

No. 4473

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

Guarantee Agreement—*Trombay Project* (with annexed Loan Regulations No. 4 and Loan Agreement—*Trombay Project*—between the Bank and the Tata Hydro-Electric Power Supply Company, Limited, the Andhra Valley Power Supply Company, Limited, and the Tata Power Company, Limited). Signed at Washington, on 19 November 1954

Official text: English.

Registered by the International Bank for Reconstruction and Development on 15 August 1958.

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

Contrat de garantie — *Projet Trombay* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt — *Projet Trombay* — entre la Banque et la Tata Hydro-Electric Power Supply Company, Limited, l'Andhra Valley Power Supply Company, Limited, et la Tata Power Company, Limited). Signé à Washington, le 19 novembre 1954

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 15 août 1958.

No. 4473. GUARANTEE AGREEMENT¹ (*TROMBAY PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, SIGNED AT WASHINGTON, ON 19 NOVEMBER 1954

AGREEMENT, dated November 19, 1954 between INDIA, acting by its President, (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 of the one part and The Andhra Valley Power Supply Company, Limited, The Tata Hydro-Electric Power Supply Company, Limited and The Tata Power Company, Limited (hereinafter called the Borrowers) of the other part, which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrowers a loan in various currencies in an aggregate principal amount equivalent to sixteen million two hundred thousand dollars (\$16,200,000), 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;

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

WHEREAS an agreement dated November 17, 1954 as recited in the Loan Agreement has been entered into between the Guarantor and the Borrowers providing the terms on which the Guarantor is willing to give its guarantee above recited;

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 3³ to said Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter

¹ Came into force on 12 December 1955, upon notification by the Bank to the Government of India.

² See p. 168 of this volume.

³ See p. 192 of this volume.

called the Loan Regulations), with the same force and effect as if they were fully set forth herein. The terms defined in said Loan Agreement shall have the same meaning herein as if such definitions were fully set forth herein.

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 and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement, the Trust Deed and the Bonds.

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 or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision 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: (a) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (b) any pledge of commercial goods to secure debt maturing not more than one year after its date and to be paid out of the proceeds of sale of such commercial goods; or (c) any pledge by the Reserve Bank of India of any of its assets in the ordinary course of its banking business to secure any indebtedness maturing not more than one year after its date.

Section 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan shall 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

tor, 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 shall arise that shall interfere with, or threaten 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 (including duties, fees or impositions) 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 duties or fees or impositions levied 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 Guarantee Agreement, the Loan Agreement, the Trust Deed and the Bonds shall be free from any taxes (including duties, fees or impositions) 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 shall not amend the Government Agreement without the approval of the Bank.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Agreement and of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. A Secretary to the Government of India in the Ministry of Finance is designated as the authorized representative 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 :

The Secretary to the Government of India
Ministry of Finance
New Delhi
India

For the Bank :

International Bank for Reconstruction and Development,
1818 H Street, N.W.
Washington 25, District of Columbia
United States of America

Section 5.02. A Secretary to the Government of India in the Ministry of Finance 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.

India :

By G. L. MEHTA
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 (*TROMBAY PROJECT*)

AGREEMENT, dated November 19, 1954, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) of the one part and THE TATA HYDRO-ELECTRIC POWER SUPPLY COMPANY, LIMITED (hereinafter sometimes called Hydro), THE ANDHRA VALLEY POWER SUPPLY COMPANY, LIMITED (hereinafter sometimes called Andhra) and THE TATA POWER COMPANY, LIMITED (hereinafter sometimes called Power), all being companies duly incorporated under the Indian Companies Acts (said companies being hereinafter sometimes collectively called the Borrowers) of the other part.

