

LD 1963 (2018)

**FRAMEWORK LOAN AGREEMENT**

*between*

**COUNCIL OF EUROPE DEVELOPMENT BANK**

*and*

**REPUBLIC OF MOLDOVA**

Upgrading of National Centre for Pre-Hospital Emergency Care's Ambulance Fleet

*- Project Loan -*

P. F.

## Construction

as the context otherwise requires, references to:

- (a) this Agreement shall be construed as references to this Agreement as supplemented, amended or restated from time to time;
- (b) "Clauses", "Sub-clauses" and "Recitals" shall be construed as references to clauses, sub-clauses and recitals respectively of this Agreement; and
- (c) words importing the singular shall include the plural and vice-versa.

## Headings

Headings in this Agreement have no legal significance and do not affect its interpretation.

## Rounding

For the purposes of any calculations referred to in this Agreement:

- (a) all percentages resulting from such calculations other than those determined through the use of interpolation will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (e.g., 9.876541% (or .09876541) being rounded down to 9.87654% (or .0987654) and 9.876545% (or .09876545) being rounded up to 9.87655% (or .0987655));
- (b) all percentages determined through the use of linear interpolation by reference to two (2) relevant Reference Rates will be rounded, if necessary, in accordance with the method set forth in subsection (a) above, but to the same degree of accuracy as the two (2) rates used to make the determination (except that such percentages will not be rounded to a lower degree of accuracy than the nearest one thousandth of a percentage point (0.001%)); and
- (c) all currency amounts used in or resulting from the above calculations will be rounded, unless otherwise specified in the relevant Currency definition, to the nearest two decimal places in the relevant currency (with .005 being rounded upwards (e.g., .674 being rounded down to .67 and .675 being rounded up to .68).

## CONDITIONS

Loan is granted under the general conditions of the Loan Regulations and under the special conditions of the Agreement.

## PURPOSE

CEB grants the loan to the Borrower, who accepts it, solely for the purpose of financing the need as described under Appendix 1 hereto.

Change to the way the Loan is applied that has not received the CEB's approval would constitute a breach of the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early repayment, suspension or cancellation of the Loan under the terms of Articles 3.3 (Early Repayment of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

## FINANCIAL CONDITIONS

### Loan Amount

Loan Amount is:

TWELVE MILLION EUROS

EUR 12,000,000

#### **Disbursement Amount**

Loan shall be disbursed in a minimum of two (2) Tranches.

Amount of each Tranche shall be determined according to the State of Progress of Works and selected State of Progress of Works. The amount of the first Tranche shall not exceed fifty (50) per cent of the Loan Amount.

#### **Disbursement Procedure**

Disbursement of each Tranche is determined through the following procedure:

##### **(a) Disbursement Request**

In connection with each disbursement, the Borrower shall submit to the CEB a disbursement request in the form set out under Appendix 3 hereto (hereinafter, a "Disbursement Request").

Disbursement Request shall specify the proposed:

- (i) Currency and amount for the Tranche;
- (ii) Disbursement Date; such Disbursement Date shall be a Business Day falling at least **five(5)** Business Days but not later than twenty (20) Business Days after the date of the Disbursement Request;
- (iii) Principal Repayment Date(s), including the Maturity Date, taking into account that the Principal Repayment Period for each Tranche shall not exceed 15 years including a grace period not greater than 5 years;
- (iv) ~~maximum~~ Fixed interest Rate or maximum Spread to the Reference Rate;
- (v) Interest Period and Interest Payment Dates;
- (vi) Day Count Convention and Business Days; and
- (vii) Borrower's account for payments.

Disbursement Request delivered to the CEB shall be irrevocable, unless otherwise agreed in writing by the CEB.

##### **(b) Disbursement Notice**

When the CEB receives a Disbursement Request that complies with the Disbursement Request conditions set out Sub-clause 4.3(a) above, and if all other relevant Disbursement Conditions as stated in Sub-clause 4.5 (Disbursement Conditions) below have been fulfilled by the Borrower, the CEB shall deliver to the Borrower a disbursement notice substantially in the form set out under Appendix 3 hereto (hereinafter, a "Disbursement Notice"). Each Disbursement Notice shall be issued at least 2 Business Days before the proposed Disbursement Date.

