

No. 2874

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
COLOMBIA**

**Guarantee Agreement—*Anchicaya and Yumbo Project*—
(with annexed Loan Regulations No. 4 and Loan Agree-
ment—*Anchicaya and Yumbo Power Project*—between
the Bank and Central Hidroeléctrica del Río Anchicaya
Limitada). Signed at Washington, on 24 March 1955**

Official text: English.

*Registered by the International Bank for Reconstruction and Development on 18
July 1955.*

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
COLOMBIE**

**Contrat de garantie — *Projet de l'Anchicaya et de Yumbo* —
(avec, en annexe, le Règlement n° 4 sur les emprunts
et le Contrat d'emprunt — *Projet de l'Anchicaya et de
Yumbo relatif à l'énergie* — entre la Banque et la Cen-
tral Hidroeléctrica del Río Anchicaya Limitada). Signé
à Washington, le 24 mars 1955**

Texte officiel anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développement
le 18 juillet 1955.*

No. 2874. GUARANTEE AGREEMENT¹ (*ANCHICAYA AND YUMBO PROJECT*) BETWEEN THE REPUBLIC OF COLOMBIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 24 MARCH 1955

AGREEMENT, dated March 24, 1955, between REPUBLIC OF COLOMBIA (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Central Hidroeléctrica del Río Anchicaya Limitada (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies in an aggregate principal amount equivalent to four million five hundred thousand dollars (\$4,500,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the payment of the principal, interest and other charges on such loan and the obligations of the Borrower in respect thereof; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to guarantee the payment of the principal, interest and other charges on such loan and the obligations of the Borrower in respect thereof;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

Section 1.01. The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated October 15, 1952³, subject, however, to the modifications thereof set forth in Schedule 3⁴ to the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

¹ Came into force on 28 June 1955 upon notification by the Bank to the Government of Colombia.

² See p. 226 of this volume.

³ See p. 226 of this volume.

⁴ See p. 240 of this volume.

Article II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and the punctual performance of all the covenants and agreements of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. (a) 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 carrying out 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.

(b) Whenever there is reasonable cause to believe that the funds available to the Municipality of Cali for purposes of carrying out the timely expansion of the municipal electric distribution system to a capacity sufficient to distribute all energy generated by the Borrower will be inadequate to meet the estimated expenditures required for such purposes, the Guarantor shall make arrangements, satisfactory to the Bank, promptly to provide the Municipality of Cali or cause the Municipality of Cali to be provided with the funds needed to meet such expenditures.

Article III

Section 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

As used in this Section (a) the term “assets of the Guarantor” includes assets of the Guarantor or of any of its political subdivisions or of any Agency including the Banco de la República, and (b) the term “Agency” means any agency or instrumentality of the Guarantor or of any political subdivision of the Guarantor and shall include any institution or organization which is owned or controlled directly or indirectly by the Guarantor or by any political subdivision of the Guarantor or the operations of which are conducted primarily in the interest of or for account of the Guarantor or any political subdivision of the Guarantor.

Section 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

Section 3.03. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes or fees imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.04. This Agreement, the Loan Agreement and the Bonds shall be free from any taxes or fees that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Section 3.05. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

Section 3.06. The Guarantor covenants that it will not take or permit any of its political subdivisions or any of its agencies or any agency of any political subdivision to take any action which would prevent or interfere with the performance by the Borrower of any of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, and will take or cause to be taken all reasonable action which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

Section 3.07. The Guarantor covenants that it will from time to time grant or cause to be granted to the Borrower rates which will provide revenues sufficient: (a) to cover operating expenses, including adequate maintenance and depreciation, and interest; (b) to meet repayments on long-term indebtedness but only to the extent that such repayments shall exceed provision for depreciation; and (c) to leave a reasonable surplus to finance new investment.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance and Public Credit of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

Article V

Section 5.01. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations:

For the Guarantor: Republic of Colombia, Ministerio de Hacienda y Crédito Público, Palacio de los Ministerios, Plaza San Agustín, Bogotá, Colombia.

