



EIB Internal Classification Level: Corporate Use

Contract Number (FI N°) 89162

Operation Number (Serapis N°) 2018-0064

VOCATIONAL EDUCATION AND TRAINING IN UKRAINE

Finance Contract

between

Ukraine

and the

European Investment Bank

Brussels, 15 December 2021

Luxembourg, 15 December 2021

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THIS CONTRACT IS MADE BETWEEN:

UKRAINE

(the "Borrower")

of the first part, and

The **EUROPEAN INVESTMENT BANK**
having its seat at 100 blvd Konrad Adenauer,
Luxembourg. L-2950 Luxembourg,
represented by Rafal Rybacki, Head of
Division and Jacopo Lensi Orlandi, Head of
Division

(the "Bank")

of the second part.

The Bank and the Borrower together are referred to as the "**Parties**" and any of them is a "**Party**".

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WHEREAS:

- (a) On 14 June 2005 the Borrower and the Bank signed a framework agreement which was ratified by the Parliament of Ukraine on 7 February 2006 in the Law of Ukraine 3392 "On Ratification of the Framework Agreement between Ukraine and the European Investment Bank" and which governs the Bank's activities in the territory of Ukraine (the "**Framework Agreement**", as may be amended, superseded or replaced from time to time). The Framework Agreement became effective on 8 April 2006 and continues to be in full force and effect throughout the term of this Contract (as defined below). By signing this Contract, the Borrower acknowledges that the loan financing to be provided hereunder falls within the scope of the Framework Agreement. The Borrower confirms the Bank's preferred creditor status as an international financial institution as stipulated in article 7 of the Framework Agreement.
- (b) In accordance with:
- (i) Decision No. 466/2014/EU, published in the Official Journal of the European Union No L 135 of 8 May 2014, as amended by Decision No. 2018/412/EU, and by the regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, the European Parliament and the Council of the European Union decided to grant a guarantee to the Bank against losses under financing operations supporting investment projects outside the European Union (the "**Decision**"); and
- (ii) the agreement entered into between the European Union, represented by the European Commission, and the Bank implementing the Decision,
- in the event of non-payment, the European Union, by a guarantee, covers certain payments not received by the Bank and due to the Bank in relation to the Bank's financing operations entered into with, *inter alios*, the Borrower (the "**EU Guarantee**"). As of the date of this Contract (as defined below), Ukraine is an Eligible Country (as defined below).
- (c) Ukraine is a state party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958.
- (d) The Borrower has stated that it is undertaking a project consisting of the modernisation of the Ukrainian vocational education and training (VET) system (the "**Project**"), as more particularly described in the technical description set out in Schedule A hereto (the "**Technical Description**"). The Project will be implemented in certain regions of Ukraine as set forth in the Technical Description by remodelling VET institutions in centres of excellence (CoE) being the public entities managed by local executive bodies or local authorities (each a "**Final Beneficiary**" and together the "**Final Beneficiaries**").
- (e) The Project will be implemented, managed and monitored by the Ministry of Education and Science of Ukraine (or its legal successor) (the "**Promoter**") through a dedicated project management support unit (the "**PMSU**") within the Promoter. A project implementation unit (the "**PIU**") will be put in place through a technical assistance programme to be financed by the Neighbourhood Investment Platform in order to support the Promoter and the Final Beneficiaries in particular in relation to the procurement.

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- (f) The total cost of the Project, as estimated by the Bank, is EUR 130,060,000.00 (one hundred thirty million and sixty thousand euros) and the Borrower has stated that it intends to finance the Project as follows:

| Source | Amount (EUR m) |
|--|----------------|
| Credit from the Bank | 58.00 |
| NIP grant (EC) | 8.50 |
| EU4Skills (EC, DE, FIN, PL) | 62.40 |
| Interest during construction (own resources) | 1.16 |
| TOTAL | 130.06 |

- (g) In order to fulfil the financing plan set out in Recital (f), the Borrower has requested from the Bank a credit of EUR 58,000,000.00 (fifty-eight million euros) to be made available from the Bank's own resources and pursuant to the Bank's 2014-2020 external lending mandate in accordance with the Decision (the "**Mandate**").
- (h) The Borrower, acting through the Ministry of Finance of Ukraine in cooperation with the Promoter, shall make the proceeds of the Credit available to each Final Beneficiary pursuant to a loan fund transfer agreement (each "**Loan Fund Transfer Agreement**"), on terms and conditions acceptable to the Bank from time to time.
- (i) The Bank considering that the financing of the Project falls within the scope of its functions, and is consistent with the objectives of the Mandate, and having regard to the statements and facts cited in these Recitals, has decided to give effect to the Borrower's request providing to it a credit in an amount of EUR 58,000,000.00 (fifty-eight million euros) under this finance contract (the "**Contract**"); provided that the amount of the Bank's loan shall not, in any case, exceed 50% (fifty per cent) of the total cost of the Project set out in Recital (f).
- (j) The Borrower has confirmed that its payment obligations to the Bank do not fall within the scope of the debt operation undertaken or being undertaken by the Borrower pursuant to the terms and conditions of the debt operation being undertaken by the Borrower pursuant to the terms and conditions of the Extended Fund Facility approved by the Executive Board of the International Monetary Fund for the Borrower on 11 March 2015 (the "**Debt Operation**"). On 4 May 2016, the Bank received a letter from the Ministry of Finance (the "**MoF Letter**") concerning external debt obligations of Ukraine included in the Debt Operation as approved by Resolution No. 318-p of the Cabinet of Ministers of Ukraine dated 4 April 2015 and confirming that such debt obligations do not include obligations owed to the Bank. On 9 June 2020, the Executive Board of the International Monetary Fund for the Borrower approved a new Stand-By Arrangement (the "**2020 IMF Program**").
- (k) The Borrower confirms that the statements in the MoF Letter continue to be true and correct in all respects by reference to the laws and regulations of Ukraine regulating the Debt Operation or any similar debt restructuring applicable from time to time. The Borrower confirms further that no laws and regulations of Ukraine regulating the implementation of the Debt Operation, the 2020 IMF Program or any similar debt restructuring affect, or shall affect, any debt obligations owed by the Borrower to the Bank.
- (l) The Statute of the Bank provides that the Bank shall ensure that its funds are used as rationally as possible in the interests of the European Union; and, accordingly, the terms and conditions of the Bank's loan operations must be consistent with relevant policies of the European Union.

- (m) The Bank considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances and has therefore established its transparency policy, the purpose of which is to enhance the accountability of the Bank's group towards its stakeholders.
- (n) The processing of personal data shall be carried out by the Bank in accordance with applicable EU Law on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data.
- (o) By entering into this Contract, the Borrower acknowledges that the Bank is bound to comply with the Sanctions (as defined below) and that the Bank cannot, therefore, amongst others, make funds available, directly or indirectly, to or for the benefit of a Sanctioned Person (as defined below).
- (p) The Bank supports the implementation of international and European Union standards in the field of anti-money laundering and countering the financing of terrorism and promotes tax good governance standards. It has established policies and procedures to avoid the risk of misuse of its funds for purposes which are illegal or abusive in relation to applicable laws. The Bank's group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, money laundering and financing of terrorism is available on the Bank's website and offers further guidance to the Bank's contracting counterparties.

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NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

Interpretation

In this Contract:

- (a) references to Articles, Recitals, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles of, and recitals, schedules and annexes to this Contract;
- (b) references to "law" or "laws" mean:
 - (i) any applicable law and any applicable treaty, constitution, statute, legislation, decree, normative act, rule, regulation, judgement, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in any jurisdiction which is binding or applicable case law; and
 - (ii) EU Law;
- (c) references to "applicable law", "applicable laws" or "applicable jurisdiction" mean:
 - (i) a law or jurisdiction applicable to the Borrower, its rights and/or obligations (in each case arising out of or in connection with this Contract), its capacity and/or assets and/or the Project; and/or, as applicable
 - (ii) a law or jurisdiction (including in each case the Bank's Statute) applicable to the Bank, its rights, obligations, capacity and/or assets;
- (d) references to a provision of law are references to that provision as amended, supplemented or re-enacted;
- (e) references to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated;
- (f) a reference to a person includes any person, natural or juridical entity, firm, company, corporation, statutory body, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing and references to a "person" include its successors in title, permitted transferees and permitted assigns;
- (g) a day is a calendar day, unless otherwise specified;
- (h) including and include shall be deemed to be followed by "without limitation" where not so followed;
- (i) words and expressions in plural shall include singular and vice versa; and
- (j) references to "month" mean a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that and subject to the definition of Payment Date, Article 5.1 and Schedule B and unless provided otherwise in this Contract:
 - (i) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
 - (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

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Definitions

In this Contract:

"**2020 IMF Program**" has the meaning given to it in Recital (j).

"**Acceptable Bank**" means:

- (a) Joint Stock Company "The State Import-Export Bank of Ukraine" (JSC "Ukreximbank");
- (b) Joint Stock Company "State Savings Bank of Ukraine" (JSC "Oschadbank");
- (c) any other bank which the Bank confirms in writing, from time to time, is acceptable to it.

"**Accepted Tranche**" means a Tranche in respect of which a Disbursement Offer has been duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline.

"**Agreed Deferred Disbursement Date**" has the meaning given to it in Article 1.5.A(2)(b).

"**Authorisation**" means an authorisation, permit, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means a person authorised to sign individually or jointly (as the case may be) Disbursement Acceptances on behalf of the Borrower and named in the most recent List of Authorised Signatories and Accounts received by the Bank prior to the receipt of the relevant Disbursement Acceptance.

"**Business Day**" means a day (other than a Saturday or Sunday) on which the Bank and commercial banks are open for general business in Luxembourg.

"**Cancelled Tranche**" has the meaning given to it in Article 1.6.C(2).

"**Change-of-Law Event**" has the meaning given to it in Article 4.3.A(3).

"**Contract**" has the meaning given to it in Recital (i).

"**Contract Number**" means the Bank generated number identifying this Contract and indicated on the cover page of this Contract after the letters "FI N°".

"**Credit**" has the meaning given to it in Article 1.1.

"**Decision**" has the meaning given to it in Recital (b).

"**Date of Effectiveness**" has the meaning given to it in Article 12.3.

"**Debt Operation**" has the meaning given to it in Recital (j).

"**Deferment Fee**" means a fee calculated on the amount of an Accepted Tranche deferred or suspended at the rate of the higher of:

- (a) 0.125% (12.5 basis points), per annum; and
- (b) the percentage rate by which:
 - (i) the interest rate that would have been applicable to such Tranche had it been disbursed to the Borrower on the Scheduled Disbursement Date, exceeds
 - (ii) EURIBOR (one month rate) less 0.125% (12.5 basis points), unless such rate is less than zero, in which case it shall be set at zero.

Such fee shall accrue from the Scheduled Disbursement Date to the Disbursement Date or, as the case may be, until the date of cancellation of the Accepted Tranche in accordance with this Contract.

"**Disbursement Acceptance**" means a copy of the Disbursement Offer duly countersigned by the Borrower in accordance with the List of Authorised Signatories and Accounts.

"**Disbursement Acceptance Deadline**" means the date and time of expiry of a Disbursement Offer as specified therein.

"Disbursement Account" means, in respect of each Tranche, the bank account denominated in EUR and opened and maintained with an Acceptable Bank, the details of which account are set out in the most recent List of Authorised Signatories and Accounts to which disbursements may be made under this Contract.

"Disbursement Date" means the date on which disbursement of a Tranche is made by the Bank.

"Disbursement Offer" means a letter substantially in the form set out in Schedule C.

"Dispute" has the meaning given to it in Article 11.2.

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with this Contract; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of either the Bank or the Borrower, preventing that Party from:
 - (i) performing its payment obligations under this Contract; or
 - (ii) communicating with the other Party,

and which disruption (in either such case as per (a) or (b) above) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

"EIB Environmental and Social Handbook" means the manual published by the Bank from time to time on its website.

"EIB Statement of Environmental and Social Principles and Standards" means the statement published on the Bank's website that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.

"Eligible Country" means any country specified in annex III to the Decision, as may be amended from time to time by the European Commission in accordance with Articles 4(2) and 18 of the Decision, or any other country in respect of which the European Parliament and the Council of the European Union have adopted a decision pursuant to Article 4(1) of the Decision.

"Environment" means the following, in so far as they affect human health and social well-being:

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape;
- (c) cultural heritage; and
- (d) the built environment,

and includes, without limitation, occupational and community health and safety.

"Environmental and Social Impact Assessment Study" means a study as an outcome of the environmental and social impact assessment identifying and assessing the potential environmental and social impacts associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders.

"Environmental and Social Standards" means:

- (a) Environmental Laws and Social Laws applicable to the Project or the Borrower or the Promoter or the PMSU or the PIU any Final Beneficiary;
- (b) the EIB Statement of Environmental and Social Principles and Standards;
- (c) the environmental and social standards set out in the EIB Environmental and Social Handbook; and

(d) the Environmental and Social Impact Assessment Studies.

"Environmental or Social Approval" means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.

"Environmental or Social Claim" means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.

"Environmental Law" means:

- (a) EU Law to the extent implemented in the laws of Ukraine;
- (b) EU Law as specified by the Bank before the date of signing of this Contract, i.e. the EIA Directive (European Parliament and Council Directive of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (2011/92/EU), as amended or replaced from time to time;
- (c) Ukrainian laws and regulations; and
- (d) international treaties and conventions signed and ratified by or otherwise applicable and binding on, Ukraine

in each case of which a principal objective is the preservation, protection or improvement of the Environment.

"EU Fourth Money Laundering Directive" means Directive (EU) No. 2015/849 of the European Parliament and of the Council of 20 May 2015, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

"EU Guarantee" has the meaning given to it in Recital (b).

"EU Law" means the *acquis communautaire* of the European Union as expressed through the Treaties of the European Union, the regulations, directives, delegated acts, implementing acts, and the case law of the Court of Justice of the European Union.

"EUR" or **"euro"** means the lawful currency of the Member States of the European Union which adopt or have adopted it as their currency in accordance with the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union.

"EURIBOR" has the meaning given to it in Schedule B.

"Event of Default" means any of the circumstances, events or occurrences specified in Article 10.1.

"External Debt Instrument" has the meaning given to it in Article 7.1.

"Final Availability Date" means the date falling 60 (sixty) months after the Date of Effectiveness or any other later date agreed between the Parties in writing, provided in each case that the EU Guarantee continues to apply to each Tranche disbursed or to be disbursed.

"Financing of Terrorism" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences listed in the Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (as amended, replaced or re-enacted from time to time).

"Fixed Rate" means an annual interest rate determined by the Bank in accordance with the applicable principles from time to time laid down by the governing bodies of the Bank for loans made at a fixed rate of interest, denominated in the currency of the Tranche and bearing equivalent terms for the repayment of capital and the payment of interest. Such rate shall not be of negative value.

"Fixed Rate Tranche" means a Tranche on which the Fixed Rate is applied.

"Floating Rate" means a fixed-spread floating annual interest rate, determined by the Bank for each successive Floating Rate Reference Period equal to EURIBOR plus the Spread. If

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the Floating Rate for any Floating Rate Reference Period is calculated to be below zero, it will be set at zero.

"Floating Rate Reference Period" means each period from one Payment Date to the next relevant Payment Date; the first Floating Rate Reference Period shall commence on the date of disbursement of the Tranche.

