Development Grant Agreement

(Competitiveness Enhancement Project)

between

REPUBLIC OF MOLDOVA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated November 14, 2005
DEVELOPMENT GRANT AGREEMENT

AGREEMENT, dated November 14, 2005, between the REPUBLIC OF MOLDOVA (the Recipient) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Recipient, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to the Credit Agreement (as defined hereinafter), has requested the Association to assist in the financing of the Project;

(B) by an agreement of even date between the Recipient and the Association, the Development Credit Agreement (Credit No. 4119 MD) (the Credit Agreement), the Association has agreed to make a credit to the Recipient in an amount of three million three hundred and fifty thousand Special Drawing Rights (the Cofinancing) to assist in financing the Project on the terms and conditions set forth in the Credit Agreement;

(C) by an agreement of even date between the Recipient and the Association (the PHRD Grant Agreement), the Association has agreed to make a grant to the Borrower in a principal amount of four million five hundred thousand Dollars (the PHRD Grant) to assist in financing the technical assistance for Parts A and B of the Project on the terms and conditions set forth in the PHRD Grant Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Grant to the Recipient upon the terms and conditions set forth in this Agreement and in the Credit Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The “General Conditions Applicable to Development Credit Agreements” of the Association, dated January 1, 1985 (as amended through May 1, 2004), with the modifications set forth in Schedule 3 to this Agreement (the General Conditions), constitute an integral part of this Agreement.

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the Credit Agreement, in the General Conditions and in the Recitals to this Agreement have the respective meanings therein set forth.
ARTICLE II

The Grant

Section 2.01. The Association agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to three million three hundred and fifty thousand Special Drawing Rights (SDR 3,350,000).

Section 2.02. (a) The amount of the Grant may be withdrawn from the Grant Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for carrying out the Project and to be financed out of the proceeds of the Grant and (ii) amounts paid (or, if the Association shall so agree, to be paid) by the PIU on account of withdrawals made by a Beneficiary under a Matching Grant to meet the reasonable cost of consulting services required to carry out the activities under a Matching Grant in respect of which the withdrawal from the Grant Account is requested.

(b) The Recipient may, for the purposes of the Project, open and maintain in Dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 2 to the Credit Agreement.

Section 2.03. The Closing Date shall be December 31, 2009 or such later date as the Association shall establish. The Association shall promptly notify the Recipient of such later date.

Section 2.04. (a) The Recipient shall pay to the Association a commitment charge on the principal amount of the Grant not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Recipient from the Grant Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.04 of this Agreement.
(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Recipient; and (iii) in Dollars or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of Section 4.02 of the General Conditions.

Section 2.05. Commitment charges shall be payable semiannually on March 15 and September 15 in each year.

ARTICLE III

Execution of the Project

Section 3.01 (a) The Recipient declares its commitment to the objective of the Project as set forth in Schedule 2 to the Credit Agreement and, to this end, shall carry out the Project through the MOE with due diligence and efficiency and in conformity with appropriate administrative, financial and technical practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Recipient and the Association shall otherwise agree, the Recipient shall carry out the Project in accordance with the implementation program set forth in Schedule 4 to the Credit Agreement.

Section 3.02. (a) Except as the Association shall otherwise agree, procurement of the goods and services required for the Project and to be financed out of the proceeds of the Grant shall be governed by the provisions of Schedule 3 to the Credit Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Recipient shall update the Procurement Plan in accordance with guidelines acceptable to the Association, and furnish such update to the Association not later than 12 months after the date of the preceding Procurement Plan, for the Association’s approval.

Section 3.03. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Recipient shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Association, a plan designed to ensure the sustainability of the Project; and
 afford the Association a reasonable opportunity to exchange views with the Recipient on said plan.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Recipient shall maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Recipient shall:

(i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Association), audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or other period agreed to by the Association), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and

(iii) furnish to the Association such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Grant Account were made on the basis of statements of expenditure, the Recipient shall:

(i) retain, until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
enable the Association’s representatives to examine such records; and

ensure that such statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Association), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Recipient’s progress reporting obligations set out in Part C.1 of Schedule 4 to the Credit Agreement the Recipient shall prepare and furnish to the Association a financial monitoring report, in form and substance satisfactory to the Association, which:

(i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds;

(ii) describes physical progress in Project implementation, 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 the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 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 Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:
(a) that the Recipient shall have enacted new laws concerning the reform of the business regulatory reform or amended, suspended or abrogated such existing laws without the Association’s prior review and consultation so as to affect materially and adversely the ability of the Recipient to perform any of its obligations under this Agreement.

