

**Agreement  
between**

**the Government of the Italian Republic  
and  
The Council of Ministers of the Republic of Albania**

**Concerning a Concessional Loan for the Program “Improvement of Electrical Power Distribution Network in Northern Albania following 2019 earthquake”.**

The Government of the Italian Republic (hereinafter GoI) and the Council of Ministers of the Republic of Albania (hereinafter CMRA), both jointly referred to as “the Parties” and separately as “Party”,

**CONSIDERING** their mutual relationship of friendship;

**CONSIDERING** that the GoI has made a formal pledge amounting to 5 (five) millions Euro in grant and 90 (ninety) millions Euro in concessional loans following the international Donor Conference “Together for Albania”, held on February 2020 in Bruxelles, on the recovery measures to be financed by international donors after the November 2019 earthquake.

**CONSIDERING** that in the Letter dated 11<sup>th</sup> of August 2020 addressed by the Albanian Minister of State for Reconstruction to the Italian Ambassador - an initial breakdown of the Italian pledge was formally proposed.

**TAKING INTO ACCOUNT** the Letter dated 3rd September 2020 in which the Italian Ambassador has informed the Albanian Minister of State for Reconstruction that the Italian Government follows suit with the proposed repartition.

**TAKING INTO ACCOUNT** that it has been agreed, in the above-mentioned correspondence, to earmark an untied concessional loan amounting to Euro 35 (thirty-five) millions for infrastructural interventions aimed at the development of the “Improvement of Electrical Power Distribution Network in Albania” with special attention to the up-grading of distributions lines in northern Albania.

**TAKING INTO ACCOUNT** the Letter dated 16 December 2020 in which the Minister of State for Reconstruction and the Minister of Infrastructure and Energy forward to the Italian Embassy in Tirana the Project Document “Improvement of Electrical Power Distribution Network in Northern Albania following 2019 earthquake”

**CONSIDERING THAT**, the Parties fully agree and share the need to contribute to the sustainable development of the Albanian Distribution System and in so doing providing the institutions and the private sector with new opportunities and added interconnectivity related directly and indirectly to the accession and integration process within the European Union.

**WHEREAS** on 28 April 2021 the Italian Joint Development Cooperation Committee established at the Ministry of Foreign Affairs and International Cooperation approved the initiative “Improvement of Electrical Power Distribution Network in Northern Albania following 2019 earthquake”, to be financed up to Euro 35 (thirty-five) million through a concessional loan;

**MAKING REFERENCE** to the “Framework Agreement on Development Cooperation between the Government of the Italian Republic and the Council of Ministers of the Albanian Republic” done at Tirana on December 2008.

**HEREBY**, the Parties agree as follows:

## **ARTICLE 1**

### **PURPOSE OF THE AGREEMENT**

- 1.1 Under this Agreement (hereinafter Loan Agreement) the GoI shall provide a concessional loan not exceeding the sum of Euro 35 Million for the Program “Improvement of Electrical Power Distribution Network in Northern Albania following 2019 earthquake” (hereinafter the “Program”).
- 1.2 This Loan Agreement establishes the mutual obligations of the Parties concerning the financing and the implementation of the Program.
- 1.3 In this context, it defines the modalities and procedures for management, crediting, disbursement, procurement, monitoring, evaluation and reporting related to the Program.
- 1.4 The concessional loan shall be utilized by the Ministry of Infrastructure and Energy for the purpose of meeting the actual costs of civil works, equipment supplies and services of the Program as detailed in Annex 1, to be purchased through a competitive bidding among international / local companies, to be held in the Republic of Albania.
- 1.5 The company(ies) awarded the contract(s) may purchase supplies and services on the local and international market [untied concessional loan]. No portion of the Italian Concessional Loan will be used to finance taxes or custom duties. Contracts shall be denominated in Euro.

