



The Opec Fund for International Development

LOAN NO. 339P

AMATITLAN GEOTHERMAL  
(PREFEASIBILITY STUDY) PROJECT

LOAN AGREEMENT

BETWEEN

THE  
REPUBLIC OF GUATEMALA

AND

THE OPEC FUND FOR  
INTERNATIONAL DEVELOPMENT

DATED

JULY 7, 1983

# The Opec Fund for International Development

AGREEMENT, dated July 7, 1983 between the Republic of Guatemala (hereinafter called the Borrower) and the OPEC Fund for International Development (hereinafter called the Fund);

Whereas OPEC Member Countries, being conscious of the need for solidarity among all developing countries and aware of the importance of financial cooperation between them and other developing countries, have established the Fund to provide financial support to the latter countries on concessional terms, in addition to the existing bilateral and multilateral channels through which OPEC Member Countries extend financial assistance to other developing countries;

Whereas the Borrower has requested assistance from the Fund in the financing of the Project described in Schedule 1 to this Agreement in an amount of One Million and One Hundred Thousand US Dollars (US\$ 1,100,000);

Whereas the Borrower has also obtained a grant from the Latin American Energy Organization (hereinafter called OLADE) to assist in the financing of the Project in the amount of Forty-Two Thousand US Dollars (US\$ 42,000);

Whereas the Governing Board of the Fund has approved to extend the Loan to the Borrower in the amount of One Million and One Hundred Thousand US Dollars (US\$ 1,100,000) upon the terms and conditions set forth hereinafter, and has further approved that OLADE be entrusted with the task of the administration of the loan provided under this Agreement;

Now, therefore, the parties hereto hereby agree as follows:

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## Article 1

### DEFINITIONS

1.01       Wherever used in this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

- a) "Fund" means the OPEC Fund for International Development, established by the States Members of the Organization of the Petroleum Exporting Countries (OPEC) by virtue of the Agreement signed in Paris on January 28, 1976 as amended.
- b) "Fund Management" means the Director-General of the Fund or his authorized representative.
- c) "Loan Administrator" means OLADE or such other agency as the Borrower and the Fund Management may agree upon.
- d) "Loan" means the loan provided by virtue of this Agreement.
- e) "Dollars" and the sign "\$" mean the currency of the United States of America.
- f) "Project" means the project or program for which the Loan is granted as described in Schedule 1 to this Agreement and as the description thereof may be amended from time to time by agreement between the Borrower and the Fund Management.
- g) "Goods" means equipment, supplies and services required for the Project. Reference to the cost of goods shall be deemed to include also the cost of importing such goods in the territories of the Borrower.
- h) "INDE" means the Instituto Nacional de Electrificacion.
- i) "Subsidiary Loan Agreement" means the agreement between the Borrower and INDE referred to in Section 3.01(a) of this Agreement.

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## Article 2

### THE LOAN

2.01 A Loan in the amount of One Million and One Hundred Thousand Dollars (\$ 1,100,000) is hereby extended by the Fund to the Borrower on the terms and conditions set forth in this Agreement.

2.02 The Borrower shall pay interest at the rate of three per cent (3 %) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

2.03 The Borrower shall pay from time to time a service charge at the rate of one per cent (1 %) per annum on the principal amount of the Loan withdrawn and outstanding, to meet the expenses of administering the Loan.

2.04 Interest and service charge shall be paid in Dollars semi-annually on January 15 and July 15 in each year into an account of the Fund designated for this purpose by the Fund Management.

2.05 After this Agreement has been declared effective pursuant to Section 7.01, and unless the Borrower and the Fund shall otherwise agree, the proceeds of the Loan may be withdrawn from time to time to meet expenditures made after May 25, 1983 or to be made on later dates in respect of the reasonable cost of goods required for the Project which are to be financed out of the Loan proceeds as shall be agreed upon between the Borrower and the Fund Management.

2.06 Except as the Fund Management shall otherwise agree, withdrawals from the Loan may be made in the currencies in which the expenditures referred to in Section 2.05 have been paid or are payable. In case payment shall be requested in a currency other than Dollars, such payment shall be effected on the basis of the actual Dollar cost incurred by the Fund in meeting the request. The Fund Management shall act in the

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purchase of currencies as the Borrower's agent. Withdrawals in respect of expenditures in the currency of the Borrower, if any, shall be made in Dollars according to the official rate of exchange at the time of withdrawal, and in the absence of such a rate, according to a reasonable rate as the Fund Management shall, from time to time, decide upon.

