

**CONFORMED COPY**

---

---

**LOAN NUMBER 4874 KZ**

# **Loan Agreement**

**(Customs Development Project)**

**between**

**REPUBLIC OF KAZAKHSTAN**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**Dated February 2, 2008**

---

---

**LOAN NUMBER 4874 KZ**

**LOAN AGREEMENT**

Agreement dated February 2, 2008, between REPUBLIC OF KAZAKHSTAN (“Borrower”) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (“Bank”). The Borrower and the Bank hereby agree as follows:

**ARTICLE I - GENERAL CONDITIONS; DEFINITIONS**

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

**ARTICLE II - LOAN**

- 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of eighteen million five hundred thousand Dollars (\$18,500,000) (“Loan”), to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Borrower may withdraw the proceeds of the Loan in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Front-end Fee payable by the Borrower shall be equal to one quarter of one percent (0.25%) of the Loan amount. The Borrower shall pay the Front-end Fee not later than 60 (sixty) days after the Effective Date.
- 2.04. The interest payable by the Borrower for each Interest Period shall be at a rate equal to LIBOR for the Loan Currency plus the Variable Spread. Notwithstanding the foregoing, if any amount of the withdrawn Loan Balance remains unpaid when due, and such non payment continues for a period of thirty (30) days, then the interest paid by the Borrower shall instead be calculated as provided in Section 3.02 (d) of the General Conditions.
- 2.05. The Payment Dates are January 15 and July 15 in each year.
- 2.06. The principal amount of the Loan shall be repaid in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

**ARTICLE III - PROJECT**

- 3.01. The Borrower declares its commitment to the objectives of the Project. To this end, the Borrower shall carry out the Project through the CCC in accordance with the provisions of Article V of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

**ARTICLE IV - EFFECTIVENESS; TERMINATION**

- 4.01. The Additional Conditions of Effectiveness consist of the following:
  - (a) The PSC, with a composition, resources and terms of reference satisfactory to the Bank, has been established by the Borrower.
  - (b) The Operational Manual, satisfactory to the Bank, has been adopted by the Borrower.
- 4.02. The Effectiveness Deadline is the date one hundred eighty (180) days after the date of this Agreement.

**ARTICLE V - REPRESENTATIVE; ADDRESSES**

- 5.01. The Borrower's Representative is the Minister of Finance.
- 5.02. The Borrower's Address is:

Ministry of Finance  
11 Pobedy Street  
Astana 010000  
Republic of Kazakhstan

Telex:	Facsimile:
265126 (FILIN)	(7) (3172) 717785

5.03. The Bank's Address is:

International Bank for Reconstruction  
and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423(MCI) or 64145(MCI)	1-202-477-6391

AGREED at Astana, Republic of Kazakhstan, as of the day and year first above written.

REPUBLIC OF KAZAKHSTAN

By: /s/ Bolat Zhamishev  
Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By: /s/ Shigeo Katsu  
Authorized Representative

## **SCHEDULE 1**

### **Project Description**

The objective of the Project is to increase the efficiency, effectiveness, and accountability of the CCC in order to: (i) promote internationally acceptable practices for expeditious processing of international trade flows, so as to further integrate the country into the world economy and improve the investment climate and competitiveness; (ii) improve taxpayer compliance with the Customs Code and thereby increase revenue collection; and (iii) support transparency of customs operations to reduce the potential for corruption and increase predictability for traders.

The Project consists of the following parts:

#### **Part I: Institutional Development, Governance, and Human Resource Management**

Provision of technical assistance, goods, and training to: (a) review the organizational structure of the CCC; (b) review the strategic planning methodology of the CCC to assist the establishment of a strategic planning unit; (c) develop service standards, review organizational performance, establish a modern management information system including the development of an online management center and executive support system; (d) review, redesign, develop, and implement a national integrity development plan within an effective anticorruption framework; (e) develop and implement a human resource management strategy, including implementation of a merit-based human resource management system; (f) develop a comprehensive training strategy and curriculum; (g) prepare a comprehensive change management and continuous improvement strategy; and (h) implement a cost-based financial management framework to monitor the cost of customs services, and enhance current financial management processes and procedures relative to international best practice.

