

## Memorandum of Understanding

This Memorandum of Understanding (hereinafter the „MOU“ ) is made on 7 February 2014 (the “effective date”) in Tbilisi, Georgia by and between the following parties.

On the one hand The Government of Georgia (hereinafter the “GOG”), represented by the Minister of Energy of Georgia Mr Kakha Kaladze,

And on the other hand “Bugato Energy” LLC (hereinafter the “Company”) represented by Director Onur Kurt.

### 1. Purpose


The purpose of this MOU is to ensure the feasibility study/analysis and Environmental Impact and Social Risk Assessment (EIA) of the hydro power plant(s), set out in Annex N1 of this MOU by the Company and then to build them according to this MOU and terms and conditions to be agreed by both parties afterwards.

### 2. Definitions

- 2.1. MOU – this Memorandum of Understanding
- 2.2. Project – feasibility study/analysis, Environmental and Social Risk Assessment (EIA) and construction of the hydro power plant(s), situated on the rivers within the range of elevations determined in Annex N1 according to this MOU and terms and conditions to be agreed by both parties afterwards.

### 3. Terms and Conditions of the Project

- 3.1. The company within twenty-two (22) months after the signing of this MOU shall ensure:
  - a) According to the schedule of feasibility study (Annex No 2.) finalization of feasibility study/analysis and Environmental and Social Risk Assessment (EIA) of the hydro power plant(s) situated on the rivers within the elevations provided in Annex N1;
  - b) Submission of the proposals to the GOG on construction of hydro power plant(s) situated on the rivers within the elevations provided in Annex N1, in case if conclusion of the feasibility study of the project will be positive.
- 3.2. In case the Company, as a result of implementing subparagraph ‘a’ of paragraph 3.1 of this MOU decides to build one or both hydro power plants, indicated in Annex NO 1., the proposal to be submitted to the GOG according to subparagraph ‘b’ of paragraph 3.1 shall include following:
  - a) the Company’s decision on construction respective hydro power plant(s);
  - b) Full technical parameters, including capacity and annual generation of the hydro power plant(s);
  - c) Exact coordinates of allocation of the hydro power plant(s) and elevations of the river;



- d) Dates of receiving construction permit, commencement and completion of construction works and commencement of operation of hydro power plant(s), also approximate investments required for each hydro power plant's construction;
  - e) Feasibility reports of construction of hydro power plant(s) and all related documents.
- 3.3. Within 4 months after submitting the proposal according to paragraph 3.2, the parties shall mutually consider the question of construction of the relevant hydro power plant(s) by the Company and make a mutual decision on construction or waiver thereof. In case the mutual agreement is not reached due to the GOG, the GOG shall use its best faith to provide solid and provable written explanation.
- 3.4. In case the parties decide to build one or both hydro power plant(s) according to paragraph 3.3 they shall draw up the implementation agreement (agreements) on build, own and operate of the relevant hydro power plant(s) within 4 sequent months after expire date of the term determined with paragraph 3.3.
- 3.5. On the day of the signing of the implementation agreement the Company, for the purpose of ensuring the construction of the hydro power plant(s) with determined terms and conditions shall submit to the GOG unconditional and irrevocable bank guarantee, one for each hydro power plant in amount of \$100,000 per MW of this (concrete) hydro power plant. The bank guarantee shall be issued by any Bank in Georgia or abroad licensed by "Organization of Economic Cooperation and Development" (OECD) member country. The expiration date of bank guarantee shall exceed commencement of operation of the hydro power plant by 5 months. The Company shall be entitled to request the reduction of the bank guarantee according and in proportion with the investments contributed by the Company under the implementation agreement.
- 3.6. The GOG, within 22 months after signing this MOU shall not give the right to any other party or parties to build, own and operation of the hydro power plants, situated on the rivers within the elevations provided in Annex N1 without the Company's written and valid consent apart from the cases defined by article 3.8.
- 3.7. Before the expiration of the term of signing of implementation agreement (if applicable) the GOG, without written and valid approval of the Company, shall not give the right to any other party or parties on build, own and operation of that hydro power plant(s), indicated in Annex N0 1. for which construction the Company had submitted the proposal to the GOG under this MOU and of which construction the parties had made a mutual decision apart from the cases defined by article 3.8.
- 3.8. Before the expiration of the terms set out in paragraphs 3.6 and 3.7 the GOG is entitled to give the third party the right to build, own and operation one or both



hydro power plant situated on the rivers with the elevations provided in Annex N1 without written approval of the Company, in the following cases:

