



**EXECUTION COPY**

(Operation Number 43490)

**LOAN AGREEMENT**

**Moldova North Water Project**

between

**REPUBLIC OF MOLDOVA**

and

**EUROPEAN BANK  
FOR RECONSTRUCTION AND DEVELOPMENT**

Dated 30<sup>th</sup> July 2014

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## LOAN AGREEMENT

AGREEMENT dated 30<sup>th</sup> July 2014 between REPUBLIC OF MOLDOVA (the "Borrower") and EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (the "Bank").

### PREAMBLE

**WHEREAS**, the Bank has been established to provide financing for specific projects to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics;

**WHEREAS**, the Borrower intends to implement the project as described in Schedule 1 which is designed to assist in the improvement of the water and wastewater infrastructure in the municipality of Balti and six rayons: Floresti, Soroca, Singerei, Telenesti, Riscani and Drochia (the "Project");

**WHEREAS**, the Project will be carried out by the Regional Operating Company with the Borrower's assistance and, as part of such assistance, the Borrower will make available proceeds of the Loan in accordance with the Subsidiary Loan Agreements and/or other on-lending agreements, as applicable;

**WHEREAS**, the Borrower has requested assistance from the Bank in financing part of the Project;

**WHEREAS**, the Bank has agreed to make available technical cooperation funds of up to EUR 1.2 million for the pre-signing Project assessment stage as well as EUR 1.25 million for post-signing Project implementation support on a grant basis;

**WHEREAS**, the Borrower intends to contract a loan from the European Investment Bank (the "Co-financier") in an amount equivalent to up to EUR 10 million to assist in financing the Project, subject to the terms and conditions to be set forth in an agreement (the "EIB Co-financing Agreement") between the Borrower and the Co-financier;

**WHEREAS**, the Borrower intends to benefit from an investment grant from the European Union Neighbourhood Investment Facility (the "NIF") in the amount of up to EUR 10 million to assist in financing the Project, subject to the terms and conditions to be set forth in an agreement (the "EBRD Grant Agreement") between the Bank and the Borrower and/or other relevant parties, and, as applicable, in an agreement between the European Union and Borrower (the "NIF Financing Agreement"); and

**WHEREAS**, the Bank has agreed on the basis of, *inter alia*, the foregoing to make a loan to the Borrower in the amount of up to EUR 10 million, subject to the terms and conditions set forth or referred to in this Agreement and in the Project Agreement,

**NOW, THEREFORE**, the parties hereby agree as follows:

## ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

### Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 December 2012 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications (such provisions as so modified are hereinafter called the "Standard Terms and Conditions"):

(a) The definition of "Available Amount" in Section 2.02 of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

"Available Amount" means the amount of Tranche A of the Loan as shall not, from time to time, have been cancelled or drawn down or made subject to a conditional or unconditional Reimbursement Commitment, plus, following the Tranche B Availability Date, the amount of Tranche B of the Loan as shall not, from time to time, have been cancelled or drawn down or made subject to a conditional or unconditional Reimbursement Commitment (and all capitalised terms used in this definition and which are not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement)."

(b) The definition of "Euro", "EUR" or "€" in Section 2.02 of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

"Euro", "EUR" or "€" means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the legislation of the European Union relating to economic and monetary union."

(c) The definition of "Prohibited Practice" in Section 2.02 of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

"Prohibited Practice" means any Corrupt Practice, Fraudulent Practice, Coercive Practice, Collusive Practice or Theft."

(d) The definition of "TARGET Day" in Section 2.02 of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

"TARGET Day" means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer system is open for the settlement of payments in Euro."

(e) The following definition shall, for purposes of this Agreement, be added in Section 2.02 of the Standard Terms and Conditions:

"Theft" means the misappropriation of property belonging to another person."

(f) Section 3.05 of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

**"Section 3.05. Commitment Charge and Front-End Commission**

(a) The Borrower shall pay to the Bank a Commitment Charge at the rate specified in the Loan Agreement payable on the Available Amount plus any amount of the Loan that is subject to a Reimbursement Commitment and is not yet drawn down, provided that the Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment shall be 0.5% per annum greater than the rate of the Commitment Charge specified in the Loan Agreement. The Commitment Charge shall accrue:

- (1) for Tranche A, from the date falling sixty (60) days after the date of the Loan Agreement; and
- (2) for Tranche B, from the date falling seven (7) days after the Tranche B Availability Date; and
- (3) in the case of Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment, from the date of issuance of such unconditional Reimbursement Commitment;

provided that the Commitment Charge shall accrue and be calculated on the same basis as interest under Section 3.04(b)(ii). The Commitment Charge shall be payable on each Interest Payment Date (even though no interest may be payable on such date) commencing on the first Interest Payment Date following the Effective Date.

