



ACORD DE GRANT

**între Republica Moldova
și Calea Ferată din Moldova**

și

Banca Europeană pentru Reconstrucție și Dezvoltare

**în cadrul Proiectului de Restructurare a Căilor Ferate din Moldova,
acordat din fondul de Investiții pentru Vecinătate**

Chișinău, 10 noiembrie 2015



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(Operation Number 44085)

GRANT AGREEMENT

(Moldovan Railways Restructuring Project)

between

REPUBLIC OF MOLDOVA

and

CALEA FERATA DIN MOLDOVA

and

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

in respect of an investment grant
from the Neighbourhood Investment Facility Trust Fund

Dated *10 November* 2015

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GRANT AGREEMENT

This GRANT AGREEMENT (the "Agreement") is made on *10 Nov 2015* between Republic of Moldova, represented by the Ministry of Transport and Road Infrastructure (the "Ministry"), Calea Ferata Din Moldova (hereinafter referred to as the "Recipient") and the European Bank for Reconstruction and Development (hereinafter referred to as the "Bank" or "EBRD").

WHEREAS:

(A) EBRD is an international financial institution established under international law pursuant to the Agreement Establishing the European Bank for Reconstruction and Development (the "Agreement Establishing the Bank") dated 29 May 1990.

(B) On 14 November 2014, the Bank entered into a loan agreement with the Republic of Moldova represented by the Ministry of Finance in its capacity as the Borrower, pursuant to which the Bank as lender agreed to make a loan of EUR 52,500,000 for the financing of part of the Moldovan Railways Restructuring Project (the "Project"), as defined under the Loan Agreement, subject to the terms and conditions set forth in the loan agreement as may be amended from time to time (the "Loan Agreement").

(C) The proceeds of the Loan Agreement are to be on-lent by the Borrower to the Recipient for the implementation of the Project in accordance with the terms and conditions of a subsidiary loan agreement to be entered into between the Borrower and the Recipient, as may be amended from time to time (the "Subsidiary Loan Agreement").

(D) On 14 November 2014, the Bank entered into a project agreement with the Recipient, as may be amended from time to time (the "Project Agreement"), pursuant to which, in consideration for the Bank entering into the Loan Agreement, the Recipient agreed to carry out the Project in accordance with the terms and conditions of the Project Agreement.

(E) The Borrower and the Recipient intends to obtain grant financing from the European Union (the "Donor") through the Neighbourhood Investment Facility Trust Fund (the "Fund") to co-finance the acquisition of locomotives financed under the Project, subject the terms and conditions to be set forth in a contribution agreement dated 22 December 2014 between the Bank and the European Union (the "Contribution Agreement").

(F) Further to the Contribution Agreement, the Bank has agreed to extend, and to manage and administer, a grant in an amount not to exceed EUR 5,000,000 from the resources of the Fund, subject to and on the terms and conditions set forth in this Agreement, to co-finance the acquisition of the Grant Financed Items (as defined below) as part of the Project.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE I - DEFINITIONS; REFERENCES AND HEADINGS

Section 1.01 Definitions

Words and expressions capitalised in this Agreement (including the Exhibits and any Schedules) but not herein defined shall have the same meaning ascribed thereto in the Loan Agreement, the Project Agreement, and/or in the Standard Terms and Conditions when used in this Agreement.

Wherever used in this Agreement (including the Appendices and the Recitals), unless the context otherwise requires, the following terms have the following meanings:

"Agreement Establishing the Bank"

has the meaning ascribed to it in Recital A.

"Contract(s)"

means the contracts in place or to be entered into between the Recipient and any Contractors, in form and substance satisfactory to the Bank, in connection with the procurement of locomotives for the Project, including the Grant Financed Items, and to be financed in whole or in part with the Grant Financing.

"Contractor(s)"

means each and all of the contractors and suppliers of good standing and repute to be engaged by the Recipient in connection with the procurement of locomotives with each such contractor and Contractor to be selected in accordance with Section 3.06 (*Procurement*) of this Agreement.

"Disbursement"

means the disbursement of any portion of the Grant Financing from time to time pursuant to Section 2.02 (*Disbursements*) of this Agreement.

"Donor"

has the meaning ascribed to it in Recital E.

"Effective Date"

means the date upon which this Agreement becomes effective in accordance with Section 1.01 (*Effective Date*).

"Fund"

has the meaning ascribed to it in Recital E.

"Fund Rules"

means the Agreement Constituting the Implementation Rules of the Neighbourhood Investment Facility Trust Fund dated 26 January 2009 as may be amended from time to time.

"Grant Financed Items"

means about 10 new multi-purpose locomotives necessary for the Project and to be co-financed by the Grant Financing.

"Grant Financing"	has the meaning ascribed to it under Section 2.01(a) (<i>Amount, Currency and Purpose</i>) of this Agreement.
"Last Availability Date of Grant Financing"	means the date specified in Section 2.02(a) (<i>Last Availability Date of Grant Financing</i>) of this Agreement.
"Loan Agreement"	has the meaning ascribed to it in Recital B.
"Loan Financing"	means financing made or to be made available by the Bank to the Borrower in its capacity as the Borrower under the Loan Agreement and on-lent to the Recipient pursuant to the terms of the Subsidiary Loan Agreement.
"Ministry"	means Republic of Moldova, as represented by the Ministry of Transport and Road Infrastructure or any other relevant ministry.
"Ministry's Authorised Representative"	means the Minister of Transport and Road Infrastructure.
"Procurement Plan"	means the procurement plan for the Project including the Grant Financed Items, in form and substance satisfactory to the Bank, as such procurement plan may be amended from time to time by the Recipient with the prior written consent of the Bank.
"Project"	has the meaning ascribed to it in Recital B.
"Project Agreement"	has the meaning ascribed to it in Recital D.
"Project Completion Date"	<p>means the date on which all of the following have occurred:</p> <ul style="list-style-type: none"> (a) the Recipient shall have delivered to the Bank and the Project Implementation Consultant a notice, in form and substance satisfactory to the Bank, signed by the Recipient's Authorised Representative, certifying that the Project has been completed; (b) the Bank shall have received a certificate from the Project Implementation Consultant, in form and substance satisfactory to the Bank, confirming without any material reservations, that the Project has been completed; and (c) the Bank shall have delivered to the Recipient a notice confirming that the Bank is satisfied that the Project has been completed.

"Project Implementation Consultant"

means the consultant(s) engaged or caused to be engaged by the Recipient in accordance with Section 2.06 (*Consultants*) of the Project Agreement to assist with the implementation of the Project.

"Recipient"

means Calea Ferata Din Moldova.

"Recipient's Authorised Representative"

means the General Director, or any other person duly authorised to act on behalf and to represent the Recipient.

"Reimbursement Commitment"

means a commitment referred to in Section [2.03] (*Conditional and Unconditional Reimbursement Commitments*) of this Agreement, and may be a "conditional Reimbursement Commitment" or an "unconditional Reimbursement Commitment", as those terms are used in that Section.

"Standard Terms and Conditions"

means the Standard Terms and Conditions of EBRD dated 1 December 2012.

Section 1.02: Interpretation

In this Agreement:

- (a) words denoting the singular include the plural and vice versa, unless the context otherwise requires;
- (b) the headings and the Table of Contents are inserted for convenience of reference only and shall not affect the interpretation of this Agreement;
- (c) words denoting persons include corporations, partnerships, and other legal persons and references to a person includes its successors and permitted assigns; and
- (d) reference to a specified Article, Section, Schedule or Exhibit shall, except where stated otherwise in this Agreement, be construed as a reference to that specified Article or Section of, or Appendix or Exhibit to, this Agreement.

ARTICLE II - GRANT FINANCING

Section 2.01 Amount, Currency and Purpose

(a) Subject to and in accordance with this Agreement, the Bank agrees to provide to the Recipient, from the Fund, a grant in the amount of EUR 5,000,000 (the "Grant Financing").

(b) The Grant Financing shall be provided by the Bank, from the Fund, solely for the purposes of co-financing the Grant Financed Items procured in accordance with Section 3.06 (*Procurement*) of this Agreement.

(c) Subject to Section 5.05 (*Events of Refund*) of this Agreement, the Grant Financing is non-refundable.

(d) It is expressly acknowledged and agreed that the Bank will not be obliged to make any Disbursement or any other payment under or pursuant to this Agreement except to the extent that an amount in respect of, and equal to, such Disbursement or such payment is available in the Fund for such purpose.

(e) Except as the Bank otherwise agrees, the Grant Financed Items shall be co-financed by the Grant Financing and the Loan Financing in proportions and amounts as to be determined in the Procurement Plan.

Section 2.02 Disbursements

Subject to Section 5.01 (*Suspension*), Section 5.02 (*Cancellation by the Bank*) and Section 7.02 (*Conditions Precedent to Effectiveness*) of this Agreement, the Grant Financing shall be disbursed by the Bank, in one or more Disbursement(s), subject to the following provisions:

(a) Last Availability Date of Grant Financing

The Recipient's right to request a Disbursement in accordance with this Agreement shall become effective on the Effective Date and shall terminate on 23 December 2018 or such later date that the Bank may in its discretion establish and notify to the Recipient.

(b) Eligible expenditures

Except as the Bank otherwise agrees, Disbursements under this Agreement shall only be made to finance:

- (1) expenditures made in respect of the Grant Financed Items; and
- (2) expenditures incurred after the date of this Agreement.

(c) Conditions to Disbursement

Without limiting the generality of this Section 2.02, any Disbursement under this Agreement in respect of one or more Grant Financed Items shall be subject to the fulfilment, or at the sole discretion of the Bank the waiver, whether in whole or in part on the date of the Recipient's request for such Disbursement of the condition that the

amount of Loan Financing drawn down, or requested under a satisfactory Drawdown application, by the Recipient in its capacity as Borrower is at least equal to that of the Grant Financing disbursed to, or requested under a satisfactory Disbursement application by the Recipient, in accordance with the Loan Agreement

(d) Disbursement Request

(1) The Recipient may request a Disbursement by submitting to the Bank an original request for such Disbursement, signed by the Recipient's Authorised Representative, or a person designated by the Recipient's Authorised Representative (the "Disbursement Request"). The Disbursement Request shall be in the form of Exhibit 1 (*Form of Disbursement Request*) and shall be delivered to the Bank at least fifteen (15) Business Days prior to the proposed value date of such Disbursement. Such request shall, except as the Bank otherwise agrees, be irrevocable and binding on the Recipient.

(2) The Disbursement Request shall be accompanied by such documents and other evidence sufficient in form and substance to satisfy the Bank that the Recipient is entitled to the amount of the Disbursement and that the amount of the Disbursement was used exclusively for the Grant Financed Items. Such documents shall include, but not be limited to the Contractor's invoice(s), certified by or on behalf of the Recipient, either on the actual invoice or in the form of a separate certificate, indicating the Recipient's confirmation that the goods, works or services have been satisfactorily delivered or carried out in compliance with the requirements of this Agreement and the relevant Contract.

(e) Currency of Disbursements

Disbursements shall be made in EUR in an amount equivalent to the expenditures to be financed out of the proceeds of the Grant Financing. In the case of expenditures incurred in a currency or currencies other than EUR, the equivalent Disbursement amount shall be determined as follows:

(1) If the Recipient requests payment in EUR, the Disbursement amount shall be determined by the Bank on the basis of the exchange cost that would have been incurred by the Bank if it had purchased such currency or currencies to meet the request.

(2) If the Recipient requests payment in the currency or currencies of the expenditures, the Bank will, provided such expenditures are in readily available currencies or currency, purchase such currency or currencies in such a manner as the Bank may deem appropriate. The equivalent Disbursement amount shall be determined by the Bank on the basis of the exchange costs that were or would have been incurred by the Bank in using EUR to meet the request.

(f) Payments in Other Currencies

In exceptional circumstances, the Bank may grant a request by the Recipient that payment be made in a currency or currencies other than EUR or the currency of expenditures. In that case, the Bank will purchase such currency or currencies in such manner as the Bank may deem appropriate. The equivalent Disbursement amount shall

be determined by the Bank on the basis of the exchange costs that were or would have been incurred by the Bank in using EUR to meet the request.

(g) Minimum Disbursement Amount

Except for the last Disbursement or except as the Bank otherwise agrees, Disbursements shall be made in amounts of not less than EUR 500,000 (five hundreds euros).

Section 2.03 Conditional and Unconditional Reimbursement Commitments

(a) Upon the Recipient's request, in form and substance satisfactory to the Bank, the Bank may, in accordance with the applicable provisions of the EBRD Disbursement Handbook *mutatis mutandis*, issue unconditional or conditional Reimbursement Commitments to reimburse payments made by banks under letters of credit in respect of expenditures to be financed by the Grant Financing. Any such reimbursement shall constitute a Disbursement.

(b) In the case of a conditional Reimbursement Commitment, the obligation of the Bank to pay shall be suspended or terminated immediately upon any suspension or cancellation of the Grant Financing by the Bank pursuant to Section 5.01 (*Suspension*) or Section 5.02 (*Cancellation by the Bank*) of this Agreement.

(c) In the case of an unconditional Reimbursement Commitment, the obligation of the Bank to pay shall not be affected by any subsequent suspension or cancellation of the Grant Financing.

Section 2.04 Cancellation by the Recipient

The Recipient may cancel at any time, on not less than thirty (30) Business Days prior written notice to the Bank, in whole or in part, any undisbursed portion of the Grant Financing. Any such notice of cancellation by the Recipient shall be irrevocable and binding on the Recipient.

Section 2.05 Payments of the Disbursements

(a) Except as the Bank otherwise agrees, the sums to be disbursed by the Bank under this Agreement shall be paid directly to the account of the relevant Contractor as the Recipient designates in its Disbursement request.

(b) If the due date for any payment under this Agreement would otherwise fall on a day which is not a Business Day, then such payment shall instead be due on the next succeeding Business Day.

(c) Any amounts that may become due to the Bank under this Agreement shall be paid, without set-off or counterclaim in EUR, for value on the due date, to such account in London, England or such other place as the Bank may from time to time designate by notice to the Recipient.

ARTICLE III - EXECUTION OF THE PROJECT

Section 3.01 Cooperation and Information

(a) The provisions of Sections 4.01 (*Cooperation and Information*) of the Standard Terms and Conditions shall apply as if set out herein in full *mutatis mutandis*, including without prejudice to the generality thereof, as if:

- (i) references to the "Borrower" were read as references to the "Recipient";
- (ii) references to the "Guarantor" were read as references to "the Ministry";
- (iii) references to the "Loan" were read as references to the "Grant Financing"; and
- (iv) references to the "the Loan Agreement" were read as references to "this Agreement".

(b) In receiving information pursuant to the Loan Agreement, and the Project Agreement, the Bank may use and rely on any such information in its capacity as provider of the Grant Financing under this Agreement.

Section 3.02 Responsibilities Relating to the Execution of the Project

(a) The Recipient shall, except as the Bank otherwise agrees:

- (1) carry out the Project, including acquisition of the Grant Financed Items, with due diligence and efficiency and in accordance with the Loan Agreement, the Project Agreement, the Standard Terms and Conditions and this Agreement;
- (2) carry out the Project in accordance with the Procurement Plan, subject to any modification to which the Bank may agree in writing;
- (3) carry out the Project in accordance with the Environmental and Social Action Plan; and
- (4) take all action necessary to ensure the successful completion of the Project.

