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AMENDMENT AND RESTATEMENT AGREEMENT IN RELATION TO THE MOLDOVA RAIL INFRASTRUCTURE AND ROLLING STOCK FL FINANCE CONTRACT DATED 26 SEPTEMBER 2016

between the

REPUBLIC OF MOLDOVA

and the

EUROPEAN INVESTMENT BANK

DATED 17 December 2021

This **AGREEMENT** is made on 11 December 2021

BETWEEN

1. The **REPUBLIC OF MOLDOVA**, represented by the Ministry of Finance, having its address at 7, Constantin Tanase street, MD-2005, Chisinau, Republic of Moldova (the **"Borrower"**),

AND

2. The **EUROPEAN INVESTMENT BANK**, having its seat at 100 blvd Konrad Adenauer, Luxembourg, L-2950 Luxembourg (the **"Bank"**);

each a "party" and together the "parties".

BACKGROUND

(1) On 26 September 2016, the Borrower entered into a finance contract with the Bank (the **"Initial Finance Contract"**).

(2) The parties now wish to enter into this Agreement to set out the terms upon which the Initial Finance Contract shall be amended and restated.

THE PARTIES AGREE as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 Definitions

(a) Unless defined in this Agreement, a term defined in the Amended and Restated Finance Contract shall have the same meaning in this Agreement.

(b) **"Effective Date"** means the date set out in the letter sent by Bank to the Borrower confirming the receipt by the Bank the legal opinion issued by the Minister of Justice of the Republic of Moldova in the English language, supported by a resolution authorising the entry into this Agreement by the Borrower; and confirming due ratification of this Agreement by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova.

(c) **"Amended and Restated Finance Contract"** means the Initial Finance Contract as amended and restated in the terms of Schedule 1.

1.2 Interpretation

(a) A reference to a Clause or a Schedule is a reference to a Clause or a Schedule, as the case may be, in this Agreement.

(b) This Agreement constitutes a Finance Document for the purpose of the Initial Finance Contract.

(c) The Initial Finance Contract is amended and restated only to the extent set out in this Agreement. In all other respects, the terms of the Finance Documents remain in full force and effect.

(d) References in the Initial Finance Contract to "this Agreement", "hereof", "hereunder" and expressions of similar import shall be deemed to be references to the Initial Finance Contract, as amended and restated by this Agreement, and to this Agreement.

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2. AMENDMENT AND RESTATEMENT OF THE INITIAL FINANCE CONTRACT

2.1 With effect from the Effective Date, the Initial Finance Contract shall be amended and the rights and obligations of the parties relating to their future performance under the Initial Finance Contract shall be governed and construed in accordance with the amended and restated provisions set out in Schedule 1.

2.2 On and from the Effective Date, all those amounts made available under the Initial Finance Contract and still outstanding shall be deemed to have been made available under the Amended and Restated Finance Contract.

3. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

4. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with English Law. Article 11.02 (*Arbitration*) of the Finance Contract shall apply *mutatis mutandis* to this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

Signed for and on behalf of the
REPUBLIC OF MOLDOVA

Dumitru BUDIANSCHI
Minister of Finance

Signed for and on behalf of the
EUROPEAN INVESTMENT BANK

Jacopo LENSI ORLANDI
Head of Division

Alberto CARLEI
Head of Representation for Moldova

Schedule 1

AMENDED AND RESTATED FINANCE CONTRACT

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EIB Internal Classification Level: Corporate Use
Contract Number (FI N°) 84.909 (Facility A) / 94.170 (Facility B)
Operation Number (Serapis N°) 2013 0274

MOLDOVA RAIL INFRASTRUCTURE AND ROLLING STOCK FL

Finance Contract

between the

Republic of Moldova

and the

European Investment Bank

Originally signed in Luxembourg on 26 September 2016 and
amended and restated with the Effective Date of the Amendment Agreement

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WHEREAS: 6
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THIS CONTRACT IS MADE BETWEEN:

the **Republic of Moldova,** (the "**Borrower**")

of the first part, and

the **European Investment Bank** (the "**Bank**")

of the second part.

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WHEREAS:

(1) This finance contract (the "**Contract**") was originally signed on 26 September 2016 and amended and restated with the effective date (the "**Effective Date**") of the amendment agreement signed on _____ 2021 (the "**Amendment Agreement**").

(2) On 1 November 2006 the Republic of Moldova and the Bank signed a Framework Agreement governing the Bank's activities in the Republic of Moldova (the "**Framework Agreement**") which is in full force and effect and shall continue to be in full force and effect during the term of this Contract. Moldova is a state party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958 (the "**New York Convention**").

(3) Article 7 of the Framework Agreement provides, *inter alia*, that the Bank shall enjoy, in respect of its activities in the territory of the Republic of Moldova the treatment accorded to the international institution which is most favoured in respect of any such activity, or, if that is more favourable, the treatment accorded under any international agreement covering such activities. The Bank makes the Credit available to the Borrower on the basis that it is an international financial institution under the Framework Agreement and has a right to equal treatment with other international financial institutions under the Framework Agreement.

(4) The Borrower has stated that it is undertaking a project to improve the railway system in the Republic of Moldova (the "**Project**"). The scope of the Project as at the signature date of the Amendment Agreement is more particularly described in the technical description (the "**Technical Description**") set out in Schedule A. The Project shall be implemented exclusively in the territory of the Republic of Moldova. The Project consists of two different components (together the "**Components**"):

(i) the first component (the "**Component 1**") includes the acquisition of 12 main-line diesel locomotives suitable for both freight and passenger services and the associated maintenance equipment; and

(ii) the second component (the "**Component 2**") includes the rehabilitation of railway infrastructure.

(5) The total cost of the Project, as originally estimated by the Bank as of the original signature date of this Contract (i.e. 26 September 2016), was 120 400 000.00 (one hundred twenty million and four hundred thousand euros). Following the increase of the scope of Component 2, the total cost of the Project, as estimated by the Bank, has increased to EUR 165 000 000.00 (one hundred sixty-five million euros). As of the signature date of the Amendment Agreement, the Project is expected to be financed as set out below:

Source	**Original Amount (EUR m)**
Credit from the Bank	Facility A: 50 Facility B: 24
Loan from EBRD (as defined below)	76.00
Neighbourhood Investment Facility (NIF)	5
Other grants and own resources of the Promoter	10.00
TOTAL	**165.00**

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(6) The Borrower shall implement the Project through the Moldovan state railway company, Calea Ferata din Moldova (the "**Promoter**"). The Promoter shall have general supervision of, and responsibility for, the implementation of the Project, including the establishment of a project implementation unit ("**PIU**"), and shall carry out and implement the Project pursuant to the terms of a project implementation agreement originally signed on 17 July 2017 between the Bank and the Promoter and as amended from time to time (the "**Project Implementation Agreement**"). The Promoter shall implement the Project under the supervision of the Borrower, acting through the Ministry of Infrastructure and Regional Development or its successor (the "**MIRD**") which shall procure that the Promoter oversees the Project's implementation with due diligence and efficiency, and complies with the relevant Project obligations set out in this Contract (in particular at Articles 6 and 8). The Borrower shall make available to the Promoter the proceeds of the Credit in the form of a loan, a grant, a capital contribution and/or other convertible debt instrument pursuant to a sub-financing agreement (the "**Sub-Financing Agreement**") between the Borrower and the Promoter, in form and substance acceptable to the Bank.

(7) In order to fulfil the original financing plan of the Project, the Borrower requested from the Bank a credit in an amount equivalent to EUR 50 000 000.00 (fifty million euros) which was made available from the Bank's own resources (the "**Facility A**") and pursuant to the 2014-2020 external lending mandate for Eastern Europe, Southern Caucasus and Russia of Decision No. 466/2014/EU of the European Council and the European Parliament (the "**Mandate**").

(8) Following the increase of the scope of the Component 2 and the increase of the total cost of the Project, the Borrower has requested an additional credit in an amount equivalent to EUR 24 000 000.00 (twenty-four million euros) to be made available from the Bank's own resources and pursuant to the Mandate (the "**Facility B**", together with Facility A, the "**Credit**").

(9) The Bank considering that the financing of the Project falls within the scope of its functions and is consistent with the objectives of the Mandate, and having regard to the statements and facts cited in these Recitals, has decided to give effect to the Borrower's request providing to it the Credit in the aggregate amount equivalent to EUR 74 000 000.00 (seventy four million euros) under this Contract; provided that the amount of the Bank loan shall not, in any case, exceed 50% (fifty *per cent*) of the total cost of the Project set out in Recital (5).

(10) The Government of Moldova authorised the borrowing of the sum equivalent to EUR 74 000 000.00 (seventy four million euros) represented by this Credit on the terms and conditions set out in this Contract and in the Annexes hereto.

(11) I. Chirinciuc, Minister of Transport of the Republic of Moldova, was duly authorized to sign this Contract on 26 September 2016 for and on behalf of the Borrower and Mr. D. Budianschi, Minister of Finance was duly authorized to sign the Amendment Agreement on 17 December 2021 2021 for and on behalf of the Borrower, whereby this Contract is amended and restated with effect of the Effective Date of such Amendment Agreement.

(12) By entering into this Contract on 26 September 2016, the Borrower confirmed that the Project (as defined below), falls within the scope of the Framework Agreement. The Bank and the Borrower confirm as at the date of the Amendment Agreement that the Framework Agreement continues to be valid, binding and enforceable.

(13) In accordance with Decision No. 466/2014/EU, published in the Official Journal of the European Union No L 135 of 8 May 2014, as amended by Decision No. 2018/412/EU and the Regulation (EU) 2021/947 on granting an EU guarantee to the Bank against losses under financing operations supporting investment projects outside the European Union (the "**Decision**") and the agreement entered into between the European Union represented by the European Commission and the Bank implementing such decision, in the event of non-payment, the European Union, by a guarantee, covers payments not received by the Bank and due to the Bank in relation to the Bank's financing operations entered into with, *inter alios*, the Borrower (the "**EU Guarantee**"). As of the date of this Contract, the Republic of Moldova is an Eligible Country (as defined below).

(14) Pursuant to and subject to the terms of a loan agreement dated 14 November 2014 between the EBRD and the Borrower (the "**EBRD Loan Agreement**") the EBRD has agreed to provide a loan in a total amount of up to EUR 52 500 000.00 (fifty-two million and five hundred thousand euros) for the purpose of financing the Project. In addition, the EBRD has entered into 14 November 2014 a project agreement with the Promoter in relation to the implementation of the Project (the "**EBRD**

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Project Agreement"). On 6 October 2021, the EBRD has agreed to provide an increase of the loan amount under the EBRD Loan Agreement in a total additional amount of up to EUR 23 500 000.00 (twenty-three million and five hundred thousand euros).

(15) The Bank, the EBRD and/or the Commission, as appropriate, have (a) together with other international finance institutions entered into the "Cooperation within the framework of the Neighbourhood Investment Facility (the "**NIF**")" framework arrangement, in force as of 21 December 2009 (the "**NIF Framework Arrangement**") and (b) entered or will enter into an agreement setting out the terms and conditions of cooperation within the framework of the NIF for the purposes of implementation of their respective finance agreements concluded with the Borrower (the "**NIF Agreement**", and together with the NIF Framework Arrangement, the "**NIF Documentation**"). The Bank, the EBRD and the Commission have agreed that the EBRD will act as lead finance institution in connection with the cooperation on the Project pursuant to the NIF Documentation.

(16) The Statute of the Bank provides that the Bank shall ensure that its funds are used as rationally as possible in the interests of the European Union; and, accordingly, the terms and conditions of the Bank's loan operations must be consistent with relevant policies of the European Union ("**EU**").

(17) By entering into this Contract the Borrower acknowledges that the Bank is bound to comply with each applicable Sanction List (as defined below) and that it cannot, therefore, make funds available, directly or indirectly, to or for the benefit of a Sanctioned Person.

(18) The Bank considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances. The Bank has therefore established its transparency policy, the purpose of which is to enhance the accountability of the EIB Group towards its stakeholders and the EU citizens in general, by giving access to the information that will enable them to understand its governance, strategy, policies, activities and practices.

(19) The processing of personal data shall be carried out by the Bank in accordance with applicable European Union legislation on the protection of individuals with regard to the processing of personal data by the EU institutions and bodies and on the free movement of such data.

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NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

(a) **Interpretation**

In this Contract:

(i) References to Articles, Recitals, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles of, and recitals, schedules and annexes to this Contract.

(ii) References to a provision of law are references to that provision as amended or re-enacted.

(iii) References to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated.

(iv) A reference to a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality).

(b) **Definitions**

In this Contract:

"**4th AML Directive**" means Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing as amended, supplemented or restated.

"**5th AML Directive**" means Directive 2018/843 of the European Parliament and of the Council of 19 June 2018 on anti-money laundering and terrorist financing as amended, supplemented or restated.

"**Acceptance Deadline**" for a notice under this Contract means:

(a) 16h00 Luxembourg time on the day of delivery, if the notice is delivered by 14h00 Luxembourg time on a Business Day; or

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

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

"**Amortisation Table**" has the meaning given to it in Article 2.03.

"**AML Directives**" means the 4th AML Directive and the 5th AML Directive.

"**Authorisation**" means an authorisation, permit, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Beneficial Owner(s)**" has the meaning given to such term in the AML Directives.

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

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

"**Close Associate(s)**" means "persons known to be close associates" as defined in the AML Directives.

"**Components**" has the meaning given to it in Recital (4).

"**Component 1**" has the meaning given to it in Recital (4).

"**Component 2**" has the meaning given to it in Recital (4).