For the Bank: International Bank for Reconstruction and Development, 1818 H Street, N.W., Washington 25, D. C., United States of America.

Section 5.02. The Minister of Finance and Public Credit of the Guarantor is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Colombia
By Eduardo ZULETA ANGEL
Authorized Representative
International Bank for Reconstruction and Development
By Eugene R. BLACK
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 OCTOBER 1952

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN MEMBER GOVERNMENTS.

[Not published herein. See *United Nations, Treaty Series, Vol. 172, p. 124.*]

LOAN AGREEMENT (*ANCHICAYA AND YUMBO POWER PROJECT*)

AGREEMENT, dated March 24, 1955, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and CENTRAL HIDRO-ELÉCTRICA DEL RÍO ANCHICAYA LIMITADA (hereinafter called the Borrower).

Article I

LOAN REGULATIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated October 15, 1952,¹ subject, however, to the modifications thereof set forth in Schedule 3² to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to four million five hundred thousand dollars (\$4,500,000).

Section 2.02. The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, the Loan Regulations.

Section 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time.

Section 2.04. The Borrower shall pay interest at the rate of four and three-fourths per cent ($4\frac{3}{4}$ %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

¹ See above.

² See p. 240 of this volume.

Section 2.05. Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

Section 2.06. Interest and other charges shall be payable semi-annually on January 15 and July 15 in each year.

Section 2.07. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1¹ to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2² to this Agreement. The specific goods to be financed out of the proceeds of the Loan shall be determined by agreement between the Bank and the Borrower, subject to modification by further agreement between them.

Section 3.02. The Borrower shall cause all goods financed out of the proceeds of the Loan to be imported into the territories of the Guarantor and there to be used exclusively in the carrying out of the Project.

Article IV

BONDS

Section 4.01. The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

Section 4.02. The Manager (Gerente) of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01 (a) The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound engineering and financial practices. To assist it in carrying out the Project the Borrower shall employ competent and experienced engineering consultants and contractors.

(b) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans and specifications for the Project and any material modifications subsequently made therein.

¹ See p. 238 of this volume.

² See p. 238 of this volume.

(c) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the financial condition and operations of the Borrower; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the financial condition and operations of the Borrower.

Section 5.02. (a) The Bank and the Borrower shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

Section 5.03. The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower or of any corporation or company all or a majority of the capital stock of which shall be owned by the Borrower, as security for any debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

Section 5.04. The Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantor or laws in effect in the territories of the Guarantor on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement, or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 5.05. The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries

on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds.

Section 5.06. Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured the goods financed with the proceeds of the Loan against risks incident to their purchase and importation into the territories of the Guarantor. Such insurance shall be consistent with sound commercial practice and shall be payable in dollars or in the currency in which the cost of the goods insured thereunder shall be payable.

Section 5.07. (a) The Borrower shall at all times maintain its existence and right to carry on operations and shall, except as the Bank shall otherwise agree, maintain and renew all rights, powers, privileges and franchises owned by it and necessary or useful in the operation of its business.

(b) The Borrower shall operate and maintain its plants, equipment and property, and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering standards; and shall at all times operate its plants and equipment and maintain its financial position in accordance with sound business and public utility practices.

Section 5.08. The Borrower shall not, without the consent of the Bank, sell or otherwise dispose of all or substantially all of its property and assets or all or substantially all the property included in the Project or any plant included therein, unless the Borrower shall first redeem and pay, or make adequate provision satisfactory to the Bank for redemption or payment of, all of the Loan which shall then be outstanding and unpaid.

Section 5.09. Until such time as the Project shall have been completed, the Borrower shall not, without the consent of the Bank, directly or indirectly (i) declare or pay any dividends, or acquire any shares of its capital stock for a consideration; or (ii) undertake or execute any major projects or developments other than the Project or make any major additions to its plant and other properties at any time, unless at such time the Borrower has set aside and made available in a special reserve fund currency of the Guarantor sufficient to cover expenditures which will not be covered out of the proceeds of the Loan and which will be required for carrying out the Project.

