

CONTRIBUTION AGREEMENT

BETWEEN

GOVERNMENT OF THE REPUBLIC OF MOLDOVA

AND

**EUROPEAN BANK FOR RECONSTRUCTION AND
DEVELOPMENT**

IN RESPECT OF

REPUBLIC OF MOLDOVA'S PARTICIPATION IN THE

**EASTERN EUROPE ENERGY EFFICIENCY AND
ENVIRONMENT PARTNERSHIP REGIONAL FUND**

THIS CONTRIBUTION AGREEMENT (the "**Contribution Agreement**") is made between the **GOVERNMENT OF THE REPUBLIC OF MOLDOVA** (the "**Contributor**") and the **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "**EBRD**"), jointly referred to hereinafter as the "**Parties**" and each a "**Party**", in respect of the Contributor's commitment and contribution to the Eastern Europe Energy Efficiency and Environment Partnership Regional Fund (the "**Fund**").

WHEREAS

(A) EBRD has established the Fund in accordance with the terms of the Rules of the Eastern Europe Energy Efficiency and Environment Partnership Regional Fund dated 23 July 2014 as may be amended (the "**Rules**");

(B) The Contributor now wishes to make a contribution to the Fund, which shall be accepted, held, managed, administered, used, committed, expended or otherwise disposed of by the EBRD in accordance with the Rules and this Contribution Agreement;

(C) The Parties have agreed to conclude this Contribution Agreement, as required by Section 2.02 of the Rules;

NOW THEREFORE the Parties hereto agree as follows:

Article I. Contribution

1. The Contributor hereby contributes the amount of EURO 1,000,000 (One million Euro) (the "**Contribution**") to the Fund. The Contribution shall be accredited to the following Country Window as follows: Moldova Window: EURO 1,000,000 (One million Euro).

2. The Contribution shall be paid in cash in Euro, in 5 annual instalments paid upon receipt of a payment request from the EBRD. The first annual instalment of EURO 100,000 shall be paid within one month from the entry into force of this Contribution Agreement and the four subsequent annual instalments of EURO 225,000 each before the end of June of each calendar year commencing 2015 and ending 2018.

3. In the event of closure of the Moldova Window, the funds attributable to the Contributor, if any, will be returned to the Contributor on a bank account specified by the Contributor.

Article II. Purpose

The Contribution shall be used solely for the purposes, as set out in Section I of the Rules unless agreed otherwise in writing between the Parties.

Article III. Application of the Rules

The Contributor hereby:

- (i) acknowledges receipt of a copy of the Rules, as in force on the date of entry into force of this Contribution Agreement; and
- (ii) agrees that the Rules shall apply to this Contribution Agreement and the Contribution, as if incorporated herein in full.

Article IV. Notices

All matters relating to the implementation of any Fund document shall be addressed to the following authorised representative of each Party:

(i) **for the Contributor**

Attention: Ms. Mariana Botezatu
Director of General Department of Energy Security and Efficiency
Ministry of Economy of the Republic of Moldova
1, Piata Marii Adunari Nationale
Chisinau, Republic of Moldova
Tel: [+373 22] 250 557
Fax: [+373 22] 250 591
Email: mariana.botezatu@mec.gov.md

(ii) **for the EBRD**

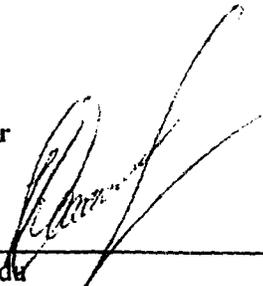
Attention: Mr. Alistair Clark
Managing Director, Environment and Sustainability Department
Address: One Exchange Square, EC2A 2JN, United Kingdom
Tel: (+44) 207 3386020
Fax: (+44) 207 3386848
Email: clarka@ebrd.com

Article V. Final Clauses

- (a) All capitalised terms used in this Contribution Agreement have the meaning attributed to them in the Rules, which shall take precedence over the Contribution Agreement.
- (b) The Contributor shall do and execute all such further acts, as are required to give full effect to the rights and obligation, as specified and the transactions contemplated by the Rules and this Contribution Agreement.
- (c) This Contribution Agreement shall enter into force on the date on which the EBRD receives a written notification from the Contributor confirming the completion of the internal procedures of the Contributor necessary for its entry into force.

Signed in the English language, in two originals, one for each of the Parties.

For the Contributor

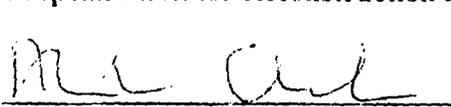
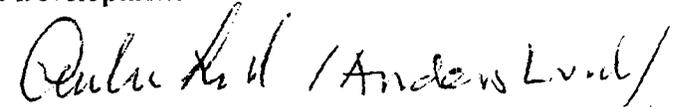


Name: Andrian Candu

Title: Deputy Prime Minister, Minister of Economy of the Republic of Moldova

Date: October 16, 2014

For the European Bank for Reconstruction and Development

Name: Mr. Alistair Clark

Title: Managing Director, Environment and Sustainability Department

Date: October 16, 2014

RULES

of the

**EASTERN EUROPE ENERGY
EFFICIENCY AND ENVIRONMENT
PARTNERSHIP REGIONAL FUND**

Dated: 23 July 2014

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PREAMBLE

WHEREAS in the context of its Presidency of the European Union commencing 1 July 2009, the Swedish authorities have proposed an Eastern Europe Energy Efficiency and Environment Partnership (the “Partnership”), to be financially supported by an Eastern Europe Energy Efficiency and Environment Partnership Fund (the “E5P Fund”);

WHEREAS it was decided at a high level meeting on 28 April 2009 in Stockholm, between the EBRD, the European Commission (the “EC”), European Investment Bank, (the “EIB”), Nordic Investment Bank (the “NIB”), Nordic Environment Finance Corporation (the “NEFCO”), the International Bank for Reconstruction and Development (the “IBRD”), and International Finance Corporation (“IFC”) that (i) the E5P Fund would be established by the EBRD; and (ii) the EBRD would act as a fund manager and would manage and administer the E5P Fund on behalf of the contributors in cooperation with the international financial institutions participating in the Partnership, which may act as implementing agencies for projects, supported by the Partnership;