"**Component 1 Loan Amount**" means the aggregate amount of Tranches disbursed from time to time by the Bank under this Contract for the purposes of financing Component 1.

"**Component 2 Loan Amount**" means the aggregate amount of Tranches disbursed from time to time by the Bank under this Contract for the purposes of financing Component 2.

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"**Contract**" has the meaning given to it in Recital (1).

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

"**Decision**" has the meaning given to it in Recital (13).

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

(a) the interest rate that would have been applicable to such amount had it been disbursed to the Borrower on the Scheduled Disbursement Date exceeds,

(b) the EURIBOR (one month rate) less 0.125% (12.5 basis points), unless this value is less than zero, in which case it will be set at zero.

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

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

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

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

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

"**Disruption Event**" means either or both of:

(a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with this Contract; or

(b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of either the Bank or the Borrower, preventing that party from:

(i) performing its payment obligations under this Contract; or

(ii) communicating with other parties,

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

"**EBRD Loan Agreement**" has the meaning given in Recital (14).

"**EBRD Project Agreement**" has the meaning given in Recital (14).

"**EIB Loan Account**" means an account of the Borrower to which disbursements by the Bank shall be made, which account is a separate sub-account of the treasury single account of the Borrower maintained at the Central Bank of the Republic of Moldova, separated from any other assets of the Borrower and from which account payments will only be made for the purpose of implementing the Project, in accordance with this Contract and other relevant agreements, if any.

"**EIB Statement of Environmental and Social Principles and Standards**" means the statement published on EIB's website that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.

"**Eligible Country**" means any country specified in Annex III to the Decision, as may be amended from time to time by the Commission in accordance with Articles 4(2) and 18 of the Decision, or any other country in respect of which the European Parliament and the Council have adopted a decision pursuant to Article 4(1) of the Decision.

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

(a) fauna and flora;

(b) soil, water, air, climate and the landscape;

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(c) cultural heritage; and

(d) the built environment,

and includes, without limitation, occupational and community health and safety.

"**Environmental and Social Impact Assessment Study**" means a study as an outcome of the environmental and social impact assessment identifying and assessing the potential environmental and social impacts associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders.

"**Environmental and Social Action Plan**" means the environmental and social action plan prepared in connection with the proposed Project, as approved by the Bank.

"**Environmental and Social Standards**" means:

(a) Environmental Laws and Social Laws applicable to the Project or the Borrower;

(b) the EIB Statement of Environmental and Social Principles and Standards; and

(c) the Environmental and Social Impact Assessment Study.

"**Environmental or Social Approval**" means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.

"**Environmental or Social Claim**" means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.

"**Environmental Laws**" means:

(a) EU law, standards and principles to the extent implemented by the law of the Republic of Moldova or specified by the Bank prior to the date of this Contract);

(b) Moldovan national laws and regulations; and

(c) international treaties and conventions signed and ratified by or otherwise applicable and binding on the Republic of Moldova,

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

"**EU Guarantee**" has the meaning given to it in Recital (13).

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

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

"**Event of Default**" means any of the circumstances, events or occurrences specified in Article 10.01.

"**Family Member(s)**" has the meaning given to such term in the AML Directives.

"**Final Availability Date**" means 31 December 2026.

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

"**Fixed Rate**" means an annual interest rate determined by the Bank in accordance with the applicable principles from time to time laid down by the governing bodies of the Bank for loans made at a fixed rate of interest, denominated in the currency of the Tranche and bearing equivalent terms for the repayment of capital and the payment of interest. Such rate shall not be of negative value.

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

"**Floating Rate**" means a fixed-spread floating interest rate, determined by the Bank for each

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successive Floating Rate Reference Period equal to the Relevant Interbank Rate plus the Spread. If the Floating Rate for any Floating Rate Reference Period is calculated to be below zero, it will be set at zero.

"**Floating Rate Reference Period**" means each period from one Payment Date to the next relevant Payment Date; the first Floating Rate Reference Period shall commence on the Disbursement Date.

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

"**Framework Agreement**" has the meaning given in Recital (2).

"**Guide to Procurement**" means the Guide to Procurement published on the Bank's website that informs the promoters of projects financed in whole or in part by the Bank of the arrangements to be made for procuring works, goods and services required for the Project.

"**ILO**" means the International Labour Organisation.

"**ILO Standards**" means any treaty, convention or covenant of the ILO signed and ratified by or otherwise applicable and binding on the Republic of Moldova, and the Core Labour Standards (as defined in the ILO Declaration on Fundamental Principles and Rights at Work).

"**Indemnifiable Prepayment Event**" means a Prepayment Event other than those specified in paragraphs 4.03A(2) (*Pari Passu to Non-EIB Financing*) or 4.03A(4) (*Illegality*).

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

"**Mandate**" has the meaning given to it in Recital (7).

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

(a) there are, in the reasonable opinion of the Bank, events or circumstances adversely affecting the Bank's access to its sources of funding;

(b) in the reasonable opinion of the Bank, funds are not available from its ordinary sources of funding in order to adequately fund a Tranche in the relevant currency and/or for the relevant maturity and/or in relation to the reimbursement profile of such Tranche; or

(c) in relation to a Tranche in respect of which interest is or would be payable at Floating Rate:

  (A) the cost to the Bank of obtaining funds from its sources of funding, as determined by the Bank, for a period equal to the Floating Rate Reference Period of such Tranche (i.e. in the money market) would be in excess of the applicable Relevant Interbank Rate; or

  (B) the Bank determines that adequate and fair means do not exist for ascertaining the applicable Relevant Interbank Rate for the relevant currency of such Tranche.

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

(a) materially impairs the ability of the Borrower to perform any of its obligations under this Contract or the ability of the Promoter to perform its obligations under the Project Implementation Agreement;

(b) materially impairs the business, prospects or financial condition of the Borrower or the Promoter; or

(c) adversely affects any security provided by the Borrower or the Promoter.

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

"**Money Laundering**" means:

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

(b) the concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;

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(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or

(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

"**MIRD**" has the meaning given to it in Recital (5).

"**New York Convention**" has the meaning given to it in Recital (2).

"**NIF**" has the meaning given in Recital (15).

"**NIF Agreement**" has the meaning given in Recital (15).

"**NIF Documentation**" has the meaning given in Recital (15).

"**NIF Framework Arrangement**" has the meaning given in Recital (15).

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

(a) for a Fixed Rate Tranche, the following Relevant Business Day, without adjustment to the interest due under Article 3.01, except for those cases where repayment is made in a single instalment according to Article 4.01B, when the preceding Relevant Business Day shall apply instead to this single instalment and to the final interest payment and only in this case, with adjustment to the interest due under Article 3.01; and

(b) for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.01.

"**PIU**" has the meaning given to it in Recital (6).

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

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

"**Prepayment Event**" means any of the events described in Article 4.03A.

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

(a) the interest that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date to the Maturity Date, if it were not prepaid; over

(b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

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

"**Prepayment Notice**" means a written notice from the Bank to the Borrower in accordance with Article 4.02C.

"**Prepayment Request**" means a written request from the Borrower to the Bank to prepay all or part of the Loan in accordance with Article 4.02A.

"**Prohibited Conduct**" means any Financing of Terrorism, Money Laundering or Prohibited Practice.

"**Prohibited Practice**" means any:

(a) **Coercive Practice**, meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;

(b) **Collusive Practice**, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

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(c) **Corrupt Practice**, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;

(d) **Fraudulent Practice**, meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation; or

(e) **Obstructive Practice**, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project:

(i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

(ii) acts intending to materially impede the exercise of the contractual rights of audit or access to information.

"**Project**" has the meaning given to it in Recital (4).

"**Project Implementation Agreement**" has the meaning given to it in Recital (6).

"**Promoter**" has the meaning given to it in Recital (5).

"**Redeployment Rate**" means the fixed annual rate determined by the Bank, being a rate which the Bank would apply on the day of the indemnity calculation to a loan that has the same currency, the same terms for the payment of interest and the same repayment profile to the Maturity Date as the Tranche in respect of which a prepayment or cancellation is proposed or requested to be made. Such rate shall not be of negative value.

"**Relevant Business Day**" means a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 (TARGET2) is open for the settlement of payments in EUR.

"**Relevant Interbank Rate**" means EURIBOR.

"**Relevant Person**" means:

(a) with respect to the Borrower any official or representative of any of its ministries, central government departments or sub-divisions, or any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Loan or the Project; and

(b) with respect to the Promoter:

(i) any member of its management or supervisory bodies, or

(ii) any of its officers (not falling within the category of persons referred to in paragraph (i) above), or

(iii) any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Project.

"**Sanctioned Person**" means any individual or entity listed in one or more Sanction Lists.

"**Sanction Lists**" means:

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

(b) any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to Article 41 of the UN Charter as available in the official UN website http://www.un.org/Docs/sc/committees/INTRO.htm, as amended and supplemented from time to time or on any successor page.

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

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

"**Social Law**" means each of:

(a) any law, rule or regulation applicable in Moldova relating to Social Matters;

(b) any ILO Standards; and

(c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on the Republic of Moldova.

"**Social Matters**" means all, or any of, the following: (i) labour and employment conditions, (ii) occupational health and safety, (iii) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (iv) cultural heritage (tangible and intangible), (v) public health, safety and security, (vi) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (vii) public participation and stakeholder engagement.

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

"**Stakeholder Engagement Plan**" means the stakeholder engagement plan prepared in connection with the proposed Project and as approved by the Bank.

"**Sub-Financing Agreement**" has the meaning given to it in Recital (6).

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Technical Description**" has the meaning given to it in Recital (4).

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

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ARTICLE 1

Credit and Disbursements

1.01 Amount of Credit

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts:

(a) a credit under Facility A *(FI N° 84.909)* in an amount of up to EUR 50 000 000.00 (fifty million euros); and

(b) a credit under Facility B *(FI N° 94.170)* in an amount of up to EUR 24 000 000.00 (twenty four million euros),

for the financing of the Project (the "**Credit**").

1.02 Disbursement procedure

1.02A Tranches

The Bank shall disburse the Credit in up to 20 (twenty) Tranches under Facility A and up to 10 (ten) Tranches under Facility B.

In relation to both Facility A and Facility B, the amount of each Tranche, if not being the undrawn balance of the Credit, shall be in a minimum amount of EUR 500 000 (five hundred thousand euros). The Bank shall not send the Borrower more than one Disbursement Offer per calendar month and there shall not be more than one disbursement of a Tranche per calendar month under this Contract.

1.02B Disbursement Offer

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

(a) the amount of the Tranche in EUR;

(b) whether the disbursement of the Tranche is requested under Facility A or Facility B and the respective contract number (for Facility A: *FI N° 84.909* and for Facility B: *FI N° 94.170*);

(c) the Scheduled Disbursement Date, which shall be a Relevant Business Day, falling at least 10 (ten) days after the date of the Disbursement Offer and on or before the Final Availability Date;

(d) the interest rate basis of the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche, in each case, pursuant to the relevant provisions of Article 3.01;

(e) the interest payment periodicity for the Tranche, in accordance with the provisions of Article 3.01;

(f) the first Payment Date for the Tranche;

(g) the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.01;

(h) the first and last repayment dates of principal for the Tranche;

(i) for a Fixed Rate Tranche, the Fixed Rate and for a Floating Rate Tranche the Spread, applicable until the Maturity Date; and

(j) the Disbursement Acceptance Deadline.

1.02C Disbursement Acceptance

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

(a) by the IBAN code (or appropriate format in line with local banking practice) and SWIFT BIC of the EIB Loan Account to which disbursement of the Tranche should be made in

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accordance with Article 1.02D, including references to any correspondent bank account of the Central Bank of Moldova which needs to be used for the purposes of the disbursement

(b) a confirmation on a working basis from the Central Bank of Moldova in the form of free-text/free-format swift message identifying the holder of the EIB Loan Account; and

(c) if not previously provided, by evidence of the authority of the person or persons authorised to sign the Disbursement Acceptance and the specimen signature of such person or persons.

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

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

1.02D **Disbursement Account**

Disbursement shall be made to the EIB Loan Account. The EIB Loan Account shall be the own bank account of the Borrower.

Only one account may be specified as EIB Loan Account.

1.03 Currency of disbursement

The Bank shall disburse each Tranche in EUR.

1.04 Conditions of disbursement

1.04A **First Tranche**

The disbursement of the first Tranche under Article 1.02 is conditional upon receipt by the Bank in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days prior to the date of presentation of the Disbursement Offer, of the following documents or evidence:

(a) a legal opinion issued by the Minister of Justice of the Republic of Moldova:

(i) in the English language, substantially in the form set out in Annex I, such opinion to be supported by a resolution authorising the entry into the Contract by the Borrower; and

(ii) confirming due ratification of this Contract by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova;

(b) evidence satisfactory to the Bank of due ratification of this Contract by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova;

(c) evidence that the execution of this Contract by the Borrower has been duly authorised and that the person or persons signing the Contract on behalf of the Borrower is/are duly authorised to do so together with the specimen signature of each such person or persons;

(d) evidence that the Borrower and/or the Promoter have obtained all necessary Authorisations required in connection with this Contract or, if none is required, a declaration from the Borrower, signed by a person or persons duly authorised to act on behalf of the Borrower, that no Authorisation is required in connection with this Contract;

(e) the duly executed Project Implementation Agreement and Sub-Financing Agreement, in form and substance satisfactory to the Bank, together with evidence in the English language of the powers of each signatory thereto to sign the Project Implementation Agreement on behalf of the Promoter and the Sub-Loan Agreement on behalf of the Promoter and the Borrower, and a legal opinion confirming, *inter alia*, the due authorisation and capacity of the Promoter to enter into the Project Implementation Agreement and the Sub-Financing Agreement, and the enforceable nature thereof;

(f) evidence that (i) the EBRD Loan Agreement has been duly executed and delivered and all conditions precedent to the disbursement of the first tranche thereunder have been fulfilled or waived and that the Borrower has the right to make drawings under the first tranche

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thereunder, and (ii) the EBRD Project Agreement has been duly executed and delivered and all conditions precedent to its effectiveness have been fulfilled or waived;

(g) evidence that the PIU, to be established and operated by the Promoter to co-ordinate, manage, monitor and evaluate all aspects of the implementation of the Project, as provided for in Article 6, has been established to the satisfaction of the Bank and which is fully operational to the satisfaction of the Bank;

(h) evidence that all exchange control consents specified by the Bank or indicated in the legal opinion given under paragraph (a) above as being necessary have been obtained to permit the Borrower to receive disbursements as provided in this Contract, to repay the Loan and to pay interest and all other amounts due hereunder; and

(i) evidence of the payment of any fees due to the Bank under this Contract (including the appraisal fee due under Article 1.08).