(b) The provisions of Sections 4.02 (*Responsibilities Relating to Project Execution*) of the Standard Terms and Conditions shall apply as if set out herein in full, *mutatis mutandis*, including without prejudice to the generality thereof, as if:

- (i) references to the "Borrower" were read as references to the "Recipient"; and
- (ii) references to the "proceeds of the Loan" were read as references to the "Grant Financing".

Section 3.03 Environmental and Social Compliance

Except as the Bank otherwise agrees, the Recipient shall ensure that the part of the Project financed with the Grant Financing is carried out in accordance with Section 2.05 (*Environmental and Social Compliance Covenants*) of the Project Agreement.

Section 3.04 Support Obligations of the Ministry

(a) The Ministry shall take no action, nor shall it permit any of its agents or subsidiaries to take any action, that would prevent or interfere with the execution of the Project or with the efficient operation of the Project facilities or the performance of the Recipient's obligations under this Agreement. The Ministry shall also ensure that no such action is taken or permitted to be taken by any of its political or administrative subdivisions or any of the entities owned and controlled by, or operating for the account or benefit of, the Ministry or such subdivisions.

(b) The Ministry shall, unless the Bank shall agree otherwise:

(1) duly perform all of its obligations under this Agreement and under the Loan Agreement;

(2) support the Recipient in meeting its obligations under this Agreement, including by taking all legislative, regulatory or other actions necessary or desirable, and by allocating and providing, or causing to be provided, funds and support to the Recipient as and when needed by the Recipient to complete the Project; and

(3) execute any other documents and take any other actions that the Bank determines are necessary or desirable to give effect to this Agreement.

Section 3.05 Project Implementation Unit

The Recipient shall ensure that the activities and responsibilities of the PIU, referred to in in Section 2.03 (*Project Implementation Unit*) of the Project Agreement, include the procurement of the Grant Financed Items and implementation of the Grant Financing.

Section 3.06 Procurement

Except as the Bank otherwise agrees, the procurement of all Grant Financed Items shall be governed by the EBRD PPR and the following shall apply:

(a) The Grant Financed Items shall be procured through open tendering as set out in Chapter 3 of the EBRD PPR.

(b) All Contracts shall be subject to the prior review procedures set out in the EBRD PPR.

Section 3.07 Project Records and Reports; Examinations

(a) The Recipient shall ensure that information furnished to the Bank by the Recipient and records maintained by the Recipient, are in compliance with the Recipient's obligations, in its capacity as the Project Entity, pursuant to Section 2.07 (*Reporting Frequency and Submission Requirements*) of the Project Agreement as well as Section 4.04 (*Project Records and Reports*) and Section 5.02 (*Reporting*) of the Standard Terms and Conditions:

(1) includes detailed information concerning the Contracts, the Contractors, Disbursements, the Grant Financing and its use, the Grant Financed Items, as well as the status of compliance with each of the covenants contained in this Agreement in form and substance satisfactory to the Bank;

(2) contains sufficient information to enable tracking of the Grant Financing distinct from the Loan Financing; and

(3) includes such other information regarding inter alia the Recipient, the Project and the transactions contemplated in this Agreement as the Bank may from time to time reasonably request.

(b) As soon as available but in any event, within three months after completion of the last Contract, the Recipient shall furnish to the Bank a final report, certified by an authorised officer of the Recipient, with regard to the use of the Grant Financing, which will specify in detail all Contracts, all Contractors, the Grant Financed Items and the delivery and erection schedules, and comparison against original forecasts.

(c) Commencing from the year ending 2015, the Recipient shall furnish to the Bank an annual progress report, certified by an authorised officer of the Recipient, within 45 days after the end of the period being reported on. Such reports shall include all features referred on in Section 2.07 (b) of the Project Agreement as well as the reporting of indicators set forth in Schedule 1.

(d) The Recipient shall enable and, as applicable, shall take all necessary steps to ensure that Company shall enable, the Bank, the Donor and their representatives, at the Bank's request:

(1) to visit any facilities and construction sites relating to the Project;

(2) to examine any and all goods, works and services financed out of the proceeds of the Grant Financing and any plants, installations, sites, works, buildings, property, equipment, records and documents relevant to the performance of the obligations of the Recipient under this Agreement; and

(3) for these purposes, to meet and hold discussions with such representatives and employees of the Recipient as the Bank may deem necessary and appropriate.

(e) Upon the award of any Contract, the Bank may publish a description thereof, the name and nationality of the Contractor and the contract price.

(f) The Recipient shall ensure that the Bank, the Donor and their representatives are provided access to the Recipient's books of account and records related to the Project and the Grant Financing.

ARTICLE IV - FINANCIAL AND OPERATIONAL COVENANTS

Section 4.01 Financial Records and Reports

- (a) The Recipient shall maintain separate records and accounts in respect of the Grant Financing, in accordance with internationally accepted accounting standards acceptable to the Bank consistently applied;
- (b) The Recipient shall ensure that the information furnished to the Bank by the Recipient and records maintained by the Recipient, are in compliance with the Recipient's obligations, in its capacity as the Project Entity, pursuant to Section 3.01 (*Financial Records and Reports*) of the Project Agreement as well as Section 5.02(c)(i) (*Reporting*) of the Standard Terms and Conditions:
- (1) includes detailed information concerning the Grant Financing and its use, in form and substance satisfactory to the Bank;
 - (2) contains sufficient information to enable tracking of the Grant Financing distinct from the Loan Financing; and
 - (3) includes such other information concerning such records, accounts and financial statements as the Bank may from time to time reasonably request.
- (c) The Recipient shall ensure that the authorisation given to the Auditors pursuant to Section 3.04 (i) of the Project Agreement to communicate directly with the Bank extends to information requested by the Bank under the terms of this Agreement and in connection with the use of the Grant Financing.

Section 4.02 Conduct of Business and Operations

The Recipient shall except as the Bank otherwise agrees:

- (a) duly perform all of its obligations under this Agreement and in its capacity as Project Entity, under the Project Agreement;
- (b) not make changes or permit changes to be made to its Statutes if such changes are inconsistent with any provision of this Agreement except for the amendments carried out in the context of the implementation of the Restructuring Action Plan (which has been approved by the Bank in writing); and
- (c) execute any other documents and take any other actions that the Bank determines are necessary or desirable to give effect to this Agreement.

Section 4.03 Taxes

- (a) The Recipient shall pay, when due, all Taxes levied on it and payable on, or in connection with, the execution, issue, delivery, registration or notarisation of this Agreement (including the provision of the Grant Financing) or any other document related to this Agreement.

- (b) No part of the proceeds of the Grant Financing shall be used, directly or indirectly, for the payment of any Taxes, be they direct or indirect, in the territory of Moldova or elsewhere.

Section 4.04 Visibility

The Recipient shall take appropriate measures to publicise in relevant publications, communications, as well as media, the fact that the Project has received funding from inter alia the Fund or the Donor. The visibility of the Fund's contribution shall have to be at least equivalent to that given through media to other donors or lenders supporting the implementation of the Project and the Donor's logo shall be displayed whenever a public notice regarding the Project is displayed. Without limiting the generality of the forgoing, the Recipient shall:

- (a) invite the Bank and the Donor to any visibility event relating to the Project, including the launching ceremony, if any;
- (b) ensure that the Donor's and Fund's funding shall be acknowledged in the press release, following the signing of this Agreement;
- (c) ensure that the EU Representative in Moldova will be invited to the signing ceremony (if any) and will be given opportunity to speak to the media;
- (d) ensure that, as the case may be, local press visits shall be organised to acknowledge results of the Project and ensure that the local media is made aware of Donor's and Fund's funding;
- (e) ensure that, as the case may be, a video on the benefits (to be) achieved by the implementation of the Project shall be prepared;
- (f) ensure that the PIU acknowledges the Donor's and the Fund's funding for the Project in their communications with the media and other partners and make visible the sources of funding on their web site, as appropriate; and
- (g) ensure that the PIU photo-documents the work done through the implementation of the Project and shares a selection of photos with the EBRD Communications Department and further with the Fund.

Section 4.05 Fraud and Corruption

The Recipient shall not, and shall not authorise or permit any of its officers, directors, authorised employees, agents or representatives to, engage in with respect to the Project, the Grant Financing or any transactions contemplated by this Agreement, any Prohibited Practice.

ARTICLE V - SUSPENSION AND CANCELLATION; REFUND

Section 5.01 Suspension

- (a) If any of the following events shall have occurred and be continuing, the Bank may, by notice to the Recipient and the Ministry, suspend in whole or in part, the right of the Recipient to any further Disbursement under this Agreement:

- (1) any of the Loan Agreement, or the Project Agreement, or the Subsidiary Loan Agreement, ceases to be in full force and effect or is terminated;
 - (2) the Recipient has failed or fails to perform any of its obligations under this Agreement, or, in its capacity as the Project Entity under the Project Agreement, or, in its capacity as a borrower under the Subsidiary Loan Agreement;
 - (3) the Ministry, in its capacity as the Borrower under the Loan Agreement, has failed or fails to perform any of its obligations under this Agreement or under the Loan Agreement, or, in its capacity as a lender under the Subsidiary Loan Agreement;
 - (4) the Bank has suspended or cancelled, or an event has occurred which gives the Bank the right to suspend or cancel, in whole or in part, the right of the Borrower to make applications for Drawdowns, under the Loan Agreement pursuant to Section 7.01 (*Suspension*) and Section 7.02 (*Cancellation by the Bank*) of the Standard Terms and Conditions;
 - (5) any event specified in Section 7.06 (*Events of Acceleration*) of the Standard Terms and Conditions has occurred or is continuing and the Bank has declared all or any portion of the Loan Financing to be due and payable pursuant to Section 7.06 (*Events of Acceleration*) of the Standard Terms and Conditions;
 - (6) an extraordinary situation has arisen as a result of events which have occurred which shall make it improbable the Project can be carried out or the Recipient or the Ministry will be able to perform their obligations under this Agreement;
 - (7) a representation or warranty made by the Recipient or the Ministry in connection with this Agreement shall have been incorrect or misleading in any material respect;
 - (8) except as permitted under Section IV(b) of the Loan Agreement, the Statutes of the Recipient shall have been amended, suspended, abrogated, repealed or waived in such a way as to affect materially and adversely the operations or the financial condition of the Recipient or its ability to carry out the Project or to perform any of its obligations under this Agreement;
 - (9) the Ministry in its capacity as Borrower under the Loan Agreement has cancelled in whole or in part any undisbursed portion of the Loan Financing pursuant to Section 3.08 (Cancellation) of the Standard Terms and Conditions;
 - (10) the Fund has terminated pursuant to the Fund Rules; or
 - (11) the Recipient, the Ministry, a Contractor, or any of their officers, employees, agents or representatives has been found by a judicial process or other official enquiry to have engaged in any Prohibited Practice with respect to the Project, the Grant Financing or any transactions contemplated by this Agreement.
- (b) The right of the Recipient to any further Disbursement shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to suspension shall have ceased to exist, unless the Bank shall have notified the Recipient and the Ministry that the right to further Disbursements has been restored; provided, however that, that the right to further Disbursements shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall

affect or impair any right, power or remedy of the Bank in respect of any other subsequent event described in this Section.

Section 5.02 Cancellation by the Bank

- (a) If at any time the Bank determines, after consultation with the Recipient and the Ministry, that an amount of the Grant Financing will not be required to finance costs of the Project to be financed out of the Grant Financing, the Bank may, by notice to the Recipient and the Ministry, cancel such amount of the Grant Financing. On the Last Availability Date of the Grant Financing, any undisbursed portion of the Grant Financing shall be cancelled automatically, except as the Bank otherwise agrees.
- (b) If the right of the Recipient to Disbursement of any portion of the Grant Financing under this Agreement shall have been suspended pursuant to Section 5.01 (*Suspension*) of this Agreement for a continuous period of thirty (30) days, the Bank may, by notice to the Recipient and the Ministry, cancel the Grant Financing, in whole or in part.
- (c) If the Bank has cancelled, or an event has occurred which gives the Bank the right to cancel, in whole or in part, the Loan Financing pursuant to Section 7.02 (*Cancellation by the Bank*) of the Standard Terms and Conditions, the Bank may, by notice to the Recipient and the Ministry, cancel the Grant Financing, in whole or in part.
- (d) If at any time, the Bank determines that:
 - (1) the procurement of any of the Grant Financed Items is inconsistent with this Agreement and the Project Agreement;
 - (2) funds disbursed under this Agreement have been used for purposes other than those provided for under this Agreement; or
 - (3) with respect to any Contract, any representative of the Recipient, the Ministry, or any Contractor has engaged in any Prohibited Practice during the procurement or execution of such Contract, without the Recipient and the Ministry having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

the Bank may, by notice to the Recipient and the Ministry, cancel the Grant Financing in whole or in part. Such cancellation shall take effect when notice is given.

Section 5.03 Unconditional Reimbursement Commitments Unaffected by Suspension or Cancellation

No cancellation or suspension shall apply to amounts subject to an unconditional Reimbursement Commitment entered into by the Bank pursuant to Section 2.03 (*Conditional and Unconditional Reimbursement Commitments*) of this Agreement except as expressly provided in such commitment.

Section 5.04 Obligations of the Recipient and the Ministry

Notwithstanding any cancellation or suspension, all the provisions of this Agreement shall continue in full force and effect, except as specifically provided herein.

Section 5.05 Events of Refund

If any of the following events shall have occurred and shall be continuing for the period specified below, then at any time during the continuance of that event the Bank may, by notice to the Recipient and the Ministry, demand that the Recipient and/or the Ministry refund all or any portion of the Grant Financing (and pay any other amounts payable under this Agreement) and the same shall thereupon become (anything in this Agreement to the contrary notwithstanding), due and payable immediately:

- (a) Any event specified in Section 5.01(a)(1) (*Suspension*) of this Agreement has occurred.
- (b) Any event specified in Section 5.01(a)(2) or 5.01(a)(3) (*Suspension*) of this Agreement has occurred and, if capable of remedy, has continued for a period of thirty (30) days after notice thereof has been given by the Bank.
- (c) Any Event of Acceleration specified in the Loan Agreement and the Standard Terms and Conditions has occurred or is continuing and the Bank has declared all or any portion of the Loan Financing to be due and payable pursuant to Section 7.06 (*Events of Acceleration*) of the Standard Terms and Conditions.
- (d) At any time the Bank determines that any representative of the Recipient, the Ministry, or any Contractor has been found by a judicial process or other official enquiry to have engaged in any Prohibited Practice with respect to the Project, the Grant Financing or any transactions contemplated by this Agreement.
- (e) The Recipient in its capacity as Borrower under the Loan Agreement has cancelled in whole or in part any undisbursed portion of the Loan Financing pursuant to Section 3.08 (*Cancellation*) of the Standard Terms and Conditions.