(b) The Borrower shall pay to the Bank the front-end commission equal to one per cent (1 %) of the maximum principal amount of, respectively, Tranche A and Tranche B.

(c) The Bank shall, on behalf of the Borrower, withdraw from the Available Amount of Tranche A on the Effective Date, or within seven (7) days thereafter, and pay to itself the amount of the Front-End Commission payable on Tranche A pursuant to Section 3.05(b).

(d) The Bank shall, on behalf of the Borrower, withdraw from the Available Amount of Tranche B on the Tranche B Availability Date, or within seven (7) days thereafter, and pay to itself the amount of the Front-End Commission payable on Tranche B pursuant to Section 3.05(b).

(e) All capitalised terms used in this Section 3.05 and which are not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement."

**Section 1.02. Definitions**

Wherever used in this Agreement (including the Preamble and Schedules), unless stated otherwise or the context otherwise requires, the terms defined in the Preamble

have the respective meanings given to them therein, the terms defined in the Standard Terms and Conditions have the respective meanings given to them therein and the following terms have the following meanings:

- "Acva-Nord" means Î.I.S. "Acva-Nord", a state inter-rayonal enterprise, incorporated under the laws of the Republic of Moldova, and operating the Soroca-Balti Pipeline, founded by the "Apele Moldovei" Agency, subordinated to the Ministry of Environment.
- "Borrower's Authorised Representative" means the Minister of Finance of the Borrower, except as specified in Section 2.04 of this Agreement.
- "Business Plan" means the business plan which shall be prepared by the Regional Operating Company in accordance with Section 3.01(i) of this Agreement.
- "Co-financing" means the loan from the Co-financier and the investment grant from the Bank under the NIF.
- "Debt" means, with respect to any person, all obligations of such person, whether incurred as principal or surety and whether present, future, actual or contingent, for the payment or repayment of money, including:
- (a) any amounts payable by such person under leases or similar arrangements over their respective periods;
  - (b) any credit to such person from a supplier of goods or under any instalment purchase or other similar arrangement; and
  - (c) any liabilities and obligations of third parties to the extent that they are guaranteed by such person or such person has otherwise assumed or become liable for the payment of such liabilities or obligations or to the extent that they are secured by any lien upon property owned by such person whether or not such person has assumed or become liable for the payment of such liabilities or obligations.
- "Debt Service Reserve Account" means a deposit account denominated in MDL at a commercial bank acceptable to the Bank, on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure and attachment, which is opened and maintained, on a joint and several basis, by the Regional Operating Company and each Rayon Authority.

"Designated Performance Requirements"

means Performance Requirements 1 through 8 and 10 (or, as the context may require, any one of such Performance Requirements) of the Performance Requirements dated May 2008 and related to EBRD's Environmental and Social Policy dated May 2008.

"Environmental and Social Action Plan"

means the plan of environmental and social mitigation and improvement measures to be prepared by the independent consultant, to be approved by the Bank, as such plan may be amended from time to time with the prior written consent of EBRD.

"Environmental and Social Law"

means any applicable law or regulation which relates to:

- (a) pollution or protection of the environment, including related laws or regulations relating to public access to information and participation in decision-making;
- (b) labour and employment conditions;
- (c) occupational health and safety;
- (d) public health, safety and security;
- (e) indigenous peoples;
- (f) cultural heritage; or
- (g) resettlement or economic displacement of persons.

"Environmental and Social Matter"

means any matter that is the subject of any Environmental and Social Law, any Designated Performance Requirement or the Environmental and Social Action Plan.

"Financial Debt"

means, with respect to any person, any Debt of such person for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which would in accordance with IFRS, be treated as a finance or capital lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

(f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of borrowing, which is treated as an obligation in accordance with IFRS;

(g) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (f) above.

- "Fiscal Year" means the Borrower's fiscal year commencing on 1 January of each year.
- "IFRS" means International Financial Reporting Standards issued or adopted by the International Accounting Standards Board and consistently applied.
- "Historic Debt" means the historic debt, including all accrued or accruing amounts in connection with such debt that may increase the overall due amounts, totalling as of the end of 2013 to MDL 94,006,637 as follows:
- a) Apa Canal Balti to SA RED-Nord Vest, Donduseni, of MDL 787,520 comprising historical liabilities according to executor title no. 2e-2995/04-08, issued by the Economic Appeal Court from 01.12.2008;
  - b) Apa Canal Balti to SA RED-Nord Vest, Donduseni, of MDL 3,518,663 comprising current liabilities according to the contracts for assignment of liabilities from Acva-Nord;
  - c) Apa Canal Balti to SA RED-Nord Vest Balti of MDL 13,040,736 comprising historical liabilities, penalty according to the additional act to the electricity supply contract no. 428 from 07.10.2010 related to the years 2000-2005;
  - d) Apa Canal Balti to SA RED-Nord Vest Balti of MDL 8,413,365 comprising penalty related to the period 30.01.2013 until 30.05.2014;

