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CONFORMED COPY

LOAN NUMBER 4882 UA

Loan Agreement

(Public Finance Modernization Project)

between

UKRAINE

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated March 25, 2008

LOAN NUMBER 4882 UA

LOAN AGREEMENT

Agreement dated March 25, 2008, between UKRAINE (“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 fifty million Dollars (\$50,000,000) (“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.
- 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 Notwithstanding the foregoing if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the interest payable by the Borrower shall instead be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 cause the Project to be carried out 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 - REMEDIES OF THE BANK

- 4.01. The Additional Events of Suspension consist of the following:
 - (a) The IWG has been dissolved, replaced, or removed, or its powers and duties have been altered to the extent that, in the opinion of the Bank, it can no longer carry out its obligations under the Project, without the prior consent of the Bank;
 - (b) APST has been dissolved, replaced, or removed, or its powers and duties has been altered to the extent that, in the opinion of the Bank, it can no longer carry out its obligations under the Project, without the prior consent of the Bank; and
 - (c) The PFMS Modernization Strategy has been amended, suspended, abrogated, repealed or waived without prior consent of the Bank.

ARTICLE V - EFFECTIVENESS; TERMINATION

- 5.01 The Additional Conditions of Effectiveness consist of the following:
 - (a) the Annual Work Plan for fiscal year 2008 has been approved by the IWG;
 - (b) the Project Operations Manual has been approved by the MoF for Project implementation; and
 - (c) The PFMS Action Plan has been approved by the MoF for implementation of the PFMS Modernization Strategy.
- 5.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

- 5.03. Any amendment to this Agreement shall be executed by agreement of the parties hereto in accordance with the provisions of Section 10.02 of the General Conditions. Such amendment shall become effective as set forth in the amending agreement.

ARTICLE VI - REPRESENTATIVE; ADDRESSES

- 6.01. The Borrower's Representative is the Minister of Finance.

- 6.02. The Borrower's Address is:

Ministry of Finance
12/2 Hrushevsky St.
Kyiv, 01008
Ukraine

Telex:

131450

Facsimile:

(380-44) 253 82 43
(380-44) 207 05 08

- 6.03. 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:

INTBAFRAD
Washington, D.C.

Telex:

248423(MCI) or
64145(MCI)

Facsimile:

1-202-477-6391

AGREED at Kyiv, Ukraine, as of the day and year first above written.

UKRAINE

By /s/ Viktor Pynzenyk

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Paul Bermingham

Authorized Representative

SCHEDULE 1

Project Description

The objective of the Project is to strengthen public financial management by improving operational efficiency and transparency.

The Project consists of the following parts:

Part 1: Strengthening the Institutional Capacity and Operational Effectiveness

Capacity building as well as the enhancement and optimization of the functions of the MoF, KRU and the STU in certain areas, including but not limited to: (a) improvement of budget planning and mid-term budgeting; (b) methodological support for performance based budgeting (c) formulation and approval of state and local budgets; and; (d) budget execution, monitoring and financial reporting for state and local budgets; (e) state debt management; (f) participation in management of international financial assistance; and (g) public internal financial control.

Part 2: Development of an Integrated PFMS

Integration of key public financial management functions in order to develop a single centralized information system which serves as a core to all public financial management processes, through:

- (a) provision of goods and services in order to develop information exchange mechanisms and automation of critical office services;
- (b) provision of services and training in order to support the change management activities for effective use and sustainability, and to provide expertise in technical project management and technological aspects of contract management; and
- (c) development of integrated PFMS software and installation of central servers as well as installation of the PFMS field hardware and network equipment, with a sufficient level of information security.

Part 3: Project Management

Provision of support to the MoF, to enhance its capacity for effective implementation of the Project, including, inter alia, goods, services (including audit), training and incremental operating costs, as necessary to provide such support.

SCHEDULE 2**Project Execution****Section I. Implementation Arrangements****A. Institutional Arrangements**

1. The Borrower shall maintain the IWG during Project implementation, which shall: (i) act as a body responsible for the strategic coordination and oversight of Project activities; (ii) review and approve the Annual Work Plan of the Project; and (iii) support its implementation.
2. The APST shall be responsible for the overall Project management, including financial and procurement management and other Project-related tasks, in accordance with the Project Operations Manual. The APST shall be managed by and report to, the Project Manager, and be maintained with adequate staff in number, and with qualifications and experience, acceptable to the Borrower and the Bank.
3. The Borrower shall take all actions required to ensure that the Project Operations Manual is applied and followed at all times in the implementation, monitoring and evaluation of the Project.
4. Except as the Bank shall otherwise agree, or as the Bank may otherwise deem it necessary to update the Project Operations Manual to reflect and support a sustainable evaluation of the Project, the Borrower shall ensure that the APST does not assign, amend, abrogate or waive the Project Operations Manual or any provisions thereof.

