

No. 10858

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

**Guarantee Agreement—*Marimbondo Hydroelectric Project*  
(with annexed General Conditions Applicable to Loan  
and Guarantee Agreements and Loan Agreement  
between the Bank and the Central Elétrica de Furnas,  
S.A.). Signed at Washington on 25 May 1970**

*Authentic text: English.*

*Registered by the International Bank for Reconstruction and Development on  
2 December 1970.*

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

**Contrat de garantie — *Projet hydro-électrique de Marimbondo*  
(avec, en annexe, les Conditions générales applicables  
aux contrats d'emprunt et de garantie et le Contrat  
d'emprunt entre la Banque et la Central Elétrica de  
Furnas, S.A.). Signé à Washington le 25 mai 1970**

*Texte authentique : anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement le  
2 décembre 1970.*

## GUARANTEE AGREEMENT<sup>1</sup>

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AGREEMENT, dated May 25, 1970, between FEDERATIVE REPUBLIC OF BRAZIL (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith<sup>2</sup> between the Bank and Central Elétrica de Furnas, S.A. (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to eighty million dollars (\$80,000,000), 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 hereinafter provided;

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; and

WHEREAS the Guarantor represents and warrants that the giving of such guarantee is authorized by Law No. 1518 of December 24, 1951; Articles 22 and 23 of Law No. 1628 of June 20, 1952; Decree No. 57,482 of December 24, 1965 pursuant to Law No. 4131 of September 3, 1962; Law No. 4457 of November 6, 1964; Law No. 5000 of May 24, 1966; and Decree Law No. 1095 of March 20, 1970;

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 the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,<sup>3</sup> with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements being hereinafter called the General Conditions).

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<sup>1</sup> Came into force on 29 September 1970, upon notification by the Bank to the Government of Brazil.

<sup>2</sup> See p. 144 of this volume.

<sup>3</sup> See p. 142 of this volume.

*Section 1.02.* Wherever used in this Guarantee Agreement, 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*

*Section 2.01.* Without limitation or restriction upon any of the other covenants on its part in this Guarantee 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.* 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, either by way of loans or equity investment by Eletrobrás, or otherwise.

### *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 in the allocation or realization of foreign exchange. 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 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 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.

The term “assets of the Guarantor” as used in this Section includes assets of the Guarantor or of any agency of the Guarantor, including Banco Central do Brasil and any other institution performing the functions of a central bank for 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. On the part of the Bank, such information shall include such information as shall be available to the Bank regarding the performance of the obligations of the Borrower under the Loan Agreement.

*(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 and shall promptly inform each other 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, and free from all restrictions, 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 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 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. (a)* The Guarantor will exercise every power, right and recourse available to it to the end that it will not take or permit any of its political subdivisions or any of its agencies (including Eletrobrás in its capacity as holder of the majority of the Borrower’s shares, and Banco Central do Brasil and any other institution performing the functions of a central bank for the Guarantor in respect of the allocation or realization of foreign exchange) 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 (including action by Eletrobrás in its capacity as holder of the majority of the Borrower's shares and by Banco Central do Brasil and any other institution performing the functions of a central bank for the Guarantor in respect of the allocation or realization of foreign exchange) which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

(b) The Guarantor shall cause the agency or agencies of the Guarantor responsible for the setting and adjustment of the Borrower's rates for the sale of electricity to act in respect of any application of the Borrower for the setting and adjustment of such rates within a period of not more than 30 days after receipt of such application.

*Section 3.06.* The Guarantor undertakes that it will: (a) take all such action as shall be practicable in the circumstances to encourage effective coordination of the operation of the electricity generating, transmission and distribution facilities of the integrated system into which the power output of the Project will flow; and (b) take or cause to be taken all such timely and effective action as shall be necessary or advisable in respect of the expansion of the transmission and distribution facilities in the areas served by such system in order to ensure that the electricity generated and to be generated by the system will efficiently reach the retailers and consumers in such areas.

*Section 3.07.* The Guarantor shall take all such measures as shall be necessary in order to facilitate the importation by the Borrower of goods to be financed out of the proceeds of the Loan purchased outside Brazil in accordance with the provisions of the Loan Agreement.