1.04B **All Tranches for the financing of Component 1**

The disbursement of each Tranche under Article 1.02 for the financing of Component 1, including the first, is conditional upon receipt by the Bank in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days prior to the date of presentation of the Disbursement Offer for the proposed Tranche, of the following documents or evidence:

(a) evidence demonstrating that the Promoter has signed the contract(s) for the delivery of the goods, works and services to be delivered under Component 1 with the relevant contractor(s) and which contract(s) will be funded from the Tranche to which the disbursement relates, a copy of such contract(s) and a confirmation that such contract(s) continue(s) to be in full force and effect;

(b) evidence demonstrating that the PIU has the necessary staff, resources and terms of reference acceptable to the Bank to co-ordinate, manage, monitor and evaluate all aspects of the implementation of Component 1;

(c) evidence demonstrating that the Promoter has appointed an independent technical assistance consultant with international experience in diesel locomotives supply contracts with staff, resources and terms of reference acceptable to the Bank;

(d) evidence demonstrating that the Component 1 Loan Amount does not exceed the lower of EUR 27 050 000 (twenty-seven million and fifty thousand euros) and 50% (fifty per cent) of the total value of the contract(s) signed by the Promoter for the delivery of the goods, works and services to be delivered under Component 1;

(e) a detailed financing plan showing committed sources of funding for Component 1, including a breakdown of subcomponents and sources of funds, or an update thereof if such plan has previously been provided to the Bank;

(f) evidence demonstrating that, following drawdown of the relevant Tranche, the amount of the Component 1 Loan Amount will not exceed the aggregate eligible expenditure (net of the expenditures paid or to be paid from the proceeds under the EBRD Loan Agreement and NIF Agreement) incurred or forecast to be paid by the Promoter in respect of Component 1 within six months of the relevant Disbursement Offer; and

(g) evidence that, before requesting the Bank to issue a Disbursement Offer in respect of the relevant Tranche, the Promoter has spent for the financing of Component 1 (i) at least 80% (eighty per cent.) of the funds of the last Tranche disbursed for the financing of Component 1 (except for those amounts which have been redistributed to the financing of Component 2 in accordance with Article 1.11 of this Contract), and (ii) 100% (one hundred per cent.) of the funds of each previous Tranche disbursed for the financing of Component 1 (except for those amounts which have been redistributed to the financing of Component 2 in accordance with Article 1.11 of this Contract).

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1.04C **All Tranches for the financing of Component 2**

The disbursement of each Tranche under Article 1.02 for the financing of Component 2, including the first, is conditional upon receipt by the Bank in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days prior to the date of presentation of the Disbursement Offer for the proposed Tranche, of the following documents or evidence:

(a) evidence that the Bank has approved Component 2 for allocation in accordance with the terms of this Contract;

(b) evidence demonstrating that the Promoter has signed the contract(s) for the goods, works and services to be delivered under Component 2 with the relevant contractor(s) and which contract(s) will be funded from the Tranche to which the disbursement relates, a copy of such contract(s), and a confirmation that such contract(s) continue(s) to be in full force and effect;

(c) evidence demonstrating that the PIU has the necessary staff, resources and terms of reference acceptable to the Bank to co-ordinate, manage, monitor and evaluate all aspects of the implementation of Component 2;

(d) evidence demonstrating that the Promoter has appointed an independent works supervision consultant with international experience in infrastructure rehabilitation work supervision with staff, resources and terms of reference acceptable to the Bank;

(e) if the Bank requires any additional undertaking to be made by the Borrower in connection with the Component 2 as a result of the appraisal, a written confirmation that the Borrower undertakes to comply with such additional undertakings, in the form and substance acceptable to the Bank;

(f) a detailed financing plan showing committed sources of funding for Component 2, including a breakdown of subcomponents and sources of funds, or an update thereof if such plan has previously been provided to the Bank,

(g) evidence demonstrating that, following drawdown of the relevant Tranche, the amount of the Component 2 Loan Amount will not exceed the aggregate eligible expenditure (net of the expenditures paid or to be paid from the proceeds under the EBRD Loan Agreement and NIF Agreement) incurred or forecast to be paid by the Promoter in respect of Component 2 within six months of the relevant Disbursement Offer; and

(h) evidence that, before requesting the Bank to issue a Disbursement Offer in respect of the relevant Tranche, the Promoter has spent for the financing of Component 2 (i) at least 80% (eighty per cent.) of the funds of the last Tranche disbursed for the financing of Component 2 (except for those amounts which have been redistributed to the financing of Component 1 in accordance with Article 1.11 of this Contract), and (ii) 100% (one hundred per cent.) of the funds of each previous Tranche disbursed for the financing of Component 2 (except for those amounts which have been redistributed to the financing of Component 1 in accordance with Article 1.11 of this Contract).

1.04D **All Tranches**

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

(a) receipt by the Bank in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days prior to the date of presentation of the Disbursement Offer for the proposed Tranche, of the following documents or evidence:

  (i) a certificate from the Borrower in the form of Schedule C.2;

  (ii) a statement confirming that the relevant Tranche will be spent either exclusively for the financing of Component 1 or Component 2 (as applicable), or both of the Components (in which case indicating also the exact amount to be spent for Component 1 and Component 2 from the amount of the Tranche to be disbursed);

  (iii) evidence of the authority of the person or persons authorised to sign Disbursement Acceptance and the authenticated specimen signature of such person or persons, unless it has been previously provided;

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(iv) except in relation to the disbursement of the first Tranche, evidence that the Sub-Financing Agreement continues to be fully effective, valid and enforceable and all disbursement conditions thereto have been fulfilled; and

(v) a copy of any other Authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Contract or the validity and enforceability of the same.

(b) that on the Scheduled Disbursement Date for the proposed Tranche:

(i) the representations and warranties which are repeated pursuant to Article 6.10 are correct in all respects; and

(ii) no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute an Event of Default, or Prepayment Event has occurred and is continuing unremedied or unwaived or would result from a disbursement of the proposed Tranche.

(c) the Bank being satisfied by the Scheduled Disbursement Date for the proposed Tranche that:

(i) all facts and information contained in the Recitals continue to be true, correct and applicable in all material respects;

(ii) the EU Guarantee is valid, binding and enforceable and that no events or circumstances have occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EU Guarantee or the Bank's right to make a demand thereunder;

(iii) the Republic of Moldova continues to be an Eligible Country; and

(iv) the Framework Agreement is valid, binding and enforceable and that no events or circumstances have occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement.

1.05 Deferment of disbursement

1.05A Grounds for deferment

Upon the written request of the Borrower, the Bank shall defer the disbursement of any Accepted Tranche in whole or in part to a date specified by the Borrower being a date falling not later than 6 (six) months from its Scheduled Disbursement Date and not later than 60 days prior to the first repayment date of the Tranche indicated in the Disbursement Offer. In such case, the Borrower shall pay the Deferment Indemnity calculated on the amount of disbursement deferred.

Any request for deferment shall have effect in respect of a Tranche only if it is made at least 5 (five) Business Days before its Scheduled Disbursement Date.

If for an Accepted Tranche any condition referred to in Article 1.04 is not fulfilled as at the specified date and at the Scheduled Disbursement Date (or the date expected for disbursement in case of a previous deferment), disbursement will be deferred to a date agreed between the Bank and the Borrower falling not earlier than 5 (five) Business Days following the fulfilment of all conditions of disbursement (without prejudice to the right of the Bank to suspend and/or cancel the undisbursed portion of the Credit in whole or in part pursuant to Article 1.06B). In such case, the Borrower shall pay the Deferment Indemnity calculated on the amount of disbursement deferred.

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

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

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1.06 **Cancellation and suspension**

1.06A **Borrower's right to cancel**

The Borrower may at any time by notice in writing to the Bank cancel, in whole or in part and with immediate effect, the undisbursed portion of the Credit. However, the notice shall have no effect in respect of an Accepted Tranche which has a Scheduled Disbursement Date falling within 5 (five) Business Days of the date of the notice.

1.06B **Bank's right to suspend and cancel**

(a) The Bank may, by notice in writing to the Borrower, suspend and/or cancel the undisbursed portion of the Credit in whole or in part at any time and with immediate effect:

(i) upon the occurrence of a Prepayment Event or an Event of Default or an event or circumstance which would with the passage of time or giving of notice under this Contract constitute a Prepayment Event or an Event of Default; or

(ii) if the Republic of Moldova is no longer an Eligible Country.

(b) The Bank may also suspend the portion of the Credit in respect of which it has not received a Disbursement Acceptance with immediate effect in the case that a Market Disruption Event occurs; or

(c) Any suspension shall continue until the Bank ends the suspension or cancels the suspended amount.

1.06C **Indemnity for suspension and cancellation of a Tranche**

1.06C(1) SUSPENSION

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

1.06C(2) CANCELLATION

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

(a) a Fixed Rate Tranche which is an Accepted Tranche, it shall indemnify the Bank under Article 4.02B; or

(b) a Floating Rate Tranche which is an Accepted Tranche or any part of the Credit other than an Accepted Tranche, no indemnity is payable.

If the Bank cancels:

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

(ii) an Accepted Tranche upon an Event of Default, the Borrower shall indemnify the Bank under Article 10.03.

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

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

1.07 **Cancellation after expiry of the Credit**

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

1.08 **Appraisal fee**

The Borrower has paid to the Bank an appraisal fee of EUR 50 000 (fifty thousand euros) for the Facility A.

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1.09 **Sums due under Article 1**

Sums due under Articles 1.05, 1.06 and 1.08 shall be payable in the currency of the Tranche concerned. They shall be payable within 7 (seven) days of the Borrower's receipt of the Bank's demand or within any longer period specified in the Bank's demand.

1.10 **Allocation procedures and undertakings**

The Loan may solely be allocated to finance the Components, identified as eligible for financing under the Bank's Loan, as set out in the Technical Description. In order to qualify for financing hereunder, each Component must meet the relevant criteria and parameters applied by the Bank to the type of Component concerned.

In order for a Component to qualify for financing hereunder, the Borrower must comply with the allocation procedure under this Article 1.10 and Schedule A.1 (the "**Allocation Procedure**"), and with allocation undertakings under this Article 1.10.

Component 1 has been approved by the Bank for allocation and the amount in Euro of the Loan to be allocated to it shall not exceed the lower of EUR 27 050 000 (twenty-seven million and fifty thousand euros) and 50% (fifty per cent) of the total value of the contract(s) signed by the Promoter for the delivery of the goods, works and services to be delivered under Component 1.

Component 2 shall be submitted *ex ante* to the Bank for separate appraisal and will be subject to the Bank's approval before disbursement of the Bank's funds to the Borrower The Borrower may submit to the Bank a request for allocation (the "**Allocation Request**") in respect of Component 2 between the date hereof and 31 December 2017 (or a later date agreed by the Bank in its own discretion further to the justified request of the Borrower).

The Borrower shall provide all information reasonably required by the Bank, at its discretion, as individually indicated by the Bank to the Borrower. The Bank shall have full discretion to approve the Allocation Request and the amount in Euro of the Loan to be allocated to it, following such examination of Component 2 as it deems necessary.

In agreement with the Borrower, the Bank shall have full discretion to amend the allocation procedures as the Project develops, *inter alia*, to amend and/or simplify such allocation procedures in line with the Bank's policy on framework loans.

The Borrower shall, or shall procure that the Promoter will provide together with the Allocation Request for Component 2 the feasibility, environmental and any other relevant studies concerning each schemes falling under Component 2 and any other necessary information in sufficient details to allow the Bank to assess the eligibility of Component 2 for financing. In particular, the Borrower shall, or shall procure that the Promoter will submit to the satisfaction of the Bank:

(a) for each schemes falling under Component 2, the environmental screening decision and the environmental management plan,

(b) for each schemes falling under Component 2 which requires an Environmental and Social Impact Assessment Study, such Environmental and Social Impact Assessment Study and its non-technical summary;

(c) for each schemes falling under Component 2, the relevant environmental permits and written confirmation from the competent authority on the impacts of the project on nature conservation sites (for this purposes, Form A/B (as set out in Annex II, or its equivalent); and

(d) if required, for each schemes falling under Component 2 on new alignment, a resettlement action plan (RAP) or any other document evidencing the course of action agreed with the Bank.

The Bank maintains the right to require the Borrower to make additional undertaking(s) in connection with the Component 2, in the form and substance acceptable to the Bank.

1.11 **Redistribution**

The Borrower may, by request in writing to the Bank, which shall include reasons thereof, and not be received later than the date falling before 1 (one) month of the Final Availability Date, propose to redistribute to the other Component any part of the Component 1 Loan Amount or the Component 2 Loan Amount, which, in accordance with the procedures described in Article 1.04,

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has been originally disbursed for the purposes of, but not spent on the relevant Component. The Borrower shall provide to the Bank all information and evidence requested by the Bank in connection with the proposed redistribution.

