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MOLDOVA SOLIDARITY LANES
INVESTMENT GRANT AGREEMENT

Chisinau, 12 SEPTEMBER 2024



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THIS INVESTMENT GRANT AGREEMENT IS MADE BETWEEN:

The Republic of Moldova, represented by the Ministry of Infrastructure and Regional Development (having its seat at Republica Moldova, Chisinau, MD-2012 Piata Marii Adunari Nationale 1) and, for the signing of this agreement, the Ministry of Infrastructure and Regional Development are duly represented by Mr. Nicolai Mindra, State Secretary of the Ministry of Infrastructure and Regional Development,

(the "**Recipient**"),

firstly,

Calea Ferata din Moldova (CFM), having its address at Strada Vlaicu Pîrcălab, nr. 48 mun, Chișinău MD-2012, duly represented by Mr. Serghei Tomșa, Director,

(the "**Beneficiary**"),

Secondly, and

the European Investment Bank, a financial institution established by the Treaty on the Functioning of the European Union, whose head office is located at 98-100, boulevard K. Adenauer, L-2950 Luxembourg, Grand Duchy of Luxembourg duly represented for the purpose hereof by Mr. Lionel Rapaille, Director and Mr. Federico Greco, Senior Legal Counsel,

(the "**Bank**"),

thirdly,

each individually a "**Party**" and, together, the "**Parties**".

WHEREAS:

A. Pursuant to a finance contract dated 15 December 2023 entered into between the Recipient and the Bank (the "**Finance Contract**"), the Bank has made available to the Recipient a loan in a maximum principal amount of up to EUR 41,205,000 (forty-one million two hundred five thousand euros) (the "**Loan**") in order to finance the project as described in the Finance Contract (the "**Project**").

B. The Recipient, acting through the Beneficiary, has undertaken to implement the rehabilitation of selected elements of the existing railway infrastructure in the Republic of Moldova, as described in the technical description set out in the Finance Contract. The parts and/or the components of the Project will be financed by the Grant (as defined below), provided that such parts and/or components are (i) found eligible by the Bank in accordance with Article 8.1 (*Eligible Costs*) of this Agreement and (ii) described in the description of the Action as set out in Annex 1 (*Description of the Action*) of this Agreement (the "**Action**").

C. In connection with the Project, the Recipient requested the support of the Bank to obtain non-reimbursable funding to cover part of the costs of the Project.

D. The Beneficiary and the Recipient are duly authorised to receive the grant in an amount totalling up to EUR 12,000,000 (twelve million euros) represented by this Agreement on the terms and conditions set out in this Agreement.

E. The Bank and the European Commission have, together with other international finance institutions, entered into the co-operation within the framework of the Neighbourhood Investment Facility framework arrangement, in force as of 21 December 2009, which, in September 2017, became an integral part of the European Fund for Sustainable Development as the Neighbourhood Investment Platform ("**NIP**"), a financing instrument of the European Union aimed at supporting the Eastern Partnership countries in their efforts towards better governance and economic and social development.

F. At the request of the Bank, the operational board of the NIP, a financing instrument of the European Union aimed at supporting the Neighbourhood, Development and International Cooperation Instrument — Global Europe (the "**NDICI-GE**"), agreed to partially finance works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) the Project, up to a maximum amount of EUR 12,400,000 (twelve million four hundred thousand euros), of which EUR 400,000 (four hundred thousand euros) is administrative fees of the Bank for managing the funds under this Agreement, (the "**Grant**") to be used in the form of an investment grant made available through the general budget of the EU.

G. On 20 December 2023, the Bank and the European Union, acting through the European Commission, entered into a contribution agreement for the management and implementation of the Grant (the "**Contribution Agreement**").

H. This investment grant agreement (the "**Agreement**") is entered into based on (i) the Financial and Administrative Framework Agreement dated 7 and 8 May 2014 entered into between the European Union represented by the European Commission and the Bank, as amended on 8 and on 9 October 2019 (the "**FAFA**") and (ii) the Contribution Agreement.

I. 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 and has therefore established its transparency policy, the purpose of which is to enhance the accountability of the Bank (and its subsidiaries) towards its stakeholders and the citizens of the European Union in general.

J. 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 European Union institutions and bodies and on the free movement of such data.

K. The Bank supports the implementation of international and EU standards in the field of anti-money laundering and countering the financing of terrorism and promotes tax good governance standards. It has established policies and procedures to avoid the risk of misuse of its funds for purposes which are illegal or abusive in relation to applicable laws. The Bank's group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, money laundering and financing of terrorism is available on the Bank's website and offers further guidance to the Bank's contracting counterparties.[1]

[1] http://www.eib.org/about/compliance/tax-good-governance/index.htm?f=search&media=search



NOW THEREFORE it is hereby agreed as follows:

ARTICLE 1
Definitions and Interpretation

1.1. Wherever used in this Agreement, the following terms shall have the meanings opposite them:

"**Action**"	has the meaning given to it in Recital B.
"**Agreement**"	has the meaning given to it in Recital H.
"**Authorisation**"	means an authorisation, permit, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
"**Confidential Information**"	means any document, information or other material, provided in connection with or pursuant to this Agreement, and which is, cumulatively, in written or other permanent (including electronic) form, and clearly and conspicuously identified as "Confidential Information".
"**Contractor**"	means the natural or legal person, or an association thereof – whether formal or informal – with which the Beneficiary concludes a Contract for the delivery of the Works and/or services.
"**Contract**"	means an agreement entered into between the Beneficiary and a Contractor pursuant to a public procurement procedure, as prescribed in Article 5 (*Procurement*) and under which such Contractor delivers the Works and/or services.
"**Contribution Agreement**"	has the meaning given to it in Recital G.
"**Disbursement Account**"	means the euro-denominated account: (i) opened in the name of the Recipient; (ii) at the National Bank of Moldova. The Disbursement Account shall be separate from any other accounts, audited independently and separately, and not subject to any enforcement, attachment, or any similar proceedings and will have separate accounts for the receipt of the Loan and the Grant, respectively. Funds credited to the Disbursement Account shall be used exclusively for implementation of the Action under this Agreement.
"**Effective Date**"	has the meaning given to it in Article 32 of this Agreement.
"**EIB Environmental and Social Standards**"	means the EIB Environmental and Social Standards of 2022 which are published on the Bank's website and which describe the environmental and social requirements that all EIB-financed projects must meet and the responsibilities of the various parties, including the Beneficiary and the Recipient.
"**Environment**"	means the following: (a) fauna and flora, living organisms including the ecological systems; (b) land, soil, water (including marine and coastal waters), air, climate and the landscape (natural or man-made structures, whether above or below ground); (c) cultural heritage (natural, tangible and intangible);



	(d) the built environment; and (e) human health and wellbeing.
"Environmental and Social Impact Assessment Study"	means a study or report as an outcome of the environmental and social impact assessment identifying and assessing the likely significant environmental and social impacts and/or risks associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts and/or risks. This study is subject to public consultation with direct and indirect project stakeholders.
"Environmental and Social Documents"	means (a) the Environmental and Social Impact Assessment Study; (b) the Environmental and Social Management Plan; and other documents referred to in the Environmental and Social Standards.
"Environmental and Social Standard"	means: (a) Environmental Laws and Social Laws applicable to the Project or the Beneficiary and/or the Recipient; (b) the EIB Environmental and Social Standards; (c) the Environmental and Social Documents.
"Environmental Law"	means: (a) EU Law, including principles and standards save for any derogation accepted by the Bank for the purpose of this Agreement based on any agreement between the Republic of Moldova and the EU; (b) national laws and regulations; and (c) international treaties and conventions signed and ratified by or otherwise applicable and binding on the Republic of Moldova, in each case of which a principal objective is the preservation, protection or improvement of the Environment.
"Environmental or Social Approval"	means any Authorisation required by an Environmental Law or a Social Law.
"Environmental or Social Claim"	means any claim, proceeding, formal notice or investigation by any person in respect of any breach or alleged breach of any Environmental and Social Standards.
"EU"	means the European Union.
"EU Body" or **"EU Bodies"**	means the Bank, the agents of the Bank, the European Court of Auditors, the European Commission, agents of the European Commission (including OLAF and external agents engaged by the European Commission), the European Public Prosecutor's Office any other European Union institution or European Union body which is entitled to verify the use of the Grant and any other duly authorised body under applicable law to carry out audit or control activities when required under applicable law.
"EU Law"	means the acquis communautaire of the European Union as expressed through the Treaties of the European Union, the regulations, directives, delegated acts, implementing acts, and the case law of the Court of Justice of the European Union.
"Execution Period"	means the period starting on the Effective Date and ending on the Termination Date.



"FAFA"	has the meaning given to it in Recital H.
"Finance Contract"	has the meaning given to it in Recital A.
"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.
"Force Majeure"	means any unforeseeable exceptional situation or event beyond the Parties' control, which is not attributable to error or negligence on their part or any of their agents, employees or contractors, proves insurmountable in spite of all due diligence, and prevents either of them from fulfilling any of their contractual obligations. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as Force Majeure.
"FX Rate"	means the foreign exchange reference rate displayed by the European Central Bank from time to time on its website and which is based on the daily consultation procedure between central banks within and outside the European System of Central Banks or, if such rate is not or no longer available at the relevant time, the relevant foreign exchange reference rate displayed by the relevant national central bank, or if such rate is not or no longer available at the relevant time, or economically unreasonable at the relevant time as solely determined by the Bank, any replacement to such rate such as determined in a reasonable commercial manner by the Bank, or the relevant third party (as solely determined by the Bank) which may include an actionable quotation for a currency exchange rate as of the relevant day of such conversion obtained by the entity conducting the conversion from an independent leading dealer in the relevant currency selected by the latter in good faith and in a commercially reasonable manner.
"GAAP"	means generally accepted accounting principles in in the Republic of Moldova, including IFRS.
"Grant"	has the meaning given to it in Recital F.
"Grant Maximum Amount"	means EUR 12,400,000 (twelve million four hundred thousand euros) of which (i) EUR 12,000,000 (twelve million euros) is the grant amount to be provided to Recipient and the Beneficiary under this Agreement, and (ii) EUR 400,000 (four hundred thousand euros) is administrative fees of the Bank for managing the funds under this Agreement.
"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.
"IFRS"	means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.
"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).



"Intellectual Property Rights"	means any copyright and related rights, rights in designs, database rights, rights in computer software, domain names, trademarks, service marks, patents, trade names or any applications for any of the foregoing, rights in confidential information (including know-how and trade secrets) or similar rights or obligations, moral rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.
"Loan"	has the meaning given to it in Recital A.
"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 disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity; (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.
"Personal Data"	has the meaning given to it in Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p.39-98), as amended, supplemented and consolidated from time to time.
"Procurement Plan"	has the meaning given to it in the Guide to Procurement.
"Prohibited Conduct"	means any Financing of Terrorism, Money Laundering or Prohibited Practice.
"Prohibited Practice"	means any: (a) Coercive Practice, meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party; (b) Collusive Practice, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; (c) Corrupt Practice, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;



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

(e) Obstructive Practice, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Grant or the Project, (a) 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 (b) acts intending to materially impede the exercise of the contractual rights of audit or access to information;

(f) A theft which means the misappropriation of property belonging to another party;

(g) Tax Crime, meaning all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of the Republic of Moldova, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year; or

(h) Misuse of EIB Group Resources and Assets, meaning any illegal activity committed in the use of the EIB Group's resources or assets (including the funds lent under this Agreement) knowingly or recklessly.