## **Article 2**

### **PARTS AND DEFINITIONS**

- 2.1 The present Loan Agreement consists of sixteen Articles and of the following Annexes:
  - Annex 1: Project Document.
  - Annex 2: Eligibility Criteria, Ethical Clauses and Contract General Principles.
- 2.2 The above-mentioned Annexes shall be considered an essential and substantial part of the present Loan Agreement.
- 2.3 The words and acronyms mentioned below in the text have the following meaning:

<i>AICS</i>	Agenzia Italiana per la Cooperazione allo Sviluppo - Italian Agency for Development Cooperation: Italian public institution in charge of identification, formulation, implementation, financing and monitoring of development cooperation projects under the political guidance of the Italian Ministry of Foreign Affairs and International Cooperation (MAECI)
<i>BORROWER</i>	The Government of the Republic of Albania
<i>BORROWER'S AGENT</i>	The Ministry of Finance and Economy of the Republic of Albania (MFE)
<i>CDP</i>	Cassa Depositi e Prestiti - the Italian Financial Institution acting as the Lender's Agent and appointed by the Government of the Italian Republic to sign the Financial Agreement with MFE.
<i>COMMERCIAL CONTRACT(S)</i>	The commercial contract(s) relating to the supply of services and goods connected to the realization of the Program
<i>CONCESSIONAL LOAN</i>	The fund that CDP in compliance with the authorization issued by the Ministry of Economy and Finance and upon the proposal of the Ministry of the Foreign Affairs and International Cooperation of the Italian Republic, will grant on the terms and the conditions provided for in the Article 9 of this Loan Agreement
<i>EU</i>	European Union
<i>FINANCIAL CONVENTION</i>	Agreement between CDP (Italian Financial Institution) acting as the Lender's Agent, and the Borrower's Agent, aimed at implementing this Agreement
<i>CMRA</i>	Council of Ministers of the Republic of Albania
<i>GRACE PERIOD</i>	The period time lasting up to 12 years, beginning on the date on which the first disbursement of the Concessional Loan is credited and for which no capital part of the loan is paid
<i>GRANT ELEMENT</i>	It measures the softness of the concessional loan and reflects the financial terms of the loan (interest rate, maturity, grace period....)
<i>ITALIAN COMPETENT AUTHORITIES</i>	the Ministry of Foreign Affairs and International Cooperation (MAECI) of the Italian Republic through DGCS is the Italian Competent Authority for the implementation of this Loan Agreement supported by any other competent entity of the Government of the Italian Republic which will be nominated for the purpose of this Agreement
<i>ITALIAN EMBASSY</i>	The Embassy of Italy in the Republic of Albania
<i>LOCAL COMPETENT AUTHORITIES</i>	The Ministry of Infrastructure and Energy of the Republic of Albania (MIE) which will delegate Oshee Group Sh.a as the Main Implementing Agency and will monitor the management of this Loan Agreement
<i>LENDER</i>	The Government of the Italian Republic
<i>MAECI-DGCS</i>	The Ministry of Foreign Affairs and International Cooperation of the Italian Republic (MAECI) Directorate General for Development Cooperation (DGCS)
<i>MAIN EXECUTIVE AGENCY</i>	Ministry of Infrastructure and Energy of the Republic of Albania (MIE)
<i>MAIN IMPLEMENTING AGENCY</i>	Operatori i Shpërndarjes së Energjisë Elektrike (Oshee Group Sh.A)
<i>OSHEE GROUP SH.A.</i>	Operatori i Shpërndarjes së Energjisë Elektrike (Oshee Group Sh.A) Albanian Electric Power Distribution Operator. It is a subsidiary of the Albanian Government under the supervision of the Ministry of Infrastructure and Energy.
<i>PIU</i>	Program Implementation Unit
<i>PRAG</i>	Practical Guide on contract procedures for European Union external financed from the General Budget of EU.

**Article 3**  
PROGRAM DESCRIPTION

3.1 The Program concerns mainly but not only the infrastructural interventions aimed at the development of the “Improvement of Electrical Power Distribution Network in Northern Albania following 2019 earthquake”, with special attention to the up-grading of distributions lines in northern Albania. Furthermore, the Program will supply the Institutions and the private sector with new opportunities and added interconnectivity, which will accelerate the accession and the integration process within the European Union.

In line with the above-mentioned Strategies, the specific objectives of the Program are the following:

- a) To enhance the Albanian energy sector, based on the principles of market and on the development of a modern energy sector in the areas of Durres and Shkodra;
- b) To improve relevance, quality, effectiveness of energy transportation and networking in order to foster household and private sector development where Albania has a great potential and Italy could express a significant added value.