- a) The GOG has provable assumption of the Company's failure to ensure feasibility study/analysis of any hydro power plant situated on the rivers within the elevations provided in Annex N0 1. – for the respective hydro power plant only;
  - b) The Company has violated the schedule of feasibility study (Annex No 2.) , and the additional time given to the Company according to the article 5.2 has been expired of any hydro power plant situated on the rivers within the elevations provided in Annex N0 1. for the respective hydro power plant only. To clarify this item, if some part of the feasibility study is not of proper quality, the GoG may demand that/those part(s) to be renewed from the Company. In such case, a proper time extension shall be provided to the Company and all the reasons given by the GoG about quality shall be written, provable and scientifically correct.
  - c) The Company preliminary rejected to build any of the hydro power plant indicated in Annex N1 – for the respective hydro power plant only.
- 3.9. Following request the Company is obliged to submit to the GOG the feasibility studies and all related documents that it possesses, completely, free of charge of those Hydro power Plants indicated in Annex N0 1. of which:
- a) the Company had not submitted the proposal to the GOG for construction according to paragraph 3.2,
  - b) the Company had applied to the GOG for construction according to paragraph 3.2 but the parties failed to make a decision on construction according to paragraph 3.3
  - c) the Company had applied to the GOG for construction according to paragraph 3.2, the parties made a decision on construction under paragraph 3.3 but the implementation agreement on build, own an operation was not signed between the GOG and the Company under paragraph 3.4 of the MOU. In case the mutual agreement is not reached due to the GOG, the GOG shall use its best faith to provide solid and provable written explanation;
  - d) Any consequences under the article 3.8 have occurred.
- 3.10. The GOG is entitled to request and the Company is obliged to agree to remove hydro power plants situated on the rivers within the elevations provided in Annex N0 1 to which:
- a) the Company had not submitted the proposal to the GOG for construction according to paragraph 3.2;
  - b) the Company had applied to the GOG for construction according to paragraph 3.2 but the parties failed to make a decision on construction according to paragraph 3.3;



- c) the Company had applied to the GOG for construction according to paragraph 3.2, the parties made a decision on construction under paragraph 3.3 but the implementation agreement on build, own and operation was not signed between the GOG and the Company under paragraph 3.4 of the MOU. In case the mutual agreement is not reached due to the GOG, the GOG shall use its best faith to provide solid and provable written explanation;
  - d) In case one or more subparagraph of paragraph 3.8 occurs.
- 3.11. For the first ten years of operation, beginning from the date of commencement of operation of one or both hydro power plant(s) (the „Initial Operation Period“), the 20 % of full annual power generation of one or both hydro power plant(s) during the winter months of each year, (being the months of December, January, February and March (the „Winter Months“)) shall be sold exclusively for the purposes of meeting the internal demand of Georgia, which shall be reflected in the Electricity (Power) Balance of the respective year or other similar document. If, due to the reasons independent from the Company, the production of electricity in any Winter Months of Initial Operation Period is less than amount indicated in this article, the difference between factual production and the amount indicated in this article shall be produced and supplied to ESCO (In case the ESCO requests such amount) in the following month(s).
- 4. Rights on Land Plots and Construction Permits**
- 4.1. For the purpose of constructing the hydro power plant(s), in case of necessity the GOG shall ensure the Company with ownership right of respective state owned land plots with normative price according to Georgian applicable legislation.
  - 4.2. The GOG shall use its best endeavours within its authority to assist the Company with obtaining construction and other permit(s) and/or Licenses, providing the Company meets the relevant requirements under the Georgian legislation.
- 5. Project Expenses, Providing Information**
- 5.1. The expenses related to the implementation of the Project shall be fully borne by the Company.
  - 5.2. The Company is obliged to submit to the Ministry of Energy of Georgia, on quarterly basis, a progress report of the fulfilment of the conditions set out under the MOU, including but not limited full and detailed information about fulfilment of schedule of feasibility study (Annex No 2.) by the Company. If the quarterly progress report, permanent progress of the project with respect to the feasibility schedule or some part of the feasibility study is not of proper quality the Ministry of Energy of Georgia shall notify the company in written about quality of the feasibility study and give the company reasonable additional period of up to the three months to adjust the issues observed. Herewith the mentioned time extension shall not cause the extension of the term determined by article 3.1.
- 6. Effectiveness of the MOU**
- 6.1. This MOU shall enter into force from the moment of its execution by both parties.



