

MEMORANDUM
of
UNDERSTANDING

Between

THE GOVERNMENT OF GEORGIA

ANADOLU TASIT TICARET A.S.

JSC “GEORGIAN STATE ELECTROSYSTEM”

JSC UNITED ENERGY SYSTEM “SAKRUSENERGO”

LLC “ENERGOTRANS”

JSC “ELECTRICITY SYSTEM COMMERCIAL OPERATOR”

DATE: 29 May, 2015.

TBILISI, GEORGIA

The present Memorandum of Understanding (hereinafter the “MOU”) is signed by and between the following parties:

The Government of Georgia (hereinafter referred to as “GOG”) represented by the Minister of Energy of Georgia Mr. Kakha Kaladze;

“Anadolu Tasit Ticaret A.S.” with the Register number: 643213 with legal address at: Fatih Sultan Mehmet Mahallesi Balkan Caddesi No:58 Buyaka E Blok 34771 Tepeustu Umraniye Istanbul/Turkey (hereinafter referred to as “Company”) represented by Mr. Tuğban İzzet Aksoy;

JSC “Georgian State Electrosystem” (hereinafter referred to as “GSE”) represented by Rehabilitation Manager/Chairman of Management Board, Mr. Sulkhan Zumburidze;

JSC United Energy System “Sakrusenergo” (hereinafter referred to as “SAKRUSENERGO”) represented by General Director, Mr. Romeo Mikautadze;

LLC “Energotrans” (hereinafter referred to as “ET”) represented by Director, Mr. Kakha Sekhniashvili;

JSC “Electricity System Commercial Operator” (hereinafter referred to as “ESCO”) represented by General Director, General Director, Mr. Vakhtang Ambokadze;

The parties sign the present MOU on the following:

DEFINITIONS

1. The following defined terms shall be used in the present MOU:

- 1.1 “**Agreement**” means the agreement that shall be signed by the Principal Parties, for the purpose of starting the Construction Phase, in the form as attached in Annex 4 of the MOU.
- 1.2 “**Applicable Law**” means all Georgian laws, ordinances, decisions, statutes, rules, regulations, orders, resolutions, specifications and decrees of any governmental authority having jurisdiction over the Parties, the Facilities or the Parties’ obligations under this MOU as the same may be modified, amended or repealed from time to time, including any requirements of or deriving from any permit obtained for the Facilities and/or any international treaties.
- 1.3 “**Bank Guarantee**” means Preconstruction Security and/or Construction Security.
- 1.4 “**BOO**” means Build, Own, Operate i.e. the exclusive right to design, construct, finance, own, implement, operate and maintain Facility for indefinite term.
- 1.5 “**Commencement of Operation**” means the capability of the Facility to generate electricity in accordance with the requirements of the Applicable Law.
- 1.6 “**Construction Phase**” means, the time period starting from the Effective Date of the Agreement defined by the Annex 4 of the MOU until the actual date of Commencement of Operation of each Facility during which the Project Company is obliged to implement

- construction activities, works, but no later than the time periods stated in Construction Phase of Annex 3 of the MOU unless otherwise agreed by the Principal Parties.
- 1.7 **"Construction Security"** means bank guarantee provided by the Project Company for the purpose of securing the fulfillment of its obligations during Construction Phase.
 - 1.8 **"Day/Days"** means any Gregorian calendar day(s).
 - 1.9 **"Effective Date"** means the date of signing of the MOU by the Parties.
 - 1.10 **"Electricity (Power) Balance"** means the annual energy balance, approved by the relevant entity according to Applicable Law.
 - 1.11 **"Facility"** means the hydro power plant as defined by Annex 1 of this Memorandum.
 - 1.12 **"Feasibility Study"** means the study/report to be prepared by the Company and/or Project Company for the Facility and the Transmission Line, which shall include (but not be limited to) all documents and/or data and/or information listed in Annex 2 of the MOU and which confirms whether or not the Facility is technically, economically, financially and legally feasible, and can be completed within the time periods set under this MOU.
 - 1.13 **"Generation License"** means the license to be issued by the Georgian National Energy and Water Regulatory Commission ("GNEWRC") according to Applicable Law that confirms the right of the Project Company for the generation of electricity of Facility, for indefinite time.
 - 1.14 **"Guaranteed Power Purchase Agreement"** means the direct agreement(s) that shall be signed between the Project Company and ESCO in accordance with Article 15 of the MOU.
 - 1.15 **"Investment Costs"** means the costs including but not limited to, construction costs, operating costs, development costs and other costs related with the Project up to the date of termination of the MOU together with loan interest applicable thereto.
 - 1.16 **"Lenders"** means private or public finance institutions, corporations, funds, banks, accounts, office corporates etc. that provide debt or project financing to the Company and/or Project Company for the purpose of implementation of the Project.
 - 1.17 **"Ministry"** means the Ministry of Energy of Georgia.
 - 1.18 **"Parties"** means GOG, Company, Project Company (where applicable), GSE, SAKRUSENERGO, ET and ESCO jointly.
 - 1.19 **"Power Transmission Network"** means the power transmission lines and substations (including the Akhaltsikhe – Borchka power transmission line located in Georgia and 500/400/220 kV Substation "Akhaltsikhe") necessary for transmission of electricity to the Turkish border, owned and operated by GSE, ET and/or SAKRUSENERGO.
 - 1.20 **"Preconstruction Phase"** means the time period starting on Effective Date until the date of commencement of Construction Phase during which the Company and/or Project Company is obliged to implement preconstruction activities, but no later than time period

stated in Preconstruction Phase of Annex 3 of the MOU unless otherwise agreed by the Principal Parties.

- 1.21 **"Preconstruction Security"** means the bank guarantee provided by the Company for the purpose of securing of fulfillment of Company's and/or Project Company's obligations during Preconstruction Phase.
- 1.22 **"Principal Parties"** means the GOG and Company or Project Company where applicable.
- 1.23 **"Project"** means implementation of Feasibility Study, environmental and social impact assessment, construction, commissioning (including connection to power grids and substations), generation, sale and export of electricity and operation of the Facility on BOO basis.
- 1.24 **"Project Company"** means the company to be established by the Company in accordance with the Applicable Law but in any case before Construction Phase.
- 1.25 **"Site"** means site where the Facility will be constructed and operated in accordance with the MOU.
- 1.26 **"State"** means State of Georgia.
- 1.27 **"Take-or-Pay Principle"** means the principle whereby, in accordance with the terms of the TDA:
 - a) GSE, ET and SAKRUSENERGO shall provide Project Company with necessary dispatch and transmission services through the Power Transmission Network and ET additionally with necessary capacity through its own portion of Akhaltsikhe-Borchka power transmission line to export electricity produced by Facility to the Turkish border after the Commencement of Operation and if ET, GSE and/or SAKRUSENERGO does not provide the Project Company with necessary dispatch and transmission services through the Power Transmission Network and ET additionally with necessary capacity through its own portion of Akhaltsikhe-Borchka power transmission line to export electricity produced by the Facility to the Turkish border, defaulting party according to the TDA shall reimburse the Project Company the full amount of the loss of profit which the Project Company incurs as a result of not being able to dispatch and transmit electricity to Turkey through the Power Transmission Network which will be calculated according to the terms of TDA; and
 - b) the Project Company agrees to pay ET, GSE and SAKRUSENERGO a specified amount for the services being provided by them to the Project Company in connection with the Power Transmission Network and if the Project Company utilizes such transmission services from ET, GSE and/or SAKRUSENERGO in an amount less than such specified amount, the Project Company shall nevertheless pay such specified amount during the period specified in the TDA, except when the Project Company notifies ET, GSE and SAKRUSENERGO according to the TDA about the capacity which shall not be used or

where such deficiency is as a result of breach of ET, GSE, SAKRUSENERGO or GOG under this MOU or TDA.

- 1.28 **"TDA"** means Transmission and Dispatch Agreement to be signed between the Project Company and SAKRUSENERGO, GSE, ET which shall form a legal basis for ensuring transmission of the generated electricity by the Facility for the export purposes through Power Transmission Network.
- 1.29 **"Technical Parameters of the Facility"** means the location, installed capacity and annual production of the Facility as stated in Annex 1 of the MOU which may be amended subject to Article 29.2 of the MOU.
- 1.30 **"Transmission Line"** means the high voltage power transmission system which is to be constructed by the Company and/or Project Company, in accordance with the international standards as per Article 16 of the MOU to connect the Facility to the Power Transmission Network.
- 1.31 **"Financing Documents"** means any and all loan agreements, credit agreements, notes, bonds, indentures, security agreements, inter-creditor agreements, hedging agreements, participation agreements and any other documents to be entered into by the Company and/or Project Company with the Lenders, relating to any financing of the Project.
- 1.32 **"Compensated Party"** means for the purpose of Articles 21 to 23 (*Risk Factors*) of the MOU, the Lenders, the Company and the Project Company, as the case may be.
- 1.33 **"Senior Creditor Claims"** means an amount equal to: the sum of (a) the Principal Amount, (b) Accrued Interest, and (c) Pre-payment Costs.
- 1.34 **"Principal Amount"** means the amount required to repay the principal amount of the Senior Debt outstanding as at the Calculation Date.
- 1.35 **"Accrued Interest"** means interest accrued pursuant to any financing for Project Costs, on the Principal Amount as at the Calculation Date.
- 1.36 **"Pre-payment Costs"** means an amount as at the Calculation Date equal to the sum of any (a) interest period breakage costs, (b) interest rate hedging breakage costs, (c) currency exchange rate hedging breakage costs and (c) other breakage costs, in each case payable by the Company and/or Project Company as a result of any pre-payment required to be made in relation to its financing.
- 1.37 **"Senior Debt"** means all amounts required to be paid or repaid by the Company and/or Project Company pursuant to the Financing Documents.
- 1.38 **"Increased Costs"** means (a) all taxes, duties and withholdings and any other costs imposed on the Company and/or Project Company in State as a result of the payment of any sums under Articles 21 to 23 (*Risk Factors*) of the MOU (b) amounts payable to the Company and/or Project Company and to their subcontractors as result of the occurrence of the Risk Factor.

