

No. 11441

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

Guarantee Agreement—*Second Bogotá Water Supply Project* (with annexed General Conditions Applicable to Loan and Guarantee Agreements and Loan Agreement between the Bank and the Empresa de Acueducto y Alcantarillado de Bogotá). Signed at Washington on 28 May 1971

Authentic text : English.

Registered by the International Bank for Reconstruction and Development on 16 December 1971.

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

Contrat de garantie — *Deuxième projet relatif à l'approvisionnement en eau de Bogotá* (avec, en annexe, les Conditions générales applicables aux contrats d'emprunt et de garantie et le Contrat d'emprunt entre la Banque et l'Empresa de Acueducto y Alcantarillado de Bogotá). Signé à Washington le 28 mai 1971

Texte authentique : anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 16 décembre 1971.

GUARANTEE AGREEMENT¹

AGREEMENT, dated May 28, 1971, between the REPUBLIC OF COLOMBIA (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith² between the Bank and Empresa de Acueducto y Alcantarillado de Bogotá (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to eighty-eight million dollars (\$88,000,000), 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; and

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

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

GENERAL CONDITIONS; DEFINITIONS; AMENDMENT OF FIRST GUARANTEE AGREEMENT

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, 1969,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Section 1.01 of the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this 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.

Section 1.03. The First Guarantee Agreement⁴ is hereby amended by substituting the text of Section 3.02 of this Agreement for the text of Section 3.05 of the First Guarantee Agreement.

¹ Came into force on 16 August 1971, upon notification by the Bank to the Government of Colombia.

² See p. 440 of this volume.

³ *Ibid.*

⁴ United Nations, *Treaty Series*, vol. 651, p. 269.

Section 1.04. It is hereby agreed that the obligations of the Guarantor, the Bank and the Borrower under the letter on revenues and tariffs supplemental to Section 5.08 of the First Loan Agreement, executed by the Guarantor, the Borrower and the Bank on June 3, 1968,¹ have ceased and determined.

Article II

GUARANTEE; BONDS; PROVISION OF FUNDS

Section 2.01. Without limitation or restriction upon any of its other obligations under the Guarantee Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and interest and other charges on, the Loan and the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds prior to their maturity and the punctual performance of all the other obligations of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. 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 Minister of Finance and Public Credit of the Guarantor and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

Section 2.03. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

Article III

OTHER COVENANTS

Section 3.01. 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 governmental assets as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to : (i) any lien created on

¹ United Nations, *Treaty Series*, vol. 651, p. 269.

property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

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

Section 3.02. The Guarantor shall, promptly as required, take all steps necessary on its part to enable the Borrower to set and maintain its tariffs at the levels specified in Section 5.05 of the Loan Agreement.

Section 3.03. The Guarantor shall pay and shall cause each of its departments and national agencies to pay on or before September 30, 1971 all their respective debts to the Borrower as of March 31, 1971 and all their other debts to the Borrower within two months after the date of billing.

Article IV

CONSULTATION AND INFORMATION

Section 4.01. The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end the Guarantor and the Bank shall from time to time, at the request of either party: (i) exchange views through their representatives with regard to the performance of their respective obligations under the Guarantee Agreement and other matters relating to the purposes of the Loan; and (ii) 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, including its balance of payments, and the external debt of the Guarantor, of any of its political subdivisions and of any agency of the Guarantor or of any such political subdivision.

Section 4.02. (a) The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(b) 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.

Article V

TAXES AND RESTRICTIONS

Section 5.01. 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 imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the foregoing 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 5.02. The Guarantee Agreement, the Loan Agreement, any instrument made pursuant to Section 3.01 of this 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 and the Guarantor shall, in respect of any instrument made pursuant to such Section 3.01, pay all such taxes, if any, imposed under the laws of any other country or countries.

Section 5.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls or moratoria of any nature imposed under the laws of the Guarantor or laws in effect in its territories.

Article VI

REPRESENTATIVE OF THE GUARANTOR; ADDRESSES

Section 6.01. The Minister of Finance and Public Credit of the Guarantor is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions :

For the Guarantor :

Republic of Colombia
Ministerio de Hacienda y Crédito Público
Palacio de los Ministerios
Plaza San Agustín
Bogotá, Colombia

Cable address :
Minhacienda
Bogotá

For the Bank :

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

Cable address :
Intbafrad
Washington, D.C.