B. Anti-Corruption

The Borrower shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

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 indicators agreed with the Bank. Each Project Report shall cover the period of one year, and shall be furnished to the Bank not later than two months after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Borrower shall implement, by no later than June 30, 2008, an automated accounting and reporting software system at the APST to support Project accounting and automatically generate periodic financial reports.
2. The Borrower shall, through the APST, maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09 of the General Conditions.
3. Without limitation on the provisions of Part A of this Section, the Borrower shall, through the APST, 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.
4. 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 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.
5. The Borrower, through the APST, shall:
 - (a) have the control framework, the operational processes and procedures followed under the Project, audited for each fiscal year (or other period agreed to by the Bank) in accordance with terms of reference and by independent auditors both acceptable to the Bank;
 - (b) 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 (or such other period agreed to by the Bank): (A) certified copies of the assessment of the internal control framework, the operational processes and procedures referred to in paragraph (a) above for such year (or other period agreed to by the Bank), as so audited; and (B) an opinion on such processes and procedures by said auditors, in scope and detail satisfactory to the Bank, as to whether they provide the Borrower adequate accounting, internal control and financial reporting as intended for the Project; and
 - (c) furnish to the Bank such other information concerning such internal control framework, operational processes and procedures, and the audit of such internal control framework, operational processes and procedures, and concerning said auditors, as the Bank may from time to time reasonably request.

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.
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.

Procurement Method

(a) National Competitive Bidding, subject to the following:

(i) Eligibility

Bidding shall not be restricted to domestic firms. Foreign firms shall not be excluded from the national competitive bidding process irrespective of the contract value.

(ii) Procedures

- (A) “Open tender procedures” shall be followed in all cases.
- (B) Invitations to bid shall be advertised in the at least one (1) nationally circulated daily newspaper of the Borrower allowing a minimum of thirty (30) days for the preparation and submission of bids.
- (C) Bids shall not be invited on the basis of percentage premium or discount over the estimated cost.

(iii) Pre-qualification

- (A) Prequalification, where used, shall be based on a “pass/fail” system.
- (B) Minimum experience, technical, and financial requirements shall be explicitly stated in the pre-qualification documents.

(iv) Participation by Government-owned Enterprises

- (A) Government-owned enterprises in the Borrower’s territory 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 Government.
- (B) Government-owned enterprises will be subject to the same bid and performance security requirements as other bidders.

(v) Bidding Documents

- (A) The Borrower shall use the appropriate Bank’s sample bidding documents, including pre-qualification documents, for the procurement of goods or technical services (other than

consultants' services), all acceptable to the Bank.

- (B) Bidding documents shall be made available to all those companies that have paid the required fee.

(vi) 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) No domestic preference shall be allowed in evaluating bids.
- (D) Contracts shall be awarded to qualified bidders having submitted the lowest evaluated substantially responsive bid and no negotiations shall be carried out prior to contract award.

(vii) Rejection of Bids

- (A) No bid shall be rejected purely on the basis that the bid price is higher than the estimated budget for that procurement.
- (B) All bids shall not be rejected and new bids solicited without the Bank's prior concurrence.

(viii) Securities

Bid security shall not exceed two percent (2%) of the estimated cost of the contract. Performance security shall not exceed ten percent (10%) of the contract price. No advance payments shall be made to contractors without a suitable advance payment security. The format of all such securities shall be included into the bidding documents and shall be acceptable to the Bank.

(b) Limited International Bidding

(c) Shopping

(d) Direct Contracting

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.

Procurement Method
(a) Least Cost Selection
(b) Selection Based on Consultant’s Qualifications
(c) Individual Consultants
(d) Single Source Selection
(e) Sole Source Procedures 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.

Category	Amount of the Loan Allocated (expressed in USD)	Percentage of Expenditures to be financed (inclusive of Taxes)
(1) Goods, services and, training for Part 2(c) of the Project	44,875,000	100%
(2) Goods, services and training for all Parts of the Project, other than Part 2(c); incremental operating costs and audit	5,000,000	100%
(3) Front-end Fee	125,000	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07 (b) of the General Conditions
TOTAL AMOUNT	<u>50,000,000</u>	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:
 - (a) for payments made prior to the date of this Agreement; or
 - (b) under Category (1) for expenditures for Part 2(c) of the Project until the establishment of the PFMS countrywide network telecommunication lines are completed, in a manner satisfactory to the Bank.
2. The Closing Date is June 30, 2013.

