

Public Disclosure Authorized

CONFORMED COPY

LOAN NUMBER 7744-TN

Loan Agreement

(Energy Efficiency Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

and

BANQUE DE L'HABITAT

Dated July 8, 2009

LOAN AGREEMENT

Agreement dated July 8, 2009, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (“Bank”) and BANQUE DE L’HABITAT (“Borrower”). 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 fifteen million four hundred thousand Euro (€15,400,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.07 of this Agreement (“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; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the interest payable by the Borrower during the Conversion Period on such amount shall be determined in accordance with the relevant provisions of Article IV of the General Conditions. Notwithstanding the foregoing, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty (30) days, then the interest payable by the Borrower shall instead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 February 1 and August 1 in each year.

- 2.06. The principal amount of the Loan shall be repaid in accordance with the provisions of Schedule 3 to this Agreement.
- 2.07. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management: (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency; and (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Variable Rate to a Fixed Rate, or vice versa.
- (b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a “Conversion”, as defined in the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.

ARTICLE III - PROJECT

- 3.01. The Borrower declares its commitment to the objectives of the Project and the Program. To this end, the Borrower shall carry out the Project with the assistance of ANME 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 ANME Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of ANME to perform any of its obligations under the Guarantee Agreement.
- (b) A situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.
- 4.02. The Additional Events of Acceleration consist of the following:

- (a) The event specified in paragraph (a) of Section 4.01 of this Agreement occurs.
- (b) The event specified in paragraph (b) of Section 4.01 of this Agreement occurs and is continuing for a period of sixty (60) days after notice of the event has been given by the Bank to the Borrower and the Guarantor.

ARTICLE V - EFFECTIVENESS; TERMINATION

- 5.01. The Additional Condition of Effectiveness consists of the following: namely that the Borrower and ANME have each adopted the Operations Manual satisfactory to the Bank.
- 5.02. The Effectiveness Deadline is the date one hundred twenty (120) days after the date of this Agreement.

ARTICLE VI - REPRESENTATIVE; ADDRESSES

- 6.01. The Borrower's Representative is the President Director General.
- 6.02. The Borrower's Address is:

Banque de l'Habitat
21 Avenue Kheireddine Pacha
1002 Tunis Belvedere
Republic of Tunisia

Telex:	Facsimile:
12351	216-71-784-417

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

AGREED in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Shamshad Akhtar
Authorized Representative

BANQUE DE L'HABITAT

By /s/ Habib Mansour
Authorized Representative

SCHEDULE 1

Project Description

The objective of the Project is to scale up industrial energy efficiency and cogeneration investments, and thereby contribute to the Program.

The Project consists of the following:

Establishment and operation of a credit facility for the financing, through the provision of Sub-loans to Beneficiaries, enabling such Beneficiaries to finance the costs related to the carrying out of Sub-projects for industrial energy efficiency and cogeneration.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

The Borrower shall, until the completion of the Project, ensure that: (i) it maintains at all times staff and financial resources appropriate for Project implementation; and (ii) it cooperates with ANME as necessary for the implementation of the Project.

B. Anti-Corruption

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

C. Sub-projects

1. The Borrower shall make Sub-loans to Beneficiaries in accordance with eligibility criteria and procedures acceptable to the Bank, as set forth in the Operations Manual.

2. The Borrower shall make each Sub-loan under a Sub-loan Agreement with the respective Beneficiary on terms and conditions approved by the Bank. In particular, the Borrower shall obtain rights adequate to protect its interests and those of the Bank, including the right to: (i) suspend or terminate the right of the Beneficiary to use the proceeds of the Sub-loan, or declare to be immediately due and payable all or any part of the amount of the Sub-loan then withdrawn, upon the Beneficiary's failure to perform any of its obligations under the Sub-loan Agreement; and (ii) require each Beneficiary to: (A) carry out its Sub-project with due diligence and efficiency and in accordance with sound technical, economic, financial, managerial, environmental and social standards and practices satisfactory to the Bank, including in accordance with the provisions of the Anti-Corruption Guidelines applicable to recipients of loan proceeds other than the Borrower; (B) provide, promptly as needed, the resources required for the purpose; (C) procure the goods and works to be financed out of the Sub-loan in accordance with the provisions of this Agreement; (D) maintain policies and procedures adequate to enable it to monitor and evaluate in accordance with indicators acceptable to the Bank, the progress of the Sub-project and the achievement of its objectives; (E) (1) maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Bank, both in a manner adequate to reflect

the operations, resources and expenditures related to the Sub-project; and (2) at the Bank's, ANME's or the Borrower's request, have such financial statements audited by independent auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank, and promptly furnish the statements as so audited to the Borrower and the Bank; (F) enable the Borrower, ANME and the Bank to inspect the Sub-project, its operation and any relevant records and documents; and (G) prepare and furnish to the Borrower, the Bank and ANME all such information as the Borrower, the Bank or ANME shall reasonably request relating to the foregoing. In addition, the Sub-loan Agreement shall indicate that the Sub-project shall not involve any involuntary resettlement or land acquisition.