6.2. The MOU shall be terminated in the following cases:

- a) Upon agreement of parties
- b) The GOG is entitled to terminate the MOU within part of one or more hydro power plant situated on the rivers within the elevations provided in Annex NO 1. of which:
  - b.a) The Company had not submitted the proposal of the GOG on construction according to paragraph 3.2 – for the respective hydro power plant only - on the expire of the term under paragraph 3.1
  - b.b) The Company had applied to the GOG for construction according to paragraph 3.2 but the parties failed to make a decision on construction under paragraph 3.3 – for the respective hydro power plant only - on the expire of the term under paragraph 3.3. In case the mutual agreement is not reached due to the GOG, the GOG shall use its best faith to provide solid and provable written explanation;
  - b.c) The Company had applied to the GOG for construction according to paragraph 3.2, but the parties made a decision on construction under paragraph 3.3 but the implementation agreement on build, own and operation was not drawn up between the GOG and the Company before the expiration date of the term set out under paragraph 3.4 of the MOU – for the respective hydro power plant only - on the expiration of the term under paragraph 3.4. In case the mutual agreement is not reached due to the GOG, the GOG shall use its best faith to provide solid and provable written explanation.;
- c) In case one or more subparagraph of paragraph 3.8 occurs – on the date indicated by the GOG - for the respective hydro power plant only;
- d) In other cases determined by Georgian applicable legislation.

6.3. In case the Company fails to carry out the obligations under this MOU the issue of effectiveness of the MOU and the responsibilities of the Company shall be regulated according to the MOU and Georgian applicable legislation.

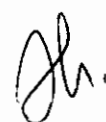
6.4. Termination of the MOU partially or completely doesn't affect the Company's obligation set out under article 3.9.

## 7. Amendments

7.1 This MOU may be amended by written agreement of the parties. If any provision of this MOU becomes invalid or unenforceable, the validity of other provisions shall not be affected.

## 8. Notifications

8.1 Any correspondence sent by the parties within the framework of this MOU shall be made in writing and shall be sent by mail, courier service or facsimile transmission (with the original to follow). The notification shall enter into force immediately upon its receipt by the recipient.



**9. Governing Law and Dispute Resolution**

9.1. This MOU shall be governed by the law of Georgia

9.2. All disputes arising from this MOU shall be resolved by common courts of Georgia, in accordance with the applicable legislation of Georgia.

**10. Counterparts, language of MOU**

10.1 This MOU is prepared in English-Georgian languages, two original counterparts. In case of any inconsistency between two texts of the Agreement, the English text shall prevail.

**11. Signatories:**


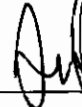
The Government of Georgia

Kakha Kaladze



The seal is circular with the coat of arms of Georgia in the center. The text around the border reads "საქართველოს ენერჯეტიკის სამსახური" at the top and "MINISTRY OF ENERGY OF GEORGIA" at the bottom. The identification number "203840442" is printed at the bottom of the seal.

Bugato Energy LLC



The seal is circular with the text "საბუღატო ენერჯი" at the top and "BUGATO ENERGY LIMITED" at the bottom. The identification number "445432309" is printed in the center of the seal.

Onur Kurt

Annex N-1

#	Project Name	River	Range of elevations, M
1	Metekhi 1 HPP	Mtkvari	537-516
2	Metekhi 2 HPP	Mtkvari	516-504

The Government of Georgia

Kakha Kalidze



Bugato Energy

Onur Kurt



Annex N-2 (page 1 of 2)

	3 months after signing MOU	6 months after signing MOU	9 months after signing MOU	12 months after signing MOU	15 months after signing MOU	18 months after signing MOU	22 months after signing MOU
<b><i>Name of HPP: Metekhi 1</i></b>							
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				.			
Environment Impact and Social Risk Assessment					.	.	.
Bills of Quantities					.		
Construction Organization					.	.	
Economic Analysis.					.	.	
Financial Analysis.					.	.	
Procurement Planning and Execution Scheme					.	.	
Timetable of Work-Force Training				.	.	.	
Feasibility Study Submission						.	