"Floating Rate Tranche" means a Tranche on which the Floating Rate is applied.

"Framework Agreement" has the meaning given to it in Recital (a).

"Guide to Procurement" means the Guide to Procurement published on EIB's website¹ that informs the promoters of projects financed in whole or in part by the EIB of the arrangements to be made for procuring works, goods and services required for the Project.

"Illegality Event" has the meaning given to it in Article 4.3.A.(4).

"ILO" means the International Labour Organisation.

"ILO Standards" means any treaty, convention or covenant of the ILO signed and ratified by or otherwise applicable and binding on Ukraine, and the Core Labour Standards (as defined in the ILO Declaration on Fundamental Principles and Rights at Work).

"Indemnifiable Prepayment Event" means a Prepayment Event other than those specified in paragraphs 4.3.A(2) or 4.3.A.(4).

"List of Authorised Signatories and Accounts" means a list, in form and substance satisfactory to the Bank, setting out:

- (a) the Authorised Signatories, accompanied by evidence of signing authority of the persons named on the list and specifying if they have individual or joint signing authority;
- (b) the specimen signatures of such persons;
- (c) the bank account(s) to which disbursements may be made under this Contract (specified by IBAN code if the country is included in the IBAN Registry published by SWIFT, or in the appropriate account format in line with the local banking practice), BIC/SWIFT code of the bank and the name of the bank account(s) beneficiary, together with evidence that such account(s) have been opened in the name of the beneficiary; and
- (d) the bank account(s) from which payments under this Contract will be made by the Borrower (specified by IBAN code if the country is included in the IBAN Registry published by SWIFT, or in the appropriate account format in line with the local banking practice), BIC/SWIFT code of the bank and the name of the bank account(s) beneficiary, together with evidence that such account(s) have been opened in the name of the beneficiary.

"Loan" means the aggregate of the amounts disbursed from time to time by the Bank under this Contract.

"Loan Fund Transfer Agreement" has the meaning given to it in Recital (h).

"Loan Outstanding" means the aggregate of the amounts disbursed from time to time by the Bank under this Contract that remains outstanding.

"Mandate" has the meaning given to it in Recital (g).

"Market Disruption Event" means any of the following circumstances:

- (a) there are, in the reasonable opinion of the Bank, events or circumstances adversely affecting the Bank's access to its sources of funding;

¹ <https://www.eib.org/en/publications/guide-to-procurement.htm>. Note the applicable version is the version of the Guide to Procurement in force at the time of the project procurement
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- (b) in the opinion of the Bank, funds are not available from the Bank's ordinary sources of funding in order to adequately fund a Tranche in the relevant currency and/or for the relevant maturity and/or in relation to the reimbursement profile of such Tranche; or
- (c) in relation to a Tranche in respect of which interest would be payable at Floating Rate:
 - (i) the cost to the Bank of obtaining funds from its sources of funding, as determined by the Bank, for a period equal to the Floating Rate Reference Period of such Tranche (i.e. in the money market) would be in excess of EURIBOR; or
 - (ii) the Bank determines that adequate and fair means do not exist for ascertaining EURIBOR for such Tranche.

"Material Adverse Change" means, any event or change of condition, which, in the opinion of the Bank, has a material adverse effect on:

- (a) the ability of the Borrower to perform its obligations under this Contract; or
- (b) the condition (financial or otherwise) or prospects of the Borrower.

"Maturity Date" means the last Repayment Date of a Tranche specified pursuant to Article 4.1.A(b)(iv).

"MoF Letter" has the meaning given to it in Recital (j).

"Money Laundering" means:

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
- (b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or
- (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

"Non-EIB Financing" has the meaning given to it in Article 4.3.A(2).

"Non-EIB Financing Prepayment Event" has the meaning given to it in Article 4.3.A(2).

"Payment Account" means the bank account from which payments under this Contract will be made by the Borrower, as set out in the most recent List of Authorised Signatories and Accounts.

"Payment Date" means 20 April and 20 October of each year specified in the Disbursement Offer until and including the Maturity Date, save that, in case any such date is not a Relevant Business Day, it means:

- (a) for a Fixed Rate Tranche the following Relevant Business Day, without adjustment to the interest due under Article 3.1; or
- (b) for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.1.

"PIU" has the meaning given to it in Recital (e).

"PMSU" has the meaning given to it in Recital (e).

"**Prepayment Amount**" means the amount of a Tranche to be prepaid by the Borrower in accordance with Article 4.2.A or Article 4.3.A, as applicable.

"**Prepayment Date**" means the date, as requested by the Borrower and agreed by the Bank or indicated by the Bank (as applicable) on which the Borrower shall effect prepayment of a Prepayment Amount.

"**Prepayment Event**" means any of the events described in Article 4.3.A.

"**Prepayment Indemnity**" means in respect of any principal amount to be prepaid, the amount communicated by the Bank to the Borrower as the present value (calculated as of the Prepayment Date) of the excess, if any, of:

- (a) the interest that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date to the Maturity Date, if it were not prepaid; over
- (b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate, applied as of each relevant Payment Date.

"**Prepayment Notice**" means a written notice from the Bank to the Borrower in accordance with Article 4.2.C.

"**Prepayment Request**" means a written request from the Borrower to the Bank to prepay all or part of the Loan Outstanding, in accordance with Article 4.2.A.

"**PPM**" means the project procedures manual referred to in Article 1.4.B (k), as may be amended with the prior written consent of the Bank.

"**Prohibited Conduct**" means any Financing of Terrorism, Money Laundering or Prohibited Practice.

"**Prohibited Practice**" means any:

- (a) Coercive Practice, meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
- (b) Collusive Practice, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (c) Corrupt Practice, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
- (d) Fraudulent Practice, meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial (including, for the avoidance of doubt, taxation related) or other benefit or to avoid an obligation;
- (e) Obstructive Practice, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project, (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intending to materially impede the exercise of the contractual rights of audit or access to information;
- (f) Tax Crime, meaning all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of Ukraine, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year; or
- (g) Misuse of EIB Group Resources and Assets, meaning any illegal activity committed in the use of the EIB Group's resources or assets (including the funds lent under this Contract) knowingly or recklessly.

"Project" has the meaning given to it in Recital (d).

"Project Account" has the meaning given to it in Article 1.2.D.

"Project Cost Reduction Event" has the meaning given to it in Article 4.3.A(1).

"Promoter" has the meaning given to it in Recital (e).

"Redeployment Rate" means the fixed annual rate determined by the Bank, being a rate which the Bank would apply on the day of the indemnity calculation to a loan that has the same currency the same terms for the payment of interest and the same repayment profile to the Maturity Date as the Tranche in respect of which a prepayment or cancellation is proposed or requested to be made. Such rate shall not be of negative value.

"Relevant Business Day" means a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 (TARGET2) is open for the settlement of payments in EUR.

"Relevant Person" means:

- (a) with respect to each of the Borrower, the Promoter, the PMSU and the PIU, any official or representative of any of its ministries, other central executive government bodies or other governmental sub-divisions, or any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Loan or the Project; and
- (b) with respect to each Final Beneficiary, as applicable, any member of its management bodies, or any official or representative or any employee or any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Loan or the Project.

"Repayment Date" shall mean each of the Payment Dates specified for the repayment of the principal of a Tranche in the Disbursement Offer, in accordance with Article 4.1.

"Requested Deferred Disbursement Date" has the meaning given to it in Article 1.5.A(1)(a)(ii).

"Sanctioned Person" means any individual or entity (for the avoidance of doubt, the term entity includes, but is not limited to, any government, group or terrorist organisation) who is a designated target of, or who is otherwise a subject of, Sanctions.

"Sanctions" means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures (including, in particular, but not limited to, measures in relation to the financing of terrorism) enacted, administered, implemented and/or enforced from time to time by any of the following:

- (a) the United Nations, and any agency or person which is duly appointed, empowered or authorised by the United Nations to enact, administer, implement and/or enforce Sanctions;
- (b) the European Union, and any agency or person which is duly appointed, empowered or authorised by the European Union to enact, administer, implement and/or enforce Sanctions; and
- (c) the United States Department of the Treasury Office of Foreign Asset Control (OFAC), the United States Department of State and/or the United States Department of Commerce.

"Scheduled Disbursement Date" means the date on which a Tranche is scheduled to be disbursed in accordance with Article 1.2.C.

"Security" means any mortgage, pledge, lien, charge, assignment, hypothecation, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Social Law" means each of:

- (a) any law, rule or regulation applicable in Ukraine relating to Social Matters;

- (b) any ILO Standards;
- (c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on Ukraine.

"Social Matters" means all, or any of, the following:

- (a) labour and employment conditions;
- (b) occupational health and safety;
- (c) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups;
- (d) cultural heritage (tangible and intangible);
- (e) public health, safety and security;
- (f) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons; and
- (g) public participation and stakeholder engagement.

"Spread" means the fixed spread (being of either positive or negative value) to EURIBOR as determined by the Bank and notified to the Borrower in the relevant Disbursement Offer.

"State Aid Law" has the meaning given to it in Article 1.4.B.

"Steering Committee" has the meaning given to it in Article 1.4.B (j).

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Technical Description" has the meaning given to it in Recital (d).

"Tranche" means each disbursement made or to be made under this Contract. In case no Disbursement Acceptance has been received, Tranche shall mean a Tranche as offered under Article 1.2.B.

ARTICLE 1
Credit and Disbursements

1.1 Amount of Credit

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, a credit in an amount of EUR 58,000,000.00 (fifty-eight million euros) for the financing of the Project (the "Credit").

1.2 Disbursement procedure

1.2.A Tranches

The Bank shall disburse the Credit in up to 15 (fifteen) Tranches. The amount of

- (a) the first Tranche shall be in a minimum amount of EUR 500,000 (five hundred thousand euros); and
- (b) each Tranche subsequent to the first shall be in a minimum amount of EUR 1,000,000 (one million euros) or (if less) the entire undrawn balance of the Credit.

1.2.B Disbursement Offer

Upon request by the Borrower and subject to Article 1.4.A, provided that no event mentioned in Article 1.6.B has occurred and is continuing, the Bank shall send to the Borrower within a reasonable time after the receipt of such request a Disbursement Offer for the disbursement of a Tranche. The latest time for receipt by the Bank of such Borrower's request is 15 (fifteen) Business Days before the Final Availability Date. The Disbursement Offer shall specify:

- (a) the amount of the Tranche in EUR;
- (b) the Scheduled Disbursement Date, which shall be a Relevant Business Day, falling at least 10 (ten) days after the date of the Disbursement Offer and on or before the Final Availability Date;
- (c) the interest rate basis of the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche, in each case, pursuant to the relevant provisions of Article 3.1;
- (d) the Payment Dates and the first interest Payment Date for the Tranche;
- (e) the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.1;
- (f) the Repayment Dates and the first and the last Repayment Date for the Tranche;
- (g) for a Fixed Rate Tranche, the Fixed Rate and for a Floating Rate Tranche the Spread, applicable until the Maturity Date; and
- (h) the Disbursement Acceptance Deadline.

1.2.C Disbursement Acceptance

The Borrower may accept a Disbursement Offer by delivering a Disbursement Acceptance to the Bank no later than the Disbursement Acceptance Deadline. The Disbursement Acceptance shall be signed by an Authorised Signatory with individual representation right or two or more Authorised Signatories with joint representation right and shall specify the Disbursement Account to which the disbursement of the Tranche should be made in accordance with Article 1.2.D.

If a Disbursement Offer is duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline, the Bank shall make the Accepted Tranche available to the Borrower in accordance with the relevant Disbursement Offer and subject to the terms and conditions of this Contract.

The Borrower shall be deemed to have refused any Disbursement Offer which has not been duly accepted in accordance with its terms on or before the Disbursement Acceptance Deadline.

The Bank may rely on the information set out in the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower. If a Disbursement Acceptance is signed by a person defined as Authorised Signatory under the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower, the Bank may assume that such person has the power to sign and deliver in the name and on behalf of the Borrower such Disbursement Acceptance.

1.2.D Disbursement Account

Disbursement shall be made to the Disbursement Account specified in the relevant Disbursement Acceptance provided that such Disbursement Account is acceptable to the Bank.

The Borrower may open and maintain other accounts with an Acceptable Bank in any currency for the purposes of implementing the Project (each an "**Operating Account**", and together with the Disbursement Account, the "**Project Accounts**"). The Borrower shall promptly notify the Bank in writing following the opening of any Operating Account.

Each Project Account shall be an account of the Borrower opened and maintained solely for the purposes of this Project. Each Project Account shall be separated from any other assets of the Borrower. Funds available in the Disbursement Account may be transferred to any Project Account.

Notwithstanding Article 5.2(e), the Borrower acknowledges that payments to a Disbursement Account notified by the Borrower shall constitute disbursements under this Contract as if they had been made to the Borrower's own bank account.

Only one Disbursement Account may be specified for each Tranche.

The Borrower shall ensure that no Ukrainian legislation or regulation (including any regulations of the National Bank of Ukraine) on currency restrictions, licensing or convertibility shall apply to the proceeds of the Loan, including without limitation any payments from any Project Account to contractors duly appointed for the purposes of implementing the Project.

1.3 Currency of disbursement

The Bank shall disburse each Tranche in EUR.

1.4 Conditions of disbursement

1.4.A Condition precedent to the first request for Disbursement Offer

The Bank shall have received from the Borrower in form and substance satisfactory to the Bank:

- (a) evidence that the execution of this Contract by the Borrower has been duly authorised and that the person or persons signing this Contract on behalf of the Borrower is/are duly authorised to do so together with the specimen signature of each such person or persons; and
- (b) the List of Authorised Signatories and Accounts,

prior to requesting a Disbursement Offer under Article 1.2.B by the Borrower. Any request for a Disbursement Offer made by the Borrower without the above documents having been received by the Bank and to its satisfaction shall be deemed not made.