#### *Article IV*

*Section 4.01.* The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by the Borrower. The *Ministro da Fazenda* of the Guarantor and such other person or persons as he shall appoint in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

#### *Article V*

*Section 5.01.* The *Ministro da Fazenda* of the Guarantor is designated for the purposes of Section 10.03 of the General Conditions.

*Section 5.02.* The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor:

Ministério da Fazenda  
Av. Presidente Antonio Carlos 375  
Rio de Janeiro, Brazil

Alternative address for cables:

Minifaz  
Rio de Janeiro

For the Bank:

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

Alternative address for cables:

Intbafrad  
Washington, D.C.

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.

Federative Republic of Brazil:

*By* ANTONIO DELFIM NETO  
Authorized Representative

International Bank for Reconstruction and Development:

*By* ROBERT S. McNAMARA  
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
GENERAL CONDITIONS, DATED 31 JANUARY 1969  
GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS  
[*Not published herein. See United Nations, Treaty Series, vol. 691. p. 300.*]

## LOAN AGREEMENT

AGREEMENT, dated May 25, 1970, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and CENTRAL ELÉTRICA DE FURNAS, S.A. (hereinafter called the Borrower).

*Article I*

## GENERAL CONDITIONS; SPECIAL DEFINITIONS

*Section 1.01.* The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969,<sup>1</sup> with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank as so modified being hereinafter called the General Conditions).

*Section 1.02.* Wherever used in the Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) The term "Joint Loan" means a loan obtained by the Borrower from a financial institution outside of Brazil in a member country of the Bank or Switzerland, under the terms of which the financial institution agrees to share, with the Bank, in the financing of payments for certain goods and services eligible for financing under the Loan and acquired from a supplier within the country of such financial institution, substantially in accordance with the arrangements described in the Memorandum, "Joint Financing of Marimbondo Hydroelectric Project in Brazil" (JF 70-8) prepared by the Bank, certified copies of which have been furnished to the Borrower.

(b) The terms "Prior Loan Agreements" and "Prior Guarantee Agreements" mean, respectively, all other loan agreements and guarantee agreements to which the Bank and the Borrower, and the Guarantor and the Bank, are parties.

(c) The term "Eletrobrás" means Centrais Elétricas Brasileiras, S.A.-Eletrobrás, an agency of the Guarantor, or any successor or successors thereto.

*Article II*

## THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to eighty million dollars (\$80,000,000).

*Section 2.02. (a)* 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.

(b) 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 Agreement and in accordance with the allocation of proceeds of the Loan set

<sup>1</sup> See p. 142 of this volume.

forth in Schedule 1 to this Agreement, as such allocation shall be modified from time to time pursuant to the provisions of such Schedule or by further agreement between the Bank and the Borrower.

*Section 2.03.* The Borrower shall be entitled to withdraw from the Loan Account in respect of the reasonable cost of goods or services required for the Project and to be financed under the Loan Agreement such amounts as shall have been paid (or, if the Bank shall so agree, as shall be required to meet payments to be made) for goods or services included in Categories 1, 2, 3 and 4 of the allocation of proceeds of the Loan referred to in Section 2.02 of this Agreement; provided, however, that, in respect of goods and services which, in the opinion of the Bank, shall be eligible for financing under a Joint Loan, the Borrower shall not be entitled to withdraw from the Loan Account an amount exceeding 50% of the foreign exchange cost of such goods.

*Section 2.04. (a)* It is hereby agreed, pursuant to Section 5.01 of the General Conditions, that: (i) withdrawals from the Loan Account under Categories 1, 2 and 3 of the allocation of proceeds of the Loan referred to in Section 2.02 of this Agreement may be made on account of payments in the currency of the Guarantor, or for goods produced in, or services supplied from, the territories of the Guarantor; and (ii) withdrawals from the Loan Account for engineering services under Category 4 of the allocation of proceeds of the Loan referred to in Section 2.02 of this Agreement may be made on account of payments made prior to the date of this Agreement but after May 1, 1969.

*(b)* No withdrawal from the Loan Account shall be made on account of payments for taxes imposed by the Guarantor or any of its political subdivisions on, or in connection with, the importation or supply of goods or services financed out of the proceeds of the Loan.

*Section 2.05.* 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 withdrawn from time to time from the Loan Account.

*Section 2.06.* The Borrower shall pay interest at the rate of seven per cent (7%) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

*Section 2.07.* Interest and other charges shall be payable semi-annually on March 1 and September 1 in each year.