As well as:

- e) Acva-Nord to I.S. Moldtranselectro of MDL 52,722,525, according to contract no. 1002600027099;
- f) Acva-Nord to the state fiscal inspectorate of MDL 10,802,404;
- g) Acva-Nord to the National House of Social Security of MDL 1,973,357;
- h) Acva-Nord's state tax according to an executory title related to the civil action of S.A. Red-Nord-Vest for debts for electricity payments of MDL 1,835,077; and
- i) Acva-Nord's tax according for damaging biological resources of MDL 912,990.

"Investment Programme"	means the programme of investment in water supply and waste water facilities in the Project Localities in accordance with the capital investments as described in Schedule 1, point 2, and as detailed in the Attachment to Schedule 2 of this Agreement.
"MDL"	means the lawful currency of the Borrower.
"On-lending Agreement"	means, in respect of each Project Locality, the loan agreement to be entered into between a Rayon Authority and the Regional Operating Company and/or other authorities or eligible entities as deemed relevant by the Borrower, as such agreement may be amended from time to time.
"Project Agreement"	means the agreement to be entered into between the Bank, the Regional Operating Company, and each Rayon Authority and/or other local authority level or eligible entities, as deemed relevant by the Borrower, in support of the Project.
"Project Implementation Unit"	means a project implementation unit to be established within the Regional Operating Company and which will implement the Investment Programme.
"Project Locality"	means each of the following: <ul style="list-style-type: none"> <li>(1) The Rayon of Floresti;</li> <li>(2) The Rayon of Soroca;</li> <li>(3) The Rayon of Singerei;</li> </ul>

- (4) The Rayon of Telenesti;
- (5) The Rayon of Riscani;
- (6) The Rayon of Drochia; and
- (7) The municipality of Balti.

"Rayon"	means, in respect of the relevant Project Locality, the region to which it is linked for administrative purposes in accordance with the laws of Moldova, including the relevant participating localities in such region.
"Rayon Authorities"	means, in respect of each Rayon, its Rayon council, which is the representative authority of the Rayon's population and, in respect of the Balti municipality, the municipal authority which is the representative of the municipality of Balti.
"Regional Operating Company"	means a corporate entity in the form of a joint stock company or other form of commercial company under Moldovan law , to be created under the laws of Moldova, and to be owned by the participating Rayon Authorities, and the Ministry of Environment or its subordinated entities holding the Soroca-Balti Pipeline, which is responsible for amongst others, the provision of water and waste water services in the Project Localities.
"Service Agreement"	means the agreement entered into between each Rayon Authority and the local authorities representing the participating localities within such Rayon and the Regional Operating Company providing for, amongst others, the obligation of the Project Localities in respect of water supply and wastewater services, the parameters applicable to the quality of service, the performance indicators and the end users payment criteria.
"Subsidiary Loan Agreement"	means the loan agreement to be entered into between the Borrower and the Rayon Authorities and/or other authorities or eligible entities as deemed relevant by the Borrower, pursuant to Section 3.01(a) of this Agreement, as such loan agreement may be amended from time to time.
"Tranche A"	shall have the meaning ascribed thereto in Section 2.01(b)(1) of this Agreement.
"Tranche B"	shall have the meaning ascribed thereto in Section

"Tranche B Availability Date"

means the date as of which Tranche B has become committed and available for Drawdowns as notified by the Bank to the Borrower. Such decision shall be made at the Bank's sole and absolute discretion and subject to, inter alia, the satisfaction of the conditions precedent set out in Section 5.04.

"Water Utilities Development Loan"

means the loan agreement between the Borrower and the Bank dated 16 June 2010 entered into for the Water Utilities Development Programme project and the subsidiary loan agreements and on-lending agreements entered into in relation thereto.

### Section 1.03. Interpretation

In this Agreement, a reference to a specified Article, Section or Schedule shall, except where stated otherwise in this Agreement, be construed as a reference to that specified Article or Section of, or Schedule to, this Agreement.

## ARTICLE II - PRINCIPAL TERMS OF THE LOAN

### Section 2.01. Amount and Currency

(a) The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of up to EUR 10,000,000.

