



GUVERNUL REPUBLICII MOLDOVA

Nr. 2063-169

Chișinău

« 3 » iulie 2013

**Biroul Permanent
al Parlamentului**

În temeiul art. 73 și art. 74 din Constituția Republicii Moldova, se prezintă Parlamentului spre examinare, în mod prioritar, proiectul de Lege pentru ratificarea Acordului de împrumut dintre Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova.

Autoritatea publică responsabilă de prezentarea proiectului de hotărîre nominalizat – Ministerul Finanțelor.

Anexe:

1. Hotărîrea Guvernului nr. 480, din 03.07.2012 (2 exemplare: limba română și limba rusă);
2. Proiectul de lege nominalizat;
3. Nota de argumentare;
4. Copia Acordului de împrumut.

Prim-ministru

Iurie LEANCĂ

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GUVERNUL REPUBLICII MOLDOVA

HOTĂRÎRE nr. 480

din 2 iulie 2013

Chișinău

**Cu privire la aprobarea proiectului de lege pentru
ratificarea Contractului de finanțare dintre Republica
Moldova și Banca Europeană de Investiții privind
realizarea lucrărilor de construcție și reabilitare
a drumurilor în Republica Moldova**

Guvernul HOTĂRĂȘTE:

Se aprobă și se prezintă Parlamentului spre examinare proiectul de lege pentru ratificarea Contractului de finanțare dintre Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova, în sumă de 150,0 mil. euro, semnat la Luxembourg la 25 iunie 2013.

Prim-ministru

IURIE LEANCĂ

Contrasemnează:

Viceprim-ministru,
ministrul economiei

Valeriu LAZĂR

Ministrul finanțelor

Veaceslav Negruța

Ministrul transporturilor și
infrastructurii drumurilor

Vasile Botnari

Ministrul justiției

Oleg Efrim

PARLAMENTUL REPUBLICII MOLDOVA

LEGE

**Pentru ratificarea Contractului de finanțare dintre Republica
Moldova și Banca Europeană de Investiții privind realizarea
lucrărilor de construcție și reabilitare a drumurilor în Republica
Moldova**

Parlamentul adoptă prezenta lege organică.

Art.1. – Se ratifică Contractul de finanțare dintre Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova, în sumă de 150,0 mil. euro, semnat la Luxembourg la 25 iunie 2013.

Art.2. – Guvernul va întreprinde măsurile necesare pentru realizarea prevederilor Contractului menționat.

Art.3. – Ministerul Afacerilor Externe și Integrării Europene va notifica Banca Europeană de Investiții despre ratificarea Contractului nominalizat.

Președintele Parlamentului

MOLDOVA ROADS III

Finance Contract

between the

Republic of Moldova

and

European Investment Bank

Luxembourg, 25 June 2013

ARTICLE 1	14
1.01 AMOUNT OF CREDIT.....	14
1.02 DISBURSEMENT PROCEDURE.....	14
1.02A TRANCHES	14
1.02B DISBURSEMENT OFFER.....	14
1.02C DISBURSEMENT ACCEPTANCE	14
1.02D DISBURSEMENT ACCOUNT	15
1.03 CURRENCY OF DISBURSEMENT	15
1.04 CONDITIONS OF DISBURSEMENT	15
1.04A FIRST TRANCHE.....	15
1.04B ALL TRANCHES	16
1.05 DEFERMENT OF DISBURSEMENT	17
1.05A GROUNDS FOR DEFERMENT.....	17
1.05B CANCELLATION OF A DISBURSEMENT DEFERRED BY 6 (SIX) MONTHS	18
1.06 CANCELLATION AND SUSPENSION.....	18
1.06A BORROWER'S RIGHT TO CANCEL	18
1.06B BANK'S RIGHT TO SUSPEND AND CANCEL.....	18
1.06C INDEMNITY FOR SUSPENSION AND CANCELLATION OF A TRANCHE	18
1.06C(1) SUSPENSION	18
1.06C(2) CANCELLATION	18
1.07 CANCELLATION AFTER EXPIRY OF THE CREDIT	19
1.08 APPRAISAL FEE.....	19
1.09 SUMS DUE UNDER ARTICLE 1	19
1.10 ALLOCATION	19
1.10A ALLOCATION REQUEST.....	19
1.10B ALLOCATION LETTER.....	19
1.11 REALLOCATION PROCEDURE	20
1.11A REALLOCATION AT THE REQUEST OF THE BORROWER.....	20
1.11B REALLOCATION AT THE REQUEST OF THE BANK	20
ARTICLE 2	20
2.01 AMOUNT OF LOAN.....	20
2.02 CURRENCY OF REPAYMENT, INTEREST AND OTHER CHARGES	20
2.03 CONFIRMATION BY THE BANK.....	20
ARTICLE 3	21
3.01 RATE OF INTEREST	21
3.01A FIXED RATE TRANCHES	21
3.01B FLOATING RATE TRANCHES	21
3.02 INTEREST ON OVERDUE SUMS	21
3.03 MARKET DISRUPTION EVENT	21
ARTICLE 4	22
4.01 NORMAL REPAYMENT	22
4.01A REPAYMENT BY INSTALMENTS.....	22
4.02 VOLUNTARY PREPAYMENT	22
4.02A PREPAYMENT OPTION	22
4.02B PREPAYMENT INDEMNITY	23

4.02B(1)	FIXED RATE TRANCHE.....	23
4.02B(2)	FLOATING RATE TRANCHE.....	23
4.02C	PREPAYMENT MECHANICS.....	23
4.03	COMPULSORY PREPAYMENT.....	23
4.03A	GROUNDS FOR PREPAYMENT.....	23
4.03A(1)	PROJECT COST REDUCTION.....	23
4.03A(2)	<i>PARI PASSU</i> TO NON-EIB FINANCING.....	23
4.03A(3)	CHANGE OF LAW.....	23
4.03A(4)	ILLEGALITY.....	24
4.03A(5)	CHANGES TO THE BANK'S AUTHORITY TO LEND.....	24
4.03A(6)	FAILURE TO RE-ALLOCATE.....	24
4.03B	PREPAYMENT MECHANICS.....	24
4.03C	PREPAYMENT INDEMNITY.....	24
4.04	GENERAL.....	24
ARTICLE 5	25
5.01	DAY COUNT CONVENTION.....	25
5.02	TIME AND PLACE OF PAYMENT.....	25
5.03	NO SET-OFF BY THE BORROWER.....	25
5.04	DISRUPTION TO PAYMENT SYSTEMS.....	25
5.05	APPLICATION OF SUMS RECEIVED.....	26
ARTICLE 6	26
6.01	USE OF LOAN AND AVAILABILITY OF OTHER FUNDS.....	26
6.02	COMPLETION OF PROJECT.....	27
6.03	INCREASED COST OF PROJECT.....	27
6.04	PROCUREMENT PROCEDURE.....	27
6.05	CONTINUING PROJECT UNDERTAKINGS.....	27
6.06	COMPLIANCE WITH LAWS.....	28
6.07	GENERAL REPRESENTATIONS AND WARRANTIES.....	28
6.08	INTEGRITY.....	29
ARTICLE 7	29
7.01	<i>PARI PASSU</i> RANKING.....	29
7.02	ADDITIONAL SECURITY.....	30
7.03	CLAUSES BY INCLUSION.....	30
ARTICLE 8	30
8.01	INFORMATION CONCERNING THE PROJECT.....	30
8.02	INFORMATION CONCERNING THE BORROWER AND THE PROMOTER.....	31
8.03	VISITS BY THE BANK.....	32
ARTICLE 9	32
9.01	TAXES, DUTIES AND FEES.....	32
9.02	OTHER CHARGES.....	32
9.03	INCREASED COSTS, INDEMNITY AND SET-OFF.....	32
ARTICLE 10	33
10.01	RIGHT TO DEMAND REPAYMENT.....	33

10.01A IMMEDIATE DEMAND	33
10.01B DEMAND AFTER NOTICE TO REMEDY	34
10.02 OTHER RIGHTS AT LAW	34
10.03 INDEMNITY	34
10.03A FIXED RATE TRANCHES	34
10.03B FLOATING RATE TRANCHES	34
10.03C GENERAL	35
10.04 NON-WAIVER	35
ARTICLE 11	35
11.01 GOVERNING LAW.....	35
11.02 JURISDICTION	35
11.03 ARBITRATION	35
11.04 SERVICE OF PROCESS	35
11.05 PLACE OF PERFORMANCE	36
11.06 WAIVER OF IMMUNITY.....	36
11.07 EVIDENCE OF SUMS DUE	36
ARTICLE 12	36
12.01 NOTICES TO EITHER PARTY	36
12.02 FORM OF NOTICE.....	37
12.03 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999.....	37
12.04 CHANGES TO PARTIES	37
12.05 LANGUAGE	37
12.06 AMENDMENTS	37
12.07 PREAMBLE, SCHEDULES AND ANNEX.....	38
SCHEDULE A.....	39
SCHEDULE B.....	42
SCHEDULE C.....	45
SCHEDULE D.....	48
SCHEDULE E.....	50
ANNEX I	53

THIS CONTRACT IS MADE BETWEEN:

The Republic of Moldova, represented by the Ministry of Finance, having its address at 7 Cosmonautilor Street, MD – 2005, Chisinau, Republic of Moldova and, for the signing of this contract, by Mr. Iurie Leanca, Prime Minister of the Republic of Moldova,

(the "**Borrower**")

of the first part, and

The European Investment Bank having its seat at 100 blvd Konrad Adenauer, Luxembourg, L-2950 Luxembourg, represented by Mr. Wilhelm Molterer, Vice-President,

(the "**Bank**")

of the second part.

WHEREAS:

- (1) On 1 November 2006 the Republic of Moldova and the Bank signed a Framework Agreement governing the Bank's activities in the Republic of Moldova (the "**Framework Agreement**") which is in full force and effect and shall continue to be in full force and effect throughout the lifetime of this Contract.
- (2) In a letter received by the Bank on 26 September 2012 the Borrower requested financing of the Project (as defined below). By entering into this Contract, the Borrower confirms that the Project falls under the scope of the Framework Agreement article 7 of which provides, *inter alia*, that the Bank shall enjoy, in respect of its activities in the territory of the Republic of Moldova the treatment accorded to the international institution which is most favoured in respect of any such activity, or, if that is more favourable, the treatment accorded under any international agreement covering such activities. The Bank makes the Credit, as defined herein, available to the Borrower on the basis that it is an international financial institution under the Framework Agreement and has a right to equal treatment with other international financial institutions under the Framework Agreement.
- (3) The Borrower has stated that it is undertaking a project to improve the transport conditions including safety on the main corridors by rehabilitating and upgrading several motorway sections as well as constructing several city bypasses (the "**Project**"), as more particularly described in the technical description (the "**Technical Description**") set out in Schedule A. The Project shall be implemented exclusively in the territory of the Republic of Moldova. The State Roads Administration (*IS Administrația de Stat a Drumurilor*) of the Republic of Moldova (the "**Promoter**") will have general supervision of and responsibility for the implementation of the Project pursuant to the terms of a project agreement between the Bank and the Promoter dated on or about the date hereof (the "**Project Agreement**"). The Promoter will implement the Project under the supervision of the Ministry of Transport and Road Infrastructure of the Republic of Moldova ("**MTRI**") which shall ensure that the Promoter oversees the Project's implementation with due diligence and efficiency. The roles and responsibilities of MTRI and the Promoter will be set out in a tripartite implementation agreement (the "**Tripartite Implementation Agreement**") to be signed between the Borrower, MTRI and the Promoter. The Borrower shall make available to the Promoter the proceeds of the Credit.
- (4) At appraisal the total cost of the Project, was estimated by the Bank to be EUR 300,400 000 (three hundred million, four hundred thousand euros). The Borrower has stated that it intends to finance the Project as follows:

Source	Amount
Credit from the Bank	EUR150,000,000
Loan from EBRD (as defined below)	EUR150,000,000
An anticipated Neighbourhood Investment Fund grant from the European Commission	EUR400,000

- (5) In order to fulfil the financing plan set out in Preamble (4), the Borrower has requested from the Bank a credit of EUR150,000 000 (one hundred and fifty million euros).
- (6) The Bank considering that the financing of the Project falls within the scope of its functions, and having regard to the statements and facts cited in this Preamble, has decided to give effect to the Borrower's request providing to it a credit in an amount of EUR150,000,000 (one hundred and fifty million euros) under this Finance Contract (the "**Contract**"); provided that the amount of the Bank loan shall not, in any case, exceed 50% (fifty *per cent*) of the total cost of the Project set out in Preamble (4).
- (7) The Government of Moldova has authorised the borrowing of the sum of EUR150,000,000 (one hundred and fifty million euros) represented by this credit on the terms and conditions set out in this Contract in the Annexes thereto and has confirmed that the Project falls within the scope of the Framework Agreement.

- (8) The Statute of the Bank provides that the Bank shall ensure that its funds are used as rationally as possible in the interests of the European Union; and, accordingly, the terms and conditions of the Bank's loan operations must be consistent with relevant EU policies.
- (9) According to Council/EP Decision 2011/1080/EU on granting a community guarantee to the Bank guaranteeing losses arising under loans and loan guarantees for projects outside the European Union and the agreement entered into between the European Commission and the Bank implementing such decision, in the event of non-payment the European Union, by a guarantee, covers payments not received by the Bank and due to it in relation to the Bank's financing operations entered into with, *inter alios*, the Borrower (the "**EC Guarantee**").
- (10) Pursuant to and subject to the terms of a loan agreement to be made on or about the date hereof between the European Bank for Reconstruction and Development ("**EBRD**") and the Borrower (hereafter referred to as the "**EBRD Loan Agreement**") the EBRD has agreed to provide a loan in a total amount of up to EUR150,000,000 for the purposes of financing the Project (the "**EBRD Loan**"). In addition, the EBRD has entered into a project agreement with the Promoter in relation to the implementation of the Project (the "**EBRD Project Agreement**" and, together with the EBRD Loan Agreement, the "**EBRD Loan Documents**").
- (11) The Bank, EBRD and the Commission (a) have entered into the "Cooperation within the framework of the Neighbourhood Investment Facility ("**NIF**")" framework agreement, in force as of 21 December 2009 (the "**NIF Framework Agreement**") and (b) contemplate entering into an implementation agreement setting out the terms and conditions of co-operation within the framework of the NIF for the purposes of implementation of their respective financing agreements concluded with the Borrower (the "**NIF Implementation Agreement**" and together with the NIF Framework Agreement, the "**NIF Documentation**"). The Bank, EBRD and the Commission have agreed that EBRD will act as lead finance institution in connection with the co-operation on the Project pursuant to any NIF Documentation.
- (12) EIB considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances. EIB has therefore established its Transparency policy, the purpose of which is to enhance the accountability of the EIB Group towards its stakeholders and the EU citizens in general, by giving access to the information that will enable them to understand its governance, strategy, policies, activities and practices.
- (13) By entering into this Contract the Borrower acknowledges that the Bank is bound to comply with the Sanction Lists and that it cannot, therefore, make funds available, directly or indirectly, to or for the benefit of a Sanctioned Person.
- (14) The processing of personal data shall be carried out by the Bank in accordance with applicable European Union legislation on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data.

NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

(a) Interpretation

- (i) References in this Contract to Articles, Preamble, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles of, and preamble, schedules and annexes to this Contract.
- (ii) References in this Contract to a provision of law are references to that provision as amended or re-enacted.
- (iii) References in this Contract to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated.

(b) Definitions

In this Contract:

"Acceptance Deadline" for a notice means:

- (a) 16h00 Luxembourg time on the day of delivery, if the notice is delivered by 14h00 Luxembourg time on a Business Day; or
- (b) 11h00 Luxembourg time on the next following day which is a Business Day, if the notice is delivered after 14h00 Luxembourg time on any such day or is delivered on a day which is not a Business Day.

"Accepted Tranche" means a Tranche in respect of a Disbursement Offer which has been duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline.

"Allocation Letter" has the meaning given to it in Article 1.10B.

"Allocation Procedure" means the procedure set up in Article 1.10A.

"Allocation Request" is the request submitted to the Bank pursuant Article 1.10A.

"Business Day" means a day (other than a Saturday or Sunday) on which the Bank and commercial banks are open for general business in Luxembourg.

"Change-of-Law Event" has the meaning given to it in Article 4.03A(3).

"Components" has the meaning given to it in Article 1.10A.

"Contract" has the meaning given to it in Preamble (6).

"Credit" has the meaning given to it in Article 1.01.

"Criminal Offence" means any of the following criminal offences as applicable: fraud, corruption, coercion, collusion, obstruction, money laundering, financing of terrorism.

"Deferment Indemnity" means an indemnity calculated on the amount of disbursement deferred or suspended at the percentage rate (if higher than zero) by which:

- (a) the interest rate that would have been applicable to such amount had it been disbursed to the Borrower on the Scheduled Disbursement Date exceeds,
- (b) the Relevant Interbank Rate (one month rate) less 0.125% (12.5 basis points).

Such indemnity shall accrue from the Scheduled Disbursement Date to the Disbursement Date or, as the case may be, until the date of cancellation of the Accepted Tranche in accordance with this Contract.

"Disbursement Acceptance" means a copy of the Disbursement Offer duly countersigned by the Borrower.

"Disbursement Acceptance Deadline" means the date and time of expiry of a Disbursement Offer as specified therein.

"Disbursement Date" means the date on which actual disbursement of a Tranche is made by

the Bank.

"Disbursement Offer" means a letter substantially in the form set out in Schedule C 1.

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with this Contract; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of either the Bank or the Borrower, preventing that party:
 - (i) from performing its payment obligations under this Contract; or
 - (ii) from communicating with other parties,

and which disruption (in either such case as per (a) or (b) above) is not caused by, and is beyond the control of, the party whose operations are disrupted.

"Eligible Expenditure" means an expenditure specified in the Technical Description or allocated in accordance with Article 1.10.

"Environment" means the following, in so far as they affect human health and social well-being:

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape; and
- (c) cultural heritage and the built environment,

and includes, without limitation, occupational and community health and safety matters and working conditions.

"Environmental and Social Action Plan" means a plan setting out, *inter alia*, to the Bank's satisfaction, comprehensive mapping, testing and disposal procedures for hazardous substances, including (without limitation) asbestos and PCB.

"Environmental Approval" means any permit, licence, authorisation, consent or other approval required by Environmental Law.

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

"Environmental Law" means:

- (a) EU law, standards and principles as specified by the Bank before the date of this Contract;
- (b) national laws and regulations; and
- (c) applicable international treaties,

of which a principal objective is the preservation, protection or improvement of the Environment.

"EURIBOR" has the meaning given to it in Schedule B.

"EUR" and **"euro"** mean the lawful currency of the Member States of the European Union which adopt or have adopted it as their currency in accordance with the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union or their succeeding treaties.

"Final Availability Date" means sixty months from the date of this Contract.

"Financing of Terrorism" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of the EU Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

"Fixed Rate" means an annual interest rate determined by the Bank in accordance with the applicable principles from time to time laid down by the governing bodies of the Bank for loans made at a fixed rate of interest, denominated in the currency of the Tranche and bearing equivalent terms for the repayment of capital and the payment of interest.

"Fixed Rate Tranche" means a Tranche on which Fixed Rate is applied.

"Floating Rate" means a fixed-spread floating interest rate, that is to say an annual interest rate determined by the Bank for each successive Floating Rate Reference Period equal to the Relevant Interbank Rate plus the Spread.

"Floating Rate Reference Period" means each period from one Payment Date to the next relevant Payment Date; the first Floating Rate Reference Period shall commence on the date of disbursement of the Tranche.

"Floating Rate Tranche" means a Tranche on which Floating Rate is applied.

"GBP" means the lawful currency of the United Kingdom.

"Indemnifiable Prepayment Event" means a Prepayment Event.

"LIBOR" has the meaning given to it in Schedule B.

"Loan" means the aggregate amount of Tranches disbursed from time to time by the Bank under this Contract.

"Market Disruption Event" means any of the following circumstances:

- (a) there are, in the reasonable opinion of the Bank, events or circumstances adversely affecting the Bank's access to its sources of funding;
- (b) in the opinion of the Bank, funds are not available from its ordinary sources of funding in order to adequately fund a Tranche in the relevant currency and/or for the relevant maturity and/or in relation to the reimbursement profile of such Tranche;
- (c) in relation to a Tranche in respect of which interest is or would be payable at Floating Rate:
 - (i) the cost to the Bank of obtaining funds from its sources of funding, as determined by the Bank, for a period equal to the Floating Rate Reference Period of such Tranche (i.e. in the money market) would be in excess of the applicable Relevant Interbank Rate; or
 - (ii) the Bank determines that adequate and fair means do not exist for ascertaining the applicable Relevant Interbank Rate for the relevant currency of such Tranche or it is not possible to determine the Relevant Interbank Rate in accordance with the definition contained in Schedule B.

"Material Adverse Change" means, in relation to either the Borrower or the Promoter, any event or change of condition affecting the Borrower, which, in the opinion of the Bank:

- (a) materially impairs the ability of the Borrower to perform its obligations under this Contract or the ability of the Promoter to perform its obligations under the Project Agreement;
- (b) materially impairs the financial condition or prospects of either the Borrower or the Promoter; or
- (c) adversely affects any security provided at any time by the Borrower or the Promoter.

"Maturity Date" means the last repayment date of a Tranche specified pursuant to Article 4.01A(b)(iv).

"Money Laundering" means:

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;

- (b) the concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or
- (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

“Obstructive Practice” means:

- (a) in relation to an investigation, deliberately destroying, falsifying, altering or concealing evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, and
- (b) acts intending materially to impede the exercise of the Bank’s contractual rights of audit or access to information or the rights that any banking, regulatory or examining authority or other equivalent body of the European Union or of its Member States may have in accordance with any law, regulation or treaty or pursuant to any agreement into which the Bank has entered in order to implement such law, regulation or treaty.

“Payment Date” means: the annual, semi-annual or quarterly dates specified in the Disbursement Offer until the Maturity Date, save that, in case any such date is not a Relevant Business Day, it means:

- (a) for a Fixed Rate Tranche, the following Relevant Business Day without adjustment to the interest due under Article 3.01; and
- (b) for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.01.

“Prepayment Amount” means the amount of a Tranche to be prepaid by the Borrower in accordance with Article 4.02A.

“Prepayment Date” means the date, which shall be a Payment Date, on which the Borrower proposes to effect prepayment of a Prepayment Amount.

“Prepayment Event” means any of the events described in Article 4.03A.

“Prepayment Indemnity” means in respect of any principal amount to be prepaid or cancelled, the amount communicated by the Bank to the Borrower as the present value (as of the Prepayment Date) of the excess, if any, of:

- (a) the interest that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date to the Maturity Date, if it were not prepaid; over
- (b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.15% (fifteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate, applied as of each relevant Payment Date.

“Prepayment Notice” means a written notice from the Borrower in accordance with Article 4.02A.

“Prepayment Request” means a written request from the Borrower to the Bank in accordance with Article 4.02A.

“Prohibited Conduct” means any Financing of Terrorism, Money Laundering or Prohibited Practice.

“Prohibited Practice” means any

- (a) **Coercive Practice**, meaning the impairing or harming, or threatening to impair or harm

directly or indirectly, any party or the property of a party to influence improperly the actions of a party;

- (b) **Collusive Practice**, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (c) **Corrupt Practice**, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
- (d) **Fraudulent Practice**, meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation; or
- (e) **Obstructive Practice**, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project:
 - (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (ii) acts intending to materially impede the exercise of the contractual rights of audit or access to information.

“**Project**” has the meaning given to it in Preamble (3).

“**Redeployment Rate**” means the Fixed Rate in effect on the day of the indemnity calculation for fixed-rate loans denominated in the same currency and which shall have the same terms for the payment of interest and the same repayment profile to the Maturity Date as the Tranche in respect of which a prepayment is proposed or requested to be made. For those cases where the period is shorter than 48 months (or 36 months in the absence of a repayment of principal during that period) the most closely corresponding money market rate equivalent will be used, that is the Relevant Interbank Rate minus 0.125% (12.5 basis points) for periods of up to 12 (twelve) months. For periods falling between 12 and 36/48 months as the case may be, the bid point on the swap rates as published by Intercapital in Reuters for the related currency and observed by the Bank at the time of calculation will apply.

“**Relevant Business Day**” means:

- (a) for EUR, a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 (TARGET2) is open for the settlement of payments in EUR;
- (b) for GBP, a day on which banks are open for general business in London; and
- (c) for USD, a day on which banks are open for general business in New York.

“**Relevant Interbank Rate**” means:

- (a) EURIBOR for a Tranche denominated in EUR; and
- (b) LIBOR for a Tranche denominated in GBP or USD.

“**Sanctioned Persons**” means any individual or entity listed in one or more Sanction Lists.

“**Sanction Lists**” means:

- (a) any economic, financial and trade restrictive measures and arms embargoes issued by the European Union pursuant to Chapter 2 of Title V of the Treaty on European Union as well as Article 215 of the Treaty on the Functioning of the European Union, as available in the official EU websites http://ec.europa.eu/external_relations/cfsp/sanctions/consol-list_en.htm and http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf, as amended and supplemented from time to time or on any successor page; or
- (b) any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to Article 41 of the UN Charter as

available in the official UN website <http://www.un.org/Docs/sc/committees/INTRO.htm>, as amended and supplemented from time to time or on any successor page.

"Scheduled Disbursement Date" means the date on which a Tranche is scheduled to be disbursed in accordance with Article 1.02B.

"Security" means any mortgage, pledge, lien, charge, assignment, hypothecation, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Spread" means the fixed spread (being plus or minus) to the Relevant Interbank Rate determined by the Bank and notified to the Borrower in the relevant Disbursement Offer.

"Technical Description" has the meaning given to it in Preamble (3).

"Tranche" means each disbursement made or to be made under this Contract. If no Disbursement Acceptance has been delivered, Tranche shall mean a Tranche as offered under Article 1.02B.

"USD" means the lawful currency of the United States of America

ARTICLE 1
Credit and Disbursements

1.01 Amount of Credit

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, the credit in an amount of EUR150,000,000 (one hundred and fifty million euros) for the financing of the Project (the "**Credit**").

1.02 Disbursement procedure

1.02A Tranches

The Bank shall disburse the Credit in up to twenty Tranches. The amount of each Tranche, if not being the undrawn balance of the Credit, shall be in a minimum amount of EUR 4,000,000 (four million euros).

1.02B Disbursement Offer

Upon request by the Borrower, provided that no event mentioned in Article 1.06B has occurred and is continuing, the Bank shall send to the Borrower a Disbursement Offer for the disbursement of a Tranche. The latest time for receipt by the Borrower of a Disbursement Offer is 10 (ten) days before the Final Availability Date. The Disbursement Offer shall specify:

- (a) the currency, and amount and its EUR equivalent of the Tranche;
- (b) the Scheduled Disbursement Date, which shall be a Relevant Business Day, falling at least 10 (ten) days after the date of the Disbursement Offer and on or before the Final Availability Date;
- (c) the interest rate basis of the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche all pursuant to the relevant provisions of Article 3.01;
- (d) the interest payment periodicity for the Tranche, in accordance with the provisions of Article 3.01;
- (e) the first Payment Date for the Tranche;
- (f) the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.01;
- (g) the first and last repayment dates of principal for the Tranche;
- (h) for a Fixed Rate Tranche, the Fixed Rate and for a Floating Rate Tranche the Spread, applicable until the Maturity Date; and
- (i) the Disbursement Acceptance Deadline.

1.02C Disbursement Acceptance

The Borrower may accept a Disbursement Offer by delivering a Disbursement Acceptance to the Bank no later than the Disbursement Acceptance Deadline. The Disbursement Acceptance shall be accompanied:

- (a) by the IBAN code (or appropriate format in line with local banking practice) and SWIFT BIC of the bank account to which disbursement of the Tranche should be made in accordance with Article 1.02D; and
- (b) by evidence of the authority of the person or persons authorised to sign the Disbursement Acceptance and the specimen signature of such person or persons or a declaration by the Borrower that no change has occurred in relation to the authority of the person or persons authorised to sign Disbursement Acceptances under this Contract.

If a Disbursement Offer is duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline, the Bank shall make the Accepted Tranche available to the Borrower in accordance with the relevant Disbursement Offer and subject

to the terms and conditions of this Contract.

The Borrower shall be deemed to have refused any Disbursement Offer which has not been duly accepted in accordance with its terms on or before the Disbursement Acceptance Deadline.

1.02D Disbursement Account

Disbursement shall be made to the account of the Borrower as the Borrower shall notify in writing to the Bank not later than 10 (ten) days before the Scheduled Disbursement Date (with IBAN code or with the appropriate format in line with local banking practice).

Only one account may be specified for each Tranche.