1.4.B First Tranche

The disbursement of the first Tranche under Article 1.2 is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5., the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively), of the following documents or evidence:

- (a) evidence that the Borrower has obtained all necessary Authorisations, required in connection with this Contract and the Project;

- (b) evidence that no Authorisation under any exchange control laws and regulations applicable in Ukraine is necessary to permit the Borrower to receive disbursements as provided in this Contract, to repay the disbursed Tranches in accordance with the terms of this Contract and to pay interest and all other amounts due hereunder, including the opening and maintenance of the Project Accounts (*responsible authority – Ministry of Finance*);
- (c) duly executed copies of this Contract;
- (d) a legal opinion issued by the Ministry of Justice of the Borrower in the English language on the due execution of this Contract by the Borrower and the legal, valid, binding and enforceable nature of this Contract. Such opinion shall be in form and substance acceptable to the Bank and shall be supported by the relevant documents evidencing the Borrower's authority to enter into this Contract, a confirmation that ratification of this Contract by the Parliament of Ukraine (*Verkhovna Rada of Ukraine*) is necessary for the Contract to have effect under the laws of Ukraine as well as evidence of due ratification of this Contract in accordance with the applicable laws of Ukraine, and a confirmation on the legal, valid, binding and enforceable nature of the Framework Agreement under Ukrainian law (*responsible authority – Ministry of Justice*);
- (e) the Borrower shall have taken all action necessary to exempt from taxation for all payments of principal, interest and other sums due hereunder and to permit the payment of all such sums gross without deduction of tax at source shall have been taken;
- (f) evidence that the amount of the first Tranche does not exceed 10% (ten *per cent.*) of the Credit;
- (g) evidence of payment of the appraisal fee pursuant to Article 1.8 in full;
- (h) evidence that the Promoter has submitted to the satisfaction of the Bank a detailed initial procurement plan, which includes bundling of similar contracts whenever feasible, for all of the Project components financed by the Bank;
- (i) evidence that the PMSU:
 - (i) is fully functional within the Promoter to the satisfaction of the Bank, with sufficient human resources with adequate skills; and
 - (ii) has assumed responsibility for the monitoring, implementation and progress reporting related to the Project.
- (j) evidence that a steering committee (the "**Steering Committee**") has been duly established on terms satisfactory to the Bank and has sufficient human resources with appropriate skills, terms of reference and authority, including, *inter alia*:
 - (i) has competences:
 - (A) to make strategic recommendations;
 - (B) to facilitate and review the functioning of the PMSU and the progress of works under the Project; and
 - (ii) consists of representatives, *inter alia*, of the Promoter, the Ministry of Finance of Ukraine and / or other representatives as agreed by the Parties;
- (k) evidence that:
 - (i) the Steering Committee has reviewed and approved a project procedures manual (the "**PPM**"), which is satisfactory in form and content to the Bank and which sets out, *inter alia*:
 - (A) the description of technical support eligible for financing under this Contract; and
 - (B) the role and competencies of the Steering Committee, PMSU and PIU;
 - (ii) the PPM has been approved by the Promoter;

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- (l) evidence that the PIU has been established and become operational to the satisfaction of the Bank;
- (m) evidence that review procedures for remedies acceptable to the Bank are available in the procurement procedures related to the Project to any person or entity having or having had an interest in obtaining the contract and (at risk of) being harmed by an alleged infringement of the applicable procurement rules;
- (n) evidence confirming that the rights of the Parties under the Contract are not affected by the implementation of the Debt Operation, the 2020 IMF Program or any similar arrangement between the Borrower and the Executive Board of the International Monetary Fund; and
- (o) evidence acceptable to the Bank confirming that the Project does not and will not aim at production of certain types of goods or undertaking of certain types of economic activity, as specified in the Law of Ukraine "On State Aid to Undertakings" (in Ukrainian: *Закон України Про державну допомогу суб'єктам господарювання*) dated 1 July 2014 (the "State Aid Law"), and, as such, the Project does not fall within the scope of the State Aid Law.

1.4.C Second and Subsequent Tranches

Without prejudice to the conditions precedent required in respect of all Tranches set out in Article 1.4.D (*All Tranches*), the disbursement of each Tranche under Article 1.2, subsequent to the first disbursement, is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively), of the following documents or evidence:

- (a) evidence that at least 80% (eighty per cent.) or more of the proceeds of all previously disbursed Tranches have been effectively applied towards eligible costs incurred under the Project ;
- (b) evidence that there is no involuntary resettlement at any of the nominated VET centre locations or, in case, involuntary resettlement cannot be avoided, evidence that the Promoter will comply with the requirements of the EIB Standard of Involuntary Resettlement;
- (c) for Tranches related to the financing of any component of the Project entailing the involuntary resettlement, evidence that the final versions of the Land Access and Displacement Strategy (LADS) and, when required, individual Resettlement Action Plans (RAPs) have been developed and implemented by the Promoter in compliance with EIB standards to the satisfaction of the Bank;
- (d) for Tranches related to the financing of any component of the Project entailing the involuntary resettlement, evidence that each RAP has been duly implemented.

1.4.D All Tranches

The disbursement of each Tranche under Article 1.2, including the first, is subject to the following conditions:

- (a) that the Bank has received, in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche, of the following documents or evidence:
 - (i) evidence demonstrating that the borrowing of the total amount of all Tranches disbursed during the current fiscal year, including the Tranche the disbursement of which is requested, has been approved in the budget of the Borrower for the current fiscal year;

- (ii) evidence of the authority of the person or persons authorised to sign Disbursement Acceptances and the authenticated specimen signature of such person or persons;
 - (iii) evidence that appropriate technical support supporting the PMSU implementing the Project is in place to the satisfaction of the Bank or will be acquired from grants or other committed funding sources;
 - (iv) a certificate from the Borrower in the form of Schedule D signed by an authorised representative of the Borrower and dated no earlier than the date falling 30 (thirty) days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively);
 - (v) evidence demonstrating that, following disbursement of the relevant Tranche, the amount of the Loan will not exceed the aggregate eligible expenditure incurred or forecast to be allocated in respect of the Project within twelve (12) months of the relevant Disbursement Offer;
 - (vi) a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, this Contract or the Security provided in respect of this Contract or the legality, validity, binding effect or enforceability of the same;
- (b) that the Bank is satisfied on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche that:
- (i) all facts and information contained in the Recitals continue to be true and correct in all respects;
 - (ii) the EU Guarantee is legal, valid, binding and enforceable and that no event or circumstance has occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EU Guarantee, its applicability to any Tranche under this Contract or the Bank's right to make a demand under the EU Guarantee;
 - (iii) Ukraine is an Eligible Country; and
 - (iv) the Framework Agreement is legal, valid, binding and enforceable and that no event or circumstance has occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement; and
- (c) that on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, on the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche:
- (i) the representations and warranties which are repeated pursuant to Article 6.9 are correct in all respects; and
 - (ii) no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute:
 - (1) an Event of Default; or
 - (2) a Prepayment Event;
- has occurred and is continuing unremedied or unwaived or would result from the disbursement of the proposed Tranche.

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1.5 **Deferment of disbursement**

1.5.A **Grounds for deferment**

1.5.A(1) **BORROWER'S REQUEST**

- (a) The Borrower may send a written request to the Bank requesting the deferral of the disbursement of an Accepted Tranche. The written request must be received by the Bank at least 7 (seven) Business Days before the Scheduled Disbursement Date of the Accepted Tranche and specify:
 - (i) whether the Borrower would like to defer the disbursement in whole or in part and if in part, the amount to be deferred; and
 - (ii) the date until which the Borrower would like to defer a disbursement of the above amount (the "**Requested Deferred Disbursement Date**"), which must be a date falling not later than:
 - (1) 6 (six) months from its Scheduled Disbursement Date;
 - (2) 30 (thirty) days prior to the first Repayment Date; and
 - (3) the Final Availability Date.
- (b) Upon receipt of such a written request, the Bank shall defer the disbursement of the relevant amount until the Requested Deferred Disbursement Date.

1.5.A(2) **FAILURE TO SATISFY CONDITIONS TO DISBURSEMENT**

- (a) The disbursement of an Accepted Tranche shall be deferred if any condition for disbursement of such Accepted Tranche referred to in Article 1.4 is not fulfilled both:
 - (i) at the date specified for fulfilment of such condition in Article 1.4; and
 - (ii) at its Scheduled Disbursement Date (or, where the Scheduled Disbursement Date has been deferred previously, the date expected for disbursement).
- (b) The Bank and the Borrower shall agree the date until which the disbursement of such Accepted Tranche shall be deferred (the "**Agreed Deferred Disbursement Date**"), which must be a date falling:
 - (i) not earlier than 7 (seven) Business Days following the fulfilment of all conditions of disbursement; and
 - (ii) not later than the Final Availability Date.
- (c) Without prejudice to the Bank's right to suspend and/or cancel the undisbursed portion of the Credit in whole or in part pursuant to Article 1.6.B, the Bank shall defer disbursement of such Accepted Tranche until the Agreed Deferred Disbursement Date.

1.5.A(3) **DEFERMENT FEE**

If disbursement of an Accepted Tranche is deferred pursuant to paragraphs 1.5.A(1) or 1.5.A(2) above, the Borrower shall pay the Deferment Fee.

1.5.B **Cancellation of a disbursement deferred by 6 (six) months**

If a disbursement has been deferred by more than 6 (six) months in aggregate pursuant to Article 1.5.A, the Bank may notify the Borrower in writing that such disbursement shall be cancelled and such cancellation shall take effect on the date of such written notification. The amount of the disbursement which is cancelled by the Bank pursuant to this Article 1.5.B shall remain available for disbursement under Article 1.2.

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1.6 **Cancellation and suspension**

1.6.A **Borrower's right to cancel**

- (a) The Borrower may send a written notice to the Bank requesting a cancellation of the undisbursed Credit or a portion thereof.
- (b) In its written notice, the Borrower:
 - (i) must specify whether the Credit shall be cancelled in whole or in part and, if in part, the amount of the Credit to be cancelled; and
 - (ii) must not request any cancellation of an Accepted Tranche, which has a Scheduled Disbursement Date falling within 7 (seven) Business Days of the date of such written notice.
- (c) Upon receipt of such written notice, the Bank shall cancel the requested portion of the Credit with immediate effect.

1.6.B **Bank's right to suspend and cancel**

- (a) At any time upon the occurrence of the following events, the Bank may notify the Borrower in writing that the undisbursed portion of the Credit shall be suspended and/or (except upon the occurrence of a Market Disruption Event) cancelled in whole or in part:
 - (i) a Prepayment Event;
 - (ii) an Event of Default;
 - (iii) an event or circumstance which would with the passage of time or giving of notice under this Contract constitute a Prepayment Event or an Event of Default;
 - (iv) if Ukraine is no longer an eligible country for operations under the Mandate; or
 - (v) a Market Disruption Event provided the Bank has not received a Disbursement Acceptance.
- (b) On the date of such written notification from the Bank the relevant portion of the Credit shall be suspended and/or cancelled with immediate effect. Any suspension shall continue until the Bank ends the suspension or cancels the suspended amount.

1.6.C **Indemnity for suspension and cancellation of a Tranche**

1.6.C(1) **SUSPENSION**

If the Bank suspends an Accepted Tranche upon the occurrence of an Indemnifiable Prepayment Event or an Event of Default or of an event or circumstance which would (with the passage of time or the giving of notice or the making of any determination under this Contract or any combination of the foregoing) constitute an Indemnifiable Prepayment Event or an Event of Default, the Borrower shall pay to the Bank the Deferment Fee calculated on the amount of such Accepted Tranche.

1.6.C(2) **CANCELLATION**

- (a) If an Accepted Tranche which is a Fixed Rate Tranche (the "**Cancelled Tranche**") is cancelled:
 - (i) by the Borrower pursuant to Article 1.6.A; or
 - (ii) by the Bank upon an Indemnifiable Prepayment Event or an event or circumstance which would (with the passage of time or the giving of notice or the making of any determination under this Contract or any combination of the foregoing) constitute an Indemnifiable Prepayment Event or pursuant to Article 1.5.B or Article 1.6.B(a)(iv),

the Borrower shall pay to the Bank an indemnity on such Cancelled Tranche.

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- (b) Such indemnity shall be:
- (i) calculated assuming that the Cancelled Tranche had been disbursed and repaid on the same Scheduled Disbursement Date or, to the extent the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice; and
 - (ii) in the amount communicated by the Bank to the Borrower as the present value (calculated as of the date of cancellation) of the excess, if any, of:
 - (1) the interest that would accrue thereafter on the Cancelled Tranche over the period from the date of cancellation pursuant to this Article 1.6.C(2), to the Maturity Date, if it were not cancelled; over
 - (2) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate applied as of each relevant Payment Date of the applicable Tranche.

- (c) If the Bank cancels any Accepted Tranche upon the occurrence of an Event of Default, the Borrower shall indemnify the Bank in accordance with Article 10.3.

1.7 Cancellation after expiry of the Credit

On the day following the Final Availability Date, unless otherwise specifically notified in writing by the Bank to the Borrower, any part of the Credit in respect of which no Disbursement Acceptance has been received in accordance with Article 1.2.C shall be automatically cancelled, without any further notice from the Bank to the Borrower and without any liability arising on the part of either Party.

1.8 Appraisal fee

The Borrower shall pay to the Bank an appraisal fee in the amount of EUR 50,000.00 (fifty thousand euros). The appraisal fee shall be due and payable on the date which is the earlier of:

- (a) the date of the first Tranche, in which case the Bank may, and the Borrower hereby authorises the Bank to do so, retain the fee from the first Tranche, and such amount retained by the Bank out of the first Tranche in payment of the appraisal fee shall be deemed as having been disbursed by the Bank; and
- (b) the Final Availability Date (or the date when the Loan is suspended or cancelled pursuant to Article 1.6, if earlier).

1.9 Sums due under Articles 1.5 and 1.6

Sums due under Articles 1.5 and 1.6 shall be payable:

- (a) in EUR; and
- (b) within 15 (fifteen) days of the Borrower's receipt of the Bank's demand or within any longer period specified in the Bank's demand.

ARTICLE 2

The Loan

2.1 Amount of Loan

The Loan shall comprise the aggregate amount of Tranches disbursed by the Bank under the Credit, as confirmed by the Bank pursuant to Article 2.3.

2.2 Currency of payments

The Borrower shall pay interest, principal and other charges payable in respect of each Tranche in the currency in which such Tranche was disbursed.

Other payments, if any, shall be made in the currency specified by the Bank having regard to the currency of the expenditure to be reimbursed by means of that payment.

2.3 Confirmation by the Bank

The Bank shall deliver to the Borrower the amortisation table referred to in Article 4.1, if any, showing the Disbursement Date, the currency, the amount disbursed, the repayment terms and the interest rate for each Tranche, not later than 10 (ten) calendar days after the Scheduled Disbursement Date for such Tranche.

ARTICLE 3

Interest

3.1 Rate of interest

3.1.A Fixed Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Fixed Rate Tranche at the Fixed Rate semi-annually in arrear on the relevant Payment Dates as specified in the Disbursement Offer, commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 15 (fifteen) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

Interest shall be calculated on the basis of Article 5.1(a).

3.1.B Floating Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Floating Rate Tranche at the Floating Rate semi-annually in arrear on the relevant Payment Dates, as specified in the Disbursement Offer commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 15 (fifteen) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

The Bank shall notify the Borrower of the Floating Rate within 10 (ten) days following the commencement of each Floating Rate Reference Period.

If pursuant to Articles 1.5 and 1.6 disbursement of any Floating Rate Tranche takes place after the Scheduled Disbursement Date EURIBOR applicable to the first Floating Rate Reference Period shall apply as though the disbursement had been made on the Scheduled Disbursement Date.

Interest shall be calculated in respect of each Floating Rate Reference Period on the basis of Article 5.1(b).

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3.2 Interest on overdue sums

Without prejudice to Article 10 and by way of exception to Article 3.1, if the Borrower fails to pay any amount payable by it under this Contract on its due date, interest shall accrue on any overdue amount payable under the terms of this Contract from the due date to the date of actual payment at an annual rate equal to:

- (a) for overdue sums related to Floating Rate Tranches, the applicable Floating Rate plus 2% (200 basis points);
- (b) for overdue sums related to Fixed Rate Tranches, the higher of:
 - (i) the applicable Fixed Rate plus 2% (200 basis points); or
 - (ii) EURIBOR plus 2% (200 basis points); and
- (c) for overdue sums other than under (a) or (b) above, EURIBOR plus 2% (200 basis points),

and shall be payable in accordance with the demand of the Bank. For the purpose of determining the EURIBOR in relation to this Article 3.2, the relevant periods within the meaning of Schedule B shall be successive periods of one (1) month commencing on the due date.