WHEREAS it was agreed that the initial geographical focus of the Partnership would be Ukraine, but that subject to certain conditions, the Partnership would endeavour to subsequently expand, as appropriate, to other countries within the EU “Eastern Partnership” region¹;

WHEREAS on 10 November 2010, the EBRD Board of Directors approved the establishment of the E5P Fund and the rules for the management and administration of resources contributed by contributors to the E5P Fund account;

WHEREAS, in line with the original considerations set out above as regards the geographical focus of the Partnership, during a pledging conference of the E5P Fund in Luxembourg on 21 October 2013 and at the meeting of the Assembly of Contributors of the E5P Fund in London on 5 December 2013, contributors to the E5P Fund expressed the wish to expand the Partnership, to allow financial support to be used primarily for energy efficiency and environmental projects, resulting in a significant energy savings, reduction of carbon dioxide (CO₂) and other greenhouse gases (GHG) emissions, also in other countries within the EU Eastern Partnership region;

¹ Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine

WHEREAS it was agreed that (i) a new E5P Regional Fund (the “Fund”), a multi-donor cooperation funds account, be established by the EBRD pursuant to Article 20.1(viii) of the Agreement Establishing the EBRD, which empowers the EBRD to conclude with public or private entities agreements of cooperation under which the EBRD administers funds provided by such entities for purposes consistent with the purpose and functions of the EBRD, to allow the financing of activities in countries of the EU Eastern Partnership region; and (ii) the EBRD will act as a fund manager (the “Fund Manager”) and will manage and administer the E5P Regional Fund on behalf of the contributors of the E5P Regional Fund in cooperation with the international financial institutions participating in the Partnership, which may act as Implementing Agencies (as defined in Section 3.06 of the rules of the E5P Regional Fund) for projects supported by the Partnership;

WHEREAS it was agreed that only projects in countries within the EU Eastern Partnership region that have also become Contributors (as defined in these Rules) to the Fund (jointly referred to hereinafter as the “Recipient Countries”, and each referred to hereinafter as a “Recipient Country”) will be eligible for financing with resources of the Fund, subject to sufficient level of resources in the Fund which could be used to support the implementation of any project in a certain Recipient Country and a Contribution paid, in part or in full, into the Fund from such Recipient Country.

WHEREAS it was further agreed that the initial sector focus of the Partnership will be projects resulting in significant energy efficiency gains, with environmental projects (e.g. related to waste water) also within the scope of the Partnership, but provided that they contribute towards achieving higher energy efficiency;

WHEREAS while it is recognised that in order to ensure that the most efficient and effective financing solution for each project is applied, eligible projects may require the blending of loans and grant financing from a number of different financing sources, as well as, local financing, when a project to be supported by the Fund is being considered and approved, only the amounts actually paid into the relevant Fund Account(s) (as defined herein below) shall be taken into account by the Assembly of Contributors of the Fund;

WHEREAS, in view of the convergence of purpose and governance of the E5P Fund and the E5P Regional Fund, both established under the Partnership and managed and administrated by the EBRD as fund manager, it is expected that the rules of these two funds are implemented by all participants in the Partnership, as appropriate, in a harmonised and coordinated manner;

WHEREAS, on 23 July 2014 the EBRD Board of Directors approved the establishment of the E5P Regional Fund and the rules of the E5P Regional Fund as set out hereinbelow, effective as of the date of the Board of Directors' approval.

SECTION I – PURPOSE OF THE FUND

The purpose of the Fund is to allow a harmonised and effective delivery of international financial support over several years by pooling non-reimbursable contributions made by members of the EBRD and/or other public entities, to be used primarily for supporting energy efficiency and environmental projects, resulting in a significant energy savings, reduction of carbon dioxide (CO₂) and other greenhouse gases (GHG) emissions.

SECTION II – RESOURCES OF THE FUND

Section 2.01. Resources and Expenditure

(a) The resources of the Fund shall consist of:

(i) amounts accepted by the Fund Manager for inclusion in the Fund pursuant to Sections 2.02 and 2.03;

(ii) income derived from investment of the resources of the Fund in accordance with Section 3.08;

(iii) amounts recovered under proceedings taken pursuant to Section 3.03 (c);

(b) The amounts accepted by the Fund Manager under Section 2.01 (a)(i) above shall be accredited to country windows, one for each of the Recipient Countries (each a "Country Window", jointly the "Country Windows"), based on the instructions provided in this respect by each Contributor in its respective Contribution Agreement. The resources in each Country Window shall be used to finance only projects, as approved by the Assembly of Contributors, in the country to which the relevant Country Window pertains.

(c) Resources of the Fund will be received, administered, used and disposed of in accordance with the Rules.

Section 2.02. Contributions

(a) Any member of the EBRD and/or public entity (each a “Contributor”, jointly the “Contributors”) may contribute resources to the Fund, on a non-reimbursable basis, (each a “Contribution”, jointly “Contributions”), subject to the approval of the Assembly of Contributors of the Fund and the conclusion of a contribution agreement (the “Contribution Agreement”) between the Contributor and the Fund Manager.

Each Contribution Agreement will incorporate these Rules in full and will be substantially in the form and substance of the contribution agreement template attached to these Rules as Annex 1. Each Contribution Agreement will, *inter alia*, specify and/or regulate (i) the amount and the currency of the Contribution, (ii) the manner in which payment thereof will be made to the Fund, (iii) the Country Window(s) to which Contribution is being made, and (iv) such other matters as may be required and are permitted by the Rules. Contributors may also specify in their Contribution Agreement, as provided for in Section 4.02 below, where the funds attributable to the Contributor are to be transferred in the event of closure of the Country Window to which the Contribution was originally made or, alternatively, that such funds would be returned to the Contributor. If a Contribution is to be accredited by the EBRD to two or more Country Windows, then the Contribution Agreement should also indicate in what proportions such Contribution should be accredited to the different Country Windows.

(b) By entering into a Contribution Agreement, the Contributor shall be deemed to accept the application of the Rules to the Contribution made pursuant to such Contribution Agreement.

(c) Several Contributors may enter into a single Contribution Agreement with the EBRD. In this case, their respective obligations to pay Contributions shall be several, unless the relevant Contribution Agreement specifies otherwise.