"Records" has the meaning given to it in Annex 4 (*Records*).

"Relevant Person" means with respect to the Recipient:

(a) any ministries, other central executive government bodies or other governmental sub-divisions, or any of their officials or representatives, or any other person acting for any of them, on its behalf or under its control, having the authority to manage and/or supervise the Grant or the Project; and

(b) any official or representative, or any other person acting for it, on its behalf or under its control, having the authority to manage and/or supervise the Grant or the Project; and

(c) with respect to the Beneficiary, any member of its management bodies; or any other person acting for it, on its behalf or under its control, having the power to give directions and/or exercise control with respect to the Grant or the Project.

"Sanctioned Person" means any individual or entity (for the avoidance of doubt, the term entity includes, but is not limited to, any government, group or terrorist organisation) who is a designated target of, or who is otherwise a subject of, Sanctions (including, without limitation, as a result of being owned or otherwise controlled, directly or indirectly, by any individual or entity, who is a designated target of, or who is otherwise a subject of, Sanctions).

"Sanctions" means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures (including, in particular, but not limited to, measures in relation to the financing of terrorism) enacted, administered, implemented or enforced from time to time by any of the following:



(a) the United Nations including, *inter alia*, the United Nations Security Council;

(b) the European Union including, *inter alia*, the Council of the European Union and the European Commission, and any other competent bodies/institutions or agencies of the European Union;

(c) the government of the United States of America, and any department, division, agency, or office thereof, including, *inter alia*, the Office of Foreign Asset Control (OFAC) of the United States Department of the Treasury, the United States Department of State and/or the United States Department of Commerce; and

(d) the government of the United Kingdom, and any department, division, agency, office or authority including, *inter alia*, the Office of Financial Sanctions Implementation of His Majesty's Treasury and the Department for International Trade of the United Kingdom.

"Social Law" means each of:

(a) any law, rule or regulation applicable in in the Republic of 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:

(a) labour and working conditions;

(b) occupational health and safety;

(c) rights and interests of vulnerable groups;

(d) rights and interests of indigenous peoples;

(e) gender equality;

(f) public health, safety and security;

(g) avoidance of forced evictions and alleviation of hardship arising from involuntary resettlement; and

(h) stakeholder engagement.

"Termination Date" means the later of:

a) the date on which the Contribution Agreement is terminated; or

b) the date on which this Agreement is terminated.

"Union Emblem" means the logo of the European Union with the twelve yellow stars on a blue background as being used by all the institutions, bodies, offices and agencies of the European Union in accordance with *The Interinstitutional style guide* of the Publications Office of the European Union and *The Use of the EU Emblem in the Context of EU Programmes and in Non-EU Countries – Guidelines for beneficiaries and other third parties* as developed by the European Commission and as updated from time to time.

These guidelines are available at: http://ec.europa.eu/dgs/communication/services/visual_identity/pdf/use-emblem_en.pdf

"Works" means the works, services and supplies relating to works and/or services for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project financed by the Grant as further described in Annex 1 (Description of the Action).



1.2. In the event that a different meaning is given to a capitalized term in a particular Annex, such definition will have the meaning given to it in that Annex solely for the purposes of that Annex.

1.3. The headings used in this Agreement, and any references made to the said headings, are for convenience of reference only and will not be taken into consideration in the interpretation of this Agreement.

1.4. Except where the context requires otherwise, references to specific Recitals, Articles, Annexes, and other divisions of this Agreement are references to such Recitals, Articles, Annexes to, or divisions of this Agreement.

1.5. References to any law, including any statutes or legal acts specifically referred to herein, whether or not amendments or successors to such laws are referred to herein, are to be construed as references to that law as amended from time to time, or to any law covering the same or similar subject matter replacing, extending, consolidating or amending the same from time to time. They will also be deemed to include all regulations, by-laws, ordinances and orders made under or pursuant to that law.

1.6. References to a public organisation will include its successors, and if a public organisation ceases to exist or ceases to perform its functions without a successor, references to such public organisation will be deemed to include a reference to any public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation.

1.7. General words introduced or followed by the word "other" or "including" or "such as" or "in particular" will not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.

1.8. Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each gender include all other genders.

1.9. Whenever a document is required to be "certified", such requirement will mean that the relevant document is certified as a true and complete copy of an instrument in full force and effect, and un-amended as of the date of the relevant copy.

ARTICLE 2
Subject

2.1. The purpose of this Agreement is to set out the rights and obligations of the Parties in relation to the use of the Grant for the implementation of the Works.

2.2. The Recipient and the Beneficiary shall, as applicable:

(a) implement Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project supported by the Grant in accordance with the provisions of this Agreement, the Finance Contract, as may be modified from time to time with the approval of the Bank, including the time schedule and the description of the Project as per Annex 1 (*Description of the Action*) of this Agreement and the estimated budget as per Annex 2 (*Estimated cost of the Project*) of this Agreement;

(b) obtain the Bank's prior written approval to any material changes to the Project's design, implementation schedule, cost, plans and expenditures programme;

(c) implement the Works and the related Contracts financed by the Grant under its responsibility and in accordance with the provisions of this Agreement, with a view to achieving the objectives laid down in Annex 1 (*Description of the Action*);

(d) use the Grant exclusively for the financing of Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project, and in accordance with the terms and conditions set out in this Agreement. In so doing, the Beneficiary shall fulfil its obligations with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field;

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

(f) obtain and maintain requisite Environmental or Social Approvals for the Project;

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

(h) fully cooperate in the protection of the European Union's financial interests;

(i) provide for the right of the European Commission to comprehensively exercise its competences;

(j) dedicate the Disbursement Account to the Project to the exclusion of any other activity of the Beneficiary;

(k) not create or permit to subsist any charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect over the Disbursement Account; and

(l) promptly inform the Bank of:

(i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Beneficiary which is material with regard to environmental, social or other matters affecting the Project;

(ii) any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it;

(iii) any fact or event known to the Recipient and the Beneficiary, which may substantially prejudice or affect the conditions of execution or operation of the Project;

(iv) any incident or accident relating to the Project which has or is likely to have a significant adverse effect on the Environment or on Social Matters;

(v) any non-compliance by it with any Environmental and Social Standards; and

(vi) any suspension, revocation or material modification of any Environmental or Social Approval.

2.3. The Recipient and the Beneficiary represents, on the date of entry into force of this Agreement, that it is not in any of the following circumstances:

(a) bankrupt, subject to insolvency or being wound up, has its affairs administered by a liquidator or the courts, has entered into arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations; or

(b) in the past 5 (five) years, has been the subject of a final judgment or final administrative decision for being in breach of their obligations relating to the payment of taxes or social security contributions in accordance with the applicable law and where such obligations remain unpaid unless a binding arrangement has been established for payment thereof; or

(c) in the past 5 (five) years, itself or persons having powers of representation, decision-making or control over it have been convicted of an offence concerning their professional conduct by a final judgment, which would affect their ability to implement the Grant and which is for one of the following reasons;

(i) negligently providing misleading information that may have a material influence or fraudulently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;

(ii) entering into agreements with other persons aimed at distorting competition;

(iii) attempting to unduly influence the decision-making process of the contracting authority during the award procedure;

(iv) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure; or

(d) it has been subject to a decision on exclusion contained in the published early detection and exclusion system database set up by the European Commission; or



(e) in the past 5 (five) years, itself or persons having powers of representation, decision-making or control over it have been the subject of a final judgment for fraud, Prohibited Conduct, participation in a criminal organisation, Money Laundering or the Financing of Terrorism, terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences; or child labour and other forms of trafficking in human beings;

provided that the Bank may decide not to exclude the Recipient and the Beneficiary if the Recipient and the Beneficiary can provide evidence that remedial measures have been adopted to demonstrate its reliability despite the existence of a ground for exclusion, or where it is indispensable to ensure the continuity of the service, for a limited duration and pending the adoption of remedial measures, or where an exclusion would be disproportionate taking into account the circumstances.

2.4. The Recipient and the Beneficiary:

(a) confirms that all Authorisations required or desirable to lawfully enable the Recipient and the Beneficiary to enter into, exercise their rights and comply with their obligations in the Agreement have been obtained and are in full force and effect;

(b) undertakes to retain, directly or indirectly, 100% (one hundred percent) of the share capital and voting rights of the Recipient and the Beneficiary until the Termination Date; and

(c) procures that the Recipient and the Beneficiary:

(i) will comply with the undertakings set out in paragraph 2.2 above throughout the term of this Agreement; and

(ii) will be managed and maintained in accordance with good business practice in order to ensure that the Recipient and the Beneficiary are always in a position to comply with the obligations set out in this Agreement and with any law or regulation applicable to it.

ARTICLE 3
Entry into Force and Duration

3.1. The Agreement is effective from the Effective Date and shall remain valid for as long as any rights, obligations or liabilities arising out of its provisions remain outstanding, unless it is otherwise terminated in accordance with the provisions of Article 23 (*Termination*).

3.2. The Execution Period shall end no later than the Termination Date.

ARTICLE 4
Financing of the Works

4.1. The total cost of the Project is estimated to be up to EUR 119,000,000 (one hundred nineteen million euros) net of any taxes, as further detailed in Annex 2 (*Estimated Cost of the Project*). The final cost of the Project shall be determined after the completion of the Works, on the basis of the final invoices submitted by the Contractors, as paid by the Recipient and/or the Beneficiary and accepted by the Bank in accordance with Article 7 (*Payment of the Grant*).

4.2. Under the terms and conditions of this Agreement, the Bank undertakes to make available to the Recipient and the Beneficiary a Grant in a maximum amount up to the Grant Maximum Amount, to be used for financing the Works.

4.3. The Recipient and the Beneficiary acknowledge that the Grant Maximum Amount is a maximum amount which may be reduced by the Bank, at its sole discretion, by any amounts necessary to cover, among others, any additional or increased cost which is incurred or suffered by the Bank in order to fund or perform its obligations under this Agreement including, but not limited to, the management by the Bank of the Grant (including, but not limited to, any costs incurred by the Bank as a result of the mandatory investment of the Grant in the unitary funds established by the Bank in accordance with the FAFA prior to payment to the Recipient and the Beneficiary).



4.4. The Grant shall be used exclusively to cover eligible costs incurred in respect of Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project, as specified in Article 8 (Eligible Costs).

4.5. Pursuant to the provisions of the Contribution Agreement, if at the end of the Execution Period, the final amount of the eligible costs of the Works, determined in accordance with Article 8 (*Eligible Costs*), is lower than the maximum amount of the Grant specified in Article 4.2 (*Financing of the Works*), the difference shall be returned by the Bank to the European Commission.

4.6. The Grant shall not have the purpose or effect of producing a profit for either the Recipient or the Beneficiary.

4.7. For the avoidance of doubt, all equipment and assets purchased by the Recipient and/or the Beneficiary using the Grant shall belong to the Beneficiary.

ARTICLE 5
Procurement

5.1 The Beneficiary undertakes to purchase equipment, secure the Services and order the Works for the Project by acceptable procurement procedures complying, to the Bank's satisfaction, with its policy as described in the Guide to Procurement and with the terms of the Finance Contract.