Disbursement Notice shall specify:

- (i) Currency and amount for the Tranche;
- (ii) Disbursement Date;
- (iii) Principal Repayment Period and Principal Repayment Date(s), including the Maturity Date;
- (iv) Fixed interest Rate or Spread to the Reference Rate;
- (v) Interest Period and Interest Payment Dates;

(vii) Day Count Convention and Business Days; and

(viii) Borrower's and CEB's accounts for payments.

If Borrower has submitted to the CEB a Disbursement Request in which the Borrower has not specified a Fixed Interest Rate or a Floating Interest Rate, the Borrower shall be deemed to agree in advance to the one subsequently specified by the CEB in the Disbursement Notice.

A Disbursement Notice matching the elements included in a Disbursement Request shall constitute irrevocable and unconditional commitment on the part of the Borrower to borrow from the CEB and on the part of the CEB to disburse to the Borrower the Tranche under the terms and conditions specified in the Disbursement Notice.

Notwithstanding the above, if the CEB has not delivered a Disbursement Notice within 20 Business Days following the receipt of a Disbursement Request, the relevant Disbursement Request shall be void and cancelled.

#### **Disbursement Period**

Notwithstanding otherwise agreed in writing by the CEB, the Borrower shall not be entitled to:

- (i) the issue of a Disbursement Request for the first Tranche beyond twelve (12) months after the Effective Date;
- (ii) the issue of any further Disbursement Request beyond eighteen (18) months after the last disbursement; or
- (iii) the issue of any further Disbursement Request beyond the Closing Date specified under Appendix 1 hereto.

#### **Disbursement Conditions**

(a) Conditions precedent to the Disbursement Request for the first Tranche:

- (i) Legal opinion in English issued by the Ministry of Justice confirming to the CEB's satisfaction, substantially in the form set out under Appendix 2 hereto, that the Agreement has been duly executed by authorised representatives of the Borrower and that the Agreement is valid, binding and enforceable in accordance with its terms in the Borrower's jurisdiction;
- (ii) Evidence in English (e.g., Statute, By-laws, Board Resolution, Power of Attorney, etc.) to the CEB's satisfaction of the person(s) authorised to execute the Agreement and the Disbursement Requests on behalf of the Borrower, together with the authenticated specimen of the signature(s) of such person(s).

(b) Conditions precedent to any further Disbursement Request:

- (i) In the event there has been a change regarding the person(s) authorised to execute Disbursement Requests on behalf of the Borrower, the Borrower shall provide CEB with updated evidence of the person(s) authorised to execute the corresponding Disbursement Requests on behalf of the Borrower, together with the authenticated specimen of the signature(s) of such person(s);
- (ii) Progress Report confirming to the CEB's satisfaction full Allocation of the previous Tranche.

#### **Repayment**

On the Principal Repayment Date, the Borrower shall repay the principal of each Tranche due on that date. Repayment Date in accordance with the terms set forth in the applicable Disbursement

## 4. Early Reimbursement

### (a) Mechanics

In any event specified in this Agreement referring to this Sub-clause the Borrower ought to reimburse prior to maturity all or part of a Tranche, the Borrower shall give at least a one (1) month prior written notice to the CEB (hereinafter, the **"Early Reimbursement Notice"**) specifying the amounts to be reimbursed, the date on which the reimbursement will take place (hereinafter, the **"Early Reimbursement Date"**) and, upon prior consultation with the CEB, the maximum Early Reimbursement Costs. The Early Reimbursement Date shall fall on an Interest Payment Date, unless otherwise agreed in writing by the CEB.

Upon receipt of the Early Reimbursement Notice, the CEB shall send a written notice to the Borrower (hereinafter, the **"Early Reimbursement Confirmation"**), not later than five (5) Business Days prior to the Early Reimbursement Date, indicating the accrued interest due thereon and the Early Reimbursement Costs in accordance with Sub-clause 4.7(b).

An Early Reimbursement Confirmation matching the elements included in an Early Reimbursement Notice shall constitute an irrevocable and unconditional commitment on the part of the Borrower to reimburse the relevant amounts to the CEB under the terms and conditions specified in the Early Reimbursement Confirmation.

If the Borrower partially reimburses a Tranche, the reimbursed amount shall be applied pro rata to each outstanding principal repayment. In such an event, the Early Reimbursement Confirmation shall accordingly include an adjusted repayment schedule which shall be binding on the Borrower.