- 1.39 **"Shareholders' Contributions"** means the capital of the Company and/or Project Company attributable to its shareholders in respect of their investment in the Company and/or Project Company, including share capital and indebtedness (including interest on such indebtedness) owed to a shareholder and such shareholder's affiliates, as contributed or outstanding as at the Calculation Date.
- 1.40 **"Project Costs"** means the aggregate of Shareholders' Contributions plus Senior Debt.
- 1.41 **"Affiliate"** means any company directly or indirectly controlling, controlled by or under common control with, such company (for purposes of this definition, "control" means the power to direct the management or policies of a company, directly or indirectly, whether through the ownership of shares, participating interests or other securities, by contract or otherwise, provided that the direct or indirect ownership of majority with more than fifty per cent. (50%) of the voting share capital or participating interest of a company is deemed to constitute control of that company, and "controlling" and "controlled" have corresponding meanings).

PURPOSE AND SUBJECT OF THE MOU

2. The purpose and subject of the MOU is the implementation of the Project by the Company and/or Project Company on BOO basis and designing, construction, commissioning, testing, accepting, owning and operating the Facility under the Applicable Law and the terms and conditions set out herein.

ASSIGNMENT OF THE MOU

3. The Company is authorized to transfer its full or partial rights and/or obligations hereunder to any third party, which has legal capacity, power and authority, financial resources and technical expertise for the Project, subject to approval by the GOG. The GOG shall not unreasonably withhold or delay such approval. For the avoidance of doubt, transfer of any rights and/or obligations between the Company and the Project Company shall not require GOG's express approval or consent which is deemed to have been given hereunder.
4. The Company will ensure that Project is implemented through the Project Company. For this purpose, the Company will ensure that within 10 (ten) days of the date of its establishment and registration in the "Registry of entrepreneurial and non-entrepreneurial (non-commercial) legal persons" no later than the start of Construction Phase, the Project Company shall assume the liabilities and obligations of the Company as set out in this MOU and shall deliver to GOG a document signed by the Company and the Project Company in the form set out in Annex 5 (*Deed of Adherence*) of this MOU. As of the date of execution of the Deed of Adherence, the Company shall be released from any of its obligations and liabilities towards the GOG, ESCO, ET, GSE and SAKRUSENERGO and the Project Company shall be solely liable for implementation of the

Project. Additionally, the obligations and liabilities of GOG, ESCO, ET, GSE and SAKRUSENERGO towards the Company shall be deemed to be towards the Project Company and the obligations and liabilities of the Company towards the GOG, ESCO, ET, GSE and SAKRUSENERGO shall be deemed to be the obligations and liabilities if the Project Company towards the GOG, ESCO, ET, GSE and SAKRUSENERGO.

PRECONSTRUCTION PHASE

5. Preconstruction Phase starts on the Effective Date and ends on the date of commencement of Construction Phase.
6. The Company and/or Project Company within the Preconstruction Phase in accordance with the terms and conditions defined by Annexes 1, 2 and 3 of the MOU is obliged to:
 - 6.1 Locate and determine the lands required for the implementation of the Project and Transmission Line;
 - 6.2 Conduct the full Feasibility Study according to the schedule in Annex 2 (within the Technical Parameters of the Facility) of the MOU, finalize the Feasibility Study for the Facility and present it to the Ministry;
 - 6.3 Finalize the environmental and social impact assessment report for the Facility, and present it to the Ministry of Environment and Natural Resources Protection of Georgia and to the Ministry;
 - 6.4 Conduct the relevant public hearings defined by the Applicable Law for the Facility and present the results to the Ministry of Environment and Natural Resources Protection of Georgia and to the Ministry.
7. In case the Company, as a result of implementing the obligations defined by Articles 6.1, 6.2, 6.3 and 6.4 of the MOU decides to design, construct, commission, own and operate the Facility on BOO basis within the Technical Parameters of the Facility and to generate, export and sell electricity, it shall present the GOG a proposal within the time frame defined by Annex 2 of the MOU, and it shall include in its proposal the following:
 - 7.1 Company's decision on construction, commissioning and operation of the Facility on BOO basis within the Technical Parameters of the Facility and generation, export and sale of electricity by the Project Company;
 - 7.2 Full technical parameters, including capacity and annual generation of the Facility;
 - 7.3 Exact coordinates of allocation of the Facility and elevations of the river;
 - 7.4 Approximate investments required for implementation of the Facility;
 - 7.5 Feasibility Study;

7.6 Environmental and social impact assessment report (including the results of relevant public hearings defined by the Applicable Law).

8. If according to the results of the Feasibility Study and/or environmental and social impact assessment report, the construction, commissioning and operation of the Facility as well as generation, exportation and sale of electricity is technically and/or economically unfeasible or not workable for the Company and/or Project Company and/or the findings, calculations, results and any other issues in the Feasibility Study and/or environmental and social impact assessment report are not satisfactory to the Company and/or Project Company or do not meet any expectations of the Company and/or the Project Company with regard to the Project, the Company shall have the right (i) to terminate this MOU without being liable to pay any consideration, expense or indemnity to the GOG and (ii) not to implement the Project and shall deliver the notification of such decision to the GOG before submission of the proposal in accordance with Article 7 of the MOU. In the event this MOU is terminated by the Company in accordance with the provisions of this Article 8, the GOG shall, within 15 (fifteen) days following notification of the Company to the GOG with respect to termination, return the Preconstruction Security to the Company without any deduction of such security, unless the Preconstruction Security was collected by the GoG in accordance with the MOU until such date.
9. If the Company presents a proposal to the GOG as per Article 7, the GOG within 3 (three) months after receiving the proposal of the Company shall discuss the issue of construction and operation of the Facility, and make a decision. This decision shall only be based on environmental and social impact assessment report and/or the results of relevant public hearings defined by the Applicable Law. If the decision of the GOG is positive, the Principal Parties shall sign the Agreement within 1 (one) month following the date of notification of GOG's decision to the Company and/or Project Company. In case of GOG's negative decision, GOG shall deliver a notification of such negative decision to the Company and/or Project Company and this MOU shall terminate on the date of such notification. In the event the GOG does not deliver a notification of its decision (whether positive or negative) at the end of 3 (three) months period after receiving the proposal of the Company, this MOU shall be deemed to be terminated at the end of such 3 (three) months period, unless otherwise agreed by the Principal Parties. In the event of termination of the MOU in accordance with the provisions of this Article 9, the GOG shall, within 15 (fifteen) days following termination, return the Preconstruction Security to the Company without any deduction of such security, unless the Preconstruction Security was collected by the GoG in accordance with the MOU until such date.
10. Preconstruction Security.
 - 10.1 For the purpose of securing the fulfillment of obligations of the Company and/or Project Company during the Preconstruction Phase as stated in Article 6 of this MOU, the Company shall, according to the Applicable Law, provide the GOG on the Effective Date, the Preconstruction Security in an amount of 257 150.00 (two hundred fifty seven thousand

and one hundred and fifty) USD. The Preconstruction Security provided by the Company shall remain in force until the date falling 4 (four) months after the terms of commencement of Construction Phase.

- 10.2 The GOG is entitled to redeem the Preconstruction Security, claim and receive the full or partial amount under the Bank Guarantee if the Company and/or Project Company violates the relevant schedule, indicated in Annex 2 of the MOU, for more than 90 (ninety) days in total.

CONSTRUCTION PHASE

11. Construction Phase starts on the Effective Date of the Agreement and ends on the actual date of Commencement of Operation.
12. The Project Company within the Construction Phase is obliged to:
 - 12.1 Obtain the relevant rights for the lands required for the implementation of the Project and the Transmission Line;
 - 12.2 Commence construction works based on construction permit and commence the operation in accordance to the Applicable Law within the time frame defined by Annex 3 of the MOU.
 - 12.3 Construct the Facility according to the Technical Parameters of the Facility defined by Annex 1 of the MOU, ensure payment of the costs related to the connection of the Facility via Transmission Line to the Power Transmission Network and ensure Commencement of Operation within the time frame defined by Annex 3 of the MOU in accordance with Applicable Law.
 - 12.4 Construct the Transmission Line according to the Applicable Law.
 - 12.5 Ensure necessary funds for effective implementation of the Project and the Transmission Line.
 - 12.6 Ensure the construction in accordance with the security and environmental and other standards defined by the Applicable Law;
 - 12.7 Ensure, at its own expenses, the full and free access of the representatives of GOG, Ministry, Ministry of Environment and Natural Resources Protection of Georgia and/or any entitled GOG entity for the purpose of monitoring the construction process.
 - 12.8 If requested by GOG, ensure the quality and security monitoring of the construction materials at its own expense.
13. Construction Security.
 - 13.1 For the purpose of securing the fulfillment of its obligations during the Construction Phase as stated in Article 12 of this MOU, the Project Company shall on the day of signing the Agreement provide the GOG with Construction Security in an amount of 100.000 USD/MW of the Facility. Construction Security provided by the Project Company shall remain in force until the date falling 5 (five) months after the terms of Commencement of Operation or until the MOU is terminated under Article 26 and shall then be returned to the Project Company

within 15 (fifteen) days (The Construction Security submitted by the Project Company shall be issued by any bank licensed by State or the OECD member countries or any other as the Principal Parties may agree), unless the Construction Security was collected by the GoG in accordance with the MOU until such date..