ARTICLE VI - ENFORCEABILITY, DISPUTE RESOLUTION

Section 6.01 Enforceability

The rights and obligations of the Recipient and the Ministry shall be valid and enforceable in accordance with their terms, notwithstanding any law of the Republic of Moldova to the contrary. The Recipient and the Ministry shall not be entitled under any circumstances to assert any claim that any provision of this Agreement is invalid or unenforceable for any reason.

Section 6.02 Failure to Exercise Rights

No delay in exercising, or omission to exercise, any right, power or remedy, accruing to either party under this Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other subsequent default.

Section 6.03 Dispute Resolution

The provisions of Section 8.04 (*Dispute Resolution*) of the Standard Terms and Conditions shall apply as if set out herein in full mutatis mutandis including, without prejudice to the generality thereof, as if:

- (i) references to "the Loan Agreement", "the Guarantee Agreement" or "Project Agreement" were read as references to "this Agreement";
- (ii) references to "the Borrower", or "any Project Entity" were read as references to "the Recipient"; and
- (iii) references to "the Guarantor" were read as references to "the Ministry".

ARTICLE VII - EFFECTIVENESS; TERMINATION

Section 7.01 Effective Date

Except as the Bank and the Recipient and the Ministry shall otherwise agree, this Agreement shall become effective on the date upon which the Bank dispatches to the Recipient and the Ministry notice of the Bank's acceptance of the evidence required by Section 7.02 (*Conditions Precedent to Effectiveness*) and Section 7.03 (*Legal Opinions*) of this Agreement.

Section 7.02 Conditions Precedent to Effectiveness

This Agreement shall not become effective unless the Bank is satisfied that no event referred to in Section 5.01(a) (*Suspension*) or Section 5.05 (*Events of Refund*) of this Agreement has occurred and is continuing; and until the following conditions precedent have been fulfilled, in form and substance satisfactory to the Bank, or at the sole discretion of the Bank waived, whether in whole or in part and whether subject to conditions or unconditionally:

- (a) the Bank shall have received two duly executed originals of this Agreement;
- (b) all conditions precedent to the effectiveness of the Loan Agreement under Section 9.02 (*Conditions Precedent to Effectiveness*) of the Standard Terms and Conditions and Section 6.01 (*Conditions Precedent to Effectiveness*) of the Loan Agreement, except only the effectiveness of this Agreement, have been fulfilled, in form and substance satisfactory to the Bank;
- (c) the Bank shall have received evidence, in form and substance satisfactory to the Bank, that the execution and delivery of this Agreement on behalf of the Recipient and the Ministry have been duly authorised or ratified by all necessary governmental, administrative and corporate action;
- (d) the Bank has been provided with such other documents it may have reasonably requested.

Section 7.03 Legal Opinions

As part of the evidence to be furnished pursuant to Section 7.02 (*Conditions Precedent to Effectiveness*) of this Agreement, the Minister of Justice of the Republic of Moldova shall furnish, or cause to be furnished, to the Bank an opinion, on behalf of the Recipient and the Ministry in form and substance satisfactory to the Bank, in respect of this Agreement, and showing that this Agreement has been duly authorised or ratified by, and executed and delivered on behalf of the Recipient and the Ministry, and constitutes a valid and legally binding obligation of the Recipient and the Ministry, enforceable in accordance with its terms.

Section 7.04 Termination for Failure to Become Effective

If the Loan Agreement is not effective by the date specified in Section 5.03 (*Termination for Failure to Become Effective*) of the Loan Agreement or any further date notified by the Bank to the Recipient in its capacity as the Borrower pursuant to Section 9.04 (*Termination for Failure to Become Effective*) of the Standard Terms and Conditions, all obligations of the Bank under this Agreement shall terminate unless the Bank, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. The Bank shall promptly notify the Recipient and the Ministry of such later date.

Section 7.05 Termination on Performance

(a) This Agreement shall continue in force until the Recipient and the Ministry have performed all of their respective obligations in accordance with the provisions hereof, unless earlier terminated in accordance with its terms; provided that the provisions of Section 6.03 (*Dispute Resolution*) shall survive the termination of this Agreement.

(b) Notwithstanding anything to the contrary in this Agreement, the provisions of Section 5.05(d) (*Events of Refund*) shall survive the termination of this Agreement for five (5) years after the Project Completion Date.

ARTICLE VIII - MISCELLANEOUS

Section 8.01 Notices

Any notice or request required or permitted to be given or made under this Agreement shall be in writing. Except as otherwise provided in Section 7.01 (*Effective Date*) of this Agreement, such notice or request shall be deemed to have been duly given or made when it has been delivered to the party to which it is required to be given or made at the party's address specified below or at such other address as such party shall have specified in writing to the other party giving the notice or making the request. Except as otherwise provided in this Agreement or the EBRD Disbursement Handbook, such delivery may be made by hand, mail or facsimile transmission. Deliveries made by facsimile transmission shall also be confirmed by mail.

For the Recipient:

Calea Ferata din Moldova

48 Vlaicu Pircalab Street

Chisinau MD-2012

Republic of Moldova

Attention: General Director

Fax: +373 22 22 13 80

For the Ministry:

Ministry of Transport and Road Infrastructure

162 Stefan cel Mare si Sfint Blvd.

Chisinau, MD 2004

Republic of Moldova

Attention: Minister of Transport and Road Infrastructure

Fax: +373 22 22 53 93

For the Bank:

European Bank for Reconstruction and Development

One Exchange Square

London EC2A 2JN

United Kingdom

Attention: Operation Administration Department

Fax: +44 20 7338 6100

Section 8.02 Authority to Act

Any action required or permitted to be taken and any documents required or permitted to be executed under this Agreement by the Recipient or the Ministry, shall be taken or executed by the Authorised Representatives of the Recipient and the Ministry, as the case may be, or such other officers of the Recipient and the Ministry as any such Authorised Representatives shall designate in writing. The Recipient and the Ministry shall furnish to the Bank evidence of the authority and the authorised specimen signature of such officer substantially in the form of Exhibit 2 (*Form of Letter Designating Authorised Signatories*).

Section 8.03 Amendment

This Agreement may be amended by a written instrument signed by the Recipient's Authorised Representative, the Ministry's Authorised Representative and by a duly authorised officer of the Bank.

Section 8.04 English language

This Agreement has been prepared and executed in English. Any document delivered pursuant to this Agreement shall be in the English language. Documents in any other language shall be accompanied by an English translation thereof certified as being an approved translation and such approved translation shall be conclusive.

Section 8.05 Indemnification

(a) The Ministry and the Recipient assume full liability for, and agree to and shall indemnify and hold harmless the Bank and its officers, directors, employees, agents and servants against and from, any and all liabilities, obligations, losses, damages (compensatory, punitive or otherwise), penalties, claims, actions, Taxes, suits, costs and expenses (including, reasonable legal counsel's fees and expenses and costs of investigation) of whatsoever kind and nature, including, without prejudice to the generality of the foregoing, those arising in contract or tort (including negligence) or by strict liability or otherwise, which are imposed on, incurred by or asserted against the Bank or any of its officers, directors, employees, agents or servants (whether or not also indemnified by any other person under any other document) and which in any way relate to or arise out of, whether directly or indirectly:

- (1) any of the transactions contemplated by this Agreement or the execution, delivery or performance thereof;
- (2) the operation or maintenance of the Recipient's facilities or the ownership, control or possession thereof by the Recipient; or
- (3) the exercise by the Bank of any of its rights and remedies under this Agreement; and

provided that the Bank shall not have any right to be indemnified hereunder for its own gross negligence or wilful misconduct.

(b) The Recipient and the Ministry acknowledge that the Bank is entering into this Agreement, and has acted, solely as a grant provider, and not as an advisor, to the Recipient and the Ministry. The Recipient and the Ministry represent and warrant that, in entering into this Agreement, they have engaged, and relied upon advice given to them by, their own legal, financial and other professional advisors and they have not relied on and will not hereafter rely on any advice given to them by the Bank.

Section 8.06 Assignments

The Recipient and the Ministry may not assign or otherwise transfer all or any part of their respective rights or obligations under this Agreement without the prior written consent of the Bank.

Section 8.07 Rights, Remedies and Waivers

The rights and remedies of the Bank under this Agreement shall not be prejudiced by any act or thing which might, apart from this Section, prejudice such rights or remedies. No course of dealing and no delay in exercising, or failure to exercise, any right, power or remedy of the Bank shall impair any such right, power or remedy or be construed to be a waiver thereof. Any waiver of any of the terms or conditions of this Agreement shall be in writing and signed by the Bank. In the event that the Bank waives a condition to any Disbursement of the Grant Financing, the Recipient shall, by receiving such Disbursement, be deemed to have agreed to the terms of such waiver and the right of the Bank to require compliance with such condition shall be expressly preserved for the purposes of any subsequent Disbursement. The rights and remedies provided in this Agreement and the other agreements contemplated hereby are cumulative and shall not preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 8.08 Disclosure

The Bank may disclose such documents, information and records regarding the Recipient and this transaction (including copies of this Agreement and any other agreement contemplated hereby) as the Bank deems appropriate for any purposes in connection with any dispute involving the Recipient and/or the Ministry, for the purpose of preserving or enforcing any of the Bank's rights under this Agreement or any other agreement contemplated hereby or collecting any amount owing to the Bank and for the purpose of reporting pursuant to the Fund Rules.

Section 8.09 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto, acting their duly authorised representatives, have caused this Agreement to be signed in six copies as of the date first above written.


CALEA FERATA DE MOLDOVA

By: 
Name: 
Title: General Director

REPUBLIC OF MOLDOVA

By: 
Name: 
Title: Minister

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

By: 
Name: Julia Otto
Title: Head of Chisinau RO

SCHEDULE 1 - PERFORMANCE INDICATORS

Indicators of the Project	Monitoring benchmarks
Operational indicators (quantitative) <i>(2011 is taken as the base year)</i>	<ul style="list-style-type: none"> - Acquisition of around ten new multi-purpose locomotives, (where CFM's total diesel line-haul fleet comprises 35 operational locos (71 in total), shunting – 27 operational (67 in total). Those in operation are largely life expired) - Reduction in locomotive fleet unit fuel consumption (litres per 000 gross tonne-km) by 10% by 2019. - Reduction in average unit fuel consumption (litres per 000 gross tonne-km) for new locomotives of 25% by 2019. - Reduction in unit maintenance costs (per loco-km for new locomotives) of 25% by 2019. - Reduction in unit CO₂ emissions in the rail sector per traffic unit of 8% by 2019. - Affirmative covenant under EBRD loan requiring adequate and timely maintenance of the rolling stock fleet.
EBRD Transition Impact objectives	Monitoring benchmarks
<i>Institutions, laws and policies that promote market</i>	<ul style="list-style-type: none"> - Approve CFM corporatisation plan and prepare legal assessment report. - Implement operational separation and approve accounting separation plan for each business unit. - Adopt a PSO methodology. - Approve CFM Restructuring Action Plan and start its implementation as per timetable therein. - Submission to adopt the primary legislation of the Railway Reform Legal Package.
<i>Demonstration of new replicable behaviour/activities – Energy Efficiency</i>	<ul style="list-style-type: none"> - Include EE requirements into the technical specifications for the Project procurement. - Adopt the Energy Efficiency Action Plan (based on the results of the Energy Efficiency Audit). - Establishment of Energy Management unit. - Monitor and disclose energy consumption. - Implementation of the Energy Efficiency Action Plan (EEAP), including EMIS. - Adopt the elements of EHS system based on ISO 14001 and OHSAS 18001. - Approve a Corporate Governance Action Plan and start its implementation as per timetable therein.

EXHIBIT 1 - FORM OF DISBURSEMENT REQUEST

[To Be Typed on Letterhead of the Recipient]

[Date]

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom

Attention Operation Administration Department

Operation No. [] (Grant Component)
Disbursement request No. [1]

Re: Grant Agreement dated _____ between the [Recipient], [Sovereign] and the
European Bank for Reconstruction and Development (the "Bank").

We hereby request the following Disbursement in accordance with the provisions of the
above mentioned Grant Agreement:

Grant Currency:	[EUR]
Currency of payment required:	[2]
Financed Amount(s) / currency:	[3]
Value Date:	[4]
Payable to (Payee):	[5]

Payment Instructions (Payee's Banking Details):

Payee's Account Name:	[6]
Payee's Account Number:	[7]
Payee's Bank Name:	[8]
Payee's Bank Address:	[9]

Payee's Bank's Correspondent details:

Correspondent Bank Name:	[10]
Address:	[11]
Account Name:	[12]
Account Number:	[13]
Payment Reference:	[14]

We hereby certify that we have not previously requested disbursement from the Grant
Financing to meet these expenditures. We have not obtained and do not intend to obtain
funds for this purpose out of the proceeds of any other grant, credit or loan.

The goods and services covered by this request have been or are being purchased in accordance with the terms of the Grant Agreement.

We hereby confirm to the EBRD that (i) we are in compliance with our obligations as set out in the Grant Agreement and the Loan Agreement and (ii) that no event has occurred which is liable to affect materially and adversely our operations or financial condition or our ability to carry out the Project or to perform any of our obligations under the Grant Agreement.

Yours faithfully,

By: _____

Name:

Title:

Enclosures: - Total number of Summary Sheets: [16]
- Total number of document items: [17]

Notes for completion of the form of Disbursement request

[1] The Recipient should number each request form. The first request for a grant disbursement will be number 1, the following requests will be numbers 2, 3, etc. It is up to the recipient to keep track of the number of all grant disbursement requests that it has made under the given grant agreement. The request forms should follow the same sequential numbering system, whether they are for a direct payment disbursement, or for the issue of a reimbursement commitment. The use of this numbering system avoids confusion in case forms are held up in the post, are faxed more than once, etc.

[2] Please state currency of actual payment required. This will be either the grant currency, or the currency of the expenditures (see [3] below). Alternatively, in some circumstances the Bank may agree to pay in a third currency, in which case it would act as the recipient's agent in order to obtain this currency.

If payment is required in more than one currency, then a different application form should be used per currency.

[3] The financed amount(s) are the original expenditures, in their original currency as detailed on the summary sheet, calculated at the appropriate percentage specified in the grant agreement for the applicable eligible Grant Financed Item. The amount(s) given here should correspond with the total amount(s) in section [15] of the summary sheet.

[4] The value date is the date that the EBRD's account is debited with the payment amount of the disbursement. The EBRD cannot guarantee that the payee's account will be credited on the same date, as this depends on the procedures adopted by the clearing system or the recipient bank in the country of the payee. There should be 15 business days minimum between the date that the EBRD receives the application and the requested value date. If in fact the payment is needed as soon as possible, instead of on that specific value date, it may be better not to give a specific date, but to put "as soon as possible" in this field [4]. In that case the EBRD will make the payment in any case within 15 business days, but earlier if possible. (Please note payment

can only be guaranteed within 15 business days if the disbursement request is correct and complete.)

[5] The Disbursement is paid out to the payee. Normally the payee will be the Contractor, but provided that the Bank has agreed otherwise in writing and the enclosed documentation (see the summary sheet) provides evidence that the borrower has already paid the Contractor, then payment may be made to the Recipient.

