

EXECUTION VERSION

423
(Rescheduling Agreement for Moldova)

AMENDMENT AGREEMENT NO.1 TO RESCHEDULING AGREEMENT

dated 15 December 2021

between

The Republic of Moldova

and

Japan Bank for International Cooperation

THIS AGREEMENT is dated the 15th day of December, 2021

BETWEEN

The Republic of Moldova (the "Borrower"),

AND

Japan Bank for International Cooperation (with its successors, "JBIC").

WHEREAS:

- (A) The Borrower and JBIC (collectively, the "Parties") entered into a rescheduling agreement dated 5 April 2007 pursuant to which the Parties agreed to restructure various historic debt obligations owed by the Borrower to JBIC (the "Rescheduling Agreement"); and
- (B) due to the prospective permanent cessation or loss of representativeness of applicable tenors of JPY LIBOR (as defined herein), the Parties now wish to amend the Rescheduling Agreement.

IT IS AGREED as follows:

1. Definitions

Capitalized terms used in this Agreement have, unless the context otherwise requires, the meanings assigned to them in the Rescheduling Agreement.

2. Amendments to the Rescheduling Agreement

2.1 Rate and Payment of Interest

Section (2)(a) (Rate and Payment of Interest) of Article IV (Interest and Overdue Payment on the Rescheduled Amount) of the Rescheduling Agreement shall be deleted and replaced in its entirety with the following:

- "(a) The Borrower shall pay interest on the Rescheduled Amount at the Floating Rate plus nought point five per cent (0.5%) per annum in accordance with the provisions hereof."

2.2 Overdue Payment

Section (3)(a) (Overdue Payment) of Article IV (Interest and Overdue Payment on the Rescheduled Amount) of the Rescheduling Agreement shall be deleted and replaced in its entirety with the following:

- "(a) Should the Borrower fail to pay any principal or interest payable under this Agreement on the due date therefor (the "Overdue Amount"), the Borrower shall pay interest on such overdue principal or, to the fullest extent permitted by applicable law, on overdue interest at the rate equal to the Floating Rate plus two point five per cent (2.5%) per annum (the "Overdue Interest Rate") for the Period of Delay. Such interest shall accrue in accordance with Section (4) of this Article IV and after as well as before any award and/or judgment. During the Period of

Delay, interest stipulated in Section (2)(a) of this Article IV shall not accrue on such overdue amount."

2.3 Changes to the Calculation of Interest

A new Section (5) (Changes to the Calculation of Interest) shall be added to Article IV (Interest and Overdue Payment on the Rescheduled Amount) of the Rescheduling Agreement immediately following Section (4) (Basis of Calculation) of Article IV (Interest and Overdue Payment on the Rescheduled Amount) of the Rescheduling Agreement, as follows:

"(5) Changes to the Calculation of Interest

(a) Absence of Quotations

Subject to Sections (5)(b) and (5)(c) of this Article IV, if the then-current Floating Rate is JPY LIBOR and no rate is quoted pursuant to the definition of JPY LIBOR on any Quotation Date, the applicable Floating Rate shall be the average (rounded upwards, if necessary, to the nearest one-sixteenth of one per cent (1/16%)) of the rates per annum for a period of six (6) months at which deposits in Japanese Yen are offered to at least three Reference Banks, as set out below, in the London interbank market, in each case, at approximately 11:00 a.m., London time, on such Quotation Date, and if that rate is less than zero, the Floating Rate shall be deemed to be zero.

(b) Market Disruption

Subject to Section (5)(c) of this Article IV, if a Market Disruption Event occurs in relation to a Loan for any Period of Delay, then the Floating Rate for the purpose of calculating the Overdue Interest Rate on that Loan for such Period of Delay shall be the rate notified to the Borrower by JBIC as soon as practicable and in any event before interest is due to be paid in respect of that relevant Period of Delay, to be that which expresses as a percentage rate per annum the cost to JBIC of funding that Loan from whatever source it may reasonably select.

In this Agreement "Market Disruption Event" means (i) at or about noon on the Quotation Date for the relevant Period of Delay, JPY LIBOR is to be determined by reference to the Reference Banks and less than three Reference Banks supply a rate to JBIC to determine JPY LIBOR for the relevant Period of Delay or (ii) if a replacement of the Floating Rate has occurred pursuant to Section (5)(c) of this Article IV and the then-current Floating Rate relies on the publication of rate quotations by the administrator of such Floating Rate, no rate is quoted by the administrator of such Floating Rate at the relevant time on the Quotation Date for the relevant Period of Delay.