The Bank may, in its discretion, accept the Borrower's proposal for redistribution and redistribute any portion of the Loan between the Components by its written confirmation sent to the Borrower.

ARTICLE 2

The Loan

2.01 Amount of Loan

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

2.02 Currency of repayment, interest and other charges

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

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

2.03 Confirmation by the Bank

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

ARTICLE 3

Interest

3.01 Rate of interest

3.01A Fixed Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Fixed Rate Tranche at the Fixed Rate quarterly, semi-annually or annually in arrears on the relevant Payment Dates as specified in the Disbursement Offer, commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 30 (thirty) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

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

3.01B Floating Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Floating Rate Tranche at the Floating Rate quarterly, semi-annually or annually in arrears on the relevant Payment Dates, as specified in the Disbursement Offer commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 30 (thirty) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

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

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

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Disbursement Date.

Interest shall be calculated in respect of each Floating Rate Reference Period on the basis of Article 5.01(b). If the Floating Rate for any Floating Rate Reference Period is below zero, it will be set at zero.

3.02 Interest on overdue sums

Without prejudice to Article 10 and by way of exception to Article 3.01, if the Borrower fails to pay any amount payable by it under the Contract on its due date, interest shall accrue on any overdue amount payable under the terms of this Contract from the due date to the date of actual payment at an annual rate equal to:

(a) for overdue sums related to Floating Rate Tranches, the applicable Floating Rate plus 2% (200 basis points);

(b) for overdue sums related to Fixed Rate Tranches, the higher of (a) the applicable Fixed Rate plus 2% (200 basis points) or (b) the Relevant Interbank Rate plus 2% (200 basis points);

(c) for overdue sums other than under (i) or (ii) above, the Relevant Interbank Rate plus 2% (200 basis points)

and shall be payable in accordance with the demand of the Bank. For the purpose of determining the Relevant Interbank Rate in relation to this Article 3.02, the relevant periods within the meaning of Schedule B shall be successive periods of one month commencing on the due date.

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

3.03 Market Disruption Event

If at any time from the receipt by the Bank of a Disbursement Acceptance in respect of a Tranche until the date falling two (2) Business Days prior to the Scheduled Disbursement Date, a Market Disruption Event occurs, the Bank may notify to the Borrower that this clause has come into effect. In such case, the following rules shall apply:

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

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

ARTICLE 4

Repayment

4.01 Normal repayment

4.01A Repayment by instalments

(a) The Borrower shall repay each Tranche by instalments on the Payment Dates specified in the relevant Disbursement Offer in accordance with the terms of the Amortisation Table delivered pursuant to Article 2.03.

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(b) Each Amortisation Table shall be drawn up on the basis that:

(i) in the case of a Fixed Rate Tranche, repayment shall be made annually, semi-annually or quarterly by equal instalments of principal or constant instalments of principal and interest;

(ii) in the case of a Floating Rate Tranche, repayment shall be made by equal annual, semi-annual or quarterly instalments of principal;

(iii) the first repayment date of each Tranche shall be a Payment Date falling not earlier than 60 days from the Scheduled Disbursement Date and not later than the first Payment Date immediately following the 5th (fifth) anniversary of the Scheduled Disbursement Date of the Tranche; and

(iv) the last repayment date of each Tranche shall be a Payment Date falling not earlier than four years and not later than 25 (twenty five) years from the Scheduled Disbursement Date.

4.01B **Single instalment**

Alternatively, the Borrower may repay the Tranche in a single instalment on a Payment Date specified in the Disbursement Offer, being a date falling not less than 3 (three) years or more than 15 (fifteen) years from the Scheduled Disbursement Date.

4.02 Voluntary prepayment

4.02A **Prepayment option**

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

(a) the Prepayment Amount;

(b) the Prepayment Date;

(c) if applicable, the choice of application method of the Prepayment amount in line with Article 5.05(c)(i); and

(d) whether the prepayment of the Tranche is requested under Facility A or Facility B and the respective contract number (for Facility A: *FI N° 84.909* and for Facility B: *FI N° 94.170*).

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

4.02B **Prepayment indemnity**

4.02B(1) FIXED RATE TRANCHE

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

4.02B(2) FLOATING RATE TRANCHE

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

4.02C **Prepayment mechanism**

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

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

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

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4.03 **Compulsory prepayment**

4.03A **Prepayment Events**

4.03A(1) PROJECT COST REDUCTION

If the total cost of the Project should be reduced from the figure stated in Recital (5) to a level at which the amount of the Credit exceeds 50% (fifty *per cent*) of such cost, the Bank may in proportion to the reduction forthwith, by notice to the Borrower, cancel the Credit and/or demand prepayment of the Loan. The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

4.03A(2) *PARI PASSU* TO NON-EIB FINANCING

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

(a) such prepayment is not made within a revolving credit facility (save for the cancellation of the revolving credit facility); or

(b) such prepayment is not made out of the proceeds of a loan or other indebtedness having a term at least equal to the unexpired term of the Non-EIB Financing prepaid,

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

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

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

4.03A(3) CHANGE OF LAW

The Borrower shall promptly inform the Bank if a Change-of-Law Event has occurred or is likely to occur in respect to the Borrower. In such case, or if the Bank has reasonable cause to believe that a Change-of-Law Event has occurred or is about to occur, the Bank may request that the Borrower consult with it. Such consultation shall take place within 30 (thirty) days from the date of the Bank's request. After the earlier of (a) the lapse of 30 (thirty) days from the date of such request for consultation and (b) the occurrence of the anticipated Change-of-Law Event, the Bank may, by notice to the Borrower, cancel the Credit and demand prepayment of the Loan, together with accrued interest and all other amounts accrued and outstanding under this Contract.

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

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

4.03A(4) ILLEGALITY

If

(a) it becomes unlawful in any EU jurisdiction or in the Republic of Moldova for the Bank to perform any of its obligations as contemplated in this Contract or to fund or maintain the Loan; or

(b) the Framework Agreement is or is likely to be

(i) repudiated by the Republic of Moldova or not binding on the Republic of Moldova in any respect; or

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(ii) not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms; or

(iii) breached, in that any obligation assumed by the Republic of Moldova under the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the territory of Moldova from the resources of the Bank, or the EU,

(c) in relation to the EU Guarantee:

(i) it is no longer valid or in full force and effect;

(ii) the conditions for cover thereunder are not fulfilled; or

(iii) it is not effective in accordance with its terms or is alleged to be ineffective in accordance with its terms,

the Bank may by notice to the Borrower, immediately (i) suspend or cancel the undisbursed portion of the Credit and/or (ii) demand prepayment of the Loan, together with accrued interest and all other amounts accrued or outstanding under this Contract on the date indicated by the Bank in its notice to the Borrower.

4.03B **Prepayment mechanics**

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

4.03C **Prepayment indemnity**

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

4.04 **General**

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

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

ARTICLE 5

Payments

5.01 **Day count convention**

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

(a) for a Fixed Rate Tranche, a year of 360 (three hundred and sixty) days and a month of 30 (thirty) days;

(b) for a Floating Rate Tranche, a year of 360 (three hundred and sixty) days and the number of days elapsed; and

(c) in respect of fees, a year of 360 (three hundred and sixty) days and the number of days elapsed.

5.02 **Time and place of payment**

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

Each sum payable by the Borrower under this Contract shall be paid to the relevant account notified by the Bank to the Borrower. The Bank shall notify the account not less than 15 (fifteen)

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days before the due date for the first payment by the Borrower and shall notify any change of account not less than 15 (fifteen) days before the date of the first payment to which the change applies. This period of notice does not apply in the case of payment under Article 10.

The Borrower shall indicate to the Bank in respect of each payment made under this Contract whether the payment is made under Facility A or Facility B and the respective contract number (for Facility A: *FI N° 84.909* and for Facility B: *FI N° 94.170*).

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

Any disbursements by and payments to the Bank under this Contract shall be made using account(s) acceptable to the Bank.

5.03 No set-off by the Borrower

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

5.04 Disruption to Payment Systems

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

(a) the Bank may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Contract as the Bank may deem necessary in the circumstances;

(b) the Bank shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes; and

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

5.05 Application of sums received

(a) **General**

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

(b) **Partial payments**

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

(i) first, in or towards payment *pro rata* of any unpaid fees, costs, indemnities and expenses due under this Contract;

(ii) secondly, in or towards payment of any accrued interest due but unpaid under this Contract;

(iii) thirdly, in or towards payment of any principal due but unpaid under this Contract; and

(iv) fourthly, in or towards payment of any other sum due but unpaid under this Contract.

(c) **Allocation of sums related to Tranches**

(i) In case of:

(A) a partial voluntary prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied *pro rata* to each outstanding instalment, or, at the request of the Borrower, in inverse order of maturity; and

(B) a partial compulsory prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied in reduction of the outstanding instalments in inverse order of maturity.

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(ii) Sums received by the Bank following a demand under Article 10.01 and applied to a Tranche, shall reduce the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.

(iii) In case of receipt of sums which cannot be identified as applicable to a specific Tranche, and on which there is no agreement between the Bank and the Borrower on their application, the Bank may apply these between Tranches at its discretion.

ARTICLE 6

Borrower undertakings and representations

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

A. Project undertakings

6.01 Use of Loan and availability of other funds

(a) The Borrower shall, and shall procure that the Promoter will, use all amounts borrowed by it under the Loan for the exclusive execution of the Project and provide to the Bank evidence of the use of amounts borrowed by the Borrower under this Contract upon written request by the Bank.

(b) The Borrower shall, and shall procure that the Promoter will, use (1) all Component 1 Loan Amount for the exclusive execution of Component 1, and (2) all Component 2 Loan Amount for the exclusive execution of Component 2, and provide to the Bank evidence of the use of amounts borrowed by the Borrower under this Contract upon written request by the Bank.

(c) The Borrower shall make the proceeds of the Loan available to the Promoter on terms and conditions acceptable to the Bank.

(d) The Borrower shall ensure that it has and the Promoter has available to it the other funds listed in Recital (5) and that such funds are expended, to the extent required, on the financing of the Project.

6.02 Completion of Project

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

6.03 Increased cost of Project

If the total cost of the Project exceeds the estimated figure set out in Recital (5), the Borrower shall obtain, or shall procure that the Promoter shall obtain, the finance to fund the excess cost without recourse to the Bank, so as to enable the Project to be completed. The plans for funding the excess cost shall be communicated to the Bank without delay.

6.04 Continuing Project undertakings

The Borrower shall, or shall procure that the Promoter will (as applicable):

(a) **Maintenance**: maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;

(b) **Project assets**:

(i) unless the Bank has given its prior consent in writing, retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; provided that the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under Article 309 of the Treaty on the Functioning of the European Union;

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(ii) unless the Bank has given its prior consent in writing, maintain the locomotives financed under Component 1 of the Project in the existing Basarabeasca depot for at least 8 (eight) years after the implementation of the Project. Any significant civil works in the Basarabeasca depot, in particular, any works requiring environmental permits, to adapt the maintenance facilities to service the new locomotives will require a prior consent of the Bank;

(iii) ensure that the disposal of the old locomotives replaced under Component 1 of the Project will be carried out in accordance with the national legislation and best practice, in particular, concerning the treatment of the hazardous waste.

(c) **Insurance:** insure all works and property forming part of the Project with first class insurance companies in accordance with the most comprehensive relevant industry practice.

(d) **Rights and Permits:** maintain in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;

(e) **Environment and Social:**

(i) implement and operate the Project in compliance with Environmental and Social Standards;

(ii) obtain, maintain and comply with requisite Environmental or Social Approvals for the Project;

(iii) comply with any such Environmental or Social Approvals;

(iv) implement, to the satisfaction of the Bank, the Environmental and Social Action Plan and the Stakeholder Engagement Plan; and

(v) prior to committing any Bank's funds against projects that require an Environmental and Social Impact Assessment Study according to Environmental Law the Borrower, publish the Environmental and Social Impact Assessment Study's non-technical summary, or procure the final beneficiary to publish the respective documents, and provide the Bank with the respective web link. For projects for which the competent authority does not require an Environmental and Social Impact Assessment Study, the Promoter shall submit a copy of the decision by the competent authority indicating the basis for it, as well as evidence of public disclosure of this decision; and

(f) **EU law:** execute and operate the Project in accordance with the relevant standards of EU law to the extent implemented by the laws of the Republic of Moldova or specified by the Bank prior to the date of this Contract.

6.05 Project Implementation Unit

In order to co-ordinate, manage, monitor and evaluate all aspects of Project implementation, including the procurement of goods, works and services for the Project, the Borrower, acting through the MIRD, shall procure that the Promoter, unless otherwise agreed with the Bank, establishes and at all times during execution of the Project operates a PIU with adequate resources and suitably qualified personnel as well as an international consultant as referred to in Article 1.04, under terms of reference acceptable to the Bank. The Borrower shall procure that the Promoter entrusts the PIU with the overall co-ordination of the Project and the responsibility for the implementation of the Project. The PIU shall act as the Bank's counterpart in all technical, financial, investment selection, disbursement facilitation, accounting/auditing, reporting, procurement and administration matters.

The Borrower, through the Promoter, undertakes to ensure that the Bank can, at the sole discretion of the Bank, directly access any international consultant working on the Project at any time.