13.2 The violation by the Project Company of the term of commencement of construction works based on construction permit and/or Commencement of Operation defined by Annex 3 of the MOU shall cause the penalization of the Project Company, in the following amounts:

- (i) 100 USD for each day from the 1st day of violation up to the 30th day;
- (ii) 200 USD for each day from the 31st day of violation up to the 60th day;
- (iii) 500 USD for each day from the 61st day of violation up to the 90th day;
- (iv) 1000 USD for each day from the 91st day of violation onwards.

Herewith the imposed fine shall be paid by the Project Company within 15 (fifteen) days from receiving the request from Ministry. In case fine is paid by the Project Company, the respective Construction Security shall be reduced in accordance with the amount paid by the Project Company.

13.3 The GOG is entitled to redeem the Construction Security, claim and receive the full or partial amount under such Construction Security if the Project Company refuses to pay the fine imposed on it according to Article 13.2 of the MOU, the GOG shall be entitled to redeem an amount equal to the unpaid fine from the Construction Security. In case fine is paid by the Project Company, the respective Construction Security shall be reduced in accordance with the amount paid by the Project Company.

GENERAL CONDITIONS

14. For the first 20 (twenty) years of operation, beginning from the date of Commencement of Operation of the Facility (the "Initial Operation Period"), the 20 (twenty) % of actual annual (from January 1st to December 31st) power generation of the Facility shall be sold during the winter months of each year, being the months of January, February, March, October, November and December (the "Winter Months") shall be exclusively sold to ESCO. Annual projected amount of electricity that should be generated by the Facility shall be reflected in the Electricity (Power) Balance in accordance with the Applicable Law of the respective year or other similar document. If, the production of electricity in first Winter Months of Initial Operation Period is less than 20 (twenty) % of annual projected amount of electricity (according the Electricity (Power) Balance valid as of January, 1st), the difference between actual production and the 20% (twenty percent) of annual projected amount of electricity shall be produced and supplied to ESCO in the following Winter Months or any other month(s) determined by ESCO. The difference between the 20 (twenty) % of factual annual power generation and 20 (twenty) % of annual projected amount of electricity (if any) should be taken into account in the next year.

For the avoidance of doubt, upon expiration of such 20 (twenty) years' period, the above mentioned obligation of the Project Company on selling the generated power to ESCO shall automatically cease.

15. For the purpose of Article 14 of the MOU, for the Initial Operation Period, during the Winter Months, the Project Company shall sell the generated power in accordance with the Guaranteed Power Purchase Agreement to be signed with ESCO with a tariff of 5.9 (five point nine) USD Cents per KWh ("ESCO Price") at the inter connection point. Other than the 20 (twenty) % of actual annual power generation of the Facility sold to ESCO during the Winter Months of the Initial Operation Period mentioned in Article 14 of the MOU, the Project Company is entitled to freely sell and/or export the remaining generated power on its own trading terms at its sole discretion to third parties and countries including the Republic of Turkey under the Applicable Law.
16. The Company and/or Project Company shall construct Transmission Line from the Facility to the nearest substation subject to bilateral agreement between the Company and/or Project Company and GSE.

OBLIGATIONS OF THE PARTIES

17. For the purposes of implementation of the Project, subject to the terms of this MOU and the Applicable Law, the Company shall cause the Project Company and the Project Company shall:
 - 17.1 Ensure due implementation of the Project;
 - 17.2 Maintain the Facility within the Technical Parameters;
 - 17.3 Spend best effort so that during the implementation period of the Project, at least 80% of employees (except management and experts) on this Project shall be citizens of the State.
18. The obligations of the GOG are as follows:
 - 18.1 The GOG within its competence shall use its best endeavors to assist the Company and/or the Project Company with the implementation, construction, commissioning and operation of the Project in any manner, which shall include to procure the issuance of any permits, consents and licenses including construction permit, water utilization permits and licenses (in order for the Company and/or Project Company to be authorized as soon as possible to utilize the Kheledula River water resources, for the purpose of Project), Generation License etc. provided that the Company and/or Project Company meets the relevant requirements in accordance with the Applicable Law.
 - 18.2 The GOG within its competence shall use its best endeavors to prevent any possible delay in importation of any material to the State for the purposes of the Project, provided that the

Company and/or the Project Company have met the relevant requirements in accordance with the Applicable Law.

- 18.3 Within its competence and provided that the Company/Project Company has met all relevant requirements under Applicable Law, the GOG shall ensure that the necessary State owned lands required for the Project are duly transferred and/or granted to the Company/Project Company in accordance with Applicable Law.
- 18.4 The GOG agrees that this Project is of high public necessity and state importance. In case the Company and/or Project Company cannot reach an agreement with private owners, the GOG, within its competence, shall use its best endeavors to assist the Company and/or Project Company to obtain relevant rights of use or ownership, in respect of any privately owned land required for the implementation of the Project provided, that the Company/Project Company has met all relevant requirements under Applicable Law. Such ownership rights, rights of way and easements shall be transferred and granted to the Company and/or Project Company in accordance with Applicable Law.
- 18.5 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest, man-made and other physical obstructions found on the Site shall be removed under the care and authority of the GOG in accordance with the Applicable Law.
- 18.6 The GOG undertakes that, if approved by the GOG, all the innovations that the Company and/or Project Company may propose from time to time for improvement of the Facility, introduction of communications and/or implementation of similar new investments shall be supported by the GOG.
- 18.7 The GOG acknowledges that the Lenders may exercise the enforcement rights against the Company and/or Project Company, in case the Company and/or Project Company breaches the Financing Documents. If at any time, the Lenders intend to enforce any rights pursuant to or arising out of the Financing Documents following such breach, the Lenders shall serve a notice to the GOG to that effect (“**Notice of Enforcement Rights**”). Following receipt by the GOG of the Notice of Enforcement Rights and until the date falling 6 (six) months after the date of receipt, the Lenders shall have the right to nominate a substituted entity to the GOG to be substituted for the Project Company (“**Substituted Entity**”). In order to effect such substitution, the Lenders or their authorized representatives, as the case may be, shall notify their intention to the GOG (“**Substitution Notice**”) and shall provide the GOG all information that may be necessary for the GOG to verify the Substituted Entity. Such verification shall be based on objective criteria already applied equally to similar projects by the GOG and shall not unreasonably withhold or delay such verification. The Lenders and their authorized representatives and/or the Substituted Entity are entitled to request that new terms and conditions should apply to the contractual

arrangements between the GOG and the Substituted Entity, which should be substantially the same as under this MOU.

Following the realization of the substitution, the rights of the GOG towards the Project Company as set out in this MOU shall become the rights of the GOG towards the Substituted Entity and the GOG, the Substituted Entity and/or the Project Company shall complete the necessary legal procedures such as:

- (i) the Substituted Entity shall become a party to the MOU instead of the Company and/or the Project Company and shall thereafter be treated as if it is named as a party thereto instead of the Company and/or the Project Company;
- (ii) the Substituted Entity shall be granted all of the rights and assume all of the obligations of the Company and/or Project Company under the MOU;
- (iii) the GOG shall owe its obligations under the MOU to the Substituted Entity.

18.8 In the event the GOG intends to terminate this MOU for any reason, the GOG shall provide the Lenders with a written notice ("Notice of Termination"), specifying the reasons for the proposed termination ("Default") and the date on which such termination will be effective and which shall be a date no earlier than 6 (six) months following receipt by the Lenders of the Notice of Termination. During such 6 (six) months period, the Lenders shall have the right but not the obligation to either:

- (i) cure such Default on behalf of the Company and/or Project Company, in which case the right of the GOG to terminate the MOU due to such Default shall cease and/or;
- (ii) nominate a Substituted Entity, to be acceptable to the GOG, acting reasonably, provided that a Substituted Entity who, in the Lenders' reasonable opinion, has the financial and technical capacity to perform the obligations of the Company and/or Project Company under this MOU shall be deemed to be acceptable to the GOG, who shall become party to the MOU instead of the Company and/or Project Company (and the GOG and the Company and/or Project Company agree to execute relevant documentation or undertake relevant actions required for this to be affected), in case of substitution, right of the GOG to terminate the MOU due to such Default shall cease and the provisions of sub-paragraphs (i), (ii) and (iii) of Article 18.7 shall apply to such Substituted Entity. Herewith the GOG shall have the right to reject the Substituted Entity in case the GOG has a documented justification, that the Substituted Entity does not have funds and/or resources to implement the Project.

18.9 Provided, that the Company and/or Project Company has met all relevant requirements under Applicable law and has obtained the water usage permit (subject to provision of Articles 18.1, 20.3 and 21), the Company and/or Project Company is authorized to utilize water resources of Kheledula River for the purpose of Project for an indefinite period of time and shall therefore obtain a water usage permit. In this context, the GOG within its competence shall provide support to the Company and/or Project Company in (i) construction of roads, (ii) construction of telecommunication lines, (iii)

installation of water pumping stations, and (iv) any other equipment and machinery necessary for the implementation, construction, commissioning and operation of the Project, provided that the Company and/or Project Company complies with the Applicable Law.

- 18.10 In case of necessity, the GOG shall within its competence support the Company and/or Project Company in obtaining the necessary permits for procurement and utilization of explosive substances for the Project implementation phase, provided that the Company and/or Project Company meets the relevant conditions set forth in the Applicable Law.
19. For the purpose of export of electricity produced by the Facility; GSE, ET and SAKRUSENERGO shall provide Project Company with necessary dispatch and transmission services through Power Transmission Network and ET additionally with necessary capacity through its own portion of Akhaltsikhe-Borchka power transmission line to export electricity produced by the Facility to the Turkish border, by means of the TDA based on the Take-or-Pay Principle for a period of 20 (twenty) years after the Commencement of Operation.