(b) The Loan shall consist of 2 Tranches, as follows:

- (1) Tranche A in the amount of up to EUR 6,000,000; and
- (2) Tranche B in the amount of up to EUR 4,000,000.

(c) Notwithstanding anything to the contrary, expressed or implied, in this Agreement, Tranche B of the Loan is uncommitted and accordingly the Bank shall have no obligation to make any disbursements or proceed with any Drawdown under the Tranche B of the Loan unless it shall have first determined in its sole and absolute discretion that it is prepared to make Tranche B available for Drawdowns and shall have notified the Borrower of such positive determination, if any.

### Section 2.02. Other Financial Terms of the Loan

(a) The Minimum Drawdown Amount shall be EUR 100,000.

(b) The Minimum Prepayment Amount shall be EUR 1,000,000.

- (c) The Minimum Cancellation Amount shall be EUR 250,000.
- (d) The Interest Payment Dates shall be 20 May and 20 November of each year.
- (e) (1) The Borrower shall repay the principal of the Loan in equal (or as nearly equal as possible) semi-annual instalments, starting on the first such Interest Payment Date to occur after the fourth anniversary of the signing of this Agreement and ending on the first such date falling on, or immediately after, the fifteenth anniversary of the date of this Agreement.
  - (2) The dates for payment of principal of the Loan are intended to coincide with Interest Payment Dates. If any Interest Payment Date is affected by the proviso to the definition of "Interest Payment Date," then the corresponding date for payment of principal shall be changed to coincide with such Interest Payment Date. Amounts of the Loan repaid may not be reborrowed.
  - (3) Notwithstanding the foregoing, in the event that (i) the Borrower does not draw down the entire Loan amount prior to the first Loan Repayment Date specified in this Section 2.02.(e), and (ii) the Bank extends the Last Availability Date specified in Section 2.02.(f) below to a date which falls after such first Loan Repayment Date, then the amount of each drawdown made on or after the first Loan Repayment Date shall be allocated for repayment in equal amounts to the several Loan Repayment Dates which fall after the date of such drawdown (with the Bank adjusting the amounts so allocated as necessary so as to achieve whole numbers in each case). The Bank shall, from time to time, notify the Borrower of such allocations.
- (f) The Last Availability Date for Tranche A and Tranche B shall be 31 December 2018, or such later date that the Bank may in its discretion establish and notify to the Borrower.
- (g) The rate of the Commitment Charge shall be 0.5% per annum.
- (h) The Loan is subject to a Variable Interest Rate.

### **Section 2.03. Drawdowns**

The Available Amount may be drawn down from time to time in accordance with the provisions of Schedule 2 of this Agreement to finance (1) expenditures made (or, if the Bank so agrees, to be made) in respect of the reasonable cost of goods, works and services required for the Project and (2) the Front-end Commission.

### **Section 2.04. Authorised Representative for Drawdowns**

The Borrower's Authorised Representative for the purpose of taking any action required or permitted to be taken under the provisions of Section 2.03 and under the provisions of Sections 3.01 and 3.02 of the Standard Terms and Conditions shall be designated pursuant to a certificate of incumbency and authority prepared in accordance with the form provided in Schedule 4 and sent by the Borrower to the Bank.

## ARTICLE III - EXECUTION OF THE PROJECT

### Section 3.01. Other Affirmative Project Covenants

In addition to the general undertakings set forth in Articles IV and V of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

- (a) Make available to the Rayon Authorities and/or other authorities or eligible entities as deemed relevant by the Borrower, pursuant to one or more Subsidiary Loan Agreements in form and substance satisfactory to the Bank, a sufficient portion of the proceeds of the Loan on terms and conditions acceptable to the Bank and which include the terms defined in Schedule 3 of this Agreement and ensure that the Regional Operating Company and, if applicable, any other entity that is relevant for the implementation of the Project can become the ultimate beneficiaries of the proceeds under this Loan and under the Co-financing;
- (b) Exercise its rights under the Subsidiary Loan Agreements in such manner as to protect the interests of the Borrower and the Bank, to comply with the provisions of this Agreement and to accomplish the purposes for which the Loan is made;
- (c) Not, except as the Bank otherwise agrees, assign or abrogate any provision of the Subsidiary Loan Agreements or otherwise amend or waive any material provision thereof;
- (d) Cause the parties to the Project Agreement to perform all of their obligations under the Project Agreement, including without limitation its obligations relating to:
  - (1) the set-up and operation of a Project Implementation Unit as provided for in the Project Agreement;
  - (2) the procurement of goods, works and services for the Project as provided for in the Project Agreement;
  - (3) the Environmental and Social Matters as provided for in the Project Agreement;
  - (4) the employment and use of consultants to assist in the implementation of the Project as provided for in the Project Agreement;
  - (5) the preparation and submission of reports on matters relating to the Project and to the Regional Operating Company's operations as provided for in the Project Agreement;
  - (6) the maintenance of procedures, records and accounts, preparation, auditing and submission to the Bank of financial statements and furnishing to the Bank any other relevant information relating to the Project or the Regional Operating Company's operations as provided for in the Project Agreement;
  - (7) the compliance with all covenants regarding financial and operational aspects of the Project and the Regional Operating Company as provided for in the Project Agreement;