2.07 Applications for withdrawal shall be submitted to the Loan Administrator, with a copy to the Fund Management, by the representative of the Borrower designated in, or in accordance with, Section 8.02. Each application submitted to the Loan Administrator shall be accompanied with such documents and other evidence sufficient in form and substance to satisfy the Loan Administrator that the Borrower is entitled to withdraw from the Loan the amount applied for and that the amount to be withdrawn will be used exclusively for the purposes specified in this Agreement.

2.08 Upon the Borrower's request and on such terms and conditions as shall be agreed upon by the Borrower, the Fund Management and the Loan Administrator, the Fund Management may issue or authorize the Loan Administrator to issue, on behalf of and for the account of the Fund, guarantees to commercial banks for letters of credit requested by the Borrower in favour of the Project's contractors, or to enter into other qualified or special commitments with third parties to pay amounts in respect of expenditures to be financed under the Loan. Under a qualified commitment, the obligation of the Fund to pay shall cease immediately upon any subsequent suspension or cancellation of the Loan. Under a special commitment the obligation of the Fund shall not be affected by any subsequent suspension or cancellation. In case of issuance of a special commitment, the Borrower shall pay a commitment charge at the rate of one half of one per cent ( $\frac{1}{2}$  of 1%) per annum, payable in Dollars, from time to time on the principal amount of the special commitment entered into and outstanding.

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2.09 The Borrower shall repay the principal of the Loan in Dollars, or in any other freely convertible currency acceptable to the Fund Management in an amount equivalent to the Dollar amount due, according to the market exchange rate prevailing at the time and place of repayment. Repayment shall be effected, in twenty equal semi-annual instalments commencing on July 15, 1987 after a grace period running up to that date, and thereafter in accordance with the Amortization Schedule annexed to this Agreement. Each instalment shall be in the amount of Fifty-Five Thousand Dollars (\$ 55,000). All such instalments shall be transferred on the date of repayment to the Fund's Account as requested by the Fund Management.

2.10 (a) The Borrower undertakes to ensure that no other external debt shall have priority over this Loan in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of the Borrower. To that end, if any lien shall be created on any public assets (as defined in Section 2.10(c) ), as security for any external debt, which will or might result in a priority for the benefit of the creditor of the external debt in the allocation, realization or distribution of foreign exchange, the lien shall, ipso facto and at no cost to the Fund, equally and ratably secure the principal of, and the charges on, the Loan, and the Borrower, in creating or permitting the creation of such lien, shall make express provision to that effect; provided, however, that, if for any constitutional or other legal reason that provision cannot be made with respect to any lien created on assets of any of its political or administrative subdivisions, the Borrower shall promptly and at no cost to the Fund secure the principal of, and the charges on, the Loan by an equivalent lien on other public assets satisfactory to the Fund.

(b) The foregoing undertaking shall not apply to:

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- (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of that property; and
- (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(c) As used in this Section, the term "public assets" means assets of the Borrower, of any political or administrative subdivision thereof or of any entity owned or controlled by, or operating for the account or benefit of, the Borrower or any such subdivision, including gold and other foreign exchange assets held by any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for the Borrower.

2.11 The Borrower's right to make withdrawals from the loan proceeds shall terminate on December 31, 1985 or such later date as shall be requested by the Borrower and approved by the Fund Management.

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## Article 3

### EXECUTION OF THE PROJECT

3.01 (a) The Borrower shall relend to INDE the proceeds of the Loan under a Subsidiary Loan Agreement satisfactory to the Fund Management. Unless the Fund Management agrees otherwise, the Subsidiary Loan Agreement shall provide that the subsidiary loan be granted on the same interest and maturity terms as the Loan extended by virtue of this Agreement.

(b) Except as the Fund Management shall otherwise agree, the Borrower shall not take, or concur in, any action

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which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Subsidiary Loan Agreement.

(c) Interest revenues, if any, accruing to the Borrower from its onlending to INDE which are in excess of the interest and service charges due on the Fund Loan shall be transferred by the Borrower to a development finance or similar institution of the Borrower approved by the Fund Management in such a manner and under such terms and conditions as the Borrower and the Fund Management may agree upon.

3.02 The Borrower shall cause INDE to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Agreement and such procurement program as shall be agreed upon among the Borrower, INDE and the Loan Administrator and approved by the Fund.