Section 5.10. Unless the Bank shall otherwise agree, the Borrower shall not declare or pay any dividend, or make any distribution on any shares of its capital stock, other than a dividend payable solely in shares of its capital stock, nor shall the Borrower acquire any shares of its capital stock for a consideration, if, as a result of any such dividend or distribution (other than those payable solely in shares of its stock) or such acquisition of shares of capital stock, the accumulated earned surplus of the Borrower, determined after adequate provision for maintenance and depreciation and otherwise in accordance with sound accounting practice, would be reduced below an amount equivalent to the Borrower's aggregate requirements for the next twelve-month period

for the payment of principal (including amortization and sinking fund payments) of, and interest and other charges on, all outstanding debt other than debt incurred in the ordinary course of business and maturing by its terms in not more than one year after its date.

Section 5.11. If the Borrower shall propose to incur any debt, the Borrower shall inform the Bank of such proposal and, before the proposed action is taken, shall afford the Bank all opportunity which is reasonably practicable in the circumstances to exchange views with the Borrower with respect thereto; provided, however, that the foregoing provisions shall not apply to: (i) the incurring of additional debt through utilization, in accordance with the terms of any credit established prior to the date of this Agreement, of any unused amounts available under such credit; or (ii) the incurring by the Borrower in the ordinary course of its business of any indebtedness maturing not more than one year after its date.

Section 5.12. Except as the Bank shall otherwise agree, the Borrower shall not incur any long-term indebtedness if, after the incurring of any such long-term indebtedness, the long-term indebtedness of the Borrower would exceed the total capital and surplus of the Borrower. For the purposes of this Section the following terms shall have the meanings hereinafter set forth.

(a) The term "long-term indebtedness" shall mean debt maturing by its terms more than one year after the date on which it is incurred. Whenever for the purposes of this Section it shall be necessary to value in Colombian currency debt payable in another currency, such valuation shall be made on the basis of the rate of exchange at which such other currency is at the time such valuation is made obtainable for the purposes of servicing such debt.

(b) The term "capital and surplus" shall mean capital and surplus determined in accordance with sound accounting practices.

Section 5.13. The Borrower shall from time to time take all steps necessary or desirable to obtain such adjustments in its rates as will provide revenues sufficient: (a) to cover operating expenses, including adequate maintenance and depreciation, and interest; (b) to meet repayments on long-term indebtedness but only to the extent that such repayments shall exceed provision for depreciation; and (c) to leave a reasonable surplus to finance new investment.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent

time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) of the Loan Regulations : (a) the Borrower shall have obtained from the Municipality of Cali assurances satisfactory to the Bank concerning the timely expansion of the municipal electric distribution system to a capacity sufficient to distribute all energy generated by the Borrower; (b) arrangements satisfactory to the Bank shall have been made for provision of the local currency needed by the Borrower in the years 1955 and 1956.

Section 7.02. A date 60 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be December 31, 1958.

Section 8.02. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower : Central Hidroeléctrica del Río Anchicaya Limitada, Apartado Postal 137, Cali, Colombia.

For the Bank : International Bank for Reconstruction and Development, 1818 H Street, N.W., Washington 25, D.C., United States of America.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

International Bank for Reconstruction and Development
By Eugene R. BLACK
President

Central Hidroeléctrica del Río Anchicaya Limitada
By L. E. PALACIOS
Authorized Representative

SCHEDULE 1

AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)*</i>
July 15, 1958	—	\$4,500,000	January 15, 1967	133,000	2,613,000
January 15, 1959	\$ 91,000	4,409,000	July 15, 1967	136,000	2,477,000
July 15, 1959	94,000	4,315,000	January 15, 1968	139,000	2,338,000
January 15, 1960	96,000	4,219,000	July 15, 1968	143,000	2,195,000
July 15, 1960	98,000	4,121,000	January 15, 1969	146,000	2,049,000
January 15, 1961	100,000	4,021,000	July 15, 1969	150,000	1,899,000
July 15, 1961	103,000	3,918,000	January 15, 1970	153,000	1,746,000
January 15, 1962	105,000	3,813,000	July 15, 1970	157,000	1,589,000
July 15, 1962	108,000	3,705,000	January 15, 1971	160,000	1,429,000
January 15, 1963	110,000	3,595,000	July 15, 1971	164,000	1,265,000
July 15, 1963	113,000	3,482,000	January 15, 1972	168,000	1,097,000
January 15, 1964	116,000	3,366,000	July 15, 1972	172,000	925,000
July 15, 1964	118,000	3,248,000	January 15, 1973	176,000	749,000
January 15, 1965	121,000	3,127,000	July 15, 1973	181,000	568,000
July 15, 1965	124,000	3,003,000	January 15, 1974	185,000	383,000
January 15, 1966	127,000	2,876,000	July 15, 1974	189,000	194,000
July 15, 1966	130,000	2,746,000	January 15, 1975	194,000	—