WHEREAS

(A) The Bank has been requested to grant a loan to the Borrowers;

(B) The said loan is to be guaranteed as to payment of principal, interest and other charges by the Government of India upon the terms of a Guarantee Agreement of even date¹ herewith and is to be secured as hereinafter in Section 5.04 provided, which security is to be constituted by and provided for in the Trust Deed as hereinafter defined;

(C) Andhra by a Trust Deed dated 25th September 1940 (as modified by an Agreement dated 19th October 1950) has created a first specific mortgage and a first floating charge in respect of all its property and undertaking securing its 4% Mortgage Debentures maturing by their terms on 1st April 1959;

(D) Power by a Trust Deed dated 22nd August 1940 has created a first specific mortgage and a first floating charge in respect of all its property and undertaking securing its 4% Mortgage Debentures maturing by their terms on 1st September 1955;

(E) Power by a Trust Deed dated 29th June 1949 (as supplemented by a Supplemental Trust Deed dated 28th September 1950) has created a second specific mortgage and a second floating charge in respect of all its property and undertaking securing its 4% Mortgage Debentures maturing by their terms on 1st July 1970;

(F) Andhra and Power have agreed to cause the holders of the Mortgage Debentures referred to in the foregoing recitals to consent to modifications of the respective Trust

¹ See p. 160 of this volume.

Deeds securing the same so as to permit the security referred to in recital (B) above to rank prior to the mortgages and charges constituted by said Trust Deeds;

(G) The Guarantor and the Borrowers have entered into an Agreement dated 17 November, 1954 (hereinafter called the Government Agreement) providing the terms on which the Guarantor is willing to give its guarantee above recited; and

WHEREAS the Bank has, upon the basis of the foregoing, agreed to make a loan to the Borrowers upon the terms and conditions hereinafter set forth;

NOW THEREFORE, it is hereby agreed as follows:

Article I

LOAN REGULATIONS; SPECIAL DEFINITIONS

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.

Section 1.02. The term "Trust Deed" means the trust deed to be executed by the Borrowers in accordance with the provisions of Section 5.04 (a) of this Agreement and shall include any deed supplemental thereto which shall be executed and delivered in accordance with the provisions of the Trust Deed.

The term "Andhra Trust Deed" means the trust deed dated 25th September 1940 (as modified) hereinbefore in recital (C) referred to and shall include any deed or deeds supplemental thereto.

The term "First Power Trust Deed" means the trust deed dated 22nd August 1940 hereinbefore in recital (D) referred to and shall include any deed or deeds supplemental thereto.

The term "Second Power Trust Deed" means the trust deed dated 29th June 1949 (as supplemented hereinbefore in recital (E) referred to and shall include any deed or deeds supplemental thereto.

The term "Trombay License" means the Trombay Thermal Power Electric License, 1953, granted to the Borrowers by the Government of Bombay.

The term "subsidiary" means any company which is a subsidiary of any one of the Borrowers within the meaning of the Indian Companies Act 1913 (or any amendment thereof).

The term "rupees" and the letters "Rs." mean currency of the Guarantor.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrowers, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to sixteen million two hundred thousand dollars (\$16,200,000).

¹ See p. 168 of this volume.

² See p. 192 of this volume.

Section 2.02. The Bank shall open a Loan Account on its books in the names of the Borrowers 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 this Agreement.

Section 2.03. The Borrowers 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. Such commitment charge shall accrue from the Effective Date or from a date being 60 days after the date of this Agreement, whichever shall be the earlier, to the respective dates on which amounts shall be withdrawn by the Borrowers from the Loan Account or shall be cancelled pursuant to Article V of the Loan Regulations.

Section 2.04. The Borrowers 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.

Section 2.05. Except as the Bank and the Borrowers shall otherwise agree, the charge payable for any special commitment entered into by the Bank at the request of the Borrowers 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 such special commitment outstanding.

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

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

Section 2.08. (a) All obligations of the Borrowers under this Loan Agreement, the Bonds and the Trust Deed shall be joint and several and the obligation of any of them to comply with any provision of this Loan Agreement is not subject to any prior notice to, demand upon or action against or in relation to any of the others.

(b) The Bank may release, or grant extension of time or forbearance to, any of the Borrowers in respect of the performance of any obligations under this Loan Agreement, the Bonds or the Trust Deed without affecting the obligations of the other or others of the Borrowers.