#### **Part II: Customs Operations**

Provision of technical assistance, goods, and training to: (a) analyze legislation impacting the movements of vehicles and goods, to align current laws with major international instruments and best practices and prepare legislative amendments to support new systems and procedures; (b) analyze and introduce legislation and regulations to improve coordination between customs and other departments involved in international trade, establish a special unit staffed with tariff, legal and systems-design specialists to build and maintain an integrated tariff system, and develop e-document systems software; (c) support in implementation of a new cargo control and declaration processing regime; (d) strengthen the back-end functions of post-clearance verification and audit; (e) strengthen law enforcement and border control functions by training, procurement of equipment, capacity building in intelligence, investigations and anti-smuggling, and improvement of information exchange; and (f) develop a comprehensive control and enforcement strategy.

Part III: Information and Communication Technology

Provision of technical assistance, goods and training to: (a) strengthen the organizational capacity of the CCC to plan and manage information and communication technology (ICT) systems, and implement a strategy to recruit and retain information technology staff; (b) develop and enhance an integrated ICT systems; and (c) strengthen the archiving, data warehousing, and security capacity of the CCC.

Part IV: Program Management

Provision of goods, training and operating costs of the CCC to support Project coordination, implementation and management.

## **SCHEDULE 2**

### **Project Execution**

#### **Section I. Implementation Arrangements**

##### **A. Institutional Arrangements**

The Borrower shall carry out the Project in accordance with the following institutional and other arrangements:

1. The Borrower, through the CCC, shall carry out the Project in accordance with the requirements, criteria, organizational arrangements and operational procedures set forth in the Operational Manual and shall not assign, amend, abrogate or waive any provisions of the Operational Manual without prior approval of the Bank.
2. The PSC shall have overall responsibility for Project oversight, policy guidance as well as interagency coordination in accordance with the requirements, criteria, organizational arrangements and operational procedures set forth in the Operational Manual.
3. At all times during the implementation of the Project, the Borrower shall maintain the PSC with a composition, resources, and terms of reference satisfactory to the Bank.
4. The Borrower shall ensure that, until the completion of the Project, the CCC at all times functions in a manner, and with staff, consultants, facilities, and other resources necessary for the management and implementation of the Project, all satisfactory to the Bank, including an appropriate organizational structure for the implementation, financial management and procurement under the Project.
5. The total Project costs shall be financed at thirty percent (30%) from the Loan and seventy percent (70%) from the Borrower's own contribution. In order to ensure that appropriate funds are available to cover the Borrower's contribution to the Project, the Borrower shall make the appropriate annual budget allocations to the CCC.

##### **B. Midterm Review**

1. On or about June 30, 2010, the Borrower, through the MoF and the CCC, shall carry out jointly with the Bank, a midterm review of the progress made in carrying out the Project (hereinafter referred to as the Midterm Review). The Midterm Review shall cover, amongst other things:

- (a) progress made in meeting the Project's objectives; and
- (b) overall Project performance against Project performance indicators.

2. The Borrower, through the CCC, shall prepare at least four (4) weeks prior to the Midterm Review, and furnish to the Bank, a separate report describing the status of implementation of each component of the Project and a summary report of Project implementation generally.

## **Section II. Project Monitoring Reporting and Evaluation**

### **A. Project Reports**

1. The Borrower shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions and on the basis of the indicators agreed with the Bank. Each Project Report shall cover the period of one calendar quarter, and shall be furnished to the Bank not later than forty five (45) days after the end of the period covered by such report.

2. For purposes of Section 5.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Bank not later than six (6) months after the Project Closing Date.

### **B. Financial Management, Financial Reports and Audits**

1. The Borrower shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09 of the General Conditions.

2. Without limitation on the provisions of Part A of this Section, the Borrower shall prepare and furnish to the Bank not later than forty five (45) days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Bank.