### (b) Early Reimbursement Costs

The Early Reimbursement Costs resulting from early reimbursement in accordance with Sub-clause 4.7(a) shall be determined by the CEB on the basis of the costs to it of redeploying the amount to be reimbursed from the Early Reimbursement Date to the Maturity Date, including any related costs, such as unwinding any underlying hedging arrangements. The costs of redeployment will be established on the basis of the difference between the original rate and the redeployment rate, and shall be determined by the CEB on the basis of market conditions on the date of the Early Reimbursement Notice.

## 5. Interest Determination

The Borrower shall pay interest on the principal of each Tranche from time to time outstanding during each Interest Period at the Fixed Interest Rate/Floating Interest Rate specified in the applicable Disbursement Notice. The interest rate for each Tranche will be subsidised on an aggregate amount of up to one million (1,000,000) Euros for the entire Loan to be withdrawn from the Social Dividend Account.

Interest shall (i) accrue from and including the first day of the Interest Period to but excluding the last day of such Interest Period; and (ii) be due and payable on the Interest Payment Dates specified in the applicable Disbursement Notice. Interest shall be calculated on the basis of the Day Count convention specified in the relevant Disbursement Notice.

In the case of Floating Interest Rate Tranches, the CEB shall determine on each Interest Determination Date the interest rate applicable during the relevant Interest Period in accordance with the Agreement and promptly give notice thereof to the Borrower. Each determination by the CEB shall be final, conclusive and binding upon the Borrower unless shown by the Borrower to the satisfaction of the CEB that any such determination has involved manifest error.

## 6. Default Interest Rate

In the event that the Borrower fails to pay, in full or in part, any amount under the Agreement, and

Borrower shall pay interest on such unpaid amounts from the due date until the date of receipt of payment by the CEB at the interest rate *per annum* equal to the one-month EURIBOR quoted on the due date plus two hundred and fifty basis points (250 bps) (hereinafter, the "Default Interest Rate").

The applicable Default Interest Rate shall be updated every thirty (30) calendar days.

#### (3) Market Disruption Event

The CEB shall promptly, upon becoming aware of it, notify to the Borrower that a Market Disruption Event has occurred.

For the purposes of the Agreement, "Market Disruption Event" refers to the following circumstances:

- (a) The Reuters page referred to under the EURIBOR definition does not indicate the required details or is not accessible.

Under such a Market Disruption Event, the applicable EURIBOR shall be the percentage rate *per annum* determined by the CEB to be the arithmetic mean of the rates at which loans in Euro, in an amount identical or nearest comparable to the Loan amount in question and for a period identical or nearest comparable to the relative Interest Period, are offered on the Interest Determination Date by three (3) leading banks in the EU interbank market selected by the CEB. If at least two (2) quotations are provided, the applicable EURIBOR for that Interest Determination Date shall be the arithmetic mean of all quotations provided.

If only one (1) or no quotation is provided, the applicable EURIBOR shall be the percentage rate *per annum* determined by the CEB to be the arithmetic mean of the rates at which loans in Euro in an amount identical or nearest comparable to the Loan amount in question and for a period identical or nearest comparable to the relative Interest Period, are offered on the second Business Day after the beginning of the relevant Interest Period by major banks in the EU interbank market selected by the CEB.

- (b) The CEB determines that it is not possible to determine the applicable Reference Rate in accordance with paragraph (a) above.

Under such a Market Disruption Event, the applicable Floating Interest Rate shall be replaced by the rate that expresses as a percentage rate *per annum* the cost to the CEB of funding the loan from whatever source the CEB may reasonably select.

- (c) At any time between the delivery of a Disbursement Notice and the Disbursement Date the CEB reasonably determines that there are exceptional and unexpected circumstances of an economic, financial, political or other external nature adversely affecting the CEB's access to its sources of funding.

Under such a Market Disruption Event, the CEB shall be entitled to cancel at no cost the scheduled disbursement.

In the case of the Market Disruption Events set forth under items (a) and (b) above:

- (i) If the Borrower so requires, the Parties, acting in good faith, shall enter into negotiations for a period of not more than thirty (30) calendar days in order to agree on an alternative to the applicable EURIBOR. If no agreement is reached, the Borrower may proceed with early reimbursement on the next Interest Payment Date in the terms provided under Sub-clause 4.7.

- (ii) The CEB shall have the right, acting in good faith and in consultation with the Borrower to the extent reasonably practicable, to change the duration of any subsequent Interest Period (the "Interest Period") which is no less than the period to the Borrower, notice thereof



Any ~~such~~ change to an Interest Period shall take effect on the date specified by the CEB in such notice.