(c) Notwithstanding any other provision of this Agreement any notice, demand or protest given or made by the Bank to any of the Borrowers shall be deemed to have been given or made to all the Borrowers.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrowers shall apply the proceeds of the Loan exclusively to the cost of goods which will be required for the carrying out of the Project described

¹ See p. 188 of this volume.

in Schedule 2¹ to this Agreement. The specific goods so to be purchased out of the proceeds of the Loan shall be determined by agreement between the Borrowers and the Bank, and the list of such goods may be modified from time to time by agreement between them.

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

Article IV

BONDS

Section 4.01. The Borrowers shall execute and duly deliver Bonds (in registered or bearer form as the Bank shall request) representing the principal amount of the Loan of the form, tenor and purport prescribed in the Trust Deed and as provided thereby and in the Loan Regulations. All Bonds shall have the guarantee of the Guarantor endorsed thereon substantially in the form set forth in Schedule 3² to the Loan Regulations.

Section 4.02. Except as the Bank and the Borrowers shall otherwise agree in writing, the Borrowers shall, against payment by the Bank of any amount to be withdrawn from the Loan Account pursuant to Article II of this Agreement, execute and deliver to or on the order of the Bank Bonds in the aggregate principal amount so paid, provided that the Bank may, at its option, require the Borrowers, as soon as practicable and within 60 days after the date of any request therefor or within such other period as may be agreed between the Borrowers and the Bank, to execute and deliver to or on the order of the Bank, Bonds in the aggregate principal amount specified in such request, not exceeding, however, the aggregate principal amount of the Loan which shall have been withdrawn and shall be outstanding and unpaid at the date of such request and for which Bonds shall not theretofore have been executed and delivered.

Section 4.03. The Borrowers shall from time to time designate and notify to the Bank an authorized representative or representatives for the purposes of Section 6.12 (a) of the Loan Regulations.

Section 4.04. The Borrowers shall effect original issues of the Bonds only as herein provided.

Section 4.05. The Bank and the Borrowers shall be at liberty to make such arrangements as they may from time to time mutually agree as to procedure for the issue, authentication and delivery of Bonds and such arrangements may be in addition to or in substitution for any of the provisions of this Agreement or of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. The Borrowers shall carry out and complete the Project and operate their undertakings, including the Project, with due diligence and efficiency and in conformity with sound engineering, financial and commercial practices.

¹ See p. 188 of this volume.

² See Vol. 157, p. 308.

Section 5.02. (a) The Borrowers shall furnish to the Bank, promptly upon their preparation, the general plans and specifications for the Project, the construction schedule and any material modifications subsequently made therein.

(b) The Borrowers shall maintain records adequate to identify the goods purchased 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 Borrowers.

(c) The Borrowers shall enable the Bank's representatives to inspect any and all goods purchased out of the proceeds of the Loan and the sites, works and construction included in the Project and to examine any relevant records and documents.

(d) The Borrowers shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the use of the goods purchased therewith, the progress of the Project and the operations and financial condition of the Borrowers.

Section 5.03. (a) The Bank and the Borrowers shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each party 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 Borrowers 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 Borrowers 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) Each of the Borrowers shall cause each of its subsidiaries (if any) to observe and perform the obligations of the Borrowers hereunder to the extent to which the same may be applicable thereto as though such obligations were binding upon each of such subsidiaries.

Section 5.04. (a) The Borrowers shall, as soon as practicable, execute and deliver and shall procure all other necessary parties to execute and deliver a Trust Deed in favor of such Trustees and in such form as the Bank may reasonably require to constitute by way of security for the Loan : (1) a First Specific Mortgage upon all the immovable properties, and the transmission lines, machinery and plant, included or to be included in the Project or subsequently added thereto together with all rights and interests in property appertaining to or necessary for said immovable properties, transmission lines, machinery and plant to which the Borrowers or any of them are now or may hereafter become beneficially entitled; (2) a First Floating Charge upon all property or rights of the Borrowers or any of them now or hereafter specifically acquired for, or appropriated for use for, or lying in or about the said immovable properties or any part thereof; and (3) an Assignment by way of Mortgage of the Trombay License, together with any extensions or renewals thereof, such Mortgage, Charge and Assignment to rank in point of security, subject to the provisions of sub-section (b) of this Section, prior to any other mortgage, charge or lien upon any of the properties or assets of the Borrowers or any

of them, now existing or hereafter created, including the Andhra Trust Deed, the First Power Trust Deed and the Second Power Trust Deed.