6.06 Procurement procedure

The Borrower, acting through the MIRD, undertakes to, and shall procure that the Promoter will undertake to, purchase equipment, secure services and order works for the Project by open international tender, where required, or other acceptable procurement procedure complying, to

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the Bank's satisfaction, with its policy as described in its Guide to Procurement in force at the date of this Contract as available on the website of the Bank http://www.eib.org/attachments/thematic/procurement_en.pdf.

In accordance with Article 3.4.5 of the Guide to Procurement, the Bank may enter into one or more agreements with EBRD acting as a "Co-financing Institution" (as defined in the Guide to Procurement) in connection with one or more part of the Project. In such case, the Bank shall inform the Borrower and the Promoter of the conclusion of such agreement(s) in due course.

The Borrower shall, and shall procure that the Promoter will, ensure that review procedures for effective remedies are available to any party having, or having had, an interest in obtaining a particular contract and who has been or might be harmed by an alleged infringement of the Guide to Procurement of the Bank.

B. General undertakings

6.07 **Compliance with laws**

The Borrower shall, and shall ensure that the Promoter shall, comply in all respects with all laws to which it, the Project or the Sub-Projects are subject where failure to do so results or is reasonably likely to result in a Material Adverse Change.

6.08 **General Representations and Warranties**

The Borrower represents and warrants to the Bank that:

(a) it has the power to execute, deliver and perform its obligations under this Contract and all necessary action has been taken to authorise the execution, delivery and performance of the same by it;

(b) this Contract constitutes its legally valid, binding and enforceable obligations;

(c) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not:

(i) contravene or conflict with any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject; or

(ii) contravene or conflict with any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Contract;

(d) there has been no Material Adverse Change since 24 June 2015;

(e) no event or circumstance which constitutes an Event of Default has occurred and is continuing unremedied or unwaived;

(f) no litigation, arbitration, administrative proceedings or investigation is current or to its knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against it or any of its subsidiaries any unsatisfied judgement or award;

(g) it and the Promoter have obtained all necessary Authorisations in connection with this Contract and the Project in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;

(h) its payment obligations under this Contract rank not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its debt instruments except for obligations mandatorily preferred by law applying to companies generally;

(i) it is in compliance with Article 6.04(e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental or Social Claim has been commenced or is threatened against it;

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

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(k) to the best of its knowledge, having made all reasonable enquiries, no funds invested in the Project by the Borrower or by the Promoter are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism;

(l) neither the Borrower, the Promoter, any Relevant Person, nor any other person acting on their behalf or under their control has committed nor will commit (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Contract; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering;

(m) the Borrower is a state party to the New York Convention and any arbitral award or judgment obtained in accordance with the terms of this Contract will be recognised and enforced under the laws of Moldova;

(n) neither the Borrower, nor the Promoter is a Sanctioned Person, or in breach of any Sanctions; and, to the best of its knowledge and belief, none of the Relevant Persons is a Sanctioned Person or in breach of any Sanctions; and

(o) it is in compliance with all undertakings under this Article 6.

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

6.09 **Integrity Commitment**

(a) **Prohibited Conduct:**

(i) The Borrower shall not (and shall ensure that the Promoter shall not) engage in (and shall not authorise or permit any affiliate or any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Project, any tendering procedure for the Project, or any transaction contemplated by the Contract or any documents associated with the Project.

(ii) The Borrower undertakes (and shall procure that the Promoter shall undertake) to take such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct.

(iii) The Borrower undertakes (and shall procure that the Promoter shall undertake) to ensure that contracts financed by this Loan include the necessary provisions to enable the Borrower and/or the Promoter to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

(b) **Sanctions:**

The Borrower shall not (and shall ensure that the Promoter will not):

(i) enter into a business relationship with any Sanctioned Person; or

(ii) make any funds available to or for the benefit of, directly or indirectly, any Sanctioned Person.

(c) **Management:**

The Borrower undertakes (and shall procure that the Promoter will undertake) to take within a reasonable timeframe appropriate measures in respect of any Relevant Person having direct decision and control powers in relation to the Loan and to the Project who:

(i) becomes a Sanctioned Person; or

(ii) is the subject of a final and irrevocable court ruling in connection with the Prohibited Conduct perpetrated in the course of the exercise of their professional duties; or

(iii) is or becomes a Family Member or a Close Associate to any Beneficial Owner of any relevant contractor under any Sub-Project,

in order to ensure that such person is suspended, dismissed or in any case excluded from any of the Borrower's and/ or Promoter's activities (as applicable) in relation to the Loan and to the Project.

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6.10 **EIB Loan Account**

The Borrower undertakes to designate the EIB Loan Account for the purposes or receiving disbursements of the Loan from the Bank. The Borrower undertakes to separate the EIB Loan Account from any other of its assets and ensure that payments from such account will only be made for the purposes of implementing the Project in accordance with this Contract, the NIF Documentation (if applicable) and other relevant agreements, if any. The Borrower also undertakes to ensure that the EIB Loan Account shall at all times be insolvency remote and that no other creditor of the Borrower shall have any access to or rights to receive monies from such account.

6.11 **Conflict of Interest**

Pursuant to the general duty under the Guide to Procurement for the Promoter to effectively prevent, identify and remedy conflicts of interest, the Borrower shall and shall procure that the Promoter shall ensure that prior to the award of any contract financed under the Project:

(a) the Beneficial Owners of the successful bidder (including joint venture partners and subcontractors) who are Close Associates or Family Members of the representative(s), member(s) of the management bodies or senior officer(s) of the Borrower or the Promoter are identified and promptly communicated to the Bank; and

(b) adequate measures are adopted to address any potential conflicts of interest such as a financial, economic or other personal interest between the identified Beneficial Owner(s) and any member(s) of the Borrower's or the Promoter's management bodies, representative(s) or senior officer(s).

ARTICLE 7

Security

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

7.01 ***Pari Passu* ranking**

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

In particular, if the Bank makes a demand under Article 10.01 or if an event or potential event of default under any unsecured and unsubordinated External Debt Instrument of the Borrower or of any of its agencies or instrumentalities has occurred and is continuing, the Borrower shall not make (or authorise) any payment in respect of any other such External Debt Instrument (whether regularly scheduled or otherwise) without simultaneously paying, or setting aside in a designated account for payment on the next Payment Date a sum equal to, the same proportion of the debt outstanding under this Contract as the proportion that the payment under such External Debt Instrument bears to the total debt outstanding under that Instrument. For this purpose, any payment of an External Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the External Debt Instrument have subscribed, shall be disregarded.

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

(a) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement);

(b) an obligation evidenced by a bond, debenture or similar written evidence of indebtedness;

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or

(c) a guarantee granted by the Borrower for an obligation of a third party; provided in each case that such obligation is:

(i) governed by a system of law other than the law of the Borrower;

(ii) payable in a currency other than the currency of the Borrower's country; or

(iii) payable to a person incorporated, domiciled, resident or with its head office or principal place of business outside the Borrower's country.

7.02 Additional security

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

7.03 Clauses by inclusion

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

ARTICLE 8

Information and Visits

8.01 Information concerning the Project

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

(a) deliver to the Bank:

(i) the information in content and in form, and at the times, specified in Schedule A.2 or otherwise as agreed from time to time by the parties to this Contract; and

(ii) any such information or further document concerning the financing, procurement, implementation, operation of the Project and related environmental or social matters as the Bank may reasonably require within a reasonable time;

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

(b) submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, *inter alia*, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;

(c) immediately inform the Bank in writing of the occurrence of the due ratification of this Contract in accordance with the applicable laws of the Republic of Moldova;

(d) as soon as it becomes aware thereof, or as soon as it is informed thereof by the Promoter, promptly inform the Bank of a genuine allegation, complaint or information with regard to Prohibited Conduct related to any funds made available under the Project;

(e) as soon as it becomes aware thereof, or as soon as it is informed thereof by the Promoter, promptly inform the Bank if at any time it becomes aware of the illicit origin, including products of money laundering or linked to the financing of terrorism with respect to the Project;

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(f) promptly inform the Bank of:

(i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by it or any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it; and

(ii) any fact or event known to it, which may substantially prejudice or affect the conditions of execution or operation of the Project;

(iii) any non-compliance by it with any Environmental and Social Standard;

(iv) should it become aware of any fact or information confirming or reasonably suggesting that (a) any Prohibited Conduct has occurred in connection with the Project, or (b) any of the funds invested in its share capital or in the Project was derived from illicit origin;

(v) any suspension, revocation or modification of any Environmental Approval,

and set out the action to be taken with respect to such matters.

(g) provide to the Bank, if so requested:

(i) a certificate of its insurers showing fulfilment of the requirements of Article 6.04(c);

(ii) annually, a list of policies in force covering the insured property forming part of the Project, together with confirmation of payment of the current premiums; and

(iii) true copies of contracts financed with the proceeds of the Loan and evidence of expenditures relating to disbursements.

8.02 **Information concerning the Borrower and the Promoter**

The Borrower shall, and shall procure that the Promoter will (as applicable):

(a) deliver to the Bank:

(i) each year, within one month after the approval of the State Budget, acting through its Ministry of Finance, a summary of the State Budget in tabular form;

(ii) annually, audited financial statements of the Promoter, prepared in accordance with IFRS or general accounting standards used in the Republic of Moldova; and

(iii) from time to time, such further information on the Borrower's or the Promoter's general financial situation as the Bank may reasonably require;

(b) ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Project; and

(c) inform the Bank immediately of:

(i) any material alteration to the statutes or shareholding structure of the Promoter after the date of its incorporation;

(ii) any fact which obliges the Borrower or the Promoter to prepay any financial indebtedness or any EU funding;

(iii) any event or decision that constitutes or may result in a Prepayment Event;

(iv) any intention on the Borrower's or the Promoter's part to grant any security over any of its assets in favour of a third party;

(v) any intention on the Borrower's or the Promoter's part to relinquish ownership of any material part of the Project;

(vi) any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract or the Promoter under the Project Implementation Agreement;

(vii) any Event of Default having occurred or being threatened or anticipated;

(viii) any fact or event which results in any of Relevant Persons of the Borrower and/or the Promoter (as applicable) having direct decision and control powers in relation to

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the Loan and to the Project being a Sanctioned Person;

(ix) to the extent permitted by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against the Borrower, the Promoter, or any Relevant Person of the Borrower and/or the Promoter (as applicable) having direct decision and control powers in relation to the Loan and to the Project in connection with Prohibited Conduct related to the Loan or the Project;

(x) any measure taken by the Borrower pursuant to Article 6.09 (*Integrity commitment*) of this Contract (including measures taken to seek damages from the persons responsible for any loss resulting from any act of the nature described in Article 6.09);

(xi) any litigation, arbitration or administrative proceedings or investigation which is current, threatened or pending and which might if adversely determined result in a Material Adverse Change; and

(xii) any material development in connection with (a) the investigations started in 2021 by the Prosecutor's Office in connection with alleged financial irregularities at the Promoter; and (b) any investigations in connection with Prohibited Conduct at the Borrower or the Promoter ongoing at the time of the signature date of the Amendment Agreement.

8.03 **Visits, Rights of Access and Investigation**

(a) The Borrower shall, and shall procure that the Promoter will, allow persons designated by the Bank, as well as persons designated by competent EU institutions including (without limitation) the Court of Auditors of the European Union, the European Commission and the European Anti-Fraud Office to

(i) visit the sites, installations and works comprising the Project and to conduct such checks as they may wish for purposes connected with this Contract and the financing of the Project,

(ii) interview representatives of the Borrower and the Promoter and not obstruct contacts with any other person involved in or affected by the Project; and

(iii) review the books and records of the Borrower and the Promoter in relation to the execution of the Project and to be able to take copies of related documents to the extent permitted by the law.

(b) The Borrower shall, and shall procure that the Promoter will, facilitate investigations by the Bank and by other competent European Union institutions or bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct and shall provide the Bank, or ensure that the Bank is provided, with all necessary assistance for the purposes described in this Article.

(c) The Borrower shall, and shall procure that the Promoter will, acknowledge that the Bank may be obliged to communicate information relating to the Borrower, the Promoter and the Project to any competent institution or body of the European Union including the Court of Auditors of the European Union, the European Commission and the European Anti-Fraud Office as are necessary for the performance of their task in accordance with the laws of the European Union and also in accordance with the relevant mandatory provisions of European Union law.

8.04 **Language**

Documents (other than constitutional documents, statutory and other official documents, or internal regulations of the Borrower or the Promoter), evidence, notices and communications provided or made by the Borrower or the Promoter pursuant to this Contract shall be provided in the English language. Where documents are not provided in the English language, the Borrower or the Promoter (as applicable) shall simultaneously provide a certified translation thereof into the English language.

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ARTICLE 9

Charges and expenses

9.01 Taxes, duties and fees

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

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

9.02 Other charges

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

9.03 Increased costs, indemnity and set-off

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

(i) the Bank is obliged to incur additional costs in order to fund or perform its obligations under this Contract; or

(ii) any amount owed to the Bank under this Contract or the financial income resulting from the granting of the Credit or the Loan by the Bank to the Borrower is reduced or eliminated.

(b) Without prejudice to any other rights of the Bank under this Contract or under any applicable law, the Borrower shall indemnify and hold the Bank harmless from and against any loss incurred as a result of any payment or partial discharge that takes place in a manner other than as expressly set out in this Contract.

(c) The Bank may set off any matured obligation due from the Borrower under this Contract (to the extent beneficially owned by the Bank) against any obligation owed by the Bank to the Borrower regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Bank may set off in an amount estimated by it in good faith to be the amount of that obligation.