5.2 In accordance with the Guide to Procurement, the Bank may enter into one or more agreements with European Bank for Reconstruction and Development acting as a "Co-financing Institution" (as defined in the Guide to Procurement) in connection with one or more part of the Action. In such case, the Bank shall inform the Recipient and the Beneficiary of the conclusion of such agreement(s) in due course.

ARTICLE 6
Changes to the Contracts under Procurement

6.1. Before enacting any modification of a Contract, waiving any conditions stipulated in any Contract, or making any other changes to a Contract, as well as on any decisions to suspend, cancel, rescind or otherwise terminate a Contract, the Recipient and the Beneficiary shall inform the Bank of the proposed extension, modification, substitution, waiver, change, or decision, and the reasons thereof, at least 30 (thirty) calendar days in advance of the date when such changes are intended to become applicable.

6.2. If the Bank determines that the proposal is inconsistent with the provisions of this Agreement, the Finance Contract or would not be otherwise admissible in the light of the provisions of the Contribution Agreement, it shall promptly inform the Beneficiary, and state the reasons for its determination. If the proposal is deemed acceptable by the Bank, it shall communicate in writing to the Beneficiary its agreement to proceed.

6.3. The Beneficiary shall proceed to the signature of the relevant Contract amendment instrument or, as the case may be, to the communication to the Contractor of the notice to suspend, cancel, rescind or terminate the Contract, only after receiving the Bank's agreement to proceed, as specified in Article 6.2 (*Changes to the Contracts under Procurement*).

6.4. The Recipient and/or the Beneficiary shall ensure that changes or termination of the Contract(s), as described in this Article 6, are made in compliance with the Guide to Procurement.

6.5. A certified copy of all amendments to the Contract thus enacted or notices serviced to the relevant Contractor shall be supplied to the Bank within 30 (thirty) calendar days of their enactment or issuance.



ARTICLE 7
Payment of the Grant

7.1. The Grant supporting the Project will complement the financing package made available, amongst other, through the Loan granted by the Bank and other sources, as described in the Finance Contract. The Grant shall be used to finance, alongside, amongst others, the Loan and other sources, the costs of the Project in accordance with Annex 1 (*Description of the Action*).

7.2. Subject to:

(a) the provisions of Article 4 (Financing of the Works) above;

(b) the fulfilment of the conditions precedent specified in Article 1.4 of the Finance Contract; and

(c) the fulfilment of the conditions precedent specified in Article 7.5 (*Payment of the Grant*);

the Bank will disburse the Grant in euros into the Disbursement Account.

7.3. The amount of the requested tranche when aggregated with all previously disbursed tranches of the Grant shall not exceed, by more than EUR 5,000,000.00 (five million euros), the total disbursements of the loans made or to be made under the Finance Contract in respect of the components of the Project that are eligible for the Grant financing under this Agreement..

7.4. For the purpose of implementing the Contracts, the Recipient and/or the Beneficiary may carry out a conversion of any amount corresponding to the Grant. For all amounts that are not in euros, the FX Rate shall be applied for the conversion of such amounts to euros.

7.5. No disbursements shall be requested or made unless and until the following conditions are met, in form and substance satisfactory to the Bank:

(a) this Agreement has been duly signed by the Parties;

(b) the Bank has received evidence that the execution of this Agreement by the Recipient and the Beneficiary has been duly authorised and that the persons signing this Agreement on behalf of the Recipient and the Beneficiary are duly authorised to do so, together with the specimen signature of each such persons;

(c) the conditions precedent in Article 1.4 of the Finance Contract have been fulfilled to the satisfaction of the Bank;

(d) the Beneficiary has provided the Bank with a certificate duly signed by a legal representative of the Beneficiary and confirming that the conditions specified in Article 8.1 (*Eligible Costs*) are met;

(e) the Bank has received a legal opinion, in form and substance satisfactory to the Bank, issued by the Ministry of Justice of the Republic of Moldova confirming that:

(i) the execution of this Agreement by the Recipient and the Beneficiary has been duly authorised and the persons signing this Agreement on behalf of the Recipient and the Beneficiary are duly authorised and have the capacity to do so;

(ii) the Agreement constitutes a legal, valid and binding agreement of the Recipient and the Beneficiary, enforceable in accordance with its terms;

(iii) no consent, approval, order or Authorisation of, or registration, declaration or filing with any governmental or public body or authority of the Republic of Moldova is required for the valid authorisation, execution or performance by the Recipient and the Beneficiary of their respective obligations under this Agreement and for the enforcement of this Agreement;

(iv) the execution, delivery and performance by the Recipient and/or the Beneficiary of the Agreement do not violate or be in breach of the laws of the Republic of Moldova and do not cause any material breach of any agreement or undertaking by which the Recipient and/or the Beneficiary are bound;

(v) the application of the public international law as the proper law of the Agreement and the submission by the UNCITRAL Rules; and

(vi) this Agreement was duly ratified by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova.



7.6. The disbursement of each tranche, up to the Grant Maximum Amount specified in Article 4.2 (*Financing of the Works*), shall be made by the Bank within one hundred and twenty (120) calendar days from the date on which:

(a) the Bank has received a request in this regard from the Recipient and the Beneficiary, substantially in the form included as Annex 3 (*Model Request for Payment*), countersigned by the Recipient and the Recipient for approval of the request for payment and confirmation of all elements and statements contained therein;

(b) the conditions specified in Article 7.5 (*Payment of the Grant*) continue to be met,

(c) except for the disbursement of a first tranche, the Recipient and/or the Beneficiary has provided the Bank with supporting documentation, in a form and substance satisfactory to the Bank, substantiating that:

(i) at least 80% (seventy percent) of the immediately preceding disbursement; and

(ii) 100% (seventy percent) of all other disbursements;

have been effectively employed by the Beneficiary for the financing of the Works or are subject to a legal commitment with Contractors;

(d) the Recipient (directly or through the Beneficiary) submitted and the Bank accepted all the reports which were due pursuant to Article 9 (*Information and Reporting*) prior to the date of the request for payment; and

(e) the Recipient and/or the Beneficiary has provided the Bank with supporting documentation, in a form and substance satisfactory to the Bank, substantiating that at least 80% (eighty percent) of the requested disbursement will be effectively employed by the Beneficiary for the implementation of Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project and the payment of the forecasted expenses in accordance with Article 8 (*Eligible Costs*) within 180 (one hundred and eighty) days from the requested disbursement.

7.7. If the final amount of the eligible costs incurred by the Recipient and/or the Beneficiary under the Contracts is lower than the total amount of the Grant already disbursed by the Bank in accordance with this Article 7 (*Payment of the Grant*), the amount of the Grant disbursed in excess of the final amount of eligible costs incurred by the Beneficiary shall be recovered by the Bank pursuant to Article 20 (*Recovery*) and shall be returned to the European Commission.

7.8. In relation to the foregoing, the Recipient and/or the Beneficiary shall:

(a) ensure that the invoices submitted by the Contractors for payments under the Contracts include, as a minimum, the following information:

(i) the name and address of the Contractor;

(ii) the title and any unique identification code of the Contract;

(iii) the amount requested for payment, in euros equivalent applying the FX Rate, quoting separately the amount corresponding to any taxes, customs and duties that may be payable;

(iv) an identification of the Works delivered that are covered by the payment requested or a clear identification of the payment requested as an advance payment, as applicable.

(b) ensure, and include terms to this effect in each Contract, that if the terms and conditions for payment of the Contractor agreed in the Contract include categories or items of expenditure that are paid to the Contractor at actual cost, when such expenditure is incurred by the Contractor in a currency other than Euro the amount of such expenditure to be claimed for payment under this Article 7 *(Payment of the Grant)* shall be calculated by converting into Euro the amount actually incurred by the Contractor in a different currency, at the FX Rate applicable on the date of the relevant invoice issued to the Contractor.



7.9. For any disbursement, including the first tranche, the Bank reserves the right to request any additional information or documents related to the payment as it may deem necessary for establishing the eligibility and payability of the amounts requested. For the avoidance of doubt, the request for payment shall not be admissible if one or more of the essential requirements, as defined in this Article 7 (*Payment of the Grant*), are not met.

7.10. The Bank may suspend the time limit for payments specified in Articles 7.4 and 7.5 (*Payment of the Grant*) by notifying in writing the Recipient and the Beneficiary that:

(a) the amount indicated in the request for payment is not due, or

(b) supporting documents to the Bank's satisfaction have not been supplied, or

(c) it thinks it needs to conduct further checks, including on-the-spot checks, to make sure that the expenditure declared is eligible, or

(d) it is necessary to verify whether suspected or alleged substantial errors, irregularities or fraud have occurred in the award or implementation of any Contract; or

(e) the European Union requests the Bank to suspend all its disbursements pursuant to the FAFA or the Contribution Agreement; or

(f) the European Commission deliver a recovery notice to the Bank pursuant to the FAFA or the Contribution Agreement; or

(g) the Agreement is terminated pursuant to the FAFA or the Contribution Agreement; or

(h) the European Union requests the Bank to reimburse part or all amounts already disbursed to the Recipient and the Beneficiary pursuant to the FAFA.

Such suspension shall take effect on the date when the notification is sent by the Bank to the Beneficiary. Without prejudice to Article 23 (Termination), the time limit for the payment shall start running again on the date on which the reason for suspension of payments is addressed to the satisfaction of the Bank.

7.11. The Recipient and the Beneficiary shall grant the Bank or its authorised representatives the assistance and access rights specified in Article 15.2 (*Verifications, Controls and Audits*) for the purposes of undertaking the verifications and controls referred to in Article 7.10 (*Payment of the Grant*), points (c) and (d).

7.12. The disbursements made by the Bank pursuant to this Article 7 (Payment *of the Grant*) shall not imply recognition of the regularity, or of the authenticity, completeness and correctness of the documents and information provided by the Recipient and/or the Beneficiary, as applicable, in support of the requests for payments it submits to the Bank.

ARTICLE 8
Eligible Costs

8.1. In order to be considered eligible for payment under the Grant, the costs covered by the requests for disbursement submitted by the Recipient and Beneficiary pursuant to Article 7 (*Payment of the Grant*) must:

(a) relate to the Works actually provided by a Contractor in accordance with the terms of the relevant Contract. For the avoidance of doubt, the following costs are eligible: (i) the costs of any ancillary services strictly linked to the Works (such as testing, commissioning, end-user training, etc.) and procured as part of the Contracts and (ii) the costs incurred by the Recipient and/or the Beneficiary for the expenditure verification certificates to be provided to the Bank pursuant to Article 9.4 of this Agreement;



(b) be incurred by the Recipient and/or the Beneficiary during the Execution Period and necessary for the implementation of Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Action. For the purposes of this Agreement, a cost shall be considered as "incurred" by the Recipient and/or the Beneficiary when the Works, or part thereof, to which it corresponds are implemented by a Contractor during the Execution Period and accepted by the Recipient and/or the Beneficiary and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Recipient and/or the Beneficiary on the implementation of the Works financed by the Grant, thus excluding any payments to a Contractor made in the form of advances (1) before the Execution Period, when the Works, or part thereof, to which it corresponds are implemented by a Contractor during the Execution Period and accepted by the Recipient and/or the Beneficiary and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Recipient and/or the Beneficiary on the implementation of the Works financed by the Grant; and (2) during the Execution Period, when the Works, or part thereof, to which it corresponds are not implemented by a Contractor during the Execution Period and accepted by the Recipient and/or the Beneficiary and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Recipient and/or the Beneficiary on the implementation of the Works financed by the Grant;

(c) comply with the requirements of applicable tax and social legislation;

(d) be necessary and comply with the principle of sound financial management, in particular regarding value for money and cost-effectiveness and be included in the estimated budget for the Project agreed between the Parties; and

(e) be identifiable and verifiable, and in particular be recorded in the accounting records of the Recipient and/or the Beneficiary and be determined according to the applicable accounting standards of the Republic of Moldova and to the usual cost accounting practices of the Recipient and/or the Beneficiary.