(b) Each of the Borrowers undertakes that, except as the Bank shall otherwise agree, no mortgage, hypothecation, pledge, lien or charge shall be created on any of its assets as security for any debt, or extended to secure any additional debt, except that any one or more of the Borrowers may :

- (A) (1) create mortgages, hypothecations, specific charges or pledges ranking in priority to the floating charge under the Trust Deed and referred to in sub-clause (a) (2) of this Section on all or any properties or assets of the Borrowers or any of them not specifically mortgaged or assigned by way of mortgage (or agreed to be so mortgaged or assigned) by or pursuant to the Trust Deed in terms of sub-clause (a) (1) and (3) of this Section; and
- (2) without prejudice to (1) above and subject to the priority of the security created or to be created by or pursuant to the Trust Deed, create mortgages, hypothecations, liens or charges on any of the properties or assets of the Borrowers or any of them

for securing debts or borrowings up to an aggregate for all the Borrowers (under both (1) and (2) above) of twenty million rupees (Rs. 20,000,000) for the purposes of financing or refinancing the original cost of the Project but so that no lender or other person dealing with the Borrowers or any of them as the case may be shall be entitled or concerned to see or enquire whether this limit is observed or not or whether monies so borrowed are being applied for the purposes hereby authorized or not provided the lender has obtained a certificate from the Borrowers or any of them as the case may be certifying that the amounts borrowed and then to be borrowed are within the above limits and have been and will be applied for the purposes herein authorized;

- (B) Subject to the First Specific Mortgage and the Assignment by way of Mortgage created or to be created by or pursuant to the Trust Deed, create pledges or hypothecations securing debts or borrowings, maturing not more than one year (at a time) from their respective dates and incurred to bankers in the ordinary course of business, in an amount not exceeding in the aggregate for all the Borrowers at any one time five million rupees (Rs. 5,000,000) but so that no lender or other person dealing with the Borrowers or any of them shall be entitled or concerned to see or enquire whether this limit is observed or not provided that the lender has obtained from the Borrowers or any of them as the case may be a certificate certifying that the amounts borrowed and then to be borrowed are within the aforesaid limits.

(c) The Trust Deed shall provide (*inter alia*) that no subsidiary of any Borrower shall at any time without the consent of the Bank create any mortgage, charge or security on its undertaking, properties or assets (including uncalled capital) or any part thereof otherwise than in favor of such Borrower and that all mortgages, charges or securities

created by any subsidiary of any Borrower in favor of such Borrower shall be retained by such Borrower and shall not be sold, transferred or otherwise disposed of by it and that it will not sell, transfer or otherwise dispose of any shares for the time being held by it in any subsidiary.

(d) The Borrowers shall take all necessary steps and shall procure all other necessary parties to take all necessary steps to ensure that all mortgages and charges outstanding upon the property and assets to be mortgaged, charged or assigned by the Trust Deed shall be discharged or be varied to the reasonable satisfaction of the Bank so as to provide that the Mortgage, Charge and Assignment by way of Mortgage constituted by the Trust Deed shall, subject as provided in Section 5.04 (b) (A) (1) and (B), rank first in point of security upon such property and assets.

Section 5.05. (a) The Borrowers shall at all times take all requisite steps for the acquisition and retention by them of all such lands, interests in land and properties and all rights, powers and privileges as may be necessary or proper for the construction and operation of the Project and the carrying on of their respective businesses.

(b) The Borrowers will at all times maintain their respective corporate existences and rights to carry on operations and will, except as the Bank may otherwise agree in writing, maintain and renew all rights, powers, privileges and franchises owned or held by them or any of them and necessary or useful in the conduct of their respective businesses.

Section 5.06. No debentures of any of the Borrowers secured by any existing trust deed shall, after the respective dates fixed in the deeds for their final payment, be reissued without the approval of the Bank.