1.03 Currency of disbursement

Subject to availability, disbursement of each Tranche shall be made in EUR, GBP or USD.

For the calculation of the sums available to be disbursed in currencies other than EUR, and to determine their equivalent in EUR, the Bank shall apply the rate published by the European Central Bank in Frankfurt, available on or shortly before submission of the Disbursement Notice as the Bank shall decide.

1.04 Conditions of disbursement

1.04A First Tranche

The disbursement of the first Tranche under Article 1.02 is conditional upon receipt by the Bank in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date, of the following documents or evidence:

- (a) a legal opinion issued by the Minister of Justice of the Borrower in the English language substantially in the form set out in Annex I, such opinion shall be supported by a resolution of the Borrower authorising its entry into the Contract;
- (b) evidence of the due ratification of this Contract by the Parliament of Moldova in accordance with the applicable laws of the Republic of Moldova;
- (c) evidence that the execution of this Contract by the Borrower has been duly authorised and that the person who signed this Contract on behalf of the Borrower is duly authorised to do so;
- (d) evidence that the Borrower and/or the Promoter has obtained all necessary consents, authorisations, licences or approvals of governmental or public bodies or authorities required in connection with this Contract or, if none is required, a declaration of the Borrower, signed by a person or persons duly authorised to act on behalf of the Borrower, that no consent, authorisation, licence or approval of governmental or any public body or authority is required in connection with this Contract;
- (e) the duly executed Project Agreement, in form and substance satisfactory to the Bank, together with evidence in the English language of the powers of each signatory thereto to sign the Project Agreement on behalf of the Promoter and a legal opinion confirming, *inter alia*, the due authorisation and capacity of the Promoter to enter into the Project Agreement and the enforceable nature thereof;
- (f) evidence that (i) the EBRD Loan Agreement has been duly executed and delivered and all conditions precedent to the disbursement of the first tranche thereunder have been fulfilled or waived and that the Borrower has the right to make drawings under the first tranche thereunder, and (ii) the EBRD Project Agreement has been duly executed and delivered and all conditions precedent to its effectiveness have been fulfilled or waived;
- (g) evidence that neither the Borrower nor the Promoter is in default under any of the EBRD Loan Documents;
- (h) evidence that the Promoter has established, to the satisfaction of the Bank, a dedicated Project Implementation Unit, consisting, *inter alia*, of full time professional staff and experienced consultants in lead positions, to co-ordinate, manage, monitor

and evaluate all aspects of the implementation of the Project;

- (i) evidence that the Promoter has, to the satisfaction of the Bank, established a Project Implementation Plan including, *inter alia*, a detailed procurement plan, project audit plan, description of the Project responsibilities and an Environmental and Social Action Plan;
- (j) evidence that any exchange control consents specified by the Bank or indicated in the legal opinion given under paragraph (a) above as being necessary have been obtained to permit the Borrower to receive disbursements as provided in this Contract, to repay the Loan and to pay interest and all other amounts due hereunder;
- (k) evidence of payment of the appraisal fee in full pursuant to Article 1.08 (*Appraisal fee*);
- (l) evidence of acceptance by the agent of service of its appointment;
- (m) evidence demonstrating that the Borrower made amounts (to be) disbursed under this Contract available to the Promoter for the purpose of financing the Project; and
- (n) a copy of the resettlement policy framework relating to Components 1, 2 and 3 described in the Schedule A.1 Technical Description.

1.04B All Tranches

The disbursement of each Tranche under Article 1.02, including the first, is conditional upon:

- (a) receipt by the Bank in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date for the proposed Tranche, of the following documents or evidence:
 - (i) a certificate from the Borrower in the form of Schedule C.2;
 - (ii) evidence demonstrating that, following drawdown of the relevant Tranche, the Loan will not exceed the Eligible Expenditure incurred or forecast to be paid by the Promoter in respect of the Project within six months of the relevant Disbursement Offer;
 - (iii) evidence that at least 80% (eighty *per cent.*) of the funds of the last Tranche and 100% (one hundred *per cent.*) of the funds of each previous Tranche have been paid by the Promoter before requesting a new disbursement;
 - (iv) evidence demonstrating that the EBRD Loan Documents and the NIF Documentation (if any) continue to be fully effective, valid and enforceable, all conditions precedent to the disbursement of the relevant tranche for the respective Project component under the EBRD Loan Agreement and all disbursement conditions under the NIF Documentation (if any) have been fulfilled;
 - (v) confirmation from the internal services of the Bank that the EC Guarantee is valid, binding and enforceable and that no events or circumstances have occurred which could, in the reasonable opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EC Guarantee or the Bank's right to make a demand thereunder;
 - (vi) confirmation that the Framework Agreement remains in force and is valid, binding and enforceable and that no events or circumstances have occurred which could, in the reasonable opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement;
 - (vii) to the extent not previously provided to the Bank, for any Component of the Project to be financed from the respective tranche, the following documents or evidence:
 - (A) a resettlement action plan, if such a plan is required pursuant to any relevant resettlement policy framework;
 - (B) the environmental screening decision by the competent authority

concerning the requirement or not of an environmental and social impact assessment and the environmental management plan and, if an environmental and social impact assessment is required, the environmental and social impact assessment and the non-technical summary;

- (C) the relevant building and environmental permits as well as written confirmation from the competent authority of the Project's impact on nature conservation sites (Schedule E);
 - (D) evidence that the design of the relevant section of road being financed has been submitted to a safety audit in conformity with the prescription of the technical annex of the EU Directive 2008/96/EC and that, to the maximum extent feasible, all recommendations have been incorporated into the final design; and
 - (E) certified true copies of a contract or contracts, which contract or contracts shall have been executed on terms satisfactory to the Bank;
- (viii) evidence of the authority of the person or persons authorised to sign Disbursement Acceptance and the authenticated specimen signature of such person or persons, unless it has been previously provided;
- (ix) evidence that the Promoter has received all necessary authority, permits, approvals, consents and powers to proceed with the stage of the Project being financed by the Loan contemplated by the Disbursement Offer and to operate the Project under all applicable laws; and
- (x) a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of and the transactions contemplated by, the Contract or the validity and enforceability of the same.
- (b) on the Scheduled Disbursement Date for the proposed Tranche:
- (i) the representations and warranties which are repeated pursuant to Article 6.07 being correct in all respects; and
 - (ii) no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitutes:
 - (A) an event of default under Article 10.01; or
 - (B) a prepayment event under Article 4.03,
 having occurred and continuing unremedied or unwaived or would result from the proposed Tranche and
 - (iii) the Bank being satisfied by the Scheduled Disbursement Date for the proposed Tranche that:
 - (A) all facts and information contained in the Preamble continue to be true, correct and applicable;
 - (B) the EC Guarantee is valid, binding and enforceable and that no events or circumstances have occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EC Guarantee or the Bank's right to make a demand thereunder; and
 - (C) the Framework Agreement is valid, binding and enforceable and that no events or circumstances have occurred which could, in the reasonable opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement.

1.05 Deferment of disbursement

1.05A Grounds for deferment

Upon the written request of the Borrower, the Bank shall defer the disbursement of any Accepted Tranche in whole or in part to a date specified by the Borrower being a date

falling not later than 6 (six) months from its Scheduled Disbursement Date and not later than 60 days prior to the first repayment date of the Tranche indicated in the Disbursement Offer. In such case, the Borrower shall pay the Deferment Indemnity calculated on the amount of disbursement deferred.

Any request for deferment shall have effect in respect of a Tranche only if it is made at least 7 (seven) Business Days before its Scheduled Disbursement Date.

If for an Accepted Tranche any of the conditions referred to in Article 1.04 is not fulfilled as at the specified date and at the Scheduled Disbursement Date (or the date expected for disbursement in case of a previous deferment), disbursement will be deferred to a date agreed between the Bank and the Borrower falling not earlier than 7 (seven) Business Days following the fulfilment of all conditions of disbursement (without prejudice to the right of the Bank to suspend and/or cancel the undisbursed portion of the Credit in whole or in part pursuant to Article 1.06B). In such case, the Borrower shall pay the Deferment Indemnity calculated on the amount of disbursement deferred.

1.05B Cancellation of a disbursement deferred by 6 (six) months

The Bank may, by notice in writing to the Borrower, cancel a disbursement which has been deferred under Article 1.05A by more than 6 (six) months in aggregate. The cancelled amount shall remain available for disbursement under Article 1.02.

1.06 Cancellation and suspension

1.06A Borrower's right to cancel

The Borrower may at any time by notice in writing to the Bank cancel, in whole or in part and with immediate effect, the undisbursed portion of the Credit. However the notice shall have no effect in respect of an Accepted Tranche which has a Scheduled Disbursement Date falling within 7 (seven) Business Days of the date of the notice.

1.06B Bank's right to suspend and cancel

- (a) The Bank may, by notice in writing to the Borrower, suspend and/or cancel the undisbursed portion of the Credit in whole or in part at any time and with immediate effect upon the occurrence of an event or circumstance mentioned in Article 4.03A or 10.01 or an event or circumstance which would with the passage of time or giving of notice under this Contract constitute an event under Article 4.03A or an event of default under Article 10.01.
- (b) The Bank may also suspend the portion of the Credit in respect of which it has not received a Disbursement Acceptance with immediate effect in the case that a Market Disruption Event occurs.
- (c) Any suspension shall continue until the Bank ends the suspension or cancels the suspended amount.

1.06C Indemnity for suspension and cancellation of a Tranche

1.06C(1) SUSPENSION

If the Bank suspends an Accepted Tranche, whether upon an Indemnifiable Prepayment Event or an event mentioned in Article 10.01, the Borrower shall pay to the Bank the Deferment Indemnity calculated on the amount of disbursement suspended.

1.06C(2) CANCELLATION

If, pursuant to Article 1.06A, the Borrower cancels:

- (a) a Fixed Rate Tranche which is an Accepted Tranche, it shall indemnify the Bank under Article 4.02B; or
- (b) a Floating Rate which is an Accepted Tranche or any part of the Credit other than an Accepted Tranche, no indemnity is payable.

If the Bank cancels

- (i) a Fixed Rate Tranche which is an Accepted Tranche upon an Indemnifiable Prepayment Event or pursuant to Article 1.05B, the Borrower shall pay to the Bank

the Prepayment Indemnity; or

- (ii) an Accepted Tranche upon an event mentioned in Article 10.01, the Borrower shall indemnify the Bank under Article 10.03.

Save in these cases, no indemnity is payable upon cancellation of a Tranche by the Bank.

The indemnity shall be calculated as if the cancelled amount had been disbursed and repaid on the Scheduled Disbursement Date or, to the extent that the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice.

1.07 Cancellation after expiry of the Credit

On the day following the Final Availability Date, and unless otherwise specifically agreed to in writing by the Bank, the part of the Credit in respect of which no Disbursement Acceptance has been made in accordance with Article 1.02C shall be automatically cancelled, without any notice being served by the Bank to the Borrower and without liability arising on the part of either party.

1.08 Appraisal fee

The Borrower shall pay or cause to be paid to the Bank within fifteen (15) days of the date of due ratification of this Contract in accordance with the applicable laws of the Republic of Moldova an appraisal fee in respect of the appraisal conducted by the Bank in relation to the Project. The amount of the appraisal fee is EUR 50,000 (fifty thousand euros).

1.09 Sums due under Article 1

Sums due under Articles 1.05, 1.06 and 1.08 shall be payable in EUR. They shall be payable within 15 (fifteen) days of the Borrower's receipt of the Bank's demand or within any longer period specified in the Bank's demand.

1.10 Allocation

1.10A Allocation Request

From time to time and until the date falling three months prior to the Final Availability Date, as the Project advances or in order to comply with requirements of this Contract, the Borrower shall submit to the Bank details of components of the Project (each a "**Component**") to be financed from the Loan in the format presented in Schedule D together with a request for allocation of part of the Credit for such Component (hereinafter an "**Allocation Request**").

The Credit shall only be allocated to Components identified as eligible for financing in the Technical Description.

The Allocation Request shall be accompanied by technical, feasibility, environmental and any other relevant studies concerning the proposed sections in sufficient detail to allow the Bank to assess their eligibility for financing required, in the form presented in Schedule D, or any other form acceptable to the Bank.

The Borrower shall provide the Bank with any additional information regarding the Components as the Bank, at its own discretion, may request.

1.10B Allocation Letter

The Bank shall have full discretion to accept the Allocation Request so submitted following such examination of the relevant Component as it deems necessary and shall, in the event of acceptance, issue a letter of allocation (hereinafter an "**Allocation Letter**"), informing the Borrower of its acceptance of the Component submitted and of the amount in euro of the Credit allocated to each Component. If the Bank requires additional information regarding the Component included in the Allocation Request, the period to deliver the Allocation Letter will be suspended until such additional information is provided to the satisfaction of the Bank.

In the event the Bank does not approve fully or partially the Allocation Request, the Bank shall inform the Borrower thereof.

The Bank may by notice to the Borrower amend the Allocation procedure as described in this Article 1.10B to bring it into line with the Bank's policy on framework loans or reflect the

results of the review of the implementation capacity and performance. In such case, the Bank shall inform the Borrower thereof and the Borrower shall promptly adapt its internal allocation procedures accordingly.

1.11 Reallocation Procedure

1.11A Reallocation at the request of the Borrower

The Borrower may by notice in writing to the Bank, which shall include reasons thereof, propose to reallocate any part of the Credit, which has been allocated.

The Borrower shall specify in writing which of the already allocated Components need to be removed and/or which of the Allocated amounts need to be reduced. The request for allocation of new Components shall contain information as specified in article 1.10A and will be reviewed by the Bank in accordance with Article 1.10B.

If the reallocation is not possible or possible only in part, the Bank may in proportion to the amount not reallocated, by notice to the Borrower, cancel the Credit and/or demand prepayment of the Loan pursuant to Article 4.03A(6).

1.11B Reallocation at the request of the Bank

If in the opinion of the Bank any Component allocated or proposed in accordance with article 1.10A above is ineligible for financing by the Bank under the Bank's Statute, policies or guidelines or under Article 309 of the Treaty on the functioning of the European Union, the Borrower shall upon the Bank request replace such Component by other Component acceptable to the Bank. If within 90 (ninety) days from the date of the Bank's request the Borrower has not replaced such Component satisfactorily to the Bank, the Bank may in proportion to the amount not reallocated, by notice to the Borrower, cancel the Credit and/or demand prepayment of the Loan pursuant Article 4.03A(6).