3.03 The Borrower shall cause INDE to carry out, in full cooperation with the Loan Administrator and its representatives, the Project with due diligence and efficiency, in conformity with sound administrative, financial and geophysical practices, and according to such Project execution program as shall be agreed upon among the Borrower, INDE and the Loan Administrator and approved by the Fund.

3.04 The Borrower shall make available to INDE, promptly as needed, the funds, facilities, services and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project and for the operation and maintenance of the Project facilities.

3.05 The Borrower shall ensure that the activities of its departments and agencies and of INDE with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures and with due



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regard to the Loan Administrator's role in the supervision of the execution of the Project.

3.06 The Borrower shall cause INDE to take and maintain with responsible insurers, or make other arrangements satisfactory to the Fund for, insurance against such risks and in such amount as shall be consistent with sound practice.

3.07 The Borrower shall cause INDE to maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project and to record the progress of the Project (including the cost thereof).

3.08 (a) The Borrower shall enable, and shall cause INDE to enable, representatives of the Fund and of the Loan Administrator to inspect the Project, the goods financed out of the proceeds of the Loan and any relevant records and documents.

(b) The Borrower shall afford all reasonable opportunity for representatives of the Fund and of the Loan Administrator to visit any part of the territories of the Borrower for purposes related to the Loan.

3.09 The Borrower shall cooperate fully, and shall cause INDE to cooperate fully, with the Loan Administrator in the Loan Administrator's review and approval, within the framework of the Fund's Guidelines for Procurement and Disbursement Procedures, of the Project contracts, of procurements and of withdrawal applications.

3.10 The Borrower shall in all other respects cooperate fully, and shall cause INDE to cooperate fully, with the Fund and the Loan Administrator to assure that the purposes of the Loan will be accomplished.

To that end:

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(a) The Borrower shall furnish or cause INDE to furnish to the Fund and to the Loan Administrator all such reports, financial statements, audits thereof by auditors acceptable to the Fund and information as the Fund or the Loan Administrator shall reasonably request concerning the Project, and in particular: (i) the goods financed out of the proceeds of the Loan; (ii) the administration, operations and financial condition of INDE and of the agencies of the Borrower concerned with the Project; and (iii) other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, the Borrower shall furnish or cause INDE to furnish to the Fund and the Loan Administrator, progress reports on the execution of the Project at such intervals and in such detail as shall be agreed upon among the Borrower, INDE and the Loan Administrator and the Fund Management; within six months of the completion of the Project, the Borrower shall also furnish, or cause INDE to furnish, to the Fund Management and the Loan Administrator a Project completion report setting forth the history of the Project, the benefits derived therefrom, and other relevant matters.

(c) The Borrower shall promptly inform, and shall cause INDE to promptly inform, the Fund and the Loan Administrator of any condition which interferes or threatens to interfere with the accomplishment of the purposes of the Loan, or the maintenance of the service thereof, or the performance by the Borrower of its obligations under this Agreement or the Subsidiary Loan Agreement, or the performance by INDE of its obligations under the Subsidiary Loan Agreement.

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(d) The Borrower shall, and shall cause INDE to, exchange views from time to time with the Fund and the Loan Administrator with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof, and in particular with regard to the performance by the Borrower of its obligations under this Agreement or the Subsidiary Loan Agreement and the performance by INDE of its obligations under the Subsidiary Loan Agreement.

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## Article 4

### EXEMPTIONS

4.01 This Agreement and any supplementary agreement between the Parties to it shall be free from any taxes, levies or duties levied by, or in the territory of, the Borrower on or in connection with the execution, delivery or registration thereof.

4.02 The principal of, the interest and the service charges on, the Loan shall be paid without deduction for, and free from, any charges and restrictions of any kind imposed by or in the territory of, the Borrower.

4.03 All Fund documents, records, correspondence and similar material shall be considered as confidential by the Borrower, unless otherwise agreed by the Fund.

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4.04 The Fund and its assets shall not be subject to any measures of expropriation, nationalization, sequestration, custody or seizure in the territory of the Borrower.