If the CEB determines that the relevant Market Disruption Event no longer exists, then, subject to any Market Disruption Event occurring or existing, the Floating Interest Rate and/or Interest Period applicable to any relevant Tranche shall revert, from the first day of the following Interest Period, to being calculated in accordance with the Floating Interest Rate and Interest Period specified in the Disbursement Notice.

#### 4. Payments

Amounts due by the Borrower under this Agreement are payable in the Currency of each Tranche to the CEB's account indicated in the applicable Disbursement Notice. Any payment under this Agreement shall be made on a Business Day subject to the Modified Following Business Day rule. Any payment shall be deemed paid when the CEB has received the amount on its account.

The Borrower or the bank instructed by the Borrower, as the case may be, shall send a written payment notice to the CEB at least five (5) Business Days before payment of any amounts due under this Agreement.

#### PROJECT IMPLEMENTATION

The Borrower shall implement the Project in accordance with the Agreement.

The Borrower designates the Ministry of Health, Labour and Social Protection as the PIE.

Throughout the term of the Agreement, the Borrower remains solely liable to comply with its obligations under the Agreement.

The Borrower shall comply with the Project Implementation undertakings set forth hereby under Clause 5 of the Agreement. ~~Notwithstanding~~ **Notwithstanding** ~~that~~ **that**, irrespective of any other applicable provision of the Loan Regulations, an event in the circumstances of Article 3.3 (h) of the Loan Regulations and may give rise to (i) the relevant contract being declared ineligible for Allocation under the Project; and/or (ii) the early reimbursement, cancellation or ~~acceleration~~ **acceleration** of the Loan, in whole or in part, under the terms of Articles 3.3 (Early Reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Acceleration by the Bank of undisbursed loans) of the Loan Regulations.

#### 5. Duty of Care

The Borrower shall apply all care and diligence, and shall exercise all typically used means (including, but not limited to, legal, financial, managerial and technical) required for the proper implementation of the Project.

#### 6. Allocation Period

The Borrower shall allocate each Tranche to the Project within twelve (12) months after the relevant Disbursement Date (the "Allocation Period").

If a Tranche disbursed by the CEB is not allocated to the Project or is only partially allocated to it during the Allocation Period, the Borrower shall reimburse the unallocated amounts to the CEB in accordance with Sub-clause 4.7.

#### 7. Project Costs

Tranches disbursed under the Loan shall not exceed eighty two percent (82%) of the total eligible costs of the Project. If the Tranches disbursed under the Loan exceed the above eighty two percent (or the reduction of the total eligible costs or otherwise), the Borrower shall reimburse the surplus to the CEB in accordance with Sub-clause 4.7.

if the total eligible costs of the Project increase or be revised for whatever reason, the Borrower shall ensure that the additional financial resources for the completion of the Project are available and recourse to the CEB. The plans to finance the increased costs shall be communicated to the CEB without delay.

#### **Project Specific Undertakings**

The Borrower shall ensure that:

- (i) all the land, real property rights and permits required for the implementation of the Project are timely available;
- (ii) all assets under the Project are permanently insured and maintained in accordance with international best practices; and
- (iii) any other requirement specified in Appendix 1 ("Specific Conditions") hereto is complied with.

#### **Procurement**

Procurement of supplies, works and services to be financed under the Project shall comply with the Procurement Guidelines.

Thresholds above which the Borrower shall be required to obtain supplies, works and services through international procurement procedures are the ones applicable under the relevant EU Procurement Directives, as updated from time to time and published in the Official Journal of the European Union (OJEU).

For the purposes of the Agreement:

"EU Procurement Directives" refers to (i) Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004, coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors; and/or (ii) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004, on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as amended from time to time.

A Procurement Plan (as such term is defined under the Procurement Guidelines) (and any update thereof) indicating the procurement methods for each contract shall be submitted to the CEB for approval. Upon receipt, the CEB will inform the Borrower of the scope of review that CEB will carry out for each contract.

#### **Environmental and Social Safeguards**

The Borrower shall implement the Project in conformity with the requirements set forth in the Environmental and Social Safeguards Policy.

#### **Human Rights**

The Borrower shall ensure that the implementation of the Project will not give rise to a violation of (i) the European Convention on Human Rights; or (ii) the European Social Charter.