EXTENSION OF TIME

20. The Company and/or Project Company shall have the right to request time extension should any of the following events affect implementation of the Project, for a period at least equal to delay arising out of following events:
- 20.1 any default or breach under the MOU by GOG, ET, GSE, SAKRUSENERGO or ESCO; or
- 20.2 State or local self-governing bodies of State, or their representatives acting illegally, failing to act, or not fulfilling their obligations (fully or partially) or judicial orders or decisions, injunction of a governmental authority or any delays attributable to the GOG or any State or local self-governing bodies of State; or
- 20.3 Company and/or Project Company applies for any permits, licenses, approvals, authorizations, etc. including any permit required for Preconstruction Phase works, construction permit, Generation License etc. which are required for implementation of the Project and has met relevant requirements in accordance with the Applicable Law and such are not issued by the State authorities in accordance with Applicable Law; or
- 20.4 if the Company and/or Project Company due to the reasons attributable to GOG cannot access to the Site to perform necessary works specified in Annex 2 and Annex 3 despite Company and/or Project Company has met relevant requirements in accordance with the Applicable Law.

RISK FACTORS

21. "Risk Factors" are,
- (i) any change made to Applicable Law or any high level judicial practice that impacts interpretation and application of the Applicable Law after the Effective Date applied

discriminatively solely to the Project and/or the Company and/or the Project Company and not to similar projects or companies which directly or indirectly: (a) prevents or delays the progress in the construction phase of the Project by the Company and/or Project Company, or (b) prevents, hampers, limits or adversely affects, interrupts or stops the exclusive utilization, usage or operation rights of the Project by the Company and/or Project Company, or (c) causes the Company and/or Project Company to suffer any additional cost, damage or loss or (d) restricts the convertibility of Georgian Lari into Euros, US Dollars or Turkish Liras or the transferability of amounts to accounts located outside of State;

- (ii) failure of the GOG, within its competence, to grant the Company and/or Project Company (or procure that the Company and/or Project Company is granted) in accordance with the Company's and/or Project Company's construction schedule and Applicable Law all the necessary permits, licenses, consents and/or exclusive rights as may be required for the financing, construction, commissioning, testing, acceptance, operation, usage, management and maintenance of the Project, provided that the Company and/or Project Company has met the relevant requirements of the Applicable Law; or revocation, termination, nullification, rescission, modification (excluding the modifications made upon the Company's and/or Project Company's request) or cancellation by the GOG of any such permit, license, consent and/or exclusive right in violation of Applicable Law provided that the Company and/or Project Company completely follows demands and terms under the Applicable Law;
- (iii) expropriation, requisition, confiscation or nationalization of the Project, or the shares or the assets of the Company and/or Project Company, in whole or in part, import restrictions or closure of harbors, docks, facilities for the use of, or services to, shipping or navigation by the GOG;
- (iv) any failure by the GOG to comply with its obligations pursuant to the MOU.

22. In the event of an occurrence of a Risk Factor, the Compensated Party shall be entitled to be paid compensation, in accordance with Article 23 of the MOU resulting from or in a relation to such Risk Factor according to the duration of the Risk Factor defined as below.

23. In the event of the relevant Risk Factor, the Compensated Party may give written notice to the GOG requiring the GOG to pay as compensation an amount equal to the sum of the following:

- (i) All direct costs, damages and losses incurred by the Company and/or Project Company resulting from, or in relation to such Risk Factor (including the outstanding Senior Creditor Claims; plus the outstanding amount of the Shareholders' Contributions revaluated at the

Calculation Date; plus an amount equal to the Company's and/or Project Company's loss of profit from the date of Calculation Date to the date that is ten (10) years after the Calculation Date); and (ii) Increased Costs.

Such amount shall be payable by the GOG, (without deduction, withholding, set off or counterclaim) to an account designated by the Compensated Party inside or outside of State on or prior to the date that is ninety (90) days from the Compensated Party's written notice of the Risk Factor occurrence (the "Calculation Date").

Any recovery by the Compensated Party based on this Article shall not prejudice the accrued rights of the Compensated Party pursuant to this MOU and the Compensated Party's right to seek recovery or remedy based on other provisions of this MOU and/or Applicable Law.

TERMINATION OF THE MOU

24. Without prejudice to any termination right of the GOG under this MOU, the GOG may terminate the MOU wholly and unilaterally, by serving a 90 (ninety) days prior written notice to the Company and/or Project Company, in following cases:
 - 24.1 In case the Company and/or Project Company violates the Schedule defined by Annex 2 of the MOU and such violation lasts for more than 90 (ninety) days in total.
 - 24.2 In case the amount of fine, according to Articles 13.2 of the MOU reaches 100 (hundred) % or more of the full amount of the initial Construction Security.
25. The termination of the MOU by the GOG according to Article 24 of the MOU shall cause the following:
 - 25.1 The rights (including ownership rights, to the extent applicable) on the land plots necessary and/or affected for the implementation of the Project shall be transferred to the State.
 - 25.2 The Company and/or Project Company shall be deprived the right to implement the relevant Project.
 - 25.3 Exclusive ownership rights of the Feasibility Study and the environmental and social impact assessment reports, as well as any other documents and drawings related to the Project which may be in possession of the Company and/or Project Company (including new documents developed by the Company and/or Project Company) shall be transferred to the GOG for free of charge.
26. Without prejudice to any termination right of the GOG under this MOU, the Company and/or Project Company may terminate the MOU wholly and unilaterally, by serving a 90 (ninety) days prior written notice to the GOG, in following cases:
 - 26.1 If the GOG fully or partially fails to fulfill any of its obligations as given in Articles 18 and 19 hereunder and such failure lasts for more than 120 (one hundred and twenty) days;
 - 26.2 In case the events (or one of them) as specified in Article 21 of the MOU continues for more than 120 (one hundred and twenty) days; or

- 26.3 In case the events (or one of them) as specified in Article 20 of the MOU continues for more than 120 (one hundred and twenty) days.
27. The termination of the MOU according to Article 26 of the MOU by the Company and/or Project Company shall cause the following:
- 27.1 The rights (including ownership rights, to the extent applicable) on the land plots necessary and/ or affected for the implementation of the Project shall be transferred to the State.
- 27.2 The Company and/or Project Company shall be deprived the right to implement the Project.
- 27.3 Exclusive ownership rights of the Feasibility Study and the environmental and social impact assessment reports, as well as any other documents and drawings related to the Project which may be in possession of the Company and/or Project Company (including new documents developed by the Company and/or Project Company) shall be transferred to the State free of charge.
- 27.4 The Company and/or Project Company shall be entitled to receive the documented Investment Costs plus the compensation amount calculated in accordance with Article 23 of the MOU.
28. Termination of the MOU by the GOG or by the Company and/or Project Company shall cause the termination of the MOU for all Parties and accordingly the termination of the TDA and Guaranteed Power Purchase Agreement.

AMENDMENTS OF THE MOU

29. Amendments;
- 29.1 This MOU may be amended by written agreement between the Parties.
- 29.2 After finalization of environmental and social impact assessment report and Feasibility Study, the MOU shall be amended due to the changes in Technical Parameters of the Facility upon request of the Company and/or Project Company provided that it should be acceptable to the GOG.
- 29.3 Parties agree that the MOU shall be amended in case of global and/or local financial adverse condition occurs provided that it should be acceptable to the GOG.
- 29.4 If any provision of this MOU becomes invalid or unenforceable, the validity of other provisions shall not be affected.

NOTIFICATIONS

30. A notice under or in connection with this MOU (a "Notice"):
- 30.1 Shall be in writing.
- 30.2 Shall be made in English language.
- 30.3 Shall be delivered personally or sent by post (and air mail if overseas) courier, or electronically (with original to follow) to the Parties.
- 30.4 Shall be effective when actually received.

GOVERNING LAW AND DISPUTE RESOLUTION

31. This MOU shall be governed by the laws of Georgia.
32. The Parties hereto will use their best efforts to settle amicably any dispute, controversy or claim arising out of or in connection with, or the breach, termination, invalidity or interpretation of the MOU. If such dispute, controversy or claim cannot be settled within 30 (thirty) days from the dispute notification date or within a longer term agreed upon by the Parties, the dispute shall be considered at the International Chamber of Commerce in accordance with the arbitration rules, by three arbitrators. Venue of arbitration is Geneva (Switzerland) and the dispute, controversy or claim shall be heard in the English language in compliance with the material Applicable Law.

FORCE MAJEURE

33. Force Majeure shall mean any event beyond the reasonable control of either Party, the occurrence of which could not have been reasonably foreseen and which could adversely affect timely execution of the Parties obligations under this MOU, including but not limited to, war, civil war, invasion, act of rebellion, hostile act of a foreign enemy, act of terrorism, radiation, biological or chemical contamination, fire, epidemic, cyclone, tidal wave, landslide, lightning, earthquake, flood, other natural disaster and any other similar acts of God, boycotts, sanctions or embargoes imposed on State and events beyond control of the Parties affecting and paralyzing any one of the Power Transmission Network or Transmission Line. Risk factor occurrences shall not be regarded as force majeure events.
34. If any Party hereto is affected by Force Majeure as defined in previous article, it shall give written notice immediately after becoming aware thereof to the other Parties. A detailed report elaborating the reasons and consequences of the Force Majeure event will be provided in such written notice.
35. If a Force Majeure event occurs, the fulfillment by the Parties of their obligations under this MOU shall be postponed until the termination of the relevant Force Majeure event, unless otherwise agreed by the Parties.

ADDITIONAL CONDITIONS

36. The MOU enters into force on the Effective Date and remains in force until all obligations are fulfilled by the Parties, unless it is terminated in accordance with the MOU.