(d) Contributors may specify in their Contribution Agreements any preferences which they have with respect to the use of any of their respective Contributions, or parts thereof. Such preferences may be taken into account in the allocation and use of resources of the Fund subject to the approval of the Assembly of Contributors.

(e) Subject to the approval of the Assembly of Contributors of the Fund, a Contributor may be allowed to make more than one Contribution to the Fund over the life of the Fund. Each Contribution will be subject to the conclusion of a separate Contribution Agreement.

(f) Except as provided for in these Rules, and in particular Section 2.02 (d) above, the use of any Contribution made to the Fund shall not be subject to any conditions, limitations or restrictions.

Section 2.03. Payment of Contributions

(a) Each Contribution shall be denominated in Euro or any other freely convertible currency and shall be made available to the Fund Manager in cash or in promissory notes, or other obligations issued by the Contributor. Such notes or obligations shall be irreversible, non-conditional and payable to the Fund Manager, in whole or in part, as required by the Fund Manager, at *par* value upon demand. Calls for payment shall be made as required to meet disbursements during the life of the Fund, or for an alternative period as determined by the Assembly of Contributors of the Fund.

(b) Contributions, when paid in cash through a bank transfer to the relevant Fund Account(s) (as defined in Section 3.10 (a) below), may be paid by the Contributor to the Fund in up to 5 instalments within a period of 5 years from the date of entry into force of the relevant Contribution Agreement. Payment of a Contribution in instalments will be subject to the approval of the Assembly of Contributors and the agreement of the Fund Manager.

(c) As specified in Section 2.03(a), a Contribution Agreement may provide for the settlement of payment obligations of the Contributor in a currency other than Euro. Unless provided otherwise in the Contribution Agreement, any Contribution not made in Euro will be converted by the Fund Manager in Euro upon the receipt of such Contribution in the relevant Fund Account(s), on the basis of the exchange rate of such currency vis-à-vis Euro, as established by the Fund Manager based on the exchange rate determined by the external bank where the funds are held and such converted amount shall constitute the amount of the Contribution.

Section 2.04. Separation of Resources

(a) The resources of the Fund shall be kept at all times separate from the ordinary capital resources of the EBRD and from the Special Funds resources of the EBRD, as such terms are defined or referred to in the Agreement Establishing the EBRD.

(b) Under no circumstances shall the ordinary capital resources of the EBRD or the Special Funds resources of the EBRD be charged with, or used to discharge, losses or liabilities arising out of the operations or other activities for which resources of the Fund were used or committed.

SECTION III – GOVERNANCE, MANAGEMENT AND OPERATIONS OF THE PARTNERSHIP AND THE FUND

Section 3.01. Steering Group

The work of the Partnership shall be directed by a Steering Group (the “Steering Group”), whose members shall include representatives of the Implementing Agencies (EBRD, EIB, NIB, NEFCO, IBRD, IFC and any other financial institution, expressly approved by the Assembly of Contributors), and the Recipient Country (or Countries) where projects to be financed with resources of the Fund are to be implemented. To supplement the existing expertise and building on the principle of inclusion, the Steering Group shall invite representatives of contributing countries and, as appropriate, other organisations and institutions to attend the Steering Group meetings as observers. The main task of the Steering Group shall be to (i) identify eligible projects based on the Allocation Guidelines for Grants from the Eastern Europe Energy Efficiency and Environment Partnership, attached as Annex 2 to these Rules and as may be amended from time to time pursuant to the procedure set out in Section 3.02(f) below and the country where such projects are to be implemented, for funding with the resources of the Fund and (ii) prioritise among all eligible projects, identifying the most urgent energy efficiency and environmental projects, and (iii) to facilitate the co-ordination and financing of such projects.

Any participant in the Steering Group may suggest projects for consideration by the Steering Group. Prior to any Steering Group meeting, the members of the Steering Group will consult, as appropriate, with relevant stakeholders in the Recipient Country, where a project is to be implemented, on the projects to be proposed for implementation in such Recipient Country.

Section 3.02. Assembly of Contributors

(a) The Assembly of Contributors shall be the governing body of the Fund. It shall be responsible for the overall policy of the Fund and will supervise its implementation. In particular, the Assembly of Contributors shall:

- (i) determine the principal orientations and strategies of the activities financed or to be financed with the resources of the Fund and generally supervise their implementation by the Fund Manager;
- (ii) approve projects to be funded from the resources of the Fund;
- (iii) monitor the payment of the committed Contributions to the Fund, having regard to project implementation and necessary disbursements;
- (iv) review the effectiveness of the activities financed with the resources of the Fund;
- (v) approve the annual budget and financial statements of the Fund;

(vi) discuss and endorse guidelines, if any, prepared by the Fund Manager on the basis of existing practices, including:

- guidelines for payment of promissory notes pursuant to Section 2.03(a);
- guidelines for the management of the liquid assets of the Fund;
- implementation and monitoring guidelines (e.g. Operations Manual, Disbursement Handbook etc.);

(vii) monitor disbursements of Fund resources by the Fund Manager;

(viii) provide guidance to the Fund Manager in the carrying out of its function in accordance with Section 3.03;

(ix) review on an annual basis the procurement actions in respect of contracts financed by the Fund;

(x) approve the work programmes, prepared by the Fund Manager, for the activities of the Fund; and

(xi) ensure that the appropriate visibility is given to the activities financed by the Fund, taking into account the needs of the various Contributors.

(b) Each Contributor shall have one (1) representative in the Assembly of Contributors and shall have the right to participate in meetings of the Assembly of Contributors of the Fund, provided that such Contributor has, at the date of the meeting of the Assembly of Contributors, met its obligations under its first Contribution Agreement. If a Contributor is paying its Contribution to the Fund in instalments, pursuant to the provisions of Section 2.03(b), and delays the payment of any instalment, its rights as a Contributor, including its participation in the Assembly of Contributors to the Fund, shall be automatically suspended, thirty (30) days following the date of default (i.e. the day following the date on which the instalment should have been paid) until the date on which such Contributor meets its obligations with respect to the payment of the instalment.