[6] The payee's account name in most cases will simply be the name of the payee.

[7] The payee's account number is required to avoid delays. In a growing number of countries, banks will refuse to make payment if the payee's account number is not given in the payment instructions.

[8] The payee's bank is the bank where the payee's account is held. Please indicate bank name and town.

[9] Instead of the address, the sorting code or SWIFT code can be given.

[10] The correspondent bank of the payee's bank is only required if payment is not to be made in the currency of the country where the payee's bank is located. In that case, the correspondent bank is the bank, located in the country of the payment currency, with which the payee's bank holds an account.

[11] Instead of an address, the sort code or SWIFT code of the correspondent bank can be given.

[12] The payee's bank's account name in most cases will simply be the name of the payee's bank.

[13] The payee's bank's account number is essential if the payee bank holds more than one account with the correspondent bank, or if it is not a member of SWIFT (the international electronic payment settlement system). Otherwise this number is useful but not mandatory. Where applicable the IBAN No. (International Bank Account Number) should be quoted.

[14] The payment reference which the EBRD will send with the payment helps the payee to identify the payment. If no specific reference is requested, the EBRD will mention the Recipient's name and the agreement number.

[15] Signature. The request summary sheet should be signed off by or on behalf of the Recipient.

[16] The summary sheets list all the items of documentation enclosed to support the Disbursement request application. If there are many items, it is advisable to use a separate summary sheet per category.

[17] The documentation items (contracts, invoices, receipts, etc.) are to be numbered and presented in the same order as they appear on the summary sheets. Their total number should be indicated here to facilitate the EBRD's review.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Recipient
Name : [1]

Operation Request
No : [3] No: [4]

Date: [2]

Summary Sheet
No : [5]

Disbursement (ref.no./ name/ %)
Grant
Financed Item:
[6]

Item No	Description of Item	Contract No. and Date	Name and Address of Contractor	Brief Description of Goods , Works or Services	Currency and Total Amount of Contract	Currency & Amount of Eligible Expenditure	Amount of Financing in currency of expenditure
[7]	[8]	[9]	[10]	[11]	[12]	[13]	[14]

Signature

[16].....

TOTAL (per currency)

[15]

NOTES FOR COMPLETION OF DISBURSEMENT REQUEST SUMMARY SHEET

[1] Name. Recipient's name. This should be the same as on the Disbursement request form to which this summary sheet belongs.

[2] Date. Date of request. This should be the same as on the Disbursement request form to which this summary sheet belongs.

[3] Operation number. This number is the same as on the Disbursement request form to which this summary sheet belongs.

[4] Request number. This is the number of the Disbursement request form to which this summary sheet belongs.

[5] Summary sheet number. For each Disbursement request, the summary sheets should be numbered starting from 1, and their total number noted on the Disbursement request form to which they belong.

[6] Disbursement Grant Financed Item. This is the Grant Financed Item for the project, to be financed out of the proceeds of the requested Disbursement. Please consult the grant agreement to find the name and reference number of the Grant Financed Item, and the percentage of expenditures to be financed (for example, "Grant Financed Item no. (3b), equipment, 60%").

If one Disbursement request covers expenditures from more than one Grant Financed Item, then a separate summary sheet is to be used for each Grant Financed Item.

[7] Item number. All document items (invoices, contracts, receipts, etc.) should be presented in the same order as they appear on the summary sheet(s). To facilitate identification, the documents should be numbered, starting with 1, 2, 3, etc., for each new Disbursement request, and this number should be clearly marked on the document itself. The total number of items for the total of all summary sheets is noted on the Disbursement request form.

[8] Description of item. Please describe each item, e.g. "invoice", "receipt", "engineer's certificate", "translation of [...]", etc.

[9] Contract order number and date. It is recommended that the contract is given an original number when it is drawn up between the Recipient and the Contractor. The EBRD will adopt this number for its own record keeping. If the contract has not been given an original number, the EBRD will allocate it a number and advise the Recipient at the time of approval. If the Recipient does not know the number at the time of completing the summary sheet, this part can be left for the EBRD to complete.

The date of the contract/purchase order should also be given in this column.

Note: the same contract may appear in more than one Disbursement request, if delivery of the goods, works or services (see [11]), and therefore payment for these goods, etc., is made in stages.

[10] Name and address of Contractor. Name and address of Recipient's counterparty (Contractor) in the contract/purchase order as described in [9].

[11] Brief description of goods, works or services. These goods, works or services should correspond to the details provided in the Contract or other documents presented, and should fall within the Grant Financed Item indicated in [6].

[12] Currency and total amount of Contract. Total amount, in original currency, of the Contract listed in [9].

[13] Currency and amount of eligible expenditure. Per expenditure: total amount due or paid, in original currency, as covered by the invoices or other documents listed in [7] and [8]. When there is more than one "item" for each expenditure, (e.g. an invoice, certificate and receipt, all for the same expenditure), those items should be bracketed and only one amount should be shown in this column.

[14] Amount of financing. For each amount listed in column [13], there should be a corresponding amount in this column [14], calculated at the percentage stated in [6], corresponding to the category of this summary sheet. The amount of financing should be in the original currency of the contract and expenditure (columns 12 and 13). This may or may not be the same as the loan currency or the payment currency.

[15] Total. The amounts of financing, as listed in [14], should be added up into one total amount per currency. For direct Disbursement requests, amount(s) given here should correspond with the amount(s) given in [9] of the direct Disbursement request form.

[16] Signature. The request summary sheet should be signed off by or on behalf of the Recipient. See request for Disbursement form for signature requirements.

**EXHIBIT 2 - FORM OF LETTER DESIGNATING AUTHORISED
SIGNATORIES**

[To Be Typed on Letterhead of the Recipient]

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom

[Date]

Attention: Operation Administration Unit

Subject: Operation No. # (Grant Component)
Letter Designating Authorised Signatories¹

Dear Sir/Madam,

With reference to the grant agreement dated _____ (the "Grant Agreement") among [Recipient], [Sovereign] and the European Bank for Reconstruction and Development (the "Bank"), please be advised that any one of the persons whose authenticated specimen signatures appear below, is authorised on behalf of the Recipient to sign [Disbursement Requests and any other notices or documents] required or permitted to be executed under the above mentioned Grant Agreement.

NAME	POSITION	SPECIMEN SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

All previous notices providing signatures of officials authorised to sign on behalf of the Recipient under the above Grant Agreement are hereby revoked.

¹ Designation may be changed by the Recipient at any time by providing a new Letter Designated Authorised Signatories to the Bank.

Yours faithfully,

For and on Behalf of:

[NAME OF RECIPIENT]

By: _____

Name: _____

Title: _____

NOTES FOR COMPLETION OF THE LETTER DESIGNATING AUTHORISED SIGNATORIES

- The above authorisation letter is to be signed on behalf of the Recipient by its respective Authorised Representatives. [Please note that, in respect of any action required or permitted to be taken under the provisions of Section 2.02 or Section 2.03 of the Grant Agreement, the above authorisation letter is to be signed on behalf of the Recipient by the Recipient's Authorised Signatory as set out in Section 2.02(h).]
- In the event that each document is to be signed by more than one official, the authorisation letter must state this clearly, and the first sentence must be adjusted accordingly. If authorised signatories are divided into two groups, and the signature of an official from each group is required, this must also be clearly stated.

*European Bank
for Reconstruction and Development*

STANDARD TERMS AND CONDITIONS

1 December 2012

**This document reflects existing Bank policies and
practices and may be revised from time to time**

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ARTICLE I - APPLICATION OF STANDARD TERMS AND CONDITIONS

Section 1.01. Application of Standard Terms and Conditions

(a) Any agreement of the Bank in connection with a loan, guarantee or other financial accommodation for, or guaranteed by, a member of the Bank may provide that the parties to that agreement accept the provisions of these Standard Terms and Conditions. To the extent so provided in any such agreement, these Standard Terms and Conditions shall apply thereto with the same force and effect as if they were fully set forth therein. No revocation or amendment of these Standard Terms and Conditions shall be effective in respect of any such agreement unless the parties to that agreement shall so agree.

(b) In a case in which:

(i) the Loan Agreement is between the Bank and a member of the Bank, references in these Standard Terms and Conditions to the "Guarantor", the "Guarantee Agreement" and the "Guarantor's Authorised Representative" shall be disregarded;

(ii) there is no Project Agreement, references in these Standard Terms and Conditions to the "Project Agreement" shall be disregarded; and

(iii) the entire Project is to be carried out by the Borrower, references in these Standard Terms and Conditions to the "Project Entity" shall be disregarded.

Section 1.02. Inconsistency with Loan Agreements and Guarantee Agreements

If a provision of an agreement referred to in Section 1.01(a) is inconsistent with a provision of these Standard Terms and Conditions, the provision of such agreement shall govern.

ARTICLE II - REFERENCES AND HEADINGS; DEFINITIONS

Section 2.01. Interpretation

(a) References in these Standard Terms and Conditions to Articles or Sections are to Articles or Sections of these Standard Terms and Conditions.

(b) In these Standard Terms and Conditions, or in an agreement to which these Standard Terms and Conditions apply, unless the context otherwise requires, words denoting the singular include the plural and vice versa, words denoting persons include corporations, partnerships and other legal persons and references to a person includes its successors and permitted assigns.

(c) In these Standard Terms and Conditions, or in an agreement to which these Standard Terms and Conditions apply, the headings of Articles and Sections, as well as the Table of Contents, are inserted for convenience of reference only and shall not be used to interpret these Standard Terms and Conditions or such agreements.

Section 2.02. Definitions

Except where stated otherwise, the following terms have the following meanings wherever used in these Standard Terms and Conditions or in an agreement to which these Standard Terms and Conditions apply:

"Affiliate"	as used in respect of any person, means any other person directly or indirectly controlling, controlled by, or under common Control with, such person.
"Agreement Establishing the Bank"	means the Agreement Establishing the European Bank for Reconstruction and Development, dated 29 May 1990.
"Assets"	includes property, revenues or claims of any kind.
"Available Amount"	means so much of the Loan as shall not, from time to time, have been cancelled or drawn down or made subject to a conditional or unconditional Reimbursement Commitment.
"Bank"	means the European Bank for Reconstruction and Development.
"Borrower"	means the party to which the Loan is made pursuant to the Loan Agreement.
"Borrower's Authorised Representative"	means the person designated as such in the Loan Agreement.
"Business Day"	means a day (other than a Saturday or Sunday) on which (i) where the currency of the Loan is USD or £, commercial banks are open for the transaction of general business (including dealings in foreign exchange and foreign currency deposits) in London, England, and on which commercial banks and foreign exchange markets settle payments in the Loan Currency in the principal financial centre of the country of issue of such currency or, (ii) where the currency of the Loan is Euro, commercial banks are open for the transaction of general business (including dealings in foreign exchange and foreign currency deposits) in London, England, and which is a TARGET Day.

"Category"	means a category of items to be financed out of the proceeds of the Loan as provided for in the Loan Agreement.
"Charges"	means charges, commissions, fees, premiums, Unwinding Costs and default interest in respect of the Loan.
"Co-financier"	means the financier (other than the Bank) referred to in Section 7.01(a)(x) providing the Co-financing; if the Loan Agreement specifies more than one such financier, "Co-financier" refers separately to each of such financiers.
"Co-financing"	means the financing referred to in Section 7.01(a)(x) and specified in the Loan Agreement provided or to be provided for the Project by the Co-financier. If the Loan Agreement specifies more than one such financing, "Co-financing" refers separately to each of such financings.
"Co-financing Agreement"	means the agreement referred to in Section 7.01(a)(x)(A) providing for the Co-financing.
"Co-financing Deadline"	means the date referred to in Section 7.01(a)(x)(A) and specified in the Loan Agreement by which the Co-financing Agreement is to become effective. If the Loan Agreement specifies more than one such date, "Co-financing Deadline" refers separately to each of such dates.
"Coercive Practice"	means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
"Collusive Practice"	means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
"Commitment Charge"	means the commitment charge specified in Section 3.05(a).
"Control"	as used in respect of any person or entity (including, with correlative meanings, the terms "controlled by", "controlling" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting shares or by contract or otherwise.
"Corrupt Practice"	means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.

"Currency"	means the lawful currency of a country which is legal tender for the payment of public and private debts in that country.
"Default Interest Determination Date"	means, where the currency is USD, for any Default Interest Period, the date two London Banking Days prior to the first day of such Default Interest Period (or, at the Bank's option, the first day of such Default Interest Period), or where the currency is £, for any Default Interest Period, the first day of such Default Interest Period, or where the currency is Euro, for any Default Interest Period, the date two Business Days prior to the first day of such Default Interest Period.
"Default Interest Period"	means, with respect to any amount overdue under the Loan Agreement, a period commencing on the day on which such payment becomes due or, as the case may be, on the last day of the previous Default Interest Period with respect to such overdue amount, and ending on a Business Day selected by the Bank.
"Dollars" or "USD"	means the lawful currency of the United States of America.
"Drawdown"	means the use of a part of the Available Amount by the Borrower through a payment or payments made by the Bank to the Borrower or to the order of the Borrower.
"EBRD Disbursement Handbook"	means the disbursement handbook of the Bank, as amended from time to time by the Bank.
"EBRD Procurement Rules"	means the Procurement Policies and Rules for projects financed by the European Bank for Reconstruction and Development, as amended from time to time by the Bank.
"Effective Date"	means the date upon which the Loan Agreement becomes effective in accordance with Section 9.01.
"Euro" or "EUR" or "€"	means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty Establishing the European Community, as amended by the Treaty on European Union.
"External Debt"	means any debt which is or may become payable in a medium other than the Currency of the Member.
"Fixed Interest Rate"	means the rate of interest payable on the Loan from time to time in accordance with Section 3.04(4).

"Fraudulent Practice"	means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
"Front-end Commission"	means the front-end commission specified in Section 3.05(b).
"Guarantee Agreement"	means the agreement between the Bank and a member of the Bank providing for the guarantee of the Loan, as such agreement may be amended from time to time; and such term includes these Standard Terms and Conditions as applied thereto, all schedules to the Guarantee Agreement, and all agreements supplemental to, or included within the scope of, the Guarantee Agreement.
"Guarantor"	means the member of the Bank that is a party to the Guarantee Agreement.
"Guarantor's Authorised Representative"	means the person designated as such in the Guarantee Agreement.
"Incurring of Debt"	includes the assumption or guarantee of debt and any renewal, extension or modification of the terms of the debt or of the assumption or guarantee thereof.
"Interest Conversion Date"	means an Interest Payment Date selected by the Borrower as such in accordance with Section 3.04(c)(ii).
"Interest Conversion Period"	means a period of at least one (1) year, commencing on an Interest Payment Date and ending on an Interest Payment Date, selected by the Borrower as such in accordance with Section 3.04(c)(ii).
"Interest Determination Date"	means, where the currency is USD, for any Interest Period, the date two London Banking Days prior to the first day of such Interest Period, or, where the currency is £, for any Interest Period, the first day of such Interest Period, or where the currency is Euro, for any Interest Period, the date two Business Days prior to the first day of such Interest Period or a day otherwise defined in the Loan Agreement.