#### **Integrity**

The Borrower undertakes that it will not commit, and no person, with its consent or prior knowledge, shall commit in connection with the implementation of the Project or the execution of any contract under the Project a Corrupt, Fraudulent, Coercive or Collusive Practice (hereinafter, jointly referred to as the "Prohibited Practices").

For the purposes of this Agreement:



- (i) A **"Corrupt Practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
- (ii) A **"Fraudulent Practice"** means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit, or to avoid an obligation.
- (iii) A **"Coercive Practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
- (iv) A **"Collusive Practice"** is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

The Borrower undertakes to inform CEB if it should become aware of any fact or information suggestive of the commission of any such Prohibited Practice. For this purpose, the knowledge of any member of the PIE shall be deemed the knowledge of the Borrower.

The Borrower undertakes:

- (i) to take timely such action as the CEB may reasonably request to investigate and/or terminate any alleged or suspected Prohibited Practice;
- (ii) to inform the CEB of the measures taken to seek damages from the persons responsible for any loss resulting from any such Prohibited Practice; and
- (iii) to facilitate any investigation that the CEB may make concerning any such act.

The Minister of Health, Labour and Social Protection shall be responsible for contacts with the CEB for the purposes of this Sub-clause.

### 5.3 Visibility

The Borrower, through the PIE, shall inform the Final Beneficiaries that the Project is partly financed by the CEB through appropriate means of communication such as dedicated notices in relevant websites, press releases, brochures or the exhibit of billboards/plates/stickers on relevant Project sites/facilities/equipment. In any case, information given to the Final Beneficiaries shall display in an appropriate way the CEB's name and logo.

## 6. MONITORING

### 6.1 Reporting

#### (a) Progress Reports

The Borrower, through the PIE, shall send to the CEB a progress report (hereinafter, a **"Progress Report"**) (i) every six months until the completion of the Project; and (ii) prior to every Disbursement Request.

Appendix 4 hereto provides a template specifying the minimum information required by the CEB. Alternative formats containing the same information may also be used.

#### (b) Completion Report

Upon completion of the Project, the Borrower, through the PIE, shall submit a completion report (hereinafter, a **"Completion Report"**). The Progress Report template shall be used for the Completion Report. Alternative formats containing the same information may also be used.

## Visits

The Borrower undertakes to favourably receive any monitoring/technical/evaluation visits, including on-site access to relevant Project sites/contractors, carried out by the CEB's staff members or third parties.

## Audit

If the Borrower fail to comply with any of its undertakings under the Agreement, the Borrower is to favourably receive any on-site audit, carried out by the CEB's staff members or third parties, which shall be at the Borrower's expense.

## Project Information

The Borrower, through the PIE, shall keep accounting records concerning the Project, which shall be in conformity with international standards, showing, at any point in time, the Project's state of affairs and which shall record all operations made and identify the assets and services partially covered with the Loan.

The Borrower, through the PIE, shall deliver to the CEB in a timely manner any information or documents concerning the financing or the implementation (including in particular environmental and social issues) of the Project as the CEB may reasonably require.

The Borrower, through the Ministry of Finance, shall inform the CEB immediately of any event that may have a material adverse impact on the implementation of the Project, including but not limited

any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or any material litigation that is commenced or threatened against it with regard to procurement or environmental or other matters affecting the project; and

any enactment of or any amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation).

that may have a material adverse impact on the implementation of the Project would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (Early reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

## Borrower Information

The Borrower shall deliver any such information on its general financial situation as the CEB may reasonably require from time to time.

The Borrower, through the Ministry of Finance, shall inform the CEB immediately of any Material Adverse Change. Any Material Adverse Change would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (Early reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

## Gross Default

that, following any default in relation thereto, the Borrower is required or is capable of repaying or will, following expiry of any applicable contractual grace period, be required or be able or be required to prepay, repay or terminate ahead of maturity any Debt Instrument or that attention connection with a Debt Instrument is cancelled or suspended, would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (Early reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

cancellation or early reimbursement of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

## **PAR PASSU**

Failure to comply with the provisions set forth hereby under Clause 7 would constitute an event in terms of Article 3.3(h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

### **1. Ranking**

The Borrower shall ensure that its payment obligations under this Agreement rank, and will rank, not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under its Debt Instruments.

