



**European Bank**  
for Reconstruction and Development

## PRE-FINANCING AGREEMENT

**Re: ROMANIA/ GrCF2 W2 - Craiova Urban Transport**

This Pre-Financing Agreement (the "**Agreement**") is made on \_\_\_\_\_ of June 2020, by and between:

- (1) S.C. RAT SA (the "**Company**"), having its offices at 103, Severinului Street, Craiova, Dolj County, Romania
- (2) The Municipality of Craiova (the "**City**"), having its offices at No. 7 Alexandru Ioan Cuza Street, 200585, Craiova, România
- (3) The European Bank for Reconstruction and Development, having its headquarters at One Exchange Square, London EC2A 2JN, United Kingdom ("**EBRD**" or the "**Bank**").

(hereafter collectively referred to as the "**Parties**" and "**Party**" shall mean any one of them)

### WHEREAS:

- A. The Company is seeking funding of up to EUR 6 million (or the RON equivalent) to finance the rehabilitation of its bus depot (the "**Project**").
- B. The Bank is considering participating in the Project through the provision of long term financing to the Company in the amount of up to EUR 6 million (or the RON equivalent).
- C. The Parties wish to set forth in this Agreement the basis on which they will work together in preparing the proposed financing for the Project.



**THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:**

1. The Bank confirms its interest in considering participating in the Project (subject to Section 8 below) through the provision of long term financing in the form of a senior loan to the Company in the overall amount of up to EUR 6 million or the RON equivalent (the "**Loan**").
2. The Loan will be developed as a sub-project under the Green Cities 2 – Window II Framework ("**GrCF2 W2**" or the "**Framework**") established by the Bank to support cities to identify, benchmark, prioritise and invest in Green City measures to improve urban environmental performance. The GrCF2 W2 Framework was approved by the Bank's Board of Directors in October 2018.
3. The terms and conditions of the Loan will be negotiated after appraisal of the Project by the Bank. However, the following indicative terms are currently anticipated:
  - (i) Currency: EUR or RON;
  - (ii) Amount: up to EUR 6 million or RON equivalent;
  - (iii) Maturity: up to 8 years, including up to 1 year grace period;
  - (iv) Commitment Period: 1 year from the date of signing of the loan agreement to be entered into between the Company and the Bank (the "**Loan Agreement**");
  - (v) Repayment Period: up to 8 years including 1 year grace period;
  - (vi) Margin/ Interest Rate:
    - Margin of 2% - 2.25% over six-month ROBOR/EURIBOR.
    - The ultimate Margin grid will be negotiated taking into consideration the results of the further due diligence and shall be dependent on the level of security, financial covenants and market conditions.
  - (vii) Up-front fee: 1.0 per cent
  - (viii) Commitment fee: (1) 0% p.a. for a period of 90 days from the date of the Loan signing; (2) 0.15% p.a. on any undisbursed amount for the next 12 months; and (3) 0.5% p.a. on any undisbursed amount thereafter;
  - (ix) Prepayment fee: 3% of prepaid amounts for a period of 4 years from the Loan signing; 2% of prepaid amounts if prepayment occurs between 4 years and 5 years after the Loan signing; 1% of prepaid amounts if prepayment occurs after 5 years after the Loan signing;
  - (x) Minimum prepayment amount: EUR 1 million or RON equivalent;





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- (xi) Project Agreements to include:
    - The Public Service Contract (“PSC”) between the Company and the City, satisfactory to the Bank;
    - Any other agreement or document which the Bank and the Company may from time to time designate as a Project Agreement;
  - (xii) Financing Agreements to include:
    - Letter of Information;
    - Loan Agreement;
    - Debt Service Reserve Account (“DSRA”) Agreement: on the date of the first disbursement and at all times thereafter, the DSRA shall have an amount equivalent to one instalment;
    - Municipal Support Agreement (“MSA”) among the Company, the Bank, and the City
    - Pledge agreement over the Company’s DSRA if the accounts will be in RON currency
    - Any other agreements entered into between the Company, the City and the Bank and notices, certificates and applications issued by the Company and City to the Bank;
  - (xiii) Procurement: Procurement would be carried out in accordance with the Bank’s Procurement Policies and Rules;
  - (xiv) Permitted indebtedness: Without prior notification to the Bank, the Company shall not incur, assume or permit to exist any financial debt except of that provided under the Loan Agreement;
  - (xv) Key financial indicators for the Company will include for example, without limitation, minimum DSCR ratio of 1.2x, maximum Financial Debt/EBITDA of 4.5x.
4. The Bank confirms its willingness to co-operate with the Company and the City to advance the preparation of the requested financing, including by mobilising staff and external consultants, as long as the Project shall be supported by the Bank’s management and the Board of Directors.
  5. The Bank will seek to mobilise technical cooperation grant funds administered by the Bank (“TC Funds”), subject to approval of the Bank’s management, as follows:
    - (i) Pre-signing: technical and financial due diligence
    - (ii) Post-signing: (i) procurement support for depot rehabilitation ;(ii) capacity development and commercialisation (including PSC amendment as needed) and (iii) Company’s participation in the Urban Transport Benchmarking Programme
  6. If the Company at any time elects not to pursue further processing of the proposed financing with the Bank, the Company will be obliged to pay the



Bank, promptly upon receipt of an invoice by the Bank, all TC Funds made available for the Company (as mentioned in Section 5 above).