(c) The representative of each Contributor shall act on behalf of such Contributor without remuneration from the Fund. Each representative may be accompanied by advisory staff, also without remuneration from the Fund. Participants to the Assembly of Contributors will cover their own costs of participation. An individual may at the same time serve as representative of more than one Contributor in the Assembly of Contributors if such Contributors shall have so agreed and notified, in writing, the Fund Manager in advance of the meeting of the Assembly of Contributors.

(d) The Assembly of Contributors of the Fund shall hold regular annual meetings at which the financial statements for the previous fiscal year of the Fund shall be submitted for approval. The Assembly of Contributors of the Fund may also decide to hold other meetings, as necessary. Special meetings of the Assembly may be called by the Chair at any time or shall be called by the Chair if so decided by the Assembly, or at the request of the Fund Manager or Contributors which account for not less than one-third of the aggregate amount of all Contributions to the Fund at the date of such request.

(e) Unless otherwise decided by the Assembly of Contributors in accordance with the procedure set out in Section 3.02 (f), the representative of the largest Contributor, as of the date of commencement of operations of the Fund, shall be the first Chair. A Contributor will act as a Chair until the Assembly of Contributors of the Fund votes for a succeeding Chair.

(f) Without prejudice to the provisions of Section 3.02 (g) below, the participation of not less than half of all Contributors including the Recipient Country for any project to be considered by the Assembly of Contributors, in any meeting of the Assembly of Contributors shall constitute a quorum at such meeting. Decisions will be made by the Assembly of Contributors of the Fund by consensus, wherever possible. Unless otherwise provided in these Rules, in cases where consensus cannot be reached, a vote will be taken and a decision will be made provided that (i) a minimum of 2/3 of the members of the Assembly of Contributors, present at the meeting when a decision is made, including the Recipient Country when a decision pertains to a project to be, is being or has been, implemented in such Recipient Country, vote in favour of the decision and (ii) the total value of the Contributions paid to the Fund Account(s), up to the date on which a vote is taken, by such Contributors voting in favour of the decision, constitutes a minimum of 2/3 of the total value of the Contributions paid to the Fund Account(s) up to the date on which the vote is taken. Each Contributor will have one (1) vote. On an exceptional basis, the Assembly of Contributors of the Fund may make decisions on the basis of written resolutions, in the absence of a meeting. A minimum of ten (10) working days will be given for a Contributor to provide its vote. If a Contributor does not submit its response with respect to the written resolution within the timeframe provided for this purpose, its vote will be counted in favour of the written resolution. The foregoing notwithstanding, the provisions of Annex 2 of these Rules may only be amended by consensus of all members of the Assembly of Contributors and with the agreement of the President of the EBRD.

(g) Notwithstanding the provisions of Section 3.02 (f) above, when a decision of the Assembly of Contributors pertains to a specific Recipient Country Window or a project in such Recipient Country, only the participation in the meeting and the vote of the Contributors which have made Contributions to the relevant Country Window shall be taken into account for the quorum and majority requirements referred to in Section 3.02 (f) above.

(h) The Chair of the Assembly of Contributors of the Fund may invite representatives of governments, other institutions and entities to attend specific agenda items of meetings of the Assembly of Contributors of the Fund as observers.

(i) If failure by a Contributor to meet its obligations under its Contribution Agreement shall, in the judgement of the Chair of the Assembly of Contributors, materially interfere with or prejudice the operations of the Fund, the Chair of the Assembly of Contributors Fund shall call a special meeting of the Assembly of Contributors of the Fund to consider the taking of appropriate measures.

(j) The meetings of the Assembly of Contributors of the Fund shall be held at the Fund Manager's headquarters or in such other place as may be agreed between the Chair of the Assembly of Contributors of the Fund and the Fund Manager.

(k) The Fund Manager shall be present at the meetings of the Assembly of Contributors of the Fund in its capacity as Fund Manager.

(l) The Implementing Agencies (as defined in Section 3.06 below) of the Partnership projects supported by the Fund pursuant to Section 3.06 will attend meetings of the Assembly of Contributors.

(m) The Assembly of Contributors of the Fund will decide on its own Rules of Procedure in line with the present Rules.

Section 3.03. Administrative Support by the Fund Manager

(a) The Fund Manager shall administer the Fund and shall provide, within approved budgets, administrative support to the Fund. In particular, the Fund Manager shall fulfil its role by:

(i) making available staff and other experts with the skills and competence required to administer the Fund;

- (ii) preparing, making, disbursing and administering funding agreements, making calls for payment of promissory notes as required to make disbursements, and otherwise operating the Fund in accordance with the provisions of the Rules.**
- (iii) liaising, to the extent necessary to fulfil its managerial role, with the Contributors, the Government of the recipient country, relevant authorities in the recipient country and other public and private entities, and reporting thereon to the Assembly of Contributors;**
- (iv) preparing annual financial statements of the Fund and a report on such financial statements and on the activities financed with the resources of the Fund during the period covered by such statements for review and approval by the Assembly of Contributors;**
- (v) preparing the meetings of the Assembly of Contributors of the Fund and serving as secretariat of such meetings;**
- (vi) drawing up work programmes of activities of the Fund and transmitting project proposals from the Steering Group or individual Contributors (following evaluation by the Fund Manager) for approval by the Assembly of Contributors;**
- (vii) submitting to the Assembly of Contributors of the Fund all necessary reports and technical documentation, including an Annual Report. Such reports will provide a comprehensive overview of the implementation of the Fund's work programmes, but will be based solely on the reports, if any, and the information contained therein on an "as is" basis, provided by Implementing Agency (in the case when the EBRD is not the Implementing Agency) to the EBRD as Fund Manager;**
- (viii) ensuring that in its publications (Annual Report, newsletters etc.), in its communications with the recipient country and the media, as well as on the construction sites established for projects implemented with the support of the Fund, appropriate visibility is given to the Fund and its Contributors, due account being taken of the relative size of the Contribution(s) made by each Contributors to the Fund;**
- (ix) carrying out such other functions as may be necessary for the efficient administration of the Fund, except for functions, which pertain to the competence of the Assembly of Contributors of the Fund and have not been delegated to the Fund Manager.**

(b) The Fund Manager may adopt such internal operating procedures, compatible with the Rules, as shall be considered necessary or appropriate for the efficient administration of the Fund.