3.2 The Program is further detailed in Annex 1.

**Article 4**

INSTITUTIONS AND BODIES INVOLVED IN THE IMPLEMENTATION OF THE PROGRAM

The main Institutions and Bodies involved in the implementation of the Program are:

4.1 For the Italian side:

- a) The Ministry of Foreign Affairs and International Cooperation – Directorate General for Development Cooperation (hereinafter MAECI-DGCS), that represents the Government of Italy and acts as the Italian Counterpart for this Agreement;
- b) AICS - Italian public institution in charge of identification, formulation, implementation and monitoring of the Program under the political guidance of MAECI.
- c) The Italian Embassy in Tirana, acting as the representative of the GoI in Albania;
- d) The AICS Office in Tirana, which will follow up locally the implementation of the Program activities.
- e) CDP, that shall sign the Financial Convention with MFE

4.2 For the Albanian side:

- a) The Ministry of Infrastructure and Energy, entrusted by the CMRA to be in charge of the general supervision of the Program.
- b) The Ministry of Infrastructure and Energy of the Republic of Albania (hereinafter MIE), who will appoint OSHEE Group Sh.a as the Main Implementing Agency, which will be the signatory of all contracts concerning the works for infrastructural interventions aimed at the development of the Program, and will be delegated also for their implementation.
- c) The Ministry of Finance and Economy (hereinafter MFE), that represents the CMRA for the purpose of the Financial Convention to be signed with CDP.

## Article 5

### OBLIGATIONS OF THE ITALIAN GOVERNMENT

GoI shall provide an untied soft loan of up to Euro 35 (thirty-five) Millions on concessional loan basis as per Article 1 of this Loan Agreement. The concessional loan will be disbursed according to the modalities set out in Article 9. In any case, the disbursements shall not exceed the total amount above mentioned.

## Article 6

### OBLIGATIONS OF THE ALBANIAN SIDE

6.1 CMRA engages itself in fulfilling all the obligations deriving from the present Loan Agreement, in particular:

- a) Ensuring the implementation of the Program according to the provisions of the present Loan Agreement, being responsible for the use of the concessional loan, for the awarding and management of the contracts and for the supervision of the activities;
- b) Ensuring availability and timely provision of human and financial resources to meet project investment requirements not covered by the concessional loan (availability of installation sites, permits, licenses, service infrastructures, personnel, works supervision, final inspections) as well as related running costs;
- c) Ensuring that, MIE and OSHEE Group Sh.a, will apply the latest edition of procurement procedures described in the Practical Guide to Contract Procedures (PRAG) adopted by the European Commission, according to the Eligibility Criteria, Ethical Clauses, Contract General Principles indicated in Annex 2;
- d) Ensuring that all the contracts signed by the local institutions to be financed out of the concessional loan shall be exempt from all duties and non-income taxes including VAT as per Article 1.5.
- e) Undertaking every appropriate measure to remedy any practices of active or passive corruption whatsoever at any stage of the execution of the Program;
- f) Ensuring that AICS personnel will have access to the Program areas and to the Program technical documentation in order to allow all control, monitoring and evaluation activities. The local entities involved in the implementation of the Program shall therefore retain records of the tendering and contracting procedures – including the originals of all tenders submitted, the corresponding tender dossiers and any related correspondence – for five years after the completion of the Program as to facilitate Mid-term and Final Evaluations, in coordination with AICS and MAECI-DGCS.

## Article 7

### GOVERNANCE AND IMPLEMENTATION OF THE PROGRAM

7.1 Upon signature of the present Loan Agreement and completion of the respective approval procedure, CDP and MFE will enter into a Financial Convention/s concerning the whole amount to be financed under the Italian concessional loan for goods, services and works related to the Program. The Financial Convention/s will provide the legal framework between the Lender's Agent and the Borrower's Agent and will include the provisions of the present Agreement specifying the procedure for the disbursement and repayment.

7.2 MIE, together with OSHEE Group Sh.a., duly delegated for the following purposes, shall carry out the implementation of the Program, such as the preparation and launching of tenders, the

execution, the monitoring and supervision of works and supply of goods and services according to Annex 1. MIE will also delegate OSHEE Group Sh.a., to issue procurement notices and procure, goods, works and services related to the Project according to the last edition of the procurement procedures described in the Practical Guide on contract procedures for European Union external financed from the General Budget of EU (PRAG), and according to the Eligibility Criteria, Ethical Clauses, Contract General Principles indicated in Annex 2. The Albanian law as per Article 8 will regulate all aspect of the contract.