ARTICLE 10

Events of Default

10.01 Right to demand repayment

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

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10.01A **Immediate demand**

The Bank may make such demand immediately:

(a) if the Borrower does not pay on the due date any amount payable pursuant to this Contract at the place and in the currency in which it is expressed to be payable, unless (i) its failure to pay is caused by an administrative or technical error or a Disruption Event and (ii) payment is made within 3 Business Days of its due date;

(b) if any information or document given to the Bank by or on behalf of the Borrower or any representation or statement made or deemed to be made by the Borrower in this Contract or in connection with the negotiation of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect;

(c) if, following any default of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than this Loan granted by the Bank:

(i) the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, discharge, close out or terminate ahead of maturity such other loan or obligation; or

(ii) any financial commitment for such other loan or obligation is cancelled or suspended.

(d) if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or, without prior written notice to the Bank, seeks to make a composition with its creditors;

(e) if the Borrower defaults in the performance of any obligation in respect of any other loan made to it from the resources of the Bank or the European Union;

(f) if any distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;

(g) if a Material Adverse Change occurs, as compared with the Borrower's condition at the date of this Contract;

(h) if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract or this Contract is not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms;

(i) if any obligation assumed by the Borrower as stated in the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the Borrower's territory from the resources of the Bank, or the European Union;

(j) if the Promoter defaults in the performance of any of its obligations under the Project Implementation Agreement; or

(k) if the conditions for cover under the EU Guarantee are not fulfilled or if the EU Guarantee ceases to be valid, effective or enforceable in accordance with its terms: or

(l) if the Borrower defaults in the performance of any obligation in respect of any other loan or financial instrument granted by the Bank or the EU or to the Bank or any other obligation to be fulfilled in connection with the receipt of any funds by the Borrower from the EU.

10.01B **Demand after notice to remedy**

The Bank may also make such demand:

(a) if the Borrower fails to comply with any obligation under this Contract not being an obligation mentioned in Article 10.01A; or

(b) if any fact stated in the Recitals materially alters and is not materially restored and if the alteration either prejudices the interests of the Bank as lender to the Borrower or adversely affects the implementation or operation of the Project,

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

10.02 **Other rights at law**

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

10.03 **Indemnity**

10.03A **Fixed Rate Tranches**

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

10.03B **Floating Rate Tranches**

In case of demand under Article 10.01 (*Right to demand repayment*) in respect of any Floating Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with a sum equal to the present value of 0.19% (nineteen basis points) *per annum* calculated and accruing on the amount of principal due to be prepaid in the same manner as interest would have been calculated and would have accrued, if that amount had remained outstanding according to the original Amortisation Table of the Tranche, until the Maturity Date.

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

10.03C **General**

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

10.04 **Non-Waiver**

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

10.05 **Application of sums received**

Sums received by the Bank following a demand under Article 10.01 shall be applied first in payment of expenses, interest and indemnities and secondly in reduction of the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.

ARTICLE 11

Law and jurisdiction

11.01 **Governing Law**

This Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by English law.

11.02 **Arbitration**

Any dispute arising out of or connected with this Contract, including a dispute as to the validity or existence of this Contract and/or this Article 11.02, shall be resolved by arbitration in The Hague conducted in the English language by three arbitrators pursuant to the rules of the United Nations Commission on International Trade Law ("**UNCITRAL**"), save that, unless the parties agree otherwise:

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(a) the third arbitrator, who shall act as chairman of the tribunal, shall be chosen by the two arbitrators appointed one each by or on behalf of the Borrower and the Bank. If he is not chosen by the two arbitrators within 30 days of the date of appointment of the later of the two party-appointed arbitrators to be appointed, he shall be appointed by the London Court of International Arbitration (the "**LCIA**");

(b) no arbitrator shall be of the same nationality as any party (and for the purposes of this Article, the nationality of the Bank shall be deemed to be Luxembourg);

(c) neither party shall be required to give general discovery of documents, but may be required only to produce specific, identified documents which are relevant to the dispute;

(d) the tribunal shall not take or provide and the Borrower shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank; and

(e) the parties agree to waive any right of appeal against the arbitration award.

The appointing authority shall be the LCIA.

11.03 Recourse to courts

This Article 11.02 (*Arbitration*) is governed by English law. The Parties exclude the jurisdiction of all courts to the extent permitted by any applicable law.

11.04 Evidence of sums due

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

11.05 Waiver of immunity

To the extent that the Borrower may in any jurisdiction claim for itself or its assets immunity from suit, enforcement, attachment or other legal process, the Borrower hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

11.06 Contracts (Rights of Third Parties) Act 1999

No term of this Contract is intended to be enforceable by any third party and the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded and shall not apply.

11.07 Place of performance

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

11.08 Entire Agreement

(a) This Contract entered into in connection therewith:

(i) represents the entire understanding and constitutes the entire agreement between the Parties in relation to its subject matter; and

(ii) supersedes any and all previous discussions, correspondence, representations (of whatever nature) and agreements between the Parties with respect thereto, notwithstanding the existence of any provision of any such prior agreement that any rights or provisions of such prior agreement shall survive its termination.

(b) Each party hereby acknowledges that it has not relied upon any statement or representation made by any Party other than those contained herein in agreeing to enter into this Contract.

11.09 Changes to Parties

Neither the Borrower nor the Promoter may assign or transfer any of its rights or obligations under this Contract without the prior written consent of the Bank.

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

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11.10 **Invalidity**

If at any time any term of this Contract is or becomes illegal, invalid or unenforceable in any respect, or this Contract is or becomes ineffective in any respect, under the laws of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

(a) the legality, validity or enforceability in that jurisdiction of any other term of this Contract or the effectiveness in any other respect of this Contract in that jurisdiction; or

(b) the legality, validity or enforceability in other jurisdictions of that or any other term of this Contract or the effectiveness of this Contract under the laws of such other jurisdictions.

11.11 **Amendments**

Any amendment to this Contract shall be made in writing and shall be signed by the parties hereto.

11.12 **Counterparts**

This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

ARTICLE 12

Final clauses

12.01 Notices

12.01A Form of Notice

(a) Any notice or other communication given under this Contract must be in writing and, unless otherwise stated, may be made by letter or electronic mail.

(b) Notices and other communications for which fixed periods are laid down in this Contract or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter or by electronic mail. Such notices and communications shall be deemed to have been received by the other party:

(i) on the date of delivery in relation to a hand-delivered or registered letter;

(ii) in the case of any electronic mail only when such electronic mail is actually received in readable form and only if it is addressed in such a manner as the other Party shall specify for this purpose.

(c) Any notice provided by the Borrower to the Bank by electronic mail shall:

(i) mention the relevant Contract Number in the subject line; and

(ii) be in the form of a non-editable electronic Image (pdf, tif or other common non editable file format agreed between the Parties) of the notice signed by an authorised signatory with individual representation right or by two or more persons duly authorised with joint representation right of the Borrower as appropriate, attached to the electronic mail.

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

(e) Without affecting the validity of electronic mail notices or communication made in accordance with this Article 12, the following notices, communications and documents shall also be sent by registered letter to the relevant party at the latest on the immediately following Business Day:

(i) Disbursement Acceptance;

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(ii) any notices and communication in respect of the deferment, cancellation and suspension of a disbursement of any Tranche, Market Disruption Event, Prepayment Request, Prepayment Notice, Event of Default, any demand for prepayment; and

(iii) any other notice, communication or document required by the Bank.

(f) The parties agree that any above communication (including via electronic mail) is an accepted form of communication, shall constitute admissible evidence in court and shall have the same evidential value as an agreement under hand (*sous seing privé*).

12.01B Addresses

The address and electronic mail address (and the department for whose attention the communication is to be made) of each party for any communication to be made or document to be delivered under or in connection with this Contract is:

For the Bank	European Investment Bank Attention: Neighbouring Countries Department, Public Sector East Division 98-100 boulevard Konrad Adenauer L-2950 Luxembourg Phone: +352 4379 1 E-mail address: ops-nc2-projects@eib.org
For the Borrower	Attention: Ministry of Finance MD-2005, Chisinau, str. Constantin Tanase, 7 Republic of Moldova E-mail address: cancelaria@mf.gov.md

12.01C Notification of communication details

The Bank and the Borrower shall promptly notify the other party in writing of any change in their respective communication details.

12.02 English language

(a) Any notice or communication given under or in connection with this Contract must be in English.

(b) All other documents provided under or in connection with this Contract must be:

(i) in English; or

(ii) if not in English, and if so required by the Bank, accompanied by a certified English translation and, in this case, the English translation will prevail.

12.03 Effectiveness of this Contract

The Contract, as originally signed on 26 September 2016, has become effective on 17 March 2017.

The effectiveness of the amendments to this Contract set out in the Amendment Agreement is conditional upon and shall become effective only after receipt by the Bank, in a form and substance acceptable to the Bank, of the legal opinion of the Minister of Justice of the Borrower issued in the English language, in the form acceptable to the Bank, supported by a resolution authorising the entry into the Amendment Agreement by the Borrower; and confirming due ratification of the Amendment Agreement by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova

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The amendments to this Contract set out in the Amendment Agreement shall not become effective until the Bank sends to the Borrower a letter confirming fulfilment of the above mentioned condition and providing the date that the amendments to this Contract set out in the Amendment Agreement, becomes effective, and such letter shall be conclusive evidence that the amendments to this Contract set out in the Amendment Agreement.

For the avoidance of doubt, until such time as such letter has been issued by the Bank, neither the Borrower nor the Bank shall have any claims against each other or have any liability whatsoever under or in connection with any amendments to this Contract set out in the Amendment Agreement.

12.04 Recitals, Schedules and Annex

The Recitals and following Schedules form part of this Contract:

Schedule A	Technical Description and Reporting
Schedule B	Definition of EURIBOR
Schedule C	Forms for the Bank and the Borrower

The following Annexes are attached hereto:

Annex I	Form of Legal Opinion from the Ministry of Justice
Annex II	Forms A/B

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IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed and initialed in four originals in the English language.

At CHISINAU, this	26 September	2016
At LUXEMBOURG, this	23 September	2016

Signed for and on behalf of the
REPUBLIC OF MOLDOVA

Iurie Chirinciuc
Minister of Transport and Road Infrastructure

Signed for and on behalf of the
EUROPEAN INVESTMENT BANK

Wiebke Jardet
Head of Division

Antonio Castillo
Head of Chisinau Office

This Contract has been amended and restated with effect of the Effective Date of the Amendment Agreement. In witness whereof, the parties hereto have caused the Amendment Agreement to be executed in four originals in the English language by Dumitru Budianschi, Minister of Finance, on behalf of the Republic of Moldova and [*], [*] on behalf of the European Investment Bank, and have each caused [name], [position] and [name], Legal Counsel, to initial on their behalf each page of this Contract, as amended and restated by the Amendment Agreement.

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Schedule A

TECHNICAL DESCRIPTION AND REPORTING

A.1. TECHNICAL DESCRIPTION

Purpose, Location

The project consists of two components:

(i) Acquisition of 12 main-line freight diesel locomotives and the associated maintenance equipment. The new locomotives will replace the existing ones the design useful life of which has expired;

(ii) Rehabilitation of railway infrastructure.

The rehabilitation of railway infrastructure component is subject to ex-ante allocation.

Description

Component 1. Locomotives

The locomotives will be of diesel-electric type with AC traction motors and the following main technical characteristics:

Rated power	3 100 – 3 300 kW
Exhaust gas emissions	EURO IIIA as specified in Directive 97/68/EC as last amended by Directive 2012/46/EU
Design speed	100 – 120 km/h
Axle load	< 24.5 t
Vehicle gauge	1-T according to GOST 9238-83 or equivalent standard
Track gauge	1520 mm
Coupling	Automatic buffer-couplers compatible with SA3 coupling
On-board signalling system	ALSN/KLUB type

The scope of the component will include:

- certification of the locomotives for the operation on the Moldovan network and on the neighbouring sections of the Ukrainian network;
- supply and installation of necessary maintenance equipment, in particular, diagnostics equipment;
- training for maintenance staff;
- training for operation staff (drivers and driver aids);
- stock of critical spare parts;
- stock of consumable spare parts for the initial phase of operation;
- after sale services for knowledge transfer to the CFM staff, including maintenance of the locomotives for the first years of operation.

The maintenance equipment will be primarily installed in the existing Basarabeasca depot. No significant civil works, in particular, no works requiring environmental permits, will be carried out to adapt the maintenance facilities to service the new locomotives.

DB

LC

Component 2. Infrastructure rehabilitation works

The sections for the infrastructure rehabilitation will be located on the Bender - Chisinau – Ungheni – Balti – Ocnita or Bender – Basarabeasca - Etulia - Giurgiulesti main lines and selected in accordance with the goals of the Transport and Logistics Strategy 2013-2022 and subject of ex ante allocation due diligence.

The infrastructure rehabilitation will mainly consist of track renewal and some limited improvements to the track bed and civil structures along the existing alignment. The works will be mainly carried out within the existing right of way.

The technical description for this component will be defined at the allocation.

General conditions for the two components

Land acquisition and resettlement, if necessary, locomotives maintenance as well as VAT are to be financed by the Promoter.

Calendar

Locomotives

The component was completed, including delivery, testing, commissioning and placing in revenue service, by 30.09.2020.

Infrastructure rehabilitation works

The component is expected to be completed before 30.06.2025. The completion date will be defined at the allocation.

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

1. Dispatch of information: designation of the person responsible

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

	Financial and Technical Contact
Company	Calea Ferata din Moldova (CFM)
Contact person	Mr Seghei TOMSA
Title	Deputy General Director for Traction and Infrastructure Head of PIU
Function / Department financial and technical	
Address	48 Vlaicu Pircalab str. MD-2012 Chisinau Moldova
Phone	+373 68674301
Fax	
Email	serghei.tomsa@railway.md

The above-mentioned contact person(s) is (are) the responsible contact(s) for the time being. The Borrower shall inform the EIB immediately in case of any change.

