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CHINA EXIMBANK GCL NO. 2014 (1) TOTAL NO. (504)

**GOVERNMENT CONCESSIONAL LOAN AGREEMENT**

**On VANUATU ROAD REHABILITATION PROJECT**

**BETWEEN**

**The Government of the Republic of Vanuatu**

**Represented by Ministry of Finance and Economic Management**

**as Borrower**

**AND**

**THE EXPORT-IMPORT BANK OF CHINA**

**as Lender**

**DATED April 14<sup>th</sup>, 2014**

MSS J.

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THIS GOVERNMENT CONCESSIONAL LOAN AGREEMENT  
(the "Agreement") is made on the day of April 14<sup>th</sup>, 2014.

BETWEEN

The Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management (hereinafter referred to as the "**Borrower**"), having its office at Private Mail Bag 058, Port Vila, Vanuatu;

AND

THE EXPORT-IMPORT BANK OF CHINA (hereinafter referred to as the "**Lender**"), having its registered office at No. 30, Fuxingmennei Street, Xicheng District, Beijing 100031, China.

**WHEREAS:**

(A) On December 31<sup>st</sup>, 2013, the Government of the People's Republic of China and the Government Republic of Vanuatu entered into The Framework Agreement between the Government of the People's Republic of China and the Government of the Republic of Vanuatu on Provision of Government Interest-Subsidized Concessional Loans by China to the Republic of Vanuatu (hereinafter referred to as the "**Framework Agreement**").

(B) The Borrower has requested that the Lender make available a loan facility of up to Renminbi Three Hundred and Fifty Million Yuan only (¥ 350,000,000.00) to the Borrower for the financing needs under the Commercial Contract (as defined in Article 1), and;

(C) The Ministry of Infrastructure and Public Utilities of the Republic of Vanuatu (hereinafter referred to as the "**Employer**") and China Civil Engineering Construction Corporation (hereinafter referred to as the "**Chinese Supplier**") have entered into on July 12<sup>th</sup> 2013 the Vanuatu Road Rehabilitation Project Contract (hereinafter referred to as the "**Commercial Contract**") for the purpose of the implementation of the Project (as

defined in Article 1).

NOW THEREFORE, the Borrower and the Lender hereby agree as follows:

### ARTICLE 1 DEFINITIONS

Where used in this Agreement, unless the context otherwise requires, the following terms have the following meanings:

1.1 **“Account Bank of the Lender”** means the Export-Import Bank of China.

1.2 **“Agreement”** means this government concessional loan agreement and its appendices and any amendment to such agreement and its appendices from time to time upon the written consent of the parties.

1.3 **“Availability Period”** means the period commencing on the date on which this Agreement becomes effective and ending on the date falling Seventy Two (72) months thereafter, during which time all the disbursements shall be made in accordance with the stipulations of this Agreement.

1.4 **“Banking Day”** means a day on which banks are open for ordinary banking business in Beijing, including Saturdays and Sundays on which banks are open for business as required by the provisional regulations of China, but excluding the legal festivals and holidays of China and Saturdays and Sundays falling out of the aforesaid regulations.

1.5 **“China”** means the People’s Republic of China.

1.6 **“Commitment Fee”** means the fees calculated and paid in accordance with Article 2.2 and Article 2.7.

1.7 **“Commercial Contract”** means, the Vanuatu Road Rehabilitation Project

Contract for the purpose of the implementation of the Project entered by and between the Ministry of Infrastructure and Public Utilities of the Republic of Vanuatu and China Civil Engineering Construction Corporation on July 12<sup>th</sup> 2013 with the total amount of Renminbi Three Hundred and Fifty Million Yuan only (¥350,000,000.00).

1.8 “**Disbursement**” means the advance of the Facility made in accordance with Article 3 of this Agreement.

1.9 “**Employer**” means the Ministry of Infrastructure and Public Utilities of the Republic of Vanuatu, which ultimately utilizes the Facility.

1.10 “**Event of Default**” means any event or circumstance specified as such in Article 7.

1.11 “**Facility**” has the meaning set forth in Article 2.1.

1.12 “**Final Repayment Date**” means the date on which the Maturity Period expires.

1.13 “**First Repayment Date**” means the first repayment date of principal and interest after the maturity of the Grace Period.

1.14 “**Grace Period**” means the period commencing on the date on which this Agreement becomes effective and ending on the date Eighty Four(84) months after the date on which this Agreement becomes effective, during which period only the interest and no principal is payable by the Borrower to the Lender. The Grace Period includes the Availability Period.

1.15 “**Interest Payment Date**” means the 21<sup>st</sup> of March and the 21<sup>st</sup> of September in each calendar year and the Final Repayment Date;

1.16 “**Irrevocable Notice of Drawdown**” means the notice issued in the form set out in Appendix 5 attached hereto.

1.17 “**Loan**” means the aggregate principal amount disbursed and from time to time outstanding under the Facility.

1.18 “**Management Fee**” means the fees calculated and paid in accordance with Article 2.2 and Article 2.6.

1.19 “**Maturity Period**” means the period commencing on the date on which this Agreement becomes effective and ending on the date falling Two Hundred and Forty(240) months thereafter, including the Grace Period and the Repayment Period.