(b) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Recipient to withdraw the proceeds of any grant or credit made to the Recipient for the financing of the Project shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the PHRD Agreement and/or the Credit Agreement providing therefor; or

(B) The Credit Agreement shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply if the Recipient establishes to the satisfaction of the Association that:

(A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Recipient to perform any of its obligations under such agreement; and (B) adequate funds for the Project are available to the Recipient from other sources on terms and conditions consistent with the obligations of the Recipient under this Agreement.

ARTICLE V

Effectiveness; Termination

Section 5.01. The following events are specified as conditions to the effectiveness of this Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) that the PHRD Grant Agreement has been executed on behalf of the Recipient; and

(b) that the Credit Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Recipient to make withdrawals thereunder.
Section 5.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Recipient; Addresses

Section 6.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

Ministry of Finance
7, Cosmonautilor Street
Chisinau 2005
Republic of Moldova

Telephone: (37322) 238844
Facsimile: (37322) 213508
For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

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

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

REPUBLIC OF MOLDOVA

By /s/ Mihail Manoli
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Shigeo Katsu
Authorized Representative
SCHEDULE 1
Withdrawal of the Proceeds of the Grant

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Grant, the allocation of the amounts of the Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (Expressed in SDR Equivalent)</th>
<th>% of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Goods under Part B2 of the Project</td>
<td>2,000,000</td>
<td>100%</td>
</tr>
<tr>
<td>(b) Others</td>
<td>180,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Consultants’ services and Training</td>
<td>652,000</td>
<td>100%</td>
</tr>
<tr>
<td>(3) Matching grants</td>
<td>410,000</td>
<td>100%</td>
</tr>
<tr>
<td>(4) Operating costs</td>
<td>18,000</td>
<td>100%</td>
</tr>
<tr>
<td>(5) Unallocated</td>
<td>90,000</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>3,350,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

2. For the purposes of this Schedule:

   (a) the term “Operating costs” means the expenditures incurred by the PIU on account of Project implementation, including minor office equipment, furniture and supplies, utilities, communications and internet fees, copying, reproduction and publication costs, travel and per diem costs of PIU and governmental staff directly associated with the implementation of the Project activities, and such other expenditures as may be agreed upon by the Bank; and
(b) the term “Training” means training activities (other than consultants’ services) to be carried out under the Project, as approved by the Association on the basis of the annual training and study tour plans acceptable to the Association.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of: (a) payments made for expenditures prior to the date of this Agreement, (b) payments made for expenditures for Category 1(a) of table 1 to this Schedule unless the Recipient has made sufficient progress in the implementation of Part B.1 of the Project in a manner satisfactory to the Association; and (c) payments made for the Category (3) of table 1 of this Schedule unless the MGFA has been selected in accordance with paragraph 1 of Part B of Schedule 4 to the Credit Agreement and a manner satisfactory to the Association.

4. The Association may require withdrawals from the Grant Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods costing less than $100,000 equivalent per contract; (b) services of individual consultants costing less than $25,000 equivalent per contract; (c) services of consulting firms under contracts costing less than $50,000 equivalent per contract, (d) Matching Grants, and (e) Operating Costs and Training, all under such terms and conditions as the Association shall specify by notice to the Recipient.

5. If the Association shall have determined at any time that any amount of the Grant was used in a manner inconsistent with the provisions of this Agreement, the Recipient shall, promptly upon notice from the Association, refund to the Association for deposit into the Grant Account, an amount equivalent to the amount so used.
SCHEDULE 2

Special Account

1. For the purposes of this Schedule:

   (a) the term “eligible Categories means Categories (1) to (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

   (b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

   (c) the term “Authorized Allocation” means an amount equivalent to $490,000 to be withdrawn from the Grant Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to $300,000 until the aggregate amount of withdrawals from the Grant Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 1,000,000

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

   (a) For withdrawals of the Authorized Allocation, the Recipient shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Recipient, withdraw from the Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.

   (b) (i) For replenishment of the Special Account, the Recipient shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.

