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**LOAN NUMBER 7181 RO**

# **Loan Agreement**

**Electricity Market Project**

**between**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**and**

**TRANSELECTRICA S.A.**

**Dated July 15, 2003**

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## **LOAN NUMBER 7181 RO**

### **LOAN AGREEMENT**

AGREEMENT, dated July 15, 2003 between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and TRANSELECTRICA S.A. (the Borrower), a joint stock company established and operating under the laws of Romania and further defined in Section 1.02 (m) of this Agreement.

WHEREAS (A) Romania (the Guarantor) and the Borrower, having been satisfied as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), have requested the Bank to assist in the financing of the Project;

(B) by an agreement of even date herewith between the Guarantor and the Bank (the Guarantee Agreement), the Guarantor has agreed to guarantee the obligations of the Borrower in respect of the loan provided for in Article II of this Agreement (the Loan) and to undertake such other obligations as set forth in the Guarantee Agreement;

(C) Part B of the Project will be carried out by ANRE (as hereinafter defined), and the Guarantor has obtained from the European Union (EU) a grant in an amount equivalent to €900,000 (the EU Grant) to assist in carrying out Part B of the Project on the terms and conditions set forth in an agreement entered into between the Guarantor, ANRE and the EU, dated November 6, 2000 (the EU Grant Agreement); and

(D) Part C of the Project will be carried out by OPCOM (as hereinafter defined) with the Borrower's assistance and financial monitoring, and as part of such assistance, the Borrower will make available to OPCOM part of the proceeds of the Loan as provided for in this Agreement.

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement and in the aforesaid Guarantee Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

## ARTICLE I

### General Conditions; Definitions

Section 1.01. The “General Conditions Applicable to Loan and Guarantee Agreements for Fixed-Spread Loans” of the Bank dated September 1, 1999 (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “ANRE” means the regulatory authority for electricity and heat, an entity duly established and operating in Romania in accordance with the provisions of the Law 99/2000, or any legal successor thereto;

(b) “Electricity Market Coordination Committee” means a committee established by the Ministry of Industry and Resources of the Guarantor under a Ministerial Order No. 231, dated April 8, 2003, to define the principles and modalities for the new electricity trading regime and consisting of representatives from the Guarantor, Borrower, OPCOM and ANRE;

(c) “Electricity Market Directorate” means a management team established by the Electricity Market Coordination Committee and consisting of representatives from the Borrower, OPCOM and ANRE and their consultants engaged under Part C of the Project;

(d) “Electricity Market Working Groups” means working groups, established by the Electricity Market Coordination Committee and consisting of representatives from the Borrower, OPCOM, ANRE and their consultants;

(e) “EMPs” means the Environmental Management Plans for Fundeni and Iernut substations, approved by the Bank in February 2003 and March 2003, respectively, describing the environmental issues, mitigation, monitoring and institutional measures for Part A of the Project;

(f) “Financing and Project Implementation Agreement” means the agreement to be entered into between the Borrower and OPCOM pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Financing and Project Implementation Agreement;

(g) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(h) “New Trading Platform” means collectively the logistics, rules and procedures to be approved by ANRE, or any legal successor thereto, in accordance with the provisions of Law 99/2000, which defines the technical, operational and commercial modalities for implementation of the new electricity trading regime, comprising long-term contracts for trading between electricity market participants, short-term transactions between electricity market participants on the OPCOM Power Exchange, and a real-time electricity balancing mechanism operated by the Borrower;

(i) “OPCOM” means a joint stock company (and a subsidiary company of the Borrower), established pursuant to Government’s Decision No. 627/2000 dated July 13, 2000, engaged in the operation of Romania’s electricity market, and operating pursuant to the Market Administration License 407/2001 issued by ANRE in accordance with the provisions of the Law 99/2000, or any legal successor thereto;

(j) “OPCOM Power Exchange” means collectively the set of commercial rules and operational mechanisms that OPCOM, pursuant to the Market Administration License 407/2001 issued by ANRE in accordance with the provisions of the Law 99/2000, will implement in order to register, intermediate and/or administer settlements of long-term and short term transactions between electricity market participants, and also register, intermediate and/or administer settlements between electricity market participants and the Borrower;

(k) “Road Map” means the Guarantor’s Road Map for Energy Field in Romania, submitted to the Bank on March 20, 2003, or any updated version formally approved by the Guarantor;

(l) “Special Account” means the account referred to in Section 2.02 (b) of this Agreement; and

(m) “Transelectrica S.A.” means a national grid and transmission joint stock company established pursuant to Government’s Decision No. 627/2000 dated July 13, 2000, engaged in the transmission of electric power and dispatch, and operating in Romania pursuant to Power Transmission License 161/2000 and Electricity Dispatching License 162/2000 issued by ANRE, as updated in October 25, 2002 by ANRE’s Decisions 784 and 785, in accordance with the provisions of the Law 99/2000, or any legal successor thereto.