*Section 2.08.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement; provided, however, that to the extent that Joint Loans are obtained and the proceeds thereof utilized by the Borrower prior to September 2, 1976, the Bank shall adjust installments in the column headed "Payment of Principal" in the said Schedule 2 so that, insofar as practicable and without reducing any principal repayments to the Bank on any scheduled repayment date below one hundred thousand dollars (\$100,000) during each six-monthly payment period, payments of principal on the Loan (plus payments of principal on such Joint Loans) shall be equal to payments of principal on a principal amount equal to the sum of the principal amount of the Loan and of such



Joint Loans, the amounts of such payments to be calculated on the same basis as that used to calculate the installments in such column of Schedule 2; and provided, further, that in no event shall any such installments be payable at a date later than March 1, 2000.

### Article III

#### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall apply the proceeds of the Loan in accordance with the provisions of the Loan Agreement to expenditures on the Project described in Schedule 3 to this Agreement.

*Section 3.02.* Except as the Bank shall otherwise agree: (i) the goods and services to be financed out of the proceeds of the Loan shall be procured on the basis of international competitive bidding in accordance with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with such other procedures supplementary thereto as are set forth in Schedule 4 to this Agreement or as shall be agreed between the Bank and the Borrower; and (ii) contracts for the procurement of such goods and services shall be subject to the prior approval of the Bank.

*Section 3.03.* Except as the Bank and the Borrower shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

### Article IV

#### BONDS

*Section 4.01.* If and as the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

*Section 4.02.* The *Presidente* and one *Diretor* of the Borrower and such other person or persons as they shall jointly appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

### Article V

#### PARTICULAR COVENANTS

*Section 5.01.* The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound engineering, financial and public utility practices.

*Section 5.02. (a)* Except as the Bank shall otherwise agree, the Borrower shall, in the carrying out of such parts of the Project as the Bank and the Borrower shall agree upon, employ competent and experienced consultants acceptable to, and upon terms and conditions satisfactory to, the Bank.

(b) Except as the Bank shall otherwise agree, the Borrower shall cause all works included in the Project to be constructed by contractors acceptable to the Bank and the Borrower.

*Section 5.03.* Upon request from time to time by the Bank, the Borrower shall promptly furnish or cause to be furnished to the Bank the plans, specifications and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall reasonably request.

*Section 5.04. (a)* The Borrower shall at all times maintain its corporate existence and right to carry on its operations and shall take all steps necessary to acquire, maintain and renew all rights, powers, privileges, concessions and franchises which are necessary or useful in the conduct 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 and public utility practices.

*Section 5.05. (a)* The Borrower shall at all times manage its affairs, plan the future expansion of its power system and maintain its financial position, all in accordance with sound business, financial and public utility principles and practices and under the supervision of experienced and competent management.

(b) The Borrower shall have its financial statements (balance sheet and statements of income and surplus) audited and certified annually by an independent accountant or accounting firm acceptable to the Bank and shall promptly after their preparation and not later than four months after the close of the Borrower's fiscal year transmit to the Bank certified copies of such statements and a signed copy of the accountant's or accounting firm's report.

*Section 5.06. (a)* The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Bank and the Borrower shall from time to time, at the request of either party, exchange views through their representatives with regard to the performance by the Borrower of its obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purposes of the Loan.

(b) The Borrower shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the goods and services financed out of such proceeds, the Project, and the administration, operations and financial condition of the Borrower.

(c) 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, the maintenance of the service thereof or the performance by the Borrower of its obligations under the Loan Agreement.

*Section 5.07.* The Borrower shall maintain records adequate to identify the goods and services 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 operations and financial condition of the Borrower; and shall enable the Bank's representatives to inspect the Project, the goods, all other plants, sites, works, properties and equipment of the Borrower, and any relevant records and documents.

*Section 5.08.* The Borrower shall pay or cause to be paid all taxes, 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 the Loan Agreement, the Guarantee Agreement<sup>1</sup> 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 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 5.09.* The Borrower shall pay or cause to be paid all taxes, 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 the Loan Agreement, the Guarantee Agreement or the Bonds.

*Section 5.10. (a)* The Borrower shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with sound practice.