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 delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Colombia :
By ALFONSO PATIÑO ROSSELLI
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 28, 1971, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and EMPRESA DE ACUEDUCTO Y ALCANTARILLADO DE BOGOTÁ (hereinafter called the Borrower).

Article I

GENERAL CONDITIONS; 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, 1969,¹ with the same force and effect as if they were fully set forth herein, subject, however, to the deletion of Section 5.01 thereof and to the amendment of Section 6.02(i) thereof to read as follows: "Any event specified in paragraph (e) or (f) of Section 7.01 shall have occurred." (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 this 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) "First Loan Agreement" means the loan agreement of June 3, 1968² between the Bank and the Borrower, as amended from time to time;
- (b) "First Guarantee Agreement" means the guarantee agreement (*Bogotá Water Supply Project*) of June 3, 1968² between the Guarantor and the Bank, as amended from time to time; and
- (c) "pesos" and "Col.\$" mean pesos in currency of the Guarantor.

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-eight million dollars (\$88,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed under the Loan Agreement and in respect of interest and other charges on the Loan; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. (a) Except as the Bank shall otherwise agree, the goods and services (other than services of consultants, civil works contracts estimated to cost fifty thousand dollars (\$50,000) equivalent or less and contracts for equipment estimated to cost five thousand dollars (\$5,000) equivalent or less) required for the Project and

¹ See p. 440 of this volume.

² United Nations, *Treaty Series*, vol. 651, p. 269.

to be financed out of the proceeds of the Loan, shall be procured on the basis of international competition under procedures consistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with, and subject to, the provisions set forth in Schedule 4 to this Agreement.

(b) Civil works contracts and contracts for equipment to be financed out of the proceeds of the Loan and estimated to cost the amounts specified in paragraph (a) of this Section or less shall be procured in accordance with procedures to be agreed upon from time to time between the Bank and the Borrower.

Section 2.04. The Closing Date shall be June 30, 1978 or such other date as shall be agreed between the Bank and the Borrower.

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.

Section 2.06. The Borrower shall pay interest at the rate of seven and one-quarter per cent ($7\frac{1}{4}\%$) per annum on the principal amount of the Loan 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 3 to this Agreement.

Section 2.09. 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 2.10. The *Gerente* of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

Article III

EXECUTION OF THE PROJECT

Section 3.01. The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound financial, engineering and public utility practices.

Section 3.02. In order to assist the Borrower in design and construction supervision under Parts A and B of the Project and for making the studies included in Part C of the Project, the Borrower shall employ consultants acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.03. In carrying out Parts A and B of the Project, the Borrower shall employ contractors acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.04. (a) The Borrower undertakes to insure the imported goods to be financed out of the proceeds of the Loan against hazards incident to the 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.

(b) Except as the Bank shall otherwise agree, all goods and services financed out of the proceeds of the Loan shall be used exclusively for the Project until its completion.

Section 3.05. (a) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications, reports, design criteria, contract documents and construction and procurement schedules, for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request, and shall until the Closing Date consult annually with the Bank on the other elements of the Borrower's total investment program.

(b) The Borrower : (i) shall maintain records adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan, and to disclose the use thereof in the Project; (ii) shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan and any relevant records and documents; and (iii) shall furnish to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the goods and services financed out of such proceeds.

Section 3.06. The Borrower shall take all such action as shall be necessary to acquire all such land, or rights in respect of land as shall be required for carrying out the Project and shall after such acquisition furnish to the Bank, promptly upon the Bank's request, evidence satisfactory to the Bank that such land and rights in respect of land are available for purposes related to the Project.

Section 3.07. Upon completion of the studies of pollution control included in Part C (2) of the Project, the Borrower shall consult with the Bank on the recommendations of the consultants and on the implementation thereof.

Article IV

MANAGEMENT AND OPERATIONS OF THE BORROWER

Section 4.01. (a) The Borrower shall at all times manage its affairs, maintain its financial position, plan its future expansion and carry on its operations, all in accordance with sound business, financial and public utility practices and under the supervision of experienced and competent management.