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, an amount equal to seventy-four million three hundred thousand Euro (€74,300,000) as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.09 of this Agreement.

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for Parts A and C of the Project and to be financed out of the proceeds of the Loan, in respect of any premium in respect of an Interest Rate Cap or Interest Rate Collar payable by the Borrower in accordance with Section 4.04 (c) of the General Conditions.

(b) The Borrower may, for the purposes of the Project, open and maintain in Euro a special account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure and attachment. Deposits into each and payment out of, each Special Account shall be made in accordance with the provisions of Schedule 6 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2008, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Section 2.04. (a) The Borrower shall pay to the Bank a front-end fee in an amount equal to one percent (1%) of the amount of the Loan on or promptly after the Effective Date.

Section 2.05. The Borrower shall pay to the Bank a commitment charge on the principal amount of the Loan not withdrawn from time to time, at a rate equal to: (i) eighty five one-hundredths of one percent (0.85%) per annum from the date on which such charge commences to accrue in accordance with the provisions of Section 3.02 of the General Conditions to but not including the fourth anniversary of such date; and (ii) seventy five one-hundredths of one percent (0.75%) per annum thereafter.

Section 2.06. The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, in respect of each Interest Period at the Variable Rate; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the Borrower shall, during the Conversion Period, pay interest on such amount in accordance with the relevant provisions of Article IV of the General Conditions.

Section 2.07. Interest and commitment charges shall be payable semiannually in arrears on January 15 and July 15 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.09. (a) The Borrower may at any time request any of the following conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Variable Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Variable Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a "Conversion", as defined in Section 2.01(7) of the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.

(c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar in respect of which the Borrower has requested that the premium be paid out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay any premium payable in accordance with Section 4.04 (c) of the General Conditions up to the amount allocated from time to time for such purpose in the table in paragraph 1 of Schedule 1 to this Agreement.

### **ARTICLE III**

#### **Execution of the Project**

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall: (i) carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, engineering, financial and environmental practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required

for Part A of the Project; and (ii) cause OPCOM to carry out Part C of the Project with due diligence and efficiency and in conformity with appropriate administrative, engineering, financial and environmental practices, and shall cause OPCOM to provide, promptly as needed, the funds, facilities, services and other resources required for Part C of the Project.

(b) The Borrower shall use a portion of the proceeds of the Loan to assist OPCOM in implementing Part C of the Project under a Financing and Project Implementation Agreement to be entered into between the Borrower and OPCOM, under terms and conditions which shall have been approved by the Bank.

(c) The Borrower shall exercise its rights under the Financing and Project Implementation Agreement in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan, and, except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Financing and Project Implementation Agreement or any provision thereof.

(d) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Bank shall otherwise agree, the Borrower shall carry out Part A of the Project, and shall cause OPCOM to carry out Part C of the Project, in accordance with the Implementation Program set forth in Schedule 5 to this Agreement.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods and consultants' services required for Parts A and C of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date a plan for the future operation of the Project or such later date as may be agreed for this purpose between the Borrower and the Bank; and

(b) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.04. The Bank and the Borrower hereby agree that 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: (a) Part A of the Project shall be carried out by the Borrower; and (b) Part C of the Project shall be carried out by OPCOM pursuant to the Financing and Project Implementation Agreement.