3. The Borrower shall have its Financial Statements audited in accordance with the provisions of Section 5.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Borrower. The audited Financial Statements for each such period shall be furnished to the Bank not later than six (6) months after the end of such period.



### **Section III. Procurement**

#### **A. General**

1. **Goods.** All goods required for the Project shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.
2. **Consultants' Services.** All consultants' services required for the Project shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines and with the provisions of this Section.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Bank of particular contracts refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

#### **B. Particular Methods of Procurement of Goods**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods shall be procured under contracts awarded on the basis of International Competitive Bidding in accordance with the requirements set forth or referred to in Section II of the Procurement Guidelines.
2. **Other Methods of Procurement of Goods.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>	
(a)	National Competitive Bidding, subject to additional provisions set forth in the Attachment to this Schedule 2
(b)	Shopping

#### **C. Particular Methods of Procurement of Consultants' Services**

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. **Other Methods of Procurement of Consultants' Services.** The following table specifies the methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>	
(a)	Selection based on Consultants' Qualifications
(b)	Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the Selection of Individual Consultants

**D. Review by the Bank of Procurement Decisions**

The Procurement Plan shall set forth those contracts which shall be subject to the Bank's Prior Review. All other contracts shall be subject to Post Review by the Bank.

**Section IV. Withdrawal of Loan Proceeds**

**A. General**

1. The Borrower may withdraw the proceeds of the Loan in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Bank shall specify by notice to the Borrower (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Bank and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Loan ("Category"), the allocation of the amounts of the Loan to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category.

<b>Category</b>	<b>Amount of the Loan Allocated (expressed in USD)</b>	<b>Percentage of Expenditures to be financed</b>
(1) Goods	12,150,000	32%
(2) Consultants' Services and Training	6,350,000	33%
TOTAL AMOUNT	<u>18,500,000</u>	

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:
  - (a) from the Loan Account until the Bank has received payment in full of the Front-End Fee; and
  - (b) for payments made prior to the date of this Agreement.
2. The Closing Date is December 31, 2012.

**Attachment to  
SCHEDULE 2**

National Competitive Bidding procedures of the Borrower may be used for procurement of works under the Project provided that the following provisions are complied with:

A. Participation by Government-owned enterprises

Government-owned enterprises on the territory of the Borrower shall be eligible to participate in bidding only if they can establish that they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the contracting authority. Furthermore, they will be subject to the same bid and performance security requirements as other bidders.

B. Bidding Documents

Procuring entities shall use the appropriate standard bidding documents for the procurement of goods acceptable to the Bank.

C. Bid Opening and Bid Evaluation

- (a) bids shall be opened in public, immediately after the deadline for submission of bids;
- (b) evaluation of bids shall be made in strict adherence to the monetarily quantifiable criteria declared in the bidding documents;
- (c) domestic preference should not be applied; and
- (d) contracts shall be awarded to qualified bidder having submitted the lowest evaluated substantially responsive bid and no negotiation shall take place.

D. Price Adjustment

Civil works contracts of long duration (for example, more than eighteen (18) months) shall contain an appropriate price adjustment clause.

E. Cancellation of the Bidding Process

Non-recognition of a tender and soliciting new bids can be done only with the prior concurrence of the Bank.

F. Rejection of an Individual Bid

An individual bid shall be rejected only in the following cases:

- (a) the bidder is not qualified;
- (b) the bidder does not accept the correction of an arithmetical error in his bid by the Tender Commission of the procuring entity; and
- (c) the bidder is not responsive to the requirements of the bidding documents.