(8) the adjustment of tariffs for water supply and waste water treatment services in accordance with the provisions of Schedule 3 Section 2(a) to this Agreement;

(9) the compensation of the Regional Operating Company in case a Project implementation default or cancellation of the Project is due to any (or a series of) act and/or omission of the relevant local authorities and Rayon Authorities;

(10) the compliance of the Subsidiary Loan Agreements and On-lending Agreements in respect of each Rayon Authority, which shall have been entered into in accordance with the provisions of Schedule 3 Section 1 to this Agreement;

(11) The conclusion of the Service Agreements; and

(12) The opening, maintaining and operation of the Debt Service Reserve Account in accordance with the provisions of Schedule 3 to this Agreement,

(e) Take, or cause to be taken, all actions necessary to ensure that, with respect to each Project Locality, the respective Rayon Authorities decide to, and implement the, increase of applicable tariffs for water supply and waste water services in accordance with Schedule 3 of this Agreement;

(f) Take, or cause to be taken, all actions necessary to ensure that the Regional Operating Company at all times maintains a ratio of (i) cash flows arising from its operating activities for the 12 months preceding the date of calculation plus all interest charged on an accruals basis during such period, minus those cash flows for such period which are applied during that period to acquiring long-term assets that are not part of capital expenditure approved under the Project or the Business Plan, to (ii) the sum of the principal repayment and all interest charged on an accruals basis on all Financial Debt during such period, of not less than 1.1 starting with 31 December 2018 and onwards;

(g) Take, or cause to be taken, all actions necessary to ensure that the Regional Operating Company does not incur, in addition to the Financial Debt existing at the date of this Agreement on the balance sheets of the utilities in the participating Rayons and Acva-Nord and any existing or future Financial Debt under the Water Utilities Development Loan, (i) any new short term Financial Debt in excess of EUR 500,000 and (ii) any long term Debt, unless with the Bank's prior written consent;

(h) Take, or cause to be taken, all actions necessary to ensure that the Regional Operating Company, within nine months from the date of its incorporation, sends to the Bank and to the Borrower, a business plan which shall include but not be limited to the following:

(1) Operational performance (including leakage control)

(2) Cost control

(3) Investment Programme

(4) Tariffs for domestic and industrial costumers

(5) Accountability

(6) Service quality

(i) Cause the Regional Operating Company to carry out financial calculations and issue financial statements in accordance with IFRS from 2018 (for the fiscal year 2017 included) and the following years;

(j) Cause the Regional Operating Company and each Rayon Authority, to be jointly and severally liable for opening and maintaining until full repayment or cancellation of the outstanding amount of the Loan, a Debt Service Reserve Account which shall, no later than thirty days prior to the next Interest Payment Date, be funded with an amount equal to the service of the debt (in principal and interest) due and payable by the Borrower on the immediately following Interest Payment Date; and

(k) Take, or cause to be taken, all actions necessary to guarantee that the Rayon Authorities or the relevant local authorities or utilities or Acva-Nord will transfer to the Regional Operating Company the rights of use over all water/wastewater assets necessary for the Project, including the Soroca-Balti pipeline.

**Section 3.02. Environmental and Social Covenants**

Without limiting the generality of Sections 4.02(a), 4.04(a)(iii) and 5.02(c)(iii) of the Standard Terms and Conditions, the Borrower shall cause the Regional Operating Company to carry out the Project in accordance with the applicable Environmental and Social Laws and the Designated Performance Requirements.

**Section 3.03. Reporting Frequency and Submission Requirements**

(a) Until the full amount of the Loan has been repaid or cancelled, the Borrower shall submit to the Bank via the Ministry of Environment or ensure that the Regional Operating Company submits to the Bank annual reports on Environmental and Social Matters relating to the Project, as referred to in Section 5.02(c)(iii) of the Standard Terms and Conditions. Such reports shall be submitted within 90 days from the end of the year being reported on and shall include a description of the progress of the Regional Operating Company in implementing the Environmental and Social Action Plan.