## ARTICLE IV

### Financial Covenants

Section 4.01. (a) The Borrower shall maintain and shall cause OPCOM to maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

(b) The Borrower shall and shall cause OPCOM to:

- (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 Project and Special Account for each fiscal year audited, in accordance with auditing standards acceptable to the Bank, consistently applied, by independent auditors acceptable to the Bank, selected not later than November 30, 2003 for the Borrower's fiscal year 2003;
- (ii) furnish to the Bank 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 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 Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Bank may 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, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate 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) Without limitation upon the Borrower's progress reporting obligations set out in paragraph 3 (a) of Schedule 5 to this Agreement, the Borrower shall prepare and furnish to the Bank a Financial Monitoring Report (FMR), in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for Parts A and C of the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Loan 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 Parts A and C of the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank not later than forty-five (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 Bank not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

Section 4.03. (a) Except as the Bank shall otherwise agree, the Borrower shall not incur any debt, unless the net revenues of the Borrower for the fiscal year immediately preceding the date of such incurrence or for a later twelve-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.3 times the estimated maximum debt service requirements of the Borrower for any succeeding fiscal year on all debt of the Borrower, including the debt to be incurred.

- (b) For the purposes of this Section:
- (i) The term “debt” means any indebtedness of the Borrower maturing by its terms more than one (1) 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 adjusted to take account of the Borrower’s rates in effect at the time of the incurrence of debt even though they were not in effect during the twelve (12) 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.
  - (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 the Guarantor, 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 Bank.

Section 4.04. (a) Except as the Bank shall otherwise agree, the Borrower shall maintain, for each of its fiscal years commencing from the year 2003, a ratio of current assets to current liabilities of not less than 1.2.

(b) Before June 30 of each year, the Borrower shall, on the basis of forecasts prepared by the Borrower and satisfactory to the Bank, 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 Bank the results of such review upon its completion.

(c) If any such review shows that the Borrower would not meet the requirements set forth in paragraph (a) for the Borrower's fiscal years covered by such review, the Borrower shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its rates) 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 (12) months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (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 (12) months, including accounts payable, customer advances, taxes and payments in lieu of taxes, and dividends.
- (iii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Guarantor, 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 Bank.
- (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.

Section 4.05. Without limitation upon the provisions of the preceding Sections of this Article IV or the provisions of Section 9.01 and 9.07 of the General Conditions, the Borrower shall furnish to the Bank, not later than December 31 of each year during Project execution, updated business plan including an investment program and financial reports for the previous twelve-month period and projections for the next five (5) years of its revenues, capital expenditures, borrowings and debt service, and accounts receivables, and financing and monitoring indicators which, in the Bank’s opinion, are relevant for determining the Borrower’s financial condition and its operational performance.

## **ARTICLE V**

### **Other Covenants**

Section 5.01. The Borrower shall:

- (a) carry on its operations and conduct its affairs in accordance with sound public utilities, financial, and engineering practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers;
- (b) at all times operate and maintain its plants, 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 and financial practices; and
- (c) 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.

## **ARTICLE VI**

### **Remedies of the Bank**

Section 6.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) Law No. 99/2000 of the Guarantor shall have been amended, suspended, abrogated, repealed or waived or the Guarantor shall have enacted new legislation or issued new directives so as to affect materially and adversely the ability of the Borrower to perform any of its obligations under this Agreement or the ability of ANRE or OPCOM to implement Part B or Part C of the Project, respectively;

(b) Guarantor shall have amended, suspended, abrogated, repealed or waived its Road Map so as to affect materially and adversely the design or implementation of its power sector reform strategy;

(c) OPCOM shall have failed to perform any of its obligation under the Financing and Project Implementation Agreement; and

(d) (i) Subject to subparagraph (ii) of this paragraph, the right of ANRE to use the EU Grant made to ANRE for the carrying out of Part B of the Project shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the EU Grant Agreement providing therefor.

(ii) Subparagraph (i) of this paragraph shall not apply if ANRE establishes to the satisfaction of the Bank that: (A) such suspension, cancellation or termination is not caused by the failure of ANRE to perform any of its obligations under the EU Grant Agreement; and (B) adequate funds for Part B of the Project are available to ANRE from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 6.02. Pursuant to Section 7.01 (k) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (c) of Section 6.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower; and

(b) the event specified in paragraphs (a) and (b) of Section 6.01 of this Agreement shall have occurred.

## **ARTICLE VII**

### **Effective Date; Termination**

Section 7.01. The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely, that the Financing and Project Implementation Agreement between the Borrower and OPCOM has been executed.

Section 7.02. The following is specified as an additional matter, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely, that the Financing and Project Implementation Agreement has been duly authorized or ratified by the Borrower and OPCOM, and is legally binding upon the Borrower and OPCOM in accordance with its terms.

