

April 05, 1967

**GUARANTEE AGREEMENT (FOURTH POWER PROJECT) BETWEEN
THE REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL
BANK FOR RECONSTRUCTION AND DEVELOPMENT**

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

(World Bank)

Guarantee Agreement for the Fourth Power Project

Agreement signed at Washington 5 April 1967;

With Annexes: Loan Regulations No. 4, Loan Agreement between the World Bank and The National Power Corporation;

Entered into force 12 June 1967.

AGREEMENT, dated April 5, 1967, between Republic of the Philippines (hereinafter called the Guarantor) and International Bank for Reconstruction and Development (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and National Power Corporation (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,^[1] the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twelve million dollars (\$12,000,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the borrower in respect of such loan as hereinafter provided; and

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

SECTION 1.01. The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961 as amended February 9, 1967^[2] (said Loan Regulations No. 4 as so amended being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

SECTION 1.02. Wherever used in this Agreement, unless the context shall otherwise require, the several terms defined in the loan Agreement shall have the respective meanings therein set forth.

ARTICLE II

SECTION 2.01. Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally

guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and further guarantees the punctual performance of all the covenants and agreements of the Borrower all as set forth in the Loan Agreement and in the Bonds.

SECTION 2.02. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditure required for carrying out the Project to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

ARTICLE III

SECTION 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will ipso facto equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property, or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any agency of the Guarantor, including the Central Bank of the Philippines or any other institution performing the functions of a central bank.

The Guarantor further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Guarantor is unable within the limits of the laws in force in its territories to make this undertaking effective, the Guarantor will give to the Bank an equivalent lien satisfactory to the Bank.

SECTION 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which

interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

SECTION 3.03. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduct, in for, and free from, any taxes imposed under the laws of the Guarantor or law; m effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

SECTION 3.04. This Agreement, the Loan Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

SECTION 3.05. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

SECTION 3.06. The Guarantor covenants that it will not take or permit any of its political subdivisions or any of its agencies or any agency of any political subdivision to take any action which would prevent or interfere with the: performance by the Borrower of any of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, and will take or cause; to be taken all reasonable action which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

SECTION 3.07. The Guarantor covenants that it will grant or cause to be granted to the Borrower rates at such levels as shall be sufficient to meet the requirements of Section 5.09 of the Loan Agreement.

ARTICLE IV

SECTION 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulation, its guarantee on the Bonds to be executed and delivered by the Borrower. The Secretary of Finance of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12(b) of the Loan Regulations.

ARTICLE V

Modification of Second and Third Guarantee Agreements

SECTION 5.01. The Second and Third Guarantee Agreements are each amended by the deletion of Section 3.07 thereof and the substitution therefor of the following Section:

"SECTION 3.07. The Guarantor covenants that it will grant or cause to be granted to the Borrower rates at such level as shall provide revenues at least sufficient, after covering all operating expenses of the Borrower, to produce a reasonable annual

rate of return on its net revalued fixed assets in operation for each fiscal year in accordance with Section 5.08 of the Loan Agreement."

ARTICLE VI

SECTION 6.01. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations:

For the Guarantor:

Secretary of Finance
Department of Finance
Manila, Philippines

Alternative address for cables and radiograms:

Secfinance
Manila

For the Bank:

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

Alternative address for cables and radiograms:

Intbafrad
Washington, D.C.

SECTION 6.02. The Secretary of Finance of the Guarantor is designated for the purposes of Section 8.03 of the Loan Regulations.

In witness whereof, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of the Philippines:

By **BENJAMIN
ROMUALDEZ**

Authorized Representative

International Bank for
Reconstruction and
Development:

By **J. BURKE KNAPP**

Vice Present

**LOAN REGULATIONS No. 4 DATED FEBRUARY 15, 1961,
AS AMENDED FEBRUARY 9, 1967**

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN MEMBER GOVERNMENTS

ARTICLE I

Purpose; Application to Loan and Guarantee Agreements

SECTION 1.01. Purpose. The purpose of these Regulations is to set forth certain terms and conditions generally applicable to loans made by the Bank to borrowers other than its members.

SECTION 1.02. Application of Regulations. Any loan agreement between the Bank and a borrower other than a member and any guarantee agreement between the bank and a member may provide that the parties thereto accept the provisions of these Regulations. To the extent so provided in any such agreement, these Regulations shall apply thereto and shall govern the rights and obligations there under of the parties thereto with the same force and effect as if they were fully set forth therein. No revocation or amendment of these Regulations shall be effective in respect of any such agreement unless the parties thereto shall so agree.

SECTION 1.03. Inconsistency with Loan and Guarantee Agreements. If any provision of a loan agreement or guarantee agreement is inconsistent with a provision of these Regulations, the provision of the loan agreement or guarantee agreement as the case may be, shall govern.

ARTICLE II

LOAN ACCOUNT; INTEREST AND OTHER CHARGES; REPAYMENT; PLACE OF PAYMENT

SECTION 2.01. Loan Account. The amount of the Loan shall be credited to a Loan Account which the Bank shall open on its books in the name of the Borrower. The amount of the Loan may be withdrawn from the Loan account as provided in the Loan Agreement and in these Regulations.

SECTION 2.02. Commitment Charge. A commitment charge at the rate specified in the Loan Agreement shall be payable on the unwithdrawn amount of the Loan. Such commitment charge shall accrue from a date 60 days after the date of the Loan Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account or shall be cancelled.

SECTION 2.03. Interest. Interest at the rate specified in the Loan Agreement shall be payable on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Interest shall accrue from the respective dates on which amounts shall be so withdrawn.

SECTION 2.04. Computation of Interest and Other charges. Interest and all other charges shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 2.05. Repayment, (a) the principal amount of the Loan withdrawn from the Loan Account shall be repayable in accordance with the amortization schedule to the Loan Agreement.

(b) The Borrower shall have the right, upon payment of all accrued interest and payment of the premium specified in said amortization