Section 5.07. The Borrowers shall pay or cause to be paid all taxes (including duties, fees or impositions), if any, 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 of the Loan Agreement, the Guarantee Agreement, the Trust Deed 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 (including duties levied in respect of, or fees or impositions 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 5.08. The Borrowers shall pay or cause to be paid all taxes (including duties, fees and impositions), if any, imposed under the laws of the United Kingdom or the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of the United Kingdom or such country or countries on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement, the Trust Deed or the Bonds.

Section 5.09. Except as shall be otherwise agreed between the Bank and the Borrowers, the Borrowers shall insure or cause to be insured with responsible insurers all goods purchased with the proceeds of the Loan. Such insurance shall cover such

marine, transit and other hazards incident to delivery of the goods into the territories of the Guarantor, and shall be for such amounts, as shall be consistent with sound commercial practice. Each contract of insurance shall be payable in dollars or in the currency in which the cost of the goods shall be payable.

Section 5.10. The Borrowers shall not consent to any action taken at any meeting of bondholders or by written instrument pursuant to the provisions of the Trust Deed which would change the terms of the Bonds or adversely affect the holders thereof unless the Bank shall have expressed in writing its approval of such action or such consent.

Section 5.11. The Government Agreement shall not be amended without the approval of the Bank.

Section 5.12. The Borrowers shall not, except as the Bank and the Borrowers shall otherwise agree, take or concur in any action which would have the effect of amending, abrogating, or assigning the Trombay License.

Section 5.13. None of the Borrowers shall amend its Memorandum or Articles of Association without the approval of the Bank.

Article VI

REMEDIES OF THE BANK

Section 6.01. If any event specified in paragraph (a) or paragraph (b) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or if the security constituted by the Trust Deed shall become enforceable, or 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 Borrowers, 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 Loan Agreement, the Trust Deed 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 (c) of the Loan Regulations :

- (a) The Borrowers shall, to the reasonable satisfaction of the Bank, validly have acquired all such lands and properties and all such rights of way, easements, licenses, consents, or other rights or privileges as may be necessary or requisite to enable them to construct and operate the Project, or shall (to the like satisfaction) have made effective arrangements for the acquisition thereof or have effective powers therefor; and the Borrower shall have supplied to the Bank a certificate, satisfactory to the Bank, setting forth particulars of the foregoing.

- (b) The Trust Deed shall have been duly executed and delivered and have become fully effective in accordance with its terms and (except as the Bank may otherwise agree) all documents required to be registered under Indian law shall have been duly registered.
- (c) That the requirements of Section 5.04 (d) hereof shall have been validly complied with.
- (d) Each of the Borrowers shall have certified in writing to the Bank that, as of a date to be agreed between the Borrower and the Bank, there has been no material adverse change in its condition since the date of this Agreement.

Section 7.02. The following are specified as additional matters, within the meaning of Section 9.02 (d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

- (a) That the Borrowers have full power and authority to construct and operate the Project and have all necessary rights and powers in connection therewith and that all acts, franchises, concessions, consents and approvals necessary therefor have been duly and validly performed or given.
- (b) That the Borrowers have full power and authority to raise monies by the issuance of Bonds and otherwise as herein provided, and that all acts, consents and approvals necessary therefor have been duly and validly performed or given.
- (c) That, as to such lands and interests in land specified in the certificate referred to in Section 7.01 (a) as having been acquired, the Borrowers have good and marketable title thereto; that, as to such licenses, consents or other rights or privileges specified in said certificate as having been acquired, the Borrowers have validly acquired the same and that the same are valid and effective; and that, as to arrangements specified in said certificate for the acquisition of any of the foregoing, such arrangements are valid and effective.
- (d) That the Trust Deed has been duly authorized and executed and delivered on behalf of the Borrowers and constitutes a valid and effective Mortgage, Charge and Assignment enjoying priorities in accordance with its terms and that (save as permitted therein) no prior or *pari passu* charge or encumbrance then exists on any part of the properties or assets covered thereby.

Section 7.03. A date 90 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 June 30, 1958.

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

For the Bank :

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

For the Borrowers :

Tata Hydro-Electric Agencies Limited
Bombay House
Bruce Street
Bombay No. 1
India

Section 8.03. (a) Until the Bank shall be otherwise notified by the Borrowers any notice or request required or permitted to be given or made by the Bank pursuant to the provisions of this Agreement or of the Bonds to the Borrowers or any of them shall be deemed to have been duly given or made if it is addressed and delivered to Tata Hydro-Electric Agencies Limited at the address specified in Section 8.02 of this Agreement.