7.3 Copy of tender documents whose value corresponds to what is indicated in Article 8.7 should be send trough AICS Tirana to AICS Rome in order to provide a "No Objection" prior to the publication of tenders and to the signing of the contract award - on the basis of an "ex ante" review conducted on the tender dossier and draft contract as well as the Evaluation Committee reports and the proposal for awarding the contract.

7.4 For contract whose value is lower than the threshold mentioned in Article 8.7, the MIE through its Departments will evaluate the bids, prepare bid evaluation reports and award the contract to the selected bidder. All pertinent documents should be sent to the accredited Auditing Company mentioned in Article 11.2 and to AICS Tirana together with, if requested, a full copy of all original proposals submitted by the bidders. The contract(s) shall be definitively awarded and signed between parties according to procedures described in the Practical Guide on contract procedures for European Union external financed from the General Budget of EU (PRAG), and according to the Eligibility Criteria, Ethical Clauses, Contract General Principles indicated in Annex 2.

7.5 A joint evaluation shall be carried out by AICS and MIE after the Program completion.

## **Article 8**

### **PROGRAM EXECUTION MODALITIES**

- 8.1 The procedures for the execution of any contract financed through the Program will follow the Albanian Legislation and the principles on public procurement, among which equal treatment, non-discrimination, proportionality and transparency shall be regarded as inviolable ones.
- 8.2 In line with the "Ethical Clauses and General Principles for Procurement and Execution of Contracts" set forth in Annex 2, awarding and execution of works, services and supplies contracts funded through the Program shall guarantee the quality of the works, services and supplies and shall be carried out in compliance with the principles of the most economically advantageous tender, of effectiveness, of timeliness and of correctness. The principle of the most economically advantageous tender may be subordinated, within the limits expressly permitted by the Albanian legislation, to the criteria explicitly provided for in the tender dossiers, inspired by social needs, as well as health protection, environment and cultural heritage safeguard and the promotion of sustainable development, even from an energy saving point of view.
- 8.3 Contracting authorities cannot artificially restrict in any way competition in order to unduly favour or unduly disadvantage any potential bidder.
- 8.4 The criteria for participation in tenders shall be such as not to exclude micro-enterprises, small and medium-sized ones, as one of the market-based instruments to achieve sustainable and inclusive growth.

- 8.5 The traceability and transparency of decision-making in procurement procedures is essential for ensuring sound procedures, including efficiently fighting corruption and fraud. Contracting authorities shall therefore keep copies of the concluded Program funded contracts, in order to be able to provide access to those documents to the Italian Party.
- 8.6 The essential procurement elements, decisions and adherence to those basic principles recalled in this Article and detailed in Annex 2, shall be documented for any individual procurement procedure in a Procurement Report prepared by the contracting authority that will regard only those contracts whose value is below the thresholds, to be submitted to AICS after contract signing (ex post control) together with the audit report and to be certified by the accredited auditing company as per Article 11. 2 lett. b.
- 8.7 To avoid administrative burdens in the financing of the Program, AICS shall provide a “No Objection” prior to the publication of tenders and to the signing of the contract award - on the basis of an “*ex ante*” review conducted on the tender dossier and draft contract as well as on the Evaluation Committee reports and the proposal for awarding the contract - when related to:
- a) High-value works contracts (equal or higher than Euro 5,000,000.00 equivalent);
  - b) High-value supply and services contracts (equal or higher than Euro 500,000.00 equivalent).

## Article 9

### CONCESSIONAL LOAN TERMS, CONDITIONS AND CREDITING PROCEDURES

9.1 The concessional loan shall have a grant element equal to 60 %. The financial conditions that correspond to such grant element are the following:

- Interest rate: 0.50 % per year;
- Repayment period: 25 years, of which 12 year of grace period (during grace period only interests have to be paid).

Upon the entry into force of the present Agreement, CDP and MFE will enter into a Financial Agreement relating to the whole amount to be provided under the Italian concessional loan. The Financial Agreement will provide the legal framework between the Lender’s Agent and the Borrower’s Agent and will specify the procedure for the disbursement and repayment in accordance with the provisions of the present Agreement.

