

Execution Copy
(Operation Number 51207)

LOAN AGREEMENT
(Tbilisi Bus Extension Project)

between

GEORGIA

and

EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT

Dated 29 November 2019

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LOAN AGREEMENT

AGREEMENT dated 29 November 2019 between **GEORGIA** (the "Borrower") and **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "Bank").

PREAMBLE

WHEREAS, the Bank has been established to provide financing for specific projects to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in certain countries committed to and applying the principles of multiparty democracy, pluralism and market economics;

WHEREAS, the Borrower intends to implement the Project as described in Schedule 1 which is designed to assist in the acquisition of low entry compressed natural gas busses for the City of Tbilisi improving public transport reliability, safety and efficiency in Tbilisi;

WHEREAS, the Project will be carried out by Tbilisi Transport Company Ltd, a limited liability company organised and existing under the laws of Georgia (the "Project Entity") and wholly owned by Tbilisi City Municipality (the "City") with the assistance from the Borrower and the City in accordance with the terms of a project implementation agreement to be entered into between the Bank and the Project Entity on the date hereof (the "Project Implementation Agreement");

WHEREAS, the City will provide assistance with the execution of the Project pursuant to the terms of a project support agreement (the "Project Support Agreement") to be entered into between the Bank and the City on the date hereof;

WHEREAS, the Borrower has requested assistance from the Bank in financing part of the Project;

WHEREAS, the Bank has agreed on the basis of, *inter alia*, the foregoing to make a loan to the Borrower in the amount of EUR 80,000,000, subject to the terms and conditions set forth or referred to in this Agreement, the Project Support Agreement and the Project Implementation Agreement (each of the Project Support Agreement and the Project Implementation Agreement being a "Project Agreement" as defined in the Standard Terms and Conditions).

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2018 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications (such provisions as so modified are hereinafter called the "Standard Terms and Conditions"):

Each of the Project Support Agreement and the Project Implementation Agreement is hereby specified as a Project Agreement for the purposes of the Standard Terms and Condition

Section 1.02. Definitions

Wherever used in this Agreement (including the Preamble and Schedules), unless stated otherwise or the context otherwise requires, the terms defined in the Preamble have the respective meanings given to them therein, the terms defined in the Standard Terms and Conditions have the respective meanings given to them therein and the following terms have the following meanings:

"Borrower's Authorised Representative"

means the Minister of Finance of the Borrower or such other person as the Minister of Finance may designate in writing.

"Enforcement Policy and Procedures"

means the Bank's Enforcement Policy and Procedures dated 4 October 2017.

"Fiscal Year"

means the Borrower's fiscal year commencing on 1 January of each year.

"Subsidiary Loan Agreement"

means the subsidiary loan agreement, in form and substance satisfactory to the Bank, to be entered into between the City, the Project Entity and the Ministry of Finance of the Borrower, pursuant to Section 3.01(a), as such subsidiary loan agreement may be amended from time to time.

"Green City Action Plan"	means the plan prepared by the City with the support of the Bank and approved in September 2017, which plan articulates the City's and other relevant stakeholders' environmental vision for the City and assists the City to address the priority environmental challenges and achieve the vision. The contents of the Green City Action plan may be amended with the prior written consent of the Bank.
"Public Service Contract"	means the agreement to be entered into, in form and substance satisfactory to the Bank, between the Project Entity and the City, which agreement may include terms to regulate the relationship between the Project Entity and the City regarding the provision of public transportation services by buses owned by the Project Entity (and, in particular, the formula for service payments from the City to the Project Entity and the quantity and quality of services to be provided by the Project Entity), to be based on the principle of performance linked accountability, such agreement to be in form and substance acceptable to the Bank.
"Tranche 1 Loan"	means the amount referred to in Section 2.01(a) or, as the context may otherwise require, the principal amount thereof outstanding from time to time.
"Tranche 2 Loan"	means the amount referred to in Section 2.01(b) or, as the context may otherwise require, the principal amount thereof outstanding from time to time.
"Tranche 2 Availability Date"	means the date as of which the Tranche 2 Loan has become committed and available for Drawdowns as notified by the Bank to the Borrower.

Section 1.03. Interpretation

In this Agreement, a reference to a specified Article, Section or Schedule shall, except where stated otherwise in this Agreement, be construed as a reference to that specified Article or Section of, or Schedule to, this Agreement.

ARTICLE II - PRINCIPAL TERMS OF THE LOAN

Section 2.01. Amount and Currency

The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of EUR 80,000,000, which consists of

- (a) the Tranche 1 Loan in the amount of EUR 65,000,000, and
- (b) the Tranche 2 Loan in the amount of EUR 15,000,000.