1.20 “**Notice of Effectiveness of Loan Agreement**” means a written notice in the form set forth in Appendix 9 attached hereto, in which the effective date of this Agreement shall be specified.

1.21 “**Project**” means the Vanuatu Road Rehabilitation Project.

1.22 “**Renminbi**” means the lawful currency for the time being of the People’s Republic of China.

1.23 “**Repayment Date of Principal and Interest**” means each Interest Payment Date and the Final Repayment Date.

1.24 “**Repayment Period**” means the period commencing on date on which the Grace Period expires and ending on the Final Repayment Date.

1.27 “**Repayment Schedule**” means the schedule showing the dates and amounts of repayments of the Loan set forth in Appendix 10 attached hereto.

## ARTICLE 2 CONDITIONS AND UTILIZATION OF THE FACILITY

2.1 Subject to the terms and conditions of this Agreement, the Lender hereby

agrees to make available to the Borrower a loan facility (hereinafter referred to as the "Facility") in an aggregate principal amount not exceeding Renminbi Three Hundred and Fifty Million Yuan only (¥350,000,000.00).

All the drawdowns and repayments in connection with the Facility under this Agreement shall be recorded in Renminbi. In case drawdowns in US Dollar (or other convertible hard currencies accepted by the Lender) are requested, the amount in US Dollar shall be purchased with Renminbi in accordance with the selling rate of US Dollar (or other convertible hard currencies accepted by the Lender) to Renminbi promulgated by the Account Bank of the Lender on the date the aforesaid disbursements are made by the Lender and recorded in Renminbi. Any principal, interest and other cost due and payable by the Borrower under this Agreement may be repaid or paid in US Dollar (or other convertible currency accepted by the Lender) and recorded in Renminbi in accordance with the buying rate of US Dollar (or other convertible hard currencies accepted by the Lender) to Renminbi promulgated by the Account Bank of the Lender on the date such payments are received by the Lender. The Lender shall not bear any foreign exchange risk in the aforesaid process. The Borrower hereby undertakes that the amounts due and payable by the Borrower under this Agreement shall not be affected by any change in the exchange rate between Renminbi and any other currencies or the exchange rates among the currencies other than Renminbi.

2.2 The rate of interest applicable to the Loan shall be Two percent (2%) per annum. The rate applicable to the Management Fee shall be Zero point Twenty-Five percent (0.25%). The rate applicable to the Commitment Fee shall be Zero point Twenty-Five percent (0.25%) per annum.

2.3 The Maturity Period for the Facility shall be Two Hundred and Forty (240) months, among which the Grace Period shall be Eighty Four(84) months and the Repayment Period shall be One Hundred and Fifty Six (156) months.

2.4 The entire proceeds of the Facility shall be applied by the Borrower for the sole purpose of the payment of approximately one hundred percent (100%) of the Commercial Contract amount.

2.5 The goods, technologies and services purchased by using the proceeds of Facility shall be purchased from China and Vanuatu preferentially.

2.6 The Borrower shall pay to the Lender a Management Fee on the aggregate amount of the Facility equal to Renminbi Eight Hundred and Seventy Five Thousand Yuan only (¥875,000.00) in one lump within thirty (30) days after this Agreement becomes effective but not later than the first Disbursement Date in any case, which amount shall be calculated at the rate set forth in Article 2.2. The Management Fee shall be paid to the account designated in Article 4.4.

2.7 During the Availability Period, the Borrower shall pay semi-annually to the Lender a Commitment Fee calculated at the rate set forth in Article 2.2 on the undrawn and uncanceled balance of the Facility. The Commitment Fee shall accrue from and including the date falling 30 days after the date on which this Agreement becomes effective and shall be calculated on the basis of the actual number of days elapsed and a 360 day year. The Commitment Fee shall accrue on a daily basis and be paid in arrears to the account designated in Article 4.4 on each Interest Payment Date.

### **ARTICLE 3 DISBURSEMENT OF THE FACILITY**

3.1 The first disbursement is subject to the satisfaction of the conditions precedent set out in Appendix 1 attached hereto (or such conditions precedent have been waived by the Lender in writing).

3.2 In relation to each disbursement after the first disbursement, besides the satisfaction of the conditions set forth in Article 3.1, such disbursement shall also be subject to the satisfaction of the conditions set out in Appendix 2 attached hereto.

3.3 The Availability Period may be extended, provided that an application for such extension is submitted by the Borrower to the Lender thirty (30) days prior to the end of the Availability Period and such application is approved by the Lender. In any



event, the Availability Period shall not exceed the Grace Period. Any portion of the Facility undrawn at the end of the Availability Period or the extension thereof shall be automatically canceled. Before the end of the Availability Period, the Borrower shall not, without the consent of the Lender, cancel all or any part of the undrawn Facility.

3.4 The Lender shall not be obliged to make any disbursement under this Agreement unless it has received all the documents set forth in Article 3.1 or 3.2 and has determined after examination that the conditions precedent to the drawdown of the Facility by the Borrower have been satisfied. For those conditions which have not been satisfied by the Borrower, the Lender may require the remedy by the Borrower within a specified period. In the event that the Borrower fails to remedy within a reasonable period of time, the Lender may refuse to make the disbursement.