**SCHEDULE 3****Amortization Schedule**

<u>Principal Payment Date</u>	<u>Principal Amount of the Loan Payable (Expressed in Dollars)</u>
On each January 15 and July 15 beginning July 15, 2013 through January 15, 2023	925,000

**APPENDIX****Section I. Definitions**

1. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
2. “CCC” means the Customs Control Committee of the Ministry of Finance of the Republic of Kazakhstan, reporting to the Minister of Finance of the Borrower.
3. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004.
4. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005 with the modifications set forth in Section II of this Appendix.
5. “MoF” means the Ministry of Finance of the Borrower or any successor or successors thereto.
6. “Operating Costs” means incremental operating costs incurred by the CCC on account of Project implementation, management and monitoring, including staff salaries and consultancy costs, training, conferences, study tours and seminars, dissemination of Project related information, office rent and utilities, office and equipment insurance, maintenance and repair, vehicle maintenance and repair, travel, security, communication, bank charges, and other miscellaneous costs directly associated with the Project, all based on periodic budgets acceptable to the Bank.
7. “Operational Manual” means the Project operational manual satisfactory to the Bank and to be adopted by the Borrower pursuant to Section 4.01 (b) of this Agreement, describing procedures for implementation of the Project, consistent with the provisions of this Agreement and with the national laws and regulations of the Borrower and including, *inter alia*: (i) procedures governing administrative, procurement, accounting, financial management, and monitoring and evaluation arrangements; and (ii) sample formats for annual reports; as the same may be amended from time to time with the agreement of the Bank.
8. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004.
9. “Procurement Plan” means the Borrower’s procurement plan for the Project, dated September, 2007, and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

10. “PSC” means the Project Steering Committee, established by the Borrower pursuant to Section 4.01 (a) of this Agreement, responsible for Project oversight, policy guidance and interagency coordination, which shall meet at least twice per year, and is chaired by the Minister of Finance of the Borrower or his delegated representative, and includes: (i) the Chairman of the CCC or his authorized representative; (ii) a representative of the Ministry of Economy and Budget Planning of the Borrower; (iii) representatives of government authorities responsible for exercising control functions on the state border; and (v) representatives of foreign trade participants, such as customs brokers.
11. “Training” means Project related study tours, training courses, seminars, workshops and other training activities, not included under goods or service providers’ contracts, including costs of training materials, space and equipment rental, travel, per diem costs of trainees and trainers and trainers’ fees.

## **Section II. Modifications to the General Conditions**

The modifications to the General Conditions are as follows:

1. Section 3.01 shall read as follows:

“Section 3.01. *Front-end Fee.* The Borrower shall pay the Bank a front-end fee on the Loan amount at the rate specified in the Loan Agreement (the “Front-end Fee”).”

2. A new paragraph (d) is included in Section 3.02 *Interest* which shall read as follows:

“(d) Notwithstanding the provisions of paragraph (a) of this Section, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the Borrower shall pay the Default Interest Rate on such overdue amount in lieu of the interest rate specified in the Loan Agreement (or such other interest rate as may be applicable pursuant to Article IV as a result of a Conversion) until such overdue amount is fully paid. Interest at the Default Interest Rate shall accrue from the first day of each Default Interest Period and shall be payable semi-annually in arrears on each Payment Date.”

3. Appendix “Definitions” is amended as follows:

(a) Paragraph 19 “Commitment Charge” is deleted, and subsequent paragraphs are re-numbered accordingly.



(b) New paragraphs 27, 28, 29 and 30 are added to the Appendix:

“27. “Default Interest Period” means for any overdue amount of the Withdrawn Loan Balance, each Interest Period during which such overdue amount remains unpaid; provided, however, that the first such Default Interest Period shall commence on the 31<sup>st</sup> day following the date on which such amount becomes overdue, and the final such Default Interest Period shall end on the date at which such amount is fully paid.”

28. “Default Interest Rate” means for any Default Interest Period:

- (a) in the case of a Variable Spread Loan: Default LIBOR plus the Variable Spread plus one half of one percent (0.5%);
- (b) in the case of a Fixed Spread Loan for which interest on the amount of the Withdrawn Loan Balance to which the Default Interest Rate applies was payable at a Variable Rate immediately prior to the application of the Default Interest Rate: the Default Variable Rate plus one half of one percent (0.5%); and
- (c) in the case of a Fixed Spread Loan for which interest on the amount of the Withdrawn Loan Balance to which the Default Interest Rate applies was payable at a Fixed Rate immediately prior to the application of the Default Interest Rate: Default LIBOR plus the Fixed Spread plus one half of one percent (0.5%).”