Validity term of the MoU as defined herein shall have no impact on the ownership, usage, operation or trading rights (including sale and export of the electricity energy generated by the Facility) of the Company and/or the Project Company with respect to the Project, Facility, water resources, territory, land, water pumping stations, roads, telecommunication lines and any other equipment and machinery related with the Facility and connection to the Power Transmission Network.

37. The Parties agree that the Company and/or Project Company and the shareholders in the Company and/or Project Company shall be entitled to provide any security to the Lenders for state owned lands with the prior written consent from the GOG in connection with the financing to be provided by the Lenders for the Project.
38. The shareholders in the Project Company shall be entitled to sell, assign or transfer any or all of their shares to any other person or entity upon consent of the GOG (which cannot unreasonably withheld). However, the shareholders in the Project Company shall be entitled to sell, assign or transfer any or all of their shares to any other person or entity after 20 (twenty) years following Commencement of Operation date without consent of GOG.
However, the shareholders in the Project Company, including the Affiliates of the shareholders shall be entitled to sell, assign, make public offering or transfer any or all of their shares to Intra (Anadolu) Group Affiliate following Commencement of Operation date without consent of GOG.
39. The MOU is made in English language, into 6 (six) equally binding copies.

SIGNATORIES

The Government of Georgia



Kakha Kaladze

JSC "Georgian State Electrosystem"



Sul Khan Zumburidze

JSC "Electricity System Commercial Operator"



Vakhtang Ambokadze

JSC United Energy System "Sakrusenergo"



Romeo Mikautadze

Anadolu Taşıt Ticaret A.Ş.



Tuğban İzzet Aksoy

LLC "Energotrans"



Kakha Sekhniashvili

ANNEX 1

NAME	LOCATION	RIVER ELEVATION (meters above sea level)		ANNUAL GENERATION (GWH)	CAPACITY (MW)
KHELEDULA 3 HPP	River KHELEDULA	955	680	255.043	60.44

ANNEX 2	The quantity of months from the date of signing the MOU					
	3	6	9	12	15	18
<i>Name of Facility:</i>						
Sites and main parameters definitions						
Topographical Surveys and Preparation of Maps						
Geological, Geophysical						
Seismic Risk analysis						
Construction Materials Survey						
Meteorological and Hydrological Studies						
Hydraulic Studies						
Alternative Analysis						
Technical Design						
Infrastructure						
Power Generation and Utilization						
Transmission System Associated						
Ecology						
Bills of Quantities						
Construction Organization						
Economic Analysis.						
Financial Analysis.						
Procurement Planning and Execution Scheme						
Timetable of Work - Force Training						
Feasibility Study completion and Submission						
Environmental and Social Assessment report completion and Submission						
Conduct the public Hearings an submit the results						
Locate and determine the lands necessary for the implementation of the Project						
Submission of the proposal to the Government about the implementation						

ANNEX 3

PRECONSTRUCTION PHASE		CONSTRUCTION PHASE	
Start	End	Start	End
The date of execution of the MOU	The Effective Date of the Agreement	The Effective Date of the Agreement	Commencement of Operations
22 Months after the Memorandum is executed		Commencement of construction works, based on construction permit to be obtained within 12 months after the execution of the Agreement	Commencement of Operations 48 months after the construction permit is acquired

ANNEX 4

A G R E E M E N T

Tbilisi

This Agreement is signed on [.....] by and between;

The Government of Georgia (hereinafter referred to as "GOG") represented by the Minister of Energy of Georgia Mr. Kakha Kaladze; and

"Project Company Name" (hereinafter referred to as "Project Company") represented by Director _____.

Capitalized words used but not defined in this Agreement shall have the meaning given to them in the MOU.

Whereas, GOG and [Company Name] have entered into a Memorandum of Understanding on [●] ("MOU") under which the Company undertakes that the Project Company shall execute this Agreement for the purpose of starting the Construction Phase.

Now, therefore, the Principal Parties have agreed as follows:

- 1) The Principle Parties based on Feasibility Study, environmental and social impact assessment and the results of public hearings prepared and submitted by the Company/Project Company according to the MOU, have made a mutual decision on the commencement of construction of the Facility.
- 2) Immediately upon signing of this Agreement, the Project Company shall apply to the relevant State authority in order to obtain the construction permit for the Facility. The GOG shall use its best endeavors to assist the Project Company in obtaining the construction permit for the Facility.
- 3) The Principle Parties agree that the Construction Phase will start on the date of the Agreement and will include 12 months for obtaining the construction permit and commencement of the construction works of the Facility.
- 4) On the date of the Agreement provided that the GOG returns the Preconstruction Security to the Company and/or Project Company, the Company and/or Project Company shall submit to the GOG the Construction Security according to Article 13.1 of the MOU.
- 5) This Agreement shall be effective on its signing date (hereinafter referred to as: "Effective Date of the Agreement").

The Government of Georgia

Kakha Kaladze

"Project Company Name"

ANNEX 5

DEED OF ADHERENCE

THIS DEED OF ADHERENCE is made and entered into on [date] by [insert details of the Project Company] (the "Project Company").

WHEREAS: On [date] [insert name of the Company] (the "Company") and the Government of Georgia (the "GOG") signed the Memorandum of Understanding regarding the construction, ownership, and operation of [insert name of HPP] Hydro Power Plant (the "MOU");

WHEREAS: Pursuant to MOU the Company undertook to establish the Project Company and ensure undertaking of all of the Company's obligations under the MOU by the Project Company; and

WHEREAS: The Project Company is willing to be irrevocably bound by the obligations of the Company under the MOU.

NOW, THEREFORE, the Project Company agrees to the following:

1. The Project Company hereby adheres to the MOU and agrees to be bound by the rights, obligations and liabilities of the Company under the MOU. The Project Company irrevocably and unconditionally assumes all of the obligations and liabilities of the Company under the MOU.
2. As of the date of execution of this Deed of Adherence by the Project Company, the Project Company shall be solely liable before the GOG for fulfillment of the obligations of the Company provided under the MOU and the Company shall be released from any of its obligations and liabilities towards the GOG, ESCO, ET, GSE and SAKRUSENERGO (as such terms are defined in the MOU).
3. Furthermore, references to the "Company" in the MOU shall be, as of the date of execution of this Deed of Adherence, interpreted as the "Project Company" as applicable.
4. This Deed of Adherence forms an inseparable part of the MOU.
5. The abovementioned act of adherence may not be cancelled by the Project Company without the advance letter of consent from the GOG.

IN WITNESS WHEREOF, the Project Company has caused this Deed of Adherence to be executed by its duly authorized representative as of the date first written above, [insert name of the Project Company]

Signature:

Name:

Title:

APPROVED BY:

[Insert name of the Company]

Signature:

Name:

Title:

Date:

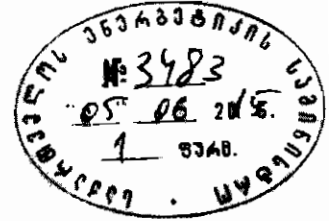
Government of Georgia, represented by the Ministry of Energy of Georgia

Signature:

Name:

Title:

Date:



საქართველოს მთავრობის განკარგულება

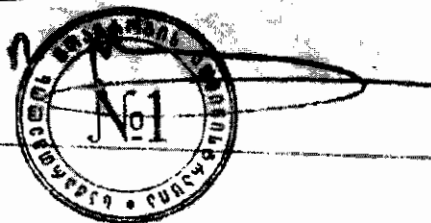
№1087 2015 წლის 29 მაისი ქ. თბილისი

საქართველოს მთავრობას, სს „ელექტროენერგეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერგოტრანსს“, სს „გაერთიანებულ ენერგეტიკულ სისტემა საქრუსენერგოსა“ და კომპანია „Anadolu Tasit Ticaret A.S.“-ს შორის დასადები ურთიერთგაგების მემორანდუმის თაობაზე

1. მოწონებულ იქნეს საქართველოს მთავრობას, სს „ელექტროენერგეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერგოტრანსს“, სს „გაერთიანებულ ენერგეტიკულ სისტემა საქრუსენერგოსა“ და კომპანია „Anadolu Tasit Ticaret A.S.“-ს შორის დასადები ურთიერთგაგების მემორანდუმის პროექტი.

2. საქართველოს მთავრობის სტრუქტურის, უფლებამოსილებისა და საქმიანობის წესის შესახებ საქართველოს კანონის 27-ე მუხლის შესაბამისად, ურთიერთგაგების მემორანდუმს, საქართველოს მთავრობის სახელით, ხელი მოაწეროს საქართველოს ენერგეტიკის მინისტრმა კახა კალაძემ.

პრემიერ-მინისტრი



ირაკლი ღარიბაშვილი



საქართველოს იუსტიციის სამინისტრო
MINISTRY OF JUSTICE OF GEORGIA



KA010136296289415

საქართველო, ქ. თბილისი, 0114, გორგასლის ქ. 24 ა. ტელ.: 2 40-51-48, 2 40-58-36; ელ. ფოსტა: info@justice.gov.ge
24 a, Gorgassali str., 0114, Tbilisi, Tel.: 2 40-51-48, 2 40-58-36, E-MAIL: info@justice.gov.ge

№2831

08 / აპრილი / 2015 წ.