"Interest Fixing Date"

means, where the currency is USD, for any Interest Conversion Period selected by the Borrower as such in accordance with Section 3.04(c)(ii), a London Banking Day at least two London Banking Days prior to the first day of such Interest Conversion Period, or where the currency is £, for any Interest Conversion Period selected by the Borrower as such in accordance with Section 3.04(c)(ii), the London Banking Day prior to the first day of such Interest Conversion Period (or, at the Borrower's option, the first day of such Interest Conversion Period), or where the currency is Euro, for any Interest Conversion Period selected by the Borrower as such in accordance with Section 3.04(c)(ii), a Business Day at least two Business Days prior to the first day of such Interest Conversion Period.

"Interest Payment Date"

means any day falling on one of the dates so specified in the Loan Agreement for payment of interest on the Loan, provided, however, that, if any Interest Payment Date would otherwise fall on a day which is not a Business Day, such Interest Payment Date shall be changed to the next succeeding Business Day in the same calendar month or, if there is no succeeding Business Day in the same calendar month, the immediately preceding Business Day.

"Interest Period"

means, for any Drawdown, the period commencing on the date of such Drawdown and ending on the next Interest Payment Date, and each period thereafter commencing on an Interest Payment Date and ending on the next Interest Payment Date, provided that, if such Drawdown is made less than fifteen (15) Business Days prior to the next Interest Payment Date, the first Interest Period for such Drawdown shall commence on the date of such Drawdown and end on the Interest Payment Date following the next Interest Payment Date.

"Interest Rate"

means the Fixed Interest Rate or the Variable Interest Rate, or both, as specified in the Loan Agreement or, where the Fixed Interest Rate is established pursuant to Section 3.04(c) at a date which is later than the date of the Loan Agreement, in the notice from the Bank to the Borrower and the Guarantor issued in accordance with Section 3.04(c)(iii).

"Last Availability Date"

means the date specified as such in the Loan Agreement.

"Lien"

includes mortgages, pledges, charges, privileges and priorities of any kind and any arrangement having an equivalent effect.

"Loan"	means the loan provided for in the Loan Agreement.
"Loan Agreement"	means the loan agreement to which these Standard Terms and Conditions apply, as such agreement may be amended from time to time; and such term includes these Standard Terms and Conditions as applied thereto, all schedules to the Loan Agreement and all agreements supplemental to the Loan Agreement.
"Loan Currency"	means the Currency or Currencies in which the Loan is denominated, as specified in the Loan Agreement.
"Loan Repayment Date"	means any day falling on one of the dates specified in the Loan Agreement for repayment of the principal of the Loan, provided, however, that, if any Loan Repayment Date would otherwise fall on a day which is not a Business Day, such Loan Repayment Date shall be changed to the next succeeding Business Day in the same calendar month or, if there is no succeeding Business Day in the same calendar month, the immediately preceding Business Day.
"London Banking Day"	means a day (other than a Saturday or Sunday) on which commercial banks are open for the transaction of general business (including dealings in foreign exchange and foreign currency deposits) in London, England.
"Margin"	means one per cent (1%) per annum.
"Market Disruption Event"	means: <ul style="list-style-type: none"> (a) on the Interest Determination Date for the relevant Interest Period or the Default Interest Determination Date for the relevant Default Interest Period (in each case whether or not during a period in which all or any portion of the Loan is subject to a Fixed Interest Rate), the Reference Page is not available and none or only one of the major banks active in, as the case may be, the London interbank market (for USD or £) or the Euro-zone interbank market (for Euro) supplies a rate to the Bank to determine the Relevant Market Interest Rate for the Loan Currency for the relevant Interest Period or the default interest rate for the Loan Currency for the relevant Default Interest Period, as the case may be; or (b) before close of business in London on the Interest Determination Date for the relevant Interest Period or the Default Interest Determination Date for the relevant Default Interest Period (in each case whether or not during a period in which all or any portion of the Loan is subject to a Fixed Interest Rate), the Bank determines that the cost

to the Bank of obtaining matching deposits in, as the case may be, the London interbank market (for USD or £) or the Euro-zone interbank market (for Euro) would be in excess of the Relevant Market Interest Rate.

"Member"	means the member of the Bank that is a party to the Loan Agreement or the Guarantee Agreement or other agreement referred to in Section 1.01(a).
"Minimum Cancellation Amount"	means the amount specified as such in the Loan Agreement.
"Minimum Drawdown Amount"	means the amount specified as such in the Loan Agreement.
"Minimum Prepayment Amount"	means the amount specified as such in the Loan Agreement.
"Pounds" or "£"	means the lawful currency of the United Kingdom of Great Britain and Northern Ireland.
"Prohibited Practice"	means any Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice.
"Project"	means the project for which the Loan is made, as described in the Loan Agreement or Guarantee Agreement, as such description may be amended from time to time by agreement between the parties thereto.
"Project Agreement"	means each project agreement, if any, described in the Loan Agreement or Guarantee Agreement, as such agreement may be amended from time to time; and such term includes these Standard Terms and Conditions as applied thereto, all schedules to such Project Agreement and all agreements supplemental to such Project Agreement.
"Project Entity"	means each entity, specified as such in the Loan Agreement.
"Project Entity's Authorised Representative"	means, in respect of any Project Entity, the person designated as such in any Project Agreement.

"Public Assets"	means Assets of the Member, of any political or administrative subdivision thereof and of any entity owned and controlled by, or operating for the account or benefit of, the Member or any such subdivision, including gold and foreign exchange Assets held by any institution performing the functions of a central bank or exchange stabilisation fund, or similar functions, for the Member.
"Reference Page"	means the display of, (i) for Loans denominated in USD or £, London interbank offered rates of major banks for deposits in the Loan Currency designated as page LIBOR01 on Reuters services (or such other page as may replace page LIBOR01 on Reuters services for the purpose of displaying London interbank offered rates for deposits in the Loan Currency), and (ii) for Loans denominated in Euro, Euro-zone interbank offered rates for deposits in the Loan Currency designated as page EURIBOR01 on Reuters services (or such other page as may replace EURIBOR01 on Reuters services for the purpose of displaying Euro-zone interbank offered rates for deposits in the Loan Currency).
"Reimbursement Commitment"	means a commitment referred to in Section 3.02, and may be a "conditional Reimbursement Commitment" or an "unconditional Reimbursement Commitment", as those terms are used in that Section.
"Relevant Market Interest Rate"	means the interest rate specified in Section 3.04.
"Statutes"	means, in respect of the Borrower (if not a member of the Bank) or a Project Entity, its founding statute, act, decision, charter, or other similar instrument, as may be more specifically defined in the Loan Agreement or each Project Agreement.
"Subsidiary"	means, with respect to any entity, any other entity over fifty per cent (50%) of whose capital is owned, directly or indirectly, by such entity or which is otherwise effectively controlled by such entity.
"TARGET Day"	means a day on which the Trans-European Automated Real-Time Gross Settlement Payment System (TARGET) System is open for the settlement of payments in Euro.
"Taxes"	includes imposts, levies, fees and duties of any nature, whether in effect at the date of the Loan Agreement, Guarantee Agreement or any Project Agreement or thereafter imposed on the territory of the Member.

"Tranche"

means a part of the Loan identified as such in the Loan Agreement.

"Unwinding Costs"

means:

(I) subject to paragraph II below, the amount by which the Original Income Stream exceeds the Substitute Income Stream, where:

(a) "Original Income Stream" means the aggregate of the present values of the payments of principal and interest which would have become due to the Bank on the portion of the Loan which is subject to the Fixed Interest Rate during the Calculation Period (as defined below) if such prepayment, acceleration or cancellation had not occurred and if interest accrued on such portion of the Loan at the Fixed Rate (as defined below) during the periods in which the Fixed Interest Rate is in effect in accordance with Section 3.04(d) and applying the applicable Floating Rate for all other periods.

(b) "Substitute Income Stream" means the sum of:

(1) the aggregate of the present values of any remaining payments of principal and interest which, after taking into account such prepayment, cancellation or acceleration, would become due to the Bank on the portion of the Loan which is subject to the Fixed Interest Rate during the Calculation Period if interest accrued on such portion of the Loan at the Fixed Rate during the periods in which the Fixed Interest Rate is in effect in accordance with Section 3.04(d) and applying the applicable Floating Rate for all other periods; and

(2) as applicable:

(A) in the case of a prepayment pursuant to Section 3.07, the present value of the amount of the Loan which is subject to the Fixed Interest Rate and which is to be prepaid, determined by discounting such amount from the date such prepayment becomes due to the

Calculation Date (as defined below) at the Discount Rate (as defined below); and/or

(B) in the case of any other prepayment, the amount of the Loan which is subject to the Fixed Interest Rate and which has been prepaid; and/or

(C) in the case of an acceleration, the present value of the amount of the Loan which is subject to the Fixed Interest Rate and which has been accelerated, determined by discounting such amount from the date such acceleration becomes effective to the Calculation Date at the Discount Rate; and/or

(D) in the case of a cancellation, the present value of the amount of the Loan which is subject to the Fixed Interest Rate and which has been cancelled, determined by discounting such amount from the Last Availability Date to the Calculation Date at the Discount Rate.

(c) "Fixed Rate" means the Fixed Interest Rate less the Margin.

(d) For purposes of paragraphs (l)(a) and (l)(b)(1) above, the present value of each payment of principal and interest shall be determined by discounting the amount of such payment from its due date to the Calculation Date using the Discount Rate.

(e) "Calculation Date" means:

(1) in the case of a prepayment pursuant to Section 3.07, the date two Business Days prior to the date such prepayment becomes due or, at the Bank's option, the date such prepayment becomes due;

(2) in the case of any other prepayment, the date such prepayment is made or such later date as the Bank may select in its discretion; and

ARTICLE III - DRAWDOWNS; REIMBURSEMENT COMMITMENTS; INTEREST AND OTHER CHARGES; REPAYMENT

Section 3.01. Drawdowns

The Borrower may draw down from the Available Amount from time to time in accordance with the provisions of the Loan Agreement and subject to the following provisions:

(a) Last Availability Date

The Borrower's right to draw down from the Available Amount shall become effective on the Effective Date and shall terminate on the Last Availability Date or such later date as the Bank may establish after receipt of a prior written request from the Borrower (which request shall, where there is a Guarantee Agreement, be countersigned by the Guarantor). The Bank shall promptly notify the Borrower of any such later date.

(b) Applications for Drawdowns

(i) In order to make a Drawdown, a drawdown application shall be submitted to the Bank by the Borrower's Authorised Representative or a person designated by the Borrower's Authorised Representative. Each drawdown application submitted shall be in accordance with, and in the form prescribed by, the EBRD Disbursement Handbook and delivered to the Bank at least fifteen (15) Business Days prior to the proposed value date of the Drawdown. Each drawdown application shall be in substance satisfactory to the Bank and shall be accompanied by such documents and other evidence sufficient in form and substance to satisfy the Bank that the Borrower is entitled to the amount of the Drawdown and that the amount of the Drawdown will be used exclusively for the purposes specified in the Loan Agreement.

(ii) Except for the last Drawdown or unless the Bank shall otherwise agree, Drawdowns shall be made in amounts of not less than the Minimum Drawdown Amount.

(c) Currency of Drawdowns

Drawdowns shall be made in the Loan Currency in an amount equivalent to the expenditures to be financed out of the proceeds of the Loan. In the case of expenditures incurred in a Currency or Currencies other than the Loan Currency, the equivalent Drawdown amount shall be determined as follows:

(i) If the Borrower requests payment in the Loan Currency, the Bank will determine the equivalent Drawdown amount two Business Days prior to payment.

(ii) If the Borrower requests payment in the Currency or Currencies of the expenditures, the Bank will, provided such expenditures are in readily available Currencies or the Currency of the Member, purchase such Currency or Currencies in such manner as the Bank may deem appropriate. The equivalent Drawdown amount shall be determined by the Bank on the basis of the exchange costs that were or would have been incurred by the Bank in using the Loan Currency to meet the request.

(d) **Payments in Other Currencies**

In exceptional circumstances, the Bank may grant a request by the Borrower that payment be made in a Currency or Currencies other than the Loan Currency or the currency of the expenditures. In that case, the Bank will purchase such Currency or Currencies in such manner as the Bank may deem appropriate. The equivalent Drawdown amount shall be determined by the Bank on the basis of the exchange costs that were or would have been incurred by the Bank in using the Loan Currency to meet the request.

Section 3.02. Conditional and Unconditional Reimbursement Commitments

(a) Upon the Borrower's request, the Bank may, in accordance with the provisions of the EBRD Disbursement Handbook, issue unconditional or conditional Reimbursement Commitments to reimburse payments made by banks under letters of credit in respect of expenditures to be financed under the Loan. Any such reimbursement shall constitute a Drawdown.

(b) In the case of a conditional Reimbursement Commitment, the obligation of the Bank to pay shall be suspended or terminated immediately upon any suspension or cancellation of the Loan by the Bank pursuant to Section 7.01 or 7.02.

(c) In the case of an unconditional Reimbursement Commitment, the obligation of the Bank to pay shall not be affected by any subsequent suspension or cancellation of the Loan.

Section 3.03. Reallocation

(a) If the Bank estimates that the amount of the Loan allocated to any Category will be insufficient to finance the agreed percentage of expenditures in that Category, the Bank may, by notice to the Borrower:

(i) reallocate to such Category, to the extent required to meet the estimated shortfall, proceeds of the Loan which prior to such reallocation had been allocated to another Category and which in the opinion of the Bank are not needed to meet other expenditures; and

(ii) if such reallocation cannot fully meet the estimated shortfall, reduce the percentage of expenditures to be financed in order that further Drawdowns under such Category may continue until all expenditures thereunder shall have been made.

(b) In the event that a reallocation takes place in accordance with paragraph (a)(i) above, the Borrower may request the Bank to make a further reallocation of an equivalent amount of proceeds of the Loan to another Category mutually agreed by the Borrower and the Bank.

Section 3.04. Interest

Except as provided in Section 3.09:

(a) If the Loan is subject to a Variable Interest Rate then, for purposes of Section 3.04(b) below, the Relevant Market Interest Rate shall be:

(i) for the first Interest Period of each Drawdown, the offered rate per annum for deposits in the Loan Currency that appears on the Reference Page as of 11:00 a.m., as applicable, London time (for USD or £) or Brussels time (for Euro), on the relevant Interest Determination Date for the period which equals the duration of such Interest Period (or if no such rate appears on the Reference Page for a period equal to the duration of such Interest Period but rates ("Reference Rates") do appear on the Reference Page both for a period that is shorter than and for a period that is longer than the duration of such Interest Period, the Interbank Rate shall be the rate (rounded upward, if necessary, to four decimal places) that would be applicable for a period equal to the duration of such Interest Period as determined through the use of straight-line interpolation by reference to the Reference Rate that appears on the Reference Page for the period that is the next shorter in length than the duration of such Interest Period and the Reference Rate that appears on the Reference Page for the period that is the next longer in length than the duration of such Interest Period; and

(i) for each subsequent Interest Period, the offered rate per annum for deposits in the Loan Currency which appears on the Reference Page as of 11:00 a.m., as applicable, London time (for USD or £) or Brussels time (for Euro), on the relevant Interest Determination Date for the period which is closest to the duration of such Interest Period (or, if two periods are equally close to the duration of such Interest Period, the average of the two relevant rates);

provided that if, for any reason, the Relevant Market Interest Rate cannot be determined at such time by reference to the Reference Page, the Relevant Market Interest Rate shall be the rate per annum which the Bank determines to be the arithmetic mean (rounded upward, if necessary, to four decimal places) of the offered rates per annum for deposits in the Loan Currency in an amount comparable to the portion of the Loan subject to a Variable Interest Rate scheduled to be outstanding during the relevant Interest Period for a period equal to such Interest Period which are quoted to leading banks in, as applicable, the London interbank market (for USD or £) or Euro-zone interbank market (for Euro) as advised to the Bank by at least two major banks active in, as applicable, the London interbank market (for USD or £) or Euro-zone interbank market (for Euro) selected by the Bank and provided further that if pursuant to the above the Relevant Market Interest Rate would be below zero, the Relevant Market Interest Rate will be deemed to be zero.