8.2. The Recipient and the Beneficiary shall comply with the conditions specified in Article 8.1 (*Eligible Costs*) before submitting any request for payment to the Bank.

For the avoidance of doubt, in relation to Article 8.1 (*Eligible Costs*), point (b), the Recipient and/or the Beneficiary may have commenced the procurement procedure to award a Contract, and such Contract with the relevant Contractor may have been signed by the Recipient and/or the Beneficiary before the start of the Execution Period, provided that the Works for which costs are claimed for payment from the Grant are delivered to and accepted by the Recipient and/or the Beneficiary during the Execution Period (thus excluding any Works which may be delivered before the start, or after the end of the Execution Period).

8.3. The Recipient and the Beneficiary shall keep full, accurate and systematic Records on the implementation of each Contract and the use of the Grant, in such form and detail as is necessary and sufficient to establish accurately that the activities have been carried out and the cost identified in its reports to the Bank have been duly incurred for the implementation of Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project and in accordance with the provisions of this Agreement.

Such Records shall enable the income and expenditure related to the Works to be easily traced, identified and verified, and shall be kept by the Recipient and the Beneficiary for a period of six (6) years following the Termination Date and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim, arising out of or in connection with this Agreement or a Contract has been disposed of. They shall be easily accessible and filed so as to facilitate their examination.

8.4. The Recipient and the Beneficiary shall provide the Bank with all necessary verifiable information and supporting documentation including the audited financial statement of expenditure referred to in Article 9.6 (*Information and Reporting*) for the Bank to satisfy itself that any Works which are co-financed by the Grant have been delivered, and that expenditure declared by the Recipient and the Beneficiary in connection with Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Action the Action has actually been paid and complies with the conditions for the award and use of the Grant.



8.5. For the avoidance of doubt, all bank charges related to the use of the Disbursement Account are not considered eligible for payment under the Grant and shall be borne by the Recipient or the Beneficiary as the case may be.

ARTICLE 9
Information and Reporting

9.1. The Recipient and the Beneficiary shall cooperate at all times with the Bank and the Contractors in relation to the provision of the Works. In particular, the Recipient and the Beneficiary shall use their best endeavours to ensure that the Contractors' employees and their dependants obtain the visas and permits, including work and residence permits, required in accordance with the applicable laws of the Republic of Moldova, it being understood that the Recipient and the Beneficiary shall have no obligation to cover the costs thereof, and that the responsibility for submitting a visa application, with associated supporting documents, to the visa issuing authority of the Republic of Moldova rests solely with the Contractors.

9.2. The Recipient and the Beneficiary shall provide the Bank with full information on the implementation of this Agreement and the Works. To this end, the Recipient and the Beneficiary shall provide annual progress reports and a final implementation report, consisting of a narrative section and a financial section. The reports shall be drafted in English and financial information shall be consolidated in euros. Each report shall be in form and substance satisfactory to the Bank.

9.3. Each annual progress report must provide a full account of the achievements of the Project within the twelve (12) months reporting period and the status at end of that period.

The narrative section shall consist of, at least:

a) the status of any ongoing procurement activities;

b) progress of Works and Contracts;

c) an update on environmental and social aspects;

d) an update on ongoing sector reforms, if any;

e) any particular operational challenges faced and measures taken to overcome them, any changes in the implementation of the Project;

f) any communication activities and measures undertaken to ensure the visibility of the EU's contribution to the Project;

g) an overview of the use of the Grant broken down by components of the Works;

h) the work plan and cash flow forecast for the next twelve (12) months;

i) an update on the overall Project completion date and estimated Project final cost; and

j) an update on progress indicators, if measurable at that stage; the main indicators that will be monitored at the Project level are listed in Annex 5 (*Progress Indicators*).

The financial section shall consist of:

(i) an updated financing plan (including the latest figures available);

(ii) an updated disbursement forecast; and

(iii) an overview of expenditure, listing eligible costs, determined in accordance with Article 8 (*Eligible Costs*), incurred in the period covered by the report and claimed for payment from the Grant, in the currency of expenditure and in its equivalent Euro amount, calculated in accordance with Article 7.7 (*Payment of the Grant*), and indicating for each item of expenditure its title, amount, relevant category of expenditure specified in Annex 2 (Estimated cost of the Project), and the reference of the document evidencing it.

Should the disbursement forecast change substantially, the Recipient and the Beneficiary shall send an updated forecast to the Bank. If the Recipient and/or the Beneficiary determines that the forecast budget and, on its basis, the amount of pre-financing already paid by the Bank for any twelve (12) month period may be insufficient to cover the needs of the Project for the remaining part of that twelve (12) month period, this updated forecast shall be accompanied by a financial statement which shall demonstrate the necessity for further pre-financing (by demonstrating that 80% of the immediately



preceding disbursement and 100% of all other disbursements have been effectively employed by the Beneficiary for the implementation of the Project or are subject to a legal commitment with Contractors).

9.4. The final implementation report shall provide a detailed description of the activities carried out, the results and impact of the Project covering the whole implementation period.

The narrative section shall consist of an overview of at least:

(i) the procurement activities;

(ii) Works and Contracts;

(iii) environmental and social aspects;

(iv) the status of any ongoing sector reforms;

(v) any particular operational challenges faced and measures taken to overcome them, any changes in the implementation of the Project;

(vi) communication activities and measures undertaken to ensure the visibility of the EU's contribution to the Project;

(vii) the use of the Grant and other project financing sources broken down by components of the Works;

(viii) Achievement of progress indicators (see Article 9.3).

The financial section shall consist of:

(i) final financing plan;

(ii) an overview of expenditure, listing eligible costs, determined in accordance with Article 8 (*Eligible Costs*), incurred in the project period and claimed for payment from the Grant, in the currency of expenditure and in its equivalent Euro amount, calculated in accordance with Article 7.7 (*Payment of the Grant*), and indicating for each item of expenditure its title, amount, relevant category of expenditure specified in Annex 2 (*Estimated cost of the Project*), and the reference of the document evidencing it.

9.5. The annual progress reports must be submitted to the Bank no later than 15th January of each year. The final implementation report must be submitted to the Bank no later than 5 (five) months after the end of the Execution Period.

9.6. The Recipient and the Beneficiary shall provide annually an externally audited financial statement of expenditure of the previous calendar year. Such financial statement shall be audited by an independent external auditor that is satisfactory to the Bank. It shall be submitted no later than 31st January each year and for the first time by 31st January 2025 at the latest. The auditor shall examine whether the costs declared and claimed for payment from the Grant pursuant to Article 7 (*Payment of the Grant*) are real, accurately recorded and eligible according to this Agreement. The Recipient and the Beneficiary shall fully cooperate with such external auditor and facilitate its work.

9.7. All reports shall be provided by the Recipient and the Beneficiary to the Bank in paper and electronic format.

9.8. If the Recipient and the Beneficiary fails to submit to the Bank, by the deadlines indicated in Article 9.3 (*Information and Reporting*), any of the reports due, and fails to furnish an acceptable and sufficient written explanation of the reasons why it is unable to comply with this obligation, the Bank may terminate the Agreement, in accordance with the provisions of Article 23 (*Termination*), and recover any amounts of the Grant already disbursed under this Agreement and not substantiated, including through assigning its rights to recover to the European Commission, in accordance with Article 22 (*Assignments*).

9.9. The Recipient and the Beneficiary shall inform the Bank without delay of any circumstances likely to hamper or delay the implementation of the Works.

9.10. The Bank may request clarifications, alterations or additional information or documents in relation to any of the reports submitted by the Beneficiary pursuant to this Article 9 (*Information and Reporting*), which must be supplied by the Beneficiary within fifteen (15) calendar days of such request.

9.11. The Recipient and/or the Beneficiary shall inform the Bank immediately of:

(i) of a genuine allegation or complaint or information with regard to any Prohibited Conduct or any Sanction related to the Project;

(ii) 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 an illicit origin;

(iii) of any breach of the representations and warranties given under or in connection with this Agreement;

(iv) any claim, action, proceeding, formal notice or investigation relating to any Sanctions concerning the Recipient and the Beneficiary, or any Relevant Person;

(v) unless prohibited 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 Recipient or its controlling entities or members of the Recipient and the Beneficiary's management bodies in connection with Prohibited Conduct related to the Grant or the Project;

(vi) of any measure taken by the Recipient and the Beneficiary prohibited by Article 17 (*Integrity Commitment*) of this Agreement,

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

9.12. The Recipient and/or the Beneficiary shall deliver to the Bank any such information or further document concerning the financing, procurement, implementation, operation and matters relating to Environment or Social Matters of or for the Project, as the Bank may reasonably require within a reasonable time, provided always that if such information or document is not delivered to the Bank on time, and the Recipient and the Beneficiary do 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 Recipient's expense and the Recipient and/or the Beneficiary shall provide such persons with all assistance necessary for the purpose.

ARTICLE 10
Ownership of Results and Intellectual Property Rights

10.1. Subject to any pre-existing Intellectual Property Rights of any individual or legal entity, including any of the Parties, the Intellectual Property Rights in new materials compiled or prepared by the Contractors in the performance of the Contracts, including all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material, shall vest in the Beneficiary.

10.2. Without prejudice to Article 10.1 (*Ownership of Results and Intellectual Property Rights*) and subject to any applicable confidentiality requirements, the Recipient and the Beneficiary hereby grants to the Bank and to the European Commission an irrevocable, non-exclusive, royalty-free, perpetual licence, with rights to grant sub-licences, in any new Intellectual Property Rights. In particular, the Bank and the European Commission shall have the right to use freely, including to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium, all documents, including any reports pursuant to Article 9 (*Information and Reporting*), deriving from this Agreement and the Contracts, whatever their form. To this effect, the Recipient and the Beneficiary shall ensure that it has the right to use the relevant pre-existing Intellectual Property Rights, including granting such license as foreseen by this Article 10 (*Ownership of Results and Intellectual Property Rights*).

10.3. In case a recognisable individual is depicted in a photograph or film produced in connection with the implementation of this Agreement, the Recipient and the Beneficiary shall include in the final implementation report submitted to the Bank in accordance with Article 9 (*Information and Reporting*) a statement from such individual whereby he gives permission for such use of his image, it being understood that such requirement shall not apply in case of photographs taken or films shot in public places where random members of the public are identifiable only hypothetically, or of photographs taken or films shot of public persons acting in their public capacity.

10.4. The Recipient and/or the Beneficiary shall include in each Contract provisions requiring the Contractor to comply with the obligations specified in this Article 10 (*Ownership of Results and Intellectual Property Rights*), as necessary.