საქართველოს ენერჯეტიკის
მინისტრის მოადგილეს,
ბატონ ირაკლი ხმალაძეს

ბატონო ირაკლი,

საქართველოს იუსტიციის სამინისტრომ განიხილა თქვენი 2015 წლის 31 მარტის №04/1187 წერილით წარმოდგენილი საქართველოს მთავრობას, კომპანია „ANADOLU TASIT TICARET A.S.“-ს, სს „ელექტროენერჯეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერჯოტრანსსა“ და სს „ჯეს საქრუსენერჯოს“ შორის დასადებ ურთიერთგაგების მემორანდუმის პროექტი, რომელთან დაკავშირებით გაცნობებით შემდეგს:

1. საკითხები ხელშეკრულების პროექტის მე-4 მუხლის შესაბამისად, „კომპანიის“ მიერ თავისი უფლება-მოვალეობების საპროექტო კომპანიისთვის სრულად გადაცემისა და „კომპანიის“ პასუხისმგებლობისგან სრულად გათავისუფლების თაობაზე საჭიროებს დამატებით გადაწყვეტას მიზანშეწონილობიდან გამომდინარე. ამასთან, მიზანშეწონილია, „კომპანია“ და „საპროექტო კომპანია“ სოლიდარულად აგებდეს პასუხს ხელშეკრულების დანარჩენი მხარეების წინაშე.

2. ხელშეკრულების პროექტის მე-6 მუხლის თანახმად, კომპანიის წინასამშენებლო ფაზის ვალდებულები უნდა შესრულდეს დანართი №1, №2 და №3-ის შესაბამისად. იმის გათვალისწინებით, რომ ხელშეკრულების პროექტის №1 და №3 დანართები, ასევე, ითვალისწინებს წინასამშენებლო ფაზაში კომპანიის ვალდებულებებს, ხელშეკრულების პროექტის 10.2 პუნქტში მიზანშეწონილია, რომ ამ პერიოდში წარმოდგენილი საბანკო გარანტიით უზრუნველყოფილი იყოს არა მარტო დანართი №2-ით გათვალისწინებული ვალდებულებები, არამედ ზემოაღნიშნული სამივე დანართით გათვალისწინებული ვალდებულებები.

3. იმის გათვალისწინებით, რომ საპროექტო კომპანია არ წარმოადგენს ხელშეკრულების მხარეს,

მიზანშეწონილია, ხელშეკრულების პროექტის მე-17 მუხლის ჩაგმატოს შემდეგი შინაარსის ჩანაწერი: „For the purposes of implementation of the project, subject to terms of this MOU and the Applicable Law, the company shall cause the project company and the Project Company shall.“

4. ხელშეკრულების პროექტის 17.3 პუნქტის თანახმად, კომპანიის ვალდებულება – პროექტის იმპლემენტაციაზე დაასაქმოს საქართველოს მოქალაქეთა 80%, არ წარმოადგენს უპირობო ვალდებულებას და მასზე ვრცელდება „საუკეთესო ძალისხმევით“ (best efforts) სტანდარტი. აღნიშნული უნდა გადაწყდეს მიზანშეწონილობიდან გამომდინარე.

5. ხელშეკრულების პროექტის 18.4 პუნქტთან დაკავშირებით შევნიშნავთ, რომ საქართველოს კანონმდებლობა არ იცნობს ტერმინს – „სახელმწიფოებრივი მნიშვნელობის პროექტს“ (Project of state importance). აღნიშნული 18.4 პუნქტის მიზნებისთვის კერძო პირებისთვის უძრავი ქონების ჩამორთმევა შესაძლებელია, განხორციელდეს მხოლოდ „საქართველოს კონსტიტუციის“ 21-ე მუხლისა და „აუცილებელი საზოგადოებრივი საჭიროებისათვის საკუთარების ჩამორთმევის წესის შესახებ“ საქართველოს კანონის შესაბამისად, რომელთა თანახმად, ექსპროპრიაციის თაობაზე გადაწყვეტილებას იღებს მხოლოდ სასამართლო. აღნიშნულის გათვალისწინებით, საქართველოს მთავრობისთვის 18.4 პუნქტის ფარგლებში რაიმე სახის ვალდებულების დაკისრება მოკლებულია სამართლებრივ საფუძველს.

6. ხელშეკრულების პროექტის 18.8(ii) ქვეპუნქტის თანახმად, ჩანაცვლებული კომპანია (Substituted Entity) მსესხებლების დასაბუთებული მოსაზრებით უნდა აკმაყოფილებდეს პროექტის განხორციელებისთვის საჭირო ფინანსურ და ტექნიკურ მოთხოვნებს და ეს საკმარისი იქნება ჩანაცვლების განხორციელებისათვის. მიზანშეწონილია, რომ ზემოაღნიშნული მუხლის ფარგლებში გათვალისწინებული იყოს საქართველოს მთავრობის შესაძლებლობა, უარი განაცხადოს ჩანაცვლებულ კომპანიაზე, თუ მთავრობის დასაბუთებული მოსაზრებით ეს კომპანია არ აკმაყოფილებს პროექტის განხორციელებისთვის საჭირო ფინანსურ და ტექნიკურ მოთხოვნებს.

7. იმის გათვალისწინებით, რომ ხელშეკრულების პროექტის 18.9 პუნქტის პირველი წინადადებით გათვალისწინებული შედეგის მიღწევა (ნებართვის მიღება) მეტწილად დამოკიდებულია თავად კომპანიის ქმედებებზე, მიზანშეწონილი არ არის წყლის რესურსების უვადო გამოყენების უფლების კომპანიისთვის უპირობოდ და წინასწარ გადაცემა. ამდენად, აღნიშნული მუხლის პირველი წინადადება მიზანშეწონილია, ჩამოყალიბდეს შემდეგი რედაქციით: „Provided that the company has met all relevant requirements under Applicable Law and obtained a water usage permit, the Company and/or Project Company is authorized to utilize water resources of kheledula River for the purpose of the Project for an indefinite period of time.“ აქვე შევნიშნავთ, რომ ხელშეკრულების პროექტის 21(ii) ქვეპუნქტში მიზანშეწონილია, ჩამატებულ იქნეს შემდეგი ჩანაწერი – „failure of the GOG within its competence to grant...“.

8. ხელშეკრულების პროექტის 21-ე მუხლი ითვალისწინებს „რისკ ფაქტორებს“ (Risk Factors), რომელთა დადგომის შემთხვევაში საქართველოს მთავრობა ვალდებულია, გადაიხადოს შესაბამისი კომპენსაცია. აღნიშნული მუხლის (i) ქვეპუნქტში ასეთ რისკფაქტორად, ასევე, მითითებულია სასამართლო გადაწყვეტილება (judicial decision). აღსანიშნავია, რომ სასამართლოს მიერ კომპანიის ან/და საპროექტო კომპანიის წინააღმდეგ მიღებული გადაწყვეტილების ასეთ რისკფაქტორად ჩამოყალიბება არ არის მიზანშეწონილი. ეს, ფაქტობრივად, არაეფექტურს ხდის მხარეებს შორის დავის სასამართლო გზით გადაწყვეტას, რადგანაც, მიუხედავად ასეთი დავის შედეგისა, კომპანიას ან/და საპროექტო კომპანიას ექნება შესაძლებლობა, ისევ საქართველოს მთავრობისგან აინაზღაუროს დავის შედეგად მიყენებული ზიანი. ზემოაღნიშნულიდან გამომდინარე კომპანიის ან/და საპროექტო კომპანიის წინააღმდეგ ნებისმიერი დავა მოკლებული იქნება ლოგიკურ საფუძველს. დამატებით შევნიშნავთ, რომ რისკფაქტორს წარმოადგენს, ასევე, ადმინისტრაციული

გადაწყვეტილება, რომელიც შეიძლება მიმართული იყოს კონკრეტულად კომპანიის ან/და საპროექტო კომპანიის წინააღმდეგ და, ამავე დროს, სრულად იყოს შესაბამისობაში საქართველოს კანონმდებლობასთან. ამდენად, მისი რისკფაქტორში გათვალისწინება არ არის მიზანშეწონილი. ზოგადად, შევნიშნავთ, რომ 21-ე მუხლში ჩამოყალიბებული რისკფაქტორები მეტად ფართოა და მოიცავს საქართველოს მთავრობის მიერ ხელშეკრულებით გათვალისწინებული ნებისმიერი ვალდებულების დარღვევას, იმპორტის შეზღუდვებს, ნავსადგურების დახურვას და ა. შ. ზემოაღნიშნულიდან გამომდინარე, მუხლის მოცემული ფორმულირებით დატოვება უნდა გადაწყდეს მიზანშეწონილობიდან გამომდინარე.

ხელშეკრულების პროექტის 22-ე მუხლი განსაზღვრავს პირთა წრეს, რომელთაც შეუძლიათ ზემოაღნიშნული რისკფაქტორებით სარგებლობა. ხელშეკრულების პროექტის 1.32 პუნქტში განმარტებულია ტერმინი „Compensated Party“, რომლის მიხედვითაც, ზიანის ანაზღაურების მოთხოვნის უფლება აქვს არა მარტო კომპანიას ან/და საპროექტო კომპანიას, არამედ გამსესხებლებს („Lenders“), მათ აქციონერებს/პარტნიორებს და კომპანიასა და საპროექტო კომპანიის აქციონერებს/პარტნიორებს. აღსანიშნავია, რომ ზემოაღნიშნული პირები არ წარმოადგენენ მოცემული ხელშეკრულების მხარეებს და 21-ე და 23-ე მუხლებით გათვალისწინებული გარემოებების დადგომის შემთხვევაში, საქართველოს მთავრობის მიერ ზიანის ანაზღაურება უნდა მოხდეს არა მარტო ხელშეკრულების მხარეებისთვის, არამედ მოცემულ განმარტებაში მითითებული სხვა პირებისთვისაც, რაც არ არის მიზანშეწონილი. ასევე, გასათვალისწინებელია, რომ დამატებითი პირების მიმართ მიყენებული ზიანი, რაც შემთხვევებში, შეიძლება გაცილებით მეტი მოცულობის იყოს, ვიდრე თავად კომპანიის ან/და საპროექტო კომპანიის მიმართ მიყენებული ზიანი. ზემოაღნიშნულიდან გამომდინარე, ხელშეკრულების პროექტის ფარგლებში „Compensated Party“-ს განმარტებიდან ამოღებულ უნდა იქნეს გამსესხებლები და მათი აქციონერები/პარტნიორები, და კომპანიის და საპროექტო კომპანიის აქციონერები/პარტნიორები.