(c) Floating Rate Replacement

Notwithstanding anything to the contrary in this Agreement or any related document,

- (i) Replacing JPY LIBOR. On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of JPY LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-month, 3-month, 6-month and 12-month JPY LIBOR tenor settings. On the earlier of (i) the date that all Available Tenors of JPY LIBOR have either permanently or indefinitely

ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (ii) the Early Opt-in Effective Date, if the then-current Floating Rate is JPY LIBOR, the Replacement Benchmark will replace such Floating Rate for all purposes hereunder and under any related document in respect of any setting of such Floating Rate on such day and all subsequent settings without any amendment to, or further action or consent of any other party to, this Agreement or any related document. If the Replacement Benchmark is Daily Compounded TONA, all interest payments will be payable on a semi-annual basis.

- (ii) Replacing Future Benchmarks. Upon the occurrence of a Benchmark Transition Event, the Replacement Benchmark will replace the then-current Floating Rate for all purposes hereunder and under any related document in respect of any Floating Rate setting at or after 5:00 p.m. (Tokyo time) on the fifth (5th) Business Day after the date notice of such Replacement Benchmark is provided to the Borrower without any amendment to this Agreement or any other related document, or further action or consent of the Borrower.
- (iii) Benchmark Replacement Conforming Changes. In connection with the implementation and administration of a Replacement Benchmark, JBIC will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other related document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.
- (iv) Notices; Standards for Decisions and Determinations. JBIC will promptly notify the Borrower of (A) the implementation of any Replacement Benchmark and (B) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by JBIC pursuant to Section (5)(c) of this Article IV, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any party hereto."

2.4 Communications

Section 6 (Communications) of Article XIII (Miscellaneous) of the Rescheduling Agreement shall be deleted and replaced in its entirety with the following:

"(6) (Communications)

- (a) Unless otherwise specified in this Agreement, all communications between the parties hereto must be by:
 - (i) registered air mail, with any such communication deemed to have been duly given or made ten (10) days after being deposited in the mail; or

- (ii) internationally recognized courier services, with any such communication deemed to have been duly given or made when such internationally recognized courier service is received by the recipient; or
- (iii) facsimile (promptly confirmed by registered air mail or internationally recognized courier services), with any such communication deemed to have been duly given or made when such facsimile is received by the recipient; or
- (iv) to the extent relating to the provision of any notice specified in Section (5)(c) of Article IV, electronic mail, with any such communication deemed to have been duly given or made when such electronic mail is actually received by the recipient in readable form,

to the following addresses or at such other address as any party hereto may designate by written notice to the other party hereto:

- (b) The contact details of the Borrower for this purpose are:

Address: Ministry of Finance of the Republic
of Moldova, Constantin Tanase str. 7,
Chisinau, MD 2005, Republic of
Moldova
Attention: Head of the Public Debt
Department
E-mail Address: cancelaria@mf.gov.md

The contact details of JBIC for this purpose are:

Address: Japan Bank for International Cooperation
4-1, Ohtemachi 1-chome, Chiyoda-ku,
Tokyo 100-8144, Japan
Fax number: 81-3-5218-3966
Attention: Director General, Oil and Gas Finance
Department
E-mail Address: C0523@jbic.go.jp

2.5 Amendments to the Definitions

- (a) The definition of "LIBOR" in Section (1) of Article I (Definitions) of the Rescheduling Agreement shall be deleted and replaced in its entirety with the following:

"Floating Rate":

means with respect to any Interest Period or Period of Delay, initially, JPY LIBOR; provided that if a replacement of the Floating Rate has occurred pursuant to Section (5)(c) of Article IV, then "Floating Rate" means the applicable Replacement Benchmark to the extent that such Replacement Benchmark has replaced such prior benchmark rate, and if JPY LIBOR or such applicable Replacement Benchmark, as applicable, is less than zero, the Floating Rate shall be deemed to be zero. Any

reference to "Floating Rate" shall include, as applicable, the published component used in the calculation thereof;"

- (b) The following definitions shall be added to Section (1) of Article I (Definitions) of the Rescheduling Agreement in alphabetical order.