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## Article 5

### ACCELERATION OF MATURITY; SUSPENSION AND CANCELLATION

5.01 If any of the following events shall occur and shall continue for the period specified below, then at any subsequent time during the continuance of that event, the Fund Management may by notice to the Borrower declare the principal of the Loan then outstanding to be due and payable immediately together with the service charges and the interest thereon and in that case the principal, together with all charges, shall become due and payable immediately:

- (a) A default shall occur and continue for a period of thirty days in the payment of any instalment of the principal or the interest or of the service charges under this Agreement or under any other loan agreement by virtue of which the Borrower has or shall have received a loan from the Fund;
- (b) A default shall occur in the performance of any other obligation on the part of the Borrower under this Agreement or under the Project Agreement, if any, and such default shall continue for a period of sixty days after notice thereof shall have been given by the Fund or the Loan Administrator to the Borrower.

5.02 The Borrower may by notice to the Fund cancel any amount of the Loan which the Borrower shall not have withdrawn prior to the giving of such notice. The Fund may by notice to the Borrower suspend or terminate the Borrower's right to make withdrawals from the loan if any of the events mentioned in Section 5.01(a) and (b) shall occur or if

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### ENFORCEABILITY, TERMINATION OF FUND, ARBITRATION

6.01 The rights and obligations of the Parties to this Agreement shall be valid and enforceable in accordance with their terms notwithstanding any local law to the contrary. No party to this Agreement shall be entitled under any circumstances to assert any claim that any provision of this Agreement is invalid or unenforceable for any reason.

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wise the Borrower of any substitute arrangements for the repayment of the Loan as may be devised by the appropriate authority of the Fund on such occasion.

6.03 The Parties to this Agreement shall endeavour to settle amicably all disputes or differences between them, arising out of this Agreement or in connection therewith. If the dispute or difference cannot be amicably settled, it shall be submitted to arbitration by the Arbitral Tribunal as hereinafter provided:

- (a) Arbitration proceedings may be instituted by the Borrower against the Fund or vice versa. In all cases, arbitration proceedings shall be instituted by a notice given by the complainant party to the respondent party.
- (b) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one by the claimant party, a second by the respondent party and the third (hereinafter called the Umpire) by agreement of the two arbitrators. If within thirty days after notice of the institution of arbitration proceedings the respondent party fails to appoint an arbitrator, such arbitrator shall be appointed by the President of the International Court of Justice upon the request of the party instituting the proceedings. If the two arbitrators fail to agree on the Umpire within sixty days after the date of the appointment of the second arbitrator, such Umpire shall be appointed by the President of the International Court of Justice.
- (c) The Arbitral Tribunal shall convene at the time and place fixed by the Umpire. Thereafter, it shall determine where and when it shall sit. The Arbitral Tribunal shall determine all questions of procedure and questions relating to its competence.

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this Section shall be made in the manner provided in Section 8.01.

- (f) The Arbitral Tribunal shall decide on the manner in which the cost of arbitration shall be borne by either or both parties to the dispute.

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- (d) All decisions of the Arbitral Tribunal shall be reached by majority vote. The award of the Tribunal, which may be rendered even if one party defaults, shall be final and binding on both parties to the arbitration proceedings.
- (e) Service of any notice or process in connection with any proceedings under this Section or in connection with any proceedings to enforce any award rendered pursuant to this Section shall be made in the manner provided in Section 8.01.
- (f) The Arbitral Tribunal shall decide on the manner in which the cost of arbitration shall be borne by either or both parties to the dispute.

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## Article 7

### EFFECTIVE DATE; TERMINATION OF THIS AGREEMENT

7.01 This Agreement shall become effective on the date upon which the Fund dispatches to the Borrower notice of its acceptance of the evidence required by Sections 7.02 and 7.03.

7.02 The Borrower shall furnish the Fund with satisfactory evidence that the execution and delivery of this Agreement and of the Subsidiary Loan Agreement on behalf of the Borrower have been duly authorized and ratified according to the constitutional requirements of the Borrower.

7.03 In keeping with Section 7.02, the Borrower shall also furnish the Fund with a certificate issued by the Minister of Justice, or the Attorney General, or the Government's competent legal department showing a) that this Agreement has been duly authorized and ratified by the Borrower and constitutes a valid and binding obligation of the Borrower in accordance with its terms, and b) that the

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Subsidiary Loan Agreement is valid and binding on the parties thereto in accordance with its terms.

7.04 If this Agreement shall not have come into force and effect by October 15, 1983 this Agreement and all obligations of the parties hereunder shall terminate, unless the Fund, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section.

7.05 When the entire principal amount of the Loan shall have been repaid and the interest and all charges which shall have accrued on the Loan shall have been paid, this Agreement and all obligations of the parties thereunder shall forthwith terminate.