(b) If the Loan is subject to a Variable Interest Rate, interest on the Loan shall be determined and payable as follows:

(i) The principal amount of the Loan from time to time drawn down and not repaid shall bear interest during the relevant Interest Period at the Variable Interest Rate calculated in accordance with this Section.

(ii) Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period, be calculated on the basis of the actual number of days elapsed and a 360-day year (unless the Loan Currency is Pounds, in which case it shall be calculated on the basis of a 365-day year) and be due and payable on the Interest Payment Date which is the last day of the relevant Interest Period.

(iii) The Variable Interest Rate shall be the sum of the Margin and, subject to Section 3.13, the Relevant Market Interest Rate specified in Section 3.04(a).

(iv) On each Interest Determination Date, the Bank shall determine the Variable Interest Rate applicable to the relevant Interest Period and promptly give notice thereof to the Borrower and the Guarantor.

(c) Notwithstanding the foregoing, if so provided for in the Loan Agreement, the Borrower may, as an alternative to paying interest at a Variable Interest Rate on all or any portion of the Loan then outstanding, elect to pay interest at a Fixed Interest Rate on such portion of the Loan, as follows:

(i) The Borrower may only exercise such option if:

(A) at the time of exercise no event specified in Section 7.01 below (and no event which with notice and/or lapse of time would become such an event) and no Market Disruption Event has occurred and is continuing; and

(B) the principal amount of the Loan which is being converted from a Variable Interest Rate to a Fixed Interest Rate is not less than the equivalent in the Loan Currency of Euro 5,000,000.

(ii) The Borrower shall exercise such option by notice to the Bank not less than five Business Days prior to the proposed Interest Fixing Date. Such notice shall, unless the Bank otherwise agrees, be irrevocable and shall specify the Interest Fixing Date and the Interest Conversion Period selected by the Borrower and the principal amount of the Loan to be converted to a Fixed Interest Rate.

(iii) Commencing on the Interest Conversion Date, the portion of the Loan being converted (as specified in the Borrower's notice) shall be subject to a Fixed Interest Rate. For purposes of Section 3.04(d), the Relevant Market Interest Rate shall be the forward fixed interest rate for the Loan Currency which is available to the Bank in the interest rate swap market on such Interest Fixing Date for such Interest Conversion Period, taking into account the principal repayment and interest payment schedules for the Loan, as such sum may be adjusted to take into account the creditworthiness of the Borrower. The Bank shall determine the

Fixed Interest Rate on such Interest Fixing Date and promptly give notice thereof to the Borrower and the Guarantor.

(iv) The Bank may at any time elect to consolidate all Fixed Interest Rates then applicable to portions of the Loan into a single Fixed Interest Rate equal to the weighted average of the Fixed Interest Rates then applicable to portions of the Loan. The Bank shall determine such consolidated Fixed Interest Rate and promptly give notice thereof to the Borrower. Such consolidated Fixed Interest Rate shall be applicable to all portions of the Loan then bearing interest at Fixed Interest Rates commencing on the Interest Payment Date immediately following the notice from the Bank to the Borrower.

(d) If the Loan is subject to a Fixed Interest Rate, interest on the Loan shall be payable as follows:

(i) The principal amount of the Loan from time to time drawn down and not repaid shall bear interest during the relevant Interest Period at the Fixed Interest Rate calculated in accordance with this Section.

(ii) Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period, be calculated on the basis of the actual number of days elapsed and a 365-day year and be due and payable on the Interest Payment Date which is the last day of the relevant Interest Period.

(iii) The Fixed Interest Rate shall be the sum of the Margin and the Relevant Market Interest Rate specified either in the Loan Agreement or, where the Fixed Interest Rate is established pursuant to Section 3.04(c) at a date which is later than the date of the Loan Agreement, in the notice from the Bank to the Borrower and the Guarantor issued in accordance with Section 3.04(c)(iii).

Section 3.05. Commitment Charge and Front-End Commission

(a) The Borrower shall pay to the Bank a commitment charge at the rate specified in the Loan Agreement, payable on the total of the Available Amount plus any amount of the Loan that is subject to a Reimbursement Commitment and is not yet drawn down, provided that the Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment shall be 0.5% per annum greater than the rate of the Commitment Charge specified in the Loan Agreement. The Commitment Charge shall accrue from the date sixty (60) days after the date of the Loan Agreement or, in the case of Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment, from the date of issuance of such unconditional Reimbursement Commitment, and shall accrue and be calculated on the same basis as interest under Section 3.04(b)(ii). The Commitment Charge shall be payable on each Interest Payment Date (even though no interest may be payable on such date) commencing on the first Interest Payment Date following the Effective Date.

(b) The Borrower shall pay to the Bank a front-end commission equal to one per cent (1%) (or such other amount specified in the Loan Agreement) of the principal amount of the Loan.

(c) Except as otherwise provided in the Loan Agreement, the Bank shall, on behalf of the Borrower, withdraw from the Available Amount on the Effective Date, or within seven (7) days thereafter, and pay to itself the amount of the Front-end Commission payable pursuant to Section 3.05(b).

(d) In the event that the Borrower opts under the Loan Agreement to pay the Front-end Commission out of its own resources, the Front-end Commission shall be due and payable within seven (7) days after the Effective Date.

Section 3.06. Payments by the Borrower

The principal, interest and Charges on the Loan shall be due and payable by the Borrower in the manner and on the dates set forth in the Loan Agreement and shall be paid free and clear of any deductions or withholdings of any kind.

Section 3.07. Prepayment

(a) The Borrower may, on any Interest Payment Date, prepay all or part of the principal amount of the Loan drawn down and not repaid, together with all accrued and unpaid interest and Charges thereon, on not less than thirty (30) Business Days, prior written notice to the Bank, which notice shall be irrevocable and binding on the Borrower.

(b) The Borrower shall pay to the Bank, on the date of prepayment, a prepayment administrative fee of one-eighth of one per cent (0.125%) of the principal amount of the Loan being prepaid.

(c) In the case of partial prepayment, such prepayment:

(i) shall be in an amount at least equal to the lesser of:

(A) the Minimum Prepayment Amount; and

(B) the principal amount of the Loan drawn down and not repaid; and

(ii) shall be:

(A) first, applied to pay interest and Charges on the Loan; and

(B) second, applied pro-rata to the several maturities of the principal amount of the Loan drawn down and not repaid.

Section 3.08. Cancellation

(a) The Borrower may cancel all or part of the Available Amount on any Interest Payment Date on not less than thirty (30) Business Days, prior written notice to the Bank, which notice shall be irrevocable and binding on the Borrower. Such cancellation shall be in an amount at least equal to the lesser of:

- (i) the Minimum Cancellation Amount; and
 - (ii) the Available Amount.
- (b) In the event of any cancellation by the Borrower pursuant to subsection (a) of this Section or by the Bank pursuant to Section 7.02:
- (i) the Borrower shall pay to the Bank, on the date of cancellation, all Charges due and unpaid as of such date, and a cancellation fee of one-eighth of one per cent (0.125%) of the principal amount of the Loan being cancelled, except in respect of amounts cancelled pursuant to Section 7.02(a);
 - (ii) the amount cancelled shall be deducted from the Available Amount outstanding on the date of cancellation; and
 - (iii) the amount cancelled shall be applied pro-rata to the several maturities of the principal amount of the Loan set forth in the amortisation schedule to the Loan Agreement and falling due after the date of such cancellation.

Section 3.09. Default Interest

- (a) If the Borrower fails to pay when due any amount payable by it under the Loan Agreement, the overdue amount shall bear interest at a rate equal to the sum of:
- (i) two per cent (2%) per annum;
 - (ii) the Margin; and
 - (iii) the interest rate per annum offered in, as applicable, the London interbank market (for USD or £) or the Euro-zone interbank market (for Euro), on the Default Interest Determination Date for a deposit in the Loan Currency of an amount comparable to the overdue amount for a period equal to the relevant Default Interest Period or, if or, if a Market Disruption Event has occurred, the rate which expresses as a percentage rate per annum the cost to the Bank of funding the Loan from whatever source the Bank may reasonably select (or at the option of EBRD, the Relevant Market Interest Rate, if available).
- (b) Default interest shall:
- (i) accrue from day to day from the due date to the date of actual payment;
 - (ii) be calculated on the basis of the actual number of days elapsed and a 360-day year (unless the Loan Currency is Pounds, in which case it shall be calculated on the basis of a 365-day year);
 - (iii) be compounded at the end of each Default Interest Period; and
 - (iv) be due and payable forthwith upon demand.

(c) Each determination by the Bank of the interest rates applicable to overdue amounts and of Default Interest Periods shall be final, conclusive and binding on the Borrower.

Section 3.10. Unwinding Costs

(a) If, for any reason (including, without limitation, an acceleration pursuant to Section 7.06), any portion of the Loan which is subject to a Variable Interest Rate becomes due and payable on a date other than the last day of an Interest Period, the Borrower shall pay to the Bank on demand the amount, if any, by which:

(1) the interest which would have accrued on such portion of the Loan from the date on which such portion of the Loan has become due and payable to the last day of the then current Interest Period at a rate equal to the Relevant Market Interest Rate for such portion of the Loan for such Interest Period;

exceeds:

(2) the interest which the Bank would be able to obtain if it were to place an amount equal to such portion of the Loan on deposit with a leading bank in, as the case may be, the London interbank market (for USD or £) or Euro-zone interbank market (for Euro) for the period commencing on the date on which such portion of the Loan has become due and payable and ending on the last day of the then current Interest Period.

(b) If, at any time:

(1) the Borrower gives a notice, pursuant to Section 3.07, of prepayment of any portion of the Loan which is subject to a Fixed Interest Rate or the Borrower otherwise prepays any such portion of the Loan;

(2) any portion of the Loan which is subject to a Fixed Interest Rate is accelerated pursuant to Section 7.06 or otherwise becomes due prior to its stated maturity; or

(3) any portion of the Loan which is subject to a Fixed Interest Rate is cancelled pursuant to Section 3.08, 7.02 or 7.06 or is otherwise cancelled;

the Borrower shall, in addition to any prepayment administrative fee, cancellation fee or other amounts payable in connection therewith, pay to the Bank on demand the amount of any Unwinding Costs; provided that, if the amount of such Unwinding Costs is negative, the Bank shall, on the next Interest Payment Date, credit to the Borrower, in the Loan Currency, the amount of such Unwinding Costs.

(c) If any overdue amount is paid on a date other than the last day of a Default Interest Period, the Borrower shall pay to the Bank on demand the amount, if any, by which:

(1) the interest which would have accrued on such overdue amount from the date of receipt of such overdue amount to the last day of the then current Default

Interest Period at a rate equal to the rate specified in Section 3.09(a)(iii) for such Default Interest Period;

exceeds:

(2) the interest which the Bank would be able to obtain if it were to place an amount equal to such overdue amount on deposit with a leading bank in, as the case may be, the London interbank market (for USD or £) or Euro-zone interbank market (for Euro) for the period commencing on the date of receipt of such overdue amount and ending on the last day of the then current Default Interest Period.

(d) The Borrower shall forthwith upon notice from the Bank reimburse the Bank for any costs, expenses and losses incurred by the Bank, and not otherwise recovered by the Bank under Sections 3.10(a), 3.10(b) and 3.10(c) as a result of the occurrence of an event specified in Section 7.01 below, a change in the duration of any relevant Interest Period pursuant to Section 3.13(b), a change in the basis for determining the rate of interest pursuant to Section 3.13(c), prepayment of any portion of the Loan on a date other than the last day of an Interest Period, failure by the Borrower to pay any amount when due hereunder, the Bank funding, or making arrangements to fund, a Drawdown requested in a drawdown application submitted pursuant to Section 3.01(b) but not made by reason of the operation of any one or more of the provisions of the Loan Agreement (other than by reason of default or negligence by the Bank, as the case may be) or failure by the Borrower to make any prepayment in accordance with a notice of prepayment delivered pursuant to any provision of the Loan Agreement.

(e) A certificate of the Bank as to any amount payable under this Section 3.10 shall be final, conclusive and binding on the Borrower unless shown by the Borrower to the satisfaction of the Bank to contain manifest error.

Section 3.11. Currency, Form, and Determination of Payments

(a) All payments of principal, interest, Charges and any other amount due to the Bank under the Loan Agreement or the Guarantee Agreement shall be made, without set-off or counterclaim, in the Loan Currency, for value on the due date, at such bank or banks, and in such place or places, as the Bank shall from time to time designate.

(b) If the due date for any payment under the Loan Agreement would otherwise fall on a day which is not a Business Day, then such payment shall instead be due on the next succeeding Business Day and interest (or Commitment Charge, as the case may be) shall continue to accrue for the period from such date to the next succeeding Business Day. Upon request of the Borrower agreed to by the Bank, such payment shall be made on such earlier date as the parties agree.

Section 3.12. Fees and Costs

The Borrower shall bear any professional, banking, transfer or exchange fees and costs incurred by the Bank in the preparation, execution, delivery and registration of the Loan Agreement, the Guarantee Agreement and any Project Agreements and any related document.

Section 3.13. Market Disruption

(a) If a Market Disruption Event occurs, the Bank shall promptly notify the Borrower. If the Bank notifies the Borrower of the occurrence of a Market Disruption Event,

(1) interest shall accrue on any portion of the Loan that is subject to a Variable Interest Rate at a rate equal to the sum of:

(A) the Margin; and

(B) the rate which expresses as a percentage rate per annum the cost to the Bank of funding the Loan from whatever source the Bank may reasonably select (or, at the option of the Bank, the Relevant Market Interest Rate, if available), as notified by the Bank to the Borrower as soon as practicable and in any event before interest is due to be paid in respect of the relevant Interest Period; and

(2) interest shall accrue on any portion of the Loan that is subject to a Fixed Interest Rate at a rate equal to the Fixed Interest Rate determined in accordance with Section 3.04(d), including the Margin;

in each case until the Bank has given notice to the Borrower that the Market Disruption Event has ceased to exist.