Section 2.02. Other Financial Terms of the Loan

- (a) The Minimum Drawdown Amount shall be EUR 500,000 for the Tranche 1 Loan and EUR 100,000 for the Tranche 2 Loan.
- (b) The Minimum Prepayment Amount shall be EUR 7,000,000.
- (c) The Minimum Cancellation Amount shall be EUR 7,000,000.
- (d) The Interest Payment Dates shall be 20 February and 20 August of each year.
- (e)
 - (1) The Borrower shall repay the Loan in 24 equal (or as nearly equal as possible) semi-annual instalments on 20 February and 20 August of each year, with the first Loan Repayment Date being 20 February 2023 and the last Loan Repayment Date being 20 August 2034.
 - (2) Notwithstanding the foregoing, in the event that (i) the Borrower does not draw down the entire Loan amount prior to the first Loan Repayment Date specified in this Section 2.02(e), and (ii) the Bank extends the Last Availability Date specified in Section 2.02(g) below to a date which falls after such first Loan Repayment Date, then the amount of each drawdown made on or after the first Loan Repayment Date shall be allocated for repayment in equal amounts to the several Loan Repayment Dates which fall after the date of such drawdown (with the Bank adjusting the amounts so allocated as necessary so as to achieve whole numbers in each case). The Bank shall, from time to time, notify the Borrower of such allocations.
- (f) Notwithstanding anything to the contrary, expressed or implied, in this Agreement, the Tranche 2 Loan is uncommitted and accordingly the Bank shall have no obligation to make any disbursements under the Tranche 2 Loan unless, (1) it has received the Borrower's request to make the Tranche 2 committed; (2) the Bank is satisfied with the results of due diligence in relation to the bus depots; (3) the Bank has received the approval of the Project Entity in relation to the amended Environmental and Social Action Plan reflecting the results of due diligence on the bus depots; (4) the Bank shall have determined in its sole and absolute discretion that it is prepared to make the Tranche 2 Loan available for disbursement and (5) shall have notified the Borrower of such positive determination, if any.

(g) The Last Availability Date shall be 20 December 2022, or such later date that the Bank may in its discretion establish and notify to the Borrower. If the Available Amount, or any part thereof, is subject to a Fixed Interest Rate (in case if the Borrower would exercise its right to elect to pay interest at a Fixed Interest rate under Section 2.02(i) below), and the Bank postpones the Last Availability Date, the Borrower shall promptly pay to the Bank such amount of Unwinding Costs as shall, from time to time, be notified by the Bank in writing to the Borrower.

(h) The rate of the Commitment Charge shall be 0.5% per annum calculated on the aggregate amount of the Loan. The Commitment Charge shall accrue, on the Tranche 1 Loan, from the date sixty (60) days after the date of the Loan Agreement and, on the Tranche 2 Loan, starting from the Tranche 2 Loan Availability Date. The Commitment Charge shall be payable on the Available Amount of the Tranche 1 Loan or the Tranche 2 Loan, respectively, on each Interest Payment Date (even though no interest may be payable on such date) commencing, for the Tranche 1 Loan, on the first Interest Payment Date following the Effectiveness, and, for the Tranche 2 Loan, on the first Interest Payment Date following the Tranche 2 Availability Date.

(i) The Loan is subject to a Variable Interest Rate. Notwithstanding the foregoing, the Borrower may, as an alternative to paying interest at a Variable Interest Rate on all or any portion of the Loan then outstanding, elect to pay interest at a Fixed Interest Rate on such portion of the Loan in accordance with Section 3.04(c) of the Standard Terms and Conditions.

(j) The Borrower shall pay to the Bank the front-end commission equal to one per cent (1 %) of the maximum principal amount of, respectively, Tranche 1 Loan and the Tranche 2 Loan. The Bank shall, on behalf of the Borrower, withdraw such amount from the Available Amount of the Tranche 1 Loan on the Effective Date, or within seven (7) days thereafter and from the Available Amount of Tranche 2 Loan on the Tranche 2 Loan Availability Date, or within seven (7) days thereafter, and pay to itself the amount of such front-end commission.

Section 2.03. Drawdowns

The Available Amount may be drawn down from time to time in accordance with the provisions of Schedule 2 to finance (1) expenditures made (or, if the Bank so agrees, to be made) in respect of the reasonable cost of goods, works and services required for the Project and (2) the Front-end Commission.