9.2. Following the entry into effect of the Financial Convention, the first instalment of the soft loan, which amounts to Euro 10 (ten) million, shall be disbursed by CDP on the request of the Borrower’s Agent upon the fulfilment of the conditions set forth in the Financial Convention.

9.3. The second instalment of the concessional loan which amounts to Euro 15 (fifteen) million will be disbursed by CDP on the request of the Borrower’s Agent upon the fulfilment of the following conditions:

- a) Prior approval by AICS Tirana of the Audited Narrative and Financial Report, as validated by CDP, issued by an accredited Auditing Company contracted by the CMRA, according to the provisions of Article 11.2- from which it can be inferred that at least 50% of the projected costs under capital expenditures have been committed and 30% disbursed on the basis of the total financial resources of the first instalment.
- b) Prior approval by AICS Tirana of the Audit Procurement Report related to the previous instalment concerning the contracts whose value is lower than the thresholds indicated in Article 8.7.

9.4 The third instalment of the concessional loan which amounts to Euro 10 (ten) million will be disbursed by CDP on the request of the Borrower's Agent upon the fulfilment of the following conditions:

- a) Prior approval by AICS Tirana of the Audited Narrative and Financial Report, as validated by CDP, issued by an accredited Auditing Company contracted by the CMRA, according to the provisions of Article 11.2 from which it can be inferred that that at least 75% of the cumulative projected costs of the first and second instalments have been committed and 40% disbursed;
- b) Prior approval by AICS Tirana of the Audit Procurement Report related to the previous instalment concerning the contracts whose value is lower than the thresholds indicated in Article 8.7.

9.5 Within 24 months from the disbursement of the third instalment, the accredited Auditing Company shall produce a Final Audited Financial and Procurement Report on the basis of the annual auditing reports, whose narrative will cover 100% of all expenses on the Program. As far as procurement is concerned, the Report will cover only contracts below the threshold referred to in Article 8.7, such as lower than Euro 5 Million for works contract and lower than Euro 500.000 for supply and services contracts; AICS and CDP shall issue a "no objection" to such Final Audited Financial and Procurement Report.

## **Article 10**

### **MONITORING DURING IMPLEMENTATION**

10.1 AICS reserves itself the right to control the implementation of the Program and the transparent, effective and efficient use of funds provided by the GoI. AICS control activities may be carried out both in Italy and locally through: (i) AICS local and international experts; ii) personnel of the Italian Embassy.

10.2 A Steering Committee (hereinafter SC) will be set-up under the responsibility of MIE. It will meet at least twice a year to provide strategic guidance and overall monitoring of the Program, assessment of the sector performance and of the progress. The SC will be composed by two representatives, each from AICS Tirana and MIE and its decisions will be reached by consensus. Representatives of MFE, as well as concerned Line Ministries such as the Ministry of Infrastructure and Energy, may be invited to attend the meetings of the SC. The SC will ensure overall performance monitoring to guarantee timely financing and implementation of the activities as described in Annex 1.

10.3 CDP is responsible of control activities on concessional loan disbursement.

## **Article 11**

### **EVALUATION AND AUDIT**

11.1 Mid-term and Final Evaluations will be joint carried under the responsibility of MIE in coordination with AICS and MAECI-DGCS, in order to ensure a shared awareness about the targets met by the Program and to ascertain its relevance against the overall and specific objectives along with its effectiveness, efficiency, impact and sustainability.

11.2 As per articles 9.3, 9.4, 9.5, an IFAC (International Federation of Accounts) accredited Auditing Company, either international or local branch, shall be entrusted by the CMRA to issue the Audited Narrative and Financial Reports on the Program.