(c) Notwithstanding relevant EBRD policies and procedures, in case of misuse, or alleged misuse of resources, provided from a Country Window, the Fund Manager may, subject to the unanimous consent of the Contributors to such Country Window, undertake recovery proceedings as are approved unanimously by such Contributors in the Assembly of Contributors, in a manner consistent with the care and diligence applied by the EBRD with respect to projects financed out of its ordinary capital resources and taking into consideration any concerns, opinions, views, recommendations, and/or advice of the Assembly of Contributors.

The voting procedures set out in Section 3.02 (f) and (g) of these Rules shall not be applicable to decisions regarding the recovery proceedings.

Any resources recovered shall be credited back to the relevant Country Window and shall be used for the purposes of such Country Window. The cost of such proceedings will be charged pro-rata to the Contributions made to the relevant Country Window or in the event of insufficient amount of resources available, such cost will be covered separately by all the Contributors to such Country Window, again on a pro-rata basis depending on the size of their Contributions.

Section 3.04. Compensation for the Fund Manager

(a) For the administrative support of the Fund the Fund Manager shall receive a fixed management fee in the amount of 2% of the total amount of Contributions paid into the Fund.

(b) The amount of the administrative fee, paid to the Fund Manager will be non-reimbursable and under no circumstances, will it be used to finance or subsidise activities of the Fund and/or to discharge losses or liabilities arising out of the operations or other activities of the Fund.

Section 3.05. Commencement of Operations of the Fund and Commencement of Operations financed with the resources of any Country Window

(a) The Fund will commence its operations and the first meeting of the Assembly of Contributors of the Fund will be called by the Fund Manager, provided:

(i) a minimum number of 3 Contributors, including a Recipient Country, have entered into Contribution Agreements with the EBRD, and

(ii) a Contribution or any instalment thereof has been paid into the Fund Account(s).

Without prejudice to the provisions of this Section 3.05, the Fund Manager may receive Contribution from Contributors in accordance with the terms of these Rules, and may invest the resources of such Contributions, prior to the commencement of operations of the Fund, under conditions to be expressly set out in the Contribution Agreements for such Contributions. Income derived from such investments shall be credited to the resources of the respective Country Window in proportion to the amount of resources from such Country Window which have been invested, and used for the purposes, of such Country Window.

(b) Financing of operations from the resources of any Country Window shall only commence provided that a minimum number of 3 Contributors, including the Recipient Country under a Country Window, have entered into Contribution Agreements with the EBRD providing resources for the relevant Country Window and a Contribution, or any instalment thereof, has been paid into the Fund Account(s) to be accredited to such Country Window.

Section 3.06. Implementing Agencies

The EBRD, the EIB, the NIB, the NEFCO, IBRD, IFC and any other financial institution, expressly approved by the Assembly of Contributors, may act as implementing agencies for projects funded with the resources of the Fund (each an “Implementing Agency”, jointly “Implementing Agencies”). By approving that a certain financial institution may act as an Implementing Agency, the Assembly of Contributors confirms that in their accounting, audit, internal control, procurement, environmental and other policy and procedures that may be applicable or relevant in the implementation of projects supported with the resources of the Fund, the approved Implementing Agency applies standards and offers guarantees equivalent to international accepted standards.

The Assembly of Contributors further recognises that the immunities, privileges and/or exemptions, if any, enjoyed by the Implementing Agencies may not be the same for all Implementing Agencies.

Other than the EBRD, each Implementing Agency for a project funded with the resources of the Fund will enter into a funding agreement (a “Funding Agreement”) with the Fund Manager. Such Funding Agreement will set out the terms and conditions under which

resources of the Fund are being provided to support to a project, approved by the Assembly of Contributors, and will expressly provide that the EBRD shall not

(i) be responsible or accountable for the implementation of the project, the use of resources of the Fund and/or reporting (including the content, accuracy, suitability of reports) on the use of the resources of the Fund, the implementation of the project and/or the programme, to which it relates;

(ii) shall not be liable to any recipient of financial assistance from the resources of the Fund for the implementation of a project, approved by the Assembly of Contributors or beneficiary (if different from the recipient of financial assistance) of such project, Contributor or third party, for any damage, loss or injury incurred as a result of, or in connection with, the implementation of the project, being supported, and the use of the resources of the Fund;

beyond what is expressly agreed and provided for in these Rules.

Each Implementing Agency will prepare and enter into an agreement between itself as Implementing Agency and the recipient of financial assistance from the Fund for the implementation of a project approved by the Assembly of Contributors and will monitor the implementation of the project and report to the Assembly of Contributors through the Fund Manager.

In order to ensure consistency in the terms and structure of financial assistance, provided by the Fund, each Implementing Agency shall consult, to the extent possible, with the Fund Manager on the terms and conditions of the agreement between the respective Implementing Agency and the recipient of financial assistance from the Fund of the project.

In projects where EBRD is the Implementing Agency, it will fulfil its role as an Implementing Agency, in accordance with these Rules.

Section 3.07. Eligibility and Approval of Projects

(a) Projects, which are determined by the Steering Group to be eligible for support with resources from the Fund, based on the provisions of Annex 2 to these Rules, shall be without prejudice to the provisions of Section 3.07 (b) below, submitted by the Steering Group for the

approval of the Assembly of Contributors of the Fund. Such projects shall be submitted by the Steering Group in the order of priorities, established by it, following consultations with Recipient Countries. In approving projects for support with the resources of the Fund, the Assembly of Contributors of the Fund will ensure that only support up to the value of the Contributions available under the relevant Country Window, actually paid into the relevant Fund Account(s) and uncommitted by the EBRD to any other project, at the time of approval, will be approved.

(b) Approval by the Assembly of Contributors of the Fund of a project for support with the resources of the Fund shall be subject to the consent of the recipient country for the implementation of such project.

Section 3.08. Investment

The Fund Manager may invest any resources of the Country Windows of the Fund, which are not immediately required for use for the purposes of the Fund. Except as otherwise authorised by the Assembly of Contributors, investments shall be made in accordance with investment guidelines prepared by the Fund Manager and approved by the Assembly of Contributors. The income derived from such investments shall be credited to the resources of the respective Country Window in proportion to the amount of resources from such Country Window which have been invested, and used for purposes, of such Country Window.