(b) Tata Hydro-Electric Agencies Limited and Tata Incorporated jointly are and each of them severally is hereby designated by the Borrowers and each of them to sign applications provided for in Article IV of the Loan Regulations and to take any other action or execute any other documents except Bonds required or permitted to be taken or executed pursuant to the provisions of this Agreement by the Borrowers or any of them and the Bank shall be entitled to rely exclusively on any such action or execution.

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

The Tata Hydro-Electric Power Supply Company, Limited :

The Andhra Valley Power Supply Company, Limited :

The Tata Power Company, Limited :

By J. D. CHOKSI
Authorized Representative
Countersigned:

Tata Hydro-Electric Agencies Limited :

By J. D. CHOKSI
Director

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>
—	—	\$16,200,000	October 15, 1966 . .	\$479,000	\$9,407,000
October 15, 1958 . .	\$329,000	15,871,000	April 15, 1967 . . .	490,000	8,917,000
April 15, 1959 . . .	337,000	15,534,000	October 15, 1967 . .	502,000	8,415,000
October 15, 1959 . .	345,000	15,189,000	April 15, 1968 . . .	514,000	7,901,000
April 15, 1960 . . .	353,000	14,836,000	October 15, 1968 . .	526,000	7,375,000
October 15, 1960 . .	361,000	14,475,000	April 15, 1969 . . .	538,000	6,837,000
April 15, 1961 . . .	370,000	14,105,000	October 15, 1969 . .	551,000	6,286,000
October 15, 1961 . .	379,000	13,726,000	April 15, 1970 . . .	564,000	5,722,000
April 15, 1962 . . .	388,000	13,338,000	October 15, 1970 . .	578,000	5,144,000
October 15, 1962 . .	397,000	12,941,000	April 15, 1971 . . .	591,000	4,553,000
April 15, 1963 . . .	406,000	12,535,000	October 15, 1971 . .	605,000	3,948,000
October 15, 1963 . .	416,000	12,119,000	April 15, 1972 . . .	620,000	3,328,000
April 15, 1964 . . .	426,000	11,693,000	October 15, 1972 . .	635,000	2,693,000
October 15, 1964 . .	436,000	11,257,000	April 15, 1973 . . .	650,000	2,043,000
April 15, 1965 . . .	446,000	10,811,000	October 15, 1973 . .	665,000	1,378,000
October 15, 1965 . .	457,000	10,354,000	April 15, 1974 . . .	681,000	697,000
April 15, 1966 . . .	468,000	9,886,000	October 15, 1974 . .	697,000	—

* 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.

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 or Prepayment or Redemption</i>	<i>Premium</i>
Not more than 5 years before maturity	½%
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	1¼%
More than 15 years before maturity	2½%

SCHEDULE 2

DESCRIPTION OF THE PROJECT

General

The Project consists of: a thermal station with an installed maximum capacity of 125,000 KW to be located at Trombay in Bombay Harbour; condenser cooling water pipe line works at Trombay; a substation at the Trombay plant site; an overhead trans-

mission line connecting the Trombay substation to the existing high tension lines of the Borrowers; an operators' colony; a receiving station to be located at Carnac Bridge in Bombay; and overhead transmission and underground transmission cables between the Trombay thermal station and the Carnac Bridge receiving station.

Thermal Station Site

The thermal station site at Trombay consists of about 135 acres, now in the possession of the Borrowers, title to which is in process of being acquired.

Thermal Station

The thermal station will include two hydrogen cooled turbo-generator units, each rated at 62,500 KW maximum capacity operating with steam at 1250 PSI pressure 950° F. temperature; two steam generating units, each rated at 600,000 pounds per hour maximum continuous output, fired with waste refinery gas, hot pitch or Bunker " C " oil, with provision for possible future pulverized coal firing; condensing equipment; a circulating water system; fuel handling and storage facilities; a feedwater treating and heating system; controls, instrumentation and electrical equipment, including auxiliary switchgear and transformers; and other necessary appurtenances and accessories. Cooling water will be provided by the pipe line works hereinafter described.