(b) If a Market Disruption Event has occurred, the Bank shall have the right, in its discretion, to change the duration of any relevant Interest Period by sending to the Borrower a written notice thereof. Any such change to an Interest Period shall take effect on the date specified by the Bank in such notice.

(c) Notwithstanding Section 3.13(a), if a Market Disruption Event occurs and the Bank or the Borrower so requires, within five Business Days of the notification by the Bank pursuant to Section 3.13(a) above, the Bank and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest applicable to the Loan. Any alternative basis so agreed shall take effect in accordance with its terms and replace the interest rate then in effect pursuant to Section 3.13(a) above. If agreement cannot be reached, the Borrower may prepay the Loan on the next Interest Payment Date in accordance with Section 3.07, but without any prepayment administrative fee.

ARTICLE IV - EXECUTION OF THE PROJECT

Section 4.01. Cooperation and Information

(a) The Bank, the Borrower and the Guarantor shall cooperate fully to ensure that the purposes for which the Loan is made will be accomplished. To that end, the Bank, the Borrower and the Guarantor shall:

(i) from time to time, at the request of any of them, exchange views with regard to the progress of the Project, the purposes for which the Loan is made and the performance of their respective obligations under the Loan Agreement and the Guarantee Agreement, as well as the performance of a Project Entity under any Project Agreement to which it is a party, and any related agreement, and furnish to the other parties all such information related thereto as shall have been reasonably requested; and

(ii) promptly inform each other of any condition that interferes with, or threatens to interfere with, the matters referred to in paragraph (i) above.

(b) The Borrower shall promptly inform the Bank of any proposed change in the nature or scope of the Project or the business or operations of a Project Entity and of any event or condition which might materially affect the carrying out of the Project or the carrying on of the business or operations of a Project Entity.

(c) The Guarantor shall take no action, nor shall it permit any of its agents or subsidiaries to take any action, that would prevent or interfere with the execution of the Project or with the efficient operation of the Project facilities or the performance of the Borrower's obligations under the Loan Agreement or a Project Entity's obligations under a Project Agreement. The Guarantor shall also ensure that no such action is taken or permitted to be taken by any of its political or administrative subdivisions or any of the entities owned and controlled by, or operating for the account or benefit of, the Guarantor or such subdivisions.

Section 4.02. Responsibilities Relating to Project Execution

(a) The Borrower shall carry out the Project or cause the Project to be carried out with due diligence and efficiency in accordance with sound environmental, health, safety and labour standards and practices as specified in the Loan Agreement, and other relevant standards and practices and shall provide, promptly as needed, the funds, land, facilities, services and other resources required for these purposes.

(b) If there is a Project Agreement placing partial or whole responsibility for Project execution with a Project Entity, the Borrower shall:

(i) cause the relevant Project Entity to perform in accordance with the provisions of such Project Agreement all obligations of the Project Entity therein set forth; and

(ii) not take or permit to be taken any action that would prevent or interfere with such performance.

(c) Without limiting the generality of subsections (a) or (b) above, the Borrower shall take, or cause to be taken, all such action as shall be necessary to acquire as and when needed all such land and rights in respect of land as shall be required for carrying out the Project and shall furnish to the Bank, promptly upon its request, evidence satisfactory to the Bank that such land and rights in respect of land are available for those purposes.

(d) The Borrower shall insure or cause to be insured, or make adequate provision satisfactory to the Bank for the insurance of:

(i) the imported goods to be financed out of the proceeds of the Loan for the Project, against hazards incidental to the acquisition, transportation and delivery thereof to the place of use or installation (and, where applicable, against hazards during the construction period), with the indemnity under such insurance payable in the Currency needed to replace or repair such goods; and

(ii) all other items that are related to the financial or technological viability of the Project and that are within the ownership or control of the Borrower.

(e) The Borrower shall at all times operate and maintain, or cause to be operated and maintained, in good working condition any facilities relevant to the Project and, promptly as needed, make or cause to be made all necessary repairs and renewals thereof.

(f) The Borrower shall cause all goods, works, and services financed out of the proceeds of the Loan to be used exclusively for the purposes of the Project.

Section 4.03. Procurement

Except as the Bank shall otherwise agree, procurement of goods, works and services, including consultants' services, required for the Project and to be financed out of the proceeds of the Loan shall be governed by the EBRD Procurement Rules and the provisions set out in the Loan Agreement.

Section 4.04. Project Records and Reports

(a) The Borrower shall, in respect of those parts of the Project for which the Borrower is directly responsible, as specified in the Loan Agreement:

(i) maintain procedures and records adequate to record and monitor the progress of the Project (including its cost and the benefits to be derived from it), to identify any and all goods, works and services financed out of the proceeds of the Loan and to identify their use in the Project, and make such records available to the Bank's representatives on request of the Bank;

(ii) enable the Bank's representatives, at the Bank's request;

(A) to visit any facilities and construction sites relating to the Project;

(B) to examine any and all goods, works and services financed out of the proceeds of the Loan and any plants, installations, sites, works, buildings, property, equipment, records and documents relevant to the performance of the obligations of the Borrower under the Loan Agreement; and

(C) for these purposes, to meet and hold discussions with such representatives and employees of the Borrower as the Bank may deem necessary and appropriate;

(iii) furnish to the Bank's representatives all such reports and information as the Bank shall reasonably request concerning the Project, including information on environmental, health, safety and labour matters relating to the Project, its cost and, where appropriate, the benefits to be derived from it, the expenditure of the proceeds of the Loan and any and all goods, works and services financed out of such proceeds;

(iv) without limiting the generality of paragraph (a)(iii) above, except as the Bank shall otherwise agree, furnish or cause to be furnished to the Bank periodic Project reports in a form satisfactory to the Bank and of a frequency specified in the Loan Agreement, indicating among other things the progress made and problems encountered during the period under review, steps taken or proposed to be taken to remedy those problems and the proposed programme of activities and expected progress during the following period; and

(v) furnish or cause to be furnished to the Bank's representatives, promptly upon their preparation, any plans, specifications, reports, contract documents and construction and procurement schedules for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) Upon the award of any contract for goods, works or services to be financed out of the proceeds of the Loan, the Bank may publish a description thereof, the name and nationality of the party to which the contract was awarded and the contract price.

(c) Promptly after either:

(i) the Project has been completed; or

(ii) the full amount of the Loan has been either drawn down or cancelled, but in any event not later than six months after the Last Availability Date or such later date as the Bank may agree;

the Borrower shall prepare and furnish to the Bank a report, in a form satisfactory to the Bank and of such scope and in such detail as the Bank shall reasonably request, on the execution and initial operation of the Project, including information on environmental, health, safety and labour matters relating to the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.

ARTICLE V - FINANCIAL AND OPERATIONAL COVENANTS

Section 5.01. Negative Pledge

(a) The Member undertakes to ensure that no other External Debt of the Member shall have priority over the Loan in the allocation, realisation or distribution of foreign exchange held under the control or for the benefit of the Member. If any Lien shall be created on any Public Assets as security for any External Debt which will or might result in a priority for the benefit of the creditor of such External Debt in the allocation, realisation or distribution of foreign exchange, such Lien shall, unless the Bank shall otherwise agree, ipso facto, and at no cost to the Bank, equally and rateably secure the principal of, and interest and Charges on, the Loan, and the Member, in creating or permitting the creation of such Lien, shall make express provision to that effect; provided, however, that, if for any constitutional or other legal reason such provision cannot be made with respect to any Lien created on Assets of any of its political or administrative subdivisions, the Member shall promptly and at no cost to the Bank secure the principal of, and interest and Charges on, the Loan by an equivalent Lien on other Public Assets satisfactory to the Bank.

(b) The Borrower undertakes that, except as the Bank shall otherwise agree:

(i) if the Borrower creates any Lien on any of its Assets as security for any debt, such Lien will equally and rateably secure the payment of the principal amount of, and interest and Charges on, the Loan, and in the creation of any such Lien express provision will be made to that effect, at no cost to the Bank; and

(ii) if any statutory Lien is created on any assets of the Borrower as security for any debt, the Borrower shall grant at no cost to the Bank an equivalent Lien satisfactory to the Bank to secure the payment of the principal amount of, and interest and Charges on, the Loan.

(c) The foregoing undertakings shall not apply to:

(i) any Lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of that property or as security for the payment of debt incurred for the purpose of financing the purchase of such property; or

(ii) any Lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

Section 5.02. Reporting

(a) The Member shall furnish to the Bank all such information as the Bank may reasonably request:

- (i) in respect of financial and economic conditions in the territory of the Member, including the Member's balance of payments and External Debt, as well as the External Debt of its political or administrative subdivisions, and of any entity owned or controlled by, or operating for the account or benefit of, the Member or any such subdivision, and of any institution performing the functions of a central bank or exchange stabilisation fund, or similar functions, for the Member; and
 - (ii) in respect of economic reforms and measures implementing transition to a market economy, including restructuring and privatisation, in each economic sector that may have an impact on the Project, including reforms in the legal and regulatory framework for such sector.
- (b) The Member shall afford all reasonable opportunity for representatives of the Bank to visit any part of its territory for purposes related to the Loan or the Project.
- (c) The Borrower and each Project Entity shall, to the extent specified in the Loan Agreement, furnish or cause to be furnished to the Bank, until the full amount of the Loan has been repaid or cancelled:
 - (i) periodic financial statements and reports in respect of the financial covenants specified in the Loan Agreement;
 - (ii) periodic reports, in a form satisfactory to the Bank, on the operation and maintenance of Project facilities; and
 - (iii) annual reports on environmental, health, safety and labour matters relating to the Borrower's operations.

ARTICLE VI - TAXES; RESTRICTIONS ON PAYMENT

Section 6.01. Taxes

- (a) The Member shall ensure that:
 - (i) the principal amount of, and interest and Charges on, the Loan are exempt from, and are paid without deduction for, any Taxes levied by, or in the territory of, the Member; and
 - (ii) the Loan Agreement, the Guarantee Agreement and any related document to which these Standard Terms and Conditions apply shall be free from any and all Taxes levied by, or in the territory of, the Member on or in connection with the execution, delivery or registration thereof.
- (b) The proceeds of the Loan shall not be drawn down on account of payments for any Taxes levied by, or in the territory of, the Member.

- (c) The Bank may, by notice to the Borrower, increase or decrease the percentage of expenditures to be financed from any Category as may be required to be consistent with paragraph (b) of this Section.

Section 6.02. Restrictions on Payment

The Member shall ensure that the principal amount of, and interest and Charges on, the Loan are paid without restrictions of any kind imposed by, or in the territory of, the Member.

ARTICLE VII - SUSPENSION AND CANCELLATION; ACCELERATION OF MATURITY

Section 7.01. Suspension

- (a) If any of the following events shall have occurred and be continuing, the Bank may, by notice to the Borrower and the Guarantor, suspend, in whole or in part, the right of the Borrower to make Drawdowns under the Loan:

- (i) the Borrower shall have failed to make payment (notwithstanding the fact that such payment may have been made by the Guarantor or by a third party) of principal or interest or any other amount due to the Bank under:

(A) the Loan Agreement;

(B) any other loan or guarantee agreement between the Bank and the Borrower; or

(C) any reimbursement or similar obligation of the Borrower arising out of any guarantee or other financing of any kind provided by the Bank to any third party;

- (ii) the Guarantor shall have failed to make payment of principal, interest or any other amount due to the Bank under:

(A) the Guarantee Agreement;

(B) any other loan agreement or guarantee agreement with the Bank; or

(C) any reimbursement or similar obligation of the Guarantor arising out of any guarantee or other financing of any kind provided by the Bank to any third party;

- (iii) the Borrower or the Guarantor (including any political or administrative subdivision thereof) shall have failed to perform any other obligation to the Bank pursuant to an agreement between the Borrower or the Guarantor, or any political or administrative subdivision thereof, and the Bank, or under Article 21.2 of the Agreement Establishing the Bank;

(iv) any Project Entity shall have failed to perform any of its obligations under a Project Agreement;

(v) the Bank shall have suspended, in whole or in part, the right of the Borrower or the Guarantor to make applications for Drawdowns under any other loan agreement with the Bank because of a failure by the Borrower or the Guarantor to perform any of its obligations under such agreement or any guarantee agreement with the Bank;

(vi) an extraordinary situation shall have arisen as a result of events which have occurred after the date of the Loan Agreement which shall make it improbable that the Project can be carried out or that the Borrower or Guarantor will be able to perform its obligations under the Loan Agreement or the Guarantee Agreement;

(vii) Drawdowns are prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations;

(viii) the Member shall have been suspended from membership in the Bank, or shall have ceased to be a member of the Bank, or shall have delivered to the Bank a notice to withdraw from such membership;

(ix) the Borrower (other than the Member) or any Project Entity (or any other entity responsible for implementing any part of the Project) has ceased to exist in the same legal form as that prevailing as of the date of the Loan Agreement;

(x) any of the following events occurs with respect to any financing specified in the Loan Agreement to be provided for the Project (the "Co-financing") by a financier (other than the Bank) (the "Co-financier"):

(A) If the Loan Agreement specifies a date by which the agreement with the Co-financier providing for the Co-financing (the "Co-financing Agreement") is to become effective, the Co-financing Agreement has failed to become effective by that date, or such later date as the Bank has established in writing (the "Co-financing Deadline"); provided, however, that the provisions of this sub-paragraph shall not apply if, as applicable, the Borrower, the relevant Project Entity or the Guarantor establishes to the satisfaction of the Bank that adequate funds for the Project are available from other sources on terms and conditions consistent with the obligations of the Borrower, the relevant Project Entity and the Guarantor under the Loan Agreement, the relevant Project Agreement and the Guarantee Agreement;

(B) Subject to sub-paragraph (C) below: (X) the right to withdraw the proceeds of the Co-financing has been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the Co-financing Agreement; or (Y) the Co-financing has become due and payable prior to its agreed maturity; or

(C) Sub-paragraph (B) of this paragraph shall not apply if the Borrower, the relevant Project Entity or the Guarantor establish to the satisfaction of the Bank that: (X) such suspension, cancellation, termination or prematuring was not caused by the failure of the recipient of the Co-financing to perform any of its obligations under the Co-financing Agreement; and (Y) adequate funds for the Project are available from other sources on terms and conditions consistent with the obligations of the Borrower, the relevant Project Entity and the Guarantor under the Loan Agreement, the relevant Project Agreement and the Guarantee Agreement;

(xi) if the Borrower is not a member of the Bank, any material adverse change in the condition of the Borrower from that represented by the Borrower as of the date of the Loan Agreement shall have occurred prior to the Effective Date;

(xii) a representation made by the Borrower, any Project Entity or the Guarantor in connection with the Loan Agreement, the relevant Project Agreement or the Guarantee Agreement shall have been incorrect or misleading in any material respect;

(xiii) the Statutes of the Borrower or any Project Entity shall have been amended, suspended, abrogated, repealed or waived in such a way as to affect materially and adversely the operations or the financial condition of the Borrower or any Project Entity or its ability to carry out the Project or to perform any of its obligations under the Loan Agreement or any Project Agreement;

(xiv) any event specified in Section 7.06(c), 7.06(d) or 7.06(e) shall have occurred;

(xv) the Bank shall have suspended or otherwise modified access to Bank resources by the Member pursuant to a decision of the Board of Governors of the Bank under Article 8.3 of the Agreement Establishing the Bank;

(xvi) the Borrower, or any Project Entity, or any of their respective officers, employees, agents or representatives shall have been found by a judicial process or other official enquiry to have engaged in any Prohibited Practice; or

(xvii) any other event specified in the Loan Agreement for the purposes of this Section shall have occurred.