Section 3.09. Valuation of Currencies

Except as provided in Section 2.03, whenever it shall be necessary for purposes of preparation or presentation of financial statements to determine the value of any currency in terms of another currency or of the unit of account of the Fund Manager, the valuation shall be made by the Fund Manager, using the same principles as the Fund Manager applies for its ordinary operations.

Section 3.10. Accounts and Audit

(a) The Fund Manager shall open and maintain, as appropriate, one or several bank accounts (the "Fund Account(s)") to which Contributions will be paid and any other income of the relevant Fund Account(s) will be credited. The Fund Manager shall maintain the accounts of the Fund in Euro in accordance with the same accounting principles, which it follows in respect of other cooperation funds administrated and managed by the Fund Manager.

(b) The financial statements of the Fund shall be audited on an annual basis before the end of June of the following year by the external auditors of the Fund Manager in a manner consistent with that applied to the other cooperation funds administered and managed by the Fund Manager. The costs of the audit shall be paid from the management fee referred to in Section 3.04(a).

(c) In case Contributors are subject to specific auditing requirements under their respective statutes, their Contributions may be subject to auditing requirements that, together with the manner in which such auditing requirements will be met, shall be agreed between the EBRD and the respective Contributors and set out in the respective Contribution Agreement. All costs for the fulfilment of such requirement shall be covered by the respective Contributor, in addition to the amount of the Contribution made.

(d) The fiscal year of the Fund shall be the calendar year. The first fiscal year of the Fund shall end on 31 December immediately following commencement of the Fund's operations.

Section 3.11. Procurement

Procurement of goods, works and/or services, including consulting services, financed from the resources of the Fund will be unrestricted and administered in accordance with EBRD's Procurement Policies and Rules. In the event that a project is implemented by an Implementing Agency, other than the EBRD, the Procurement Policies and Rules of such Implementing Agency shall be applied.

SECTION IV – TERMINATION

Section 4.01. Termination

(a) The Fund shall remain active until 31 December 2019 unless otherwise extended by a decision of the Assembly of Contributors of the Fund or is terminated in accordance with paragraphs (b) and (c) of this Section below.

(b) Notwithstanding paragraph (a) above, the Fund may be terminated at any time by a decision of the Assembly of Contributors of the Fund taken with the unanimous consent of Contributors.

(c) This Fund shall terminate automatically, with immediate effect, upon termination by the Fund Manager of its operations pursuant to Article 41 of the Agreement Establishing the EBRD.

(d) The Fund Manager may cease to perform the functions conferred upon it pursuant to these Rules with a one (1) year's written notice to the Assembly of Contributors of the Fund and pursuant to a decision of the Board of Directors of the EBRD.

(e) A Country Window may be closed at any time pursuant to a decision of the Assembly of Contributors, taken in accordance with the decision-making process set out in Sections 3.02 (f) and (g) of these Rules.

Section 4.02. Disposal of Resources on Termination of the Fund or closure of a Country Window

(a) Upon termination of the Fund, the following provisions shall apply with respect to the resources of the Fund:

(i) The Fund Manager shall forthwith cease all activities relating to such resources, except those incidentals to the orderly realisation, conservation and preservation of such resources and the settlement of the direct or contingent obligations to which they may be subject.

(ii) Subject to subsection (iii) below, the Fund Manager shall distribute the total net assets of the Fund (as shown on the books of the Fund as of the date of termination) to the Contributors in proportion to the amounts made by each Contributor to the Fund. Such distribution shall be effected at such times, in such currencies and in such types of assets as the Assembly of Contributors of the Fund shall deem fair and equitable. Distribution need not be uniform as to type of asset or as to currency.

(iii) No distribution shall be made until all liabilities of the Fund (including payments due to the Fund Manager) shall have been discharged or provided for, and until the Assembly of Contributors of the Fund shall have decided that such distribution should be made. Any distribution to a Contributor shall be subject to prior settlement of all outstanding claims by the Fund Manager against such Contributor in respect of its Contribution.

(iv) Until final distribution of the net assets of the Fund, all rights and obligations of the Fund Manager and of the Contributors under these Rules and the relevant Contribution Agreement will continue unimpaired.

(b) Upon closure of a Country Window, the following provisions shall apply with respect to the resources of that Country Window:

(i) The Fund Manager shall forthwith cease all activities relating to such resources, except those incidental to the orderly realisation, conversation and preservation of such

resources and the settlement of the direct contingent obligations to which they may be subject.

(ii) Subject to subsection (iii) below, and except as agreed between the Fund Manager and each relevant Contributor in its respective Contribution Agreement or otherwise, the Fund Manager shall distribute the total net assets of such Country Window (as shown in the books of the Fund as of the date of closure of the Country Window) to the Contributors which contributed to such Country Window. Such distribution shall be in proportion to the amounts paid in and accredited to the Country Window by each Contributor and shall be affected at such times, in such currencies and in such types of assets as the Fund Manager shall deem fair and equitable. Distribution need not be uniform as to type of asset or currency.

(iii) No distribution shall be made until all liabilities of the Country Window (including any payments due to the Fund Manager) shall have been discharged or provided for. Any distribution to a Contributor shall be subject to prior settlement of all outstanding claims by the Fund Manager against such Contributor in respect of its Contribution.

(iv) Until the final distribution of the assets of the Country Window, all rights and obligations of the Fund Manager and of the Contributors under these Rules and the relevant Contribution Agreement will continue unimpaired.

SECTION V – AMENDMENTS TO THE RULES

These Rules may be amended only pursuant to a unanimous decision of the Assembly of Contributors of the Fund and agreement by the Fund Manager. Amendments of the Rules shall enter into force upon their approval by the Board of Directors of the EBRD.

SECTION VI – SETTLEMENT OF DISPUTES AND PRIVILEGES AND IMMUNITIES

(a) Disputes between the Fund Manager and a Contributor concerning any matter arising out of or in connection with the Contribution of the Contributor and/or the operations of the Fund, shall be settled amicably. In the event that such dispute cannot be settled amicably the parties shall submit to arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be one (1). The place of Arbitration shall be London. The language

to be used in the arbitral proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either party. The Arbitrator's decision shall be binding on the parties and there shall be no appeal. The provisions of the UNCITRAL Arbitration Rules notwithstanding, the arbitrator shall not be authorised to take any interim measures of protection or provide any pre-award relief against the Fund Manager and the Contributor may not address to any judicial authority a request for any interim measures of protection or pre-award relief against the Fund Manager.