ARTICLE III - EXECUTION OF THE PROJECT

Section 3.01. Other Affirmative Project Covenants

In addition to the general undertakings set forth in Articles IV and V of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

(a) Make available to the City and the Project Entity, pursuant to the Subsidiary Loan Agreement, the proceeds of the Loan on terms and conditions acceptable to the Bank;

- (b) Exercise its rights, and procure that each of the City and the Project Entity exercises its rights, under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Bank, to comply with the provisions of this Agreement and to accomplish the purposes for which the Loan is made;
- (c) Not assign, amend, abrogate or waive any provision of the Subsidiary Loan Agreement;
- (d) Within its power and authority, take all necessary steps to ensure that the Project Entity performs all of its obligations under the Project Implementation Agreement, including without limitation its obligations relating to:
- (1) designation and operation of a project team as provided for in Section 2.02 of the Project Implementation Agreement;
 - (2) procurement of goods, works and services from the Project as provided for in Section 2.03 of the Project Implementation Agreement;
 - (3) environmental and social matters as provided for in Section 2.04 of the Project Implementation Agreement;
 - (4) preparation and submission of reports on matters relating to the Project and to the Project Entity's operations as provided for in Section 2.05 of the Project Implementation Agreement;
 - (5) maintenance of procedures, records and accounts, preparation, auditing and submission to the Bank of financial statements and furnishing to the Bank any other relevant information relating to the Project or the Project Entity's operations as provided for in Section 3.01 of the Project Implementation Agreement;
 - (6) compliance with all covenants regarding financial and operational aspects of the Project and the Project Entity as provided for in Sections 3.02, 3.03 and 3.04 of the Project Implementation Agreement; and
 - (7) the entry into the Public Service Contract not later than 31 March 2020.
- (e) Within its power and authority, take all necessary steps to ensure that the City performs all of its obligations under the Project Support Agreement to which it is a party, including without limitation its obligations relating to:
- (1) employment and use of consultants to assist in the implementation of the Project as provided for in Section 2.01 of the Project Support Agreement;
 - (2) compliance with all covenants regarding financial and operational aspects of the Project and the City as provided for in Section 3.01 and Section 3.02 of the Project Support Agreement; and
 - (3) the entry into the Public Service Contract not later than 31 March 2020.
- (f) take, or cause to be taken, all additional action necessary for the completion of component (b) of Part A of the Project.

ARTICLE IV - SUSPENSION; ACCELERATION

Section 4.01. Suspension

The following are specified for purposes of Section 7.01(a)(xvii) of the Standard Terms and Conditions:

- (a) The legislative and regulatory framework applicable to the public transport sector in the territory of the Borrower shall have been amended, suspended, abrogated, repealed or waived in a manner which materially and adversely affects the operations of the Project Entity or its ability to carry out the Project;
- (b) The Statutes of the Project Entity shall have been amended, suspended, abrogated, repealed or waived in a manner which, in the opinion of the Bank, acting reasonably, materially and adversely affects the operation of the Project Entity or its ability to carry out the Project;
- (c) The City shall have failed to perform any of its obligations under all or any of the Subsidiary Loan Agreement, the Project Support Agreement and/or the Public Service Contract;
- (d) The Project Entity shall have failed to perform any of its obligations under all or any of the Project Implementation Agreement and/or the Public Service Contract; or
- (e) The ownership of the Project Entity is transferred to any other party than the City.

Section 4.02. Acceleration of Maturity

The following are specified for purposes of Section 7.06(f) of the Standard Terms and Conditions: any of the events specified under Section 4.01 shall have occurred and continued without remedy for thirty (30) days after the notice thereof has been given by the Bank to the Borrower.

ARTICLE V - EFFECTIVENESS

Section 5.01. Conditions Precedent to Effectiveness

The following are specified for purposes of Section 9.02(c) of the Standard Terms and Conditions as additional conditions to the effectiveness of this Agreement, the Project Implementation Agreement and the Project Support Agreement:

- (a) The Subsidiary Loan Agreement, in form and substance satisfactory to the Bank, has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Project Entity/the City to make drawings thereunder, except only the effectiveness of this Agreement, have been fulfilled;

- (b) each Project Agreement has been executed and delivered, and the execution and delivery of each Project Agreement have been duly authorised or ratified by all necessary governmental actions; and
- (c) the Bank has received certified copies of the Statutes of the Project Entity.