29. “Default LIBOR” means LIBOR for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default LIBOR shall be equal to LIBOR for the Interest Period in which the amount referred to in paragraph (d) of Section 3.02 first becomes overdue.

30. “Default Variable Rate” means the Variable Rate for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default Variable Rate shall be equal to the Variable Rate for the Interest Period in which the amount referred to in paragraph (d) of Section 3.02 first becomes overdue.”

(c) Paragraph 43 “Fixed Spread” (as re-numbered) is amended to read as follows:

“43. “Fixed Spread” means the Bank’s fixed spread for the initial Loan Currency in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement; provided, that upon a Currency Conversion of all or any amount of the Unwithdrawn Loan Balance, such fixed spread shall be adjusted on the Execution Date in the manner specified in the Conversion Guidelines; and provided

further that notwithstanding the foregoing, for purposes of determining the Default Interest Rate applicable to an amount of the Withdrawn Loan Balance on which interest is payable at a Fixed Rate, the “Fixed Spread” means the Bank’s fixed spread in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement, for the Currency of denomination of such amount.”

(d) Paragraph 56 “LIBOR Reset Date” (as re-numbered) is amended to read as follows:

“56. “LIBOR Reset Date” means: (a) for any Loan Currency other than Euro, the day two London Banking Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period of a Variable Spread Loan, the day two London Banking Days prior to the fifteenth day of the month preceding the month in which the Loan Agreement is signed; provided that if the date of the Loan Agreement falls on or after the fifteenth day of the month in which the Loan Agreement is signed, the LIBOR Reset Date shall be the day two London Banking Days prior to the fifteenth day of such month; (ii) in the case of the Initial Interest Period of a Fixed Spread Loan, the day two London Banking Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two London Banking Days prior to the date of the Loan Agreement; and (iii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to any Approved Currency other than Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion Date; provided, that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the Conversion Date); (b) for Euro, the day two Target Settlement Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period for a Variable Spread Loan, the day two Target Settlement Days prior to the fifteenth day of the month preceding the month in which the Loan Agreement is signed; provided that if the date of the Loan Agreement falls on or after the fifteenth day of the month in which the Loan Agreement is signed, the LIBOR Reset Date shall be the day two Target Settlement Days prior to the fifteenth day of such month; (ii) in the case of the Initial Interest Period for a Fixed Spread Loan, the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two Target Settlement Days prior to the date of the Loan Agreement; and (iii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion

Date; provided that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the Conversion Date); and (c) notwithstanding sub-paragraphs (a) and (b) of this paragraph, if, for a Currency Conversion to an Approved Currency, the Bank determines that market practice for the determination of the LIBOR Reset Date is on a date other than as set forth in said sub-paragraphs, the LIBOR Reset Date shall be such other date, as further specified in the Conversion Guidelines.”

(e) Paragraph 66 “Loan Payment” (as re-numbered) is amended to read as follows:

“66. “Loan Payment” means any amount payable by the Loan Parties to the Bank pursuant to the Legal Agreements or these General Conditions, including (but not limited to) any amount of the Withdrawn Loan Balance, interest, the Front-end Fee, interest at the Default Interest Rate (if any), any prepayment premium, any transaction fee for a Conversion or early termination of a Conversion, any premium payable upon the establishment of an Interest Rate Cap or Interest Rate Collar, and any Unwinding Amount payable by the Borrower.”

(f) Paragraph 71 “Payment Date” (as re-numbered) is amended to read as follows:

“71. “Payment Date” means each date specified in the Loan Agreement occurring on or after the date of the Loan Agreement on which interest is payable.”