
LOAN NUMBER 3617-GEO

LOAN AGREEMENT
(Ordinary Operations)

(Sustainable Urban Transport Investment Program – Project 5)

between

GEORGIA

and

ASIAN DEVELOPMENT BANK

DATED 19 December 2017

GEO 42414

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 19 December 2017 between GEORGIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 21 June 2010 between the Borrower and ADB ("FFA"), ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Sustainable Urban Transport Investment Program ("Investment Program");

(B) by a periodic financing request dated 7 September 2017, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the Ministry of Regional Development and Infrastructure of Georgia (MRDI), the Municipal Development Fund of Georgia ("MDF"), the Tbilisi City Municipality ("TCM") and the Tbilisi Transport Company LLC ("TTC"), and for this purpose the Borrower will make available to MDF the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(D) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB, MDF, TCM and TTC;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

- (a) Section 2.01(uu) is deleted and the following is substituted therefor:
"Project Agreement" means the Project Agreement of even date herewith between ADB and the Project Implementing Agencies, as such agreement may be amended from time to time.
- (b) The term "Project Executing Agency" appearing in Sections 7.01(a)(i), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "Project Implementing Agencies".

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

- (a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in sub-paragraphs 3(b) and 3(c) of Schedule 1 to this Loan Agreement;
- (c) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (d) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;
- (e) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (f) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (g) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (h) "MDF" means the Municipal Development Fund of Georgia, a legal entity of public law, established by Decree No.558 of the Government of Georgia on 30 October 2015;
- (i) "MDF Charter" means the charter of MDF approved by Government Decree No.558 dated 30 October, 2015, as amended from time to time;
- (j) "PAM" means the project administration manual for the Project dated 30 October 2017 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (k) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (l) "Procurement Plan" means the procurement plan for the Project dated 30 October 2017 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement

Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB; and

- (m) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the Ministry of Regional Development and Infrastructure of Georgia or any successor thereto acceptable to ADB;
- (n) "Project facilities" means facilities to be installed, constructed, reconstructed, developed, rehabilitated or operationalized under the Project;
- (o) "Project Implementing Agency" means each of MDF, TCM and TTC, or any successor thereto acceptable to ADB and "Project Implementing Agencies" means all of them;
- (p) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of, and compliance with, the MPs, including any corrective and preventative actions;
- (q) "SPS" means ADB's Safeguard Policy Statement (2009);
- (r) "TCM" means the Tbilisi City Municipality established under the Borrower's Organic Law of Georgia Local Self-Government Code (Registration No. 010250000.04.001.016100);
- (s) "TTC" means the Tbilisi Transport Company LLC established by the Cabinet of the Tbilisi City Municipality Decree No.12.17.675 dated 17 June 1997, as amended from time to time, which is controlled by the Tbilisi City Hall and is responsible for operating and maintaining the Tbilisi Metro;
- (t) "TTC Charter" means the charter of TTC approved by Tbilisi Government Decree No.16.26.565 dated 24 June 2009, as amended from time to time; and
- (u) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of twelve million Euro (€12,000,000), as such amount

may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 7 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) Euribor;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) of the

Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to MDF upon terms and conditions satisfactory to ADB and shall cause MDF to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 18 July 2020 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within

14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the Project Implementing Agencies to perform their obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Delegation of Authority

Section 6.01. The Borrower hereby designates MDF as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.04 of this Loan Agreement and under Sections 6.01, 6.02, 6.03 and 6.04 of the Loan Regulations.

Section 6.02. Any action taken or any agreement entered into by MDF pursuant to the authority conferred under Section 6.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 6.03. The authority conferred on MDF under Section 6.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Public Debt and External Financing Department
Ministry of Finance
16 Gorgasali Street
0114 Tbilisi
Georgia

Facsimile Number:

(99532) 2262 423.

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

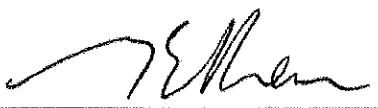
(632) 636-2444
(632) 636-2301.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

GEORGIA

By 
MAMUKA BAKHTADZE
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
YESIM ELHAN-KAYALAR
Country Director
Georgia Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Investment Program is to improve efficiency, reliability and affordability of urban transport infrastructure and services.
2. As part of the Investment Program, the Project aims to provide efficient, reliable, safe and affordable urban transport services in the urban areas of the city of Tbilisi.
3. The Project shall comprise:
 - (a) rehabilitation and improvement of the Tbilisi Metro including replacement of low and medium voltage power transmission cabling, rehabilitation of the ventilation system including the installation and repair of ventilation fans;
 - (b) strengthening the institutional capacity of TTC in operations and maintenance of the Tbilisi Metro including the development of a waste management plan; and
 - (c) providing Project management and implementation support for supervision of Works, financial audit and safeguards monitoring.
4. The Project is expected to be completed by 31 December 2019.