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 5 years before maturity	½ of 1%
More than 5 years but not more than 10 years before maturity	1%
More than 10 years but not more than 15 years before maturity	1¾%
More than 15 years before maturity	2½%

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The power generating and substation facilities of the Borrower will be expanded through installation of hydro-electric, thermal electric and substation equipment.

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in these columns represent dollar equivalents determined as for purposes of withdrawal.

(a) *Hydroelectric Installations*

A third hydraulic turbine of 32,000 horsepower to operate at a normal head of 235 feet, a generating unit of 20,000 KW and all necessary mechanical and electrical auxiliaries including an overhead crane, penstocks and valves will be installed at the existing powerhouse site of the Borrower located on the Anchicaya River below its confluence with the Digua River. A 110 KW step-up substation will be added to the existing substation at the side of the powerhouse. Necessary spare parts for the above equipment, and a spare transformer bank with switchgear for the step-up substation will be provided.

(b) *Thermal Installations*

A 12,500 KW thermal power plant will be constructed at a site near Yumbo at Puerto Isaacs. The plant will have an outdoor-type boiler which will supply steam at 600 pounds per square inch and 825° F. to a conventionally housed steam turbine. All necessary auxiliary power plant equipment such as wiring, controls, coal handling equipment, pumps, piping, etc. will be installed. The coal handling and ash removal equipment will be installed with sufficient capacity so that it could handle two additional similar units. A complete 34.5 KV step-up substation will be installed adjacent to the plant and will be connected directly to the Cali municipal system.

(c) *Substations*

The San Antonio and Chipchape receiving substations located in the outskirts of Cali will each be expanded by the addition of switchgear and transformers so that 20,000 KW additional capacity can be available for distribution in the Cali system through each substation.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS No. 4¹

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated October 15, 1952, shall be deemed to be modified as follows :

(a) The second sentence of Section 2.02 shall be deleted and the following shall be substituted :

Such commitment charge shall accrue from the Effective Date, or from a date sixty days after the date of the Loan Agreement, whichever shall be the earlier, or from such other date as may be specified in the Loan Agreement for the purpose of this Section, to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV or shall be cancelled pursuant to Article V.

(b) Paragraph (c) of Section 2.05 shall be deleted and the following shall be substituted :

(c) It is the policy of the Bank to encourage the repayment of its loans prior to maturity. Accordingly the Bank will sympathetically consider, in the light of

¹ See p. 226 of this volume.

all circumstances then existing, any request of the Borrower to waive the payment of any premium payable under paragraph (b) of this Section or under Section 6.16 on repayment of any portions of the Loan or Bonds which the Bank has not sold or agreed to sell.

(c) Paragraphs (e) and (i) of Section 5.02 shall be deleted and the following shall be substituted :

(e) If the Borrower shall take or permit to be taken any action or proceeding whereby any of its property shall or may be assigned or in any manner transferred or delivered to any receiver, assignee, liquidator or other person, whether appointed by the Borrower or by a court or by the Guarantor or by authority of any law, whereby such property shall or may be distributed among the creditors of the Borrower.

(i) After the date of the Loan Agreement and prior to the Effective Date any action shall have been taken which would have constituted a violation of any covenant contained in the Loan Agreement or Guarantee Agreement relating to the creation of liens as security for debt if the Loan Agreement and Guarantee Agreement had been effective on the date such action was taken.