If the overdue sum is in a currency other than the currency of the Loan, the following rate per annum shall apply, namely the relevant interbank rate that is generally retained by the Bank for transactions in that currency plus 2% (200 basis points), calculated in accordance with the market practice for such rate.

3.3 Market Disruption Event

If at any time:

- (a) from the receipt by the Bank of a Disbursement Acceptance in respect of a Tranche; and
- (b) until the date falling 30 (thirty) calendar days prior to the Scheduled Disbursement Date, a Market Disruption Event occurs, the Bank may notify the Borrower that this Article 3.3 has come into effect.

The rate of interest applicable to such Accepted Tranche until the Maturity Date if any, shall be the percentage rate per annum which is the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

The Borrower shall have the right to refuse in writing such disbursement within the deadline specified in the notice and shall bear charges incurred as a result, if any, in which case the Bank shall not effect the disbursement and the corresponding portion of the Credit shall remain available for disbursement under Article 1.2. If the Borrower does not refuse the disbursement in time, the Parties agree that the disbursement in EUR and the conditions thereof shall be fully binding for all Parties.

The Spread or Fixed Rate previously accepted by the Borrower shall no longer be applicable.

ARTICLE 4

Repayment

4.1 Normal repayment

4.1.A Repayment by instalments

- (a) The Borrower shall repay each Tranche by instalments on the Repayment Dates specified in the relevant Disbursement Offer in accordance with the terms of the amortisation table delivered pursuant to Article 2.3.

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- (b) Each amortisation table shall be drawn up on the basis that:
- (i) in the case of a Fixed Rate Tranche, repayment shall be made semi-annually by equal instalments of principal or constant instalments of principal and interest;
 - (ii) in the case of a Floating Rate Tranche, repayment shall be made by equal semi-annual instalments of principal;
 - (iii) the first Repayment Date of each Tranche shall fall not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the Repayment Date immediately following the 5th (fifth) anniversary of the Scheduled Disbursement Date of the Tranche; and
 - (iv) the last Repayment Date of each Tranche shall fall not earlier than 4 (four) years and not later than 20 (twenty) years from the Scheduled Disbursement Date.

4.2 Voluntary prepayment

4.2.A Prepayment option

Subject to Articles 4.2.B, 4.2.C and 4.4, the Borrower may prepay all or part of any Tranche, together with accrued interest and indemnities if any, upon giving a Prepayment Request with at least 30 (thirty) calendar days' prior notice specifying:

- (a) the Prepayment Amount;
- (b) the Prepayment Date, which shall be a Payment Date;
- (c) if applicable, the choice of application method of the Prepayment Amount in line with Article 5.5.C(a); and
- (d) the Contract Number.

The Prepayment Request shall be irrevocable.

4.2.B Prepayment indemnity

4.2.B(1) FIXED RATE TRANCHE

If the Borrower prepays a Fixed Rate Tranche, the Borrower shall pay to the Bank on the Prepayment Date the Prepayment Indemnity in respect of the Fixed Rate Tranche which is being prepaid.

4.2.B(2) FLOATING RATE TRANCHE

The Borrower may prepay a Floating Rate Tranche without indemnity.

4.2.C Prepayment mechanics

Upon presentation by the Borrower to the Bank of a Prepayment Request, the Bank shall issue a Prepayment Notice to the Borrower, not later than 15 (fifteen) days prior to the Prepayment Date. The Prepayment Notice shall specify the Prepayment Amount, the accrued interest due thereon, the Prepayment Indemnity payable under Article 4.2.B or, as the case may be, that no indemnity is due, the method of application of the Prepayment Amount and, if a Prepayment Indemnity is applicable, the deadline by which the Borrower may accept the Prepayment Notice.

If the Borrower accepts the Prepayment Notice no later than by the deadline (if any) specified in the Prepayment Notice, the Borrower shall effect the prepayment. In any other case, the Borrower may not effect the prepayment.

The Borrower shall accompany the payment of the Prepayment Amount by the payment of accrued interest and the Prepayment Indemnity (if any) due on the Prepayment Amount, as specified in the Prepayment Notice, and the fee under Article 4.2.D, if any.

4.2.D **Administrative Fee**

If the Borrower prepays a Tranche on a date other than a relevant Payment Date, or if the Bank exceptionally accepts, solely upon the Bank's discretion, a Prepayment Request with prior notice of less than 30 (thirty) calendar days, the Borrower shall pay to the Bank an administrative fee in such amount as the Bank shall notify to the Borrower.

4.3 **Compulsory prepayment and cancellation**

4.3.A **Prepayment Events**

4.3.A(1) **PROJECT COST REDUCTION EVENT**

- (a) The Borrower shall promptly inform the Bank if a Project Cost Reduction Event has occurred or is likely to occur. At any time after the occurrence of a Project Cost Reduction Event the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding up to the amount by which the Credit exceeds the limit referred to in paragraph (c) below together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid.
- (b) The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date falling not less than 30 (thirty) days from the date of the demand.
- (c) For the purpose of this Article, "Project Cost Reduction Event" means that the total cost of the Project falls below the figure stated in Recital (f) so that the amount of the Credit exceeds 50% (fifty per cent) of such total cost of the Project.

4.3.A(2) **NON-EIB FINANCING PREPAYMENT EVENT**

- (a) The Borrower shall promptly inform the Bank if a Non-EIB Financing Prepayment Event has occurred or is likely to occur. At any time after the occurrence of a Non-EIB Financing Prepayment Event the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid.
- (b) The proportion of the Credit that the Bank may cancel and the proportion of the Loan Outstanding that the Bank may require to be prepaid shall be the same as the proportion that the prepaid amount of the Non-EIB Financing bears to the aggregate outstanding amount of all Non-EIB Financing.
- (c) The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.
- (d) Paragraph (a) does not apply to any voluntary prepayment (or repurchase or cancellation, as the case may be) of a Non-EIB Financing:
 - (i) made with a prior written consent of the Bank;
 - (ii) made within a revolving credit facility; or
 - (iii) made out of the proceeds of any financial indebtedness having a term at least equal to the unexpired term of such Non-EIB Financing prepaid.
- (e) For the purposes of this Article:
 - (i) **"Non-EIB Financing Prepayment Event"** means any case where the Borrower voluntarily prepays (for the avoidance of doubt, such prepayment shall include a voluntary repurchase or cancellation of any creditor's commitment, as the case may be) a part or the whole of any Non-EIB Financing; and
 - (ii) **"Non-EIB Financing"** means any financial indebtedness (save for the Loan and any other direct financial indebtedness from the Bank to the Borrower), or any other obligation for the payment or repayment of money originally made available to the Borrower for a term of more than 5 (five) years.

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4.3.A(3) CHANGE OF LAW EVENT

The Borrower shall promptly inform the Bank if a Change-of-Law Event has occurred or is likely to occur. In such case, or if the Bank has reasonable cause to believe that a Change-of-Law Event has occurred or is about to occur, the Bank may request that the Borrower consult with it. Such consultation shall take place within 30 (thirty) days from the date of the Bank's request. If, after the lapse of 30 (thirty) days from the date of such request for consultation, the Bank is of the opinion that:

- (a) such Change-of-Law Event would materially impair the Borrower's ability to perform its obligations under this Contract, and
- (b) the effects of such Change-of-Law Event cannot be mitigated to its satisfaction,

the Bank may by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

For the purposes of this Article "**Change-of-Law Event**" means the enactment, promulgation, execution or ratification of or any change in or amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation), or the imposition of any Sanctions, that occurs after the date of this Contract and which could impair the Borrower's ability to perform its obligations under this Contract.

4.3.A(4) ILLEGALITY EVENT

Upon becoming aware of an Illegality Event:

- (i) the Bank shall promptly notify the Borrower, and
- (ii) the Bank may immediately (A) suspend or cancel the undisbursed portion of the Credit, and/or (B) demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract on the date indicated by the Bank in its notice to the Borrower.

For the purposes of this Article, "**Illegality Event**" means that:

- (a) it becomes unlawful in any applicable jurisdiction, or it becomes or is likely to become contrary to any Sanctions, for the Bank to perform any of its obligations as contemplated in this Contract or to fund or maintain the Loan;
- (b) the Framework Agreement is or, in the reasonable opinion of the Bank, is likely to be:
 - (i) repudiated or terminated by Ukraine or not binding on Ukraine in any respect;
 - (ii) not effective in accordance with its terms or alleged by Ukraine to be ineffective in accordance with its terms; or
 - (iii) breached as a result of Ukraine ceasing to fulfil any obligation assumed by it in the Framework Agreement; or
 - (iv) inapplicable to the Project or the rights of the Bank under the Framework Agreement and/or this Contract are not able to be enforced in respect of the Project;
- (c) in relation to the EU Guarantee:
 - (i) it is no longer valid or in full force and effect;
 - (ii) the conditions for cover thereunder are not fulfilled;
 - (iii) it does not apply to any Tranche disbursed or to be disbursed under this Contract; or
 - (iv) it is not effective in accordance with its terms or is alleged to be ineffective in accordance with its terms.

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4.3.A(5) NON-PERFORMANCE BY FINAL BENEFICIARY

If the Bank determines that a Final Beneficiary has failed to comply with any obligation imposed upon it as a requirement for any part of the Loan being made available to it, the Bank may give notice thereof to the Borrower and demand prepayment of any corresponding part of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract on the date indicated by the Bank in its notice to the Borrower

4.3.B Prepayment mechanics

Any sum demanded by the Bank pursuant to Article 4.3.A, together with any interest or other amounts accrued or outstanding under this Contract including, without limitation, any indemnity due under Article 4.3.C, shall be paid on the Prepayment Date indicated by the Bank in its notice of demand.

4.3.C Prepayment indemnity

4.3.C(1) FIXED RATE TRANCHE

If the Borrower prepays a Fixed Rate Tranche in case of an Indemnifiable Prepayment Event, the Borrower shall pay to the Bank on the Prepayment Date the Prepayment Indemnity in respect of the Fixed Rate Tranche that is being prepaid.

4.3.C(2) FLOATING RATE TRANCHE

The Borrower may prepay the Floating Rate Tranches without the Prepayment Indemnity.

4.4 General

4.4.A No prejudice to Article 10

This Article 4 shall not prejudice Article 10.

4.4.B No reborrowing

A repaid or prepaid amount may not be reborrowed.

ARTICLE 5

Payments

5.1 Day count convention

Any amount due by way of interest, indemnity or the Deferment Fee from the Borrower under this Contract, and calculated in respect of a fraction of a year, shall be determined on the following respective conventions:

- (a) under a Fixed Rate Tranche, a year of 360 (three hundred and sixty) days and a month of 30 (thirty) days; and
- (b) under a Floating Rate Tranche, a year of 360 (three hundred and sixty) days and the number of days elapsed.

5.2 Time and place of payment

- (a) Unless otherwise specified in this Contract or in the Bank's demand, all sums other than sums of interest, indemnity and principal are payable within 15 (fifteen) days of the Borrower's receipt of the Bank's demand.

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- (b) Each sum payable by the Borrower under this Contract shall be paid to the relevant account notified by the Bank to the Borrower. The Bank shall notify the account not less than 15 (fifteen) days before the due date for the first payment by the Borrower and shall notify any change of account not less than 15 (fifteen) days before the date of the first payment to which the change applies. This period of notice does not apply in the case of payment under Article 10.
- (c) The Borrower shall indicate the Contract Number in the payment details for each payment made hereunder.
- (d) A sum due from the Borrower shall be deemed paid when the Bank receives it.
- (e) Any disbursements by and payments to the Bank under this Contract shall be made using the Disbursement Account (for disbursements by the Bank) and the Payment Account (for payments to the Bank).

5.3 No set-off by the Borrower

All payments to be made by the Borrower under this Contract shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

5.4 Disruption to Payment Systems

If either the Bank determines (in its discretion) that a Disruption Event has occurred or the Bank is notified by the Borrower that a Disruption Event has occurred:

- (a) the Bank may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of this Contract as the Bank may deem necessary in the circumstances;
- (b) the Bank shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes; and
- (c) the Bank shall not be liable for any damages, costs or losses whatsoever arising as a result of a Disruption Event or for taking or not taking any action pursuant to or in connection with this Article 5.4.

5.5 Application of sums received

5.5.A General

Sums received from the Borrower shall only discharge its payment obligations if received in accordance with the terms of this Contract.

5.5.B Partial payments

If the Bank receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under this Contract, the Bank shall apply that payment, in the order set out below, in or towards:

- (a) pro rata to each of any unpaid fees, costs, indemnities and expenses due under this Contract;
- (b) any accrued interest due but unpaid under this Contract;
- (c) any principal due but unpaid under this Contract; and
- (d) any other sum due but unpaid under this Contract.

5.5.C Allocation of sums related to Tranches

- (a) In case of:
 - (i) a partial voluntary prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied pro rata to each outstanding instalment, or, at the request of the Borrower, in inverse order of maturity; or
 - (ii) a partial compulsory prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied in reduction of the outstanding instalments in inverse order of maturity.
- (b) Sums received by the Bank following a demand under Article 10.1 and applied to a Tranche, shall reduce the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.
- (c) In case of receipt of sums which cannot be identified as applicable to a specific Tranche, and on which there is no agreement between the Bank and the Borrower on their application, the Bank may apply these between Tranches at its discretion.

ARTICLE 6

Borrower undertakings and representations

The undertakings in this Article 6 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

A. PROJECT UNDERTAKINGS

6.1 Use of Loan and availability of other funds

The Borrower shall use all amounts borrowed by it under this Contract exclusively for the execution of the Project. The Borrower shall make the proceeds of the disbursed Tranches available to the Final Beneficiaries pursuant to a Loan Fund Transfer Agreement on terms and conditions acceptable to the Bank, and exercise its rights under such Loan Fund Transfer Agreement in such a manner as to protect the interests of the Borrower, the Final Beneficiaries and the Bank, to comply with the provisions of this Contract and to accomplish the purposes for which the Credit was made. The Borrower shall procure that the Promoter, the PMSU and any Final Beneficiary uses all amounts received by the Borrower under this Contract for the execution of the Project in accordance with this Contract.

The Borrower shall ensure that it has available to it the other funds listed in Recital (f) and that such funds are expended, to the extent required, on the financing of the Project.

6.2 Completion of Project

- (a) The Borrower shall carry out the Project and shall procure that the Promoter, the PIU and the PMSU implement the Project and each Final Beneficiary implements the Project in accordance with the Technical Description, as may be modified from time to time with the approval of the Bank. The Borrower shall ensure that the Project is completed by the final date specified in the Technical Description.
- (b) The Borrower shall not take, or permit to be taken, any action that would prevent or interfere with the implementation or operation of the Project by the Promoter, the PIU, the PMSU or any Final Beneficiary.

6.3 **Increased cost of Project**

If the total cost of the Project exceeds the estimated figure set out in Recital (f), the Borrower shall obtain the finance to fund the excess cost without recourse to the Bank, so as to enable the Project to be completed in accordance with the Technical Description. The plans for funding the excess cost shall be communicated to the Bank without delay.