(b) Before any appointment is made to the post of *Gerente* or *Sub-Gerente* of the Borrower or a substantial reorganization of the Borrower is carried out, the Borrower shall inform the Bank of the name, qualifications and experience of the persons considered for appointment to such position or of the details of such reorganization, as the case may be, and shall afford the Bank a reasonable opportunity to comment on the qualifications and experience of such persons or on such reorganization.

Section 4.02. (a) The Borrower shall take all steps necessary to acquire, maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business.

(b) The Borrower shall not, without the prior approval of the Bank, sell, lease, transfer or otherwise dispose of any of its property or assets which shall be required for the efficient operation of its business and undertaking unless the Borrower shall first pay or redeem, or make adequate provision satisfactory to the Bank for repayment or redemption of, all of the Loan and the Bonds which shall then be outstanding and unpaid.

Section 4.03. (a) The Borrower shall at all times operate and maintain its plants, equipment and property including all structures and earthworks constructed under the Project, and promptly make all necessary repairs and renewals thereof, in accordance with sound engineering and public utility practices.

(b) Without limiting the generality of the preceding paragraph, the Borrower shall under arrangements satisfactory to the Bank cause the Chuza dam and its reservoir banks, waterways and earthworks constructed under the Project to be periodically inspected, in accordance with sound engineering practices, in order to determine whether there are any deficiencies or potential deficiencies in the condition of such structures and earthworks, or in the quality and adequacy of maintenance or methods of operation of such structures and earthworks which may endanger the safety of such structures and earthworks.

Section 4.04. 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.

Article V

FINANCIAL COVENANTS

Section 5.01. (a) The Borrower shall maintain records adequate to reflect in accordance with consistently maintained sound accounting practices its operations and financial condition.

(b) Until the Closing Date, the Borrower shall consult annually with the Bank on the financing plan covering its total investment program.

(c) By December 31, 1971, the Borrower shall introduce a budget control system satisfactory to the Bank.

Section 5.02. (a) The Borrower shall : (i) have its accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with sound auditing principles consistently applied, by independent auditors acceptable to the Bank; (ii) furnish to the Bank as soon as available, but in any case not later than four months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said auditors, of such scope and in such detail as the Bank

shall have reasonably requested; and (iii) furnish to the Bank such other information concerning the accounts and financial statements of the Borrower and the audit thereof as the Bank shall from time to time reasonably request.

(b) For the purpose of said accounts and financial statements, the Borrower shall, except as the Bank shall otherwise agree, from its fiscal year 1971 onwards, revalue its assets in accordance with the procedures set forth in Schedule 5 to this Agreement.

Section 5.03. (a) The Borrower represents that at the date of this Agreement no lien exists on any of its assets as security for any debt except as otherwise disclosed in writing by the Borrower to the Bank.

(b) The Borrower undertakes that, except as the Bank shall otherwise agree : (a) if the Borrower shall create any lien on any of its assets as security for any debt, such lien will 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; and (b) if any lien shall be created on any assets of the Borrower, other than under paragraph (a) above, as security for any debt, the Borrower shall grant to the Bank an equivalent lien satisfactory to the Bank; 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; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after the date on which it is originally incurred.

Section 5.04. Except as the Bank shall otherwise agree, the Borrower shall not incur any debt, other than debt incurred after the date of this Agreement up to an aggregate amount of twenty-two million dollars (\$22,000,000) equivalent on terms and conditions satisfactory to the Bank, unless its net revenues for the fiscal year next preceding such incurrence or for a later twelve-months period ended prior to such incurrence, whichever amount is greater, shall be not less than 1.5 times the maximum debt service requirement for any succeeding fiscal year on all debt, including the debt to be incurred. For the purposes of this Section :

1. The term “ debt ” shall mean all indebtedness of the Borrower maturing by its terms more than one year after the date on which it is originally incurred.
2. Debt shall be deemed to be incurred on the date of execution and delivery of a contract, loan agreement or other instrument providing for such debt.
3. The term “ net revenues ” shall mean gross revenues from all sources adjusted to take account of the Borrower’s tariffs in effect at the time of incurrence of debt even though they were not in effect during the fiscal year or twelve-months period to which such revenues relate, less all operating and administrative expenses and provision for taxes, if any, but before provision covering depreciation and interest and other charges on debt.
4. The term “ debt service requirement ” shall mean the aggregate amount of amortization (including sinking fund payments, if any), interest and other charges on debt.

5. Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Guarantor, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt.

Section 5.05. Except as the Bank and the Borrower, with the approval of the Guarantor, shall otherwise agree :

(a) The Borrower shall establish and maintain tariffs for its water supply and sewerage services which will provide annual rates of return of at least nine per cent (9%) in the years 1971, 1972 and 1973 and ten percent (10%) in the year 1974 and subsequent years, on the average current net value of its fixed assets in operation calculated in accordance with the method outlined in Schedule 5 to this Agreement.

(b) The Borrower shall, within the first two months of each calendar semester, review the adequacy of its tariffs to produce the annual returns required under paragraph (a) and shall furnish to the Bank the results of such review.

(c) If any such review shall show that the Borrower would not earn any of the annual returns required under paragraph (a) in the course of the calendar year in which such review is made, the Borrower shall adjust its tariffs accordingly, and the adjusted tariffs shall be brought into effect during the semester in which such review is made.

Section 5.06. The Borrower undertakes that no services will be provided by the Borrower without adequate charges, except for water and sewer services to buildings and facilities (other than those for which admission fees are charged) occupied or operated by agencies of the Special District of Bogotá (other than decentralized enterprises) and for public standpipes, public parks and fire hydrants.

Section 5.07. The Borrower shall carry out annual studies of its tariff structure and shall consult with the Bank on the conclusions of such studies.

Article VI

CONSULTATION; INFORMATION AND INSPECTION

Section 6.01. 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 :

- (a) exchange views through their representatives with regard to the performance of their respective obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purposes of the Loan; and
- (b) furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

Section 6.02. The Bank and the Borrower shall promptly inform each other 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 either of them of its obligations under the Loan Agreement.

Section 6.03. The Borrower shall enable the Bank's representatives to inspect all plants, installations, sites, works, buildings, property and equipment of the Borrower and any relevant records and documents.

Article VII

TAXES

Section 7.01. The Borrower shall pay or cause to be paid all taxes, if any, imposed on or in connection with the execution, issue, delivery or registration of the Loan Agreement, any instrument made pursuant to Section 5.03 of this Agreement, the Guarantee Agreement¹ 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, under the laws of the Guarantor or laws in effect in its territories, 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.

Article VIII

AMENDMENT OF THE FIRST LOAN AGREEMENT

Section 8.01. The First Loan Agreement is hereby amended by substituting the text of Sections 5.03, 5.04, 5.05 and 5.06 of this Agreement for the text of Sections 5.06, 5.07, 5.08 and 5.12, respectively, of the First Loan Agreement and by adding Schedule 5 to this Agreement as a new Schedule 3 to the First Loan Agreement; references to Schedule 5 and Section 5.05 in the Section and Schedule so substituted and added shall be changed to Schedule 3 and Section 5.08 respectively.

Section 8.02. It is hereby agreed that the obligations of the Guarantor, the Bank and the Borrower under the letter on revenues and tariffs supplemental to Section 5.08 of the First Loan Agreement, executed by the Guarantor, the Borrower and the Bank on June 3, 1968, have ceased and determined.

Article IX

REMEDIES OF THE BANK

Section 9.01. If any event specified in Section 7.01 of the General Conditions or in Section 9.02 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 by notice to the Borrower and the Guarantor declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such

¹ See p. 432 of this volume.

declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in the Loan Agreement or in the Bonds notwithstanding.

Section 9.02. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified :

(a) A default shall have occurred in the performance of any obligation on the part of the Borrower or the Guarantor under the First Loan Agreement, the First Guarantee Agreement or the bonds issued pursuant to the First Loan Agreement, and such default shall have continued in case of a default in any payment required under any such Agreement or bond for a period of thirty days, or in case of any other default for a period of sixty days after notice of such other default shall have been given by the Bank to the Borrower and the Guarantor.

(b) The provisions of *Acuerdo* No. 105 of 1955 adopted by the Municipal Council of the Special District of Bogotá on December 9, 1955 concerning the constitution of the Borrower, or any provision thereof, shall have been amended, suspended or abrogated.