DB

LC

2. Information on specific subjects

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

Document / information	Deadline
Documents as per the disbursement conditions.	Before the first disbursement for each component as identified in the technical description.
Feasibility, environmental and any other relevant studies and any other necessary information concerning the rehabilitation of infrastructure component in sufficient details to allow the Bank's services to assess their eligibility for financing.	With allocation request.
Updated procurement plan	Every six months.

3. Information on the project's implementation

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

Document / information	Deadline	Frequency of reporting
Project Progress Report for the Locomotives component, as defined in the technical description: - A brief update on the technical description, explaining the reasons for significant changes vs. initial scope; - Update on the date of completion of each of the main project's components, explaining reasons for any possible delay; - Update on the cost of the project, explaining reasons for any possible cost increases vs. initial budgeted cost; - A description of any major issue with impact on the environment; - Progress of the Implementation of the Environment, Health and Safety Management System; - Update on procurement procedures; - Update on the project's demand or usage and comments; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Update on the progress of the restructuring of CFM; - Update on the progress of the railway reform in the Republic of Moldova; - Any legal action concerning the project that may be on-going. The content of the Project Progress Report for the Infrastructure rehabilitation component, as defined in the technical description, will be determined at the allocation.	First report by 31 October 2016	Biannual (every six months).

DB

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

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

Document / information	Date of delivery to the Bank
Project Completion Report for the Locomotives component, as defined in the technical description, including: - A brief description of the technical characteristics of the project as completed, explaining the reasons for any significant change; - The date of completion of each of the main project's components, explaining reasons for any possible delay; - The final cost of the project, explaining reasons for any possible cost increases vs. initial budgeted cost; - The number of new jobs created by the project: both jobs during implementation and permanent new jobs created; - A description of any major issue with impact on the environment; - Update on the disposal of the replaced locomotives (scrapping, utilisation, etc.); - Progress of the implementation of the Environment, Health and Safety Management System; - Update on procurement procedures; - Update on the project's demand or usage and comments; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Update on the progress of the restructuring of CFM; - Update on the progress of the railway reform in the Republic of Moldova; - Any legal action concerning the project that may be on-going; - Update of the actual values for the following indicators of the project: o Number of locomotives purchased; o Beneficiaries (passengers per year); o Cargo (tons per year); o Time savings (million hours/year); o Energy efficiency (tons of fuel saved). The content of the Project Progress Report for the Infrastructure rehabilitation component, as defined in the technical description, will be determined at the allocation.	15 months after substantial completion.

DB

LC

5. Information required 3 years after the Project Completion Report

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

Document / information	**Date of delivery to the Bank**
3 year plus report, including: - Update of the actual values for the following indicators of the project: o Number of locomotives purchased; o Beneficiaries (passengers per year); o Cargo (tons per year); o Time savings (million hours/year); o Energy efficiency (tons of fuel saved). The content of the Project Progress Report for the Infrastructure rehabilitation component, as defined in the technical description, will be determined at the allocation.	3 years after substantial completion.
Language of reports	English

LC

DB

Schedule B

Definitions of EURIBOR

A. EURIBOR

"**EURIBOR**" means:

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

(b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and

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

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

For the purposes of paragraphs (a) to (c) above:

(i) "**available**" means the rates, for given maturities, that are calculated and published by Global Rate Set Systems Ltd (GRSS), or such other service provider selected by the European Money Markets Institute (EMMI), or any successor to that function of EMMI, as determined by the Bank; and

(ii) "**Screen Rate**" means the rate of interest for deposits in EUR for the relevant period as published at 11:00 a.m., Brussels time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal offices of four major banks in the euro-zone, selected by the Bank, to quote the rate at which EUR deposits in a comparable amount are offered by each of them, as at approximately 11:00 a.m., Brussels time on the Reset Date to prime banks in the euro-zone interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations. If no sufficient quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the euro-zone, selected by the Bank, at approximately 11:00 a.m., Brussels time, on the day which falls 2 (two) Relevant Business Days after the Reset Date, for loans in EUR in a comparable amount to leading European banks for a period equal to the Representative Period. The Bank shall inform the Borrower without delay of the quotations received by the Bank.

All percentages resulting from any calculations referred to in this Schedule will be rounded, if necessary, to the nearest one thousandth of a percentage point, with halves being rounded up.

If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EMMI (or any successor to that function of EMMI as determined by the Bank) in respect of EURIBOR, the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

If the Screen Rate becomes permanently unavailable, the EURIBOR replacement rate will be the rate (inclusive of any spreads or adjustments) formally recommended by (i) the working group on euro risk-free rates established by the European Central Bank (ECB), the Financial Services and Markets Authority (FSMA), the European Securities and Markets Authority (ESMA) and the European Commission, or (ii) the European Money Market Institute, as the administrator of EURIBOR, or (iii) the competent authority responsible under Regulation (EU) 2016/1011 for supervising the European Money Market Institute, as the administrator of the EURIBOR, or (iv) the

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national competent authorities designated under Regulation (EU) 2016/1011, or (v) the European Central Bank.

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

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Schedule C[1]

Forms for the Bank and the Borrower

C.1 Form of Disbursement Offer/Acceptance (Articles 1.02B and 1.02C)

To: Republic of Moldova

From: European Investment Bank

Date:

Subject: MOLDOVA RAIL INFRASTRUCTURE AND ROLLING STOCK FL Finance Contract between the Republic of Moldova and the European Investment Bank dated 26 September 2016, as amended and restated on _____ (the "**Finance Contract**")

FI number: [84.909 (Facility A)] / *[94.170* (Facility B)]Serapis number: 2013 0274

Dear Sirs,

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

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

(a) Amount to be disbursed in EUR:

(b) The disbursement of the Tranche is requested under [Facility A *(FI N° 84.909)*] / [Facility B (*FI N° 94.170*)];

(c) Scheduled Disbursement Date:

(d) Interest rate basis:

(e) Interest payment periodicity:

(f) Payment Dates:

(g) Terms for repayment of principal:

(h) The first and last principal repayment dates:

(i) The Fixed Rate or Spread, applicable until the Maturity Date.

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

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

(i) the indication of the bank account (with IBAN code) where disbursement of the Tranche should be made; and

(ii) evidence of the authority of the person or persons authorised to sign it on behalf of the Borrower and the specimen signature of such person or persons.

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

---

[1] *To be provided on paper bearing the Borrower's letterhead.*

DB

LC

If you do accept the Tranche as described in this Disbursement Offer, all the related terms and conditions of the Finance Contract shall apply, in particular, the provisions of Article 1.04.

Yours faithfully,

EUROPEAN INVESTMENT BANK

We hereby accept the above Disbursement Offer:

_____

For and behalf of [Borrower]

Date:

DB

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

To: European Investment Bank

From: Republic of Moldova

Date: [***Insert date***]

Subject: MOLDOVA RAIL INFRASTRUCTURE AND ROLLING STOCK FL Finance Contract between the Republic of Moldova and the European Investment Bank dated 26 September 2016, as amended and restated on ____
(the "**Finance Contract**")

FI number: [84.909 (Facility A)] / [94.170 (Facility B)] Serapis number: 2013 0274

Dear Sirs,

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

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

(a) no event described in Article 4.03 (*Compulsory prepayment*) has occurred and is continuing unremedied;

(b) there has been no material change to any aspect of the Project or in respect of which we are obliged to report under Article 8.01, save as previously communicated by us;

(c) we have sufficient funds available to ensure the timely completion and implementation of the Project in accordance with Schedule A.1;

(d) no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute an event of default under Article 10.01 or a Prepayment Event has occurred and is continuing unremedied or unwaived;

(e) no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us or any of our subsidiaries any unsatisfied judgement or award;

(f) the representations and warranties to be made or repeated by us under Article 6.10 are true in all respects; and

(g) no Material Adverse Change has occurred, as compared with our condition at the date of the Finance Contract.

Yours faithfully,

For and on behalf of Republic of Moldova

Date:

DB

LC

ANNEX I

Form of Legal Opinion on the Finance Contract

European Investment Bank
98-100 Bd. Konrad Adenauer
L-2950 Luxembourg
Luxembourg

To the attention of the Legal Directorate

[*date*]

Re: MOLDOVA RAIL INFRASTRUCTURE AND ROLLING STOCK FL Finance Contract between the Republic of Moldova and the European Investment Bank dated 26 September 2016, as amended and restated on _____

Dear Sirs,

I, the undersigned, Minister of Justice of the Republic of Moldova, am giving this opinion pursuant to Article 1.04 A (i) of the Finance Contract (the "**Finance Contract**") for the Moldova Rail Infrastructure and Rolling Stock FL Project in an amount equivalent to EUR 74 000 000, made on [***to be confirmed***] between the Republic of Moldova (the "**Borrower**") and the European Investment Bank (the "**Bank**"). All terms used herein and not otherwise defined shall have the same meaning as in the Finance Contract.

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

1. Subject to the foregoing, I am of the opinion that:

   (a) the Finance Contract has been duly executed and delivered on behalf of the Borrower by [***Name***], [Minister of Finance] of the Republic of Moldova] as lawful representative of the Borrower; and

   (b) the execution of the Finance Contract by [***Name***], [Minister of Finance] of the Republic of Moldova] as lawful representative of the Borrower has been made upon the provisions of [***INSERT DETAILS OF RELEVANT LAW***].

2. No provision exists in the Republic of Moldova, which would make it necessary that the Finance Contract be filed, recorded or enrolled with any court or authority in order to ensure its legality, validity or enforceability.

3. The choice of English law as the law governing the Finance Contract is valid and enforceable.

4. None of the entry into and performance by the Borrower of, and the transactions contemplated by, the Finance Contract, the acceptance of the Credit, the signing of a Disbursement Offer, the submission of a Disbursement Request or the acceptance of a disbursement of a Tranche under the Finance Contract in any way conflicts with or breaches any restrictions on the incurring of financial indebtedness by the Borrower imposed by any international financial institution or international bank.

5. By virtue of the provisions of the Finance Contract, any dispute between the parties shall be settled by final and binding arbitration in accordance with the UNCITRAL Arbitration Rules. Any award of such tribunal of arbitration against the Borrower and/or the Promoter in relation to the Finance Contract may be enforced in the Republic of Moldova.

DB

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6. No taxes, duties, fees or other charges, including, without limitation, any registration or transfer tax, stamp duty or similar levy, imposed by the Republic of Moldova, the [*] or any political subdivision or taxing authority thereof or therein are payable in connection with the execution and delivery of the Finance Contract, nor in connection with any payment to be made by the Borrower to the Bank pursuant to the same Finance Contract.

7. All necessary exchange control consents, which may be necessary to receive disbursements, to repay the same and to pay interest and all other amounts due under the Finance Contract are in effect.

8. The waiver of immunity under Article 11.05 of the Finance Contract is a legally valid and binding obligation of the Borrower.

9. The Finance Contract has been duly ratified by the Parliament of the Republic of Moldova in accordance with the laws of the Republic of Moldova.

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

Yours faithfully,

_____

[Name]

Minister of Justice of the Republic of Moldova

DB

LC

ANNEX II

Forms A/B

Form A - English

PART I

Form A – No Appropriate Assessment required by Article 6(3) was required

DECLARATION BY THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE[2]

Responsible Authority:

Having examined the project application[3] .....

Which is to be located at:

Declares that the project is not likely to have significant effect on a NATURA 2000 site on the following grounds:

Therefore an appropriate assessment required by Article 6(3) was not deemed necessary.

A map at scale of 1:100.000 (or nearest possible scale) is attached, indicating the location of the project as well as the NATURA 2000 sites concerned, if any.

Date (dd/mm/yyyy):

Signed:

Name:

Position:

Organisation:

(Authority responsible for monitoring NATURA 2000 sites)

Official Seal:

---

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

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

DB LC

PART II

Form A – Assessment of Effects on NATURA 2000 - No risk of significant effect

DECLARATION BY THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE[1]

Responsible Authority.....

Having examined the project application[2].....

Which is to be located at.....

Declares that following an appropriate assessment required by Article 6(3) of Directive 92/43/EEC, the project will not have significant effects on a site of nature conservation importance[1].

Please provide a summary of the conclusions of the appropriate assessment carried out according to Article 6(3) of Directive 92/43/EEC:

Please provide a summary of the mitigation measures required for the project:

A map at scale of 1.100.000 (or the nearest possible scale) is attached, indicating the location of the project as well as the sites of nature conservation importance.

Signed:

Name and Position:

Organisation (Authority responsible for monitoring NATURA 2000 sites)

Official Seal:

---

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

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

DB LC

Form A - Romanian

PARTEA I

Formularul A – Nu a fost necesară o evaluare corespunzătoare conform articolului 6 alineatul (3)

DECLARAŢIA AUTORITĂŢII RESPONSABILE CU MONITORIZAREA SITURILOR DE IMPORTANŢĂ PENTRU CONSERVAREA NATURII[3]

Autoritatea responsabilă:.....

după examinarea cererii privind proiectul[4].....

care va fi situat în: .....

declară că este puţin probabil ca proiectul să aibă efecte semnificative asupra unui sit NATURA 2000 din următoarele motive:

Prin urmare, nu s-a considerat necesară realizarea unei evaluări corespunzătoare în conformitate cu articolul 6 alineatul (3).

Se anexează o hartă la scara 1:100 000 (sau la scara cea mai apropiată), care indică localizarea proiectului, precum şi, după caz, siturile NATURA 2000 în cauză.