10.5. The equipment and supplies paid for by the Grant shall be the property of the Beneficiary. The documentary proof of such property shall be kept for verification along with the documents mentioned in Article 8.3 (*Eligible Costs*).

ARTICLE 11
Visibility and Transparency

11.1. The Beneficiary shall cooperate and coordinate the communication and visibility activities planned and implemented in relation to Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project at all times with the Bank and the Contractors. For this purpose, the Beneficiary will be guided by the "EU Communication and Visibility requirements in EU-financed external actions"[2] as well as the EIB Use of logo guide and/or any other succeeding document and/or specific communication strategy/plan developed for this Project.

11.2. The Recipient and the Beneficiary shall document and report all communication and visibility activities implemented in relation to Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under this Project.

11.3. The Recipient and the Beneficiary shall take all appropriate measures to publicise the fact that the Project and the Contracts have received funding from the European Union. Information given to the press, to the Contractors, all related publicity material, official notices, reports and publications, shall acknowledge that the Project and the Contracts are carried out "*with funding by the European Union*" and shall display in an appropriate way the Union Emblem as well as the Bank's logo.

11.4. Where equipment or vehicles and major supplies have been purchased using funds provided by the EU, the Recipient and/or the Beneficiary shall, and shall require Contractors to, include appropriate acknowledgments on such vehicles, equipment and major supplies as well as ensure EU and Bank visibility through outdoor promotion (display project boards, billboards, commemorative plaques etc.)

11.5. The Parties agree to extend an invitation to the bank, the European Commission and to the Delegation of the EU to the Republic of Moldova to participate in any and all events any of them may organise in relation to this Agreement, the Contracts or the Project, over the duration of this Agreement. Such events may include any regular or technical working meetings between the Parties in the context of the Project supported by the Grant.

11.6. Where high-level visits are planned, the Parties will inform each other and consider coordinating these visits and agreeing on joint messages.

11.7. The Recipient and/or the Beneficiary shall include in each Contract provisions requiring the Contractor to respect the same visibility requirements as specified in Article 11.1 (*Visibility and Transparency*), and to include the following texts in each report or any other deliverable it submits pursuant to such Contract:

(a) "*This document has been produced with the financial assistance of the European Union in the framework of the Neighbourhood Investment Platform and through the general budget of the European Union.*"

(b) "Disclaimer: *The authors take full responsibility for the contents of this report. The views expressed in this document are not necessarily those of the European Union or the European Investment Bank. The European Union, the European Investment Bank, their members, governing bodies, employees or agents, accept no liability whatsoever for any loss or damage arising from the interpretation or use of the information, or reliance upon views contained herein, or from the use by third parties of results or methods presented in this report.*

11.8. The Recipient and the Beneficiary shall include, in its regular reports to the Bank submitted in accordance with Article 9 (*Information and Reporting*), information on measures implemented to ensure the visibility of the European Union's financial contribution and communicate to the Bank any other progress and situation reports, publications, press releases and updates relevant to this Agreement, as and when they are issued.

[2] https://ec.europa.eu/europeaid/sites/devco/files/communication_and_visibility_manual_en_0.pdf



11.9. Subject to the applicable rules on confidentiality, security and protection of personal data, the Recipient and the Beneficiary authorise the Bank and the European Commission to publish, on an annual basis, the following information in relation to this Agreement: the title, nature and purpose of this Agreement and the Project, the name, address and country of the Beneficiary, and the Grant Maximum Amount.

11.10. If the Beneficiary or the Recipient publishes on their website any information in relation to this Agreement or the Contracts, the Beneficiary or the Recipient, as the case may be, shall provide the Bank with the address of such website and hereby authorises the publication of such address on the Bank's website.

ARTICLE 12
Conflict of Interests

12.1. The Recipient and the Beneficiary undertake to take all necessary precautions to prevent, mitigate or end any conflict of interests arising out of or in connection with this Agreement. There is a conflict of interest where the impartial and objective exercise of the functions of any person implementing this Agreement is compromised (i) for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another third party or (ii) by virtue of that person's duties and tasks as a member of staff towards his employer. The Recipient and the Beneficiary shall inform the Bank without delay of any situation constituting or likely to lead to any such conflict, during the period of validity of this Agreement.

12.2. The Bank reserves the right to verify that any measures put in place by the Recipient and the Beneficiary to prevent, mitigate or end conflicts of interests are adequate, and may require additional measures to be taken if necessary.

12.3. If the Beneficiary or the Recipient fails to comply with the obligations set forth in this Article, the Bank may terminate this Agreement, in accordance with the provisions of Article 23 (*Termination*).

12.4. The Recipient and/ or the Beneficiary shall include in each Contract provisions requiring the Contractor to comply with any obligations or additional measure specified in this Article 12 (*Conflict of Interests*), as necessary.

ARTICLE 13
Confidentiality

13.1. The Parties warrant that they will keep Confidential Information, and all documents containing, or referring to, any Confidential Information, under their effective control and using the same standard of care they use to keep their own confidential information confidential, and that they will not use or reproduce any document containing, or referring to, any Confidential Information, nor allow any other person to use or reproduce any such document, except to the extent necessary to enable it to exercise its rights or perform its obligations in accordance with the terms and conditions of this Agreement, or with the prior agreement in writing of the owner of the Confidential Information.

13.2. The obligations specified in Article 13.1 (*Confidentiality*) shall not be regarded as being breached to the extent that:

(a) disclosure of or access to Confidential Information is authorised or required by law, or any rule, regulation or treaty or by any order of a court having competent jurisdiction in the matter, which are applicable to the disclosing Party;

(b) the Confidential Information is disclosed by a Party in order to protect its interests in the course of any legal or arbitration proceedings to which it is a party;

(c) the Confidential Information is disclosed or access to Confidential Information is granted pursuant to the obligations specified in Article 15 (*Verifications, Controls and Audits*);

(d) the Confidential Information is disclosed by the Bank to the European Commission pursuant to the Contribution Agreement or to another EU Body;



(e) the information designated by the Beneficiary or the Recipient as confidential is, in accordance with the Bank's transparency policy (as at the time of disclosure), accessible upon request or published in summary format on the Bank's website.

13.3. Where any Party discloses Confidential Information to a third party pursuant to Article 13.2 (*Confidentiality*), with the exception of letter (e) therein, the disclosing Party shall notify the receiving third party that the information is Confidential Information.

13.4. Where a Party discloses Confidential Information to a third person pursuant to Article 13.2(c) (*Confidentiality*), that Party will give written notice to the other Parties immediately upon becoming aware of any such requirement to disclose information and the other Parties are entitled to argue in any such circumstances against the disclosure of any Confidential Information.

13.5. The Parties shall preserve the confidentiality of the Confidential Information until at least 6 (six) years after the end of the Execution Period.

13.6. The Recipient and/or the Beneficiary shall include in each Contract provisions requiring the Contractor to comply with any obligations specified in this Article 13 (*Confidentiality*).

ARTICLE 14
Monitoring and Evaluation

14.1. If the Bank or the European Commission carries out an evaluation of, or a monitoring mission for, the Grant or the Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under Project, the Recipient and the Beneficiary shall provide the representatives of the Bank or the European Commission, or persons authorised by them, with any document or information which will assist with the mission, and shall grant them the access rights specified at Article 15 (*Verifications, Controls and Audits*), subject to Article 13 (*Confidentiality*).

14.2. If a Party carries out or commissions an evaluation of the use of the Grant or the Works, it must provide to the other Parties a copy of the corresponding evaluation report. The Bank reserves the right to provide a copy of such evaluation report to the European Commission, representing the European Union as a donor.

ARTICLE 15
Verifications, Controls and Audits

15.1. The Recipient and the Beneficiary shall allow the relevant EU Body and any external auditor authorised by the preceding, (i) to verify, by examining the original documents (including the right to make copies thereof) and by means of on-the-spot checks, the implementation of the Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project and the execution of the Contracts in order to protect the financial interests of the European Union, with a view to establishing whether there has been any Prohibited Conduct affecting the financial interests of the European Union in connection with the Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) under the Project; (ii) to conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document which is relevant to the financing of the Works; (iii) to visit the sites, installations and works comprising the Project and to conduct such checks as they may wish for purposes connected with this Agreement and the financing of the Project; (iv) to interview representatives of the Recipient and the Beneficiary and not obstruct contacts with any other person involved in or affected by the Project; and (v) to review the Recipient's and the Beneficiary's books and records 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. Such verifications, controls or audits may take place up to six (6) years after the Termination Date.

15.2. Pursuant to Article 15.1 (*Verifications, Controls and Audits*), the Recipient and the Beneficiary shall provide the relevant EU Body and any external auditor authorised by the preceding, or ensure that they are provided, with all necessary access and assistance for this purpose. Access given in accordance with this Article 15 (*Verifications, Controls and Audits*) shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public or EU Law to which these institutions or bodies and their staff, agents or authorised representatives are subject.



15.3. The Recipient and the Beneficiary shall facilitate investigations by the Bank and/or the EU Bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct or violation of any Sanctions and shall provide the Bank and/or the EU Bodies, or ensure that the Bank and or the EU Bodies is provided, with all necessary assistance for the purposes described in this Article 15 (*Verifications, Controls and Audits*).

15.4. The Recipient and the Beneficiary shall procure, including by foreseeing terms to this effect in each Contract, that the rights granted in accordance with this Article 15 (*Verifications, Controls and Audits*) shall be equally applicable to each Contractor.

15.5. The Recipient and the Beneficiary acknowledge that the Bank may be obliged to divulge such information relating to the Recipient, the Beneficiary, this Agreement and the Contracts to any competent European Union institution or body, in accordance with the relevant mandatory provisions of EU Law.

ARTICLE 16
Protection of Personal Data

16.1. The processing of Personal Data shall be carried out by the Bank in accordance with the FAFA and the applicable European Union legislation on the protection of individuals with regard to the processing of Personal Data by the European Union institutions and bodies and on the free movement of such data.

16.2. When disclosing information (other than mere contact information relating to the Recipient's personnel involved in the management of this Agreement ("**Contact Details**")) to the Bank in connection with this Agreement, the Recipient shall redact or otherwise amend that information (as necessary) so that it does not contain any information relating to identified or identifiable individuals ("**Personal Information**"), except where this Agreement specifically requires, or the Bank specifically requests in writing, to disclose such information in the form of Personal Information.

16.3. Before disclosing any Personal Information (other than Contact Details / mere contact information relating to the Recipient's and/or the Beneficiary's personnel involved in the management of this Agreement) to the Bank in connection with this Agreement, the Recipient and/or the Beneficiary shall ensure that each individual to whom such Personal Information relates:

(a) has been informed of the disclosure to the Bank (including the categories of Personal Information to be disclosed); and

(b) has been advised on the information contained in (or has been provided with an appropriate link to) the Bank's privacy statement in relation to its lending and investment activities as set out from time to time at https://www.eib.org/en/privacy/lending (or such other address as the Bank may notify to the Recipient in writing from time to time).

ARTICLE 17
Integrity Commitment

17.1. **Prohibited Conduct**

(a) The Recipient and the Beneficiary shall not engage in (and shall not authorise or permit 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 this Agreement.

(b) The Recipient and the Beneficiary undertake to take such actions as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

(c) The Recipient and the Beneficiary undertake to ensure, that Contracts financed by the Grant include the necessary provisions to enable the Recipient and/or the Beneficiary to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.