ARTICLE 2

The Loan

2.01 Amount of Loan

The Loan shall comprise the aggregate amount of Tranches disbursed by the Bank under the Credit, as confirmed by the Bank pursuant to Article 2.03.

2.02 Currency of repayment, interest and other charges

Interest, repayments and other charges payable in respect of each Tranche shall be made by the Borrower in the currency in which the Tranche is disbursed.

Any other payment shall be made in the currency specified by the Bank having regard to the currency of the expenditure to be reimbursed by means of that payment.

2.03 Confirmation by the Bank

Within 10 (ten) days after disbursement of each Tranche, the Bank shall deliver to the Borrower the amortisation table referred to in Article 4.01, if appropriate, showing the Disbursement Date, currency, the amount disbursed, the repayment terms and the interest rate of and for that Tranche.

ARTICLE 3

Interest

3.01 Rate of interest

3.01A Fixed Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Fixed Rate Tranche at the Fixed Rate quarterly, semi-annually or annually in arrears on the relevant Payment Dates as specified in the Disbursement Offer, commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is thirty days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

Interest shall be calculated on the basis of Article 5.01(a).

3.01B Floating Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Floating Rate Tranche at the Floating Rate quarterly, semi-annually or annually in arrears on the relevant Payment Dates, as specified in the Disbursement Offer commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is thirty days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

The Bank shall notify the Floating Rate to the Borrower within 10 (ten) days following the commencement of each Floating Rate Reference Period.

If pursuant to Articles 1.05 and 1.06 disbursement of any Floating Rate Tranche takes place after the Scheduled Disbursement Date the Relevant Interbank Rate applicable to the first Floating Rate Reference Period shall apply as though the disbursement had been made on the Scheduled Disbursement Date.

Interest shall be calculated in respect of each Floating Rate Reference Period on the basis of Article 5.01(b).

3.02 Interest on overdue sums

Without prejudice to Article 10 and by way of exception to Article 3.01, if the Borrower fails to pay any amount payable by it under the Contract on its due date, interest shall accrue on any overdue amount payable under the terms of this Contract from the due date to the date of actual payment at an annual rate equal to the Relevant Interbank Rate plus 2% (two per cent) and shall be payable in accordance with the demand of the Bank. For the purpose of determining the Relevant Interbank Rate in relation to this Article 3.02, the relevant periods within the meaning of Schedule B shall be successive periods of one month commencing on the due date.

However, interest on any overdue sum under a Fixed Rate Tranche shall be charged at the annual rate that is the sum of the rate defined in Article 3.01A plus 0.25% (25 basis points) if that annual rate exceeds, for any given relevant period, the rate specified in the preceding paragraph.

If the overdue sum is in a currency other than the currency of the Loan, the following rate *per annum* shall apply, namely the relevant interbank rate that is generally retained by the Bank for transactions in that currency plus 2% (200 basis points), calculated in accordance with the market practice for such rate.

3.03 Market Disruption Event

If at any time between the date of receipt by the Bank of a Disbursement Acceptance in respect of such Tranche and the date falling thirty calendar days prior to the Scheduled Disbursement Date, a Market Disruption Event occurs, the Bank may notify the Borrower that this clause has come into effect. In such case, the following rules shall apply:

- (a) in the case of an Accepted Tranche, the rate of interest applicable to such Accepted Tranche until the Maturity Date shall be the rate (expressed as a percentage rate *per*

annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank. The Borrower shall have the right to refuse in writing such disbursement within the deadline specified in the notification and shall bear charges incurred as a result if any, in which case the Bank shall not effect the disbursement and the corresponding Credit shall remain available for disbursement under Article 1.02B. If the Borrower does not refuse the disbursement in time, the parties agree that the disbursement and the conditions thereof shall be fully binding for both parties; and

- (b) the Spread or Fixed Rate previously notified by the Bank in the Disbursement Offer shall no longer be applicable.

ARTICLE 4

Repayment

4.01 Normal repayment

4.01A Repayment by instalments

- (a) The Borrower shall repay each Tranche by instalments on the Payment Dates specified in the relevant Disbursement Offer in accordance with the terms of the amortisation table delivered pursuant to Article 2.03.
- (b) Each amortisation table shall be drawn up on the basis that:
 - (i) in the case of a Fixed Rate Tranche, repayment shall be made annually, semi-annually or quarterly by equal instalments of principal or constant instalments of principal and interest;
 - (ii) in the case of a Floating Rate Tranche, repayment shall be made by equal annual, semi-annual or quarterly instalments of principal;
 - (iii) the first repayment date of each Tranche shall be a Payment Date falling not earlier than 60 days from the Scheduled Disbursement Date and not later than the first Payment Date immediately following the fifth anniversary of the Scheduled Disbursement Date of the Tranche; and
 - (iv) the last repayment date of each Tranche shall be a Payment Date falling not earlier than four years and not later than eighteen years from the Scheduled Disbursement Date.

4.02 Voluntary prepayment

4.02A Prepayment option

Subject to Articles 4.02B, 4.02C and 4.04, the Borrower may prepay all or part of any Tranche, together with accrued interest and indemnities if any, upon giving a Prepayment Request with at least one month's prior notice specifying:

- (a) the Prepayment Amount;
- (b) the Prepayment Date;
- (c) if applicable, the choice of application method of the Prepayment Amount in line with Article 5.05C(i); and
- (d) the contract number ("FI nr") mentioned on the cover page of this Contract.

Subject to Article 4.02C the Prepayment Notice shall be binding and irrevocable.

4.02B **Prepayment indemnity**

4.02B(1) FIXED RATE TRANCHE

If the Borrower prepays a Fixed Rate Tranche, the Borrower shall pay to the Bank on the Prepayment Date the Prepayment Indemnity in respect of the Fixed Rate Tranche which is being prepaid.

4.02B(2) FLOATING RATE TRANCHE

The Borrower may prepay a Floating Rate Tranche without indemnity on any relevant Payment Date.

4.02C **Prepayment mechanics**

The Bank shall issue a Prepayment Notice to the Borrower, not later than 15 (fifteen) days prior to the Prepayment Date specifying the Prepayment Amount, the accrued interest due thereon, the Prepayment Indemnity payable under Article 4.02B or, as the case may be, that no indemnity is due and the method of application of the Prepayment Amount.

If the Borrower accepts the Prepayment Notice no later than by the Acceptance Deadline, it shall effect the prepayment. In any other case, the Borrower may not effect the prepayment.

The Borrower shall accompany the prepayment by the payment of accrued interest and indemnity, if any, due on the Prepayment Amount, as specified in the Prepayment Notice.

4.03 **Compulsory prepayment**

4.03A **Grounds for prepayment**

4.03A(1) PROJECT COST REDUCTION

If the total cost of the Project should be reduced from the figure stated in Preamble (4) to a level at which the amount of the Credit exceeds 50% (fifty per cent) of such cost, the Bank may in proportion to the reduction forthwith, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan. The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

4.03A(2) *PARI PASSU* TO Non-EIB Financing

If the Borrower voluntarily prepays (for the avoidance of doubt, prepayment shall include repurchase or cancellation where applicable) a part or the whole of any other Non-EIB Financing and:

- (a) such prepayment is not made within a revolving credit facility (save for cancellation of the revolving credit facility); and
- (b) such prepayment is not made out of the proceeds of a loan having a term at least equal to the unexpired term of the Non-EIB Financing prepaid,

the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan. The proportion of the Loan that the Bank may require to be prepaid shall be the same as the proportion that the prepaid amount of the Non-EIB Financing bears to the aggregate outstanding amount of all Non-EIB Financing.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

For the purposes of this Article, "**Non-EIB Financing**" includes any loan, (save for the Loan and any other direct loans from the Bank), credit bond or other form of financial indebtedness or any obligation for the payment or repayment of money originally granted to the Borrower for a term of more than 3 (three) years.

4.03A(3) CHANGE OF LAW

The Borrower shall promptly inform the Bank if a Change-of-Law Event has occurred or is likely to occur. In such case, or if the Bank has reasonable cause to believe that a Change-

of-Law Event has occurred or is about to occur, the Bank may request that the Borrower consult with it. Such consultation shall take place within 30 (thirty) days from the date of the Bank's request. If, after the lapse of 30 (thirty) days from the date of such request for consultation the Bank is of the opinion that the effects of the Change-of-Law Event cannot be mitigated to its satisfaction, the Bank may by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan, together with accrued interest and all other amounts accrued or outstanding under this Contract.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

For the purposes of this Article "**Change-of-Law Event**" means the enactment, promulgation, execution or ratification of or any change in or amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation) that occurs after the date of this Contract and which, in the opinion of the Bank, would materially impair the Borrower's ability to perform its obligations under this Contract.

4.03A(4) ILLEGALITY

If it becomes unlawful in any applicable jurisdiction for the Bank to perform any of its obligations as contemplated in this Contract or to fund or maintain the Loan, the Bank shall promptly notify the Borrower and the Bank may immediately (a) suspend or cancel the undisbursed portion of the Credit and/or (b) demand prepayment of the Loan on the date indicated by the Bank in its notice to the Borrower.

4.03A(5) CHANGES TO THE BANK'S AUTHORITY TO LEND

The Borrower shall, within seven days of receiving notice from the Bank to do so, prepay to the Bank the Loan and all accrued interest and fees due under this Contract if:

- (a) any obligation assumed by Moldova as stated in the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the territory of Moldova from the resources of the Bank, or the European Union; or
- (b) the conditions for cover under the EC Guarantee are not fulfilled or if the EC Guarantee ceases to be valid, effective or enforceable in accordance with its terms.

4.03A(6) FAILURE TO RE-ALLOCATE

If the Borrower fails to re-allocate the Components on the due date in accordance with Article 1.10B, the Bank may, by notice to the Borrower, cancel the Credit in proportion to the amount not re-allocated or demand prepayment of the Loan in an amount equal to the amount not re-allocated, together with accrued interest and all other amounts accrued and outstanding under this Contract.

4.03B **Prepayment mechanics**

Any sum demanded by the Bank pursuant to Article 4.03A, together with any interest or other amounts accrued or outstanding under this Contract including, without limitation, any indemnity due under Article 4.03C and Article 4.04, shall be paid on the date indicated by the Bank in its notice of demand.

4.03C **Prepayment indemnity**

In the case of an Indemnifiable Prepayment Event, the indemnity, if any, shall be determined in accordance with Article 4.02B.

If, moreover, pursuant to any provision of Article 4.03A the Borrower prepays a Tranche on a date other than a relevant Payment Date, the Borrower shall indemnify the Bank in such amount as the Bank shall certify is required to compensate it for receipt of funds otherwise than on a relevant Payment Date.

4.04 **General**

A prepaid amount may not be reborrowed. This Article 4 shall not prejudice Article 10.

If the Borrower prepays a Tranche on a date other than a relevant Payment Date, the Borrower shall indemnify the Bank in such amount as the Bank shall certify is required to

compensate it for receipt of funds otherwise than on a relevant Payment Date.

ARTICLE 5

Payments

5.01 Day count convention

Any amount due by way of interest, indemnity or fee from the Borrower under this Contract, and calculated in respect of a fraction of a year, shall be determined on the following respective conventions:

- (a) in respect of interest and indemnities due under a Fixed Rate Tranche, a year of 360 (three hundred and sixty) days and a month of 30 (thirty) days;
- (b) in respect of interest and indemnities due under a Floating Rate Tranche, a year of 360 (three hundred and sixty) days (but 365 (three hundred and sixty-five) days (invariable) for GBP) and the number of days elapsed; and
- (c) in respect of fees, a year of 360 (three hundred and sixty) days (but 365 (three hundred and sixty-five) days (invariable) for fees due in GBP) and the number of days elapsed.

5.02 Time and place of payment

Unless otherwise specified in this Contract or in the Bank's demand, all sums and sums of interest, indemnity and principal are payable within 7 (seven) days of the Borrower's receipt of the Bank's demand.

Each sum payable by the Borrower under this Contract shall be paid to the relevant account notified by the Bank to the Borrower. The Bank shall notify the account not fewer than 15 (fifteen) days before the due date for the first payment by the Borrower and shall notify any change of account not less than 15 (fifteen) days before the date of the first payment to which the change applies. This period of notice does not apply in the case of payment under Article 10.

The Borrower shall indicate in each payment made hereunder the contract number ("FI nr") found on the cover page of this Contract.

A sum due from the Borrower shall be deemed paid when the Bank receives it.

Any disbursements by and payments to the Bank under this Contract shall be made using account(s) acceptable to the Bank. For the avoidance of doubt, any account in the name of the Borrower held with a duly authorised financial institution in the jurisdiction where the Borrower is incorporated or where the Project is undertaken is deemed acceptable to the Bank.

5.03 No set-off by the Borrower

All payments to be made by the Borrower under this Contract shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim

5.04 Disruption to Payment Systems

If either the Bank determines (in its discretion) that a Disruption Event has occurred or the Bank is notified by the Borrower that a Disruption Event has occurred:

- (a) the Bank may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Contract as the Bank may deem necessary in the circumstances;
- (b) the Bank shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes; and

- (c) the Bank shall not be liable for any damages, costs or losses whatsoever arising as a result of a Disruption Event or for taking or not taking any action pursuant to or in connection with this Article 5.04.

5.05 Application of sums received

(a) General

Sums received from the Borrower shall only discharge its payment obligations if received in accordance with the terms of this Contract.

(b) Partial payments

If the Bank receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under this Contract, the Bank shall apply that payment:

- (i) first, in or towards payment *pro rata* of any unpaid fees, costs, indemnities and expenses due under this Contract;
- (ii) secondly, in or towards payment of any accrued interest due but unpaid under this Agreement;
- (iii) thirdly, in or towards payment of any principal due but unpaid under this Contract; and
- (iv) fourthly, in or towards payment of any other sum due but unpaid under this Contract.

(c) Allocation of sums related to Tranches

- (i) In case of:
 - (A) a partial voluntary prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied *pro rata* to each outstanding instalment or, at the request of the Borrower, in inverse order of maturity;
 - (B) a partial compulsory prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied in reduction of the outstanding instalments in inverse order of maturity.
- (ii) Sums received by the Bank following a demand under Article 10.01 and applied to a Tranche, shall reduce the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.
- (iii) In case of receipt of sums which cannot be identified as applicable to a specific Tranche, and on which there is no agreement between the Bank and the Borrower on their application, the Bank may apply these between Tranches at its discretion.