Dată (zz/ll/aaaa):

Semnătură:

Nume:

Funcţie:

Organism:

(autoritate responsabilă cu monitorizarea siturilor NATURA 2000)

Ştampilă oficială:

---

[3] Acestea includ situri protejate ca parte a reţelei Natura 2000 (inclusiv ariile speciale de conservare şi ariile de protecţie specială), situri potenţiale Natura 2000, situri Ramsar, zone de importanţă acvafaunistică, situri din reţeaua Emerald şi alte zone relevante.

[4] Ţinând seama de cerinţele articolului 6 alineatul (3) din Directiva 92/43/CEE privind conservarea habitatelor naturale şi a speciilor de faună şi floră sălbatică.

DB

LC

PARTEA II

Formularul A – Evaluarea efectelor asupra siturilor NATURA 2000 - Fără risc de efecte semnificative

DECLARAŢIA AUTORITĂŢII RESPONSABILE CU MONITORIZAREA SITURILOR DE IMPORTANŢĂ PENTRU CONSERVAREA NATURII[8]

Autoritatea responsabilă .....

după examinarea cererii privind proiectul[9] .....

care va fi situat în.....

în urma unei evaluări corespunzătoare conform articolului 6 alineatul (3) din Directiva 92/43/CEE, declară că proiectul nu va avea efecte semnificative asupra unui sit de importanţă pentru conservarea naturii[1].

Vă rugăm să prezentaţi o sinteză a concluziilor evaluării corespunzătoare realizate în conformitate cu articolul 6 alineatul (3) din Directiva 92/43/CEE:

Vă rugăm să prezentaţi o sinteză a măsurilor de atenuare necesare pentru proiect:

Se anexează o hartă la scara 1:100 000 (sau la scara cea mai apropiată), care indică localizarea proiectului, precum şi siturile de importanţă pentru conservarea naturii.

Semnătură:

Nume şi funcţie:

Organism (autoritate responsabilă cu monitorizarea siturilor NATURA 2000):

Ştampilă oficială:

---

[8] Acestea includ situri protejate ca parte a reţelei Natura 2000 (inclusiv ariile speciale de conservare şi ariile de protecţie specială), situri potenţiale Natura 2000, situri Ramsar, zone de importanţă acvafaunistică, situri din reţeaua Emerald şi alte zone relevante.

[9] Ţinând seama de cerinţele articolului 6 alineatul (3) din Directiva 92/43/CEE privind conservarea habitatelor naturale şi a speciilor de faună şi floră sălbatică.

DB

LC

Form B - Risk of significant effect

INFORMATION FROM THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE[10]

Responsible Authority.....

Having examined[11] the project application .....

Which is to be located at .....

provides the following information and documentation to be sent to the European Commission for (tick the appropriate box):

information (Art. 6(4).1) ☐ opinion (Art. 6(4).2) ☐

Member State:

Competent National Authority:

Address:

Contact person:

Tel., fax, e-mail:

Date:

Is the notification containing sensitive information? If yes, please specify and justify:

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

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

DB LC

1. PLAN OR PROJECT

Name of the plan/project:

Promoted by:

Summary of the plan or project having an effect on the site:

Description and location of the elements and actions of the project having potential impacts and identification of the areas affected (include maps):

DB

LC

2. ASSESSMENT OF NEGATIVE EFFECTS[12]

Name and code of Natura 2000 site(s) affected:

Please tick as appropriate

☐ A **SPA** under the Birds Directive

☐ A **SCI/SAC** under the Habitats Directive

☐ **Hosting a priority** habitat/species

☐ **Priority** habitats/species are **affected**

☐ A wetland of international importance designated under the **Ramsar Convention** or qualifying for such protection

☐ A site listed in the latest inventory on **Important Bird Areas** (IBA) or (if available) in an equivalent more detailed scientific inventory endorsed by national authorities

☐ A site to which **the Bern Convention** on the conservation of European Wildlife and Natural Habitats (Art.4), in particular a site meeting the criteria of the **Emerald Network**

☐ Areas protected under national nature conservation legislation

Site's conservation objectives and key features contributing to the site integrity:

Habitats and species that will be adversely affected (e.g. indicate their representativity, if applicable their conservation status according to Art.17 on national and biogeographic level and degree of isolation, their roles and functions in the site concerned).

Importance of the site for the habitats and species that will be affected (e.g. explain the role of the site within the national and biogeographical region and in the coherence of the Natura 2000 network).

12 NB: focus on the adverse effects expected on the habitats and species for which the site has been proposed for the Natura 2000 network. Include all the information that may be relevant in each case, depending on the impacts identified for the species and habitats affected.

DB

LC

Description of adverse effects expected (loss, deterioration, disturbance, direct and indirect effects, etc.); extent of the effects (habitat surface and species numbers or areas of occurrence affected by the project); importance and magnitude (e.g. considering the affected area or population in relation to the total area and population in the site, and possibly in the country) and location (include maps).

Potential cumulative impacts and other impacts likely to arise as a result of the combined action of the plan or project under assessment and other plans or projects.

Mitigation measures included in the project (indicate how these will be implemented and how they will avoid or reduce negative impacts on the site).

3. ALTERNATIVE SOLUTIONS

Identification and description of possible alternative solutions, including the zero option (indicate how they were identified, procedure, methods).

Evaluation of alternatives considered and justification of the alternative chosen (reasons why the competent national authorities have concluded that there is absence of alternative solutions).

DB

LC

4. IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

Reason to carry out this plan or project in spite of its negative effects:

Imperative reasons of overriding public interest, including those of a social or economic nature (in the absence of priority habitat/species)

human health

public safety

beneficial consequences of primary importance for the environment

other imperative reasons of overriding public interest

Description and justification and why they are overriding[13]:

13 Different level of detail may be required depending on whether the notification is submitted for information or for opinion.

DB

LC

5. COMPENSATORY MEASURES[14]

Objectives, target features (habitats and species) and ecological processes/functions to be compensated (reasons, why these measures are suitable to compensate the negative effects)

Extent of the compensatory measures (surface areas, population numbers)

Identification and location of compensation areas (including maps)

Former status and conditions in the compensation areas (existing habitats and their status, type of land, existing land uses, etc.)

Expected results and explanation of how the proposed measures will compensate the adverse effects on the integrity of the site and will allow preserving the coherence of the Natura 2000 network.

Time schedule for the implementation of the compensatory measures (including long-term implementation), indicating when the expected results will be achieved.

Methods and techniques proposed for the implementation of the compensatory measures, evaluation of their feasibility and possible effectiveness.

Costs and financing of the proposed compensatory measures.

Responsibility for implementation of compensatory measures.

Monitoring of the compensatory measures, where envisaged (e.g. if there are uncertainties concerning the effectiveness of the measures), assessment of results and follow-up

14 Different level of detail may be required depending on whether the notification is submitted for information or for opinion.

DB

LC

Form B - Romanian

Formularul B - Risc de efecte semnificative

INFORMAŢII FURNIZATE DE AUTORITATEA RESPONSABILĂ CU MONITORIZAREA SITURILOR DE IMPORTANŢĂ PENTRU CONSERVAREA NATURII[15]

Autoritatea responsabilă.....

după examinarea[16] cererii privind proiectul.....

care va fi situat în .....

prezintă următoarele informaţii şi documente care urmează a fi transmise Comisiei Europene pentru (a se bifa caseta corespunzătoare):

informare (art. 6(4).1) ☐ aviz (art. 6(4).2) ☐

Stat membru:

Autoritate naţională competentă:

Adresă:

Persoană de contact:

Tel., fax, e-mail:

Dată:

Notificarea cuprinde informaţii sensibile? Dacă da, precizaţi şi justificaţi:

15 Acestea includ situri protejate ca parte a reţelei Natura 2000 (inclusiv ariile speciale de conservare şi ariile de protecţie specială), situri potenţiale Natura 2000, situri Ramsar, zone de importanţă acvafaunistică, situri din reţeaua Emerald şi alte zone relevante.

16 Ţinând seama de cerinţele articolului 6 alineatul (4) din Directiva 92/43/CEE privind conservarea habitatelor naturale şi a speciilor de faună şi floră sălbatică.

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1. PLAN SAU PROIECT

Denumirea planului/proiectului:

Promovat de:

Sumarul planului sau proiectului care are efect asupra sitului:

Descrierea şi amplasarea elementelor şi acţiunilor proiectului care au un impact potenţial şi identificarea ariilor afectate (a se include hărţi):

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2. EVALUAREA EFECTELOR NEGATIVE[17]

Denumirea şi codul sitului sau siturilor Natura 2000 afectate:

A se bifa după caz

☐ o **SPA** în temeiul Directivei privind păsările

☐ un **SIC/o ASC** în temeiul Directivei privind habitatele

☐ **găzduieşte** un habitat **prioritar/o specie prioritară**

☐ sunt **afectate** habitate/specii **prioritare**

☐ o zonă umedă de importanţă internaţională, desemnată prin **Convenţia Ramsar** sau care se califică pentru această protecţie

☐ un sit care figurează în ultimul inventar privind **zonele de importanţă acvafaunistică** (IBA - Important Bird Areas) sau (dacă există) într-un inventar ştiinţific mai detaliat echivalent, aprobat de autorităţile naţionale

☐ un sit unde se aplică **Convenţia de la Berna** privind conservarea vieţii sălbatice şi a habitatelor naturale din Europa (articolul 4), în special un sit care îndeplineşte criteriile **reţelei Emerald**

☐ arii protejate prin legislaţia naţională privind conservarea naturii

Obiectivele privind conservarea sitului şi elementele cheie care contribuie la integritatea sitului:

Habitate şi specii care vor fi afectate negativ (de exemplu, a se indica reprezentativitatea acestora, dacă este cazul, stadiul de conservare al acestora în conformitate cu articolul 17 la nivel naţional şi biogeografic şi gradul de izolare, rolurile şi funcţiile acestora în situl respectiv).

17 NB: a se pune accentul pe efectele adverse anticipate asupra habitatelor şi speciilor pentru care situl a fost propus pentru reţeaua Natura 2000. A se include toate informaţiile care pot fi relevante în fiecare caz, în funcţie de impactul identificat pentru speciile şi habitatele afectate.

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Importanţa sitului pentru habitatele şi speciile care vor fi afectate (de exemplu, a se explica rolul sitului la nivel naţional şi în regiunea biogeografică, precum şi pentru coerenţa reţelei Natura 2000).

Descrierea efectelor adverse anticipate (pierdere, deteriorare, perturbare, efecte directe şi indirecte etc.); amploarea efectelor (suprafaţa habitatului şi numărul de specii sau zone afectate de proiect, expuse efectelor adverse); importanţă şi intensitate (de exemplu, având în vedere suprafaţa sau populaţia afectată în raport cu suprafaţa sau populaţia totală a sitului şi, eventual, a ţării) şi amplasare (a se include hărţi).

Impactul cumulat potenţial şi alte tipuri de impact de natură a apărea în urma acţiunii combinate a planului sau proiectului în curs de evaluare şi a altor planuri sau proiecte.

Măsuri de atenuare incluse în proiect (a se indica modul de punere în aplicare al acestora şi modul în care vor evita sau reduce impactul negativ asupra sitului).

3. SOLUŢII ALTERNATIVE

Identificarea şi descrierea de posibile soluţii alternative, inclusiv opţiunea zero (a se indica modul în care au fost identificate, procedură, metode).

Evaluarea alternativelor luate în considerare şi justificarea alternativei alese (motive pentru care autorităţile naţionale competente au concluzionat că nu există soluţii alternative).

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4. MOTIVE CRUCIALE DE INTERES PUBLIC MAJOR

Motiv pentru realizarea acestui plan sau proiect în ciuda efectelor sale negative:

Motive cruciale de interes public major, inclusiv din raţiuni de ordin social sau economic (în absenţa habitatelor/speciilor prioritare)

sănătatea umană

siguranţa publică

consecinţe benefice de importanţă majoră pentru mediu

alte motive cruciale de interes public major

Descrierea şi justificarea interesului public major[18]:

18 Ar putea fi necesare niveluri diferite de detaliere în funcţie de motivul pentru care este prezentată notificarea: spre informare sau în vederea emiterii unui aviz.

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5. MĂSURI COMPENSATORII[19]

Obiective, caracteristici ţintă (habitate şi specii) şi procese/funcţii ecologice de compensat (motive pentru care aceste măsuri sunt adecvate pentru compensarea efectelor negative)

Amploarea măsurilor compensatorii (suprafeţe, număr de locuitori)

Identificarea şi amplasarea zonelor de compensare (inclusiv hărţi)

Statut anterior şi condiţii din zonele de compensare (habitate existente şi statutul acestora, tip de teren, destinaţia actuală a terenurilor etc.)

Rezultate anticipate şi explicarea modului în care măsurile propuse vor compensa efectele adverse asupra integrităţii sitului şi vor permite păstrarea coerenţei reţelei Natura 2000.

Calendar pentru punerea în aplicare a măsurilor compensatorii (inclusiv punere în aplicare pe termen lung), indicând momentul în care vor fi atinse rezultatele anticipate.

19 Ar putea fi necesare niveluri diferite de detaliere în funcţie de motivul pentru care este prezentată notificarea: spre informare sau în vederea emiterii unui aviz.

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Metode şi tehnici propuse pentru punerea în aplicare a măsurilor compensatorii, evaluarea fezabilităţii acestora şi posibila eficacitate.

Costuri şi finanţarea măsurilor compensatorii propuse.

Responsabilitate pentru punerea în aplicare a măsurilor compensatorii.

Monitorizarea măsurilor compensatorii, atunci când sunt preconizate (de exemplu, în cazul în care există incertitudini cu privire la eficacitatea măsurilor), evaluarea rezultatelor şi măsuri de urmărire

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