In particular, the Borrower shall not make (or authorise) any payment in respect of any other such Debt Instrument (whether regularly scheduled or otherwise) if:

- (i) the CEB makes a demand of early reimbursement under Article 3.3 of the Loan Regulations; or
- (ii) an event or potential event of default under any unsecured and unsubordinated Debt Instrument of the Borrower or any of its agencies or instrumentalities has occurred and is continuing.

Notwithstanding, payment in respect of such Debt Instrument is possible if the Borrower:

- (i) simultaneously pays; or
- (ii) sets aside in a designated account for payment on the next Interest Payment Date

an amount equal to the same proportion of the principal outstanding under this Agreement as the proportion that the payment under such Debt Instrument bears to the total debt outstanding under the Debt Instrument.

For this purpose, any payment of a Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the Debt Instrument have subscribed, shall be disregarded.

### **2. Security**

In order for a Security be granted for the performance of any Borrower's Debt Instrument, the Borrower shall inform the CEB of its intentions and shall, if so required by the CEB, provide to the CEB, by the deadline set forth in CEB's notice, identical or equivalent Security for the performance of its obligations under this Agreement.

This provision shall not apply to a Security:

- (i) created on property at the time of purchase solely as security for the payment of the purchase price or for the payment of debt incurred for the purpose of financing the purchase of such property;
- (ii) securing a Debt Instrument maturing not more than one (1) year after the date on which it is originally incurred; or
- (iii) previously approved by the CEB.

### 7.3 Clause by Inclusion

Should any Borrower's Debt Instrument include clauses regarding *pari passu* that are stricter than any equivalent provision of this Agreement, the Borrower shall so inform the CEB and shall, at the request of the CEB by means of a written notice, execute within the period indicated in the CEB's notice, an amendment to this Agreement to provide an equivalent provision in favour of the CEB.

### 7.4 Prepayment to Third Parties

Should the Borrower prepay in whole or in part, voluntarily or otherwise, any Debt Instrument, the Borrower shall so inform the CEB.

In such an event, and upon CEB's request, the Borrower shall reimburse to the CEB the amounts disbursed under the Loan in accordance with Sub-clause 4.7 in such proportion as the prepaid amount bears to the corresponding Debt Instrument. The aforementioned does not concern prepayments to revolving credit facilities which remain open for drawing on the same terms after such prepayment.

For the purposes of the Agreement, "**Prepayment**" means a repayment in advance of maturity.

## B. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

- (a) its competent bodies have authorised it to enter into the Agreement and have given the signatory(ies) the authorisation therefor, in accordance with the laws, decrees, regulations, articles of association and other texts applicable to it;
- (b) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Agreement do not:
  - (i) contravene or conflict with any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject;
  - (ii) contravene or conflict with any agreement or other Debt Instrument binding upon it which might reasonably be expected to give rise to a Material Adverse Change;
- (c) no event or circumstance is outstanding that constitutes a default under any other agreement or Debt Instrument, which is binding on it or to which its assets are subject, which might reasonably be expected to give rise to a Material Adverse Change;
- (d) no Security has been granted to a third party in breach of Sub-clause 7.2;
- (e) no litigation, arbitration or administrative proceedings of or before any court, arbitral tribunal or agency which might reasonably be expected to give rise to a Material Adverse Change have (to the best of its knowledge and belief) been started or threatened against it;
- (f) it has received a copy of the Loan Regulations, the Loan Policy, the Environmental and Social Safeguards Policy and the Procurement Guidelines and has taken note thereof.

The above representations and warranties are deemed repeated on the date of signature of each Disbursement Request. Any change in relation to the above representations and warranties must, for the entire Loan period, be notified and any supporting documents provided to the CEB immediately.

If any of the above representations and warranties is or proves to have been incorrect or misleading in any respect, this would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the suspension, cancellation or early reimbursement of the Loan under the terms of Articles 3.3 (Early reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undrawn loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

### 9. THIRD PARTIES

The Borrower may not raise any fact relating, within the scope of the use of the Loan, to its relations with **third** parties in order to avoid fulfilling, either totally or partially, the obligations resulting from the Agreement.

The **CEB** may not be involved in disputes which might arise between the Borrower and third parties and **the** costs, whatever their nature, incurred by the CEB due to any claims, and in particular all legal or court costs, shall be at the expense of the Borrower.

### 10. NON-WAIVER

In no **case**, including delay or partial exercise, shall it be presumed that the CEB has tacitly waived any right granted to it by the Agreement.