*(b)* Without limiting the generality of the foregoing, the Borrower undertakes to insure the goods to be financed out of the proceeds of the Loan against marine, transit and other hazards incident to acquisition, transportation and delivery thereof to the place of use or installation and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

*Section 5.11.* Except as the Bank shall otherwise agree, the Borrower shall not, until the Project shall have been completed, undertake, or permit to be undertaken on its behalf, any major generation or transmission expansion project, other than the Project, unless such project is undertaken in accordance with a financing plan satisfactory to the Bank.

For the purposes of this Section, a "major generation or transmission expansion project" shall be deemed to be a project, the aggregate cost of which shall be in excess of the equivalent of two per cent (2%) of gross fixed assets in operation plus work-in-progress.

*Section 5.12.* Except as the Bank shall otherwise agree: *(a)* the Borrower shall obtain title to all goods financed out of the proceeds of the Loan free and clear of all encumbrances; and *(b)* the Borrower shall not sell or otherwise dispose of any of its property or assets which shall be required for the efficient carrying on of its business

<sup>1</sup> See p. 134 of this volume.

and undertaking, including the Project, unless the Borrower shall first pay or redeem, or make adequate provisions satisfactory to the Bank for payment or redemption of, all of the Loan and the Bonds which shall then be outstanding and unpaid, provided, however, that the Borrower may sell or otherwise dispose of any of its property which shall have become obsolete, worn out or unnecessary for use in its plant.

*Section 5.13.* The Borrower shall, if necessary in order to comply with the provisions of Section 5.16 of this Agreement, take all appropriate action to permit Eletrobrás, in its capacity as holder of the majority of the Borrower's shares, to convert into an equity contribution to the Borrower's capital such amount of outstanding long-term debt of the Borrower held by Eletrobrás as shall be required for the purpose of compliance therewith.

*Section 5.14.* The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of 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; (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date; or (iv) any lien in favor of the Guarantor, on terms and conditions satisfactory to the Guarantor, the Bank and the Borrower, and by its terms expressly subordinated to the claims of the Bank hereunder, which is created to secure obligations of the Borrower to the Guarantor arising out of the Guarantor's guarantee of the Loan.

*Section 5.15.* Except as the Bank and the Borrower shall otherwise agree:

- (a) the Borrower shall take all such action (including, in such cases where automatic rate adjustments are not permitted, action with respect to the filing, within a period of not more than five months after the end of every calendar year, of appropriate applications in respect of rates) as shall be necessary or advisable to:
  - (i) cause the Borrower's rates for the sale of electricity to be set and maintained at such levels as will produce revenues, as provided by the legislation of the Guarantor in effect on the date of this Agreement, sufficient to ensure the continued operation of the Borrower's business in accordance with sound financial and public utility practices, using straight-line depreciation which shall be not less than that based on the useful lives of depreciable assets in operation; and (ii) enable the agency or agencies of the Guarantor responsible for the setting and adjustment of such rates to act promptly in respect thereof; and
- (b) the Borrower shall, as permitted by the legislation of the Guarantor in effect on the date of this Agreement, revalue its assets at least once every calendar year, such revaluation to reflect a realistic valuation of such assets, and apply for the corresponding rate adjustments.

*Section 5.16.* (a) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur any debt if by incurring such debt the debt of the Borrower shall exceed 66 $\frac{2}{3}$ % of its total fixed assets.

(b) For the purposes of this Section:

- (i) The term “debt” means all debt except debt maturing by its terms on demand or less than one year after it is incurred in the ordinary course of business.
- (ii) Debt shall be deemed to be incurred on the day such debt becomes outstanding and repayable in accordance with the agreement providing for the incurrence of such debt; provided, however, that in the case of guarantee of debt, debt shall be deemed to be incurred on the day the agreement guaranteeing such debt has been entered into.
- (iii) The term “total fixed assets” means gross fixed assets in operation less the depreciation reserve, plus the cost of construction work-in-progress, all such items to be revalued on the basis of the latest applicable official revaluation coefficients.
- (iv) Whenever for purposes of this Section it shall be necessary to value in terms of currency of the Guarantor debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt.
- (c) The Borrower shall furnish to the Bank annually, as soon as practicable after the end of each calendar year, a statement of the following:
  - (i) The Borrower’s total fixed assets as defined in paragraph (b) of this Section, as of the end of such calendar year;
  - (ii) The outstanding debt of the Borrower as defined in paragraph (b) of this Section, as of the end of such calendar year;
  - (iii) The arithmetical ratio of (ii) to (i);
  - (iv) The Borrower’s estimated fixed capital expenditures less estimated retirements, for the calendar year then in progress;
  - (v) The estimated change in debt of the Borrower as defined in paragraph (b) of this Section, net of amortization of debt, for the calendar year then in progress; and
  - (vi) The arithmetical ratio of the sum of (ii) and (v) to the sum of (i) and (iv).