3.5 Forthwith upon the making by the Lender of the disbursement in accordance with the Irrevocable Notice of Drawdown, the Lender shall be deemed as having completed its disbursement obligation under this Agreement and such disbursement shall become the indebtedness of the Borrower. The Borrower shall repay to the Lender the principal amount drawn and outstanding under the Facility together with any interest accrued thereon in accordance with this Agreement.

3.6 The Lender shall not be under any obligation to make any further Disbursement under the Facility if the aggregate amount of the Disbursements made under this Agreement would exceed the principal amount of the Facility.

#### **ARTICLE 4 REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST**

4.1 The Borrower is obligated to repay to the Lender all the principal amount drawn and outstanding under the Facility, all the interest accrued thereon and such other amount payable by the Borrower in accordance with the terms and conditions of this Agreement. Without the written consent of the Lender, the Maturity Period shall not be extended.

4.2 The Borrower shall pay interest on the principal amount drawn and outstanding under this Agreement at the rate set forth in Article 2.2. The interest shall be calculated on the basis of the actual number of days elapsed and a 360 day year, including the first day of the Interest Period during which it accrues but excluding the last, and shall be paid in arrears on each Interest Payment Date. If any payment to be made by the Borrower hereunder falls due on any day which is not a Banking Day, such payment shall be made on the immediately preceding Banking Day.

4.3 All the principal amount drawn under this Agreement shall be repaid to the Lender by Twenty-Seven (27) equal installments on each Repayment Date of Principal and Interest within the Repayment Period and the Final Repayment Date in accordance with the Repayment Schedule as Appendix 10 sent by the Lender to the Borrower after the expiration of the Availability Period.

4.4 Any payments or repayments made by the Borrower under this Agreement shall be remitted to the following account or any other account from time to time designated by the Lender on the Repayment Date of Principal and Interest of each year:

Payee: The Export-Import Bank of China

Opening Bank: Business Department, Bank of China, Head Office  
( SWIFT CODE : BKCHCNBJBKD )

Account No.: 778407900258 (For USD remittance)  
778350006307 ( For RMB remittance )

4.5 The Lender shall open and maintain on its book a lending account for the Borrower entitled "The Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management Account on the Vanuatu Road Rehabilitation Project" (hereinafter referred to as the "**Borrower's Account**") to record the amount owing or repaid or paid by the Borrower. The amount of the Facility recorded as drawn and outstanding in the Borrower's Account shall be the evidence of the Borrower's indebtedness owed to the Lender and shall be binding on the Borrower in the absence of manifest error.

4.6 Both the Borrower and the Lender shall keep accurate book records of any disbursement under the Facility and repayment of principal and interest under this Agreement and shall verify such records once a year.

4.7 The Borrower may prepay the principal amount drawn and outstanding under the Facility by giving the Lender a 30 days' prior written notice, and such prepayment shall be subject to the consent of the Lender. At the time of prepayment, the Borrower shall also pay to the Lender all interest accrued on the prepaid principal in accordance with Article 4.2 up to the date of prepayment. Any prepayment made pursuant to this Article shall reduce the amount of the repayment installments in inverse order of maturity.

#### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES BY THE BORROWER**

The Borrower hereby represents and warrants to the Lender as follows:

5.1 The Borrower is Government of the Republic of Vanuatu represented by Ministry of Finance and Economic Management and has full power, authority and legal rights to borrow the Facility on the terms and conditions hereunder.

5.2 The Borrower has completed all the authorizations, acts and procedures as required by the laws of the Borrower in order for this Agreement to constitute valid and legally binding obligations of the Borrower in accordance with its terms, including obtaining all the approvals and authorizations from relevant authorities of the Borrower and effecting all the registrations or filings as required by the laws of the Borrower, and such approvals, authorizations, registrations and filings are in full force and effect.

5.3 As from the date on which this Agreement becomes effective, this Agreement constitutes legal, valid and binding obligation of the Borrower.

5.4 The Borrower is not in default under any law or agreement applicable to it, the

consequence of which default could materially and adversely affect its ability to perform its obligations under this Agreement and no Event of Default has occurred under this Agreement.

5.5 The signing of this Agreement by the Borrower constitutes, and the Borrower's performance of its obligations under this Agreement will constitute commercial acts. Neither the Borrower nor any of its assets is entitled to any right of immunity on the grounds of sovereign or otherwise from arbitration, suit, execution or any other legal process with respect to its obligations under this Agreement, as the case may be, in any jurisdiction.

5.6 All information supplied to the Lender by the Borrower is true and accurate in all material respects.

The Borrower represents and warrants to the Lender that the foregoing representations and warranties will be true and accurate throughout the Maturity Period with reference to the facts and circumstances subsisting from time to time. The Borrower acknowledges that the Lender has entered into this Agreement in reliance upon the representations and warranties contained in this Article.

