementation, Tbilisresesi shall submit for the Association's review and approval, the Power Purchase Agreement for the next calendar year, as approved by the Borrower's regulatory authority, have the Power Purchase Agreement signed by the contracting parties, by December 1 of that year, and consult the Association prior to making any amendments to the Power Purchase Agreement.

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 Tbilisresesi 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 twenty (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 Tbilisresesi 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:

248423 (MCI) or
64145 (MCI)

For Tbilisresi:

1, D. Agmashenebeli Str.
380010 Gardabani
Georgia

Telex:

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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 Tbilisresi may be taken or executed by the Director General or such other person or persons as the Director General shall designate in writing, and Tbilisresi 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/ James Harrison

Acting Regional Vice President
Europe and Central Asia

JOINT STOCK COMPANY "TBILISRESI"

By /s/ Tedo Japaridze

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods

Part A: General

Goods shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

Part C: Other Procurement Procedures

1. International Shopping

Environmental monitoring equipment may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

2. Direct Contracting

Fuel costing \$10,000,000 equivalent or less in the aggregate may, with the Association's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for goods awarded in accordance with Part B of Section I of this Schedule and estimated to cost the equivalent of \$300,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

(b) With respect to each contract awarded in accordance with Part C.2 of Section I of this Schedule, the following procedures shall apply: (i) prior to the execution of any contract procured, the Borrower shall provide to the Association a copy of the specifications and the draft contract; and (ii) in addition, the procedures set forth in paragraphs 2 (f), 2 (g) and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions 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, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications thereto as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Association shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Association review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts, shall not apply to: (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each; or (b) contracts for the employment of individual consultants estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Association review shall not apply to: (a) the terms of reference for such contracts; (b) single-source selection of consulting firms; (c) assignments of a critical nature, as reasonably determined by the Association; (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 2

Implementation Program

1. Tbilisreshi shall, at all times during the execution of the Project: (i) maintain the PMU headed by an individual, whose qualifications and experience are satisfactory to the Association; and (ii) ensure that the PMU is staffed with sufficient personnel with adequate qualifications.

2. By August 31, 1997, Tbilisreshi shall adopt an environmental monitoring program for the Project, acceptable to the Association, and, thereafter, take all measures as shall be consistent with such environmental monitoring program.

3. Tbilisreshi shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about April 30, 1998, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, by May 30, 1998, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