3. The Borrower shall exercise its rights under each Sub-loan Agreement in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan. Except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive any Sub-loan Agreement or any of its provisions.

D. Safeguards

1. The Borrower shall: (i) take all necessary measures to implement the Project in accordance with the Operations Manual, the Environmental Framework and the EMPs, and shall not amend, suspend, abrogate, repeal or waive any provisions of the Operations Manual, the Environmental Framework and the EMPs, without prior approval of the Bank; (ii) ensure that no Sub-project shall involve any involuntary resettlement or land acquisition; and (iii) ensure that adequate information on the implementation of the Environmental Framework and the EMPs is suitably included in the Project Reports referred to in Section II.A of this Schedule.

2. The Borrower shall not finance any Sub-project with a Sub-loan unless: (i) the Sub-project has been screened and approved by ANME in accordance with the provisions of the Operations Manual and the Environmental Framework; and (ii) as the case may be, the Sub-project has been subjected to an environmental analysis and its environmental impacts have been addressed in a manner satisfactory to ANME in accordance with the provisions of the Operations Manual and the Environmental Framework.

3. The Borrower shall not agree to finance any of the first two (2) Sub-projects for which the relevant Beneficiaries shall have to prepare an EMP, unless the Bank has reviewed and approved such Sub-projects.

Section II. Project Monitoring Reporting and Evaluation**A. Project Reports**

The Borrower shall provide to ANME in a timely manner all information necessary for ANME to 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 calendar semester, and shall be furnished by ANME to the Bank not later than forty five (45) days after the end of the period covered by such report.

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. The Borrower shall prepare and furnish to the Bank not later than forty five (45) days after the end of each calendar semester, interim unaudited financial reports for the Project covering the semester, 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. In addition, the Borrower shall have its financial statements reflecting its general operations and its financial condition (the "General Financial Statements") prepared in accordance with consistently applied accounting standards acceptable to the Bank, and audited by independent auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank. Each audit of the Financial Statements and the General Financial Statements shall cover the period of one fiscal year of the Borrower. The audited Financial Statements and the audited General Financial Statements for each such period shall be furnished to the Bank not later than six months after the end of such period.

Section III. Procurement**A. General**

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Loan 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. **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.

B. Particular Methods of Procurement of Goods and Works

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.
2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Operations Manual shall specify the circumstances under which such methods may be used.

Procurement Method
Established Private Sector or Commercial Practices consistent with paragraph 3.12 of the Procurement Guidelines, as set forth in the Operations Manual

C. Review by the Bank of Procurement Decisions

The contracts shall be subject to Post Review by the Bank, as specified in the Operations Manual.

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 Euro)	Percentage of Expenditures to be financed (inclusive of Taxes)
(1) Sub-loans for Sub-projects under the Project	15,361,500	100% of amounts disbursed
(2) Front-end Fee	38,500	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07 (b) of the General Conditions
TOTAL AMOUNT	<u>15,400,000</u>	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed €1,540,000 equivalent may be made for payments made prior to this date but on or after June 1, 2009, for Eligible Expenditures under Category (1).

2. The Closing Date is February 28, 2014.

Section V. Other Undertakings

A. The Borrower shall remain in full compliance with all prudential rules of the CBT, and in particular as regards to its Non-performing Loans ratio, Liquidity ratio, Solvability ratio and Provisioning ratio, all as defined in the Circulaire of the CBT No. 91-24 dated December 17, 1991 as modified by the Circulaire of the CBT No. 2001-04 dated February 16, 2001 and Circulaire of the CBT No. 2001-12 dated May 4, 2001.

B. The Borrower shall promptly inform the Bank of any material deterioration in its financial situation, and more specifically as soon as its Non-performing Loans ratio experiences a deterioration of 5 percentage points or more compared to the 2008 ratio.

SCHEDULE 3

Amortization Schedule

1. Subject to the provisions of paragraph 2 of this Schedule, the Borrower shall repay each Disbursed Amount in semiannual installments payable on each February 1 and August 1, the first installment to be payable on the first (1st) Interest Payment Date following the Maturity Fixing Date for the Disbursed Amount and the last installment to be payable on the fiftieth (50th) Interest Payment Date following the Maturity Fixing Date for the Disbursed Amount. Each installment except for the last one shall be equal to two percent (2.00%) of the Disbursed Amount. The last installment shall be equal to the remaining outstanding amount of the Disbursed Amount.
2. If any one or more installments of principal of the Disbursed Amount would, pursuant to the provisions of paragraph 1 of this Schedule, be payable after February 1, 2039, the Borrower shall also pay on such date the aggregate amount of all such installments.
3. The Bank shall notify the Loan Parties of the amortization schedule for each Disbursed Amount promptly after the Maturity Fixing Date for the Disbursed Amount.
4. Notwithstanding the provisions of paragraphs 1 through 3 of this Schedule, in the event of a Currency Conversion of all or any portion of a Disbursed Amount to an Approved Currency, the amount so converted in the Approved Currency that is repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to the Conversion by either: (i) the exchange rate that reflects the amounts of principal in the Approved Currency payable by the Bank under the Currency Hedge Transaction relating to the Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.
5. If the Withdrawn Loan Balance is denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency.