6.4 **Procurement procedure**

- (a) The Borrower shall, and shall procure that the Promoter the PMSU, and/or the relevant Final Beneficiary (as applicable) shall:
- (i) purchase equipment, secure services and order works for the Project by acceptable procurement procedures complying, to the Bank's satisfaction, with its policy and standards as described in its Guide to Procurement;
 - (ii) ensure that no local content or domestic preference requirements not aligned with the Guide to Procurement will be included in the tender documentation or contracts proposed to be financed from the proceeds of the Loan;
 - (iii) ensure that procurement of the contracts envisaged to be financed from the proceeds of the Loan shall not be initiated prior to receiving the Bank's agreement on an acceptable to the Bank project procurement plan;
 - (iv) seek the Bank's approval of the standard tender documents to be used on all contracts financed from the proceeds of the Loan prior to initiating any procurement under the Project. The use of internationally-recognized standard procurement documentation is recommended, such as those prepared by Multilateral Development Banks or the International Federation of Consulting Engineers (FIDIC);
 - (v) ensure that the appropriate wording regarding the available review procedures for remedies will be included in all the tender documentation of the contracts proposed to be financed from the proceeds of the Loan.
- (b) The Borrower shall ensure that review procedures for remedies acceptable to the Bank are available in the procurement procedures related to the Project to any person or entity having or having had an interest in obtaining the contract and (at risk of) being harmed by an alleged infringement of the applicable procurement rules.

6.5 **Continuing Project undertakings**

6.5.A **The Borrower shall ensure :**

- (a) **Maintenance:** (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;
- (b) **Project assets:** (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall unless the Bank has given its prior written consent retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under article 309 of the Treaty on the Functioning of the European Union;
- (c) **Insurance:** (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall insure all works and property forming part of the Project in accordance with the most comprehensive relevant Ukrainian industry practice for similar works of public interest;
- (d) **Rights and Permits:** (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall ~~maintain~~ in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;

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(e) **Environment and Social:**

- (i) (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall implement and operate each the Project in compliance with Environmental and Social Standards,
- (ii) (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall procure that the contracts entered into between each Final Beneficiary and the contractors for the Project will contain provisions that require the contractors to comply with the ILO Standards as well as with occupational health and safety standards; and each Final Beneficiary shall actively monitor on its own construction sites the respect by the contractors of such compliance requirement;
- (iii) (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall obtain, maintain and comply with requisite Environmental or Social Approvals for the Project;
- (iv) (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall ensure that the Loan is not used for the financing of a component of the Project that require an Environmental and Social Impact Assessment Study according to the Environmental Laws and Social Laws before such Environmental and Social Impact Assessment Study is finalised and approved by the competent authority;
- (v) (directly or through the Promoter and /or PMSU) that the Final Beneficiaries (shall ensure that the Loan is not used for the financing of a component of the Project that have a potential to affect a site of nature conservation importance that is protected under national legislation or international agreements, until the time the competent authority confirms that the component does not have a significant negative impact on the site;

(f) **EU Law:** (directly or through the Promoter and /or PMSU) that the Final Beneficiaries shall

- (i) execute, operate and verify the compliance of each component of the Project in accordance with the standards of EU Law, including, but not limited to, the field of environment, state aid and public procurement, to the extent implemented by the laws of Ukraine or specified by the Bank in this Contract, i.e. the EIA Directive; and
- (ii) ensure and verify that contractors engaged in the Project observe the provisions mentioned in point (i) above;

(g) **PMSU:**

ensure that Promoter will maintain an adequately staffed PMSU in the Promoter, throughout the project cycle to the satisfaction of the Bank;

(h) **Amendments:** (directly or through the Promoter and/or the PMSU) that the Final Beneficiaries shall consult with the Bank regarding the amendment of the contracts, in relation to the Project, financed by the Bank and shall seek the Bank's non-objection prior to entering into any material amendments to those contracts;

(i) **Accounts**

(directly or through the Promoter and/or the PMSU) that the Final Beneficiaries shall request any disbursements under the Loan Fund Transfer Agreements, and any payments to the Final Beneficiaries or directly to the relevant contractors under the Loan Fund Transfer Agreements are made in relation with the Project to bank accounts in the name of the relevant Final Beneficiaries or contractors, as applicable, held, in the case of the Final Beneficiaries, with a duly authorised financial institution in Ukraine (where the relevant Final Beneficiary is incorporated and where the Project is undertaken);

(j) **Others**

- (i) and shall ensure (directly or through the Promoter and/or the PMSU) that the Final Beneficiaries shall take note of the EIB Group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, Money Laundering and

Financing of Terrorism (as published on the Bank's website and as may be amended from time to time) in the financing activities related to the Project;

- (ii) ensure that any bidder whose any beneficial owner is a family member or a person known to be a close associate to any member of its management bodies and senior staff members will be identified and that adequate measures are adopted to address potential conflicts of interest prior to the award of contracts under the Project,

For the purposes of this Article, each of "family member", "person known to be a close associate" and "beneficial owner" has the meaning given to it by the corresponding definitions under the EU Fourth Money Laundering Directive, subject to the definitions in the EU Fourth Money Laundering Directive having a general application and not being limited to politically exposed person.

6.5.B The Borrower shall:

- (a) procure that there is no double financing of the same components of the Project with other funds made available by the Bank, whether under the Contract or otherwise, or by other donors. For the avoidance of doubt, this undertaking shall not:
 - (i) prohibit any co-financing of the Project by other donors or funding by the Borrower of other components of the Project; or
 - (ii) apply to the blending of grants from donors with funds from the Bank of which the Bank has been notified and which have been justified to the satisfaction of the Bank;
- (b) procure that the Bank is promptly notified of the suspension or cancellation of the implementation of the Project;
- (c) procure that the Promoter shall confirm to the Bank that each Final Beneficiary has complied with all applicable policies and guidelines of the Bank, including (without limitation) the Environmental and Social Standards and the Bank's Guide to Procurement; and shall procure that adequate and trained staff are employed and maintained at the Promoter to ensure that this compliance is observed;
- (d) ensure that no component of the Project:
 - (i) is carried out in an area in Ukraine which is experiencing active conflict;
 - (ii) causes new active conflict to occur in Ukraine;
 - (iii) prolongs any existing active conflict in Ukraine; or
 - (iv) is carried out in an area which is not under the control of the Ukrainian Government;
- (e) implement and maintain a quality management system which guarantees that the Project goals are fully achieved including (without limitation) that the quality of construction works is in full compliance with best practice construction standards and that the progress of construction works is recorded in the construction site record books;
- (f) permit and shall procure that the Promoter and the PMSU shall procure that the Final Beneficiaries shall permit the Bank to conduct sample checks at different stages in the Project implementation process;
- (g) ensure and shall procure that the Promoter and the PMSU shall procure that the Final Beneficiaries shall ensure that, upon their request, the Bank and its officers, agents, consultants and advisers are given appropriate access to any site and any document required verifying the points set out in paragraph (f) above;
- (h) remedy and shall procure that the Promoter and the PMSU shall procure that the Final Beneficiaries shall remedy to the Bank's satisfaction and within the timeframe notified by the Bank to the Borrower, any deficiencies, errors, omissions or irregularities identified in connection with the Project by any person set out in paragraph (h) above;

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- (i) ensure that the PIU and the PMSU are maintained until the end of the implementation period of the Project with appropriate staff to the satisfaction of the Bank;
- (j) facilitate the mission of any other technical support consultant hired by the Bank to provide sector advice and project monitoring in connection with the Project;
- (k) further to the request of the Bank, suspend the authorisation of the Project for financing from the Loan and the payment of any part of a Tranche to a Final Beneficiary which, or whose officers or management, is being investigated by a relevant authority for any Prohibited Conduct;
- (l) ensure that the Loan is not used for purchasing of land in connection with the Project or otherwise;
- (m) ensure that its payment obligations under this Contract do not fall within the scope of the Debt Operation, the 2020 IMF Program or any similar debt restructuring;
- (n) procure that:
 - (i) all equipment, works and services acquired for, or in connection with, the provision of technical support for the Project from funding provided by the Bank or any applicable technical assistance or investment grants granted for the Project;
 - (ii) all equipment, works and services acquired from any applicable technical assistance or investment grants granted for the Project; and
 - (iii) all equipment donated by third parties to the Promoter for the Project,are exempt from any applicable tax or other impost on such acquisition or transfer;
- (o) if so requested by the Bank, submit to the Bank for its review and approval the template of the Loan Fund Transfer Agreements or any specific Loan Fund Transfer Agreement; and
- (p) ensure that the Loan Fund Transfer Agreement includes provisions that inform the Final Beneficiaries that the financing benefit from the financial support provided by the Bank with the backing of the European Union through the EU Guarantee.

B. GENERAL UNDERTAKINGS

6.6 Compliance with laws

The Borrower shall, and shall procure that the Promoter, the PMSU and the Final Beneficiaries (as applicable) shall, comply in all respects with all laws and regulations to which they themselves are subject or the Project is subject.

6.7 Books and records

The Borrower undertakes, and shall procure that the Promoter and the PMSU shall undertake:

- (a) to represent that it has kept and will continue to keep, and procure that each Final Beneficiary shall represent that it has kept and will continue to keep, proper books and records of account, in which full and correct entries are made with respect to all financial transactions and their assets and business, including expenditures in connection with the Project, in accordance with the laws of Ukraine as in effect from time to time;
- (b) to keep, and procure that each Final Beneficiary undertakes to keep, record of contracts financed with the proceeds of the Loan, including a copy of the relevant contract itself and material documents relating to the procurement for at least 6 years from substantial performance of the relevant contract;
- (c) ensures that the proceeds of the Loan made available in connection with the Project are accounted for, and audited, separately from all other funds and assets of the Borrower, the Promoter, the PMSU and of each Final Beneficiary (as applicable).

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6.8 **Integrity**

6.8.A **Prohibited Conduct**

- (a) The Borrower shall not, and shall procure that the Promoter, the PMSU and the Final Beneficiaries shall not, engage in, or authorise or permit any Relevant Person, Affiliate or any other person acting on its behalf to engage in, any Prohibited Conduct in connection with the Project, any tendering procedure for the Project, or any transaction contemplated by the Contract.
- (b) The Borrower undertakes, and shall procure that the Promoter, the PMSU and the Final Beneficiaries undertake, to take any such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.
- (c) The Borrower undertakes, and shall procure that the Promoter, the PMSU and the Final Beneficiaries undertake, to ensure that contracts financed by this Loan include the necessary provisions to enable the Borrower, the Promoter, the PMSU and the Final Beneficiaries (as applicable) to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

6.8.B **Sanctions**

The Borrower shall not, and shall procure that the Promoter, the PMSU and the Final Beneficiaries shall not, directly or indirectly:

- (a) maintain or enter into a business relationship with, and/or make any funds and/or economic resources available to, or for the benefit of, any Sanctioned Person in connection with the Project, or
- (b) use all or part of the proceeds of the Loan or lend, contribute or otherwise make available such proceeds to any person, in each case, in any manner that would result in a breach by itself or by the Bank of applicable Sanctions; or
- (c) fund all or part of any payment under the Contract out of proceeds derived from activities or businesses with a Sanctioned Person, a person in breach of the Sanctions or in any manner that would result in a breach by itself or by the Bank of the Sanctions.

6.8.C **Management**

The Borrower undertakes, and shall procure that the Promoter, the PIU, the PMSU and the Final Beneficiaries shall undertake, to take, within a reasonable timeframe, appropriate measures in respect of any Relevant Person who:

- (i) becomes a Sanctioned Person; or
- (ii) is the subject of a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties; or
- (iii) is or becomes a family member or a person known to be a close associate to any beneficial owner of any relevant contractor under the Project,

in order to ensure that such Relevant Person is suspended, dismissed or in any case excluded from any of their activities in relation to the Loan and to the Project.

For the purposes of Article, each of "family member", "person known to be a close associate" and "beneficial owner" has the meaning given to it by the corresponding definitions under the EU Fourth Money Laundering Directive, subject to the definitions in the EU Fourth Money Laundering Directive having a general application and not being limited to politically exposed person.

6.9 **General Representations and Warranties**

The Borrower represents and warrants to the Bank that:

- (a) it has the power to execute, deliver and perform its obligations under this Contract and all necessary actions have been taken to authorise the execution, delivery and performance of the same by it;
- (b) this Contract constitutes its legally valid, binding and enforceable obligations;
- (c) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not contravene or conflict with:
 - (i) any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject or any restrictions on the incurring of indebtedness to which the Borrower is subject;
 - (ii) any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Contract;
 - (iii) any provision of its constitutional laws;
- (d) there has been no Material Adverse Change since the date of the approval of the Project by the Management Committee of the Bank, i.e. 23 March 2021;
- (e) no event or circumstance which constitutes an Event of Default has occurred and is continuing unremedied or unwaived;
- (f) no litigation, arbitration, administrative proceedings or investigation is current or to its knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against it or the Promoter or the PMSU or the Final Beneficiaries any unsatisfied judgement or award;
- (g) it has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;
- (h) each of the Promoter and the PMSU (as applicable) has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;
- (i) its payment obligations under this Contract rank not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its debt instruments except for obligations mandatorily preferred by law applying to companies generally;
- (j) it is not (and will not, after the disbursement of the Loan, be) in breach of any restrictions applicable to it, on the incurring of financial indebtedness;
- (k) the Project falls within the scope of the Framework Agreement;
- (l) it is in compliance with Article 6.5.A (e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental or Social Claim has been commenced or is threatened against it or the Promoter or the PMSU; and
- (m) it is in compliance with all undertakings under this Article 6;
- (n) to the best of its knowledge, no funds invested in the Project are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism;
- (o) neither the Borrower, nor the Promoter, the PMSU or any Final Beneficiary, has committed:
 - (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Contract; or

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- (ii) any illegal activity related to the Financing of Terrorism or Money Laundering;
- (p) the Project (including without limitation, the negotiation, award and performance of contracts financed or to be financed by the Loan) has not involved or given rise to any Prohibited Conduct;
- (q) none of the Borrower, the Promoter, the PMSU or the Final Beneficiaries is a Sanctioned Person; or is in breach of any Sanctions; and, to the best of its knowledge and belief, none of the Relevant Persons is a Sanctioned Person or in breach of any Sanctions.

The representations and warranties set out above are made on the date of this Contract and are, with the exception of the representation set out in paragraph (d) above, deemed repeated with reference to the facts and circumstances then existing on date of each Disbursement Acceptance, each Disbursement Date and each Payment Date.

ARTICLE 7

Security

The undertakings in this Article 7 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

7.1 Pari passu ranking

The Borrower shall ensure that its payment obligations under this Contract rank, and will rank, not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its External Debt Instruments.

In particular, if the Bank makes a demand under Article 10.1 or if an event or potential event of default under any unsecured and unsubordinated External Debt Instrument of the Borrower or of any of its agencies has occurred and is continuing, the Borrower shall not make (or authorize) any payment in respect of any other such External Debt Instrument (whether regularly scheduled or otherwise) without simultaneously paying, or setting aside in a designated account for payment on the next Payment Date a sum equal to, the same proportion of the debt outstanding under this Contract as the proportion that the payment under such External Debt Instrument bears to the total debt outstanding under that instrument. For this purpose, any payment of an External Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the External Debt Instrument have subscribed, shall be disregarded.

In this Contract, "**External Debt Instrument**" means (a) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement), (b) an obligation evidenced by a bond, debenture or similar written evidence of indebtedness or (c) a guarantee granted by the Borrower for an obligation of a third party; provided in each case that such obligation is: (i) governed by a system of law other than the law of the Borrower; or (ii) payable in a currency other than the currency of the Borrower's country; or (iii) payable to a person incorporated, domiciled, resident or with its head office or principal place of business outside the Borrower's country.