ARTICLE 6

Borrower undertakings and representations

The undertakings in this Article 6 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

A. Project undertakings

6.01 Use of Loan and availability of other funds

- (a) The Borrower shall, and shall procure that the Promoter shall, use all amounts borrowed by it hereunder for the exclusive execution of the Project.
- (b) The Borrower shall, and shall procure that the Promoter shall, not use any amounts

borrowed by it for a Component other than the Component to which such amounts have been specified in the Technical Description or allocated in accordance with Article 1.10.

- (c) The Borrower shall make the proceeds of the Loan available to the Promoter on terms and conditions acceptable to the Bank.
- (d) The Borrower shall ensure that it has available to it the other funds listed in Preamble (4) and that such funds are expended, to the extent required, on the financing of the Project.

6.02 Completion of Project

The Borrower shall, and shall procure that the Promoter shall, carry out the Project in accordance with the Technical Description as may be modified from time to time with the approval of the Bank, and complete it by the final date specified therein.

6.03 Increased cost of Project

If the proposed sources of funding of the Project as described in Preamble (4) is inadequate to fund the Project, the Borrower shall obtain the finance to fund the excess cost without recourse to the Bank, so as to enable the Project to be completed in accordance with the Technical Description. The plans for funding the excess cost shall be communicated to the Bank without delay.

6.04 Procurement procedure

The Borrower undertakes to, and to procure that the Promoter undertakes to, purchase equipment, secure services and order works for the Project by open international tender or other acceptable procurement procedure complying, to the Bank's satisfaction, with its policy as described in its Guide to Procurement in force at the date of this Contract.

6.05 Continuing Project undertakings

The Borrower shall, and shall procure that the Promoter shall:

- (a) **Maintenance:** maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;
- (b) **Project assets:** unless the Bank has given its prior consent in writing retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; provided that the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under Article 309 of the Treaty on the Functioning of the European Union;
- (c) **Insurance:** obtain and maintain all insurances required for the Project under applicable laws and regulations.
- (d) **Rights and Permits:** maintain in force all rights of way or use and all permits, licences, approvals or authorisations necessary for the execution and operation of the Project;
- (e) **Environment:**
 - (i) implement and operate the Project in compliance with Environmental Law;
 - (ii) obtain and maintain requisite Environmental Approvals for the Project; and
 - (iii) comply with any such Environmental Approvals;
- (f) **EU law:** execute and operate the Project in accordance with the relevant standards of EU law to the extent implemented by the laws of the Republic of Moldova or specified by the Bank prior to the date of this Contract;
- (g) **Professional consultancies:** maintain throughout the implementation of the Project an international engineering and management consultancy team to provide both long and short term technical assistance to the Promoter under terms of reference

acceptable to the Bank; and

- (h) **Land acquisition:** not award any contracts for works unless all necessary land acquisition has been completed in accordance with the relevant resettlement action plan.

B. General undertakings

6.06 Compliance with laws

The Borrower shall, and shall procure that the Promoter shall, comply in all respects with all laws and regulations to which it or the Project is subject.

6.07 General Representations and Warranties

The Borrower represents and warrants to the Bank that:

- (a) it has the power to execute, deliver and perform its obligations under this Contract and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of the same by it;
- (b) this Contract constitutes its legally valid, binding and enforceable obligations;
- (c) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not:
 - (i) contravene or conflict with any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject; or
 - (ii) contravene or conflict with any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Contract;
- (d) there has been no Material Adverse Change since the date of this Contract;
- (e) no event or circumstance which constitutes an event of default under Article 10.01 has occurred and is continuing unremedied or unwaived;
- (f) no litigation, arbitration, administrative proceedings or investigation is current or to its knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against it or any of its subsidiaries any unsatisfied judgement or award;
- (g) it and the Promoter have obtained all necessary consents, authorisations, licences or approvals of governmental or public bodies or authorities in connection with this Contract and the Project in order to lawfully comply with its obligations hereunder, and the Project and all such consents, authorisations, licences or approvals are in full force and effect and admissible in evidence;
- (h) its payment obligations under this Contract rank not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its debt instruments except for obligations mandatorily preferred by law applying to companies generally;
- (i) it is in compliance with Article 6.05(e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental Claim has been commenced or is threatened against it;
- (j) the Project falls within the scope of the Framework Agreement;
- (k) it is in compliance with all undertakings under section 6 (*Borrower undertakings and representations*);
- (l) neither the Borrower, its officers and directors nor any other person acting on its or their behalf or under its or their control has committed nor will commit (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Contract; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering; and

- (m) the Project (including without limitation, the negotiation, award and performance of contracts financed or to be financed by the Loan) has not involved or given rise to any Prohibited Conduct

The representations and warranties set out above shall survive the execution of this Contract and are, except paragraph (d) above, deemed repeated on each Scheduled Disbursement Date and on each Payment Date.

6.08 Integrity

Prohibited Conduct

- (a) The Borrower shall not engage in (and shall not authorise or permit any affiliate or any other Person acting on its behalf to engage in) any Prohibited Conduct in connection with the Project, any tendering procedure for the Project, or any transaction contemplated by the Contract.
- (b) The Borrower undertakes to take such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct.
- (c) The Borrower undertakes to ensure that contracts financed by this Loan include the necessary provisions to enable the Borrower to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

Sanctions

The Borrower shall not:

- (a) enter into a business relationship with any Sanctioned Person; or
- (b) make any funds available to or for the benefit of, directly or indirectly, any Sanctioned Person.

Borrower's Management

The Borrower undertakes to take within a reasonable timeframe appropriate measures in respect of any member of its management bodies who:

- (a) becomes a Sanctioned Person or
- (b) is the subject of a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties.

in order to ensure that such member is suspended, dismissed or in any case excluded from any Borrower's activity in relation to the Loan and to the Project.

ARTICLE 7

Security

The undertakings in this Article 7 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

7.01 Pari Passu ranking

The Borrower shall ensure that its payment obligations under this Contract rank, and will rank, not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its External Debt Instruments.

In particular, if the Bank makes a demand under Article 10.01 or if an event or potential event of default under any unsecured and unsubordinated External Debt Instrument of the Borrower or of any of its agencies or instrumentalities has occurred and is continuing, the Borrower shall not make (or authorise) any payment in respect of any other such External Debt Instrument (whether regularly scheduled or otherwise) without simultaneously paying, or setting aside in a designated account for payment on the next Payment Date a sum

equal to, the same proportion of the debt outstanding under this Contract as the proportion that the payment under such External Debt Instrument bears to the total debt outstanding under that Instrument. For this purpose, any payment of an External Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the External Debt Instrument have subscribed, shall be disregarded.

In this Contract, "**External Debt Instrument**" means:

- (a) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement);
- (b) an obligation evidenced by a bond, debenture or similar written evidence of indebtedness; or
- (c) a guarantee granted by the Borrower for an obligation of a third party; provided in each case that such obligation is:
 - (i) governed by a system of law other than the law of the Borrower;
 - (ii) payable in a currency other than the currency of the Borrower's country; or
 - (iii) payable to a person incorporated, domiciled, resident or with its head office or principal place of business outside the Borrower's country.

7.02 Additional security

Should the Borrower grant to a third party any security for the performance of any financial obligations or any preference or priority in respect thereof, the Borrower shall, if so required by the Bank, provide to the Bank equivalent security for the performance of its obligations under this Contract or grant to the Bank equivalent preference or priority.

7.03 Clauses by inclusion

If the Borrower concludes with any other medium or long term financial creditor a financing agreement that includes a loss-of-rating clause, and/or a cross default clause and/or a *pari passu* clause that is stricter than the equivalent provision(s) of this Contract the Borrower shall so inform the Bank and shall, at the request of the Bank, execute an agreement to amend this Contract so as to provide for an equivalent provision in favour of the Bank.

ARTICLE 8

Information and Visits

8.01 Information concerning the Project

The Borrower shall, and shall procure that the Promoter shall:

- (a) deliver to the Bank:
 - (i) the information in content and in form, and at the times, specified in Schedule A.2 or otherwise as agreed from time to time by the parties to this Contract; and
 - (ii) any such information or further document concerning the financing, procurement, implementation, operation and environmental matters of or for the Project as the Bank may reasonably require within a reasonable time;

provided always that if such information or document is not delivered to the Bank on time, and the Borrower does not rectify the omission within a reasonable time set by the Bank in writing, the Bank may remedy the deficiency, to the extent feasible, by employing its own staff or a consultant or any other third party, at the Borrower's expense and the Borrower shall provide such persons with all assistance necessary

for the purpose;

- (b) submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, *inter alia*, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;
- (c) promptly inform the Bank of:
 - (i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or any Environmental Claim that is to its knowledge commenced, pending or threatened against it with regard to environmental or other matters affecting the Project; and
 - (ii) any fact or event known to the Borrower, which may substantially prejudice or affect the conditions of execution or operation of the Project;
 - (iii) any non-compliance by it with any applicable Environmental Law;
 - (iv) a genuine allegation, complaint or information with regard to Criminal Offences related to the Project; and
 - (v) any suspension, revocation or modification of any Environmental Approval,and set out the action to be taken with respect to such matters.
- (d) provide to the Bank, if so requested:
 - (i) a certificate of its insurers showing fulfilment of the requirements of Article 6.05(c);
 - (ii) annually, a list of policies in force covering the insured property forming part of the Project, together with confirmation of payment of the current premiums.

8.02 Information concerning the Borrower and the Promoter

The Borrower shall, and shall procure that the Promoter shall:

- (a) deliver to the Bank:
 - (i) annually, within one month after the approval of the Borrower's annual budget, a summary of the Borrower's annual budget in tabular form;
 - (ii) annually, audited financial statements of the Promoter prepared in accordance with IFRS or general accounting standards used in the Republic of Moldova;
 - (iii) any such information concerning the Components included in the Allocation Request as the Bank may reasonably require within a reasonable time; and
 - (iv) from time to time, such further information on its or the Promoter's general financial situation as the Bank may reasonably require;
- (b) ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Project; and
- (c) inform the Bank immediately of:
 - (i) any material alteration to the statutes or shareholding structure of the Promoter after the date of its incorporation;
 - (ii) any fact which obliges it to prepay any financial indebtedness or any EU funding;
 - (iii) any event or decision that constitutes or may result in the events described in Article 4.03A;
 - (iv) any intention on its part to grant any security over any of its assets in favour of a third party;
 - (v) any intention on its part to relinquish ownership of any material Component;
 - (vi) any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract or the Promoter under the

Project Agreement;

- (vii) any event listed in Article 10.01 having occurred or being threatened or anticipated;
- (viii) any investigations concerning the integrity of the members of the Borrower's governing body or managers or if any member thereof becomes a Sanctioned Person;
- (ix) to the extent permitted by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against the Borrower or its controlling entities or members of the Borrower's management bodies in connection with Criminal Offences related to the Loan or the Project; and
- (x) any litigation, arbitration or administrative proceedings or investigation which is current, threatened or pending which might if adversely determined result in a Material Adverse Change.

8.03 Visits by the Bank

The Borrower shall, and shall procure that the Promoter shall, allow persons designated by the Bank, as well as persons designated by other EU institutions or bodies when so required by the relevant mandatory provisions of EU law, to visit the sites, installations and works comprising the Project and to conduct such checks as they may wish, and shall provide them, or ensure that they are provided, with all necessary assistance for this purpose.

The Borrower acknowledges that the Bank may be obliged to divulge such information relating to the Borrower and the Project to any competent EU institution or body in accordance with the relevant mandatory provisions of EU law.

ARTICLE 9

Charges and expenses

9.01 Taxes, duties and fees

The Borrower shall pay all taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, arising out of the execution or implementation of this Contract or any related document and in the creation, perfection, registration or enforcement of any security for the Loan to the extent applicable.

The Borrower shall pay all principal, interest, indemnities and other amounts due under this Contract gross without deduction of any national or local impositions whatsoever; provided that, if the Borrower is obliged to make any such deduction, it will gross up the payment to the Bank so that after deduction, the net amount received by the Bank is equivalent to the sum due.

9.02 Other charges

The Borrower shall bear all charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation and termination of this Contract or any related document, any amendment, supplement or waiver in respect of this Contract or any related document, and in the amendment, creation, management and realisation of any security for the Loan.

9.03 Increased costs, indemnity and set-off

- (a) The Borrower shall pay to the Bank any sums or expenses incurred or suffered by the Bank as a consequence of the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or compliance with any law or regulation made after the date of signature this Contract, in

accordance with which:

- (i) the Bank is obliged to incur additional costs in order to fund or perform its obligations under this Contract; or
 - (ii) any amount owed to the Bank under this Contract or the financial income resulting from the granting of the Credit or the Loan by the Bank to the Borrower is reduced or eliminated.
- (b) Without prejudice to any other rights of the Bank under this Contract or under any applicable law, the Borrower shall indemnify and hold the Bank harmless from and against any loss incurred as a result of any payment or partial discharge that takes place in a manner other than as expressly set out in this Contract.
- (c) The Bank may set off any matured obligation due from the Borrower under this Contract (to the extent beneficially owned by the Bank) against any obligation (whether or not matured) owed by the Bank to the Borrower regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Bank may set off in an amount estimated by it in good faith to be the amount of that obligation.

ARTICLE 10

Events of default

10.01 Right to demand repayment

The Borrower shall repay all or part of the Loan forthwith, together with accrued interest and all other accrued or outstanding amounts under this Contract, upon written demand being made by the Bank in accordance with the following provisions.

10.01A Immediate demand

The Bank may make such demand immediately:

- (a) if the Borrower does not pay on the due date any amount payable pursuant to this Contract at the place and in the currency in which it is expressed to be payable, unless (i) its failure to pay is caused by an administrative or technical error or a Disruption Event and (ii) payment is made within 3 Business Days of its due date;
- (b) if any information or document given to the Bank by or on behalf of the Borrower or any representation or statement made or deemed to be made by the Borrower in application of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect;
- (c) if, following any default of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than this Loan granted by the Bank:
 - (i) the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, discharge, close out or terminate ahead of maturity such other loan or obligation; or
 - (ii) any financial commitment for such other loan or obligation is cancelled or suspended.
- (d) if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or without prior written notice to the Bank seeks to make a composition with its creditors;
- (e) if the Borrower defaults in the performance of any obligation in respect of any other loan or financial instrument made to it from the resources of the Bank or the

European Union;

- (f) if any distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;
- (g) if a Material Adverse Change occurs, as compared with the Borrower's condition at the date of this Contract;
- (h) if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract other transactional documents or this Contract or another transactional document is not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms;
- (i) if any obligation assumed by the Borrower as stated in the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the Borrower's territory from the resources of the Bank, or the European Union;
- (j) if the conditions for cover under the EC Guarantee are not fulfilled or if the EC Guarantee ceases to be valid, effective or enforceable in accordance with its terms; or
- (k) if the Borrower defaults in the performance of any of its obligations under the EBRD Loan Documents or the NIF Documentation or if the Promoter defaults in the performance of any of its obligations under the Project Agreement.