Article X

TERMINATION

Section 10.01. The date August 2, 1971 is hereby specified for the purposes of Section 11.04 of the General Conditions.

Article XI

ADDRESSES

Section 11.01. 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
Cable address :
Intbafrad
Washington, D.C.

For the Borrower :

Empresa de Acueducto y Alcantarillado de Bogotá
Calle 22-C No. 40-99
Bogotá, D.E.
Colombia
Cable address :
Acueducto
Bogotá

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 SIMON ALDEWERELD
Vice President

Empresa de Acueducto y Alcantarillado de Bogotá:

By DANIEL RUEDA
Authorized Representative

SCHEDULE 1

WITHDRAWAL OF THE PROCEEDS OF THE LOAN

1. The table below sets forth the categories of items to be financed out of the proceeds of the Loan, the allocation of amounts of the Loan to each category and the percentage of eligible expenditures so to be financed in each category :

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
I. Down payment on civil works contract for main tunnel	4,700,000	100% of total expenditures
II. Civil Works contracts —dam and conveyance system (tunnels and pipe-lines minus down-payment under Category I)	26,900,000	74% of total expenditures (representing the estimated foreign exchange component)
III. Civil Works contracts —water treatment plant and distribution	5,200,000	50% of total expenditures (representing the estimated foreign exchange component)
IV. Civil Works contracts —access roads	400,000	40% of total expenditures (representing the estimated foreign exchange component)
V. Equipment and pipes for civil works, operations, engineering and maintenance	12,200,000	100% of foreign expenditures

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
VI. Consultants' services	3,100,000	50% of total expenditures
VII. Interest and other charges on the Loan accrued on or before February 28, 1978	14,300,000	100% of total expenditures
VIII. Unallocated	21,200,000	
	TOTAL	88,000,000

2. For the purposes of this Schedule :

- (a) the term "foreign expenditures" means expenditures for goods produced in, or services supplied from, the territories, and in the currency, of any country other than the Guarantor;
- (b) the term "total expenditures" means the aggregate of foreign expenditures and of expenditures for goods produced in, or services supplied from, the territories of the Guarantor.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of :

- (a) expenditures prior to the date of this Agreement; and
- (b) payments for taxes imposed under the laws of the Guarantor or laws in effect in its territories on goods or services, or on the importation, manufacture, procurement or supply thereof. To the extent that the amount represented by the percentage set forth in the third column of the table in paragraph 1 above in respect to any Category would exceed the amount payable net of all such taxes, such percentage shall be reduced to ensure that no proceeds of the Loan will be withdrawn on account of payments for such taxes.

4. Notwithstanding the allocation of an amount of the Loan set forth in the second column of the table in paragraph 1 above :

- (a) if the estimate of the expenditures under any Category shall decrease, the amount of the Loan then allocated to such Category and no longer required therefore will be reallocated by the Bank by increasing correspondingly the unallocated amount of the Loan;
- (b) if the estimate of the expenditures under any Category shall increase, the percentage set forth in the third column of the table in paragraph 1 above in respect of such expenditures shall be applied to the amount of such increase, and a corresponding amount will be allocated by the Bank, at the request of the Borrower, to such Category from the unallocated amount of the Loan, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of any other expenditures.

5. Notwithstanding the percentages set forth in the third column of the table in paragraph 1 above, if the estimate of total expenditures under Category II, III, IV

or VI shall increase and no proceeds of the Loan are available for reallocation to such Category, the Bank may, by notice to the Borrower, adjust the percentage then applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made.

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project consists of: (i) engineering for, and construction of, the Chingaza Water Diversion Scheme I and related distribution works; (ii) provision of equipment; and (iii) engineering studies for future schemes in the Borrower's systems.

Part A. Chingaza Water Diversion Scheme I.

The Chingaza Water Diversion Scheme I is the second stage of a long-range plan to meet the water requirements of Bogotá. The works to be constructed under this scheme are:

- (1) a dam on the Chuza River above its confluence with the Guatiquia River;
- (2) a water conveyance system between the Chuza reservoir and Bogotá, including about 33 kilometers of tunnels with several vertical intake shafts and about 6 kilometers of pipelines;
- (3) the first stage of a new water treatment plant with a capacity of up to 13 cubic meters per second to serve the Chingaza Water Diversion Scheme I;
- (4) about 35 kilometers of access roads; and
- (5) expansion of the water distribution system, including the installation of about 20 kilometers of large-diameter and about 100 kilometers of medium-diameter pipes, storage tanks with a combined capacity of about 200,000 cubic meters, booster pumping stations, and distribution system rehabilitation.