7.2 Additional Security

Should the Borrower grant to a third party any security for the performance of any External Debt Instrument or any preference or priority in respect thereof, the Borrower shall, if so required by the Bank, provide to the Bank equivalent security for the performance of its obligations under this Contract or grant to the Bank equivalent preference or priority.

7.3 Clauses by inclusion

If the Borrower concludes with any other medium or long term financial creditor a financing agreement that includes a ~~loss-of-rating~~ clause, financial covenants or other provisions regarding its financial ratios, a cross default clause and/or a *pari passu* clause not provided

for in this Contract or is more favourable to the relevant financial creditor than equivalent provision(s) of this Contract, the Borrower shall promptly so inform the Bank and shall, at the request of the Bank, forthwith execute an agreement to amend this Contract so as to provide for an equivalent provision in favour of the Bank.

ARTICLE 8

Information and Visits

8.1 Information concerning the Project

The Borrower shall, and shall procure that the Promoter and/or the PMSU (as applicable) shall:

- (a) deliver to the Bank:
 - (i) the information in content and in form, and at the times, specified in Schedule 0 or otherwise as agreed from time to time by the parties to this Contract;
 - (ii) any such information or further document concerning the financing, procurement, implementation, operation of the Project and related environmental or social matters as the Bank may reasonably require within a reasonable time; and
 - (iii) any such information or further document concerning the Project as the Bank may reasonably require within a reasonable time to comply with its obligations under the Decision and the EU Guarantee,

provided always that if such information or document is not delivered to the Bank on time, and the Borrower does not rectify the omission within a reasonable time set by the Bank in writing, the Bank may remedy the deficiency, to the extent feasible, by employing its own staff or a consultant or any other third party, at the Borrower's expense and the Borrower shall provide such persons with all assistance necessary for the purpose;

- (b) submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, inter alia, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;
- (c) promptly inform the Bank of:
 - (i) the suspension or cancellation of the Project;
 - (ii) any material alteration to any laws or internal regulations relating to the Promoter or the PMSU with a material effect on the Project after the date of this Contract;
 - (iii) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower, the Promoter, the PMSU or any Final Beneficiary, or any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against;
 - (iv) any fact or event known to the Borrower, the Promoter, the PMSU or any Final Beneficiary, which may substantially prejudice or affect the conditions of execution or operation of the Project;
 - (v) any non-compliance by the Borrower, the Promoter, the PMSU or any Final Beneficiary with any Environmental and Social Standard;
 - (vi) any suspension, revocation or modification of any Environmental or Social Approval;
 - (vii) any changes to the initial procurement plan;
 - (viii) a genuine allegation or complaint with regard to any Prohibited Conduct or Sanction related to the Project;

- (ix) should it become aware of any fact or information confirming or reasonably suggesting that:
 - (1) any Prohibited Conduct or any violation of any Sanction has occurred in connection with the Project, or
 - (2) any of the funds invested in the share capital of any Final Beneficiary or in the Project was derived from an illicit origin;
- (x) any Security granted or purported to be granted in connection with any asset forming part of the Project in favour of a third party; and
- (xi) any disposal by the Promoter, the PMSU or a Final Beneficiary of any material assets forming part of the Project;
- (d) deliver to the Bank, in form and substance satisfactory to the Bank:
 - (i) quarterly Project progress reports during Project implementation as specified in Schedule A.2;
 - (ii) a Project completion report as specified in Schedule A.2;
 - (iii) evidence that where hazardous materials, such as asbestos and /or PCB containing materials, have been identified that they are properly disposed of at appropriate waste facilities. The evidence shall be provided within an annual project progress report (PPR).
- (e) provide to the Bank, if so requested:
 - (i) a certificate of its insurers showing fulfilment of the requirements of Article 6.5 A (c); and
 - (ii) annually, a list of policies in force covering the insured property forming part of the Project, together with confirmation of payment of the current premiums; and
 - (iii) true copies of contracts financed with the proceeds of the Loan and evidence of expenditures relating to disbursements;
- (f) store and keep updated (and procure that the Promoter, the PMSU and each Final Beneficiary shall store and keep updated) documents relevant to the Project and provide (or procure that the Promoter or the PMSU provides) them to the Bank promptly on the Bank's request;
- (g) notify the Bank of the suspension of payments by a Final Beneficiary or of any judicial or administrative proceedings commenced against a Final Beneficiary, in each case within 5 (five) days of such event occurring; and
- (h) notify the Bank promptly of any audit in relation to the Project carried out by the Government of Ukraine or any competent authority.

8.2 **Information concerning the Borrower, the Promoter, the PMSU and/or the Final Beneficiaries**

The Borrower shall, or shall procure that the Promoter and/or the PMSU, shall (as applicable):

- (a) deliver to the Bank:
 - (i) the audited Project Accounts and auditor's reports in the English language or with English translation within 6 (six) months from the end of each fiscal year;
 - (ii) from time to time, such information on its general financial situation as the Bank may reasonably require;
 - (iii) customer or any other type of due diligence matters of, or for, the Borrower, the Promoter, the PMSU or any Final Beneficiary, **including without limitation** to comply with "know your customer" (KYC) or similar identification procedures, as the Bank may deem necessary or may reasonably require to be provided within a reasonable time;

- (b) ensure that the Borrower, the Promoter and the PMSU maintains procedures and records adequate to fully reflect the operations relating to the financing, execution and operation of the Project and each Final Beneficiary maintains procedures and records adequate to fully reflect the operations relating to the financing, execution and operation of the Project;
- (c) inform the Bank immediately of:
- (i) any Change-of-Law Event in accordance with Article 4.3.A(3) or any material alteration to any relevant laws, statutes, by-laws, memoranda and articles of association with a bearing on the Project after the date of this Contract;
 - (ii) any fact which obliges the Borrower to prepay any financial indebtedness or any European Union funding;
 - (iii) any event or decision that constitutes or may result in a Prepayment Event;
 - (iv) any intention on its part to grant any Security over any of its assets in favour of a third party;
 - (v) any intention on its part, or on the part of the Promoter or the PMSU or on the part of a Final Beneficiary to relinquish ownership of any material component of the Project;
 - (vi) any event or decision that constitutes or may result in the events described in Article 7.3 (*Clauses by inclusion*);
 - (vii) any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower, the Promoter, the PMSU or any Final Beneficiary under this Contract;
 - (viii) any Event of Default having occurred or being threatened or anticipated;
 - (ix) any litigation, arbitration or administrative proceedings or investigation which is current, threatened or pending and which might if adversely determined result in a Material Adverse Change; and
 - (x) the due ratification of this Contract by the Parliament of Ukraine in accordance with the laws of Ukraine;
- (d) inform the Bank immediately after becoming aware of the relevant fact or event of:
- (i) any fact or event which results in any investigations concerning the integrity of any Relevant Person or any other official or representative of the Borrower, Promoter, the PMSU or a Final Beneficiary;
 - (ii) to the extent permitted by applicable law of Ukraine and the EU Law, any material litigation, arbitration, administrative proceedings or investigations carried out by a court, administration or similar public authority, which to the best of the Borrower's knowledge and belief (or to the best of the knowledge and belief of the Promoter, the PMSU or a Final Beneficiary, informing the Borrower to that effect), is current, imminent or pending against the Borrower, the Promoter, the PMSU, a Final Beneficiary or any Relevant Person of the Borrower, Promoter, the PMSU or a Final Beneficiary in connection with Prohibited Conduct related to the Project; and
 - (iii) any fact or event which results in any Relevant Person of the Borrower, the Promoter, the PMSU or a Final Beneficiary being or becoming a Sanctioned Person,
 - (iv) any measure taken by the Borrower pursuant to Article 6.8 (*Integrity*) of this Contract;

in each case setting out the action the Borrower (and, as applicable, the Promoter, the PMSU and/or the relevant Final Beneficiary) has taken, or intends to take, with respect to such matters.

8.3 Visits, Right of Access and Investigation

- (a) The Borrower shall, and shall ensure that the Promoter, the PMSU and each of the Final Beneficiaries shall, permit persons designated by the Bank, as well as persons designated by other institutions or bodies of the European Union when so required by the relevant mandatory provisions of EU Law, the competent EU institutions including the Court of Auditors of the European Communities, the European Commission, the European Anti-Fraud Office and the European Public Prosecutor's Office to:
- (i) visit the sites, installations and works comprising the Project and to conduct such checks as they may wish for purposes connected with this Contract and the financing of the Project;
 - (ii) interview representatives of the Borrower and/or the PMSU and/or the Promoter and/or the Final Beneficiaries, and not obstruct contacts with any other person involved in or affected by the Project; and
 - (iii) review the Borrower's, the Promoter's, the PMSU's and/or the Final Beneficiaries' books and records in relation to the execution of the Project and to be able to take copies of related documents to the extent permitted by the law.
- (b) The Borrower shall, and shall procure that the PMSU, the Promoter and each of the Final Beneficiaries shall facilitate investigations by the Bank and by other competent European Union institutions or bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct.
- (c) The Borrower shall, and shall procure that the PMSU, the Promoter and each of the Final Beneficiaries will, provide the Bank, or ensure that the Bank is provided, with all necessary assistance for the purposes described in this Article.
- (d) The Borrower acknowledges, and shall procure that the PMSU, the Promoter and each of the Final Beneficiaries acknowledges, that the Bank may be obliged to communicate information relating to the Borrower, the PMSU, the Promoter and/or the Project to any competent institution or body of the European Union including the Court of Auditors of the European Communities, the European Commission, the European Anti-Fraud Office and the European Public Prosecutor's Office as are necessary for the performance of their task in accordance with the relevant mandatory provisions of EU Law.

ARTICLE 9

Charges and expenses

9.1 Taxes, duties and fees

- (a) The Borrower shall pay any Taxes, duties, fees and other charges or withholding of a similar nature, including any interest payable in connection with any failure to pay or any delay in paying any of the same), including any stamp duty and registration fees, arising out of the execution or implementation of this Contract or any related document and in the creation, perfection, registration or enforcement of any Security for the Loan to the extent applicable.
- (b) The Borrower shall pay all principal, interest, indemnities and other amounts due under this Contract gross without withholding or deduction of any national or local impositions whatsoever required by law or under an agreement with a governmental authority or otherwise. If the Borrower is obliged to make any such withholding or deduction, it shall gross up the payment to the Bank so that after withholding or deduction, the net amount received by the Bank is equivalent to the sum due.

9.2 Other charges

The Borrower shall bear all charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation,
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enforcement and termination of this Contract or any related document, any amendment, supplement or waiver in respect of this Contract or any related document, and in the amendment, creation, management, enforcement and realisation of any security for the Loan.

9.3 Increased costs, indemnity and set-off

- (a) The Borrower shall pay to the Bank any costs or expenses incurred or suffered by the Bank as a consequence of the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or compliance with any law or regulation which occurs after the date of signature of this Contract, in accordance with or as a result of which:
- (i) the Bank is obliged to incur additional costs in order to fund or perform its obligations under this Contract, or
 - (ii) any amount owed to the Bank under this Contract or the financial income resulting from the granting of the Credit or the Loan by the Bank to the Borrower is reduced or eliminated.

The Bank shall provide documentary support for any such charges or expenses upon the Borrower's request

- (b) Without prejudice to any other rights of the Bank under this Contract or under any applicable law, the Borrower shall indemnify and hold the Bank harmless from and against any loss incurred as a result of any full or partial discharge that takes place in a manner other than as expressly set out in this Contract.
- (c) To the extent permitted under each applicable legal system, the Bank may set off any matured obligation due from the Borrower under this Contract (to the extent beneficially owned by the Bank) against any obligation (whether or not matured) owed by the Bank to the Borrower regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Bank may set off in an amount estimated by it in good faith to be the amount of that obligation. The Bank shall notify the Borrower of its intention to exercise its rights under this Article and of any set off effected by it under this Article, in each case if practicable to do so.

ARTICLE 10

Events of Default

10.1 Right to demand repayment

The Borrower shall repay all or part of the Loan Outstanding (as requested by the Bank) forthwith, together with accrued interest and all other accrued or outstanding amounts under this Contract, upon written demand being made by the Bank in accordance with the following provisions.

10.1.A Immediate demand

The Bank may make such demand immediately without prior notice or any judicial or extra judicial step:

- (a) if the Borrower does not pay on the due date any amount payable pursuant to this Contract at the place and in the currency in which it is expressed to be payable, unless:
- (i) its failure to pay is caused by an administrative or technical error or a Disruption Event and
 - (ii) payment is made within 3 (three) Business Days of its due date;

- (b) if any information or document given to the Bank by or on behalf of the Borrower or any representation, warranty or statement made or deemed to be made by the Borrower in, pursuant to or for the purposes of entering into this Contract or in connection with the negotiation or performance of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect at the time when it was made or deemed to be made;
- (c) if, following any default of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than the Loan:
 - (i) the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, discharge, close out or terminate ahead of maturity such other loan or obligation; or
 - (ii) any financial commitment for such other loan or obligation is cancelled or suspended;
- (d) if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or seeks to make a composition with its creditors;
- (e) if the Borrower defaults in the performance of any obligation in respect of any other loan made to it from the resources of the Bank or the European Union or financial instrument entered into with the Bank;
- (f) if any expropriation, attachment, arrestment, distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;
- (g) if a Material Adverse Change occurs, as compared with the Borrower's condition at the date of this Contract;
- (h) if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract or this Contract is not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms;
- (i) if any event occurs which is likely to jeopardise the servicing of all or part of any Tranche or adversely affect any security therefore; or
- (j) if any obligation assumed by the Borrower under this Contract are adversely affected by the Borrower's implementation of the Debt Operation, the 2020 IMF Program or any similar arrangement between the Borrower and the Executive Board of the International Monetary Fund;
- (k) if any obligation assumed by the Borrower as stated in the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the Borrower's territory from the resources of the Bank, or the European Union; or
- (l) if the conditions for cover under the EU Guarantee are not fulfilled or if the EU Guarantee ceases to be valid, effective or enforceable in accordance with its terms.

10.1.B Demand after notice to remedy

The Bank may also make such demand without prior notice or any judicial or extra judicial step (without prejudice to any notice referred to below):

- (a) if the Borrower fails to comply with any provision of this Contract (other than those referred to Article 10.1.A); or
- (b) if any fact stated in the Recitals materially alters and is not materially restored and if the alteration either prejudices the interests of the Bank as lender to the Borrower or adversely affects the implementation or operation of the Project,

unless the non-compliance or circumstance giving rise to the non-compliance is capable of remedy and is remedied within a reasonable period of time specified in a notice served by the Bank on the Borrower.

10.2 Other rights at law

Article 10.1 shall not restrict any other right of the Bank at law to require prepayment of the Loan Outstanding.

10.3 Indemnity

10.3.A Fixed Rate Tranches

In case of demand under Article 10.1 in respect of any Fixed Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with the indemnity on any amount of principal due to be prepaid. Such indemnity shall (i) accrue from the due date for payment specified in the Bank's notice of demand and be calculated on the basis that prepayment is effected on the date so specified, and (ii) be for the amount communicated by the Bank to the Borrower as the present value (calculated as of the date of the prepayment) of the excess, if any, of:

- (a) the interest that would accrue thereafter on the amount prepaid over the period from the date of prepayment to the Maturity Date, if it were not prepaid; over
- (b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate, applied as of each relevant Payment Date of the applicable Tranche.

