

CONFORMED COPY

LOAN NUMBER 4709-UA

Project Agreement

(Rural Land Titling and Cadastre Development Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

and

STATE LAND CADASTRE CENTER

Dated October 17, 2003

LOAN NUMBER 4709-UA

PROJECT AGREEMENT

AGREEMENT, dated October 17, 2003, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and the STATE LAND CADASTRE CENTER (the Center), a state enterprise under the State Committee of Ukraine for Land Resources.

WHEREAS (A) by the Loan Agreement of even date herewith between Ukraine (the Borrower) and the Bank, the Bank has agreed to make a loan to the Borrower in the amount of one hundred ninety-five million one hundred thirty thousand dollars (\$195,130,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Center agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower, the SCLR, and the Center, a portion of the proceeds of the loan provided for under the Loan Agreement will be made available to the Center through the SCLR on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS the Center, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Center Performance Indicators" means the agreed performance indicators set forth in a letter of even date herewith to be utilized by the Center under the Project to measure the progress in the implementation of Part E of the Project and the degree to which the objectives thereof are being achieved; and

(b) "Registration Manual" means the Registration Manual satisfactory to the Bank defining the operational basis and principles for the Center's legal registration of

land and other immovable property and maintenance of cadastre records and stipulating the procedures therefor which are efficient for clients and cost effective.

ARTICLE II

Execution of Part E of the Project

Section 2.01. (a) The Center declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out Part E of the Project with due diligence and efficiency and in conformity with appropriate administrative, agricultural, cadastre, economic, engineering, environmental, forest, land use and titling and technical practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part E of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and the Center shall otherwise agree, the Center shall carry out Part E of the Project in accordance with the Implementation Program set forth in the Schedule to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, the procurement of the works, goods and technical services and the selection and employment of the consultants' services required for Part E of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to the Loan Agreement.

Section 2.03. (a) The Center shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Part E of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Center shall:

- (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and the Center, a plan for the future operation of Part E of the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with the Center on said plan.

Section 2.04. The Center shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, the Center shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) The Center shall, at the request of the Bank, exchange views with the Bank with regard to progress of Part E of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Loan.

(b) The Center shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Part E of the Project, the accomplishment of the purposes of Loan, or the performance by the Center of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of the Center

Section 3.01. The Center shall carry on its operations and conduct its affairs in accordance with sound administrative, cadastre, financial and land use and titling practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. The Center shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and registration service practices.

Section 3.03. The Center shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Center shall establish and thereafter maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part E of the Project.

- (b) The Center shall:
- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each Fiscal Year audited, in accordance with auditing standards acceptable to the Bank, consistently applied, by independent auditors acceptable to the Bank;
 - (ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such Year: (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such Year as so audited; and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
 - (iii) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 4.02. (a) The Center shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for Part E of the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Loan, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation of Part E of the Project, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and

(iii) sets forth the status of procurement under Part E of the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank not later than forty-five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of the Center thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify the Center thereof.

Section 5.03. All this provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telex or facsimile to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Bank:

International Bank for

Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

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

For the State Land Cadastre Center:

State Land Cadastre Center
Khestchatyk 32-a,
01001, Kyiv, Ukraine

Facsimile:

(380-44) 228 4478

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of the Center, may be taken or executed by the General Director or such other person or persons as the Director shall designate in writing, and the Center shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Kyiv, Ukraine, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Luca Barbone

Director
Ukraine, Belarus and Moldova
Europe and Central

Asia

STATE LAND CADASTRE CENTER

By /s/ Sergiy Momotenko

Authorized Representative

SCHEDULE

Implementation Program

Section I: Organizational Principles

1. For the purposes of ensuring a successful implementation of the Project and the sustainability and profitability of the Center, the Center shall at all times apply and observe the following principles in its organization and operations:

- (a) the Center shall be a single organization with a consolidated balance sheet;
- (b)
 - (i) the Center shall be one hundred percent (100%) government-owned and shall be headed by a General Director who shall report directly to the Chairman of SCLR;
 - (ii) the Borrower's Cabinet of Ministers, on the recommendation of the SCLR, shall be responsible for the appointment and removal of the General Director of the Center; and
 - (iii) the main responsibilities of the said General Director shall encompass the preparation of an annual budget for the approval of the SCLR and the day-to-day operation of the management of the Center; and (iv) all regional (*Oblast*) offices of the Center shall report to the General Director of the Center, with city and district (*Rayon*) offices reporting exclusively to the respective regional (*Oblast*) offices.
- (c) The Center shall be a state-owned monopoly established to provide certain public services at the lowest possible cost, with types of services and the prices that it charges for such monopoly services regulated, and services limited to those areas that provide a public service which the private sector is not capable of providing.
- (d)
 - (i) The Center shall be self-financing after it is fully established;
 - (ii) on an annual basis the Center shall propose a schedule of fees and an annual budget to the SCLR, which shall review the proposed budgets and schedule of fees, and if satisfactory, shall seek the necessary approvals from the Borrower's Cabinet of Ministers or other government agencies;

- (iii) the Center shall provide services to the public and to other government agencies at the lowest possible cost, while at the same time remaining financially self-supporting; therefore, budgets and price schedules shall be adjusted every year to achieve this goal;
 - (iv) if the surplus revenues become too high, the Center shall be required to reduce the fees so that the services are provided to the public and the Borrower at a lower cost; contrariwise, if there are net losses, the fees shall be increased; and
 - (v) the Center shall be able to retain all the fees that it earns for services, remaining however within the price limits set by the Borrower.
- (e) (i) The Center shall be required by law to meet certain standards for the services it provides, among others, that it issue new titles to people within a clearly defined time period after the application is submitted; and
- (ii) the list of services which the Center is authorized to provide and the standards set for each such service shall be agreed between the Center and the SCLR and/or the Borrower's Cabinet of Ministers, as part of the annual budget discussions.
- (f) All equipment or property acquired by the Center shall remain fully under its control until such time as it disposes of such equipment or property with the approval of Borrower, or the Center is liquidated under conditions specified in its Charter.
- (g) (i) All data collected by the Center shall remain under the control of the Center and shall be managed under the terms and conditions specified by an agreement with the SCLR and the Borrower's Cabinet of Ministers;
- (ii) such data shall be owned by the Borrower (controlled by its Cabinet of Ministers), under the custody of the Center; and
- (iii) back-ups of this information, or parts thereof, can be provided to other state institutions as required under the aforementioned agreement between the Borrower's Cabinet of Ministers and SCLR.

2. In order to further the objectives of the Project and support the development of the monitoring and geodetic capacity of the Center, the Center shall take all action adequate and necessary to phase itself out of and cease its present commercial survey work not later than two (2) years after the Effectiveness Date.

Section II: Implementation Modalities

1. The Center shall take all measures necessary to carry out the Environmental Action Plan in a timely manner, ensuring that adequate information on the implementation of said measures is suitably included in the progress reports under the Project.
2. The Center shall ensure that all action required is taken in order to ensure that the Procedure Manual is applied and followed at all times in the implementation, monitoring and evaluation of Part D of the Project.
3. The Center shall develop and adopt, not later than one (1) year after the Effectiveness Date, the Registration Manual and, thereafter, shall ensure that all action required is taken in order to ensure that the Registration Manual is applied and followed at all times in the implementation, monitoring and evaluation of Part E of the Project.

Section III: Mid-Term Review

1. The Center shall:
 - (a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the Center Performance Indicators, the carrying out of Part E of the Project and the achievement of the objectives thereof;
 - (b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Borrower and the Bank, on or about December 31, 2006, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of Part E of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of Part E of the Project and the achievement of the objectives thereof during the period following such date; and
 - (c) review with the Borrower and the Bank, by April 30, 2007, or such later date as the Bank shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of Part E of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Bank's views on the matter.

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