10.01B Demand after notice to remedy

The Bank may also make such demand:

- (a) if the Borrower fails to comply with any obligation under this Contract not being an obligation mentioned in Article 10.01A; or
- (b) if any fact related to the Borrower or the Project stated in the Preamble materially alters and is not restored and if the alteration either prejudices the interests of the Bank as lender to the Borrower or adversely affects the implementation or operation of the Project,

Unless, in the Bank's opinion, the non-compliance or circumstance giving rise to the non-compliance is capable of remedy and is remedied within a reasonable period of time specified in a notice served by the Bank on the Borrower.

10.02 Other rights at law

Article 10.01 shall not restrict any other right of the Bank at law to require prepayment of the Loan.

10.03 Indemnity

10.03A Fixed Rate Tranches

In case of demand under Article 10.01 in respect of any Fixed Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with the Prepayment Indemnity on any amount of principal due to be prepaid. Such Prepayment Indemnity shall accrue from the due date for payment specified in the Bank's notice of demand and be calculated on the basis that prepayment is effected on the date so specified.

10.03B Floating Rate Tranches

In case of demand under Article 10.01 (*Right to demand repayment*) in respect of any Floating Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with a sum equal to the present value of 0.15% (fifteen basis points) *per annum* calculated and accruing on the amount of principal due to be prepaid in the same manner as interest would have been calculated and would have accrued, if that amount had remained outstanding according to the original amortisation schedule of the Tranche, until the Maturity Date.

The value shall be calculated at a discount rate equal to the Redeployment Rate applied as of each relevant Payment Date.

10.03C General

Amounts due by the Borrower pursuant to this Article 10.03 shall be payable on the date of prepayment specified in the Bank's demand.

10.04 Non-Waiver

No failure or delay or single or partial exercise by the Bank in exercising any of its rights or remedies under this Contract shall be construed as a waiver of such right or remedy. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies provided by law.

ARTICLE 11

Law and jurisdiction

11.01 Governing Law

This Contract and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England and Wales.

11.02 Jurisdiction

The parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

The parties to this Contract hereby waive any immunity from or right to object to the jurisdiction of these courts. A decision of the courts given pursuant to this Article shall be conclusive and binding on each party without restriction or reservation.

11.03 Arbitration

Any dispute arising out of or connected with this Contract, including a dispute as to the validity or existence of this Contract and/or this Article 11.03, shall be resolved by arbitration in London conducted in the English language by three arbitrators pursuant to the rules of the United Nations Commission on International Trade Law ("**UNCITRAL**"), save that, unless the parties agree otherwise:

- (a) the third arbitrator, who shall act as chairman of the tribunal, shall be chosen by the two arbitrators appointed by or on behalf of the parties. If he is not chosen by the two arbitrators within 30 days of the date of appointment of the later of the two party-appointed arbitrators to be appointed, he shall be appointed by the London Court of International Arbitration (the "**LCIA**");
- (b) no arbitrator shall be of the same nationality as any party (and for the purposes of this Article, the nationality of the Bank shall be deemed to be Luxembourg);
- (c) neither party shall be required to give general discovery of documents, but may be required only to produce specific, identified documents which are relevant to the dispute;
- (d) the tribunal shall not take or provide and the Borrower shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank; and
- (e) the parties agree to waive any right of appeal against the arbitration award.

The appointing authority shall be the LCIA and any arbitration under this Clause 11.03 shall be governed by English law.

11.04 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Borrower:
 - (i) irrevocably appoints the Embassy of Republic of Moldova in London at 5 Dolphin Square, Edensor Road, Chiswick, London W4 2ST, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with this Contract; and

- (ii) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.
- (b) The Borrower hereby irrevocably consents to the service of process or any other legal summons out of such courts by mailing copies thereof by registered airmail postage prepaid to its address specified herein.
- (c) The Borrower covenants and agrees that, so long as it has any obligations under this Contract, it shall maintain a duly appointed agent to receive service of process and any other legal summons in England and Wales for purposes of any legal action or proceeding brought by the Bank in respect of this Contract and shall keep the Bank advised of the identity and location of such agent. Nothing herein shall affect the right of the Bank to commence legal actions or proceedings against the Borrower in any manner authorised by the laws of any relevant jurisdiction.
- (d) The commencement by the Bank of legal actions or proceedings in one or more jurisdictions shall not preclude the Bank from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- (e) The Borrower irrevocably waives any objection that it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal action or proceeding and any claim it may now or hereafter have that any such legal action or proceeding has been brought in an inconvenient forum.

11.05 Place of performance

Unless otherwise specifically agreed by the Bank in writing, the place of performance under this Contract shall be the seat of the Bank.

11.06 Waiver of immunity

The Borrower irrevocably agrees that, should any party take any proceedings anywhere (whether for an injunction, specific performance, damages or otherwise), no immunity (to the extent that it may at any time exist, whether on the grounds of sovereignty or otherwise) from those proceedings, from attachment (whether in aid of execution, before judgment or otherwise) of its assets or from execution of judgment shall be claimed by it or on behalf of it or with respect to its assets, any such immunity being irrevocably waived. The Borrower irrevocably agrees that it and its assets are, and shall be, subject to such proceedings, attachment or execution in respect of its obligations under this Contract.

11.07 Evidence of sums due

In any legal action arising out of this Contract the certificate of the Bank as to any amount or rate due to the Bank under this Contract shall in the absence of manifest error be *prima facie* evidence of such amount or rate.

ARTICLE 12

Final clauses

12.01 Notices to either party

Notices and other communications given under this Contract addressed to either party to this Contract shall be made to the address or facsimile number as set out below, or to such other address or facsimile number as a party previously notifies to the other in writing:

For the Bank

Attention: Ops B

100 boulevard Konrad Adenauer
L-2950 Luxembourg

Facsimile no: +352 4379 67495

For the Borrower

Attention: Ministry of Finance of the Republic of Moldova, Public
Debt Department

7. Cosmonautilor Street

MD-2005 Chisinau

Republic of Moldova

Facsimile no.: +373 2222 5393

+373 2226 2893

12.02 Form of notice

Any notice or other communication given under this Contract must be in writing in the English language.

Notices and other communications, for which fixed periods are laid down in this Contract or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter or facsimile. Such notices and communications shall be deemed to have been received by the other party on the date of delivery in relation to a hand-delivered or registered letter or on receipt of transmission in relation to a facsimile.

Other notices and communications may be made by hand delivery, registered letter or facsimile.

Without affecting the validity of any notice delivered by facsimile according to the paragraphs above, a copy of each notice delivered by facsimile shall also be sent by letter to the relevant party on the next following Business Day at the latest.

Notices issued by the Borrower pursuant to any provision of this Contract shall, where required by the Bank, be delivered to the Bank together with satisfactory evidence of the authority of the person or persons authorised to sign such notice on behalf of the Borrower and the authenticated specimen signature of such person or persons.

12.03 Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this Contract may not enforce or enjoy the benefit of any of its terms under the Contracts (Rights of Third Parties) Act 1999 and the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of this Contract.

12.04 Changes to parties

The Borrower may not assign or transfer any of its rights or obligations under this Contract without the prior written consent of the Bank.

The Bank may assign all or part of its rights and benefits or transfer (by way of novation, sub-participation or otherwise) all or part of its rights, benefits and obligations under this Contract.

12.05 Language

All documents and information to be provided by the Borrower to the Bank, or procured by the Borrower to be provided to the Bank by any other entity including without limitation the Promoter, shall be provided in the English language.

12.06 Amendments

This Contract may be amended by written agreement between the Bank and the Borrower. Such amendments shall become effective to amend this Contract in accordance with the terms set out in the relevant amendment agreement without the need for such amendment to be formalised by, without limitation, approval or ratification by the Parliament of Moldova.

12.07 Effectiveness of this Contract

This Contract is conditional upon and shall become effective only after receipt by the Bank, in a form and substance acceptable to the Bank, of:

- (a) the legal opinion of the Minister of Justice of the Borrower pursuant to Article 1.04A(a), and
- (b) a favourable opinion of the European Commission in respect of the Credit in accordance with Statute of the Bank.

This Contract shall not become effective until the Bank sends to the Borrower a letter confirming fulfilment of the above mentioned condition and providing the date that this Contract becomes effective (the "**Date of Effectiveness**"), and such letter shall be conclusive evidence that this Contract has become effective.

For the avoidance of doubt, until such time as such letter has been issued by the Bank, neither the Borrower nor the Bank shall have any claims (except the claim to pay the appraisal fee, arising under Article 1.08) against each other or have any liability whatsoever under or in connection with this Contract.

Notwithstanding the above, Article 1.08 and meaning of "Borrower", "Bank", "Contract" and "Project" specified in this Contract, shall become effective as of the date of signature of this Contract.

12.08 **Preamble, Schedules and Annex**

The Preamble and following Schedules form part of this Contract:

Schedule A	Technical Description and Reporting
Schedule B	Definition of EURIBOR and LIBOR
Schedule C	Forms for Borrower
Schedule D	Component Details
Schedule E	Form of declaration by the Authority Responsible for Monitoring Sites of Nature Conservation Importance

The following Annex is attached hereto:

Annex I	Form of Legal Opinion from the Ministry of Justice
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IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed in four originals in the English language and have respectively caused _____ and Ms. Wiebke Jarde to initial each page of this Contract on their behalf.

At Luxembourg, this 25 day of June 2013

.....
Signed for and on behalf of the
REPUBLIC OF MOLDOVA
by I. Leancă

.....
Signed for and on behalf of the
EUROPEAN INVESTMENT BANK
by W. Molterer

A.1. TECHNICAL DESCRIPTION

Purpose, Location

The project aims at improving transport conditions on the main corridors by rehabilitating and upgrading several sections, as well as constructing city bypasses. The main parameters consist in strengthening the pavement, removing bottlenecks and enhancing traffic safety.

Description

The main parameters consist in construction of two lane roads, enlargements, strengthening the pavement and enhancing traffic safety.

Initially selected road sections are:

Component 1: Chisinau South-Western bypass on R6, 6.6 km, consisting in upgrading a section of the existing Chisinau bypass from a four-lane interurban road with no lane separation and in poor condition to a 2x2 expressway standard road. The project works will comprise pavement strengthening, junctions and drainage improvements and construction of a median separation. The new road will be a rehabilitated 4x3.5 m wide road with a 2 m wide median and 2.5 m shoulders for a total platform width of 21 m and a design speed of 100 km/h.

Component 2: Improve the North-South M3 axis between Chisinau and Cimislia, comprising improvements of the safety on the existing 4-lane road between Chisinau and Porumbrei (33.5 km) and the construction of the Porumbrei to Cimislia connection (19.1 km)

The 4-lane road section from Chisinau to Porumbrei will be partially rehabilitated mainly to reconstruct some localised pavement failures and, above all, will be made safer through the installation of a carriageway separation, improved signing and safety devices. The Porumbrei to Cimislia section will be a new 2-lane 7 m wide interurban road with a design speed of 100km/h and will include some preparatory works in view of possible future enlargement to 2x2 when traffic levels will require.

Component 3: Comrat bypass on M3, 17.9 km, consisting in the construction of a new bypass to relieve this 25,000 inhabitants city, which is the capital of the autonomous Gagauzia region, of transit traffic. The new Comrat bypass will be a 2-lane 7 m wide interurban road with a design speed of 80km/h. Part of the bypass alignment has some earthworks and structures already built.

Further sections will be selected from the Transport and Logistics Strategy 2013-2022 subject allocation due diligence.

The project will be co-financed with EBRD which will have a similar approach in selection of road sections, up to an equal investment cost. The components selected by EBRD for financing in the first phase are the rehabilitations of a 37km section on R33 Hancesti – Lapusna and a 32km section on R14 Balti – Sarateni (some EUR 50m).

Calendar

The project is expected to be completed before end of 2018.

A.2. PROJECT INFORMATION TO BE SENT TO THE BANK AND METHOD OF TRANSMISSION

1. Dispatch of information: designation of the person responsible

The information below has to be sent to the Bank under the responsibility of:

Company	<i>State Road Administration</i>
Contact person	<i>Vitalie PANURCO</i>
Title	<i>General Director</i>
Function / Department	
Address	<i>12-a Bucuria str. Chisinau, 2004 Moldova</i>
Phone	<i>+373 22 740570</i>
Fax	<i>+373 22 751856</i>
Email	<i>panurco@asd.md</i>

The above-mentioned contact person(s) is (are) the responsible contact(s) for the time being.

The Borrower shall inform the EIB immediately in case of any change.

2. Information on specific subjects

The Borrower shall deliver to the Bank the following information at the latest by the deadline indicated below.

Document / information	Deadline
Feasibility, environmental and any other relevant studies concerning the proposed sections in sufficient details to allow the Bank's services to assess their eligibility for financing	With allocation request

3. Information on the project's implementation

The Borrower shall deliver to the Bank the following information on project progress during implementation at the latest by the deadline indicated below.

Document / information	Deadline	Frequency of reporting
Project Progress Report <ul style="list-style-type: none"> - A brief update on the technical description, explaining the reasons for significant changes vs. initial scope; - Update on the date of completion of each of the main project's components, explaining reasons for any possible delay; - Update on the cost of the project, explaining reasons for any possible cost increases vs. initial budgeted cost; - A description of any major issue with impact on the environment; - Update on procurement procedures (outside EU); - Update on the project's demand or usage and comments; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Any legal action concerning the project that may be on-going. 		Quarterly

4. Information on the end of works and first year of operation

The Borrower shall deliver to the Bank the following information on project completion and initial operation at the latest by the deadline indicated below.

Document / information	Date of delivery to the Bank
Project Completion Report, including: <ul style="list-style-type: none"> - A brief description of the technical characteristics of the project as completed, explaining the reasons for any significant change; - The date of completion of each of the main project's components, explaining reasons for any possible delay; - The final cost of the project, explaining reasons for any possible cost increases vs. initial budgeted cost; - The number of new jobs created by the project: both jobs during implementation and permanent new jobs created; - A description of any major issue with impact on the environment; - Update on procurement procedures (outside EU); - Update on the project's demand or usage and comments; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Any legal action concerning the project that may be on-going. Update of the actual values for the indicators of the project, for inclusion in the Bank's Results Measurement (REM) sheet	15 months after completion

5. Information required 3 years after the Project Completion Report

The Borrower shall deliver to the Bank the following information 3 years after the project completion report at the latest by the deadline indicated below.