ხელშეკრულების პროექტის 23-ე მუხლი შეიცავს რისკფაქტორების დადგომის შემთხვევაში კომპენსაციის მოცულობას, რომლის მიხედვითაც, ანაზღაურებას ექვემდებარება (i) ყველა პირდაპირი და არაპირდაპირი ზიანი, რაც დაკავშირებულია რისკფაქტორებთან და (ii) გაზრდილი ხარჯები. ანაზღაურებას ექვემდებარება, ასევე, 10 წლის მიუღებელი შემოსავალი. მიზანშეწონილია, რომ მოცემული მუხლის ფარგლებში შეიზღუდოს ზიანის მოცულობა და ამოღებულ იქნეს არაპირდაპირი ზიანის ანაზღაურების ვალდებულება.

ზოგადად, ხელშეკრულების პროექტის 21-ე, 22-ე და 23-ე მუხლებთან დაკავშირებით შევნიშნავთ, რომ რისკფაქტორების ფართო ჩამონათვალი, „Compensated Party“-ში კომპანიისა და საპროექტო კომპანიის გარდა სხვა დამატებითი პირების შეყვანა და ასანაზღაურებელი ზიანის ოდენობის ფართო განმარტება მაღალი სამართლებრივი რისკების შემცველი ნორმებია და მათი ამ კომბინაციით არსებობა ხელშეკრულების ფარგლებში არ არის მიზანშეწონილი.

9. ხელშეკრულების პროექტის 26.2 პუნქტის თანახმად, კომპანიას ან/და საპროექტო კომპანიას უფლება აქვს, შეწყვიტოს ხელშეკრულება 21-ე მუხლით გათვალისწინებული რისკფაქტორების დადგომის შემთხვევაში. ზემოაღნიშნული მუხლისა და 21(iv) ქვეპუნქტის ურთიერთმიმართებით კი, ფაქტობრივად, კომპანიას ან/და საპროექტო კომპანიას უფლება აქვს, შეწყვიტოს ხელშეკრულება საქართველოს მთავრობის მიერ ხელშეკრულებით გათვალისწინებული ნებისმიერი ვალდებულების დარღვევის შედეგად. აღსანიშნავია, რომ ხელშეკრულების ფარგლებში არ არსებობს საქართველოს მთავრობის ეკვივალენტური უფლება და საქართველოს მთავრობის მიერ ხელშეკრულების შეწყვეტის შესაძლებლობა გათვალისწინებულია მხოლოდ ორ კონკრეტულ შემთხვევაში (24-ე მუხლი), რაც მხარეებს არათანაზომიერ მდგომარეობაში აყენებს. მოცემული რედაქციით, კომპანიას აქვს შესაძლებლობა, საქართველოს მთავრობის მიერ ხელშეკრულების უმნიშვნელო დარღვევის შემთხვევაშიც კი, შეწყვიტოს ხელშეკრულება და მოითხოვოს 10 წლის მიუღებელი შემოსავალი, რაც მაღალი სამართლებრივი რისკის მატარებელია. ზემოაღნიშნულიდან გამომდინარე, მიზანშეწონილია,

ხელშეკრულების ფარგლებში შეიზღუდოს კომპანიის აღნიშნული შეწყვეტის ფართო უფლება და შეწყვეტის საფუძვლებიდან ამოღებულ იქნეს 26.2 პუნქტი.

10. ამასთან, საკითხი დავათა გადაწყვეტის ფორუმად საერთაშორისო სავაჭრო პალატის წესების გამოყენებით არბიტრაჟის არჩევის შესახებ უნდა გადაწყდეს მიზანშეწონილობიდან გამომდინარე.

11. ხელშეკრულების პროექტი შეიცავს რამდენიმე ტექნიკური ხასიათის ხარვეზს, კერძოდ: ა) ხელშეკრულების პროექტის მე-4 მუხლში მითითება „...public registry of the Ministry of Justice of the State...“-ზე უნდა განხორციელდეს შემდეგი ფორმით: „...Registry of entrepreneurial and non-entrepreneurial (non-commercial) legal persons...“; ბ) ხელშეკრულების პროექტის 10.1 მუხლში მითითება „Bank Guarantee“-ზე უნდა შეიცვალოს „Preconstruction Security“-ზე მითითებით;

პატივისცემით,

გ. დსაიჭიფანძე

მინისტრის მოადგილე

გოჩა ლორთქიფანძე



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20/04/2015

საქართველოს ენერჯეტიკის სამინისტროს

სს „საქართველოს სახელმწიფო ელექტროსისტემამ“ განიხილა თქვენი 31.03.2015წ. N04/1188 წერილით წარმოდგენილი საქართველოს მთავრობას, კომპანია „ANADOLU TASIT TICARET A.S.“-ს, სს „ელექტროენერჯეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერგოტრანსს“ და სს „გეს საქრუსენერგოს“ შორის დასადები ურთიერთგაგების მემორანდუმის პროექტი, რასთან დაკავშირებითაც გაცნობებთ შემდეგს:

1. იმის გათვალისწინებით, რომ სადგურის ოპერირების დაწყება დამოკიდებულია კანონმდებლობით დადგენილი შესაბამისი მოთხოვნების დაკმაყოფილებაზე, პროექტის 1.5 პუნქტში ოპერირების დაწყების ტერმინში მიზანშეწონილია დაემატოს სიტყვები: „in accordance with the requirements of the Applicable Law.“;

2. პროექტის 1.6. პუნქტში (ასევე ყველგან სადაც მსგავსი მითითებაა) სიტყვები „Effective Date of the Agreement“ გამოყენებულია როგორც ტერმინი, მაშინ როდესაც, მემორანდუმის პროექტის 1.9 პუნქტის შესაბამისად, „Effective Date“ განმარტებულია, როგორც მხოლოდ მემორანდუმის ხელმოწერის თარიღი.

3. პროექტის 1.31 – 1.41 პუნქტებში მოცემული ტერმინების რიგითობა ინგლისური ანბანის მიხედვით არ არის დაწყობილი.

4. პროექტის მე-4 მუხლის მიხედვით, ქართულ მხარეთა მიმართ ვალდებულებების კუთხით კომპანიას მთლიანად ანაცვლებს საპროექტო კომპანია, შესაბამისად, მიზანშეწონილად მიგვაჩნია ქართულ მხარეთა ვალდებულებების მოთხოვნის ნაწილშიც საპროექტო კომპანიამ ასევე მთლიანად ჩაანაცვლოს კომპანია და ამ პუნქტის ბოლო წინადადებაც იგივე კონტექსტით შეიცვალოს.

5. ელექტროსადგურის მშენებლობასთან ერთად, უნდა მოხდეს მისი დადგენილი წესით მიერთება გადამცემ ქსელთან. შესაბამისად, საჭიროა ერთმნიშვნელოვნად განისაზღვროს თუ ვინ უზრუნველყოფს (ფინანსურად) ენერჯეტიკულ ქსელში ჩართვისათვის აუცილებელი ინფრასტრუქტურის შექმნას. იმის გათვალისწინებით, რომ სს „საქართველოს სახელმწიფო ელექტროსისტემის“ მიერ გაწეულ მომსახურებაზე დადგენილი ტარიფები არ ითვალისწინებს და ამ ეტაპისთვის სრულად არ ფარავს არათუ ახალ, არამედ აქამდე არსებული პროექტების ხარჯებსაც, მიზანშეწონილად მიგვაჩნია ნათლად მიეთითოს, რომ ენერჯეტიკულ ქსელში ჩართვის ხარჯები (არამხოლოდ ხაზის მშენებლობა) სრულად

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ეკისრება კომპანიას. აქედან გამომდინარე, გათავაზობთ პროექტის 12.3. პუნქტის შემდეგ რედაქციას:

„12.3. Construct the Facility according to the Technical Parameters of the Facility defined by Annex 1 of the MOU, ensure payment of the costs related to the connection of the Facility via the Transmission Line to the Power Transmission Network and Commencement of Operation within the time frame defined by Annex 3 of the MOU, in accordance with the Applicable Law”.

6. პროექტის 18.8 პუნქტის (ii) ქვეპუნქტში 18.8 პუნქტზე მითითება უნდა შეიცვალოს 18.7 პუნქტზე მითითებით.

7. ვინაიდან რისკ ფაქტორების წარმოშობის შემთხვევაში, საქართველოს მთავრობა ვალდებულია შესაბამის პირებს მისცეს კომპენსაცია 23-ე მუხლის შესაბამისად, მიზანშეწონილად მიგვაჩნია 22-ე მუხლი ჩამოყალიბდეს შემდეგი რედაქციით:

„In the event of an occurrence of a Risk Factor, the Compensated Party shall be entitled to be paid compensation in accordance with Article 23 of the MOU resulting from or in a relation to such Risk Factor according to the duration of the Risk Factor defined as below”.

8. მიგვაჩნია, რომ მემორანდუმის პროექტის 23-ე მუხლის „i” პუნქტში მითითებული „loss of profit” არის ფართო ცნება და საჭიროებს დაკონკრეტებას. ამასთან, დამატებით განხილვას საჭიროებს იმავე პუნქტში მითითებული მიუღებელი შემოსავლის დათვლის 10 წლიანი პერიოდი.