The station site will require clearing, grading, drainage, railroad trackage, roads and bridges, and a water supply connection to the city main. Thermal station structures will include, besides the main plant, an office and service building; warehouse; and transformer repair shop.

Pipe Line Works

The pipe line works will be constructed on the Trombay foreshore and will consist of : (a) earth works to be jointly owned by the Trustees for the Port of Bombay, Burmah-Shell Refineries Limited and the Borrowers; (b) a pier and pumphouse structure to be jointly owned by Burmah-Shell Refineries Limited and the Borrowers; and (c) a pumping station and pipe line, to be owned by the Borrowers, for conveying cooling water to the Trombay plant. The pier and earth works will be constructed on land to be leased for the purpose.

Trombay Substation

The substation at the Trombay plant site will include a 110 KV switchyard with two 80 MVA step-up transformers to tie in with the existing high-tension transmission system and to feed power to the new receiving station at Carnac Bridge; and a 22 KV

switchyard with three 10 MVA step-down transformers for power distribution to the adjacent new refineries at Trombay and for other local feeders.

Tie Line

A two circuit 110 KV tower line about 3 miles long will connect the Trombay switchyard to the existing tie line between the Dharavi and Parel substations.

Operators' Colony

An operators' colony including housing, recreation, municipal and other facilities will be constructed on land located about one mile from the Trombay plant site, now in the possession of the Borrowers, title to which is in the process of being acquired.

Transmission

A 110 KV double circuit overhead transmission line, approximately 3.5 miles long and a double circuit underground oil pressurized transmission cable approximately 4.5 miles long will be constructed between the Trombay switchyard and the receiving station at Carnac Bridge.

Carnac Bridge Station

The receiving station at Carnac Bridge will be located on land now being acquired for the Borrowers by Bombay State and will consist of 110 KV, 22 KV and 11.5 KV switching equipment, two 80 MVA step-down transformers and one 25 MVA synchronous condenser, including a control building; and will be complete with all necessary control panels, switch-gear, control wiring, grounding system and other accessories.

Operations

The first Trombay turbogenerator unit is scheduled for operation in October, 1956; the second in April, 1957.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS NO. 4

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

(a) The second sentence of Section 2.02 is deleted.

(b) Section 2.05 (c) is amended to read as follows :

“(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 all circumstances then existing, any request of the Borrower to waive the payment of any premium payable under paragraph (b) of this Section on repayment of the Loan (and likewise the payment of any premium payable under Section 6.16 on redemption of Bonds held by the Bank).”

(c) The first sentence of Section 3.01 is amended to read as follows :

“ The Borrower shall use reasonable efforts to assure that goods financed out of the proceeds of the Loan are purchased with the currencies of the countries from which such goods are acquired.”

(d) Sub-section (e) and (i) of Section 5.02 are amended to read as follows :

“ (e) If the security constituted by the Trust Deed shall become enforceable ”;

“ (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 had been effective on the date such action was taken.”

(e) Section 6.03 is deleted.

(f) Section 6.04 is amended to read as follows :

“ SECTION 6.04. *Interest on Bonds; Service Charge.* The Bonds shall bear interest at such rate or rates as the Bank shall request, not in excess, however, of the rate of interest on the Loan. If the rate of interest on any Bond shall be less than the rate of interest on the Loan, the Borrower shall, in addition to the interest payable on such Bond, pay to the Bank interest (herein called the service charge) on the principal amount of the Loan represented by such Bond at a rate equal to the difference between the interest rate on the Loan and the interest rate on such Bond. The service charge shall be payable on the dates on which and in the currency in which such interest is payable.”

(g) The words “ delivered pursuant to any request under Section 6.03 ” and the words “ in such request ” are deleted from Sections 6.05, 6.06 and 6.10.