## ARTICLE 6 SPECIAL COVENANTS

6.1 The Borrower hereby covenants to the Lender that the obligations and liabilities of the Borrower under this Agreement are direct, unconditional and general obligations and rank and will rank at least pari passu in right of payment and security with all other present or future unsecured and unsubordinated indebtedness (both actual and contingent) of the Borrower. Any preference or priority granted by the Borrower to such indebtedness shall be forthwith applicable to this Agreement without prior request from the Lender.

6.2 The Borrower undertakes with the Lender that it will ensure that all amounts disbursed under this Agreement be used for the purposes specified in Article 2.4 and

Article 2.5 and that it will pay the interest and any other payable amounts hereunder and repay the principal to the Lender in accordance with the terms and conditions hereunder. The performance by the Borrower of all its obligations under this Agreement shall be unconditional under all circumstances.

6.3 All payments by the Borrower to the Lender under the Loan Agreement and all procurements of goods and services made by Chinese Supplier under the Commercial Contract shall be exempt from any rate, charge, duty or imposition of any kind under the laws of the Borrower.

6.4 The Borrower hereby covenants to the Lender that it will take immediate steps and fulfill all the conditions necessary to maintain in full force and effect all approvals, authorizations, registrations and filings specified in Article 5.2.

6.5 The Borrower shall submit to the Lender the following documents and hereby covenants to the Lender that the information contained in such documents is true and accurate:

(1) The Borrower shall submit to the Lender semi-annually during the Maturity Period reports on the actual progress and operation status of the Project and the utilization of the disbursed Facility proceeds.

(2) The Borrower shall supply to the Lender any other information pertaining to the performance of this Agreement at any time reasonably requested by the Lender.

6.6 The Lender shall be entitled to examine and supervise the utilization of the proceeds of the Facility and the performance of this Agreement. The Borrower shall facilitate the aforesaid examination and supervision of the Lender, including without limitation cause the relevant authority to issue the long-term multiple entry visa of the Borrower to loan officer of the Lender in accordance with the Immigration Act.

6.7 During the Maturity Period, the Borrower shall inform in writing the Lender within 30 days from the date on which the following events occur:

(1) any material decision, change, accident and other significant facts

pertaining to the Project or the Borrower;

(2) any change of the authorized persons and the specimen of their signatures involved in the drawdown of the Facility under this Agreement;

(3) any change of the communication address of the Borrower specified in Article 8.7;

(4) the occurrence of any Event of Default specified in Article 7;

(5) any significant amendment or supplement to the Commercial Contract;

6.8 The Borrower undertakes with the Lender that so long as any sum remains outstanding under this Agreement, the Borrower will not engage in the activities which, in the opinion of the Lender, will materially and adversely affect the performance of the Borrower's obligations under this Agreement.

6.9 The Borrower hereby represents, warrants and undertakes that its obligations and liabilities under this Agreement are independent and separate from those stated in agreements with other creditors (whether official creditors, Paris Club creditors or other creditors), and the Borrower shall not seek from the Lender any kind of comparable terms and conditions which are stated or might be stated in agreements with other creditors.

#### **ARTICLE 7 EVENTS OF DEFAULT**

7.1 Each of the following events and circumstances shall be an Event of Default:

(1) The Borrower, for any reason, fails to pay any due and payable principal, interest, Commitment Fee, Management Fee or other sums in accordance with the provisions hereof;

(2) Any representation and warranty made by the Borrower in Article 5, Article 6 or other Articles of this Agreement, or any certificate, document and material submitted and delivered by the Borrower pursuant to this Agreement proves to have been untrue or incorrect in any material respect ;

(3) The Borrower fails to punctually perform any of its other obligations under this Agreement or is in breach of any of its covenants and undertakings made under this Agreement, and does not remedy such breach to the satisfaction of the Lender within 30 days after receipt of written notice from the Lender requiring it to do so;

(4) Any other event which constitutes a default of the Borrower occurs in respect of any other agreement involving the borrowing of money or any guarantee between the Borrower and any other banks or financial institutions;

(5) Significant changes have occurred with respect to the Project or the Borrower, either of which, in the opinion of the Lender, may have material adverse effect on the ability of the Borrower to perform its obligations under this Agreement;

(6) The Borrower stops or suspends repayment to its creditors generally;

7.2 Upon the occurrence of any of the aforesaid Event of Default, the Lender may, by written notice to the Borrower, terminate the disbursement of the Facility, and/or declare all the principal and accrued interest and all other sums payable hereunder to be immediately due and payable by the Borrower without further demand, notice or other legal formality of any kind.

7.3 Where there occurs any change of the laws or government policies in the country of either the Lender or the Borrower, which makes it impossible for either the Lender or the Borrower to perform its obligations under this Agreement, the Lender may, by written notice to the Borrower, terminate the disbursement of the Facility, and/or declare all the principal and accrued interest and all other sums payable hereunder to be immediately due and payable by the Borrower without further demand, notice or other legal formality of any kind.

## ARTICLE 8 MISCELLANEOUS

8.1 The Borrower hereby irrevocably waives any immunity on the grounds of

sovereign or otherwise for itself or its property in connection with any arbitration proceeding or arbitral award pursuant thereto.