""Available Tenor":

means as of any date of determination and with respect to the then-current Floating Rate, as applicable, (x) if the then-current Floating Rate is a term rate, any tenor for such Floating Rate that is or may be used for determining the length of an Interest Period or (y) otherwise any payment period for interest calculated with reference to such Floating Rate, as applicable, pursuant to this Agreement as of such date;"

""Benchmark Replacement Conforming Changes":

means with respect to any Replacement Benchmark, any technical, administrative or operational changes (including changes to the definition of "Business Day", the definition of "LIBOR Business Day", timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, the applicability and length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that JBIC reasonably decides may be appropriate to reflect the adoption and implementation of such Replacement Benchmark and to permit the administration thereof by JBIC in a manner substantially consistent with market practice (or, if JBIC decides that adoption of any portion of such market practice is not administratively feasible or if JBIC determines that no market practice for the administration of such Replacement Benchmark exists, in such other manner of administration as JBIC decides is reasonably necessary in connection with the administration of this Agreement and the other related documents);"

""Benchmark Transition Event":

means with respect to any then-current Floating Rate other than JPY LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Floating Rate, the regulatory supervisor for the administrator of such Floating Rate, an insolvency official with jurisdiction over the administrator for such Floating Rate, a resolution authority with jurisdiction over the administrator for such Floating Rate or a court or an entity with similar insolvency or resolution authority over the administrator for such Floating Rate, announcing or stating that (a) such administrator has ceased or will cease on a specified date to provide all Available Tenors of such Floating Rate permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Floating Rate or (b) all Available Tenors of such Floating Rate are or will no longer be representative of the underlying market and economic reality that such Floating Rate is intended to measure and that representativeness will not be restored;"

""Daily Compounded TONA":

means for any day, TONA, with interest accruing on a compounded daily basis, with the methodology and conventions for this rate (which will include compounding in arrears with a lookback) being established by JBIC giving due consideration to any

evolving or then-prevailing market convention, including any applicable recommendation made by the Relevant Governmental Body, for determining "Daily Compounded TONA" for business loans;"

""Early Opt-in Effective Date":

means with respect to any Early Opt-in Election, the first (1st) Business Day after the date notice of such Early Opt-in Election is provided to the Borrower;"

""Early Opt-in Election":

means the occurrence of:

- (a) a determination by JBIC that at least five currently outstanding Japanese Yen-denominated syndicated or bilateral credit facilities at such time use (as a result of amendment or as originally executed) the first alternative benchmark rate set forth in sub-paragraph (A) of the respective fallbacks set forth in the definition of "Replacement Benchmark" that can be determined by JBIC at the time of such determination (and such credit facilities are identified in the notice to the Borrower described in paragraph (b) below and are publicly available for review); and
- (b) the election by JBIC to trigger a fallback from JPY LIBOR and the provision by JBIC of notice of such election to the Borrower;"

""JPY LIBOR":

means the rate per annum (on the basis of a year of three hundred sixty (360) days) quoted on the Reuters page LIBOR01 for the purpose of displaying London interbank offered rates administered by ICE Benchmark Administration Limited (or any other Person which takes over the administration of that rate) in Japanese Yen or if such page ceases to display, such other page on Reuters which displays such rate or on such other service as may be selected by JBIC as suitable for determining JPY LIBOR, for a period of six (6) months, at approximately 11:00 a.m., London time, on each Quotation Date;"

""Market Disruption Event":

has the meaning ascribed to it in Section (5)(b) of Article IV hereto;"

""Overdue Interest Rate":

has the meaning ascribed to it in Section (3)(a) of Article IV hereto;"

""Reference Banks":

shall mean three (3) banks selected by JBIC from time to time;"

""Relevant Governmental Body":

means (i) the regulatory supervisor for the administrator of such Floating Rate (or the published component used in the calculation thereof), (ii) a committee, working group or other meeting body officially endorsed or convened by, or established

following a request by, the regulatory supervisor for the administrator of such Floating Rate (or the published component used in the calculation thereof), or (iii) a committee, working group or other meeting body officially endorsed or convened by, or established following a request by, the Bank of Japan, or (iv) any successor thereto;"

"Replacement Benchmark":

means for any Available Tenor,

(a) For purposes of Section (5)(c)(i) of Article IV:

(i) the sum of: (A) TORF and (B) 0.05809% (5.809 basis points); or

(ii) (if the rate set forth in paragraph (i) above is not available) the sum of: (A) Daily Compounded TONA and (B) 0.05809% (5.809 basis points); and

(b) For purposes of Section (5)(c)(ii) of Article IV, the sum of: (A) the alternate benchmark rate and (B) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by JBIC as the replacement for such Available Tenor of such Floating Rate giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendation made by the Relevant Governmental Body, for Japanese Yen -denominated syndicated or bilateral credit facilities at such time;"

"TONA":

means the "Tokyo Overnight Average Rate", a rate per annum equal to the uncollateralized overnight call rate for such Business Day published by the Bank of Japan (or a successor administrator of the uncollateralized overnight call rate) on the website of the Bank of Japan, currently at <https://www.boj.or.jp/statistics/market/short/mutan/index.htm> (or any successor source for the uncollateralized overnight call rate identified as such by the administrator of the uncollateralized overnight call rate from time to time); and