Part B. Provision of Equipment.

Provision of operational, engineering and maintenance equipment, including water meters, maintenance vehicles, and communications equipment required by the expansion of the Borrower's operations under the Project.

Part C. Studies for Future Schemes.

- (1) Engineering studies for future water supply, sewerage, drainage and flood control schemes in the Bogotá metropolitan area; and
- (2) Studies of pollution control through treatment of sewage discharged by the Borrower's system.

The Project is expected to be completed by June 30, 1977.

SCHEDULE 3

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, 1978.	770,000	March 1, 1990	1,745,000
March 1, 1979	800,000	September 1, 1990.	1,810,000
September 1, 1979.	825,000	March 1, 1991	1,875,000
March 1, 1980	855,000	September 1, 1991.	1,945,000
September 1, 1980.	885,000	March 1, 1992	2,015,000
March 1, 1981	920,000	September 1, 1992.	2,085,000
September 1, 1981.	955,000	March 1, 1993	2,160,000
March 1, 1982	990,000	September 1, 1993.	2,240,000
September 1, 1982.	1,025,000	March 1, 1994	2,320,000
March 1, 1983	1,060,000	September 1, 1994.	2,405,000
September 1, 1983.	1,100,000	March 1, 1995	2,490,000
March 1, 1984	1,140,000	September 1, 1995.	2,585,000
September 1, 1984.	1,180,000	March 1, 1996	2,675,000
March 1, 1985	1,225,000	September 1, 1996.	2,775,000
September 1, 1985.	1,265,000	March 1, 1997	2,875,000
March 1, 1986	1,315,000	September 1, 1997.	2,980,000
September 1, 1986.	1,360,000	March 1, 1998	3,085,000
March 1, 1987	1,410,000	September 1, 1998.	3,200,000
September 1, 1987.	1,460,000	March 1, 1999	3,315,000
March 1, 1988	1,515,000	September 1, 1999.	3,435,000
September 1, 1988.	1,570,000	March 1, 2000	3,560,000
March 1, 1989	1,625,000	September 1, 2000.	3,685,000
September 1, 1989.	1,685,000	March 1, 2001	3,805,000

* 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 portion 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%
More than four years but not more than eight years before maturity.	2¼%
More than eight years but not more than fourteen years before maturity.	3 %
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	5¾%
More than twenty-six years but not more than twenty-eight years before maturity	6¾%
More than twenty-eight years before maturity	7¼%

SCHEDULE 4

PROCUREMENT

1. With respect to any contract for civil works estimated to cost the equivalent of \$1,000,000 or more and for equipment estimated to cost the equivalent of \$50,000 or more :

(a) Before bids are invited, the Borrower shall furnish to the Bank, for its comments, the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedures as the Bank shall reasonably request. Any further modification to the bidding documents shall require the Bank's concurrence before it is issued to the prospective bidders.

(b) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Bank of the name of the bidder to whom it intends to award the contract and shall furnish to the Bank, in sufficient time for its review, a detailed report, by the consultants referred to in Section 3.02 of this Agreement, on the evaluation and comparison of the bids received, together with the recommendations for award of the said consultants, and the reasons for the intended award. No bidder shall be notified of the intended award before a final decision on the award is made. The Bank shall promptly inform the Borrower whether it has any objection to the intended award on the ground that it would be inconsistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits* referred to in Section 2.03 of this Agreement or with the Loan Agreement, and shall state the reasons for any objections it may have.

(c) If the contract shall be awarded over the Bank's reasonable objection, or if its terms and conditions shall, without the Bank's concurrence, materially differ from those on which bids were asked, no expenditure thereunder shall be financed out of the proceeds of the Loan.

(d) Two copies of the contract shall be furnished to the Bank promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of any such contract.