17.2. **Sanctions**: The Recipient and the Beneficiary shall not (and shall not permit or authorise any other person to), directly or indirectly:

(a) enter into a business relationship with, and/or make any funds and/or economic resources available to, or for the benefit of, any Sanctioned Person in connection with the Project;

(b) use all or any part of the proceeds of this Grant or lend, contribute or otherwise make available such proceeds to any person, in any manner that would result in a breach by itself and/or by the Bank of any Sanctions;

(c) fund all or part of any payment under this Agreement out of proceeds derived from activities or businesses with a Sanctioned Person or in any manner that would result in a breach by itself and/or by the Bank of any Sanctions. It is acknowledged and agreed that the undertakings set out in this Article 17.2(b) are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96.

17.3. **Relevant Persons:** The Recipient and the Beneficiary undertake to take within a reasonable timeframe appropriate measures in respect of any Relevant Person who is the subject of a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties, in order to ensure that such Relevant Person is excluded from any of the Beneficiary's activities in relation to this Agreement, the Grant and the Project.

17.4. **Representations and Warranties:** The Recipient and the Beneficiary represent and warrant to the Bank that at the Effective Date:

(a) neither the Recipient nor the Beneficiary is a Sanctioned Person, or is in breach of Sanctions; it is acknowledged and agreed that the representations set out in this paragraph (a) are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96;

(b) no funds invested in the Project by the Recipient and the Beneficiary or are of illicit origin, including products of Money Laundering or otherwise linked to the Financing of Terrorism;

(c) neither the Recipient and the Beneficiary, their officials or any persons holding a public office, nor any persons acting on their behalf or under their control has committed or will commit (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Agreement; or (ii) any illegal or unlawful activity related to the Financing of Terrorism or Money Laundering; and

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

The representations and warranties are deemed repeated on each date of submission of the Disbursement Request to the Bank, Disbursement Date and on the Termination Date.

17.5. For the purposes of this Article 17 (*Integrity Commitment*), the knowledge of any minister, state secretary, assistant minister, representative, official or advisor or any other person holding public office or function in or otherwise employed by or a director or employee of a public authority or public enterprise or a director or official of the Recipient and the Beneficiary shall be deemed the knowledge of the Recipient and the Beneficiary. The Recipient and/or the Beneficiary undertake to inform the Bank if they should become aware of any fact or information suggestive of the commission of any such act and shall facilitate any investigation that the relevant EU Body or any person authorised by the preceding may make concerning such act or behaviour.

17.6. Failure by the Recipient and/or the Beneficiary to comply with any of the obligations, or breach of any representation and warranties, set out in this Article 17 (*Integrity Commitment*), entitles the Bank to request recovery under Article 20 (*Recovery*) and to terminate this Agreement in accordance with Article 23 (*Termination*).



ARTICLE 18
Force Majeure

18.1. The Party faced with Force Majeure will inform the other Party without delay, stating the nature, probable duration and foreseeable effects of the problem, and the measures taken or to be taken to minimise damage.

18.2. A Party will not be held in breach of its obligations under this Agreement if it is prevented from fulfilling them by Force Majeure.

ARTICLE 19
Suspension

19.1. The Recipient and the Beneficiary may suspend the implementation of all or part of the Contracts, and the Bank may request the Recipient and the Beneficiary to do so, if circumstances (including Force Majeure) make it too difficult or dangerous to continue. If the decision to suspend implementation belongs to the Recipient and/or the Beneficiary, they shall inform the Bank without delay and provide all the necessary details. If a decision to suspend implementation is taken, the Bank or the Beneficiary and the Recipient may terminate this Agreement in accordance with the provisions of Article 23 (*Termination*). If this Agreement is not terminated, the Recipient and the Beneficiary shall take all necessary measures to minimise the time of suspension and shall resume implementation once circumstances allow and shall inform the Bank accordingly.

19.2. The Bank may also suspend the implementation of this Agreement in the following cases: (i) in the event of *Force Majeure*; (ii) when necessary in order to verify if the execution of the Works, the Contracts or the Project has been affected by substantial breaches, errors, irregularities or fraud; (iii) upon the adoption by the European Union of a decision identifying a violation of human rights which prohibits the Bank from performing its obligations under this Agreement; and/or (iv) upon the European Commission suspending the implementation of the Contribution Agreement. The Recipient and the Beneficiary shall provide any information, clarification or document requested by the Bank in respect of the verifications referred to in point (ii) within thirty (30) calendar days of receipt of such request. If such verifications indicate that the execution of the Works or the Contracts has been affected by substantial errors, irregularities or fraud, or breach of obligations by the Recipient, the Beneficiary or any Contractor, the Bank reserves the right to terminate this Agreement in accordance with Article 23 (*Termination*) and recover any amounts already disbursed to the extent that such disbursement was affected by such substantial errors, irregularities, fraud or breach of obligations. Article 25 (Liability and Indemnity) shall apply accordingly.

ARTICLE 20
Recovery

20.1. If any amount of the Grant is unduly disbursed by the Bank, or if recovery is otherwise justified in accordance with this Agreement, including as a result of any verifications, controls or audits carried out pursuant to Article 7.10 (*Payment of the Grant*) or Article 15 (*Verifications, Controls and Audits*), or as result of violation of the procurement rules, under opinion of the Bank, as described in Article 5 (*Procurement*) and Article 6 (*Changes to the Contracts under Procurement*), the Recipient, as the case may be, shall repay such amounts to the Bank, within thirty (30) calendar days from receiving the debit note from the Bank requesting such repayment. The Recipient, as the case may be, shall make payments of such amount requested by the Bank to the Bank in Euro, into the account notified by the Bank in its written request, without taking into account any FX rate applied at the time of the initial payment of the Grant by the Bank to the Recipient. For the avoidance of doubt, any amount unduly disbursed by the Bank, or unused or misused by the Recipient, as the case may be, and transferred back to the Bank shall be denominated in EUR and equal to the corresponding amount denominated in EUR initially paid by the Bank to the Recipient.

For the avoidance of doubt, the Bank may, in particular, proceed to recover any amounts of the Grant it disbursed, pursuant to Article 7 (*Payment of the Grant*), in excess of the final amount of eligible costs incurred by the Beneficiary, determined in accordance with Article 8 (*Eligible Costs*).



20.2. The written request from the Bank as to the aggregate amount due to be repaid by the Recipient, shall, save in the case of manifest error, be conclusive evidence of the amount due, and any bank charges, any foreign exchange cost or loss or other taxes whatsoever incurred by the Recipient for the repayment of the amounts due to the Bank shall be borne entirely by the Recipient.

20.3. Without prejudice to the rights of the Parties to agree to repayments in instalments, if the Recipient fails to repay any amount by its due date, the sum shall bear interest at the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first day of the month in which payment was due, increased by three and a half percentage points. The interest shall be payable for the period elapsing from the day following expiry of the time limit for repayment, inclusive, up to the day of payment, exclusive. Any partial payment shall first cover the interest. .

ARTICLE 21
Amendments

21.1. Any amendments to this Agreement, including its Annexes, must be set out in writing in an instrument signed by the Parties, and shall become effective on the terms set out in the relevant amendment agreement. The provisions of such amendments, executed in accordance with this Article 21 (*Amendments)*, shall govern and take precedence only over those specific provisions of this Agreement that are expressly amended thereby.

21.2. No amendments are permitted to the extent they may have the purpose or the effect of making changes to this Agreement that would call into question the award of the Grant.

21.3. Changes of address or of contact details may simply be notified to the other Parties in writing, in accordance with Article 26 (*Notices and Other Communications*).

ARTICLE 22
Assignment

22.1. A Party may not assign or transfer to a third party, or otherwise dispose of, any of its rights or obligations under this Agreement without the prior written consent of the other Parties.

22.2. By exception from the preceding, the Bank may, at its sole discretion, assign to the European Commission the right to recover any amounts of the Grant unduly disbursed.

ARTICLE 23
Termination

23.1. If any Party believes that the Agreement can no longer be executed effectively and appropriately, it will consult the other Parties. Failing agreement on a solution, a Party may terminate the Agreement by serving a sixty (60) calendar days' written notice to all Parties, without prejudice to any other rights or powers of any Party under this Agreement.

23.2. If for any reason whatsoever the Contribution Agreement or the Finance Contract is terminated or ceases to be valid and in full force and effect, the Bank reserves the right, upon serving a thirty (30) calendar days' written notice to the Beneficiary, with a copy to the Recipient, to terminate this Agreement and inform the Recipient and the Beneficiary of the terms of such termination, without any liability for the Bank.

23.3. In addition to any other cause for termination foreseen in this Agreement, the Bank may, after serving a seven (7) calendar days' written notice to the Beneficiary and the Recipient, terminate this Agreement without any liability for the Bank, if any of the following situations occurs:

(a) the Recipient and/or the Beneficiary fail(s), without justification acceptable to the Bank, to fulfil any of the obligations incumbent on it(them) and, after being given written notice to comply with those obligations, still fail(s) to do so or to provide adequate explanations within thirty (30) calendar days of transmittal of such notice;



(b) the Recipient, the Beneficiary or any person with powers of representation, decision-making or control in relation to the Recipient, the Beneficiary, commits or is found guilty of gross professional misconduct, or is subject to proceedings alleging any offence concerning its professional conduct, or has committed fraud, corruption, or is involved in a criminal organisation, Money Laundering, Financing of Terrorism or any other illegal activity detrimental to the European Union's financial interests, or is subject to an allegation (other than allegations which are, in the reasonable opinion of the Bank, frivolous or vexatious) in respect of participation in a criminal organisation, fraud, Prohibited Conduct, Money Laundering or the Financing of Terrorism;

(c) the Recipient and/or the Beneficiary provide(s) false reports or make(s) false or incomplete statements of a material nature;

(d) the Recipient and/or the Beneficiary undergoe(s) any legal, financial, technical or organisational changes that are apt to affect this Agreement substantially, or to call into question the decision of the European Union to provide the Grant;

(e) the Recipient and/or Beneficiary fails to maintain the Records as specified in Article 8.3 (*Eligible Costs*);

(f) upon the termination of the Contribution Agreement.

23.4. Upon termination of the Agreement pursuant to this Article 23 (*Termination*), the Recipient and the Beneficiary shall take without undue delay all steps necessary to bring the activities to a close in a prompt and orderly manner, and to reduce further costs to a minimum.

23.5. Without prejudice to Article 20.1 (*Recovery*) and subject to Article 8 (Eligible Costs), the Beneficiary shall be entitled to receive only the part of the Grant corresponding to costs incurred, in accordance with this Agreement, for Works executed up to the date of termination, thus excluding any costs relating to existing commitments that are due to be performed after such date of termination.

23.6. Without prejudice to Article 20.1 (*Recovery*) and subject to Article 23.4 (*Termination*), in the event of termination of the Agreement for reasons not imputable, directly or indirectly, to the Recipient and/or the Beneficiary, the Bank may agree to reimburse any unavoidable reasonable eligible costs incurred by the Recipient and/or the Beneficiary during the notice period.

ARTICLE 24
Charges and Expenses

24.1. The Recipient and/or the Beneficiary shall pay any taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, which may arise out of the execution or implementation of this Agreement in accordance with the laws of the Republic of Moldova.