8.2 Without prior written consent of the Lender, the Borrower may not assign or transfer all or any part of its rights or obligations hereunder in any form to any third party. The Lender is entitled to assign or transfer all or any part of its rights, interests and obligations hereunder to a third party with notice to the Borrower. The Borrower shall sign all such documents and do necessary acts and things as the Lender may reasonably require for the purpose of perfecting and completing any such assignment and transfer, provided that any costs incurred by the Borrower in connection therewith shall be borne by the Lender.

8.3 This Agreement is legally independent of the relevant Commercial Contract. Any claims or disputes arising out of the Commercial Contract shall not affect the obligations of the Borrower under this Agreement.

8.4 This Agreement as well as the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of China.

8.5 Any dispute arising out of or in connection with this Agreement shall be resolved through friendly consultation. If no settlement can be reached through such consultation, each party shall have the right to submit such dispute to the China International Economic and Trade Arbitration Commission (CIETAC) for arbitration. The arbitration shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award shall be final and binding upon both parties. The arbitration shall take place in Beijing.

8.6 The Borrower hereby irrevocably designates Embassy of the Republic of Vanuatu in China with its address at 3-1-11, San Li Tun Diplomatic Compound, Beijing, People's Republic of China 100600, as its authorized agent to receive and acknowledge on its behalf service of any notice, writ, summons, order, judgment or other legal documents in China. If for any reason the agent named above (or its successor) no longer serves as agent of the Borrower to receive legal documents as aforesaid, the



Borrower shall promptly designate a successor agent satisfactory to the Lender. The Borrower hereby agrees that, any such legal documents shall be sufficiently served on it if delivered to the agent for service at its address for the time being in Beijing, whether or not such agent gives notice thereof to the Borrower.

8.7 All notices or other documents in connection with this Agreement shall be in writing and shall be delivered or sent either personally or by post or facsimile to the following respective address or facsimile number of both parties; in the event that the following address or facsimile number of any party hereunder has changed, such party shall immediately inform the other party in the way set out in this Agreement:

To the Lender: Concessional Loan Dept.  
The Export-Import Bank of China  
No. 30, Fu Xing Men Nei Street, Xicheng District,  
Beijing, 100031  
People's Republic of China  
Fax No.: 8610-83578516  
Telephone: 8610-83578465  
Contact Person: Ms. LIU Ya

To the Borrower: Government of the Republic of Vanuatu represented by the  
Ministry of Finance and Economic Management  
Private Mail Bag 058, Port Vila, Vanuatu  
Fax No.: 678-53388  
Telephone: (678) 533372  
Contact Person: Mr. Georges Maniuri

Any notice or document so addressed to the relevant party under this Agreement shall be deemed to have been delivered:

- (1) if sent by personal delivery: at the time of delivery;
- (2) if sent by post: 15 days after posting (excluding Saturdays, Sundays and statutory holidays);

(3) if sent by facsimile, when the notice or document is dispatched by fax machine .

8.8 This Agreement shall be signed in the English language. The notes and other written documents delivered between the Borrower and the Lender under this Agreement shall all be written in English.

8.9 Unless otherwise provided, no failure or delay by the Lender in exercising any of its rights, power or privilege under this Agreement shall impair such right, power or privilege or operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

8.10 The appendices to this Agreement shall be deemed as an integral part of this Agreement and have the same legal effect as this Agreement.

8.11 Matters not covered in this Agreement shall be settled through friendly consultation and signing of supplementary agreements between the Borrower and the Lender.

#### **ARTICLE 9 CONDITIONS TO EFFECTIVENESS**

9.1 This Agreement shall become effective upon the satisfaction of the following conditions:

- (1) This Agreement has been duly signed by the Lender and the Borrower;
- (2) The Lender has received copies of the approval issued by the relevant authorities of the Borrower approving the borrowing by the Borrower hereunder.
- (3) The Environment Permit has been issued by relevant environmental authority of Vanuatu.

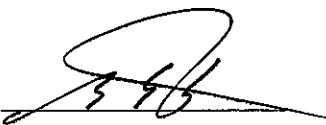
9.2 The effective date of this Agreement shall be the date specified in the Notice of Effectiveness of Loan Agreement sent by the Lender to the Borrower after all the

conditions precedent to the effectiveness of this Agreement have been fully satisfied.

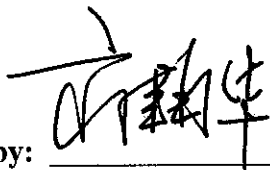
9.3 In the event that this Agreement fails to become effective within one year after signing by the parties, the Lender shall have the right to re-evaluate the implementation conditions of the Project and utilization conditions of the Facility to determine whether to continue the performance of this Agreement or not.

9.4 This Agreement shall be made in two counterparts with equal legal effect.

**IN WITNESS WHEREOF**, the two parties hereto have caused this Agreement to be duly signed on their respective behalf, by their duly authorized representatives, on the date stated at the beginning of this Agreement.

