

CONFORMED COPY

CREDIT NUMBER 3503 MOG

Project Agreement

(Energy Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

ENERGY AUTHORITY

Dated August 02, 2001

CREDIT NUMBER 3503 MOG

PROJECT AGREEMENT

AGREEMENT, dated August 02, 2001, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and the ENERGY AUTHORITY OF MONGOLIA (the EA).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Mongolia (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to twenty-three million four hundred thousand Special Drawing Rights (SDR 23,400,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that the Energy Authority agree 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 the Energy Authority, part of the proceeds of the credit provided for under the Development Credit Agreement will be made available to the Energy Authority on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS the Energy Authority, 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) The Energy Authority 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 A of the Project through UBEDO, and Part B of the Project through selected Aimag Utilities, all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, environmental and power utilities practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for carrying out said Parts of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and the Energy Authority shall otherwise agree, the Energy Authority shall carry out Parts A and B of 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 Parts A and B of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) The Energy Authority 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 Parts A and B of the Project.

(b) For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Energy Authority 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 the Energy Authority, a plan for the continued achievement of the purposes of Parts A and B of the Project; and

(ii) afford the Association a reasonable opportunity to exchange views with the Borrower and the Energy Authority on said plan.

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

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

## ARTICLE III

## Management and Operations of the Energy Authority

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

Section 3.02. The Energy Authority 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, environmental and power utilities practices.

Section 3.03. The Energy Authority 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.

Section 3.04. The Energy Authority shall:

(a) not later than April 30 of each year, commencing on April 30, 2002, prepare and furnish to the Association for its review and comments, an updated rolling five year business plan, which plan shall include EA's investment program, production plan and projected financial statements for the period, reflecting EA's progress in carrying out its business plan during the preceeding calendar year; and

(b) thereafter, implement said business plan as revised to take account of the Associations comments thereon, if any.

## ARTICLE IV

### Financial Covenants

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

(b) The Energy Authority 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 (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 a/s the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Energy Authority shall carry out a time-bound action plan acceptable to the Association for the strengthening of its financial management system for the Project in order to enable the Energy Authority, not later than January 1, 2002, or such later date as the Association shall agree, to prepare quarterly Project Management Reports, acceptable to the Association, each of which:

(i) (A) sets forth actual sources and applications of funds for the

Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the six-month period following the period covered by said report, and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the six-month period following the period covered by said report;

- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and (B) explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, the Energy Authority shall prepare, and furnish to the Association not later than 45 days after the end of each calendar quarter a Project Management Report for such period satisfactory to the Association.

Section 4.03 (a) Except as the Association shall otherwise agree, the Energy Authority shall commencing in its fiscal year 2002, and in each fiscal year thereafter, produce a working ratio of not higher than 80 percent. For purposes of this Section, the term "working ratio" means total operating expenses minus depreciation, divided by total operating revenues.

(b) Before April 30 in each of its fiscal years, the Energy Authority shall, on the basis of forecasts prepared by the Energy Authority 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 the Energy Authority would not meet the requirements set forth in paragraph (a) for the Energy Authority's fiscal years covered by such review, the Energy Authority shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its prices) in order to meet such requirements.

(d) Except as the Association shall otherwise agree, the Energy Authority shall not incur any debt, unless a reasonable forecast of the revenues and expenditures of the Energy Authority shows that the estimated net revenues of the Energy Authority for each fiscal year during the term of the debt to be incurred shall be at least 1.5 (one and one-half) times the estimated debt service requirements of the Energy Authority in such year on all of its debt, including the debt to be incurred.

(e) Except as the Association shall otherwise agree, the Energy Authority shall not incur any debt, if after the incurrence of such debt its ratio of debt to equity shall be greater than 70 to 30.

(f) For the purposes of this Section 4.03:

- (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 other than those related to

operations; and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (i) above.

(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 acceptable to the Association, but excluding interest and other charges on debt.

(v) The term "debt service requirements" means the aggregate amount of repayments (including sinking and fund payments, if any) of, and interest and other charges on, debt.

(vi) The term "debt" means any indebtedness of the Energy Authority maturing by its terms more than one year after the date on which it is originally incurred.

(vii) 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.

(viii) The term "net revenues" means the difference between:

(A) the sum of revenues for all sources related to operations adjusted to take account of the Energy Authority's prices in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate, 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.

(ix) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the Energy Authority not allocated to cover specific liabilities.

(x) 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.

#### 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 the Energy Authority 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 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 the Energy Authority 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 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:
477-6391	248423 (MCI) or	(1-202)
INDEVAS	64145 (MCI)	
Washington, D.C.		

