

No. 12001

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**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
COSTA RICA**

**Guarantee Agreement—*Fourth Power Project* (with General  
Conditions Applicable to Loan and Guarantee Agree-  
ments). Signed at Washington on 24 February 1972**

*Authentic text: English.*

*Registered by the International Bank for Reconstruction and Development  
on 26 September 1972.*

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**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
COSTA RICA**

**Contrat de garantie — *Quatrième projet relatif à l'énergie  
électrique* (avec Conditions générales applicables aux  
contrats d'emprunt et de garantie). Signé à Washington  
le 24 février 1972**

*Texte authentique : anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le  
développement le 26 septembre 1972.*

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

AGREEMENT, dated February 24, 1972, between REPUBLICA DE COSTA RICA (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 Instituto Costarricense de Electricidad (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to six million five hundred thousand dollars (\$6,500,000), 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

*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>3</sup> 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.

<sup>1</sup> Came into force on 2 June 1972, upon notification by the Bank to the Government of Costa Rica.

<sup>2</sup> The said Agreement entered into force on 2 June 1972. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Bank as document LN 800 CR, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

<sup>3</sup> See p. 160 of this volume.

*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 *Ministro de Hacienda* 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.* (a) It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Guarantor (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt except as otherwise disclosed in writing by the Guarantor to the Bank, and (ii) undertakes that, except as the Bank should otherwise agree, if any such lien shall be created, it 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 in the creation of any such lien express

provision will be made to that effect. The Guarantor shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (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, the term “governmental assets” means assets of the Guarantor, of any of its political subdivisions, of any agency of the Guarantor or of any such political subdivision, and assets of the Banco Central de Costa Rica or any institution performing the functions of a central bank for the Guarantor.

*Section 3.02.* (a) The Guarantor shall (i) carry out Part II (3) of the Project with due diligence and efficiency, commencing, except as the Bank shall otherwise agree, not later than September 1, 1972, and (ii) discuss with the Bank, promptly upon their preparation, the results and recommendations contained in the studies included in such Part of the Project.

(b) The Guarantor shall make with the Borrower arrangements satisfactory to the Bank providing (i) for the transfer of the proceeds of the loan in respect of Part II (3) of the Project from the Borrower to the Guarantor, and (ii) for the provision by the Borrower of such other funds as may be necessary in order to carry out Part II (3) of the Project.

(c) In order to assist the Guarantor in carrying out Part II (3) of the Project, the Guarantor shall employ consultants acceptable to the Bank upon terms and conditions satisfactory to the Bank.

*Section 3.03.* The Guarantor shall take all such action as will be necessary to enable the Borrower and CNFL to obtain from time to time such adjustments in their respective power tariffs as will provide revenues sufficient to meet the requirements of Sections 5.05 and 5.06 of the Loan Agreement.

#### *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 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, the Mortgage 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 *Ministro de Hacienda* 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:

Ministro de Hacienda  
San José  
Costa Rica

Cable address:

Minhacienda  
San José

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.

República de Costa Rica:

By RAFAEL ALBERTO ZUÑIGA  
Authorized Representative

International Bank for Reconstruction and Development:

By J. BURKE KNAPP  
Vice President

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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.]*

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