Signed by:   
Name: **Hon. Maki Stanley Simelum (MP)**  
Title: **Minister of Finance and  
Economic Management**

on behalf of  
**The Republic of Vanuatu represented  
by the Ministry of Finance and Economic  
Management**

Signed by:   
Name: **Mr. Jiang Juhua**  
Title: **General Manager-  
Concessional Loan Department**

on behalf of  
**The Export-Import Bank of China**

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**Appendices:**

1. Conditions Precedent to the First Drawdown
2. Conditions Precedent to Each Drawdown after the First Drawdown
3. Power of Attorney (for Signing)
4. Power of Attorney (for Drawdown)
5. Form of Irrevocable Notice of Drawdown
6. Form of Legal Opinion
7. Irrevocable Power of Attorney of Borrower's Process Agent
8. Letter of Confirmation
9. Form of Notice of Effectiveness of Loan Agreement
10. Form of Repayment Schedule

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**Appendix 1**  
**Conditions Precedent to the First Disbursement**

Upon the Borrower's application to the Lender for the making of the first disbursement, the Lender shall not be obliged to make any such disbursement to the Borrower unless the Borrower has fulfilled the following conditions and the Lender has received the following documents to its satisfaction:

- (1) Copies of this Agreement which have been duly signed by all parties thereto respectively and have become effective;
- (2) Certified true copies of the Commercial Contract and other relevant documents in connection therewith acceptable to the Lender which have been duly signed by all parties thereto and have become effective;
- (3) Drawdown schedule submitted by the Borrower which has been recognized and accepted by the Lender;
- (4) The authorization of the Borrower, by which the Borrower authorizes one or more representatives to sign this Agreement, Irrevocable Notice of Drawdown and any other documents in relation to this Agreement, and the signature specimen of such authorized representatives.
- (5) Certified true copies of any and all documents which could evidence that the Management Fee and Commitment Fee payable hereunder have been paid by the Borrower to the Lender in accordance with the provisions of Article 2.6 and Article 2.7;
- (6) An original Irrevocable Notice of Drawdown in the form set out in Appendix 5 attached hereto duly signed by the authorized signatory of the Borrower and affixed with the official stamp of the Borrower and sent by courier or TESTED SWIFT not later than the fifteenth (15<sup>th</sup>) Banking Day prior to the date on which the drawdown is scheduled to be made; such Irrevocable Notice of Drawdown authorizes the Lender to pay the relevant amount to the account designated by the Borrower, and such drawdown shall be in

mess 7.

compliance with the stipulations of the Commercial Contract;

(7) The irrevocable power of attorney to the process agent by the Borrower named in Article 8.6 in the form set forth in Appendix 7 or in the form and substance otherwise approved by the Lender in writing and the written confirmation of acceptance of appointment by such process agent in the form of Appendix 8 or in the form and substance otherwise approved by the Lender in writing;

(8) The arrangement for land requisition, demolition and counterpart funds has been approved by the government of Vanuatu.

(9) Such other document(s) or condition(s) relating to the transactions under this Agreement as the Lender may reasonably request.

In the event that the Borrower fails to fulfill the above conditions within one year after the effectiveness of this Agreement, the Lender shall have the right to re-evaluate the implementation conditions of the Project and utilization conditions of the Facility to determine whether to continue the performance of this Agreement or not.

## **Appendix 2**

### **Conditions Precedent for Each Disbursement after the First Disbursement**

For each disbursement after the first disbursement hereunder, the Lender shall not be obliged to make any such disbursement to the Borrower unless all the conditions precedent set out in Appendix 1 attached hereto have been satisfied, the Borrower has fulfilled the following conditions and the Lender has received the following documents to its satisfaction:

- (1) An original Irrevocable Notice of Drawdown in the form set out in Appendix 5 attached hereto duly signed by the authorized signatory of the Borrower and affixed with the official stamp of the Borrower and sent by courier not later than the fifteenth (15<sup>th</sup>) Banking Day prior to the date on which the drawdown is scheduled to be made; such Irrevocable Notice of Drawdown authorizes the Lender to pay the relevant amount to the account designated by the Borrower, and such drawdown shall be in compliance with the stipulations of the Commercial Contract;
- (2) No Event of Default has occurred (or will likely to occur as a result of the drawdown being made) under this Agreement;
- (3) All representations, warranties, and undertakings made by the Borrower hereunder shall be true and correct as at the date such drawdown is scheduled to be made with reference to the facts and circumstances then subsisting;
- (4) The Borrower has paid the interest due and payable under this Agreement in accordance with Article 4;
- (5) The Borrower has paid the Commitment Fee due and payable under this Agreement in accordance with Article 2.7;
- (6) The Facility hereunder has not been terminated;
- (7) Such other document(s) and condition(s) as the Lender may reasonably request.