(h) Section 6.07 is amended to read as follows :

“ SECTION 6.07. *Form of Bonds.* The Bonds shall be fully registered bonds without coupons (hereinafter sometimes called registered Bonds) or bearer bonds with coupons for semi-annual interest attached (hereinafter sometimes called coupon Bonds). Bonds delivered to the Bank shall be registered Bonds or coupon Bonds in such temporary or definitive form (authorized by the Trust Deed) as the Bank shall request. Registered Bonds and coupon Bonds payable in dollars and the coupons attached thereto shall be substantially in the forms respectively set forth in the Trust Deed. Bonds payable in any currency other than dollars shall be substantially in the forms respectively set forth in the Trust Deed, as the case may be, except that they shall (a) provide for payment of principal, interest and premium

on redemption, if any, in such other currency, (b) provide for such place of payment as the Bank shall specify, and (c) contain such other modifications as the Bank shall reasonably request in order to conform to the laws or to the financial usage of the place where they are payable. All Bonds shall have the guarantee of the Guarantor endorsed thereon substantially in the form set forth in Schedule 3 to these Regulations.”

(i) Sections 6.08, 6.13 and 6.18 and Schedules 1 and 2 are deleted.

(j) The following sentence is added at the beginning of Section 6.09, namely :

“ Except as the Bank and the Borrower shall otherwise agree, Bonds shall be dated as hereinafter in this Section provided.”

(k) The following new sub-section is added to Section 6.11, namely :

“ (d) Subject to the provisions of Sections 6.05 and 6.06 of these Regulations, Bonds payable in any currency may be exchanged without charge to the Bank for Bonds of the same or an equivalent aggregate principal amount payable in the same or any other currency or currencies and having the same or any other maturity or maturities. For the purposes of determining the equivalent of one currency in terms of another the value of each shall be as determined by the Bank.”

(l) The first sentence of Section 6.12 (a) is changed to read as follows :

“ The Bonds shall be signed in the name and on behalf of the Borrower by its authorized representative designated pursuant to the Loan Agreement for the purposes of this Section.”

(m) In Section 7.01, after the words “ Guarantee Agreement ” where those words occur, the words “ the Trust Deed ” are added.

(n) The following words in the fourth and fifth lines of sub-section (c) of Section 7.04 are deleted, that is to say :

“ or, if they shall not agree, by the Guarantor.”

(o) The third and fourth sentences of sub-section (i) of Section 7.04 are amended to read as follows :

“ 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 costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.”

(p) Sub-section (j) of Section 7.04 is amended to read as follows :

“ (j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of controversies between the parties under the Loan Agreement and Guarantee Agreement or any claim by any such party against any other such party arising thereunder provided, however, that nothing herein shall be deemed to preclude any of the said parties from exercising, or institut-

ing any legal or equitable action to enforce, any right or claim arising out of or pursuant to the Trust Deed or the Bonds, and submission to arbitration hereunder shall not be deemed to be a condition precedent or in any way to prejudice such exercise or other enforcement of any such right or claim.”

(*g*) Section 9.01 is amended to read as follows :

“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.”

(*r*) Sub-sections (*c*) and (*d*) of Section 9.02 are amended to read as follows :

“(*c*) that the Bonds and the Guarantee on the Bonds when executed and delivered in accordance with the Loan Agreement and Guarantee Agreement will constitute valid and binding obligations of the Borrower and the Guarantor, respectively, in accordance with their terms and that, except as stated in such opinion, no further signatures or formalities are required for that purpose; and

“(*d*) that the Government Agreement has been duly and validly executed and constitutes a valid and binding obligation of the parties thereto in accordance with its terms.”

(*s*) Paragraph 6 of Section 10.01 is amended to read as follows :

“6. (*a*) The term ‘Borrower’ means the Borrowers, except that in Sections 5.02 (*b*), 5.02 (*c*), 5.02 (*d*), 5.02 (*f*) and 7.02 of the Loan Regulations, such term shall be deemed to mean the Borrowers or any of them.

“(*b*) The term ‘Guarantor’ means India, acting by its President.”

(*t*) Paragraph 10 of Section 10.01 is amended to read as follows :

“The term ‘Bonds’ means bonds issued and authenticated pursuant to the Trust Deed, with the guarantee of the Guarantor endorsed thereon as provided in the Loan Agreement and the Guarantee Agreement.”