Section 7.03. The date one hundred and twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

## **ARTICLE VIII**

### **Representative of the Borrower; Addresses**

Section 8.01. The Director General of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Transelectrica S.A.  
33, General Gh. Magheru Blvd.  
Bucharest 1  
Romania - 70164

Facsimile:

40-1-303-5616

For the Bank:

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

Cable address:	Telex:	Facsimile:
INTBAFRAD	248423 (MCI) or	(202) 477-6391
Washington, D.C.	64145 (MCI)	

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Bucharest, Romania, as of the day and year first above written.

ROMANIA

By /s/ Mihai Nicolai Tanasescu

Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Andrew N. Vorkink

Director  
South Central Europe Country Unit  
Europe and Central Asia Region

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Loan**

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Euro )</u>	<u>% of Expenditures To be Financed</u>
(1) Goods (including installation)	61,500,000	100% of foreign expenditures and 100% of local expenditures (ex- factory), and 80% for other items procured locally
(2) Consultants Services (including computer based simulation and trading system for Parts A and C of the Project) and Audits	7,500,000	85% incurred by foreign consultants and 75% incurred by local consultants
(3) Unallocated	5,300,000	
(4) Premia for Interest Rate Caps and Interest Rate Collars	0	Amount due under Section 2.09 (c) of this Agreement
	<hr/>	
TOTAL	<u>74,300,000</u>	

2. For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Guarantor for goods or services supplied from the territory of any country other than that of the Guarantor;

(b) the term “local expenditures” means expenditures in the currency of the Guarantor or for goods or services supplied from the territory of the Guarantor;



(c) the term “local consultants” means individuals who are the Romanian nationals and are legal residents on the territory of the Guarantor for taxation purposes, and companies registered as Romanian legal entities under applicable laws of the Guarantor; and

(d) the term “foreign consultants” means individual consultants and consulting firms who are not “local consultants” as defined in sub-paragraph (c) of this paragraph.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures for services under contracts costing less than □100,000 equivalent each for the employment of consulting firms and under contracts costing less than □20,000 each for the employment of individual consultants, under such terms and conditions as the Bank shall specify by notice to the Borrower.

## **SCHEDULE 2**

### **Description of the Project**

The objective of the Project is to develop a well-functioning wholesale electricity market through: (a) establishing a transparent and predictable commercial regulatory framework and a power exchange that will facilitate electric trading within a competitive market; and (b) improving the efficiency and reliability of the transmission system in order to support trading and supply electricity at least cost to consumers.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

#### Part A: Rehabilitation of Substations and Institutional Support

1. Supplying and installing modern equipment at all voltages at the Fundeni and Iernut substations.
2. Provision of consultants' services to assist the Borrower in supervision of rehabilitation works for the Fundeni and Iernut substations and in contract management.
3. Design, pilot testing and implementation of a real-time electricity balancing mechanism.
4. Provision of consultants' services for institutional support and training to the Borrower in environmental issues, financial management, regional cooperation and operation of the balancing mechanism.

#### Part B: Establishment of a Regulatory Framework

Provision of consultants' services to ANRE to:

1. Revise the regulatory framework and develop subsidiary market rules for implementation of the New Trading Platform.
2. Design and implement a price-cap methodology for setting and adjusting tariffs to be charged by the Borrower and price-cap tariffs for distribution.

#### Part C: Design, Pilot Testing and Implementation of the OPCOM Power Exchange

1. Development of a comprehensive set of long-term contracts for stabilizing trading regime for electricity market participants consistent with distribution and generation entities, mechanism for market participants to meet their capacity obligations, and mechanism for hydropower regulation.

2. Design, pilot testing and implementation of the OPCOM Power Exchange including a computer based simulation system for the New Trading Platform.
3. Provision of operational know-how for the commercial start-up of the OPCOM Power Exchange.

\* \* \*

The Project is expected to be completed by December 30, 2007.