SCHEDULE 2

Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 May 2033	7.142857
15 November 2033	7.142857
15 May 2034	7.142857
15 November 2034	7.142857
15 May 2035	7.142857
15 November 2035	7.142857
15 May 2036	7.142857
15 November 2036	7.142857
15 May 2037	7.142857
15 November 2037	7.142857
15 May 2038	7.142857
15 November 2038	7.142857
15 May 2039	7.142857
15 November 2039	7.142859
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

- (a) to the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule; and
- (b) any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the

original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest and Commitment Charges

3. The amount allocated to Category "Interest and Commitment Charges" is for financing interest and commitment charges on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charges.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

- (a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and
- (b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with Goods, Works and Consulting Services subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing Euro	Basis for Withdrawal from the Loan Account
		Category	
1	Works, Goods and Consulting Services	10,500,000	84% of total expenditure claimed
2	Interest and Commitment Charges	240,000	100% of amounts due
3	Unallocated	1,260,000	
	TOTAL	12,000,000	

SCHEDULE 4**Procurement of Goods, Works and Consulting Services**General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

4. Goods and Works shall be procured on the basis of International Competitive Bidding.

Consulting Services

5. Except as set forth in the paragraph below, the Borrower shall apply Quality- and Cost-Based Selection for Consulting Services.
6. The Borrower, through MDF, shall apply the following selection method for the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Least-Cost Selection for audit services for the Project.
7. The Borrower, through MDF, shall recruit the individual consultants for safeguards monitoring for the Project in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

8. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

9. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

11. In the case of a contract for Goods or Works, which is subject to ADB's prior review, the Borrower shall seek ADB's prior approval of any modification or waiver of the terms and conditions of the contract, including:

- (a) granting an extension of the stipulated time for completion of a contract for a period of 1 month or more, or which is likely to require an extension of the Loan Closing Date; and
- (b) increases in aggregate of the original price by more than 5% (for the avoidance of doubt, such increase shall take into account any previous change under such contract).

12. In the case of a contract for Goods or Works, which is subject to ADB's post review, ADB shall review the required contract modification or waiver and respond to the Borrower as soon as practicable, but not later than 1 month after the receipt of the required document.

13. The Borrower shall provide to ADB copies of all time extensions, modifications or waivers to the contracts (including change orders) within 1 month following amendment of the contract.

SCHEDULE 5

Execution of Project; Financial and Operational Matters

Implementation Arrangements

1. The Borrower, the Project Executing Agency and the Project Implementing Agencies shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Project Executing Agency and ADB (except that any subsequent change to the Procurement Plan shall become effective only after approval of such change by MDF and ADB). In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Safeguards

2. The Borrower, through MDF, shall ensure that the Project does not have any environmental, indigenous peoples or involuntary resettlement impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower, through MDF, shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS. Without limiting the foregoing, the Borrower, through MDF, shall ensure that the construction and implementation of the Project and all Project facilities comply with all applicable laws and regulations of the Borrower relating to environment, health and safety, including, without limitation, the Waste Management Code of Georgia dated 26 December 2014 (as amended from time to time).

Labor Standards, Health and Safety

3. The Borrower, through MDF, shall ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall cause MDF to include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

4. The Borrower, through MDF, shall strictly monitor compliance with the requirements set forth in paragraph 3 above and provide ADB with regular reports.

Gender and Development

5. The Borrower, through MDF, shall ensure that the principles of gender equality aimed at increasing Project benefits and impact on women in the Project area are followed during implementation of the Project. These include (a) equal pay to men and women for work of equal value; (b) enabling working conditions for women workers; and (c) taking necessary

actions to encourage women living in the Project area to participate in the design and implementation of Project activities.

Operations and Maintenance

6. The Borrower, within its authority, shall cause TCM and TTC to ensure that: (a) the Project facilities are maintained and operated in good condition in compliance with applicable laws, regulations and standards of the Borrower including conducting regular operations and maintenance of the Tbilisi Metro in accordance with applicable operations and maintenance manuals, maintenance schedules, and maintain an accurate and up-to-date asset register for the Tbilisi Metro; and (b) adequate budgetary appropriations or other counterpart funding is provided to cover any funding shortfalls for operations and maintenance of the Project facilities, and qualified and experienced staff are made available to enable the Project Implementing Agencies to successfully carry out these activities.

Operational/Sector Performance/Financial Covenants

7. The Borrower, through MDF, shall ensure that: (a) the Project is implemented in accordance with design specifications and constructions norms; and (b) construction supervision, quality control and contract management are performed in accordance with international standards.

8. The Borrower, within its authority, shall cause TCM and TTC to ensure that ADB's consent is obtained at least 3 months prior to the implementation of any of the following: (a) any change in ownership of any asset, facility or structure financed under the Project; (b) any sale, transfer or assignment of interest or control in any asset, facility or structure financed under the Project; (c) revision, amendment or restatement of the MDF Charter or the TTC Charter that may affect implementation or management of the Project; or (d) any lease or other contract or modification of the functions and authority of the Project Implementing Agencies over operation and maintenance of any such asset, facility or structure financed under the Project. The Borrower shall ensure that any such changes will be carried out in a legal and transparent manner.

9. The Borrower, within its authority, shall cause TCM and TTC to ensure that TTC remains financially sustainable through necessary tariff adjustments, subsidies or other means, including ensuring that for each fiscal year of TTC, its ratio of total cash operating expenses to total cash operating revenues is maintained at less than 1 (including after factoring in receipt of any subsidies realized in cash and excess or deficit cash revenue carried forward from previous years).

Governance and Anticorruption

10. The Borrower, the Project Executing Agency, and the Project Implementing Agencies shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

11. The Borrower, through MDF, shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.