The accredited Auditing Company will have the following tasks:

- a) Assess in a specific document (named "Financial Report") the Narrative and Financial Reports on the whole of the expenses on the Program.
- b) Assess in a specific document (named "Procurement Report") the procurement reports issued by the CMRA, concerning only the contracts whose value is less than Euro 5,000,000.00 for civil works or lower than Euro 500,000.00 for goods, information technology and services; such procurement reports will assess regularity and compliance with the procedures and the principles set out in Article 7 and in Annex 2 of this Agreement

Moreover, the accredited Audit Company will:

- Provide comments and recommendations on potential areas of weakness in the accounting records and internal control systems identified during the assessment;
- Provide comments and recommendations on potential issues related to procurement;
- Provide information on the status of the Program, highlighting internal and external factors that may have had a negative impact;
- Provide information on any problems encountered during the review that may have a negative impact on the completion of the Program;
- Highlight any issues that need to be brought to the attention of the recipient of the report.

11.3 AICS and MIE will analyse the conclusions and recommendations of the Mid-term Evaluation and Interim Financial and Procurement Reports, through the Steering Committee, and then they will jointly decide on the follow-up action to be taken and any adjustments necessary.

11.4 The CMRA, before publishing the tender for the Audit, shall send to AICS the tender package and a copy of the draft Contract, for the preliminary No Objection. The Auditing Company shall define a standard format for the Financial Report and the Procurement Report that has to be approved by the Parties.

## Article 12

### IMPEDIMENTS AND FORCE MAJEURE

In case of an impediment to the implementation of the Program, due to causes of *force majeure* (war, flood, fire, typhoon, earthquake, labour disputes and strikes, unforeseen difficulties in transportation and other causes) recognised by both Parties, or in case of danger or hazardous conditions for AICS expatriate personnel in Tirana, the following provisions shall apply:

- a) In case the duration of the impediment is less than six months, the use of uncommitted funds shall be suspended until the impediment finishes and the Italian Party authorises resumption of the Program financing and implementation;
- b) If the impediment lasts longer than six months and less than twenty-four months, the Program is suspended and the uncommitted funds are maintained until the impediment ceases and upon receipt of the authorisation by the Italian Party for the resumption of the Program financing and implementation;
- c) If the duration of the impediment is greater than twenty-four months, the Parties shall agree whether to continue or terminate the Program. In the absence of an agreement, the Albanian Party undertakes to repay any remaining sums from the instalments already transferred, according to the provisions and modalities specified in the Financial Agreement.

### Article 13

#### AMENDMENTS TO THE AGREEMENT

The Parties may amend the present Agreement at any time by mutual consent. Such amendment shall enter into force following the same procedures stated in Article 16.1.

### ARTICLE 14

#### SETTLEMENT OF DISPUTES

Any dispute between the Parties arising out of the implementation of this Loan Agreement will be settled amicably by means of direct consultations or negotiations between the Parties through diplomatic channels.

### Article 15

#### TERMINATION OF THE AGREEMENT

- 15.1 The Parties reserve the right to terminate this Agreement under the following circumstances:
- a) Failure by one of the Parties to respect the commitments referred in Articles 5 and 6;
  - b) Serious fault(s) by one of the Parties causing: (i) utilisation of the Italian concessional loan for different purposes than those provided for in this Agreement; (ii) unjustified and prolonged delays in providing progress and audit reports as per Article 11; and (iii) proved existence of serious irregularities within the implementation of the Program and financial management of the concessional loan, ascertained during evaluation and audit as per Article 11;
  - c) Protracted impediment or *force majeure*, as established in the previous Article 12.
- 15.2 The termination will take effect 6 (six) months after the communication of the reception of such notification from the receiving Party. If the receiving Party does not reply within 6 (six) months, the Agreement shall be considered automatically terminated.



### Article 16

#### FINAL PROVISIONS

- 16.1 The present Loan Agreement shall enter into force on the date of receipt of the last of the two notifications by which the Parties will inform each other on the completion of their internal procedures necessary to this effect.
- 16.2 This Agreement shall have the same duration of the concessional loan.
- 16.3 In the event the Parties terminate the present Loan Agreement, it is understood and agreed that CDP could, with immediate effect, ask for reimbursement of any unspent money and accrued interests made under terms of this Agreement.
- 16.4 This Agreement shall be implemented in accordance with the Italian and Albanian legislations, as well as applicable international law and, as for the Italian Party, the obligations arising from its membership of the European Union.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the present Loan Agreement.

Done at TIRANA on the 27 of MARCH, 2023 in two originals each in the English language, both texts being equally authentic.

<p>For the Government of the Italian Republic</p> 	<p>For the Council of Ministers of the Republic of Albania</p> 
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