### 11. ASSIGNMENT

The Borrower may not assign or transfer any of its rights or obligations under the Agreement without the prior **written** consent of the CEB.

The CEB **may** assign all or part of its rights and benefits or transfer all or part of its rights, benefits and obligations under the Agreement.

### 12. GOVERNING LAW

The Agreement shall be governed by the rules of the CEB as specified in the provisions of Article 1, paragraph 3, of the Third Protocol (dated 6 March 1959) to the General Agreement on Privileges and Immunities of the Council of Europe (dated 2 September 1949) and, secondarily, if necessary, by French law.

### 13. DISPUTES

Disputes **between** the parties to the Agreement shall be subject to arbitration under the conditions laid down **in** Chapter 4 of the Loan Regulations.

The Parties agree not to take advantage of any privilege, immunity or legislation before any jurisdictional or other authority, whether domestic or international, in order to object to the enforcement of an award handed down under the conditions laid down in Chapter 4 of the Loan Regulations.

In any legal action arising from this Agreement, the CEB's certificate as to any amount due or interest rate applicable under the Agreement shall, in the absence of manifest error, be prima facie evidence of such amount or interest rate.

### 14. NOTICES

Any notice or other communication to be given or made under this Agreement to the CEB or the Borrower **shall** be in writing and shall be deemed to have been duly given or made when it is delivered **by** registered mail or facsimile by one Party to the other Party's address or fax number specified **below**:



For the Borrower:

Ministry of Finance

No. 7 Constantin Tanase Street

Chisinau, Republic of Moldova, MD 2005

Attention: the Minister of Finance

Fax: +373 22 22 53 93

For the CEB:

Council of Europe Development Bank

85 Avenue Kléber

75006 Paris

France

Attention: Director, Projects Department

Fax: +33 1 47 55 37 52

All notices or other communications to be given or made under the Agreement shall be in English or French or, if in another language, shall be accompanied by an English or French certified translation thereof when so required by the CEB.

Without affecting the validity of any notice delivered by facsimile according to the paragraphs above, a copy of each notice delivered by facsimile shall also be sent by registered letter to the relevant Party on the following Business Day at the latest.

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

## 15. TAXES AND EXPENSES

The Borrower shall pay, to the extent applicable, all taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, arising out of the execution, registration or implementation of the Agreement or any related document as well as of the creation, perfection, registration or enforcement of any Security required under the Agreement.

The Borrower shall bear all charges and expenses (including legal, professional, banking or exchange costs) incurred in connection with (i) the preparation, execution, perfection, implementation and termination of this Agreement or any related document; (ii) any amendment, supplement or waiver in respect of this Agreement or any related document; and (iii) the preparation, execution, perfection, management and enforcement of any Security required under the Loan.

Notwithstanding the above, Article 4.7 (*Cost of arbitration*) of the Loan Regulations shall apply regarding the costs of the arbitration set forth under Clause 13.



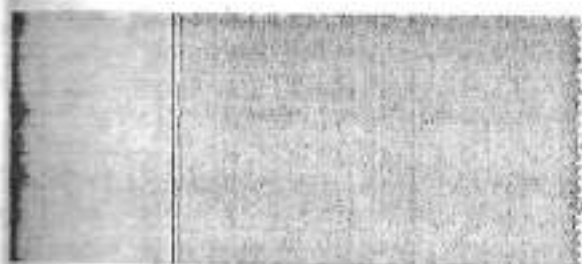
### 13. DISCHARGE

After repayment of all outstanding principal under the Loan as well as payment of all interests and expenses resulting from the Agreement, including in particular those amounts under Sub-clause 4.9 and Clause 15, the Borrower shall be fully released from its obligations towards the CEB, with the exception of those set out in Clause 6 above for the purposes of a possible evaluation of the Project, which shall not take place later than four (4) years following the repayment of all outstanding principal under the Loan.

### 14. ENTRY INTO FORCE

Once duly executed by the Parties hereto, the Agreement shall enter into force on the date on which the CEB receives a notification confirming the completion by the Republic of Moldova of the internal procedures necessary for its entry into force. The CEB shall inform the Government of the Republic of Moldova of the date of the receipt of such notification.

IN WITNESS THEREOF the Parties have caused the Agreement to be executed in two (2) originals, each of which is equally valid. One (1) original is kept by each of the Parties.



Done on 12 July 2018

For the Borrower

For the CEB

Rosa María Sánchez-Yebra Alonso  
Vice Governor