(b) Nothing in these Rules shall constitute or be construed as constituting a waiver of any of the immunities, privileges and exemptions enjoyed by the EBRD or any of the other Steering Group members and Implementing Agencies, their Governors, Directors, Alternates, officers and/or employees.

ANNEX 1 – CONTRIBUTION AGREEMENT

CONTRIBUTION AGREEMENT

BETWEEN

[.....]

AND

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

IN RESPECT OF

[.....] PARTICIPATION IN THE

**EASTERN EUROPE ENERGY EFFICIENCY AND ENVIRONMENT
PARTNERSHIP REGIONAL FUND**

THIS CONTRIBUTION AGREEMENT (the “**Contribution Agreement**”) is made between [.....] (the “**Contributor**”) and the **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the “**EBRD**”), jointly referred to hereinafter as the “**Parties**” and each a “**Party**”, in respect of the Contributor’s commitment and contribution to the Eastern Europe Energy Efficiency and Environment Partnership Regional Fund (the “**Fund**”).

WHEREAS

(A) EBRD has established the Fund in accordance with the terms of the Rules of the Eastern Europe Energy Efficiency and Environment Partnership Regional Fund dated [] as may be amended (the “**Rules**”);

(B) The Contributor now wishes to make a contribution to the Fund, which shall be accepted, held, managed, administered, used, committed, expended or otherwise disposed of by the EBRD in accordance with the Rules and this Contribution Agreement;

(C) The Parties have agreed to conclude this Contribution Agreement, as required by Section 2.02 of the Rules;

NOW THEREFORE the Parties hereto agree as follows:

I. Contribution

1. The Contributor hereby contributes the amount of EURO [amount] (the “**Contribution**”) to the Fund. The Contribution shall be accredited to the following Country Window(s) as follows:

- [Country] Window: EURO [amount];

2. The Contribution shall be paid in cash *OR [irreversible, unconditional promissory notes or other obligations of this nature issued by the Contributor]*, in [Euro][*other freely convertible currency*] [in one instalment upon receipt of an invoice from EBRD] *OR [in [xx] instalments of [amount] each on [dates/period, e.g. quarterly on...]* [upon receipt of an invoice/ confirmation of acceptance from EBRD].

[3. In the event of closure of the Country Window to which the Contribution was originally made, the funds attributable to the Contributor shall be [transferred to [__]] OR [returned to the Contributor] as follows [__]]²

II. Purpose

The Contribution shall be used solely for the purposes, as set out in Section I of the Rules unless agreed otherwise in writing between the Parties.

III. Application of the Rules

The Contributor hereby:

- (i) acknowledges receipt of a copy of the Rules, as in force on the date of entry into force of this Contribution Agreement; and
- (ii) agrees that the Rules shall apply to this Contribution Agreement and the Contribution, as if incorporated herein in full.

IV. Notices

All matters relating to the implementation of any Fund document shall be addressed to the following authorised representative of each Party:

- (i) **for the Contributor**

Agency [•]
Address [•]
City, Country [•]
Attention: Name [•]
Tel: [•]
Fax: [•]
Email: [•]

- (ii) **for the EBRD**

V. General

(a) All capitalised terms used in this Contribution Agreement have the meaning attributed to them in the Rules, which shall take precedence over the Contribution Agreement.

(b) The Contributor shall do and execute all such further acts, as are required to give full effect to the rights and obligation, as specified and the transactions contemplated by the Rules and this Contribution Agreement.

[² Note: Contribution Agreement may specify where the funds attributable to the Contributor are to be transferred in the event of closure of the Country Window to which the Contribution was originally made or, alternatively, that such funds would be returned to the Contributor.]

(c) This Contribution Agreement shall enter into force on the date when the last of the Parties signs it.

Signed in the English language, in two originals, one for each of the Parties,

[.....]

Name:
Title:
Date:

European Bank for Reconstruction and Development

Name:
Title:
Date:

ANNEX 2 – ALLOCATION GUIDELINES FOR GRANTS FROM THE EASTERN EUROPE ENERGY EFFICIENCY AND ENVIRONMENT PARTNERSHIP

1. GENERAL PRINCIPLES

A. Grants should be targeted at achieving long term impact that would not otherwise be achieved with standard IFI instruments. Such impact can take the form of furthering the existence and functioning of efficient markets, including in respect of use of energy, building market-oriented policies and institutions to generate sustainable energy use, or promoting skills and conduct that leads to sustainable economic and environmental use of energy resources. Since donor/IFI interventions need to play a catalyst role for systemic change, grant interventions should not be permanent, but focused on areas where temporary grant support can eventually achieve sustainable results. The most relevant cases are in addressing externalities (such as environmental impacts) and changing behaviour that may not be individually rational but are nevertheless deeply engrained (such as the inefficient use of energy). This suggests the following three principles for the utilization of grants:

- *Subsidiarity* – use of grants should be focused on reform objectives that cannot be achieved with commercial financing/market-conforming instruments alone.
- *Leverage* – the grant should be used to support a process of reform or behaviour change on the part of the client that promotes agreed reform objectives.
- *Sustainability* – the grant should address impediments to projects that are expected to become financially sustainable (without such support) over time.

B. Grants should be subject to disciplines aimed at minimizing the potential for waste and distortions, i.e., they should pass a “synthetic” market test. The long-term sustainability and efficiency objectives must not be undermined by the indiscriminate use of grants. The main tool for assessing whether grant funds and other project resources are efficiently employed is economic return analysis (economic rate of return). This analysis captures net financial and non-financial returns to a project, and assigns a cost to the grant, ensuring in principle that the size of a grant is calibrated to needs. Three additional principles to guide the utilization of grants derive:

- *Consistency* – the grant should encourage resource allocation consistent with longer term market forces.
- *Focus* – the grant should be targeted specifically at the underlying problem.
- *Economy* – the grant should be sufficient but not larger than necessary to achieve its objectives

C. Metering and control systems as well as consumption-based billing are critical elements of investment projects. Where relevant (especially in district heating), projects should include steps to ensure consumers can control the use of the service (e.g. through metering) and bills are based on actual consumption. This is a necessary requirement for ensuring that adequate demand side energy efficiency incentives are in place.