10.3.B Floating Rate Tranches

In case of demand under Article 10.1 in respect of any Floating Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with a sum equal to the present value of 0.19% (nineteen basis points) per annum calculated and accruing on the amount of principal due to be prepaid in the same manner as interest would have been calculated and would have accrued, if that amount had remained outstanding according to the applicable amortisation schedule of the Tranche, until the Maturity Date.

The value shall be calculated at a discount rate equal to the Redeployment Rate applied as of each relevant Payment Date.

10.3.C General

Amounts due by the Borrower pursuant to this Article 10.3 shall be payable on the date specified in the Bank's demand.

10.4 Non-Waiver

No failure or delay or single or partial exercise by the Bank in exercising any of its rights or remedies under this Contract shall be construed as a waiver of such right or remedy. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies provided by law.

ARTICLE 11

Law and dispute resolution, miscellaneous

11.1 Governing Law

This Contract and its formation, construction and validity shall be governed by public international law. The laws of Ukraine relating to the existence or interpretation of contracts shall not apply to this Contract.

11.2 Dispute Resolution

- (a) Any dispute, disagreement, controversy or claim (together referred to as a "Dispute") arising in connection with the existence, validity, interpretation, implementation or termination of this Contract shall, to the extent possible, be settled amicably by agreement between the Bank and the Borrower through consultations and negotiations. If a Dispute cannot be amicably settled by the Bank and the Borrower within 60 (sixty) days of the notification of the Dispute by either Party, the Dispute shall be settled by final and binding arbitration in accordance with the United Nations Commission on International Trade Law (UNCITRAL) UNCITRAL Arbitration Rules in effect at the date of this Contract, which rules are deemed to be incorporated by reference into this Article.
- (b) The number of arbitrators shall be three. The language of the arbitral procedure shall be English. The arbitration proceedings shall take place in The Hague, the Netherlands.
- (c) Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within six months of the constitution of the arbitral tribunal. The tribunal shall render its decision within 60 (sixty) days following the delivery of the final submissions.
- (d) Any final award of the tribunal shall be binding from the day it is made, and the Parties hereby waive any right of appeal on the law and/or the merits to any court. Notwithstanding the UNCITRAL Arbitration Rules, the tribunal shall not take or provide and the Borrower shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank.
- (e) The Borrower shall abide by and carry out any such award in its territory without delay.
- (f) In case of failure by the Borrower to comply with its obligation in the preceding paragraph within 3 months from the date of the award, then, to the extent that the Borrower may in any jurisdiction claim for itself or its assets immunity from suit, enforcement, attachment or other legal process, the Borrower hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

11.3 Evidence of sums due

In any legal action arising out of this Contract the certificate of the Bank as to any amount or rate due to the Bank under this Contract shall, in the absence of manifest error, be prima facie evidence of such amount or rate.

11.4 Entire Agreement

This Contract constitutes the entire agreement between the Bank and the Borrower in relation to the provision of the Credit hereunder, and supersedes any previous agreement, whether express or implied, on the same matter.

11.5 Invalidity

If at any time any term of this Contract is or becomes illegal, invalid or unenforceable in any respect, or this Contract is or becomes ineffective in any respect, under the laws of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of this Contract or the effectiveness in any other respect of this Contract in that jurisdiction; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of this Contract or the effectiveness of this Contract under the laws of such other jurisdictions.

11.6 Amendments

This Contract may be amended by written agreement between the Parties. Such amendments shall become effective on the terms set out in the relevant amendment instrument without the

need for the Borrower to execute any internal procedures (being ratification and approval), if the abovementioned amendments:

- (a) do not require any increase in the financial obligations of the Borrower or the imposition of additional obligations on the Borrower under this Contract;
- (b) do not necessitate the changing of Laws of Ukraine or the approval of new Laws of Ukraine; and
- (c) do not incorporate any other rules other than stipulated in the decrees of the President or the Cabinet of Ministers of the Borrower.

11.7 Counterparts

This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

ARTICLE 12

Final clauses

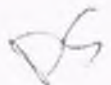
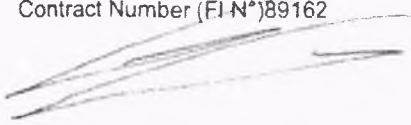
12.1 Notices

12.1.A Form of Notice

- (a) Any notice or other communication given under this Contract must be in writing and, unless otherwise stated, may be made by letter or electronic mail.
- (b) Notices and other communications for which fixed periods are laid down in this Contract or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter or by electronic mail. Such notices and communications shall be deemed to have been received by the other Party:
 - (i) on the date of delivery in relation to a hand-delivered or registered letter;
 - (ii) in the case of any electronic mail only when such electronic mail is actually received in readable form and only if it is addressed in such a manner as the other Party shall specify for this purpose.
- (c) Any notice provided by the Borrower to the Bank by electronic mail shall:
 - (i) mention the Contract Number in the subject line; and
 - (ii) be in the form of a non-editable electronic image (PDF, TIF or other common non editable file format agreed between the Parties) of the notice signed by an Authorised Signatory with individual representation right or by two or more Authorised Signatories with joint representation right of the Borrower, attached to the electronic mail.
- (d) Notices issued by the Borrower pursuant to any provision of this Contract shall, where required by the Bank, be delivered to the Bank together with satisfactory evidence of the authority of the person or persons authorised to sign such notice on behalf of the Borrower and the authenticated specimen signature of such person or persons.
- (e) Without affecting the validity of electronic mail notices or communication made in accordance with this Article 12.1, the following notices, communications and documents shall also be sent by registered letter to the relevant Party at the latest on the immediately following Business Day:
 - (i) Disbursement Acceptance;
 - (ii) any notices and communication in respect of the deferment, cancellation and suspension of a disbursement of any Tranche, Market Disruption Event, Prepayment Request, Prepayment Notice, Event of Default, any demand for prepayment; and

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12.4 Recitals, Schedules and Annexes

The Recitals and following Schedules form part of this Contract:

- Schedule A Project Specification and Reporting
- Schedule B Definition of EURIBOR
- Schedule C Form of Disbursement Offer/Acceptance (Articles 1.2.B and 1.2.C)
- Schedule D Form of the Certificate from the Borrower (Article 1.4.D)

The following Annex is attached hereto:

- Annex I Authority of Signatory

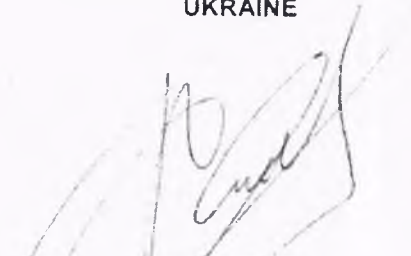
~~Contract Number (FIN) 89162~~

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The Parties have caused this Contract to be executed in 4 (four) originals in the English language and have respectively caused _____ and Ms. Darya Spivak, Legal Counsel to initial each page of this Contract on their behalf.



At Brussels, this 15 December 2021; and
at Luxembourg, this 15 December 2021

Signed for and on behalf of
UKRAINE



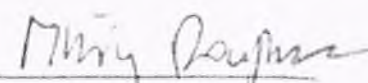
Olha STEFANISHYNA
Deputy Prime Minister for
European and Euro-Atlantic
Integration of Ukraine

Signed for and on behalf of
EUROPEAN INVESTMENT BANK



Rafal RYBACKI
Head of Division

Jacopo LENSİ ORLANDI
Head of Division



Mikolaj DOWGIELEWICZ
Director-General and EIB
Permanent
Representative in
Brussels

Project Specification and Reporting

A.1. TECHNICAL DESCRIPTION**Purpose, Location**

The project will actively support the Ukrainian Ministry of Education and Science (MoES) in the modernisation of the Ukrainian Vocational Education and Training (VET) system, in line with ongoing institutional reforms and the Association Agreement between the European Union and Ukraine (AA).

The first component is the EU4Skills programme funded by the European Commission, Germany, Poland and Finland with additional participation by Estonia. The EU4Skills programme comprises technical assistance for capacity building, the construction of three VET Centres of Excellence (CoEs) and the modernisation of selected VET schools through smaller refurbishment measures.

The EU4Skills programme will be implemented in up to seven regions: Chernivtsi, Lviv, Mykolaiv, Poltava, Rivne, Vinnytsia and Zaporizhzhia.

The second component comprises the establishment of one VET Centre of Excellence (CoE) in up to 9 selected administrative regions (oblasts). The CoEs will be established through new construction or substantial renovation and upgrade of existing VET schools, including on-campus dormitories. The EIB will finance this second component. It will be implemented in parallel to the EU4Skills programme in up to 9 regions not benefiting from the EU4Skills programme. These regions are: Chernihiv, Donetsk, Dnipropetrovsk, Ivano-Frankivsk, Kyiv City, Odesa, Ternopil, Volyn and Zakarpattia.

CoEs are defined as larger, modern VET institutions offering VET qualifications at secondary level in sectors of high economic importance to the particular region. They are part of the Ukrainian Government's wider efforts to reform the Ukrainian VET system in view of making it more efficient, attractive to new students and aligned with labour market needs.

Description

The EU4Skills programme, and by extension the project, comprises three components:

- Technical assistance - including capacity building, advice and support - for the national authorities and main stakeholders to develop and implement strategic documents, a modern VET governance framework, and an effective VET funding mechanism at the national and regional level;
- Technical assistance - including capacity building, advice and support - to implement measures improving the quality of VET education, the relevance of qualifications, and the effectiveness of labour market policies and career guidance; and
- The modernisation of VET infrastructure, including the development of up to 13 VET Centres of Excellence (CoEs) and the modernisation of selected VET schools through smaller renovation measures across up to 17 Ukrainian regions.

Overall, up to 17 regions will benefit with an expected 75,400m² of new or renovated VET facilities as well as improved student residences and sports facilities.

Project components financed by the EU4Skills programme:

| Region | Description | Floor Area m ² |
|----------|--|------------------------------|
| Multiple | Reform measures, studies, reviews and teacher training and VET programme development | n/a |

| Region | Description | Floor Area m2 |
|-------------------------|--|------------------|
| Multiple | Smaller scale renovations in up to 21 VET schools in the seven EU priority regions: Chernivtsi, Lviv, Mykolaiv, Poltava, Rivne, Vinnytsia and Zaporizhzhia or other regions selected by the EU4Skills programme partners | To be confirmed |
| Regions to be confirmed | Three to be confirmed from the seven EU priority regions: Chernivtsi, Lviv, Mykolaiv, Poltava, Rivne, Vinnytsia and Zaporizhzhia or other regions selected by the EU4Skills programme partners | 17,400 |
| | Total | 17,400 |

Project components financed by the EIB:

| Region | Description |
|-----------------|--|
| Chernihiv | State Vocational and Technical Educational Institution "Snovs'k Higher Vocational School of Forestry" |
| Dnipropetrovsk | State VET School "Dnipro Centre of Vocational Education and Training", Dnipro |
| Donetsk | Kramatorsk High Vocational School (HVS), Kramatorsk |
| Ivano-Frankivsk | High Vocational School No.7, Kalush |
| Kyiv | State VET educational institution "Interregional Centre for Jewellery Art of Kyiv" And State educational institution "Interregional Higher School of Road Transport and Construction Mechanization", Kyiv ² |
| Odesa | State Educational Institution "Odesa Vocational Education Centre", Odesa |
| Ternopil | State Educational Institution "Chortkiv High Vocational School", Chortkiv |
| Volyn | State Educational Institution "Kolkivsky Centre of Vocational Education", Kolkiv village. |

These two institutions will merge as a result of the Project
Contract Number (FI N°) 89162

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| | |
|--------------|---|
| Zakarpattia | State Educational Institution "Uzhgorod centre of professional education", Uzhgorod |
| Total | EUR 58,000,000 |

Calendar

The Project commenced at the start of 2018. The completion of the project is expected by the end of 2026.

A.2 PROJECT INFORMATION TO BE SENT TO THE BANK AND METHOD OF TRANSMISSION

1. Dispatch of information: designation of the person responsible

The information below has to be sent to the Bank under the responsibility of:

| | Financial Contact | Technical Contact |
|---|--|--|
| Company | MoF | MoES |
| Contact person | Kateryna Elishyeva | Iryna Shumik |
| Title | Mrs. | Ms. |
| Function / Department financial and technical | Head of Department of International Financial Projects | Director General, Directorate of Vocational Education and Training |
| Address | 12/2 Hrushevskoho Str., Kyiv | 01135, Peremohy avenue, 10, Kyiv |
| Phone | +38 (044) 277 54 33 | +38 (044) 287-82-05, 287-82-12, 287-82-74 |
| Fax | +38 (044) 425-90-26 | |
| Email | ifisdepartment@minfin.gov.ua elishyeva@minfin.gov.ua | shumik@mon.gov.ua vet_mon.ukraine@gmail.com |

The above-mentioned contact person(s) is (are) the responsible contact(s) for the time being. The Borrower shall inform the EIB immediately in case of any change.

2. Information on specific subjects

The Borrower shall deliver to the Bank the following information at the latest by the deadline indicated below.

| Document / information | Deadline |
|---|--|
| The promoter shall provide to the satisfaction of the Bank: | |
| Provide an initial procurement plan covering all of the project components financed by the Bank | Prior to first disbursement |
| The promoter shall provide copies of the available energy audits, models or EDGE assessments for those completed prior to disbursement on the assessed project component. | At the time of disbursement for the affected component |

| | |
|---|--|
| The promoter shall provide evidence satisfactory to the Bank that where hazardous materials, such as asbestos and /or PCB containing materials, have been identified that they are properly disposed of at appropriate waste facilities. The evidence shall be provided within an annual project progress report (PPR). | Within the PPR for the year following its disposal. |
| The promoter on completion of the project shall provide to the Bank copies of the EDGE certificates or other agreed green building certification mechanism for each affected building component. | At project completion with the project completion report |
| For the buildings achieving green building certification other than EDGE, the promoter shall provide to the Bank justification of the baseline and energy levels achieved. | At project completion with the project completion report |
| The promoter shall provide copies of the energy performance certificates (EPC) or equivalent for each of the buildings included in the project. | At project completion with the project completion report |

3. Information on the project's implementation

The Borrower shall deliver to the Bank in the form of a report stating the project name and contract number. The report as a minimum shall include the following information for each project component described under section A.1.1 above, at the latest by the deadline indicated below.

| Document / information | Deadline | Frequency of reporting |
|--|--|--------------------------------------|
| <p>Project Progress Report</p> <ul style="list-style-type: none"> - A brief update on the Technical Description, explaining the reasons for significant changes vs. initial scope; - Update on the date of completion of each of the main project's components, explaining reasons for any possible delay; - Update on the cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost; - Update on the utilisation and absorption of the disbursed funds; - Update on the request and obtaining of any permits, authorisations or other approvals; - A description of any major issue with impact on the environment including social and climate aspects; - Update on any complaints or stakeholder engagement especially the VET centres, their students or local residents; - Update of the procurement plan and progression to launch and award contracts; - Update on any ongoing procurement related complaints and outcome from the remedies mechanism; - Update on the project's demand or usage and comments; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Any legal action concerning the project that may be on-going; - Non-confidential project-related pictures, if available; and - Copies of progress reporting for the EU4Skills project components as and when received by the Ministry of Education and Science. | <p>31 January, 30 April; 31 July; and 31 October</p> | <p>Quarterly, every three months</p> |