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## Article 8

### NOTICE; REPRESENTATION, MODIFICATION

8.01 Any notice or request required or permitted to be given or made under this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand, mail, cable or telex to the party to which it is required to be given or made, at the party's address specified below or at any other address as the party shall have specified in writing to the party giving the notice or making the request.

8.02 Any action required or permitted to be taken, and any documents required or permitted to be executed under this Agreement on behalf of the Borrower shall be taken or executed by the Minister of Finance of the Borrower or another officer authorized by him in writing.

8.03 Any modification of the provisions of this Agreement may be agreed to on behalf of the Fund by the Chairman of the Fund's Governing Board and on behalf of the Borrower

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by written instrument executed on behalf of the Borrower by the representative designated by, or pursuant to, Section 8.02; provided, that in the opinion of such representative the modification is reasonable in the circumstances and will not substantially increase the obligations of the Borrower under this Agreement. The Fund may accept the execution by such representative of any such instrument as conclusive evidence that in the opinion of the Borrower the modification requested by such instrument will not substantially increase the obligations of the Borrower thereunder.

8.04 Any document delivered pursuant to this Agreement shall be in the English language. Documents in any other language shall be accompanied by an English translation thereof certified as being an approved translation and such approved translation shall be conclusive between the parties hereto.

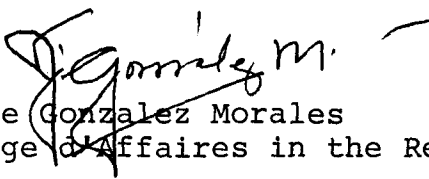
In witness whereof the parties hereto acting through their duly authorized representatives have caused this Agreement to be signed and delivered at Vienna in six copies in the English language, each considered an original and all to the same and one effect as of the day and year first above written.

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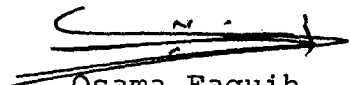
FOR THE BORROWER:

Name:  Jorge Gonzalez Morales  
Charge d'Affaires in the Republic of Austria

Address: Ministry of Finance  
Guatemala City  
Guatemala

Telex: 9207 MINFIP GU

FOR THE OPEC FUND FOR INTERNATIONAL DEVELOPMENT:

Name:  Osama Faquih  
Chairman of the Governing Board

Address: The OPEC Fund for International Development  
P.O. Box 995  
A-1011 Vienna I  
Austria

Cable: OPECFUND

Telex: 131734 FUND A

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## ANNEXES

Schedule 1: Description of the Project

Schedule 2: Amortization Schedule

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# The Opec Fund for International Development

## THE REPUBLIC OF GUATEMALA AMATITLAN GEOTHERMAL (PREFEASIBILITY STUDY) PROJECT

### SCHEDULE 1 DESCRIPTION OF THE PROJECT

The Project consists of the preparation of a prefeasibility study for the development of the geothermal potential of the Amatitlan field. The Project will be executed in three consecutive stages: (i) information assessment; (ii) field investigation and laboratory analysis; and (iii) evaluation and integration of results. The Project includes the following major components:

- 1) Professional Services;
- 2) Geophysical Services;
- 3) Exploratory drilling equipment and materials;
- 4) Other Drilling equipment;
- 5) Laboratory Services;
- 6) Civil works;
- 7) Technical analysis, and other equipment;
- 8) Technical assistance coordination.

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THE REPUBLIC OF GUATEMALA  
AMATITLAN GEOTHERMAL (PREFEASIBILITY STUDY) PROJECT

SCHEDULE 2  
AMORTIZATION SCHEDULE

<u>Date of Repayment</u>	<u>Amount Due</u> (Expressed in US Dollars)
July 15, 1987	55,000
January 15, 1988	55,000
July 15, 1988	55,000
January 15, 1989	55,000
July 15, 1989	55,000
January 15, 1990	55,000
July 15, 1990	55,000
January 15, 1991	55,000
July 15, 1991	55,000
January 15, 1992	55,000
July 15, 1992	55,000
January 15, 1993	55,000
July 15, 1993	55,000
January 15, 1994	55,000
July 15, 1994	55,000
January 15, 1995	55,000
July 15, 1995	55,000
January 15, 1996	55,000
July 15, 1996	55,000
January 15, 1997	55,000
Total:	<u>1,100,000</u> =====