(d) Section 6.17 shall be deleted and the following shall be substituted :

SECTION 6.17. *Rights of Holders of Bonds.* No holder (other than the Bank) of any Bond shall, by virtue of being the holder thereof, be entitled to exercise any rights under the Loan Agreement or the Guarantee Agreement or be subject to any of the conditions or obligations imposed upon the Bank thereby. The provisions of this Section shall not impair or affect any rights or obligations under the terms of any Bond or of any guarantee endorsed thereon.

(e) The third and fourth sentences of paragraph (i) of Section 7.04 shall be deleted and the following shall be substituted :

The Bank, the Borrower and the Guarantor shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided and borne equally between the Bank on the one side and the Borrower and Guarantor on the other. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

(f) Section 9.01 shall be deleted and the following shall be substituted :

SECTION 9.01. *Conditions Precedent to Effectiveness of Loan Agreement and Guarantee Agreement.* The Loan Agreement and Guarantee Agreement shall not become effective until :

(a) the Borrower has notified the Bank that (i) the execution and delivery of the Loan Agreement on behalf of the Borrower have been duly authorized or ratified by all necessary corporate and governmental action, and (ii) all other events specified in the Loan Agreement as conditions to its effectiveness have occurred;

(b) the Guarantor has notified the Bank that (i) the execution and delivery of the Guarantee Agreement on behalf of the Guarantor have been duly authorized or ratified by all necessary governmental action, and (ii) all other events relating to the Guarantor and specified in the Loan Agreement as conditions to its effectiveness have occurred; and

(c) the Borrower and the Guarantor have furnished to the Bank evidence thereof satisfactory to the Bank.”

(g) Section 9.02 shall be deleted and the following shall be substituted :

SECTION 9.02. *Legal Opinions.* As part of the evidence to be furnished pursuant to Section 9.01, there shall be furnished to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank showing :

(a) that the Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and constitutes a valid and binding obligation of the Borrower in accordance with its terms;

(b) that the Bonds when executed and delivered in accordance with the Loan Agreement will constitute valid and binding obligations of the Borrower in accordance with their terms and that, except as stated in such opinion, no signatures or formalities other than those provided for in the Loan Agreement are required for that purpose;

(c) that the Guarantee Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Guarantor and constitutes a valid and binding obligation of the Guarantor in accordance with its terms;

(d) that the guarantee on the Bonds when executed and delivered in accordance with the Guarantee Agreement will constitute a valid and binding obligation of the Guarantor in accordance with its terms and that, except as stated in such opinion, no signatures or formalities other than those provided for in the Guarantee Agreement are required for that purpose; and

(e) such other matters as shall be specified in the Loan Agreement.

(h) The last sentence of the second paragraph of Schedule 1 and of Schedule 2 shall be deleted and the following shall be substituted :

No reference herein to said Agreements shall confer upon the holder hereof any rights thereunder or impair the obligation of the Borrower, which is absolute and unconditional, to pay the principal and interest on this Bond at the times and place and in the amounts and in the currency herein prescribed.

(i) The eighth paragraph of Schedule 1 and the seventh paragraph of Schedule 2 shall be deleted and the following shall be substituted :

The principal of the Bonds, the interest accruing thereon and the premium, if any, on the redemption thereof shall be paid without deduction for and free from any taxes, imposts, levies or duties of any nature or any restrictions now or at any time hereafter imposed under the laws of [name of Guarantor] or laws in effect in its territories; *provided, however, that the provisions of this paragraph shall not*

apply to the taxation of payments made under the provisions of any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of [name of Guarantor].

(j) Schedule 3 shall be deleted and the following shall be substituted :

FORM OF GUARANTEE

[Name of Guarantor], for value received, as a primary obligor and not as surety merely, hereby absolutely and unconditionally guarantees, and pledges its full faith and credit for, the due and punctual payment of the principal and redemption price of the within Bond and the interest thereon, free from taxes and restrictions as therein provided, prior notice to, demand upon or action against the obligor on said Bond or the undersigned being waived.

[Name of Guarantor]

By

Dated

Authorized Representative