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4. Information on the end of works and first year of operation

The Borrower shall deliver to the Bank a Project Completion Report, in the form of a report stating the project name and contract number. The structure of the Project Completion Report as a minimum shall include the following information for each project component described under section A.1.1 above as well as any outstanding information contained under section A.1.2 with respect to Project related Conditions and Undertakings on project completion and initial operation at the latest by the deadline indicated below.

| Document / information | Date of delivery to the Bank |
|---|------------------------------|
| <p>Project Completion Report, including:</p> <ul style="list-style-type: none"> - A final Technical Description of the project as completed, explaining the reasons for any significant change compared to the Technical Description in A.1.; - The date of completion of each of centres of excellence, explaining reasons for any possible delay; - The final cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost; - Utilisation and absorption of the disbursed funds; - Employment effects of the project: person-days required during implementation as well as permanent new jobs created; - A description of any major issue with impact on the environment or social impacts; - Update on procurement procedures and explanation of deviations from the procurement plan; - Update on the project's demand or usage and comments; - Number of students in each CoE included in the project, by gender, by socio-economic background and disability status; - Number of teachers and other school staff in each VET Centre included in the project; - Student to teacher ratio in each VET Centre included in the project; - Educational outcomes (i.e. dropout rates, absenteeism and test results in national assessments) in each school included in the project; - Labour market outcomes of students in the VET Centres included in the project; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Any legal action concerning the project that may be on going. - Copies of the EDGE or other acted green building certificates plus justification of the baseline and energy levels achieved for the new or renovated centres of excellence buildings; - Copies of the Energy Performance Certificates or equivalent for all buildings; - Non-confidential project-related pictures, if available. - An update on the following Monitoring Indicators: | <p>31 March 2028</p> |

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Monitoring Indicators

| Core result indicators | Units | Baseline | Planned at PCR (2020) | Actual at PCR (2028) | Comment |
|--|--------------|------------|-----------------------|----------------------|---------|
| Start of construction works | | 01/01/2018 | 01/01/2018 | | |
| End of construction works | | 31/12/2026 | 31/12/2026 | | |
| Project Investment Cost | EUR m | 130.06 | 130.06 | | |
| Temporary employment during construction | Person years | 0 | 3 900 | | |
| Permanent employment during operation | FTE | 0 | 1 353 | | |

Outputs

| | | | | | |
|--|--------|--------|--------|--|--|
| Places created in in vocational education facilities | Number | 27 023 | 29 896 | | |
| New equipment supplied in vocational education facilities | EUR m | 0 | 0 | | |
| New or rehabilitated educational facilities in vocational education facilities | m2 | 75 400 | 75 400 | | |

Outcomes

| | | | | | |
|--|--------|--------|--------|--|--|
| Students enrolled in vocational education facilities | Number | 19 313 | 26 655 | | |
|--|--------|--------|--------|--|--|

The financing for this project benefits from an EU guarantee to the Bank under DECISION No 466/2014/EU of the European Parliament and of the Council. Pursuant to Article 9 (2) of this Decision, the Bank "shall require the project promoters to carry out thorough monitoring during project implementation until completion, inter alia, on the economic, development, social, environmental and human rights impact of the investment project. The EIB shall verify on a regular

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basis the information provided by the project promoters and make it publicly available if the project promoter agrees. Where possible, project completion reports related to EIB financing operations shall be published excluding confidential information."

Accordingly, and without prejudice to the Bank's obligation to make publicly available any project-related environmental information under Aarhus Convention, the Bank shall make publicly available all information provided by the Borrower in the Project Progress Reports and Project Completion Report provided that such information is expressly marked by the Borrower as "for publication on the EIB website".

Alternatively, the Borrower may also decide to publish this information on its own website and provide the EIB with the corresponding link (URL) which will be used as a source for EIB publication.

The EIB will not take any responsibility for the content of such information made public on its website. Documents marked as "for publication on the EIB website" will be published as received and will not be edited by the EIB. Only functioning URLs that link to the relevant project-related information will be published by the EIB.

5. Information required 3 years after the Project Completion Report

The Borrower shall deliver to the Bank the following information 3 years after the project completion report at the latest by the deadline indicated below.

| Document / information | Date of delivery to the Bank |
|--|------------------------------|
| <ul style="list-style-type: none"> - Update on the Monitoring Indicators; - Employment effects of the project: person-days required during implementation as well as permanent new jobs created; - A description of any major issue with impact on the environment or social impacts; - Update on demand and supply for VET levels of education; - Number of students in each centre of excellence included in the project, by gender, by socio-economic background and disability status; - Number of teachers and other school staff in each VET centre included in the project; - Student to teacher ratio in each VET centre included in the project; - Educational outcomes (i.e. dropout rates, absenteeism and test results in national assessments) in each VET centre included in the project; - Labour market outcomes of students in VET centres included in the project; - Any significant issue that has occurred and any significant risk that may affect the project's operation; - Any legal action concerning the project that may be on going; and - Non-confidential project-related pictures, if available. | 31 March 2031 |

| | |
|---------------------|---------|
| Language of reports | English |
|---------------------|---------|

Definition of EURIBOR

A. EURIBOR

"EURIBOR" means:

- (a) in respect of a relevant period of less than one month, the Screen Rate (as defined below) for a term of one month;
- (b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and
- (c) in respect of a relevant period of more than one month for which a Screen Rate is not available, the rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period next shorter and the other for a period next longer than the length of the relevant period,

(the period for which the rate is taken or from which the rates are interpolated being the "Representative Period").

For the purposes of paragraphs (a) to (c) above:

- (i) "**available**" means the rates, for given maturities, that are calculated and published by Global Rate Set Systems Ltd (GRSS), or such other service provider selected by the European Money Markets Institute (EMMI), or any successor to that function of EMMI, as determined by the Bank; and
- (ii) "**Screen Rate**" means the rate of interest for deposits in EUR for the relevant period as published at 11:00 a.m., Brussels time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal offices of four major banks in the euro-zone, selected by the Bank, to quote the rate at which EUR deposits in a comparable amount are offered by each of them, as at approximately 11:00 a.m., Brussels time on the Reset Date to prime banks in the euro-zone interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations. If no sufficient quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the euro-zone, selected by the Bank, at approximately 11:00 a.m., Brussels time, on the day which falls 2 (two) Relevant Business Days after the Reset Date, for loans in EUR in a comparable amount to leading European banks for a period equal to the Representative Period. The Bank shall inform the Borrower without delay of the quotations received by the Bank.

All percentages resulting from any calculations referred to in this Schedule will be rounded, if necessary, to the nearest one thousandth of a percentage point, with halves being rounded up.

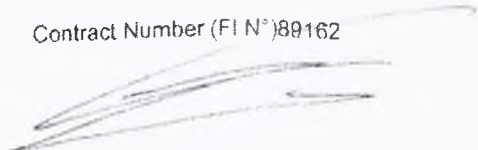
If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EMMI (or any successor to that function of EMMI as determined by the Bank) in respect of EURIBOR, the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

If the Screen Rate becomes permanently unavailable, the EURIBOR replacement rate will be the rate (inclusive of any spreads or adjustments) formally recommended by (i) the working group on euro risk-free rates established by the European Central Bank (ECB), the Financial Services and Markets Authority (FSMA), the European Securities and Markets Authority (ESMA) and the European Commission, or (ii) the European Money Market Institute, as the administrator of EURIBOR, or (iii) the competent authority responsible under Regulation (EU) 2016/1011 for supervising the European Money Market Institute, as the administrator of the

EURIBOR, or (iv) the national competent authorities designated under Regulation (EU) 2016/1011, or (v) the European Central Bank.

If no Screen Rate and/or the EURIBOR replacement rate is available as provided above, EURIBOR shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

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Form of Disbursement Offer/Acceptance (Articles 1.2.B and 1.2.C.)

To: Ukraine
 From: European Investment Bank
 Date:
 Subject: Disbursement Offer/Acceptance for the Finance Contract between Ukraine and the European Investment Bank dated [●] (the "Finance Contract")
 Project name: VOCATIONAL EDUCATION AND TRAINING IN UKRAINE
 Contract Number: 89.162 Operation Number: 2018-0064

Dear Sirs,

We refer to the Finance Contract. Terms defined in the Finance Contract have the same meaning when used in this letter.

Following your request for a Disbursement Offer from the Bank, in accordance with Article 1.2.B of the Finance Contract, we hereby offer to make available to you the following Tranche:

- (a) Amount to be disbursed in EUR:
- (b) Scheduled Disbursement Date:
- (c) Interest rate basis:
- (d) Interest payment periodicity:
- (e) Payment Dates:
- (f) Terms for repayment of principal:
- (g) The Repayment Dates and the first and the last Repayment Date for the Tranche:
- (h) The Fixed Rate or Spread, applicable until the Maturity Date.

To make the Tranche available subject to the terms and conditions of the Finance Contract, the Bank must receive a Disbursement Acceptance in the form of a copy of this Disbursement Offer duly signed on your behalf, to the following e-mail [] no later than the Disbursement Acceptance Deadline of [time] Luxembourg time on [date].

The Disbursement Acceptance below must be signed by an Authorised Signatory and must be fully completed as indicated, to include the details of the Disbursement Account.

If not duly accepted by the above stated time, the offer contained in this document shall be deemed to have been refused and shall automatically lapse.

If you do accept the Tranche as described in this Disbursement Offer, all the related terms and conditions of the Finance Contract shall apply, in particular, the provisions of Article 1.4.

Yours faithfully,

EUROPEAN INVESTMENT BANK

We hereby accept the above Disbursement Offer and confirm that no obligation of the Borrower under the Contract falls within the scope of the Debt Operation, the 2020 IMF Program or any similar arrangement between the Borrower and the Executive Board of the International Monetary Fund:

for and on behalf of Ukraine

Date:

IMPORTANT NOTICE TO THE BORROWER:

BY SIGNING BELOW YOU CONFIRM THAT THE LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS PROVIDED TO THE BANK WAS DULY UPDATED PRIOR TO THE PRESENTATION OF THE ABOVE DISBURSEMENT OFFER BY THE BANK.

IN THE EVENT THAT ANY SIGNATORIES OR ACCOUNTS APPEARING IN THIS DISBURSEMENT ACCEPTANCE ARE NOT INCLUDED IN THE LATEST LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS (AS DISBURSEMENT ACCOUNT) RECEIVED BY THE BANK, THE ABOVE DISBURSEMENT OFFER SHALL BE DEEMED AS NOT HAVING BEEN MADE.

Disbursement Account (as defined in the Finance Contract) to be credited:

Disbursement Account N°:

Disbursement Account Holder/Beneficiary:

(please, provide IBAN format if the country is included in IBAN Registry published by SWIFT, otherwise an appropriate format in line with the local banking practice should be provided)

Bank name and address:

Bank identification code (BIC):

Payment details to be provided:

Please transmit information relevant to:

Name(s) of the Borrower's Authorised Signatory(ies) (as defined in the Finance Contract):

.....
Signature(s) of the Borrower's Authorised Signatory(ies) (as defined in the Finance Contract):

Contract Number (FIN) 89102

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Form of the Certificate from the Borrower (Article 1.4.D)

To: European Investment Bank
 From: Ukraine
 Date:
 Subject: Certificate for the Finance Contract between Ukraine and the European Investment Bank dated [●] (the "Finance Contract")
 Project Name: VOCATIONAL EDUCATION AND TRAINING IN UKRAINE
 Contract Number: 89.162 Operation Number: 2018-0064

Dear Sirs,

Terms defined in the Finance Contract have the same meaning when used in this letter.

For the purposes of Article 1.4 of the Finance Contract we hereby certify to you as follows:

- (a) no Security of the type prohibited under Article **Error! Reference source not found.** has been created or is in existence;
- (b) there has been no material change to any aspect of the Project or in respect of which we are obliged to report under Article 8.1, save as previously communicated by us;
- (c) we have sufficient funds available to ensure the timely completion and implementation of the Project in accordance with Schedule 0;
- (d) no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived;
- (e) no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us or any of our subsidiaries any unsatisfied judgement or award;
- (f) the representations and warranties to be made or repeated by us under Article 6.9 are true in all respects;
- (g) the Borrower's obligations under the Finance Contract do not fall within the scope, and are not affected by, the Borrower's implementation of the Debt Operation, the 2020 IMF Program or any similar arrangement between the Borrower and the Executive Board of the International Monetary Fund;
- (h) no Material Adverse Change has occurred, as compared with the situation at the date of the Finance Contract, and
- (i) the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower is up-to-date and the Bank may rely on the information set out therein.

We undertake to immediately notify the Bank if any the above fails to be true or correct as of the Disbursement Date for the proposed Tranche.

Yours faithfully,

~~Contract Number (FIN) 89162~~

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For and on behalf of Ukraine

Date:

Contract Number (FI N° 89162)

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Authority of Signatory



Contract Number (FI N°)89162

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ORDER

President of Ukraine

**On the delegation of Ukraine to participate in negotiations
with the European Investment Bank on the conclusion of the Financing Agreement
“Vocational education and training in Ukraine”
between Ukraine and the European Investment Bank**

1. To form a delegation of Ukraine to participate in negotiations with the European Investment Bank on the conclusion of the Financial Agreement “Vocational education and training in Ukraine” between Ukraine and the European Investment Bank as follows:

| | |
|-------------------|---|
| Igor Garbaruk | Deputy Minister of Education and Science of Ukraine, Head of Delegation of Ukraine |
| Tamara Andriieva | Director of Department of International Law, Ministry of Justice of Ukraine |
| Yevgen Bondarenko | Head of Trade Economic and Sectoral Cooperation Division, EU and NATO Department, Ministry of Foreign Affairs of Ukraine |
| Iryna Shumik | Director General, Directorate of Vocational Education and Training, Ministry of Education and Science of Ukraine |
| Andriy Strashnyi | Deputy Director - Head of Financial Services and IFIs cooperation Division Director, Department for Coordination of the Financial Policy, Ministry of Economy of Ukraine |
| Artem Ratiiev | Deputy Head of Unit on Cooperation with EIB, International Financial Projects Department, Ministry of Finance of Ukraine |

Svitlana Marchenko Chief Specialist of the Unit on Cooperation with EIB, International Financial Projects Department, Ministry of Finance of Ukraine

Svitlana Maleta Chief Specialist of the Legal Support of International Financial and Economic Cooperation Unit, Legal Expertise of International Treaties and International Cooperation Division, Department of International Law, Ministry of Justice of Ukraine

Oksana Rumovska State Expert of the Expert Group on Management and Public-Private Partnership, Directorate of Vocational Education and Training, Ministry of Education and Science of Ukraine

To allow the head of the delegation to make changes in the composition of the delegation in agreement with the Ministry of Foreign Affairs of Ukraine.

2. To approve the Directives of the Delegation of Ukraine to participate in negotiations with the European Investment Bank on the conclusion of the Financing Agreement "Vocational education and training in Ukraine" between Ukraine and the European Investment Bank (attached, for official use).

3. To authorize the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine STEFANISHYNA Olha Vitaliyivna to sign the Financial Agreement "Vocational education and training in Ukraine" between Ukraine and the European Investment Bank.

President of Ukraine

VOLODYMYR ZELENSKYI

**Kyiv
2021, December, 14th
№ 589/2021-rp**

Document publications:

<https://www.president.gov.ua/documents/5892021-rp-40989>