24.2. The Recipient and/or the Beneficiary shall bear any charges and expenses, including professional, banking or exchange charges, which it may incur in connection with the preparation, execution, implementation and termination of this Agreement or any related document, including any amendment thereto, in accordance with the laws of the Republic of Moldova.

ARTICLE 25
Liability and Indemnity

25.1. The Bank or the European Union cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Recipient and/or the Beneficiary while the Contracts are being executed, or as a consequence of any Contract, including when such damage or injury is the result of any act or omission of a Contractor, or of the failure of a Contractor to execute the Works in accordance with the relevant Contract.

25.2. The Bank shall not be liable for any loss or damage, including reasonable counsel fees and expenses, resulting from its actions or omissions to act hereunder, except for any loss or damage arising out of its own gross negligence or wilful misconduct.

25.3. The Recipient and the Beneficiary shall discharge the Bank of any and all liability arising from any claim or action brought as a result of an infringement of any applicable laws, rules or regulations by the Recipient and the Beneficiary, their contractors, employees, or individuals for whom the Recipient and/or the Beneficiary, their contractors or their employees are responsible, or as a result of a violation of a third party's rights, including Intellectual Property Rights.

25.4. Without prejudice to any other rights of the Bank under this Agreement, the Finance Contract or under any applicable law, the Recipient and the Beneficiary shall indemnify and hold the Bank harmless from and against any and all claims, demands, damages, losses, costs, expenses (including reasonable counsel fees and expenses) and liabilities of any kind which the Bank may sustain or incur as a result of any act or omission committed by the Beneficiary and/or the Recipient, as applicable or from the failure of the Beneficiary and/or the Recipient, as applicable to comply with any of its obligations as set out in this Agreement.

25.5. The Recipient and/or the Beneficiary shall include in each Contract provisions requiring the Contractor to acknowledge and agree on the liability and indemnity provisions set out in this Article 25 (*Liability and Indemnity*).

ARTICLE 26
Notices and Other Communications

26.1. Any notice or other communication to be served under this Agreement must be in writing and shall state the identification code ("FI N° 98503") and the title ("*Grant Agreement – Moldova Solidarity Lanes*") of this Agreement.

26.2. Any notice given under or in connection with this Agreement must be in English. All other documents provided under or in connection with this Agreement must be in English, in or, if not in English, accompanied by its official translation into English and, in this case, the English translation shall prevail unless the document is a constitutional, statutory or other similar official document.

26.3. Except for notices relating to litigation whether pending or threatened, which shall be served at the addresses specified below exclusively by post through official letter with confirmation of receipt, all notices and correspondence in relation to this Agreement shall be sent by post, facsimile or, to the extent agreed by the Parties in writing, by e-mail or other means of electronic communication, to the following addresses:

For the Bank	European Investment Bank 98-100, boulevard Konrad Adenauer L-2950, Luxembourg Attention : Directeur de Département Global Partners E-mail: Glo-nc2-projects@eib.org
For the Recipient	Attention: Ministry of Infrastructure and Regional Development of the Republic of Moldova, Energy Policy Department Piata Marii Adunări Naționale, 1, MD-2033, Chisinau The Republic of Moldova Facsimile no.: +373 22 23 40 64 E-mail address: secretariat@midr.gov.md
For the Beneficiary	Strada Vlaicu Pîrcălab, nr. 48 mun. Chișinău MD-2012 Attention : Director General E-mail : cfm@railway.md

26.4. Any change made to the above communication details shall have effect only after it has been notified in writing in paper or electronic form to the other Parties at the above addresses.



26.5. Notices and other communications are deemed to have been made when they are received by the receiving Party.

ARTICLE 27
Governing Law and Dispute Settlement

27.1. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Luxembourg.

27.2. Any dispute arising out of or in connection with this Agreement, including a dispute as to the validity or existence of this Agreement and/or this Article 27.2, shall be resolved by arbitration seated 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 Rules), save that, unless the Parties agree otherwise:

(i) the third arbitrator, who shall act as presiding arbitrator, shall be chosen by the two arbitrators appointed by or on behalf of the Parties;

(ii) if the presiding arbitrator is not chosen by the two arbitrators within 30 days of the date of appointment of the later of the two arbitrators to be appointed by the Parties, he shall be appointed by the Secretary-General of the Permanent Court of Arbitration (the "**PCA**");

(iii) 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);

(iv) 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;

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

(vi) the Parties agree to waive any right of appeal against the arbitration award.

The appointing authority shall be the Secretary-General of the PCA.

ARTICLE 28
Non-waiver

28.1. No failure or delay by the Bank in exercising any of its rights under this Agreement will be construed as a waiver of such right.

28.2. Nothing in this Agreement will be deemed to be a waiver, express or implied, of the privileges, immunities and exemptions enjoyed by the Bank, its Governors, Directors, Alternates, officers, employees or experts performing missions for the Bank.

ARTICLE 29
Entire Agreement

This Agreement constitutes a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter, and supersedes all prior agreements between the Parties, whether express or implied, with respect to the same matter.

ARTICLE 30
Invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions



nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

ARTICLE 31
English Language

This Agreement is drawn up in the English language. If this Agreement is translated into another language, the English language text shall prevail.

ARTICLE 32
Effectiveness of this Agreement

This Agreement shall become effective on the date (the "**Effective Date**") specified in a letter from the Bank to the Recipient confirming that the Bank has received, in form and substance satisfactory to it, the evidence that this Agreement was duly ratified by the Parliament of the Republic of Moldova in accordance with the applicable laws of the Republic of Moldova.

If the Effective Date does not occur on or prior to the date falling 12 (twelve) months after the date of signature of this Agreement, this Agreement shall not enter into force and no further action shall be necessary or required.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed on their behalf in four (4) originals in the English language, of which 2 (two) for the Bank, 1 (one) for the Recipient and 1 (one) for the Beneficiary.

Chisinau, 17 September 2024

For and on behalf of

THE REPUBLIC OF MOLDOVA, acting through the Ministry of Infrastructure and Regional Development and represented by

Nicolai Mîndra

State Secretary of the Ministry of Infrastructure and Regional Development

For and on behalf of

the Calea Ferata din Moldova and represented by

Serghei Tomsa

Director

For and on behalf of
THE EUROPEAN INVESTMENT BANK

Lionel Rapaille
Director

Federico Greco
Senior Legal Counsel

Annex 1
Description of the Action

1. Rationale

As part of the EU's solidarity response in support of Ukraine, the European Commission initiated a set of actions to help Ukraine export its agricultural produce – the EU-UA Solidarity Lanes.

Following Russia's invasion of Ukraine and its blockade of Ukrainian ports, Ukrainian grain and other agricultural goods can no longer reach their destinations. Considering Russia's refusal to extend the Black Sea Grain Initiative, the Solidarity Lanes have become the main route available for Ukraine's exports and imports. The situation is threatening global food security and there is an urgent need to establish alternative logistics routes using all relevant transport modes.

The currently widely used road transport is rather slow, costly and is limited in its capacity in terms of quantities of goods that can be transported.

The intention of this project is that the railway transport of the Republic of Moldova becomes one of the main transit corridors for Ukrainian goods to/from Danube Ports and Constanta Port.

In order to ensure the stabilisation and sustainability of the Moldovan rail transport system, there is an urgent need for rehabilitation of the main line railway infrastructure.

Having the rail infrastructure in good shape can take a large number of trucks off the roads and at border crossing points and maintain a high degree of mobility for people and goods.

Calea Ferată din Moldova ("CFM") will be the Grant Beneficiary. CFM is an integrated railway operator managing both railway infrastructure (approx. 1,080 km) and operations, as well as other non-core activities. CFM and, more broadly, the railway sector in Moldova are currently subject to a reform process, aimed at bringing the Moldova railway system in line with the EU acquis.

The EU-Ukraine Solidarity Lanes in Moldova is in line with the Eastern Partnership objective of "Investing in sustainable and smart connectivity" as well as with Moldovan and Ukrainian Governments' objectives to implement the reform and restructuring programme of the railway sector as well as to develop economically important infrastructures, including through further implementation of projects for the development of the extended indicative TEN-T.

The project will contribute to the Economic and Investment Plan for the Eastern partnership, in particular, to Flagship 4: Improving connectivity — anchoring Moldova in the TEN-T and to the specific objective of improved transport infrastructure foreseen by the Neighbourhood Development and International Cooperation – Instrument Multiannual Indicative Programme (2021-2027).

The project consists of rehabilitation of the existing non-electrified infrastructure and will not include electrification of the line. It will however be compatible with a potential future electrification.

2. The Project

The main objective of the project is to facilitate economic growth, trade and connectivity by rehabilitating the railway system in Moldova, thus improving the throughput capacity of the existing lines to Ukraine. The improved existing railway connection between Moldova and Ukraine aims at helping to facilitate trade and Ukrainian exports with the benefits for the Moldovan economy as well.

The expected **outputs** of this project are:

- Increased access to financial services and products to support low-carbon and climate resilient transport investments;
- Employment directly supported;
- Improved transport and logistics infrastructure/ facilities (Rehabilitation of approx. 128 km of mainline railway track);
- Leverage effect;
- Multiplier effect.

The expected **outcomes** of this project are (see details in Section 31):

- Employment indirectly supported;



- Increased connectivity for people and goods;
- Improved transport and logistics efficiency (time and cost).

The expected **impacts** of this project are:

- In the medium and long term, facilitation of the growth of key sectors of the Moldovan economy, higher productivity and competitiveness,
- In addition, in the short term, facilitation of exports from Ukraine and via the ports on the Danube and Prut rivers.

Project Components

The Project overall comprises the following project components:

- Component 1: Rehabilitation of main tracks (approx. 128 km) and rehabilitation and replacement of turnouts at stations along the corridor (approx. 74 units) on the section Valcinet – Ungheni – Chisinau – Cainari (including design and supply of materials);
- Component 2: Conceptual design, works supervision and support to the Project Implementation Unit (PIU).

The Grant will co-finance the EU-Ukraine Solidarity Lanes in Moldova project and, in particular, Component 1.

The final procurement plan will be adjusted according to the contract prices and the amounts of the loans of EIB and EBRD. The contract prices will be known once the procurement has been completed. For Component 1 (the main part of the project cost) this is expected in Q4 2024.

Implementation timetable

The procurement of the project components is expected to be launched in Q4 2023 / Q1 2024 and completed by end-2024.

Works are planned to be completed within one year after the signature of the works contract. Considering the risk of delays in the process, the works are expected to be completed by mid-2026.

3. Project sustainability

Maintenance of the infrastructure

The project will be maintained by the CFM. The Bank's review of CFM's capacity to adequately maintain the line is a component of the ongoing appraisal process. The capacity of CFM will be analysed in terms of existence of appropriate maintenance policies and rules, technical resources and staff and sufficient funding.

Social and environmental sustainability

The project as such will contribute to improving the sustainability of land transport in Moldova. Apart from some limited nuisance during the works, which will be mitigated by appropriate measures, the project is not expected to have any significant negative social or environmental impacts in the operation phase. This will be further appraised and the Promoter will be required to implement the project in line with the EIB Environmental and Social Standards.

The project will be compatible with a potential future electrification.

4. Value added of the EU Contribution

The north-south railway corridor in Moldova is railway infrastructure of key importance. In addition to the potential of serving the internal demand, it provides a transit route from western Ukraine to the ports of Reni (Ukraine), Girgiulesti (Moldova) and Galati (Romania). These three ports are located on the Danube and Prut rivers and are accessible to seagoing vessels.