**SCHEDULE 3**

**Amortization Schedule**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by the Bank by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Date</u>	<u>Installment Share Expressed as a %</u>
July 15, 2008	2.19%
January 15, 2009	2.44%
July 15, 2009	2.44%
January 15, 2010	3.05%
July 15, 2010	3.66%
January 15, 2011	4.27%
July 15, 2011	4.27%
January 15, 2012	4.88%
July 15, 2012	4.88%
January 15, 2013	5.49%
July 15, 2013	5.49%
January 15, 2014	5.49%
July 15, 2014	5.49%
January 15, 2015	5.49%
July 15, 2015	5.49%
January 15, 2016	6.10%
July 15, 2016	6.10%
January 15, 2017	4.88%
July 15, 2017	4.88%
January 15, 2018	4.88%
July 15, 2018	4.88%
January 15, 2019	2.44%
July 15, 2019	0.37%
January 15, 2020	<u>0.45%</u>
	100.00

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by the Bank by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. (a) Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph 3, if at any time the Bank shall adopt a due date billing system under which invoices are issued on or after the respective Principal Payment Date, the provisions of such sub-paragraph shall no longer apply to any withdrawals made after the adoption of such billing system.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by the Bank under the Currency Hedge Transaction relating to said Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

## **SCHEDULE 4**

### **Procurement**

#### 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, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

##### Part B: International Competitive Bidding

1. 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) Prequalification

Bidders for contracts for goods shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) 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 Guarantor.

(c) Notification and Advertising

The invitation to prequalify or bid for each contract for goods shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

##### Part C: Review by the Bank of Procurement Decisions

##### 1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank 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 Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for goods to be procured in accordance with the provisions of Part B of this section, the procedures set forth in paragraphs 2 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

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and 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, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions of Section II of this Section.

Part B: Quality- and Cost-based Selection

Services under Parts A and C of the Project shall be procured under contracts awarded in accordance with the provisions of paragraphs 3.13 through 3.18 of the Consultant Guidelines.

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

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Bank for its review and approval prior to the issuance to consultants of any requests for proposals. Such plan shall be updated every twelve (12) months during the execution of the Project, and each such updating shall be furnished to the Bank for its review and approval. Selection of all consultants' services shall be undertaken in accordance with such selection plan (as updated from time to time) as shall have been approved by the Bank.



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 2, 3 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 □20,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provision of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

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 5**

### **Implementation Program**

#### Institutional Arrangements

1. The Borrower shall designate its Investment Project Management Department to take responsibility for: (i) implementation of Part A of the Project, including procurement, planning, monitoring and reporting, disbursement and internal controls, maintenance of Project accounts and preparation of FMRs with the assistance of the Financial Department, and shall ensure that said Departments at all times shall have adequate staff and resources to fulfill their responsibilities with respect to Project implementation; and (ii) coordination of Transelectrica's responsibilities for Part C of the Project in accordance with the Financing and Project Implementation Agreement.

2. In order to ensure the overall coordination of the Project activities and the provision of policy guidance in respect thereof, the Borrower shall participate on the Electricity Coordination Committee, Electricity Market Directorate and the Electricity Market Working Groups.

#### Project Monitoring

3. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in a supplemental letter to this Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) submit to the Bank, at the end of each calendar quarter, quarterly progress reports, in form and substance satisfactory to the Bank;

(c) prepare with OPCOM, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about March 31, 2005, a mid-term review report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph, 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, protection of the environment and the achievement of the objectives thereof during the period following such date; and

(d) review with the Bank, by June 30, 2005, or such later date as the Bank shall request, the report referred to in sub-paragraph (c) of this paragraph, 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 Bank's views on the matter.

Project Management

4. Not later than December 31 of each year during execution of the Project, the Borrower shall cause OPCOM to submit for the Bank's review their updated business plans for an upcoming calendar year, including the investment program and financial projections.

5. The Borrower shall implement the Environmental Management Plans (EMPs) approved for the Fundeni and Iernut substations and shall include in the quarterly progress reports to the Bank substation-specific environmental reports providing results of the monitoring programs included in these EMPs for each substation.

6. Not later than June 30, 2004, or such later date as may be agreed between the Borrower and the Bank, the Borrower shall enter into a concession contract, satisfactory to the Bank, for its public domain assets with the Guarantor.

## **SCHEDULE 6**

### **Special Account**

1. For the purposes of this Schedule:

(a) the term “eligible Categories means Categories (1) and (2) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods and services required for Parts A and C of the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term “Authorized Allocation” means the amount of \$8,000,000 in respect of the Special Account for the Project to be withdrawn from the Loan Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to the amount of \$4,000,000 in respect of the Special Account until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$12,000,000.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the

basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Borrower shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.