For the Energy Authority:

Energy Authority  
Chinggis Avenue  
Ulaanbaatar - 36  
Mongolia

	Facsimile:
341277	(976-11)
343479	(976-11)

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 the Energy Authority may be taken or executed by the Director General or such other person or persons as said Director General shall designate in writing, and the Energy Authority 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 Ulaanbaatar, Mongolia, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ian C. Porter

Authorized Representative

ENERGY AUTHORITY

By /s/ T. Enkhtaivan

Authorized Representative

SCHEDULE 1

Procurement

Section I. Procurement of Goods

Part A: General

Goods shall be procured in accordance with (a) 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, September 1997 and January 1999 (the Guidelines), and (b) the following provisions of Section I of this Schedule.

Part B: International Competitive Bidding

1. 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.

2. The following provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

- (a) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower.

- (b) Notification and Advertising

The invitation to prequalify or bid for each contract estimated to cost \$10,000,000 equivalent or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. International Shopping

Goods estimated to cost less than \$150,000 equivalent per contract, up to an aggregate amount not to exceed \$3,500,000 equivalent, 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

Goods which must be purchased from the original supplier to be compatible with existing equipment, estimated to cost less than \$250,000 equivalent per contract, up to an aggregate amount not exceeding \$500,000 equivalent, 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 Bank 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 and works 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

With respect to: (a) each contract procured in accordance with the provisions of paragraph C (2) above, and (b) regardless of the value thereof, the first five contracts procured in accordance with the provisions of paragraph C (1) above and, subsequently, the first such contract each year, the following procedures shall apply:

(i) prior to the selection of any supplier under shopping procedures, the Energy Authority shall provide to the Association a report on the comparison and evaluation of quotations received;

(ii) prior to the execution of any contract procured under direct contracting or shopping procedures, the Borrower shall provide to the Association a copy of the specifications and the draft contract; and

(iii) 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 for goods 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

Part A: General

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997 and January 1999 (the Consultant Guidelines) and the following provisions of Section II of this Schedule.



Part B: Quality- and Cost-based Selection

Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality-and cost-based selection of consultants.

Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

Services under Parts B and C of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.01 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Bank of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under 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 Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection 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 the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

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 Consultant Guidelines shall apply.

SCHEDULE 2

Implementation Program

Project Management

1. The Energy Authority shall maintain the PIU with functions and resources acceptable to the Association, under the direction of qualified and experienced managers, and with competent staff in adequate number, to coordinate the overall

implementation of the Project.

#### Project Implementation

2. Without limitation to its obligations under Section 2.01 of this Agreement, the Energy Authority shall carry out and cause each of UBEDO and the Selected Aimag Utilities to carry out their Respective Part of the Project. For this purpose, the Energy Authority shall enter into project implementation arrangements satisfactory to the Association with each of UBEDO and the Selected Aimag Utilities, such project implementation arrangements to provide, inter alia, that each of UBEDO and the Selected Aimag Utilities shall:

(a) establish, and thereafter maintain throughout the period of Project implementation, a Project working group with functions and responsibilities satisfactory to the Energy Authority and the Association, staffed with qualified personnel in adequate number for the carrying out of its Respective Part of the Project;

(b) carry out its respective operations and conduct its affairs in accordance with sound management, financial, engineering, environmental and power utilities practice;

(c) at all times operate and maintain its machinery, equipment and other properties, and from time to time, promptly as needed, make all necessary repairs, in accordance with sound engineering, technical and environmental practices;

(d) 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;

(e) use the goods, works and consultants' services financed out of the proceeds of the Credit and procured with the assistance of the Energy Authority, exclusively to carry out its Respective Part of the Project;

(f) maintain records and accounts adequate to reflect in accordance with sound accounting practices its respective operations and financial condition and to record separately the operations, resources and expenditures related to its Respective Part of the Project;

(g) furnish to the Energy Authority and the Association information concerning the records and accounts referred to in sub-paragraph (f) above, as the Energy Authority and the Association shall from time to time request; and

(h) (A) repay to the Energy Authority the respective principal amount re-lent by the Energy Authority over a period of twenty (20) years, including a grace period of eight (8) years, in Dollars; (B) pay to the Energy Authority interest on such principal amount outstanding from time to time at the rate of 5.5 % per annum for UBEDO and 1% per annum for the Selected Aimag Utilities, such interest to accrue from the day immediately following the end of the grace period mentioned in clause (A) above.

3. The Energy Authority shall exercise its rights under each project implementation arrangement in such manner as to protect the interest of the Borrower, the Energy Authority and the Association and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Energy Authority shall not amend, abrogate or waive any project implementation arrangement or any provision thereof.

#### Monitoring and Reporting

4. The Energy Authority 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 a semi-annual report by June 15 and December 15 of each year, provided that the first such report shall be furnished by March 15, 2002, each such report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph 4, 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;

(c) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about August 31, 2003, a report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph 4, 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

(d) review with the Association, by November 30, 2003, or such later date as the Association shall request, the report referred to in sub-paragraph (c) of this paragraph 4, 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.