Section 5.02. Legal Opinions

- (a) For purposes of Section 9.03(a) of the Standard Terms and Conditions,
 - (1) in relation to the Loan Agreement, the opinion shall be given on behalf of the Borrower by the Ministry of Justice of the Borrower; and
 - (2) in relation to the Subsidiary Loan Agreement, the letter shall be given to the Bank by the Ministry of Finance of the Borrower specifying that:
 - (A) the Subsidiary Loan Agreement has been duly authorised and delivered by the Ministry of Finance of the Borrower and constitutes a valid and legally binding obligation of the Ministry of Finance of the Borrower enforceable in accordance with its terms.
- (b) For purposes of Section 9.03(c) of the Standard Terms and Conditions,
 - (1) the opinion shall be given on behalf of the Project Entity in relation to the Project Implementation Agreement and the Subsidiary Loan Agreement by the in-house counsel of the Project Entity and the following are specified as additional matters to be included in the opinion to be furnished to the Bank:
 - (A) the Subsidiary Loan Agreement has been duly authorised by, and delivered and constitutes a valid and legally binding obligation of the Project Entity, enforceable in accordance with its terms.
- (c) For purposes of Section 9.03(c) of the Standard Terms and Conditions,
 - (1) the opinion shall be given on behalf of the City by the Head of the City's Legal Department in relation to the Project Support Agreement and the Subsidiary Loan Agreement and the following are specified as additional matters to be included in the opinion to be furnished to the Bank:
 - (A) the Subsidiary Loan Agreement has been duly authorised by, and delivered on behalf of, the City and constitutes a valid and legally binding obligation of the City, enforceable in accordance with its terms.

Section 5.03. Termination for Failure to Become Effective

The date 180 days after the date of this Agreement is specified for purposes of Section 9.04 of the Standard Terms and Conditions.

ARTICLE VI - MISCELLANEOUS

Section 6.01. Notices

The following addresses are specified for purposes of Section 10.01 of the Standard Terms and Conditions:

For the Borrower:

Georgia
Ministry of Finance
16, Gorgasali Street
0114 Tbilisi
Georgia

Attention: Public Debt Management Department

For the Bank:

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom

Attention: Operation Administration Department

Fax: +44-20-7338-6100

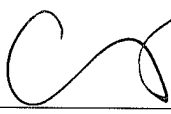
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorised representatives, have caused this Agreement to be signed in three copies (two for the Bank and one for the Borrower) and delivered at Tbilisi, Georgia as of the day and year first above written.

GEORGIA

By: _____

Name: *Ivane Matchavariani*
Title: *Minister of Finance*

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

By: 

Name: Catarina Bjorleik Manseth
Title: Regional Director for Caucasus

SCHEDULE 1 - DESCRIPTION OF THE PROJECT

1. The purpose of the Project is to assist the Borrower in the purchase of a new bus fleet of environmentally efficient low-entry compressed natural gas (CNG) buses for the City, and in the construction of a new bus depot.
2. The Project consists of the following Parts, subject to such modifications thereof as the Bank and the Borrower may agree upon from time to time:
 - Part A: Capital Expenditures (Investment Components)
 - a) Tranche 1. Supply of new 12 meter low-entry CNG buses.
 - b) Tranche 2. Construction of bus depots and services related to such construction.
3. The Project is expected to be completed by 20 December 2022.

SCHEDULE 2 - CATEGORIES AND DRAWDOWNS

1. The table attached to this Schedule sets forth the Categories, the amount of the Loan allocated to each Category and the percentage of expenditures to be financed in each Category.
2. Notwithstanding the provisions of paragraph 1 above,
 - (a) no Drawdown shall be made in respect of expenditures incurred prior to the date of the Loan Agreement, except that Drawdowns in an aggregate amount not exceeding 20% of the Tranche 1 Loan may be made in respect of the procurement of buses and/or (ii) Drawdowns in an aggregate amount not exceeding 20% of the Tranche 2 Loan may be made in respect of the procurement of depots construction contracts, in each case conducted prior to the date of the Loan Agreement; and
 - (b) no Drawdown shall be made until the project team referred to in Section 2.02 of the Project Implementation Agreement has been designated with adequate resources and suitably qualified personnel under terms of reference acceptable to the Bank.

Attachment to Schedule 2

Category	Amount of the Loan Allocated in the Loan Currency	Percentage of Expenditures to be Financed
(1) Goods, works and services for Part A of the Project:		Up to 100% of contract value excluding any Taxes
- Tranche 1	64,350,000	
- Tranche 2	14,850,000	
(2) Front-end Commission		100%
- Tranche 1	650,000	
- Tranche 2	150,000	
Total	80,000,000	