All items in such statement shall be expressed in currency of the Guarantor. In calculating the amount of debt in currency of the Guarantor subject to revaluation, account will be taken of any law or contract relating thereto.

*Section 5.17.* The Borrower shall make its best efforts to obtain Joint Loans and to utilize the proceeds thereof for purposes of the Project, such Joint Loans to be for such amounts and on such terms and conditions as shall be satisfactory to the Guarantor, the Bank and the Borrower.

*Article VI*

## REMEDIES OF THE BANK, AMENDMENTS OF PRIOR LOAN AGREEMENTS

*Section 6.01.* If any event specified in Section 7.01 of the General Conditions or in Section 6.02 of this Agreement shall occur and shall continue for the period, if any, therein set forth, 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.

*Section 6.02.* For the purposes of Section 6.02 of the General Conditions, the following additional events are specified:

- (a) Demand shall have been made for repayment in advance of maturity of any of the Joint Loans by reason of any default on the part of the Borrower as provided in the relative contractual instruments.
- (b) A default shall have occurred in the performance of any covenant or agreement on the part of the Borrower or the Guarantor (other than a covenant or agreement to pay monies) under any of the Prior Loan Agreements, any of the Prior Guarantee Agreements or the bonds provided for therein, and such default shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower and the Guarantor.
- (c) A change in the legislation of the Guarantor shall have occurred, which, in the judgment of the Bank, shall materially and adversely affect the carrying on of the Borrower's business or the setting or adjustment of the Borrower's rates for the sale of electricity at such levels as shall be necessary to provide the Borrower with revenues sufficient to ensure the continued operation of the Borrower's business in accordance with sound financial and public utility practices.

For the purposes of this paragraph the term "change in the legislation of the Guarantor" shall mean any change (including, but without limitation, any amendment or repeal of, or failure to carry out or enforce, any such legislation) in the entire body of legislation of the Guarantor (including, but without limitation, all constitutional provisions, statutes, laws, decree-laws, executive decrees and regulations, and any other legal provisions of a similar nature) directly or indirectly relating to the carrying on of the Borrower's business and the determination and adjustment of the Borrower's rates for the sale of electricity.

*Section 6.03.* For the purposes of the Prior Loan Agreements, paragraphs (c) of Section 5.02 of Loan Regulations No. 4<sup>1</sup> of the Bank applicable thereto are hereby amended to read as follows:

"(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or the Guarantor under the Loan Agreement, the Guarantee Agreement, or the Bonds, or under the loan agreement dated May 25, 1970, between the Bank and the Borrower, the guarantee agreement of even date therewith between the Guarantor and the Bank or the bonds therein provided for.";

<sup>1</sup> United Nations, *Treaty Series*, vol. 260, p. 376.

and the term “Loan Regulations” as used for the purposes of the Prior Loan Agreements shall mean the Loan Regulations No. 4 of the Bank applicable thereto, as modified in the Prior Loan Agreements and as further amended hereby.

### *Article VII*

#### EFFECTIVE DATE; TERMINATION

*Section 7.01.* The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 11.01 (c) of the General Conditions:

- (a) that the Borrower has obtained from Eletrobrás a firm undertaking satisfactory to the Bank to provide or cause to be provided to the Borrower, promptly as needed, all such funds as may be required by the Borrower to enable the Borrower to carry out the Project with due diligence and efficiency;
- (b) that, except as the Bank shall otherwise agree, all necessary acts, consents and approvals to be performed or given by the Guarantor, its political subdivisions or agencies or by any agency of any political subdivision or otherwise to be performed or given in order to authorize the carrying out of the Project and to enable the Borrower to perform all of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, together with all necessary powers and rights in connection therewith, have been performed or given; and
- (c) that the Loan Agreement has been duly registered by Banco Central do Brasil.