(b) Immediately upon the occurrence of any incident or accident relating to the Borrower, the Regional Operating Company or the Project, which has or is likely to have a significant adverse effect on the environment, or on public or occupational health or safety, the Borrower via the Ministry of Environment or the Regional Operating Company shall inform EBRD and promptly thereafter give EBRD notice thereof specifying the nature of such incident or accident and any steps the Borrower or the Regional Operating Company is taking to remedy the same.

(c) Starting 90 days from the Effective Date and thereafter within 60 days from the end of the period being reported on until the Project has been completed, the Borrower via the Ministry of Environment shall submit to the Bank or ensure that the Regional Operating Company submits to the Bank, the semi-annual Project reports referred to in

Section 4.04(a)(iv) of the Standard Terms and Conditions. The reports shall include the following specific features:

(1) General information:

(A) the physical progress accomplished in the implementation of the Project in each Project Locality to the date of report and during the reporting period, including civil works, goods and disbursements;

(B) actual or expected difficulties or delays in the implementation of the Project in each Project Locality, the reasons for such difficulties or delays and their effect on the implementation schedule, and the actual steps taken or planned to overcome the difficulties and avoid delays;

(C) expected changes in the completion date of the Project in each Project Locality;

(D) key personnel changes in the staff of the Regional Operating Company, the Project Implementation Unit, the consultants or the contractors;

(E) matters that may affect the cost of the Project in each Project Locality;

(F) any development or activity likely to affect the economic viability of any Part of the Project;

(G) use of proceeds of the loan or grant provided under the Subsidiary Loan Agreement, the On-lending Agreements, the EBRD Grant Agreement and the EIB Co-financing Agreement; and

(H) financial statements of the Regional Operating Company, in the form of unaudited summary internal financial accounts or such other form acceptable for the Bank.

(2) A bar-type progress chart, based on the Project implementation schedule, showing the progress in each part of the Project and including a planned and actual expenditure graph.

(3) Financial statements showing details of the expenditures incurred under each part of the Project and the Drawdowns, together with a statement showing:

(A) original cost estimates;

(B) revised cost estimates, if any, with reasons for changes;

(C) original estimated expenditures and actual expenditures to date;

(D) reasons for variations of actual expenditures to date from original estimated expenditures to date; and

(E) estimated expenditures for the remaining quarters of the year.

- (4) financial records and reports.

The Borrower shall cause the Regional Operating Company to furnish to the Bank, as soon as available, but not later than seven months after the end of each fiscal year, the audit reports, in accordance with internationally accepted auditing principles and standards consistently applied, by independent auditors acceptable to the Bank, in such detail as the bank shall have reasonably requested.

#### **ARTICLE IV - SUSPENSION; ACCELERATION; CANCELLATION**

##### **Section 4.01. Suspension**

The following are specified for purposes of Section 7.01(a)(xvii) of the Standard Terms and Conditions:

The legislative and regulatory framework applicable to the water and wastewater sector in the territory of the Borrower shall have been amended, suspended, abrogated, repealed or waived in a manner other than as approved by the Bank in writing.

##### **Section 4.02. Acceleration of Maturity**

For purposes of Section 7.06(f) of the Standard Terms and Conditions, no additional term is provided herein.

#### **ARTICLE V - EFFECTIVENESS**

##### **Section 5.01. Conditions Precedent to Effectiveness of this Agreement**

The following are specified for purposes of Section 9.02(c) of the Standard Terms and Conditions as additional conditions to the effectiveness of this Agreement and the Project Agreement:

- (a) The Parliament of Moldova has ratified this Agreement;
- (b) The Project Agreement has been executed and delivered to the Bank;
- (c) The Subsidiary Loan Agreements and the On-lending Agreements, in form and substance satisfactory to the Bank, have been executed in accordance with the terms of Schedule 3 of this Agreement;
- (d) The Regional Operating Company has been duly incorporated with all necessary resources to provide services for all Project Localities;
- (e) The Project Implementation Unit has been established;

(f) An Environmental and Social Action Plan in form and substance satisfactory to the Bank has been agreed;

(g) The Historic Debt, including all accrued and accruing amounts in connection with such debt that may increase the overall due amounts has been paid or settled, or a binding settlement plan, in form and substance satisfactory to the Bank, has been concluded for the payment or settlement of the Historic Debt;

(h) The EIB Co-Financing is approved; and

(i) The Parliament of Moldova has ratified the EBRD Grant Agreement, if applicable, and the NIF investment grant is available.

#### **Section 5.02. Legal Opinions**

For purposes of Section 9.03(a) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Borrower by the Minister of Justice and the following are specified as additional matters to be included in the opinion or opinions to be furnished to the Bank:

the Subsidiary Loan Agreements and the On-Lending Agreements have been duly authorised or ratified by, and delivered on behalf of, the Borrower, the Regional Operating Company, the Rayon Authorities and any other participating local authorities or eligible entities and constitute valid and legally binding obligations of such entities, enforceable in accordance with their terms.