7. The Company's contribution to the Project preparation shall include:
  - (i) The Company shall pay for its own internal costs relating to the preparation and appraisal of the Project;
  - (ii) The Company shall provide free of charge to any consultants selected by the Bank to work on the Project suitably furnished and serviced office accommodation;
  - (iii) The Company will reimburse the Bank for the expenses of outside legal counsel retained by the Bank (the "Expenses"). Expenses shall be reimbursed by the Company within 21 days after the Bank provides the Company with documentation confirming that such Expenses have been incurred.
8. The Preamble, Sections 1, 2 and 3 of this Agreement reflect only the expectations and current intentions of the Parties in relation to the Project and do not impose or constitute any legally binding obligations on the Parties to provide, or to accept, financing, as the case may be. Any financing will be separately and specifically agreed between the Parties. In particular, it will be conditional on the findings of the Project appraisal and shall be subject to negotiation of an overall financing plan and Project arrangements satisfactory to the Bank, approval by the Bank's management and Board of Directors, negotiation and execution of appropriate financing documentation and fulfilment of applicable conditions precedent. Except as otherwise provided in this Section 8, this Agreement provides for legally binding obligations of the Parties which will become immediately effective upon execution of this Agreement.
9. Any amendment to, or waiver by the Bank of any terms or conditions of, or consent given by the Bank under, this Agreement (including under this Section 9) shall be in writing, signed by the Bank and, in the case of an amendment, by the City and the Company
10. Any notice, application or other communication to be given or made under this Agreement to any Party to this Agreement shall be in writing. Except as otherwise provided in this Agreement, such notice, application or communication shall be deemed to have been duly given or made when it is delivered by hand, airmail or facsimile transmission to the party to which it is required or permitted to be given or made at such party's address herein firstly mentioned or at such other address as such party designates by notice to the party giving or making such notice, application or other communication.
11. This Agreement shall be governed by the laws of England. The Loan Agreement to be executed between the Bank and the Company will be governed by the laws of England.



12. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof or the Bank's involvement with the Project (if any), shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. There shall be one arbitrator and the appointing authority shall be LCIA (London Court of International Arbitration). The seat and place of arbitration shall be London, England and the English language shall be used. The parties waive any rights under the Arbitration Act 1996 or otherwise to appeal any arbitration award to, or to seek determination of a preliminary point of law by, the courts of England. Notwithstanding the UNCITRAL Arbitration Rules, the arbitral tribunal shall not be authorised to grant, and the City and the Company agree that it shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank. Notwithstanding the foregoing, this Agreement may, at the option of the Bank, be enforced by the Bank in any courts having jurisdiction.
13. From the date of signing of this Agreement and until the date of signing of the Loan Agreement, the Company shall not enter into any negotiations with any bank or financial institution with the aim of raising any term financing in the international debt market without the EBRD's prior written consent.
14. Nothing in this Agreement shall be construed as a waiver, renunciation or other modification of any immunities, privileges or exemptions of the Bank accorded under the Agreement Establishing the European Bank for Reconstruction and Development, international convention or any applicable law.
15. The City and the Company represent and warrant that this Agreement is a commercial rather than a public or governmental act and that the City and the Company are not entitled to claim immunity from legal proceedings with respect to itself or any of its assets on the grounds of sovereignty or otherwise under any law or under any jurisdiction where an action may be brought for the enforcement of any of the obligations arising under or relating to this Agreement.
16. The Bank is sometimes the recipient of communications, including complaints, from civil society on environmental, safety, social, and other aspects of projects, both before Board approval and during project implementation. The Bank will share this external communication and its responses with the City and the Company and any potential co-financiers, insofar as any of this information is not covered by any confidentiality agreement, in order to ensure consistency in approach and messages to the public. The Bank encourages the City and the Company and any co-financiers to likewise share external communication, including complaints, and their responses with the Bank.
17. This Agreement is drafted in 6 (six) counterparts, 3 (three) in the English language and 3 (three) in the Romanian language, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The English version shall be the governing version.



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

**For the Municipality of Craiova**

\_\_\_\_\_  
**Name:**

**Title:**

**For RAT Craiova**

\_\_\_\_\_  
**Name:**

**Title:**

**For EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

\_\_\_\_\_  
**Mrs. Susan Goeransson**

**Director, Sustainable Infrastructure Group – Infra Europe**