Document / information	Date of delivery to the Bank
Project Completion Report, including: Update of the actual values for the indicators of the project, for inclusion in the Bank's Results Measurement (REM) sheet	51 months after completion
Language of reports	English

Definitions of EURIBOR

A. EURIBOR

"EURIBOR" means:

- (a) in respect of a relevant period of less than one month, the Screen Rate (as defined below) for a term of one month;
- (b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and
- (c) in respect of a relevant period of more than one month for which a Screen Rate is not available, the Screen Rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period next shorter and the other for a period next longer than the length of the relevant period,

(the period for which the rate is taken or from which the rates are interpolated being the "**Representative Period**").

For the purposes of paragraphs (b) and (c) above, "available" means the rates that are calculated under the aegis of the EURIBOR FBE and EURIBOR ACI (or any successor to that function of the EURIBOR FBE and EURIBOR ACI as determined by the Bank) for given maturities.

"**Screen Rate**" means the rate of interest for deposits in EUR for the relevant period as published at 11h00, Brussels time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal euro-zone offices of four major banks in the euro-zone, selected by the Bank, to quote the rate at which EUR deposits in a comparable amount are offered by each of them as at approximately 11h00, Brussels time, on the Reset Date to prime banks in the euro-zone interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations.

If fewer than 2 (two) quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the euro-zone, selected by the Bank, at approximately 11h00, Brussels time, on the day which falls 2 (two) Relevant Business Days after the Reset Date, for loans in EUR in a comparable amount to leading European Banks for a period equal to the Representative Period.

If the rate resulting from the above is below zero, EURIBOR will be deemed to be zero.

If no rate is available as provided above, EURIBOR shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

B. LIBOR USD

"LIBOR" means, in respect of USD:

- (a) in respect of a relevant period of less than one month, the Screen Rate for a term of one month;

- (b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and
- (c) in respect of a relevant period of more than one month for which a Screen Rate is not available, the Screen Rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period next shorter and the other for a period next longer than the length of the relevant period,

(the period for which the rate is taken or from which the rates are interpolated being the "**Representative Period**").

For the purposes of paragraphs (b) and (c) above, "available" means the rates that are calculated under the aegis of the British Bankers Association (or any successor to that function of the British Bankers Association as determined by the Bank) for given maturities.

"**Screen Rate**" means the rate of interest for deposits in USD for the relevant period as set by the British Bankers Association (or any successor to that function of the British Bankers Association as determined by the Bank) and released by financial news providers at 11h00, London time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) London Business Days prior to the first day of the relevant period.

If such Screen Rate is not so released by any financial news provider acceptable to the Bank, the Bank shall request the principal London offices of 4 (four) major banks in the London interbank market selected by the Bank to quote the rate at which USD deposits in a comparable amount are offered by each of them at approximately 11h00, London time, on the Reset Date, to prime banks in the London interbank market for a period equal to the Representative Period. If at least 2 (two) such quotations are provided, the rate will be the arithmetic mean of the quotations provided.

If fewer than 2 (two) quotations are provided as requested, the Bank shall request the principal New York City offices of 4 (four) major banks in the New York City interbank market, selected by the Bank, to quote the rate at which USD deposits in a comparable amount are offered by each of them at approximately 11h00, New York City time, on the day falling 2 (two) New York Business Days after the Reset Date, to prime banks in the European market for a period equal to the Representative Period. If at least 2 (two) such quotations are provided, the rate will be the arithmetic mean of the quotations provided.

If the rate resulting from the above is below zero, LIBOR will be deemed to be zero.

If no rate is available as provided above, LIBOR shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

C. LIBOR GBP

"LIBOR" means, in respect of GBP:

- a) in respect of a relevant period of less than one month, the Screen Rate for a term of one month;
- (b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and
- (c) in respect of a relevant period of more than one month for which a Screen Rate is not available, the Screen Rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period next shorter and the other for a period next longer than the length of the relevant period.

(the period for which the Screen Rate is taken or from which the Screen Rates are interpolated being the "**Representative Period**")

For the purposes of paragraphs (b) and (c) above, "available" means the rates that are calculated under the aegis of the British Bankers Association (or any successor to that function of the British Bankers Association as determined by the Bank) for given maturities.

"**Screen Rate**" means the rate of interest for deposits in GBP for the relevant period as set by the British Bankers Association (or any successor to that function of the British Bankers Association as determined by the Bank) and released by financial news providers at 11h00, London time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") on which the relevant period starts or, if that day is not a Business Day in London, on the next following day which is such a Business Day.

If such Screen Rate is not so released by any financial news provider acceptable to the Bank, the Bank shall request the principal London offices of 4 (four) major banks in the London interbank market, selected by the Bank, to quote the rate at which GBP deposits in a comparable amount are offered by each of them at approximately 11h00, London time on the Reset Date, to prime banks in the London interbank market for a period equal to the Representative Period. If at least 2 (two) such quotations are provided, the rate will be the arithmetic mean of the quotations provided.

If fewer than 2 (two) quotations are provided as requested, the rate will be the arithmetic mean of the rates quoted at approximately 11h00, London time, on the Reset Date by major banks in London (selected by the Bank) for loans in GBP in a comparable amount to leading European banks for a period equal to the Representative Period.

If the rate resulting from the above is below zero, LIBOR will be deemed to be zero.

If no rate is available as provided above, LIBOR shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

D. General

For the purposes of the foregoing definitions:

- (a) "**London Business Day**" means a day on which banks are open for normal business in London and "**New York Business Day**" means a day on which banks are open for normal business in New York.
- (b) All percentages resulting from any calculations referred to in this Schedule will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, with halves being rounded up.
- (c) The Bank shall inform the Borrower without delay of the quotations received by the Bank.
- (d) If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EURIBOR FBE and EURIBOR ACI in respect of EURIBOR (or any successor to that function of the of EURIBOR FBE and EURIBOR ACI as determined by the Bank) or of the British Bankers Association (or any successor to that function of the British Bankers Association as determined by the Bank) in respect of LIBOR, the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

Forms for Borrower*C.1 Form of Disbursement Offer/Acceptance (Articles 1.02B and 1.02C)*

To: Republic of Moldova
 From: European Investment Bank
 Date: **[Insert Date]**
 Subject: Disbursement Offer/Acceptance for the Finance Contract between European Investment Bank and the Republic of Moldova dated 25 June 2013 (the **"Finance Contract"**)
 FI number 81.723 Serapis number 2011 0650

Dear Sirs,

We refer to the Finance Contract. Terms defined in the Finance Contract have the same meaning when used in this letter.

Following your request for a Disbursement Offer from the Bank, in accordance with Article 1.02B of the Finance Contract, we hereby offer to make available to you the following Tranche:

- (a) Amount and currency to be disbursed and its EUR equivalent;
- (b) Scheduled Disbursement Date;
- (c) Interest rate basis;
- (d) Interest payment periodicity;
- (e) Payment Dates;
- (f) Terms for repayment of principal;
- (g) The first and last principal repayment dates;
- (h) The Fixed Rate or Spread until the Maturity Date.

To make the Tranche available subject to the terms and conditions of the Finance Contract, the Bank must receive a Disbursement Acceptance in the form of a copy of this Disbursement Offer duly signed on your behalf, to the following fax number [] no later than the Disbursement Acceptance Deadline of [time] Luxembourg time on [date].

The Disbursement Acceptance must be accompanied (if it has not been previously supplied) by:

- (i) the indication of the bank account (with IBAN code in case of disbursements in EUR or the appropriate format for the relevant currency) where disbursement of the Tranche should be made; and
- (ii) evidence of the authority of the person or persons authorised to sign it on behalf of the Borrower and the specimen signature of such person or persons.

If not accepted by the above stated time, the offer contained in this document shall be deemed to have been refused and shall automatically lapse.

If you do accept the Tranche as described in this Disbursement Offer, all the related terms and conditions of the Finance Contract shall apply. in particular, the provisions of Article1.04

Yours faithfully,

EUROPEAN INVESTMENT BANK

We hereby accept the above Disbursement Offer:

For and behalf of Republic of Moldova

Date:

C 2 Form of Certificate from Borrower (Article 1.04B)

To: European Investment Bank
From: Republic of Moldova
Date: **[Insert date]**
Subject: Finance Contract between European Investment Bank and the Republic of Moldova dated 25 June 2013 (the "**Finance Contract**")
FI number 81.723 Serapis number 2011 0650

Dear Sirs,

Terms defined in the Finance Contract have the same meaning when used in this letter

For the purposes of Article 1.04 of the Finance Contract we hereby certify to you as follows:

- (a) no event described in Article 4.03 (*Compulsory prepayment*) has occurred and is continuing unremedied;
- (b) there has been no material change to any aspect of the Project or in respect of which we are obliged to report under Article 8.01, save as previously communicated by us;
- (c) we have sufficient funds available to ensure the timely completion and implementation of the Project in accordance with Schedule A.1;
- (d) no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute an event of default under Article 10.01 has occurred and is continuing unremedied or unwaived;
- (e) no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us or any of our subsidiaries any unsatisfied judgement or award;
- (f) the representations and warranties to be made or repeated by us under Article 6.07 are true in all respects; and
- (g) no Material Adverse Change has occurred, as compared with our condition at the date of the Finance Contract.

Yours faithfully,

For and on behalf of Republic of Moldova

Date:

1. General Information

1.1 Name/Number of Scheme:

1.2 Location of Scheme:

1.2.1 Area :

1.2.2 Community (town, village):

(attached map with Scheme's location)

2. Purpose of Investment

2.1 Immediate/principal purpose:

2.2 Secondary purpose/s:

3. Main technical characteristics

(lengths, number of lanes, design speed, major structures, etc. if necessary attach studies, drawings etc)

.....

4. Justification of Scheme

4.1 Beneficiaries/target group of Scheme:

4.2 Traffic

4.2.1 Traffic on existing road & percentage of trucks (past 5 years)

.....

4.2.2 In case of new road, traffic that will be diverted from the existing road to the new road

.....

4.2.3 Expected traffic growth rates (for light and heavy vehicles)

.....

4.3 Economic justification:

4.3.1 Description of existing road used by actual traffic (length, # of lanes, width shoulders, type of pavement, condition, maximum speed allowed, etc.):

4.3.2 Description of the project road (length, # of lanes, width shoulders, type of pavement, maximum speed allowed, etc.):

4.3.3 Accident rates (existing road and new road): injury accident rate in millions of vehicles-km as well as fatality / serious injury / light injury per accident:

4.3.3 increased (or decreased) expected maintenance costs with the project:

4.4 Environmental impact: please provide a short description of the major impacts and mitigants:

.....

Attach EIAS, non-technical summary, Schedule E, EMP etc.:

4.5 Social impacts

Please provide a summary estimate of the negative and positive social impacts, such as land acquisition required, number of involuntary resettlements or economic displacement. Attach studies, RPF, RAP etc. if available.

4.6 Employment data:

number of temporary jobs during implementation:

number of permanent jobs created (if applicable):

5. **Procurement**

5.1 Please present the Procurement plan and calendar.

6. **Time Table**

Start-up Completion (start of operation)

Month Year

Month Year

7. **Total Investment**

Works	
- Earthworks	
- Major bridge structures (>100m)	
- Major tunnels (>100m)	
- structures general	
- Drainage, incl. culverts	
- Retaining structures	
- Road works and Pavement	
- Safety measures (signage, guard railing)	
- Installations (mechanical and electrical)	
- Environment (e.g. noise, animal protection)	
- Other	
Management costs	
- Preliminary studies, feasibility studies, designs	
- Management costs (SPV costs, if relevant)	
- Supervision (including TA)	
Land Acquisition	
Total base cost	
Technical contingencies (%)	
Technical contingencies	
Sub-total	

Please provide an estimated distribution of costs per year during the implementation period.

**Form of Declaration by the Authority Responsible for Monitoring
Sites of Nature Conservation Importance**

PART I – Form A

Form A – No risk of significant effect

**DECLARATION BY THE AUTHORITY RESPONSIBLE FOR MONITORING
SITES OF NATURE CONSERVATION IMPORTANCE²**

Responsible Authority.....

Having examined³ the project application

(title).....

which is to be located at

we declare that (tick the appropriate box):

- ☐ The project is not likely to have significant effects on a site of nature conservation importance¹ on the following grounds:

.....
.....

Therefore an appropriate assessment required by Article 6 (3) of Directive 92/43/EEC was not deemed necessary.

- ☐ Following an appropriate assessment, according to Art. 6(3) of Directive 92/43/EEC, the project will not have significant negative effects on a site of nature conservation importance¹.

A map at scale of 1:100,000 (or the nearest possible scale) is attached, indicating the location of the project as well as the site of nature conservation importance¹ concerned, if any.

Signed: Date
(Authority responsible for monitoring sites of nature conservation importance)

Official Seal:

² This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, Ramsar sites, International Bird Areas, sites of the Emerald Network, or others as relevant.

³ taking into account the requirements of Art. 6(3) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

PART II – Form B

Form B – Risk of significant effect

**INFORMATION FROM THE AUTHORITY RESPONSIBLE FOR MONITORING
SITES OF NATURE CONSERVATION IMPORTANCE⁴**

Responsible Authority.....

Having examined⁵ the project application

(title).....

which is to be located at

provides the following information

Country:

Competent national authority:

Address:

Contact person:

Tel., fax, e-mail:

Date:

1. PROJECT

Name of the site affected:

This site is (please tick):

- ☐ a site identified by the national competent authority as qualifying under Art. 4(1) and (2) of the **Birds** directive (79/409/EEC) (Special Protection Area equivalent to Natura 2000)
- ☐ a site identified by the national competent authority as qualifying under Art. 4 (1) of the **Habitats** directive (92/43/EEC) (Special Area of Conservation equivalent to Natura 2000)
- ☐ For European Union Member States only, does the site concern a priority habitat or species?
☐ yes ☐ no
- ☐ a site listed in the latest inventory on **Important Bird Areas** (IBA 2000) or (if available) in an equivalent more detailed scientific inventories endorsed by national authorities
- ☐ a wetland of international importance designated under the **Ramsar** Convention or qualifying for such protection

⁴ This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, Ramsar sites, International Bird Areas, sites of the Emerald Network, or others as relevant.