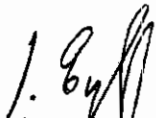
9. პროექტის 26-ე მუხლით განსაზღვრულია კომპანიის ან/და საპროექტო კომპანიის მიერ მემორანდუმის შეწყვეტის შემთხვევები. 26.1 პუნქტის შესაბამისად, კომპანია ან/და საპროექტო კომპანია უფლებამოსილია შეწყვიტოს მემორანდუმი თუკი საქართველოს მთავრობა არ ასრულებს მე-18 და მე-19 მუხლებით ნაკისრ ვალდებულებებს. ვინაიდან, მე-19 მუხლი ითვალისწინებს „სსე“-ს, „ენერგოტრანსისა“ და „საქრუსენერგოს“ მიერ გადაცემადისპეტკერიზაციის ხელშეკრულების გაფორმების ვალდებულებას, მიზანშეწონილად მიგვაჩნია 26.1 მუხლში მე-19 მუხლზე მითითება ამოღებულ იქნეს.

10. პროექტის 30-ე მუხლში მიზანშეწონილად მიგვაჩნია დაემატოს მხარეთა მისამართები.

11. ვინაიდან პროექტის 24-ე-28-ე მუხლების შესაბამისად, მემორანდუმის შეწყვეტა იწვევს პროექტზე და ა.შ. საკუთრების უფლების საქართველოს მთავრობაზე გადასვლას, ასევე TDA-ს შეწყვეტას, მიზანშეწონილად მიგვაჩნია პროექტის 36-ე მუხლს დაემატოს შემდეგი წინადადება: „except as it is otherwise regulated by the Articles 24-28”.

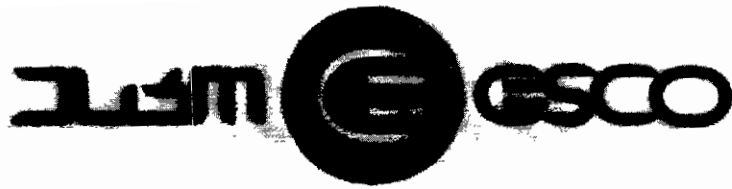
პატივისცემით,

სულხან ზუმბურბე



მმართველთა საბჭოს თავმჯდომარე

რეაბილიტაციის მმართველი



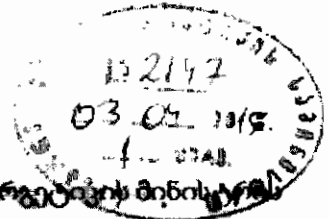
ელექტროენერგეტიკული ბაზრის ოპერატორი
Electricity Market Operator

საქართველო, თბილისი, 0114, ბარათაშვილის ქ. 2
ტელეფონი: 2401420; ფაქსი: 2601915

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№ 01/352

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თანხმობა ხელშეწყობის
ურთიერთგაგების მემორანდუმის
პროექტზე

საქართველოს ენერჯეტიკის მინისტრის
მოადგილეს ბატონ ირაკლი ხმალაძეს

ბატონო ირაკლი,

საქართველოს ენერჯეტიკის სამინისტროს 2015 წლის 31 მარტის #04/1188 წერილის პასუხად გაცნობებთ, რომ ბაზრის ოპერატორმა განიხილა საქართველოს მთავრობას, კომპანია "ANADOLU TASIT TICARET A.S"-ს, სს „ელექტროენერგეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერგოტრანსს“ და სს „გვს საქრუსენერგოს“ შორის დასადგენი ურთიერთგაგების მემორანდუმის პროექტი (ხელუდულა 3 პეისი), რომელთან დაკავშირებითაც შენიშვნები არ გაგვაჩნია.

პატივისცემით,

გენერალური დირექტორი

ვ. ამბოკაძე

OFFICE@ESCO.GE • WWW.ESCO.GE

სს „ელექტროენერგეტიკული სისტემის კომერციული ოპერატორი“
რეგისტრირებულია ქ. თბილისს საქადასაბჭო ინჟინერის მეტი 07.02.2006; ხელ. კოდი 205170035

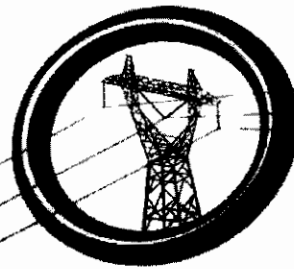
ELECTRICITY SYSTEM COMMERCIAL OPERATOR JSC
Registered by Tbilisi City Inspectorate on 07.02.2006; @ Code: 205170035

საქრუსენერგო

სს გაერთიანებული ენერჯეტიკული სისტემა

SAKRUSENERGO

JSC UNITED ENERGY SYSTEM



N 10/247
21/04/2015

247-10-2-201504211327



საქართველოს ენერჯეტიკის სამინისტროს

2015 წლის 31 მარტის #04/1188 წერილის პასუხად გაცნობებთ, რომ გავეცანით საქართველოს მთავრობას, კომპანია „ANADOLU TASIT TICARET A.S.“-ს, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერგოტრანს“, სს გაერთიანებული ენერჯეტიკული სისტემა „საქრუსენერგოს“ და სს „ელექტროენერჯეტიკული სისტემის კომერციულ ოპერატორს“ შორის გასაფორმებელი ურთიერთგაგების მემორანდუმის პროექტს, რომელთან დაკავშირებითაც მოგახსენებთ, რომ ჩვენი კომპეტენციის ფარგლებში შენიშვნები არ გაგვაჩნია.

პატივისცემით,

რომეო მიქაუტაძე

გენერალური დირექტორი



ენერჯოტრანსი

საქართველო, თბილისი 0105, ბარათაშვილის 2./ 2 Baratashvili str. Tbilisi 0105, Georgia ტელ./ფაქსი/tel./fax: +995(32)2510140

17/04/2015

N 246

246-01-2-201504171803

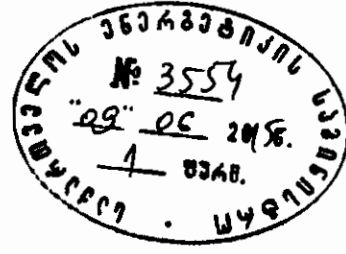


საქართველოს ენერჯეტიკის სამინისტროს

თქვენი 2015 წლის 30 მარტის #04/1188 წერილის პასუხად მოგახსენებთ, რომ შპს "ენერჯოტრანსმა" განიხილა საქართველოს მთავრობას, კომპანია „ANADOLU TASIT TICARET A.S.“-ს, სს „ელექტროენერჯეტიკული სისტემის კომერციულ ოპერატორს“, სს „საქართველოს სახელმწიფო ელექტროსისტემას“, შპს „ენერჯოტრანსს“ და სს „გეს საქრუსენერგოს“ შორის დასადებ ურთიერთგაგების მემორანდუმის პროექტი. ამასთან, გაცნობებთ, რომ შპს "ენერჯოტრანსს" თავისი კომპეტენციის ფარგლებში წარმოდენილი მემორანდუმის პროექტთან დაკავშირებით შენიშვნები არ აქვს.

პატივისცემით,
კახა სეხნიაშვილი

დირექტორი



Tarih, 02.06.2015
No: SG - 5852

BANK GUARANTEE

BENEFICIARY: THE GOVERNMENT OF GEORGIA

(Represented by The Ministry of Energy of Georgia, Address: N2 Sanapiro. 0105, Tbilisi, Georgia)

ISSUANCE DATE: 02/06/2015

LETTER OF GUARANTEE NO: 1821GG574075

PRINCIPAL: ANADOLU TAŞIT TİCARET ANONİM ŞİRKETİ

GUARANTEE AMOUNT: 257,150.00 (two hundred, fifty seven thousand, one hundred and fifty US Dollars and zero cents only) US Dollars.

VALIDATION TIME: 02/08/2017

Since, The Government of Georgia has signed the Memorandum of Understanding with Anadolu Taşıt Ticaret Anonim Şirketi (Legal address: Fatih Sultan Mehmet Mah. Balkan Cad. No: 58, Buyaka E Blok Tepeüstü, Ümraniye, İstanbul, Turkey) (the "Company"), related to the full technical feasibility study, environmental impact assessment, detailed design study, as well as design, financing, construction, testing, commissioning, ownership, operation and maintenance of Kheledula 3 Hydro Power Plant on river Kheledula, located in Racha-Lechkhumi and Kvemo-Svaneti region, Lentekhi District, Village Lesema of Georgia (the "Memorandum"):

We, Türkiye İş Bankası A.Ş. (the "Bank"), hereby unconditionally and irrevocably undertake to pay you any sums up to a maximum amount of 257,150.00 (two hundred, fifty seven thousand, one hundred and fifty US Dollars and zero cents only) US Dollars, in connection with the company's obligations under the Memorandum and in accordance with the following:

- We shall pay you immediately upon your first written demand stating that the Company has failed to fulfill his obligations under the Memorandum and irrespective of any objection by the Company such amount or amounts as you may demand up to the maximum amount of 257,150.00 (two hundred, fifty seven thousand, one hundred and fifty US Dollars and zero cents only) US Dollars without need to issue a protest or to obtain a court sentence or the Company's consent.
- All payments made based on your demand shall be free and clear of, and without any present or future deduction or withholding for payment of, any taxes, levies, duties, charges or fees of any nature whatsoever and by whomsoever imposed;
- The undertakings contained in this Guarantee constitute direct and fundamental obligations of ours and are unconditional and irrevocable. We shall not be excused from any or all of these obligations for any reason or reasons of whatever nature or source, such as change in the conditions of the contract or extension thereof or change in the scope or nature of work to be performed.
- This Guarantee shall remain valid and in full force and effect up to the end of the 02 day of the month August of year 2017 and expires full and automatically, should your original written request for payment not be in our possession at our above mentioned address on or before that date.

Our Guarantee will be reduced by each payment made by us as a result of a claim.

TÜRKİYE İŞ BANKASI A.Ş.
KOZYATAĞI CORPORATE BRANCH/İSTANBUL

Tolga Diktaş
Section Head

Derya Köseadağ
Asstn. Manager