APPENDIX

Section I. Definitions

1. “ANME” means Agence Nationale pour la Maîtrise de l’Energie, the Guarantor’s National Agency for Energy Conservation, established and operating in accordance with the Guarantor’s Law No. 2004-72 dated August 2, 2004.
2. “ANME Legislation” means Guarantor’s Law No. 2004-72 dated August 2, 2004.
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. “Beneficiary” means a local industrial company which has met the eligibility criteria specified in the Operations Manual, and to which or for whose benefit a Sub-loan is made or proposed to be made.
5. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
6. “CBT” means the Central Bank of Tunisia.
7. “Circulaire of the CBT” means a document issued by the CBT providing in particular instructions to be complied with by the financial institutions operating in the territory of the Guarantor.
8. “EMP” means the environmental management plan to be prepared by a Beneficiary, as appropriate, in order to define: (i) the measures to eliminate, mitigate or offset any adverse environmental impacts of its Sub-project; and (ii) the actions needed to implement such measures.
9. “Environmental Framework” means the environmental framework prepared by the Guarantor for the purposes of the Project and adopted by the Guarantor on April 2, 2009, describing: (i) the procedures, principles and guidelines to screen all Sub-projects proposed for financing under the Loan; and (ii) in case such screening shall reveal that a Sub-project may have any negative environmental impact, the procedures, principles and guidelines which shall be complied with in order to prepare an environmental assessment and to address the environmental impacts of such Sub-project through mitigation measures and/or an EMP, as appropriate.
10. “Fiscal Year” means the fiscal year of the Borrower, starting January 1 and ending December 31 of each calendar year.
11. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005 (as amended

through February 12, 2008) with the modifications set forth in Section II of this Appendix.

12. “Operations Manual” means the manual describing the implementation, financial management, procurement, disbursement, monitoring and evaluation, and reporting arrangements for the Project, as well as the eligibility criteria and procedures for the Sub-projects and the model form of the Sub-loan Agreement.
13. “PIU” means the Project Implementation Unit established within ANME by the Director General of ANME pursuant to a decision No. 21/2009 dated May 11, 2009.
14. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October 2006.
15. “Program” means the four-year Energy Conservation Program of the Guarantor designed to reduce the energy intensity of the economy of the Guarantor, and adopted by the Council of Ministers of the Guarantor on January 15, 2008.
16. “Sub-loan” means a sub-loan to be made by the Borrower to a Beneficiary.
17. “Sub-loan Agreement” means the agreement to be entered into between the Borrower and a Beneficiary pursuant to Section I.C.2 of Schedule 2 to this Agreement.
18. “Sub-project” means an industrial energy efficiency investment or a cogeneration investment, as the case may be, to be carried out under the Project, and eligible for financing under a Sub-loan in accordance with the procedures and eligibility criteria referred to in Section I.C.1 of Schedule 2 to this Agreement and set forth in the Operations Manual.

Section II. Modifications to the General Conditions

The modifications to the General Conditions are as follows:

1. Paragraph (a) of Section 2.07 is modified to read as follows:

“Section 2.07. *Refinancing Preparation Advance; Capitalizing Front-end Fee and Interest*

(a) If the Loan Agreement provides for the repayment out of the proceeds of the Loan of an advance made by the Bank or the Association (“Preparation Advance”), the Bank shall, on behalf of such Loan Party, withdraw from the Loan Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Loan Account and to pay all accrued and unpaid charges, if any, on the advance as at such date. The Bank shall pay the amount so withdrawn to itself or the Association, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance.”

2. Paragraph (l) of Section 7.02 is modified to read as follows:

“Section 7.02. *Suspension by the Bank*

... (l) *Ineligibility.* The Bank or the Association has declared the Borrower (other than the Member Country) or the Project Implementing Entity ineligible to receive proceeds of any financing made by the Bank or the Association or otherwise to participate in the preparation or implementation of any project financed in whole or in part by the Bank or the Association, as a result of a determination by the Bank or the Association that the Borrower or the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of any financing made by the Bank or the Association.”

3. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

- (a) The term “Project Preparation Advance” is modified to read “Preparation Advance” and its definition is modified to read as follows:

“‘Preparation Advance’ means the advance referred to in the Financing Agreement and repayable in accordance with Section 2.07.”

- (b) The definition of the term “Conversion Date” is modified to read as follows:

“‘Conversion Date’ means, in respect of a Conversion, the Execution Date (as herein defined) or such other date as requested by the Borrower and accepted by the Bank, on which the Conversion enters into effect, and as further specified in the Conversion Guidelines.”