**Appendix 3**  
**Power of Attorney (for Signing the Agreement)**

I, \_\_\_\_\_ (Name of the Authorizing Person), am \_\_\_\_\_ (Title of the Authorizing Person) of \_\_\_\_\_ (hereinafter referred as the “**Institution**”). I hereby confirm that I have the full legal right and authority to sign the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project, hereinafter referred to as the “**Agreement**”) on behalf of the Institution. However, in the event that I am not available when the Agreement is required to be signed, I hereby authorize Mr. \_\_\_\_\_ (hereinafter referred as the “**Authorized Signatory**”), \_\_\_\_\_ (Title of the Authorized Signatory) of the Institution, to sign the Agreement and other notices and documents in connection therewith on behalf of the Institution.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Specimen Signature of the Authorized Signatory:

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

Title: \_\_\_\_\_

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**Appendix 4**  
**Power of Attorney (for Drawdown)**

I, \_\_\_\_\_ (Name of Authorizing Person), am \_\_\_\_\_ (Title of the Authorizing Person) of \_\_\_\_\_ (hereinafter referred as the “**Institution**”). I hereby confirm that I have the full legal right and authority to make drawdowns on behalf of the Institution in accordance with the terms and conditions of the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project, hereinafter referred to as the “**Agreement**”). In the event that I am not available when a drawdown is to be made, I confirm that I hereby authorize Mr. \_\_\_\_\_ (hereinafter referred as the “**Authorized Signatory**”), \_\_\_\_\_ (Title of the Authorized Signatory) of the Institution, to make the drawdown under the Agreement, to sign the documents and to handle other matters in connection therewith on behalf of the Institution.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Specimen Signature of the Authorized Signatory:

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

Title: \_\_\_\_\_

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**Appendix 5**  
**FORM OF IRREVOCABLE NOTICE OF DRAWDOWN**  
**(BY EXPRESS DELIVERY OR TESTED SWIFT)**

From: \_\_\_\_\_ (the Borrower)  
To: The Concessional Loan Department  
The Export-Import Bank of China  
No. 30, Fuxingmennei Street, Xicheng District, Beijing 100031  
People's Republic of China

Serial No: \_\_\_\_\_

Date: \_\_\_\_\_

Dear Sir or Madam,

Pursuant to Article 3 of the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project, hereinafter referred to as the "**Agreement**") between the Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management (the "**Borrower**") and the Export-Import Bank of China (the "**Lender**"), we hereby instruct and authorize you to make a payment as follows:

Amount: \_\_\_\_\_ (Currency: RMB)

Word Figure: \_\_\_\_\_ (Currency: RMB)

\_\_\_\_\_ (Please fill in "Please pay in \_\_\_\_\_ (foreign currency)" in case that a drawdown in a foreign currency approved by the Lender is needed)

Payee: \_\_\_\_\_

Account Bank: \_\_\_\_\_

Account No.: \_\_\_\_\_

Date of Payment: \_\_\_\_\_

This payment is made to the \_\_\_\_\_ Invoice (Invoice No.

\_\_\_\_\_ ) under the \_\_\_\_\_ Contract (Contract No.), and for the payment of \_\_\_\_\_ (*purpose*).

We hereby authorize you to debit the account mentioned in Article 4.5 of the Agreement with such amount of payment in Renminbi in accordance with Article 2.1 of the Agreement.

We hereby confirm that your above-mentioned payment shall be deemed a drawdown made by us under the Agreement and upon your payment pursuant to this Irrevocable Notice of Drawdown, the amount of payment shall forthwith constitute our indebtedness to you accordingly. We shall repay such amount to you together with any interest accrued thereon in accordance with the terms and conditions of the Agreement.

We further confirm that the representations and warranties and covenants made by us in Article 5 and Article 6 of the Agreement remain true and correct as of the date of this Irrevocable Notice of Drawdown, and none of the events referred to in Article 7 of the Agreement has occurred and continuously exists.

Terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.

This notice once given shall be irrevocable.

\_\_\_\_\_ (Full Name of the Borrower)  
\_\_\_\_\_ (Official Stamp of the Borrower)

\_\_\_\_\_  
(Signature of Authorized Signatory)

**Appendix 6**  
**Form of Legal Opinion**

To: The Export-Import Bank of China

Date: \_\_\_\_\_

Dear Sirs,

**Re: The Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project**

I am the \_\_\_\_\_, qualified and authorized to issue this legal opinion in connection with the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project dated \_\_\_\_\_ (the "Loan Agreement") between the Export-Import Bank of China as the lender (the "Lender") and the Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management as the borrower (the "Borrower").

For the purposes of this legal opinion, we have examined copies of the following documents:

- (1) the executed Loan Agreement;
- (2) Such laws and regulations and such other documents, certificates, records and instruments as necessary and appropriate to render the opinions hereinafter set forth.

This legal opinion is given on the basis of the laws of the \_\_\_\_\_ effective as at the date hereof.

Based on the foregoing, we are of the opinion that:

1. The Borrower is an institution duly established and validly existing under the laws of \_\_\_\_\_, and has power, authority and legal right to assume civil liabilities with

its assets.

2. The Borrower has full power, authority and legal right to enter into and perform its obligations under the Loan Agreement and has taken all necessary action to authorize the signing, delivery and performance of the Loan Agreement and \_\_\_\_\_ of the Borrower has been duly authorized and has the power to sign the Loan Agreement on behalf of the Borrower.

3. The Loan Agreement has been duly signed by the Borrower, and constitutes legal, valid and binding obligations of the Borrower enforceable in accordance with its terms.

4. The signing, delivery and performance of the Loan Agreement by the Borrower do not violate or conflict with or result in a breach of any law or regulation of \_\_\_\_\_.

5. All authorizations and consents of any authority in \_\_\_\_\_ required in connection with the signing, delivery and performance of the Loan Agreement by the Borrower have been obtained and are in full force and effect, including making payments in foreign currencies under the Loan Agreement and making the Loan Agreement admissible in evidence in the courts of \_\_\_\_\_.