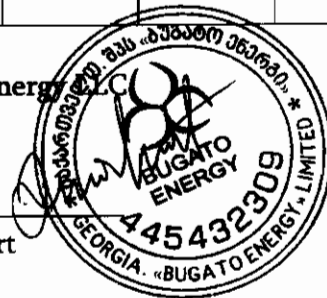
The Government of Georgia

Kakha Kaladze



Bugato Energy

Onur Kurt





Annex N-2 (page 2 of 2)

	3 months after signing MOU	6 months after signing MOU	9 months after signing MOU	12 months after signing MOU	15 months after signing MOU	18 months after signing MOU	22 months after signing MOU
<b><i>Name of HPP: Metekhi 2</i></b>							
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				.			
Environment Impact and Social Risk Assessment					.	.	.
Bills of Quantities					.		
Construction Organization					.	.	
Economic Analysis.					.	.	
Financial Analysis.					.	.	
Procurement Planning and Execution Scheme					.	.	
Timetable of Work- Force Training				.	.	.	
Feasibility Study Submission						.	

The Government of Georgia

Kakha Kaladze



Bugato Energy LLC

Onur Kurt





## საქართველოს მთავრობის განკარგულება

№65 2014 წლის 16 იანვარი ქ.თბილისი

საქართველოს მთავრობას და შპს „ბუნგატო ენერჯის“ შორის დასადები  
ურთიერთგაგების მემორანდუმის თაობაზე

1. მოწონებულ იქნეს საქართველოს მთავრობას და შპს „ბუნგატო ენერჯის“ 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 ენერჯეტიკის მინისტრმა კახა კალაძემ.

პრემიერ-მინისტრი



ორაკლი დარიბაშვილი



# საქართველოს იუსტიციის სამინისტრო MINISTRY OF JUSTICE OF GEORGIA



KA010135968252713

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, Gorgasali str., 0114, Tbilisi, Tel.: 2 40-51-48, 2 40-58-36, E-MAIL: info@justice.gov.ge

№100817

10 / დეკემბერი / 2013 წ.

საქართველოს ენერჯეტიკის  
მინისტრის მოადგილეს,  
ბატონ ირაკლი ხნაღაძეს

ბატონო ირაკლი,

საქართველოს იუსტიციის სამინისტრომ განიხილა თქვენი 2013 წლის 11 ნოემბრის №04/5085 წერილით წარმოდგენილი საქართველოს მთავრობასა და თურქულ კომპანია „BUGATO“-ს შორის დასადგები ურთიერთგაგების მემორანდუმის პროექტი, რომელთან დაკავშირებით გაცნობებთ შემდეგს:

საკითხი ურთიერთგაგების მემორანდუმის პროექტის მე-3.11 მუხლის არსებული რედაქციით ჩამოყალიბების თაობაზე უნდა გადაწყდეს მიზანშეწონილობიდან გამომდინარე და „საქართველოში ელექტროსადგურების მშენებლობის ტექნიკურ-ეკონომიკური შესწავლის, მშენებლობის, ფლობის და ოპერირების შესახებ ინტერესთა გამოხატვის წესის დამტკიცების შესახებ“ საქართველოს მთავრობის 2013 წლის 21 აგვისტოს №214 დადგენილების მე-7 მუხლით განსაზღვრული პირობების გათვალისწინებით. ურთიერთგაგების მემორანდუმის პროექტის მე-3.1 და მე-3.6 მუხლებში მოცემული ვადები შესაბამისობაში უნდა იქნეს მოყვანილი ურთიერთგაგების მემორანდუმის პროექტის №2 დანართით განსაზღვრულ ვადებთან. ამასთან, ვინაიდან ურთიერთგაგების მემორანდუმის პროექტით კვლევის ჩატარება გათვალისწინებულია მხოლოდ ორ ჰიდროელექტროსადგურთან დაკავშირებით, პროექტის ტექსტში არსებული ყველა მითითება „ერთი ან რამდენიმე ჰიდროელექტროსადგურზე“ (one or several hydropower plant) საჭიროებს ჩასწორებას „ერთი ან ორივე ჰიდროელექტროსადგურით“ (one or both hydropower plant).

აქვე გაცნობებთ, რომ მიზანშეწონილია, წინამდებარე ურთიერთგაგების მემორანდუმი გაფორმდეს, ასევე, ქართულ ენაზე.

პატივისცემით,

გ. დიმიტრაძე

მინისტრის მოადგილე

გონა დოროტიფანაძე