

LOAN NUMBER 3138 TH

Guarantee Agreement

(Second Power System Development Project)

between

KINGDOM OF THAILAND

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated January 11, 1990

LOAN NUMBER 3138 TH

GUARANTEE AGREEMENT

AGREEMENT, dated January 11, 1990, between KINGDOM OF THAILAND (the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Guarantor and the Electricity Generating Authority of Thailand (the Borrower), having been satisfied as to the feasibility and priority of the Project described in Schedule 2 to the Loan Agreement, have requested the Bank to assist in the financing of the Project;

(B) by the Loan Agreement of even date herewith between the Bank and the Borrower, the Bank has agreed to extend to the Borrower a loan in various currencies equivalent to ninety-four million dollars (\$94,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as provided in this Agreement; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

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" of the Bank, dated January 1, 1985, with the last sentence of Section 3.02 deleted (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 Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

ARTICLE II

Guarantee; Provision of Funds

Section 2.01. The Guarantor declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, without limitation or restriction upon any of its other obligations under the Guarantee Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and interest and other charges on, the Loan, and the premium, if any, on the prepayment of the Loan and the punctual performance of all the other obligations of the Borrower, all as set forth in the Loan Agreement.

Section 2.02. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

ARTICLE III

Other Covenants

Section 3.01. (a) Except as the Bank shall otherwise agree, the Guarantor shall from time to time take all such measures (including, without limitation, adjustment of the structure or levels of electricity tariffs of the utilities in the Guarantor's Electricity Sector) as shall be required to produce for the said Sector as a whole for each fiscal year funds from internal sources equivalent to not less than 25% of the annual average of the Electricity Sector's capital expenditures incurred, or expected to be incurred, for that fiscal year, the previous fiscal year, and the next following fiscal year.

(b) Before September 30 in each of its fiscal years, the Guarantor shall, on the basis of forecasts prepared by the utilities and satisfactory to the Bank, review whether the utilities 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 a copy of such review upon its completion.

(c) If any such review shows that the Sector would not meet the requirements set forth in paragraph (a) for the fiscal years covered by such review, the Guarantor shall promptly take all necessary measures in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "funds from internal sources" means the difference between:
 - (A) The sum of net operating income; net nonoperating income, all depreciation and other non-cash operating charges; and any reduction in working capital other than cash; and
 - (B) The sum of debt service requirements; dividends and all remittances to the Government excluding those taxes or payments in lieu of taxes which are deducted from net operating income; other cash distributions of surplus; increase in working capital other than cash and other cash outflows other than capital expenditures; and major repairs expenditures, not charged against net operating income.
- (ii) The term "net operating income" means the gross revenues from all sources related to the utilities' electricity operations less all expenses of electricity operations, including cost of all fuels, administrative expenses, adequate maintenance and taxes or any payments in lieu of taxes, and provision for depreciation. Interest and other charges on debt are not considered to be operating expenses for the purposes of determining net operating income.
- (iii) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to electricity operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (iv) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (v) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (vi) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service

requirements, taxes and payments in lieu of taxes, and dividends.

- (vii) 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.
- (viii) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.
- (ix) The term "electricity operations" shall exclude all mining activities of the utilities in the Sector.

(e) For the purposes of this Section, the Guarantor shall provide to the Bank the annual consolidated financial statements for the Electricity Sector, not later than six months after the close of each fiscal year.

ARTICLE IV

Representative of the Guarantor; Addresses

Section 4.01. The Permanent Secretary, Ministry of Finance of the Guarantor is designated as representative of the Guarantor for the purposes of Section 11.03 of the General Conditions.

Section 4.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Guarantor:

Ministry of Finance
Bangkok, 10400
Thailand

Cable address:

MINANCE
Bangkok

Telex:

82823 FISPOLO TH

For the Bank:

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

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

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.

KINGDOM OF THAILAND

By /s/ V. Vejjajwa
Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ A. Karaosmanoglu
Regional Vice President
Asia