6. No registration fee or similar tax is payable in \_\_\_\_\_ in respect of the Loan Agreement by the Borrower and the Lender except that stamp duty is payable in respect of the Loan Agreement by each of the Borrower and the Lender at the currently applicable rate of \_\_\_\_\_%, and we are satisfied that all stamp duty payable under the Loan Agreement has been paid in full. No withholding would be made in respect of any payment to be made by the Borrower to the Lender under the Loan Agreement.

7. The signing and performance of the Loan Agreement by the Borrower constitute commercial acts, and the declaration that the Borrower shall not have any right of immunity in connection with any proceedings or any enforcement of an arbitral award or court decision on the grounds of sovereignty or otherwise is valid and irrevocably binding on the Borrower.

8. The payment obligations of the Borrower under the Loan Agreement rank at least pari passu with all its other unsecured and unsubordinated indebtedness except those which are mandatorily preferred by operation of \_\_\_\_\_ law.

9. The choice of Chinese law as the governing law under the Loan Agreement is a valid choice of law. The submission of any dispute arising out of or in connection with the Loan Agreement by the Borrower to the China International Economic and Trade Arbitration Commission for arbitration under the Loan Agreement does not contravene any law of \_\_\_\_\_. The appointment by the Borrower of a process agent in China does not violate any provision of any law or regulation of \_\_\_\_\_.

10. The Lender is not and will not be deemed to be resident, domicile or having an establishment in \_\_\_\_\_ by reason only of the execution, delivery, performance and/or enforcement of the Loan Agreement.

This legal opinion is strictly limited to the matters stated herein and may be relied upon only by you in respect of the captioned matter. It may not be relied upon for any other purposes and may not be disclosed to any other persons without our consent.

Yours faithfully,

\_\_\_\_\_

**Appendix 7**  
**Irrevocable Power of Attorney**  
( Appointment of the Borrower's Process Agent)

Date: \_\_\_\_\_

Dear Sirs:

We refer to the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project dated \_\_\_\_\_ (No. GCL(2014)1(504), hereinafter referred to as "the Agreement"). We hereby appoint you under the Agreement as our agent for the sole purpose of receiving for us and on our behalf service of any legal documents issued by the China International Economic and Trade Arbitration Commission in respect of any legal action or proceedings arising out of or in connection with the Agreement. We hereby confirm that we shall as soon as possible provide you with a true and correct copy of the Agreement and all relevant related documents. We further hereby confirm that your obligations as our agent are limited to those set out in the paragraphs below and that any other services will only be on our specific request and subject to your agreement and to your customary legal fees. Your obligations are:

(1) Promptly to forward to us (to the extent lawful and possible) by registered post prepaid express airmail addressed as hereafter shown, or by such expeditious means as you may deem appropriate, the original or a copy of any notice of arbitration received by you:

Attention:

Tel:

or to such other address as we may from time to time request in a notice to you sent by registered post prepaid express airmail and marked "For the Attention of the person in charge of Service of Process/ Re: Service of Process";

(2) Perform the duties as Process Agent in accordance with the Agreement.

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We should be grateful if you would indicate your acceptance of your appointment by signing the form of acknowledgement contained in the duplicate of this letter and returning the same to us or to such other person as we may identify to you.

Yours faithfully,

Name:

Title:



**Appendix 8**  
**Letter of Confirmation**

To: The Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management

Date: \_\_\_\_\_

We hereby acknowledge receipt of the letter dated \_\_\_\_\_ from the Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management (the Borrower), the above is a true copy of which, and agree to our appointment under it to receive on behalf of the Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management (the Borrower) service of legal documents issued out of the China International Economic and Trade Arbitration Commission in any legal action or proceedings arising out of or in connection with the Agreement referred to in that letter.

Yours faithfully,

Name:

Title:

**Appendix 9**  
**Form of Notice of Effectiveness of Loan Agreement**

From: The Export-Import Bank of China  
No. 30, Fuxingmennei Street, Xicheng District, Beijing 100031.  
People's Republic of China

To: The Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management

Date: \_\_\_\_\_

Dear Sirs,

Pursuant to Article 9 of the Government Concessional Loan Agreement on the Vanuatu Road Rehabilitation Project dated \_\_\_\_\_ (No. GCL(2014)1(504)), hereinafter referred to as "the Agreement") between the Government of the Republic of Vanuatu Represented by Ministry of Finance and Economic Management (the "Borrower") and the Export-Import Bank of China (the "Lender"), we hereby inform you that:

- (a) all the conditions as set out in Article 9.1 of the Agreement have been satisfied;
- (b) The Agreement shall become effective on and from the date hereof.

The Export-Import Bank of China

\_\_\_\_\_  
(Signature of Authorized Signatory)

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**Appendix 10**  
**Form of Repayment Schedule**

Concerning the Government Concessional Loan Agreement on the Vanuatu Road  
Rehabilitation Project Project

Number of Installments	Date Due	Amount In Renminbi
1		
2		
3		
4		
5		
6		
7		
8		
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11		
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