⁵ taking into account the requirements of Art. 6(4) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

1. PROJECT

- ☐ a site to which the Bern convention on the conservation of European Wildlife and Natural Habitats (Art. 4) applies, in particular a site meeting the criteria of the **Emerald network**
- ☐ areas protected under national nature conservation legislation

Summary of the project having an effect on the site:

2. NEGATIVE EFFECTS

Summary of the assessment of the negative effects on the site:

N.B.: this summary should focus on the adverse effect expected on the conservation value of the site (habitats and species), include the appropriate maps and describe the already decided mitigation measures.

3. ALTERNATIVE SOLUTIONS

Summary of alternative solutions studied:

Reasons why the competent national authorities have concluded that there is absence of alternative solutions:

4. IMPERATIVE REASONS

Reason to nevertheless carry out this plan or project:

- ☐ Imperative reasons of overriding public interest, including those of a social or economic nature (in the absence of priority habitat/species)
- ☐ human health
- ☐ public safety
- ☐ beneficial consequences of primary importance for the environment
- ☐ other imperative reasons of overriding public interest⁶

Short description of the reason:

5. COMPENSATION MEASURES

Foreseen compensatory measures and timetable:

⁶ If the project is in the EU, obtain the opinion of the Commission (see Article 6(4) 2 of the Habitats Directive)

Form of Legal Opinion on the Finance Contract

European Investment Bank
100 Bd. Konrad Adenauer
L-2950 Luxembourg
Grand Duchy of Luxembourg

To the attention of the Legal Directorate

[Date]

Re: **MOLDOVA ROADS III**

Dear Sirs,

I, the undersigned, Minister of Justice of the Republic of Moldova, am giving this opinion pursuant to Article 1.04A(a) and Article 1.04A(e) of the Finance Contract (the "**Finance Contract**") for the Moldova Roads III in an amount of EUR 150,000,000, made on 25 June 2013 between the European Investment Bank (the "**Bank**") and the Republic of Moldova (the "**Borrower**"). All terms used herein and not otherwise defined shall have the same meaning as in the Finance Contract.

Reference is made also to the project agreement between the Bank and The State Roads Administration (*IS Administrația de Stat a Drumurilor*) of the Republic of Moldova (the "**Promoter**") dated on or about the date of the Finance Contract (the "**Project Agreement**").

I have examined an original of the Finance Contract and the Project Agreement and I have examined such laws, documents, treaties, agreements and other matters, as I have deemed necessary or appropriate for the purpose of giving this opinion.

1. Subject to the foregoing, I am of the opinion that:
 - (a) the Finance Contract has been duly executed and delivered on behalf of the Borrower by Mr. Iurie Leancă, Prime Minister of the Republic of Moldova as lawful representative of the Borrower;
 - (b) the execution of the Finance Contract by Mr. Iurie Leancă, Prime Minister of the Republic of Moldova as lawful representative of the Borrower has been made upon the provisions of **[INSERT DETAILS OF RELEVANT LAW]**;
 - (c) the Project Agreement has been duly executed and delivered on behalf of the Promoter by *[insert name]* as lawful representative of the Promoter; and
 - (b) the execution of the Project Agreement by *[insert name]* as lawful representative of the Promoter has been made upon the provisions of **[INSERT DETAILS OF RELEVANT LAW]**.
2. No provision exists in the Republic of Moldova which would make it necessary that neither the Finance Contract nor the Project Agreement be filed, recorded or enrolled with any court or authority in order to ensure its legality, validity or enforceability.
3. The choice of English law as the law governing the Finance Contract is valid and enforceable.
4. None of the entry into and performance by the Borrower of, and the transactions contemplated by, the Finance Contract, the acceptance of the Credit, the signing of a Disbursement Offer, the submission of a Disbursement Request or the acceptance of a disbursement of a Tranche under the Finance Contract in any way conflicts with or breaches any restrictions on the incurring of financial indebtedness by the Borrower imposed by any international financial institution or international bank.
5. A judgment by the courts of England and Wales will be recognised and given effect to in the Republic of Moldova without a retrial of claim.

6. By virtue of the provisions of the Finance Contract, any dispute between the parties shall be settled by final and binding arbitration in accordance with the UNCITRAL Arbitration Rules. Any award of such tribunal of arbitration against the Borrower in relation to the Finance Contract may be enforced in the Republic of Moldova.
7. No taxes, duties, fees or other charges, including, without limitation, any registration or transfer tax, stamp duty or similar levy, imposed by the Republic of Moldova or any political subdivision or taxing authority thereof or therein are payable in connection with the execution and delivery of the Finance Contract or the Project Agreement, nor in connection with any payment to be made by the Borrower to the Bank pursuant to the same Finance Contract.
8. All necessary exchange control consents, which may be necessary to receive disbursements, to repay the same and to pay interest and all other amounts due under the Finance Contract are in effect.
9. The waiver of immunity under Article 11.05 of the Finance Contract is a legally valid and binding obligation of the Borrower.

Based on the foregoing, I am of the opinion that all requirements currently applicable to the Borrower and the Promoter and/or governing the Finance Contract and the Project Agreement in relation to the laws of the Republic of Moldova have been complied with and that the Finance Contract and the Project Agreement both constitute valid and binding obligations of the Borrower enforceable in accordance with their terms.

Yours faithfully,

[Name]

Minister of Justice

NOTĂ INFORMATIVĂ

Cu privire la aprobarea proiectului de Lege pentru ratificarea Contractului de Finanțare dintre Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova

Informații generale: Întru continuarea realizării reformei infrastructurii rutiere, Guvernul Republicii Moldova a intervenit cu solicitarea către creditorii externi pentru oferirea asistenței financiare întru implementarea unui program de stopare a degradării rețelei de drumuri, reabilitarea și modernizarea infrastructurii de transport, în special a infrastructurii drumurilor.

Obiectivul Proiectului presupune continuarea implementării Programului Guvernului în sectorul drumurilor, care prevede reabilitarea rețelei de drumuri naționale ale Republicii Moldova.

Ca urmare, Banca Europeană pentru Reconstrucție și Dezvoltare și Banca Europeană de Investiții au acceptat solicitarea Guvernului Republicii Moldova privind finanțarea Proiectului dat, în scopul reabilitării mai multor sectoare de drum. Costul total al proiectului constituie 300 400 000,00 Euro. Proiectul va fi finanțat de către Banca Europeană pentru Reconstrucție și Dezvoltare prin acordarea unui împrumut în valoare de 150,0 milioane Euro, Banca Europeană de Investiții prin acordarea unui împrumut în valoare de 150,0 milioane Euro, Fondul de Investiții pentru Vecinătate prin acordarea unui grant în valoare de 400,0 mii Euro.

Sursele menționate vor fi destinate reabilitării următoarelor sectoare de drum:

Denumirea drumului	Sectorul	Lungimea (km)
M3 Chișinău – Giurgiulești (drum de ocolire Slobozia Mare)	km 0- km 20	20
M3 Chișinău – Giurgiulești (sector Porumbrei-Cimișlia)	km 0 - km 26	26
M3 Chișinău – Giurgiulești (drum de ocolire Comrat)	km 0- km 18	18
R16 Bălți – Fălești - Sculeni	km 5 - km 59	54
M1 Chișinău–Leușeni- România (drum de ocolire Chișinău)	km 0- km 8	8
R14 Bălți – Sărăteni - M2	km 26 - km 38 km 43 - km 61 km 64 - km 67	33
R34 Hîncești – Leova – Cahul - Slobozia Mare	km 0 - km 83	83
R6 M1-Ialoveni (sectorul M1 – R3)	km 0 - km 7	7
R9 Soroca – Arionești – M.Podolski (sector Soroca-Arionești)	km 0 - km 31	31

M21 Chişinău – Dubăsari - Poltava (drum de ocolire Chişinău)	km 5- km 15	10
R 33 Hînceşti - Lăpuşna	km 5-37	32
Lungimea totală aproximativă (km)		322

Aspectul politic: Contractul respectiv nu contravine politicii interne şi externe promovate de Republica Moldova.

Aspectul normativ: Contractul în cauză este compatibil cu instrumentele internaţionale la care Republica Moldova este parte. Încheierea acestuia nu implică adoptarea unor Legi noi sau modificarea legislaţiei în vigoare.

Aspectul organizatoric: În vederea realizării prevederilor prezentului Contract, nu este necesară înfiinţarea structurilor noi sau modificarea celor existente.

Aspectul financiar: Maturitatea împrumutului este de 18 ani, inclusiv perioada de graţie fiind de 5 ani, rata dobânzii se va stabili pentru fiecare tranşă debursată separat, comision unic constituie 50 mii Euro.

Aspectul economic: Resursele sunt destinate pentru finanţarea lucrărilor de construcţie şi reabilitare a aproximativ 121 km de drum.

Aspectul temporar: Proiectul urmează a fi realizat până la finele anului 2018.

Astfel, în scopul ratificării Contractului de finanţare, se propune spre examinare şi aprobare proiectul hotărîrii Guvernului *“Cu privire la aprobarea proiectului de Lege pentru ratificarea Contractului de finanţare între Republica Moldova şi Banca Europeană de Investiţii privind realizarea lucrărilor de construcţie şi reabilitare a drumurilor în Republica Moldova”*.

Veaceslav Negruta


Ministru

**MINISTERUL TRANSPORTURILOR ȘI
INFRASTRUCTURII DRUMURILOR
AL REPUBLICII MOLDOVA**



**МИНИСТЕРСТВО ТРАНСПОРТА И
ДОРОЖНОЙ ИНФРАСТРУКТУРЫ
РЕСПУБЛИКИ МОЛДОВА**

Bd. Ștefan cel Mare și Sfânt, 162
MD-2004 Chișinău
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E-mail secretary@mtid.gov.md
IDNO 1008601001212

Бул. Штефан чел Маре ши Сфынт.162
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E-mail secretary@mtid.gov.md
IDNO 1008601001212

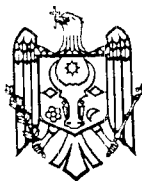
03.07.2013 Nr. 04/1-3-353
La nr. 13/1-6-190 din 02.07.2013

Ministerul Finanțelor

Ministerul a examinat proiectul Hotărârii Guvernului „Cu privire la aprobarea proiectului de Lege pentru ratificarea Acordului de împrumut între republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova” și Vă comunică despre lipsa de obiecții și propuneri.

Viceminisru

Boris GHERASIM



02.04.2013 nr. 05/5908

Ministerul Finanțelor

Cu referire la proiectul **Contractului de finanțare între Republica Moldova și Banca de Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitarea drumurilor în Republica Moldova, în suma de 150 milioane Euro, semnat la Luxembourg la 25 iunie 2013**, potrivit competențelor funcționale, expunem următoarele.

În preambul la pct. (12) se stabilește asigurarea transparenței implementării Contractului de către autoritățile Republicii Moldova, accesul la documentele de politici (strategii, planuri de acțiuni) și practicile în domeniu. În acest sens, urmează a se desemna autoritățile responsabile de asigurarea transparenței.

La art. 1.04 sunt stabilite cerințele, ce urmează a fi realizate pînă la eliberarea primei tranșe (autorizarea și licențierea activităților de către autoritățile competente). Astfel, se consideră necesar ca proiectul Hotărîrii Guvernului cu privire la aprobarea proiectului de Lege pentru ratificarea Contractului respectiv, să fie contrasemnat, potrivit art. 30 al Legii nr. 64-XII din 31 mai 1990 cu privire la Guvern de către Ministrul economiei.

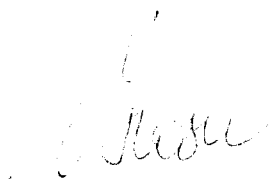
Tot la art. 1.04 este stabilită necesitatea de a elabora și aproba un Plan de acțiuni. Prin urmare, în nota informativă se va indica autoritatea competentă de a elabora și respectiv cea care îl va aproba.

La clauza 4.03 A(3) este stabilită obligația Republicii Moldova de a informa Banca Europeană de Investiții despre amendamentele la legislație, care vin să favorizeze imparțial Republica Moldova la executarea contractului, fapt care implică desemnarea autorităților naționale responsabile de asigurarea stabilității cadrului normativ în acest sens și/sau informarea Băncii Europene de Investiții despre amendarea acestuia.

La clauza de la 4. 03A(4) este indicat că, dacă devine ilegală pentru Banca de Investiții de a efectua oricare din obligațiile sale, avute în vedere în acest Contract sau a fondului sau de a menține împrumutul, banca comunică prompt debitorului și poate imediat să suspende sau să anuleze porțiunea de avans de Credit și/sau cererea de împrumut la data indicată de către bancă. În acest sens Republica Moldova trebuie să anticipeze riscurile.

De asemenea, urmează suplimentar de a se analiza legislația engleză, care este desemnată legea contractului. (art.11.01)

Viceministru



Vladimir GROSU

V. Melnic
Tel. 20 14 37
Acord



MINISTERUL AFACERILOR EXTERNE ȘI INTEGRĂRII EUROPENE
AL REPUBLICII MOLDOVA
MINISTRY OF FOREIGN AFFAIRS AND EUROPEAN INTEGRATION
OF THE REPUBLIC OF MOLDOVA

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Nr. DI-04/3- 8582.. EP.. 67 2013

Ministerul Finanțelor

Cu referire la scrisoarea Ministerului Finanțelor nr. 13/1-6-190 din 02 iulie 2013, Ministerul Afacerilor Externe și Integrării Europene a examinat *proiectul Hotărîrii Guvernului „Cu privire la aprobarea proiectului de lege pentru ratificarea Contractului de finanțare între Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova, în sumă de 150,0 milioane Euro, semnat la Luxembourg la 25 iunie 2013”* și în limita competențelor funcționale, comunică lipsa de obiecții și propuneri.

Andrei POPOV
Viceministru

**MINISTERUL ECONOMIEI
AL REPUBLICII MOLDOVA**



**МИНИСТЕРСТВО ЭКОНОМИКИ
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Веб страница: www.mec.gov.md

11.07.2014 nr. 17-3885

La nr. _____ din _____ 20 _____

Ministerul Finanțelor

Ministerul Economiei a examinat proiectul hotărîrii Guvernului „Cu privire la aprobarea proiectului de lege pentru ratificarea Acordului de împrumut între Republica Moldova și Banca Europeană de Investiții privind realizarea lucrărilor de construcție și reabilitare a drumurilor în Republica Moldova”, în sumă de 150 milioane Euro, semnat la Luxemburg la 25 iunie 2013 și comunică lipsa de obiecții.

**Viceprim-ministru,
ministru al economiei**

Valeriu LAZĂR

Ex. O. Drăguța
Tel. 250 627