"TORF":

means for the applicable corresponding tenor, the "Tokyo Term Risk Free Rate", the forward-looking term rate (based on the Japanese Yen overnight index swap rate) provided by QUICK Benchmarks Inc. (or any other Person which takes over the administration of that rate) (or any successor interest benchmark thereto to be recommended by the Relevant Governmental Body);"

3. Effective Date of Amendments

(a) The amendments described in this Agreement (the "Relevant Amendments") are subject to ratification by the Parliament of the Republic of Moldova. The Borrower shall notify JBIC in writing of the ratification date promptly following the completion of such ratification.

- (b) Following receipt of the notice of ratification described in paragraph (a) of this Clause 3 (Effective Date of Amendments), JBIC shall send a notification letter to the Borrower substantially in the form of Schedule 1 (Form of Effective Date Confirmation Letter) indicating the effective date of the Relevant Amendments, which shall be the date of such notification letter, irrespective of the date on which such notification letter is deemed to have been received by the Borrower.

4. Affirmation

Except as specifically amended pursuant to the terms hereof, the Rescheduling Agreement shall remain in full force and effect, and is hereby ratified and confirmed in all respects by each Party.

5. Governing Law and Dispute Resolution

Article XI (Governing Law and Arbitration) of the Rescheduling Agreement shall apply in this Agreement as if incorporated herein, mutatis mutandis, on the basis that all references therein to "this Agreement" shall be deemed to mean this Agreement.

6. Counterparts

- (a) This Agreement may be executed in counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- (b) Each of the Borrower and JBIC shall execute two (2) original copies of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each of the Borrower and JBIC, acting through their duly authorized representatives, have caused this Agreement to be duly executed in duplicate in the English language and signed in their respective names on the several dates and at the several places herein below written. The date of signature by JBIC in Tokyo, Japan shall be deemed to be the date of conclusion of this Agreement and the office of JBIC in Tokyo, Japan shall be deemed to be the place of signing of this Agreement.

The Republic of Moldova

By



for and on behalf of THE REPUBLIC OF MOLDOVA:

Name: Dumitru BUDIANSCHI

Title: Ministry of Finance of the Republic of Moldova

Date: December 21, 2021

Place: Chisinau, Republic of Moldova

Japan Bank for International Cooperation

By



for and on behalf of JAPAN BANK FOR INTERNATIONAL COOPERATION:

Name:

SAKUMA Kazuko
Director General

Title: Oil and Gas Finance Department
Energy and Natural Resources Finance Group

Date: December 15, 2021

Place: Tokyo, Japan

SCHEDULE 1: FORM OF EFFECTIVE DATE CONFIRMATION LETTER

Date: *[insert date]*

Ministry of Finance of the Republic of Moldova

C. Tanase str, 7, Chisinau

MD 2005, Republic of Moldova

Attn: Head of the Public Debt Department

Re: **Amendments to the Rescheduling Agreement for Moldova: Effective Date Confirmation Letter**

Dear Sirs:

Reference is made to:

- (i) the rescheduling agreement dated 5 April 2007 between The Republic of Moldova as borrower (the "Borrower") and Japan Bank for International Cooperation ("JBIC") pursuant to which historic debt obligations owed by the Borrower to JBIC were restructured (the "Rescheduling Agreement"); and
- (ii) the amendment agreement dated *[insert date]* between the Borrower and JBIC, which amends the Rescheduling Agreement by integrating a benchmark interest rate replacement mechanism due to the forthcoming discontinuance of LIBOR (the "Amendment Agreement").

Capitalized terms used in this Letter have, unless the context otherwise requires, the meanings assigned to them in the Rescheduling Agreement.

On *[insert date]* the Parliament of the Republic of Moldova ratified the amendments described in the executed Amendment Agreement (the "Relevant Amendments").

Pursuant to Clause 3(b) (Effective Date of Amendments) of the Amendment Agreement, JBIC hereby notifies the Borrower that the effective date of the Relevant Amendments is *[insert date]*¹.

Article XI (Governing Law and Arbitration) of the Rescheduling Agreement shall apply to this Letter as if incorporated herein, mutatis mutandis, on the basis that all references therein to "this Agreement" shall be deemed to mean this Letter.

¹ Note: This date must be the same date as the date of the Effective Date Confirmation Letter.

Yours faithfully,

By:

[*name*]

[*title*]

Oil and Gas Finance Department

Energy and Natural Resources Finance Group