The line provides a sustainable means of transport, as the transport of passengers and goods by rail reduces the strain on the road system, and improves the safety and security of the transport system as a whole. Improving regional integration and connectivity is of vital importance for supporting economic development and trade. Renewing the railway line is expected to raise the mobility of people and support the transportation of goods, thereby unlocking growth potential in the areas served by the rehabilitated railway and ultimately raising living standards.

Besides long term benefit for Moldova as the beneficiary country, in the short term, in the context of the Russian aggression, the potential of the line to provide an export route from western Ukraine is extremely important for the economy of Ukraine.

The EU Contribution increases the concessional aspect of the EIB loan, thus decreasing impact on national debt.

The project will improve the safety of the transport system in the country and due to the expected modal shift from road to rail should contribute to reduction of road accidents and the corresponding fatalities and injuries.

The EU Contribution and accompanying EIB loan will ensure that the works are carried out to high technical standards, particularly in regard to rail safety, environmental and social aspects.

5. Financial leverage

The Leverage Effect of the EU Contribution under the Action is estimated to be 3.32 and the Multiplier Effect is estimated to be 3.7

6. Organisational Set-Up and Implementation Arrangements

The Borrower of the EIB loan is planned to be the Republic of Moldova through its Ministry of Finance.

The Grant Agreement will be co-signed with the Ministry Infrastructure and Regional Development, which is responsible for the railways, and with the Grant Beneficiary, that is, Calea Ferată din Moldova (CFM).

The North-South operation is planned to be co-financed with EBRD and implemented one single project financed through 1) EBRD loan and a grant from the EU Foreign Policy Instrument; and 2) EIB loan and a grant from NIP. The EBRD will have in place its own loan and grant documentation. The EIB and EBRD have been cooperating during the project appraisal phase and further cooperation is planned for the project monitoring. To this effect a Project Implementation Agreement is planned to be signed between the two lenders.

CFM, as Promoter, will be in charge of project implementation. A Project Implementation Unit (PIU) will be established at the Promoter in order to manage the project implementation. The specific arrangements are to be defined. Potentially this project may be added to the scope of activities of the PIU established for the ongoing Bendery – Giurgiulesti project: this will require strengthening the capacity of this PIU with additional staff of additional person-days inputs.

The works are expected to be procured by means of an international procedure in accordance with the EIB Guide to Procurement, with publication of the contract and award notices in the OJEU, and are planned to be co-financed by the EIB.

The works will be supervised by an independent work supervision engineer.

The procurement arrangements described above may be amended depending on the co-financing arrangements to be agreed between EIB and EBRD. In any event, the procurement of the components co-financed as part of the Action will be carried out in accordance with the EIB Guide to Procurement.



Annex 2
Estimated cost of the Project

The total Project cost (excl. VAT and fees) is estimated at EUR 119 000 000 (hundred nineteen million euro).

Component **Investment Costs**	**Description of Investment Costs**	**Amount EURM**
Component 1	Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials)	109.30
Component 2	Services for conceptual design, works supervision and PIU support	4.70
Project implementation support, lenders monitor, procurement support, railway safety assessment		0.23
Expenditure verification		0.01
Financing and other internal costs		4.76
Total		119.00

The financing plan for the Project, excluding the Fees, is as follows:

Project Financier	**Amount (EUR)**	**Components**
EIB Loan	41 205 000	Component 1 Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) Component 2 Services for conceptual design, works supervision and PIU support
NIP Investment Grant	12 000 000	Component 1 Works for rehabiliation of the section Valcinets-Cainari (incl. design and supply of materials)
EBRD Loan	41 205 000	Component 1 Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials) Component 2 Services for conceptual design, works supervision and PIU support
EU Additional support (IG)	19 590 000	Component 1 Works for rehabilitation of the section Valcinets-Cainari (incl. design and supply of materials
EBRD Technical Cooperation	230 000	Project implementation support, lenders monitor, procurement support, railway safety assessment

Partner Country/Beneficiary	4 770 000	Financing and other internal costs Expenditure verification
Total Financing	119 000 000	



Annex 3
Model Request for Payment

REQUEST FOR PAYMENT

[ON LETTERHEAD OF THE RECIPIENT AND/OR THE BENEFICIARY]

[Beneficiary]

Date: [•]

European Investment Bank
For the attention of: [*contact person name*]
[*Name of the relevant Services*]
98-100 Boulevard Konrad Adenauer
L-2950 Luxembourg

Subject: [Insert name of Project] under Investment Grant Agreement No. [X] under Contribution Agreement No. [X]

Request for payment number: [•].

Period covered by the request for payment: [•]

Dear Sir or Madam,

We refer to the Grant Agreement in caption. In accordance with Article 7 (*Payment of the Grant*) of the Agreement, we hereby request payment no.[•] under the Agreement mentioned above, covering the cost of the Works expected to be delivered during the period from [*date*] to [*date*].

The amount requested is [EUR] [Please mention the FX Rate applied]

Please find attached the following supporting documents:

- Invoice no.[•] of [date] issued by [name of Contractor]
- [any other documents requested under Article 7 (*Payment of the Grant*)]

The payment should be made to the following bank account: [•]

We hereby certify that the information contained in this request for payment and its supporting documentation is complete, reliable and true, that the costs incurred can be considered eligible in accordance with the Agreement and the Contracts, and that this request for payment is substantiated by adequate supporting documents that can be checked.

We further certify that the conditions specified in Article 7 (*Payment of the Grant*) of the Agreement continue to be met.

[*For the request for payment of last tranche:* We undertake to provide the Bank, within thirty (30) calendar days after the end of the Execution Period, with all supporting evidence and documentation justifying the amount and the eligibility of the costs covered by this payment request, for the purposes of establishing the final amount of the Grant.]



Yours faithfully,

Signatures of duly authorised signatories

_____

Name:
Title:
Date:

[Counter-signature of the Recipient and/or Beneficiary for approval of this request for payment and confirmation of all elements and statements contained thereof:

Stamp and signature of duly authorised signatories

_____

Name:
Title:
Date:]



Annex 4
Records

In relation to Article 8.3 (*Eligible Costs*), the **Records** may include, as applicable:

(1) the annual progress reports and the final implementation report specified in Article 9 (*Information and Reporting*);

(2) Accounting records (computerised or manual) from the accounting system of the Beneficiary, such as general ledger, sub-ledgers and payroll accounts, fixed assets registers and other relevant accounting information, in accordance with GAAP as in effect from time to time;

(3) Proof of procurement procedures carried out, such as tendering documents, bids from tenderers and evaluation reports, including any "no objection" or agreement of the Bank required in accordance with Article 5 (*Procurement*);

(4) Proof of legal commitments, such as Contracts;

(5) Proof of delivery of the Works such as approved reports, time sheets, transport tickets, proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates) etc.;

(6) Proof of purchase such as invoices and receipts;

(7) Proof of payment such as bank statements, debit notices, proof of settlement by the Contractor;

(8) Proof that taxes and/or VAT that have been paid cannot actually be reclaimed.

All Records shall be available either in the original form, including in electronic form, or as a certified copy.

Annex 5
Progress Indicators

The main indicators that will be monitored by the Bank at the Project level are the following:

Objectives & outputs	Results chain	Indicator	Unit of measure	Baseline (2022)	Target (2026)	Comment and/or methodology	Source of data
Impact (Overall objective) *The intermediate to long-term desired change the intervention is expected to contribute to in the political, social, economic and/or environmental context*	*Impact 1* Smart (digital), sustainable and inclusive economic and social development and growth	*Impact indicator 1 SDG 9.1.2 Passenger and freight volumes, by mode of transport*	X	NOT for impact	NOT for impact		
Outcome(s) (Specific objectives) *The short to medium term effects the intervention aims to contribute to. Specific objectives will contribute to the achievement of the chosen Overall Objective(s)/Impact(s))*	*Outcome 1* Employment indirectly supported	*1.1 Number of indirect FTE jobs supported disaggregated by sex, age, disability and country/region whenever possible and relevant*	*Number*	*5583*	*5583*	*Average number of promoter's staff in 2022.* *The project is not expected to lead to creation of new jobs, but is expected to contribute to sustaining existing jobs.*	*Promoter*
	Outcome 2 Increased connectivity for people and goods	*2.1.1 Number of communities served*	Number	*38*	*38*	*The project will not lead to connection of new communities, but will contribute to preserve and improve the existing connections*	*Promoter*
		2.1.2 Annual traffic on new or upgraded railways (passengers, disaggregated by sex and age)	Million/year	*0.43*	*TBC*	*The 2022 value is estimated from the total number of pkm and assuming an average journey of 50 km.*	*Promoter*
		2.1.4 Annual traffic on new or upgraded railways (cargo)	Tonnes/year	*4.6*	*13.8*	*Values to be confirmed at appraisal.*	*Promoter*
	Outcome 3 Improved transport and logistics efficiency (time and cost)	*3.1.1 Journey times*	h	*0*	*215,000*	*Assumption of 30 min time savings per existing passenger. To be confirmed at appraisal*	*EFI estimate*
Outputs *(Delivered by the intervention. They will influence the achievement of the stated Specific Objective(s)/Outcome(s))*	*Output 1* Increased access to financial services and products to support low-carbon and climate resilient transport investments by a) public actors and/or b) private actors	*1.2.1. Number of public actors provided with access to loans and other financial services, disaggregated, where possible and relevant, by type of actor, type of intermediary, by region, area/sector, and by type of product (including traditional vs sustainability-related)*	Number	*0*	*1*	*CFM will be provided with a loan.*	
		1.2.2. Number of commercial projects financed, disaggregated, where possible and relevant, by target group, by type of intermediary, by area/sector, and by type of product (including traditional vs sustainability-related)	Number	*0*	*1*	*Moldova Solidarity Lanes rail project will be financed.*	

Objectives & outputs	Results chain	Indicator	Unit of measure	Baseline (2022)	Target (2026)	Comment and/or methodology	Source of data
	Output 2 Employment directly supported	*2.1 Number of direct FTE jobs supported and/or sustained disaggregated by sex, age, disability, type of job (green, construction, operations and maintenance, within MSMEs or organisations), and country/region where possible and relevant.*	*Number*	*0*	*160*	*Number of promoter's track maintenance staff proportionate to the length of the renovated infrastructure vs the total length of the network.*	*Promoter*
	Output 3 Improved transport and logistics infrastructure/ facilities	*3.1.1 Length of new or upgraded railways*	km	*0*	*128*	*Length of rehabilitated infrastructure.*	*Promoter*
	Output 4 Leverage effect	*4.1 Ratio between the amount of reimbursable finance (by IFIs or other financiers) against EU contribution (i.e. blending contribution or budgetary guarantee coverage*	Ratio	3.32	3.32	*EFI calculation* *EBRD Loan and FPI Grants excluded for avoiding double counting.* *Financing costs excluded.*	EFI calculation
	Output 5 Multiplier effect	*5.1 Ratio between the total investment (from IFI, public and private investors) against the EU contribution (i.e. blending contribution or budgetary guarantee coverage)*	Ratio	3.7	3.7	*EFI calculation* *EBRD Loan and FPI Grants excluded for avoiding double counting.* *Financing costs excluded.*	EFI calculation