2. With respect to any other contract for civil works and equipment, the Borrower shall furnish to the Bank, promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of any such contract, two conformed copies of such contract, as well as a copy of the text of the bid invitation, the record of public opening of the bids and the bid evaluation report. The Bank shall promptly inform the Borrower if it finds that the award of the contract is not consistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits* referred to in Section 2.03 of this Agreement or with the Loan Agreement and, in such event, no expenditure under such contract shall be financed out of the proceeds of the Loan.

3. The orders required for the Project and to be financed out of the proceeds of the Loan shall be grouped into contracts of such size as shall be acceptable to the Bank.

4. For the purpose of evaluating bids for equipment and associated services included in Category V of the table set out in paragraph 1 of Schedule 1 to this Agreement, bid prices shall be determined and compared in accordance with the following rules :

- (a) the term “ Local Bid ” means a bid submitted by a manufacturer established in the territories of the Borrower for goods manufactured or processed to a substantial extent (as reasonably determined by the Bank) in such territories; any other bid shall be deemed to be a “ Foreign Bid ”;
- (b) the bid price under a Local Bid shall be the sum of the following amounts :
 - (i) the ex-factory price of such goods; and
 - (ii) inland freight, insurance and other costs of delivery of such goods to the place of their use or installation;
- (c) for the purpose of comparing any Foreign Bid with any Local Bid, the bid price under a Foreign Bid shall be the sum of the following amounts :
 - (i) the c.i.f. price of such goods;
 - (ii) the amount of any taxes on the importation of such goods into the territories of the Borrower which generally apply to non-exempt importers, or 15% of the amount specified in (c) (i) above, whichever shall be the lower; and
 - (iii) inland freight, insurance and other costs of delivery of such goods to the place of their use or installation.

SCHEDULE 5

METHOD FOR CALCULATING RATES OF RETURN

1. The annual returns specified in Section 5.05 (a) of this Loan Agreement shall be calculated in each calendar semester in respect of the calendar year in which such review is made and the preceding calendar year, by using as the denominator the average between the net current values of the fixed assets in service at the beginning and at the end of each such calendar year and as numerator the operating income generated by the respective service over the same year.

2. Any shortfall or overrun in the required annual returns for the calendar year preceding the calendar year in which the calculations are to be made shall be carried forward and subtracted or added, as the case may be, from the numerator used for the last mentioned calendar year.

3. “ Operating income ” shall be the difference between all revenues generated by the Borrower’s services, including *derechos de matricula, suministro* and *desagüe* and other incidental revenues but excluding customers’ contributions in aid of construction, and all administrative and operating costs of the Borrower, including maintenance, adequate provision for straight-line depreciation on the current value of assets, the cost of the services provided to the Special District of Bogotá free of charge, and taxes, if any, but excluding interest and other charges on debt.

4. The net current value of assets shall at any given date be their gross value less accumulated depreciation to such date and the net value of customers' contributions in aid of construction.

5. Until another method, satisfactory to the Bank, for the maintenance of value of assets of public utilities shall have been made applicable to the Borrower, the gross value of the assets shall be revalued from the time of incurrence of expenditures therefor in accordance with the corresponding variations in the *Indice nacional de los precios al consumidor (Costo de Vida)—Obreros* published by the Departamento Administrativo Nacional de Estadística of the Guarantor, or a similar index approved by the Bank, to the last month preceding the semester in which the calculation is to be made.

6. Depreciation shall be charged on a straight-line basis over the estimated useful life of the assets, such useful lives not to exceed the periods specified in the following schedule :

Tunnels	75 years
Dams and reservoirs	50 years
Buildings and other structures	50 years
Electrical and mechanical equipment	20 years
Cast iron and concrete pipes and sewerage system	50 years
Asbestos cement pipes	40 years
Steel pipes	30 years
Valves, hydrants and standpipes	20 years
Water meters	10 years
Vehicles and maintenance equipment	5 years

7. The gross value of fixed assets in operation, customers' contributions in aid of construction, and the accumulated depreciation thereon as revalued through December 31, 1970 shall be as follows :

Gross value of fixed assets	Col. \$1,754,000,000
Accumulated depreciation thereon	Col. \$ 348,000,000
Customers' contribution in aid of construction	Col. \$ 502,000,000
Accumulated depreciation thereon	Col. \$ 76,000,000