SCHEDULE 3**Amortization Schedule**

<u>Principal Payment Date</u>	<u>Principal Amount of the Loan Payable (Expressed in U.S. Dollars)</u>
July 15, 2013	2,085,000
January 15, 2014	2,085,000
July 15, 2014	2,085,000
January 15, 2015	2,085,000
July 15, 2015	2,085,000
January 15, 2016	2,085,000
July 15, 2016	2,085,000
January 15, 2017	2,085,000
July 15, 2017	2,085,000
January 15, 2018	2,085,000
July 15, 2018	2,085,000
January 15, 2019	2,085,000
July 15, 2019	2,085,000
January 15, 2020	2,085,000
July 15, 2020	2,085,000
January 15, 2021	2,085,000
July 15, 2021	2,085,000
January 15, 2022	2,085,000
July 15, 2022	2,085,000
January 15, 2023	2,085,000
July 15, 2023	2,085,000
January 15, 2024	2,085,000
July 15, 2024	2,085,000
January 15, 2025	2,045,000
Totals	50,000,000

APPENDIX

Definitions

1. “APST” means the Administration and Procurement Support Team, which is responsible for implementation and coordination of the Project, under the supervision of the Project Manager and which is made up of (a) the MoF officials working at the Sector for Implementation of the PFMP, established under the Department for Cooperation with International Financial Organizations of the MoF, with the MoF’s Order No. 759, dated June 26, 2007, or its successor, and (b) staff hired under the Project.
2. “AWP” means the Borrower’s detailed annual work plan for implementation of the Project for the upcoming year, including details as to component activities, a procurement plan and a disbursement plan, which in each year will be reviewed and approved by the IWG.
3. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
4. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
5. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004, revised October 2006.
6. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005 (as amended through October 17, 2007).
7. “Incremental Operating Costs” means expenditures incurred by the Borrower, through the MoF, to finance reasonable and necessary operating expenses of the APST including hired staff fees and reimbursables (but excluding civil servants salaries), office equipment and supplies, stationary, maintenance, communication (internet and telephone), transportation, travel and per diem, advertising in local press, bank charges, software subscriptions and any other expenses as may be agreed with the Bank.
8. “Interagency Working Group” or “IWG” means the group, chaired by the Minister of Finance, established and acting in accordance with the Resolution of the Cabinet of Ministers No. 812 dated June 6, 2007, or its successor.

9. “KRU” means the Main Control and Revision Office of Ukraine (Golovne Kontrolne-Reveziyne Upravlinnya), which acts in accordance with the Regulation of the Cabinet of Ministers No. 884 dated June 27, 2007, or its successor.
9. Ministry of Finance or “MoF” means the central body of executive power of the Borrower which acts in accordance with the Regulation of the Cabinet of Ministers No. 1837 dated December 27, 2006, or its successor.
11. “Project Operations Manual” means the manual, which sets out the procedures for implementation of the Project, and including, inter alia: (i) procedures governing administrative, procurement, accounting, financial management, monitoring and evaluation arrangements and plan preparation and reporting requirements; and (ii) details of the Project Parts.
12. “PFMS” means Public Financial Management System of the Borrower.
13. “PFMS Action Plan” means the action plan for implementation of the PFMS Modernization Strategy prepared by the MoF, STU and KRU.
14. “PFMS Modernization Strategy” means the strategy for modernizing the Public Finance Management System, adopted by the Resolution of the Cabinet of Ministers No. 888 dated October 17, 2007.
15. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004, revised October 2006.
16. “Procurement Plan” means the Borrower’s procurement plan for the Project, dated November 8, 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.
17. “Project Manager” means the Deputy Minister of Finance, responsible for the overall Project management.
18. “State Treasury of Ukraine” or “STU” means the government body of the Borrower which acts in accordance with the Regulation of the Cabinet of Ministers No. 1232 dated December 21, 2005, or its successor.
19. “Training” means all training activities under the Project, and training expenditures shall cover expenditures incurred by the Borrower for such training, including reasonable costs of transportation, training materials and publications, accommodations and per diem, interpretation services, cost of study tours and workshops, and such other expenditures as may be agreed with the Bank.