#### **Section 5.03. Termination for Failure to Become Effective**

The date 180 days after the date of this Agreement is specified for purposes of Section 9.04 of the Standard Terms and Conditions.

#### **Section 5.04 Conditions to Availability of Tranche B**

Tranche B will be made available at the full discretion of the Bank, subject to the following conditions having been complied with:

The Regional Operating Company has carried out a tender satisfactory to the Bank and has selected a reputable private operator under a lease/affermage contract satisfactory to the Bank, or, if the entry into a lease/affermage contract was not achieved because of lack of interest from relevant parties, a tender satisfactory to the Bank has been carried out and a reputable private operator has been selected under a management contract satisfactory to the Bank.

## ARTICLE VI - MISCELLANEOUS

### Section 6.01. Notices

The following addresses are specified for purposes of Section 10.01 of the Standard Terms and Conditions:

For the Borrower:

Minister of Finance  
Cosmonautilor str. 7, MD-2005,  
Chisinau,  
Republic of Moldova

Attention: Minister of Finance

Fax: +373 22 22 53 93

For the Bank:

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

Attention: Operation Administration Department

Fax: +44-20-7338-6100

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorised representatives, have caused this Agreement to be signed in three copies and delivered at Chisinau, Moldova as of the day and year first above written.

REPUBLIC OF MOLDOVA

By: \_\_\_\_\_

Name: Anatei ARAPU  
Title: Minister of Finance

**EUROPEAN BANK  
FOR RECONSTRUCTION AND DEVELOPMENT**

By: \_\_\_\_\_

Name: Jean-Patrick MARQUET

Title: Director, Municipal & Environmental Infrastructure

## SCHEDULE 1 - DESCRIPTION OF THE PROJECT

1. The purpose of the Project is to enable the Borrower to develop a regional water supply system in Northern Moldova on the backbone of the existing Soroca-Balti Pipeline, and to improve the quality and efficiency of water and wastewater services in the operation area. The Project comprises priority capital investments to (i) rehabilitate the Soroca-Balti Pipeline and existing water networks in the project region, (ii) expand existing water networks and increase new connections to the Soroca-Balti Pipeline and within Rayons, (iii) reduce water losses, and (iv) finance energy efficiency components.

2. The Project consists of the following parts, subject to such modifications thereof as the Bank and the Borrower may agree upon from time to time:

Part A: Construction and rehabilitation works on water intake, water treatment plant, Soroca-Balti Pipeline and expansion of the water supply network in Soroca, Floresti, Riscani, Drochia, Singerei and Telenesti rayons and Balti municipality; and

Part B: Consultancy services for supervision of the works under Part A.

3. The Project is expected to be completed by 31 December 2018.

## SCHEDULE 2 - CATEGORIES AND DRAWDOWNS

1. The table attached to this Schedule sets forth the Categories, the amount of the Loan allocated to each Category and the percentage of expenditures to be financed in each Category.
2. Notwithstanding the provisions of paragraph 1 above, no Drawdown shall be made in respect of expenditures incurred prior to the date of the Loan Agreement.
3. Notwithstanding the provisions of paragraphs 1 and 2 above, the obligation of the Bank to make disbursements of the Loan shall be subject to the prior fulfilment, in form and substance satisfactory to the Bank, or at the sole discretion of the Bank the waiver, of the conditions set out in Section 5.01 and 5.04 of this Agreement, as applicable at the time of such disbursement request.

## Attachment to Schedule 2

Category	Amount of the Loan Allocated in EUR	Percentage of Expenditures to be Financed
<b>Tranche A</b>		
(1) Works and Goods		
- Floresti Raion	1,428,126	100% of contract value, excluding any Taxes
- Soroca Raion	1,367,400	
- Riscani Raion	835,400	
- Singerei Raion	833,700	
(2) Consultancy Services	1,100,000	100%
(3) Tranche A Front-End Commission	60,000	100% of contract value, excluding any Taxes
(4) Unallocated for Tranche A	375,374	100% of contract value, excluding any Taxes
<b>Total Tranche A</b>	<b>6,000,000</b>	
<b>Tranche B</b>		
(1) Works and Goods		
- Telenesti Raion	3,623,400	100% of contract value, excluding any Taxes
(2) Tranche B Front-End Commission	40,000	100%
(3) Unallocated for Tranche B	336,600	100% of contract value, excluding any Taxes
<b>Total Tranche B</b>	<b>4,000,000</b>	
<b>Total</b>	<b>10,000,000</b>	

## SCHEDULE 3 – TERMS AND CONDITIONS APPLICABLE TO THE SUBSIDIARY LOAN AGREEMENTS AND ON-LENDING AGREEMENTS

### 1. Financial Terms

The Margin (defined in the Standard Terms and Conditions), the Front-end Commission (defined in the Standard Terms and Conditions), the Commitment Charge (defined in the Loan Agreement), the Cancellation Fee (defined in the Standard Terms and Conditions) and the default interest (defined in the Standard Terms and Conditions) will be reflected in the Subsidiary Loan Agreements and in the On-Lending Agreements and will be binding on their respective parties.