(b) The right of the Borrower to make Drawdowns shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to suspension shall have ceased to exist, unless the Bank shall have notified the Borrower that the right to make Drawdowns has been restored; provided, however, that the right to make Drawdowns shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any right, power or remedy of the Bank in respect of any other subsequent event described in this Section.

Section 7.02. Cancellation by the Bank

(a) If at any time the Bank determines, after consultation with the Borrower and the Guarantor, that an amount of the Loan will not be required to finance costs of the Project to be financed out of the proceeds of the Loan, the Bank may, by notice to the Borrower and the Guarantor, cancel such amount of the Loan. On the Last Availability Date, any remaining Available Amount shall be cancelled automatically.

(b) If the right of the Borrower to make Drawdowns of any part of the Loan shall have been suspended for a continuous period of thirty (30) days, the Bank may, by notice to the Borrower and the Guarantor, cancel such amount of the Loan.

(c) If at any time the Bank determines that:

(i) the procurement of any item is inconsistent with the procedures set forth or referred to in the Loan Agreement and the Bank establishes the amount of expenditures in respect of such item that would otherwise have been eligible for financing out of the proceeds of the Loan; or

(ii) funds drawn down under the Loan have been used for purposes other than those provided for under the Loan Agreement and the Bank establishes the amount so used; or

(iii) with respect to any contract to be financed in full or in part from the proceeds of the Loan, any representative of the Borrower, any Project Entity or any other beneficiary of the Loan has engaged in any Prohibited Practice during the procurement or execution of such contract, without the Borrower or the Guarantor having taken timely and appropriate action satisfactory to the Bank to remedy the situation, and the Bank establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Loan;

the Bank may, by notice to the Borrower and the Guarantor, cancel the equivalent of such amount of the Loan. Such cancellation shall take effect when notice is given.

(d) If at any time the Bank determines that any representative of the Borrower, any Project Entity or any other beneficiary of the Loan has been found by a judicial process or other official enquiry to have engaged in any Prohibited Practice, the Bank may, by notice to the Borrower and the Guarantor, cancel all or part of the Loan. Such cancellation shall take effect when notice is given.

Section 7.03. Unconditional Reimbursement Commitment Unaffected by Suspension or Cancellation

No cancellation or suspension shall apply to amounts subject to an unconditional Reimbursement Commitment entered into by the Bank pursuant to Section 3.02(c) except as expressly provided in such commitment.

Section 7.04. Obligations of the Borrower and the Guarantor

Notwithstanding any cancellation or suspension, all the provisions of the Loan Agreement and the Guarantee Agreement shall continue in full force and effect except as specifically provided herein.

Section 7.05. Cancellation of Guarantee

If the Borrower shall have failed to make payment of principal or interest or any other payment required under the Loan Agreement (otherwise than as a result of any act or omission of the Guarantor) and such payment shall have been made by the Guarantor, the Guarantor may, after consultation with the Bank, by notice to the Bank and the Borrower, terminate its obligations under the Guarantee Agreement in respect of any amount of the Loan that has not been drawn down prior to the date of receipt of such notice by the Bank and is not subject to any unconditional Reimbursement Commitment issued by the Bank pursuant to Section 3.02(b). Upon receipt of such notice by the Bank, the Guarantor's obligations in respect of such amount shall terminate.

Section 7.06. Events of Acceleration

If any of the following events shall have occurred and shall be continuing for the period specified below, then at any time during the continuance of that event the Bank may, by notice to the Borrower and the Guarantor, cancel the Loan and declare the principal amount of the Loan then outstanding to be due and payable immediately, together with the interest and Charges thereon, and upon any such declaration such principal amount, together with such interest and Charges, shall become due and payable immediately:

- (a) Any event specified in Section 7.01(a)(i) or 7.01(a)(ii) shall have occurred and shall have continued for fifteen (15) days from the date of such event.
- (b) Any event specified in Section 7.01(a)(iii) or 7.01(a)(iv) shall have occurred and shall have continued for thirty (30) days after notice thereof shall have been given by the Bank to the Borrower and the Guarantor.
- (c) Any External Debt of the Borrower or the Guarantor is declared to be due and payable prior to its specified maturity.
- (d) The Borrower (if not a member of the Bank) or any Project Entity shall have become unable to pay its debts as they mature or any action or proceeding shall have been taken by the Borrower or any Project Entity or others whereby any of the Assets of the Borrower or any Project Entity shall or may be distributed among its creditors.
- (e) Any authority or entity having jurisdiction or Control over the Borrower or any Project Entity shall have taken any action for the dissolution or disestablishment, or the suspension of operations, of the Borrower (if not a member of the Bank) or any Project Entity.

(f) Any other event specified in the Loan Agreement for the purposes of this Section shall have occurred and shall have continued for the period, if any, specified in the Loan Agreement.

ARTICLE VIII - ENFORCEABILITY; DISPUTE RESOLUTION

Section 8.01. Enforceability

The rights and obligations of the parties to the Loan Agreement, the Guarantee Agreement and each Project Agreement shall be valid and enforceable in accordance with their terms notwithstanding any local law to the contrary. No party to either such agreement shall be entitled under any circumstances to assert any claim that any provision of either such agreement is invalid or unenforceable for any reason.

Section 8.02. Obligations of the Guarantor

The obligations of the Guarantor under the Guarantee Agreement shall not be discharged except by performance and then only to the extent of such performance. Such obligations shall not be subject to any prior notice to, demand upon, or action against the Borrower or any Project Entity or to any prior notice to or demand upon the Guarantor in respect of any default by the Borrower or any Project Entity, and shall not be impaired by any of the following: any extension of time, forbearance or concession given to the Borrower or any Project Entity; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or any Project Entity or in respect of any security for the Loan; any modification or amplification of the provisions of the Loan Agreement or any Project Agreement contemplated by the terms thereof; or any failure of the Borrower or any Project Entity to comply with any requirement of any law, regulation or order of the Guarantor or of any political subdivision or agency of the Guarantor.

Section 8.03. Failure to Exercise Rights

No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under the Loan Agreement, the Guarantee Agreement or any Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 8.04. Dispute Resolution

(a) The parties to the Loan Agreement, the Guarantee Agreement and each Project Agreement shall endeavour to settle amicably any dispute or controversy between any one or more of them and the Bank arising out of such agreements or the breach, termination or invalidity thereof or otherwise in connection therewith. To this end, at the initiative of any party to any such agreement, the other party or parties shall meet promptly with the initiating party to discuss any such dispute or controversy and, if requested by the initiating party in writing, shall reply in writing to any written submission made by the initiating party concerning any such dispute or controversy.

(b) If any such dispute or controversy, or any claim relating thereto, cannot be amicably settled as provided for in subsection (a) within sixty (60) days of the date on which the request for a meeting is made as referred to in subsection (a), such dispute or controversy, or claim relating thereto shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules in force as at the date of these Standard Terms and Conditions, subject to the following:

- (i) The number of arbitrators shall be three (3).
- (ii) The appointing authority for the purposes of the UNCITRAL Arbitration Rules shall be the Secretary-General of the Permanent Court of Arbitration.
- (iii) Where there are multiple claimants and/or multiple respondents to any dispute or controversy or claim relating thereto, to which this Section 8.04 (b) shall apply, the reference to "party" in Articles 7.1 and 7.2 of the UNCITRAL Arbitration Rules shall be construed as a reference to any such multiple claimants, acting jointly and/or (as applicable) to any such multiple respondents, acting jointly. Where the Secretary-General of the Permanent Court of Arbitration is to appoint an arbitrator, the Secretary-General of the Permanent Court of Arbitration shall be at liberty to choose any person he/she regards as suitable to act as arbitrator pursuant to Articles 7.2 and/or 7.3 of the UNCITRAL Arbitration Rules.
- (iv) The place of arbitration shall be The Hague.
- (v) The language to be used in the arbitral proceedings shall be English.
- (vi) The law to be applied by the arbitral tribunal shall be public international law, the sources of which shall be taken for these purposes to include:
 - (A) the Agreement Establishing the Bank and any relevant treaty obligations that are binding reciprocally on the parties;
 - (B) the provisions of any international conventions and treaties (whether or not binding directly as such on the parties) generally recognised as having codified or ripened into binding rules of customary law applicable to states and international financial institutions, as appropriate;
 - (C) other forms of international custom, including the practice of states and international financial institutions of such generality, consistency and duration as to create legal obligations; and

(D) applicable general principles of law.

(vii) Notwithstanding the provisions of the UNCITRAL Arbitration Rules, the arbitral tribunal shall not be authorised to take any interim measures of protection or provide any pre-award relief against the Bank and none of the parties to the Loan Agreement, the Guarantee Agreement or any Project Agreement may address to any judicial authority a request for any interim measures of protection or pre-award relief against the Bank.

(viii) The arbitral tribunal shall have authority to consider and include in any proceeding, decision or award any dispute or controversy properly brought before it by the Bank, the Borrower, the Guarantor or any Project Entity insofar as such dispute or controversy arises out of the Loan Agreement, the Guarantee Agreement or any Project Agreement; but subject to the foregoing no other parties or other disputes shall be included in, or consolidated with, the arbitral proceedings.

(c) Notwithstanding the provisions of this Section, nothing contained in these Standard Terms and Conditions or in the Loan Agreement, the Guarantee Agreement or any Project Agreement shall operate or be regarded as a waiver, renunciation or other modification of any immunities, privileges or exemptions of the Bank under the Agreement Establishing the Bank, under international conventions or under any applicable laws.

(d) In any arbitral proceeding arising out of the Loan Agreement, the Guarantee Agreement or any Project Agreement, the certificate of the Bank as to any amount due to the Bank under such agreement shall be prima facie evidence of such amount.

ARTICLE IX - EFFECTIVENESS; TERMINATION

Section 9.01. Effective Date

Except as the Bank and the Borrower shall otherwise agree, the Loan Agreement, the Guarantee Agreement and each Project Agreement shall become effective on the date upon which the Bank dispatches to the Borrower and the Guarantor notice of the Bank's acceptance of the evidence required by Sections 9.02 and 9.03.

Section 9.02. Conditions Precedent to Effectiveness

The Loan Agreement, the Guarantee Agreement and each Project Agreement shall not become effective unless the Bank is satisfied that no event referred to in Section 7.01(a) or 7.06 has occurred and is continuing; and until evidence, in form and substance satisfactory to the Bank, shall have been furnished to the Bank that:

(a) The execution and delivery of the Loan Agreement and the Guarantee Agreement on behalf of the Borrower and the Guarantor have been duly authorised or ratified by all necessary governmental and corporate action.

(b) The execution and delivery of each Project Agreement, if any, on behalf of each Project Entity have been duly authorised or ratified by all necessary governmental, corporate and administrative action.

(c) All other events specified in the Loan Agreement as additional conditions to its effectiveness shall have occurred.

Section 9.03. Legal Opinion

As part of the evidence to be furnished pursuant to Section 9.02, the Borrower, the Guarantor and each Project Entity shall furnish, or cause to be furnished, to the Bank an opinion or opinions (in form and substance satisfactory to the Bank), of counsel acceptable to the Bank, in respect of such matters as may be specified in the Loan Agreement or as shall be reasonably requested by the Bank and showing that:

(a) On behalf of the Borrower, the Loan Agreement has been duly authorised or ratified by, and executed and delivered on behalf of, the Borrower and constitutes a valid and legally binding obligation of the Borrower, enforceable in accordance with its terms.

(b) On behalf of the Guarantor, the Guarantee Agreement has been duly authorised or ratified by, and executed and delivered on behalf of, the Guarantor and constitutes a valid and legally binding obligation of the Guarantor, enforceable in accordance with its terms.

(c) On behalf of each Project Entity, each Project Agreement to which it is a party has been duly authorised or ratified by, and executed and delivered on behalf of, such Project Entity and constitutes a valid and legally binding obligation of such Project Entity, enforceable in accordance with its terms.

Section 9.04. Termination for Failure to Become Effective

If the Loan Agreement shall not have become effective by the date specified in the Loan Agreement for the purposes of this Section, all obligations of the Bank under the Loan Agreement, the Guarantee Agreement and each Project Agreement shall terminate unless the Bank, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Section 9.05. Termination on Performance

When the entire principal amount of the Loan shall have been repaid and all interest and Charges which shall have accrued or become due on the Loan shall have been paid, the Loan Agreement, the Guarantee Agreement and each Project Agreement, and all obligations of the parties thereunder, shall forthwith terminate.

ARTICLE X - NOTICES; AUTHORISED REPRESENTATIVES; AMENDMENT

Section 10.01. Notices

Any notice or request required or permitted to be given or made under the Loan Agreement, the Guarantee Agreement or each Project Agreement, or under any other agreement of the parties contemplated therein, shall be in writing. Except as otherwise provided in Section 9.01, such notice or request shall be deemed to have been duly given or made when it has been delivered to the party to which it is required to be given or made at the party's address specified in the Loan Agreement, the Guarantee Agreement or the relevant Project Agreement, or at any other address as the party shall have specified in writing to the party giving the notice or making the request. Except as otherwise provided in the EBRD Disbursement Handbook (for Drawdown applications and related matters), such delivery may be made by hand, mail, telex or facsimile transmission. Deliveries made by telex or facsimile transmission shall also be confirmed by mail.

Section 10.02. Authority to Act

Any action required or permitted to be taken and any documents required or permitted to be executed under the Loan Agreement by the Borrower, under the Guarantee Agreement by the Guarantor or under any Project Agreement by a Project Entity shall be taken or executed by the Borrower's Authorised Representative, the Guarantor's Authorised Representative or any Project Entity's Authorised Representative, as applicable, or such other officer of the Borrower, the Guarantor or any Project Entity as such Authorised Representative shall designate in writing. The Borrower, the Guarantor and each Project Entity shall furnish to the Bank sufficient evidence of the authority and the authorised specimen signature of each such officer.

Section 10.03. Amendment

- (a) The Loan Agreement may be amended by a written instrument signed by the Borrower's Authorised Representative and by a duly authorised officer of the Bank. In the event that, in the opinion of the Bank, such amendment increases the obligations of the Guarantor, such written instrument shall also be signed by the Guarantor's Authorised Representative.
- (b) The Guarantee Agreement may be amended by a written instrument signed by the Guarantor's Authorised Representative and by a duly authorised officer of the Bank.
- (c) Each Project Agreement may be amended by a written instrument signed by the Authorised Representative of the Project Entity which is a party thereto and by a duly authorised officer of the Bank.

Section 10.04. English Language

Any document delivered pursuant to the Loan Agreement, the Guarantee Agreement or any Project Agreement shall be in the English language. Documents in any other language shall be accompanied by an English translation thereof certified as being an approved translation and such approved translation shall be conclusive.