   (ii) Prior to or at the time of each such request, the Recipient shall furnish to the Association the documents and other evidence
required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Recipient, withdraw from the Grant Account and deposit into the Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Grant Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Recipient out of the Special Account, the Recipient shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

   (a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Recipient directly from the Grant Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

   (b) if the Recipient shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

   (c) if, at any time, the Association shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

   (d) once the total unwithdrawn amount of the Grant allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Grant Account of the remaining unwithdrawn amount of the Grant allocated to the eligible Categories shall follow such procedures as the
Association shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Recipient shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Recipient shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Recipient may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.
SCHEDULE 3

Modifications to the General Conditions

For the purpose of this Agreement, the provisions of the General Conditions are modified as follows:

1. Sections 3.02, 3.03, 3.04(a), 3.04(b), 6.05 and Article VII are deleted in their entirety.

2. Wherever used in the General Conditions, the following terms are modified to read as follows:
   (a) The term “Borrower” is modified to read “Recipient”.
   (b) The term “Credit” is modified to read “Grant”.
   (c) The term “Credit Account” is modified to read “Grant Account”.
   (d) The term “Development Credit Agreement” is modified to read “Development Grant Agreement”.

3. Section 1.01 is modified to read as follows:

   “Section 1.01. Application of General Conditions

   These General Conditions set forth the terms and conditions generally applicable to the Development Grant Agreement to the extent and subject to any modifications set forth in such agreement.”

4. Paragraph 3 of Section 2.01 is modified to read as follows:

   “3. “Recipient” means the party to the Development Grant Agreement to which the Grant is made.”

5. Article III is modified as follows:

   (a) The heading of Article III is modified to read “Grant Account; Partial Payment”, and the heading of Section 3.04 is modified to read “Partial Payment”.


(b) The words “The principal of, and service charges on, the Credit” in Section 3.05 are modified to read “All amounts required to be paid under the Development Grant Agreement”.

6. Article IV is modified as follows:

(a) Section 4.02 (a) is modified to read as follows:

“Section 4.02. Currencies in which Payments are to be Made

(a) The Recipient shall pay all amounts required to be paid by it under the Development Grant Agreement in the currency specified in such agreement or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to paragraph (c) or (e) of this Section.”

(b) Wherever used in Section 4.02(c) and (e) of the General Conditions, the words “principal and service charges” are modified to read “amounts”.

(c) Section 4.03 is modified to read as follows:

“Section 4.03. Amount of the Grant

The amount of the Grant withdrawn from time to time shall be the equivalent in terms of SDR (determined as of the date or respective dates of withdrawal from the Grant Account) of the value of the currency or currencies so withdrawn.”

(d) Section 4.06(b) is modified to read as follows:

“(b) All amounts which the Recipient shall be required to pay under the Development Grant Agreement shall be paid without restrictions of any kind imposed by, or in the territory of, the Recipient.”

7. Section 5.08 of the General Conditions is amended to read as follows:

“Section 5.08. Treatment of Taxes

Except as otherwise provided in the Development Grant Agreement, the proceeds of the Grant may be withdrawn to pay for taxes levied by, or in the territory of, the Recipient on the goods or services to be financed
under the Grant, or on their importation, manufacture, procurement or supply. Financing of such taxes is subject to the Association’s policy of requiring economy and efficiency in the use of the proceeds of its credits and grants. To that end, if the Association shall at any time determine that the amount of any taxes levied on or in respect of any item to be financed out of the proceeds of the Grant is excessive or otherwise unreasonable, the Association may, by notice to the Recipient, adjust the percentage for withdrawal set forth or referred to in respect of such item in the Development Grant Agreement as required to be consistent with such policy of the Association.”

8. Article VI is modified as follows:

(a) The word “credit” in paragraphs (a) (ii) and (c) (i) of Section 6.02 is replaced with the words “credit, grant or financing”.

(b) Section 6.03 (c) is modified by replacing the words “corrupt or fraudulent” with the words “corrupt, fraudulent, collusive or coercive”.

9. Section 8.01(a) is modified to read as follows:

“(a) All amounts which the Recipient shall be required to pay under the Development Grant Agreement shall be paid without deduction for, and free from, any taxes levied by, or in the territory of, the Recipient.”

10. Section 12.05 and its heading are modified to read as follows:

“Section 12.05. Termination of Development Grant Agreement.

The obligations of the Recipient under the Development Grant Agreement shall terminate on the date 20 years after the date of the Development Grant Agreement.”