*Section 7.02.* The following are specified as additional matters, within the meaning of Section 11.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

- (a) that the undertaking referred to in Section 7.01 (a) of this Agreement is a valid and binding obligation of Eletrobrás in accordance with its terms;
- (b) that all acts, consents and approvals referred to in Section 7.01 (b) of this Agreement, together with all necessary powers and rights in connection therewith, have been duly and validly performed or given and that no other such acts, consents or approvals are required in order to authorize the carrying out of the Project and to enable the Borrower to perform all of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained; and
- (c) that the Loan Agreement has been duly registered by Banco Central do Brasil.

*Section 7.03.* The date of October 1, 1970 is hereby specified for the purposes of Section 11.04 of the General Conditions.

### *Article VIII*

#### MISCELLANEOUS

*Section 8.01.* The Closing Date shall be August 31, 1977, or such other date as shall be agreed by the Bank and the Borrower.

*Section 8.02.* The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Bank:

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

Alternative address for cables:

Intbafrad  
Washington, D.C.

For the Borrower:

Central Elétrica de Furnas, S.A.  
Rua São José 90-3 Andar  
Rio de Janeiro,

Alternative address for cables:

Riofurnas  
Rio de Janeiro

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names and to be 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* ROBERT S. MCNAMARA  
President

Central Elétrica de Furnas, S.A.:

*By* JOHN R. COTRIM  
Authorized Representative

*By* SERGIO C. DE MENEZES  
Authorized Representative



SCHEDULE 1  
ALLOCATION OF PROCEEDS OF THE LOAN

<i>Category</i>	<i>Amounts Expressed in Dollar Equivalent</i>
1. Equipment for the Marimbondo Plant .....	22,200,000
2. Equipment for Transmission Facilities .....	42,300,000
3. Equipment for Furnas Plant .....	4,300,000
4. Engineering, Training and Management Improvement Services and Related Equipment .....	5,700,000
5. Unallocated .....	5,500,000
<b>TOTAL</b>	<b>\$80,000,000</b>

SCHEDULE 2  
AMORTIZATION SCHEDULE

<i>Date payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of principal (expressed in dollars)*</i>
September 1, 1977 .....	725,000	March 1, 1989 .....	1,595,000
March 1, 1978 .....	750,000	September 1, 1989 .....	1,655,000
September 1, 1978 .....	775,000	March 1, 1990 .....	1,710,000
March 1, 1979 .....	805,000	September 1, 1990 .....	1,770,000
September 1, 1979 .....	830,000	March 1, 1991 .....	1,835,000
March 1, 1980 .....	860,000	September 1, 1991 .....	1,895,000
September 1, 1980 .....	890,000	March 1, 1992 .....	1,965,000
March 1, 1981 .....	920,000	September 1, 1992 .....	2,030,000
September 1, 1981 .....	955,000	March 1, 1993 .....	2,105,000
March 1, 1982 .....	985,000	September 1, 1993 .....	2,175,000
September 1, 1982 .....	1,020,000	March 1, 1994 .....	2,255,000
March 1, 1983 .....	1,055,000	September 1, 1994 .....	2,330,000
September 1, 1983 .....	1,095,000	March 1, 1995 .....	2,415,000
March 1, 1984 .....	1,130,000	September 1, 1995 .....	2,500,000
September 1, 1984 .....	1,170,000	March 1, 1996 .....	2,585,000
March 1, 1985 .....	1,215,000	September 1, 1996 .....	2,675,000
September 1, 1985 .....	1,255,000	March 1, 1997 .....	2,770,000
March 1, 1986 .....	1,300,000	September 1, 1997 .....	2,865,000
September 1, 1986 .....	1,345,000	March 1, 1998 .....	2,965,000
March 1, 1987 .....	1,390,000	September 1, 1998 .....	3,070,000
September 1, 1987 .....	1,440,000	March 1, 1999 .....	3,180,000
March 1, 1988 .....	1,490,000	September 1, 1999 .....	3,290,000
September 1, 1988 .....	1,545,000	March 1, 2000 .....	3,420,000

\* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column 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 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than four years before maturity .....	¾ of 1%
More than four years but not more than eight years before maturity .....	2%
More than eight years but not more than fourteen years before maturity .....	2¾%
More than fourteen years but not more than twenty years before maturity .....	4¼%
More than twenty years but not more than twenty-six years before maturity .....	5½%
More than twenty-six years but not more than twenty-eight years before maturity .....	6½%
More than twenty-eight years before maturity .....	7%

### SCHEDULE 3

#### DESCRIPTION OF THE PROJECT

The Project consists of the Marimondo generating station on the Rio Grande with hydroelectric units aggregating about 1,400 mw and associated 500 kv and other transmission facilities; additional hydroelectric generating equipment aggregating about 300 mw for the existing Furnas generating station; and technical, training and management improvement services and related equipment.

The Project is expected to be completed in the first half of 1977.

### SCHEDULE 4

#### SUPPLEMENTARY PROCEDURES FOR PROCUREMENT

1. With respect to contracts for the procurement of goods estimated to cost in excess of \$100,000 equivalent:

- (a) Prior to inviting bids, evidence satisfactory to the Bank of the methods for procurement of such goods will be furnished to the Bank, including: (i) names of countries notified of the Borrower's intention to invite bids and information on advertisements placed in newspapers and other publications; (ii) where prequalification is used, names of firms expressing an interest in prequalifying as bidders, of those to be invited to prequalify, and of those which the Borrower proposes to prequalify, together with the reasons for rejecting those not prequalified.
- (b) Before issuing any specification or bidding documents for the purchase of such goods, the Borrower will submit copies thereof to the Bank for its approval.
- (c) Bidders will be given all pertinent information regarding the matters covered in paragraphs 3 and 4 below.
- (d) The Borrower will, before making any award, submit to the Bank for its approval the Borrower's analysis of bids and recommendation for award of the contract. The Bank will endeavor to take action thereon within 30 days of receipt.
- (e) If the contract to be awarded differs substantially from the terms and conditions of the bidding documents approved by the Bank, the Borrower will obtain the approval of the Bank before executing the contract.
- (f) As soon as a letter of intent has been issued or a contract has been executed, a copy thereof will be sent to the Bank.

2. With respect to contracts for the procurement of goods estimated to cost \$100,000 equivalent or less, copies of all tender documents, including the Borrower's evaluation report, evidence of advertising procedures, and a copy of the executed contract will be sent to the Bank before the first request for disbursement relating to the respective contract is made.

3. The Borrower intends to invite firms producing goods in Brazil to participate in the international competitive bidding. In the case of goods produced in Brazil, the Borrower may award the order to the lowest Brazilian bidder offering satisfactory terms and conditions, provided that his offered price does not exceed the offered price of the lowest acceptable foreign bidder by more than 15%. Comparison of bids will be made for goods delivered at Project site and without taking into account customs duties. For firms in Brazil, the delivery at the site price will comprise the F.O.B. plant cost plus freight, insurance and other costs to the Project site. For non-Brazilian firms, the delivery price will be based on C.I.F. landed cost, port of entry (including the charges for Renovation of the Merchant Marine and Ports Improvement at the rates prevailing on the date of the Loan Agreement but excluding customs duties) plus inland freight, insurance and other costs to the Project site. As the 15% preference allowed firms in Brazil is in lieu of customs duties, the 15% will be added to the C.I.F. landed cost of the non-Brazilian goods, before inland freight, insurance and other costs. In the case of bids composed of both cruzeiros and foreign currency the cruzeiro portion thereof will be dealt with as a Brazilian bid and the foreign exchange portion as a non-Brazilian bid.

4. For comparison purposes all bids after evaluation will be converted into cruzeiros at the Bid Comparison Rate of Exchange. The Bid Comparison Rate of Exchange is understood to be the dollar selling rate of exchange fixed by the Banco do Brasil S.A. prevailing on the date bids are awarded. It is further understood that the Bank will, on its own initiative or at the request of the Guarantor or the Borrower, reconsider and, if necessary, revise the Bid Comparison Rate of Exchange, whenever there should be a substantial change in the Brazilian exchange system which would, in the judgment of the Bank, render such rate unsuitable for bid comparison purposes.

5. Spare parts required to be compatible with existing equipment and such minor items as are, for reasons of economy, customarily procured without competition are excepted from the requirement of international competitive bidding set forth in Section 3.02 of the Loan Agreement.