2. GRANT SIZING

As a general rule, and taking account of project specificities, grants will be sized *in proportion* to environmental benefits. For every project, the minimum leverage ratio of grant to loan is 1:1 while the preferred one is 1:2 for district heating projects and 1:3 or higher for other projects. For every project the sponsor will calculate or estimate both environmental and energy savings benefits that will be validated and verified by financial institution involved in lending

For energy efficiency projects, the final decision of the Assembly of Contributors on grant volume will be informed based on the form of emissions avoided, and the equivalent energy savings, without double-counting. This can be calculated as follows:

- All energy efficiency benefits over the monitoring period (e.g. 10 years) of each measure are either taken directly, or converted into carbon emissions reduction equivalents, depending on the carbon intensity of the energy source. This includes the expected impact of both technical and non-technical measures implemented as part of the project.
- Non-technical measures which derive their energy savings benefit from behavioural changes (such as response of energy use patterns to installation of metering and control systems and to tariff increase) are valued on an estimated savings approach, based on experience in similar projects, e.g. in Central Europe.
- For electric power savings the conversion will be conducted on the basis of marginal emissions of the power supply used by the project entity, or *if not available* or if the project entity uses electric power from the national grid, at the average emission factor for the power system of the country.
- Similar conversion factors can be used for heat only and combined heat & power. For direct use of fossil fuels the typical conversion factors will be used.
- A price of EUR 15-30/tCO₂ will be used to value each unit of carbon emissions avoided. The exact setting of the price in this range will be undertaken and approved by the Steering Group at its first meeting, and this will be reviewed on a regular basis.
- For energy savings, the volume of energy saved will be converted to the equivalent volume of gas needed to produce this energy at a conversion efficiency of 60%, and the average purchase price of the previous 12 months for 1,000 cbm of gas at the city gate will be used to value each 1,000 cbm of gas-equivalent saved. Grant size = (tCO₂ emissions avoided * price per tCO₂) or (Volume of energy saved in 1000 cbms equivalents * value of 1000 cbm of gas-equivalent saved). The grant size can be capped (e.g. as a percentage of loan amount) if there is a budget constraint.

For environmental benefits other than energy savings, grants will be sized based on the following criteria:

- The size of the grant will be calibrated to the “quality gap”, i.e. the incremental cost of achieving the EU standard beyond the prevailing national standard
- Tariff reforms (adjustment to affordability thresholds) should be expected to cover most of the costs related to the investment, whereas the grant will only cover no more than the quality gap related costs

3. CRITERIA FOR ENERGY EFFICIENCY (END-USER LEVEL) INVESTMENTS

Grant support can address market failures that prevent an economically efficient industrial and residential use of energy, but care should be taken not to create grant dependency, and in

assessing whether a grant is the right instrument. In practice, taking this into account, the most relevant cases are:

- (i) *Environmental impacts* (in particular, global impacts from greenhouse gas emissions) that are not yet addressed through regulatory or market mechanisms;
- (ii) *Higher private (and national) discount rates compared to global discount rates for climate change damage*, which lead to a lesser sense of urgency about benefits that remain relatively far off;
- (iii) *Behavioural and motivation barriers* arising from a history of inefficient energy use that has led to ingrained behaviour.

Enabling environment:

- Grant support may help where domestic or international institutions and policies to tackle market failures remain inadequate, but must not reduce incentives to establish sustainable policies and regulation. Grants should only provide support in the transition *to effective pricing policies and sound regulatory mechanisms* that fully address the barriers to sustainable energy investments. Grant financed activities should correspond to the priorities determined in government energy efficiency policy and programmes. These pricing policies include the phasing-out of fossil-fuel subsidies and the introduction of full economic cost recovery tariffs for end-use of energy (and in the medium term full economic and environmental cost recovery tariff setting).

Grant allocation criteria:

- Projects supported by grants should be *economically viable*, i.e., returns assuming appropriate shadow prices of environmental externalities should meet standard hurdles.
- A careful balance must be struck: the grant *cannot be the sole catalyst* for undertaking the project, but without grants overall *investments must demonstrably fall short* of targets.
- Grants should *normally support retrofitting or replacement* of energy intensive assets, as well as metering, but not capacity expansion
- *Information gaps* should normally be addressed through TC, and *awareness-building* would be important for reducing any future need for grants. By the same token, through its size or other features the project should provide a *replicable model*.
- *Minimum performance criteria* for the equipment financed by the grants should be at least as high as the relevant EU or national mandated energy performance standards if the latter are higher.

4. CRITERIA FOR MUNICIPAL INFRASTRUCTURE INVESTMENTS

The justification for non-TC grant support in municipal utility projects is to address market failures and allow utilities to meet high energy or environmental standards while respecting affordability constraints. Conceptually, this argument divides into two parts:

- (i) *Environmental externalities* (in particular global externalities related to greenhouse gas emissions) that are not yet addressed through regulatory or market mechanisms;
- (ii) *Affordability*: full cost recovery at desired standards of service (e.g., EU standards) would require tariffs to be set above accepted norms in relation to average incomes.

Policy environment

- Grants should be considered where authorities are *committed to raising tariffs towards affordability benchmarks*. This will ensure that households are paying within the limit of affordability benchmarks for the investments associated with meeting higher service levels and environmental standards.

- If not in place and subject to an assessment of the budgetary impact of tariff subsidies versus targeted income support for the relevant country, progress with the *establishment of a sustainable fiscal mechanism*, including for support to low-income households, as grants cannot provide a long-term substitute for a fiscal support mechanism and must not reduce the incentives to establish such a mechanism.

Grant allocation criteria

- The investment project should pass an *economic viability test* of Economic Rate of Return (since the grant precludes a market test).
- *Minimum performance criteria* for the assets within the scope of the project financed by the grants should be at least as high as the relevant government or EU mandated criteria.³
- *Tariff reform should be covenanted* under the project and grant/loan disbursements linked to reform milestones over time as appropriate. In the absence of tariff reform, the affordability rationale for grants is severely weakened.

³ Where the “quality gap” is very significant and exceeds grant-making capacity, the projects may need to be phased.