### 2. Project Specific Covenants.

#### **Non-Financial Covenants:**

Introduction of International Financial Reporting Standards for the Regional Operating Company, starting from 2018 (for financial year 2017 included).

#### **Financial Covenants:**

- a) **Tariffs** for water supply and waste water services should be harmonised into a unified tariff by end of 2018, ensuring cost recovery within affordability constraints and on the basis of a reduction of cross-subsidies, pursuant to a decision of the relevant regulatory entity or any other entity having the power to decide on such tariff adjustment for such Project Locality. It shall be mandatory to ensure that subsequent tariff levels will be adjusted to such levels as to achieve compliance with all covenanted financial ratios.
- b) **Debt Service Coverage Ratio.** The Regional Operating Company shall at all times maintain a ratio of (i) cash flows arising from its operating activities for the 12 months preceding the date of calculation plus all interest charged on an accruals basis during such period, minus those cash flows for such period which are applied during that period to acquiring long-term assets that are not part of capital expenditure approved under the Project and subsequently approved Business Plan, to (ii) the sum of the principal repayment and all interest charged on an accruals basis on all Financial Debt during such period, of not less than 1.1 starting with 31 December 2017 (for financial year 2017) and on-wards .
- c) **New Debt.** The Regional Operating Company undertakes that, except as the Bank shall otherwise agree, it shall not incur in addition to the Financial Debt existing at the date of the Loan Agreement on the balance sheets of the utilities in the participating Rayons and Acva-Nord and any existing or future Financial Debt under the Water Utilities Development Loan (i) any new short term Financial Debt in excess of EUR 500,000 and (ii) any new long term Debt, unless with the Bank's prior written consent.
- d) **Business Plan.** The Regional Operating Company shall within nine months from the date of the Loan Agreement adopt and submit to the Project Management Unit which will submit to the Bank for review, a business plan, which shall include but not

be limited to, timely and measurable performance targets (listed below), substantiating that, if executed, the covenanted ratios will be met.

- (i) Operational performance (including leakage control)
- (ii) Cost control
- (iii) Investment Programme
- (iv) Tariffs for domestic and industrial costumers
- (v) Accountability
- (vi) Service quality

e) **Debt Service Reserve Account.** The Rayon Authorities and the Regional Operating Company are jointly and severally liable for opening and maintaining until full repayment or cancellation of the outstanding amount of the Loan, a deposit account denominated in MDL at a commercial bank acceptable to the Bank, on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure and attachment. No later than thirty days prior to the next interest payment date ("IPD") as defined in the Standard Terms and Conditions, an amount equal to the service of the debt (in principal and interest) due by the Regional Operating Company on the immediately following IPD shall be available on the Debt Service Reserve Account. The funds deposited on this account shall be used for the service of the debt (in principal and interest) only.

**SCHEDULE 4 - FORM OF CERTIFICATE OF INCUMBENCY AND  
AUTHORITY**

[To Be Typed on Letterhead of the Borrower]

[Date]

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

Attention: Operation Administration Department

Subject: Operation No. 43490  
Certificate of Incumbency and Authority

Dear Sir/Madam:

With reference to the loan agreement dated [\_\_\_\_\_] (the "Loan Agreement") between the Republic of Moldova (the "Borrower") and European Bank for Reconstruction and Development ("EBRD"), I, the undersigned Minister of Finance of Moldova, duly authorised, hereby certify that the following are the names, offices and true specimen signatures of the persons, any one of whom is and will continue to be (until EBRD has received actual written notice from the Borrower that they or any of them no longer continue to be) authorised, on behalf of the Borrower, individually, to take any action required or permitted in accordance with Section 2.03 of the Loan Agreement and Sections 3.01 and 3.02 of the Standard Terms and Conditions.

NAME	OFFICE	SPECIMEN SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have signed my name on the date first above written.

Yours faithfully,

**REPUBLIC OF MOLDOVA**

By: \_\_\_\_\_

Name:

Title: Minister of Finance