

(Operation Number 51975)

**LOAN AGREEMENT**  
**UKRPOSHTA DEVELOPMENT PROJECT: LOGISTICAL NETWORK AND**  
**RURAL POST OFFICE**

between

**STOCK COMPANY "UKRPOSHTA"**

and

**EUROPEAN BANK**  
**FOR RECONSTRUCTION AND DEVELOPMENT**

Dated 16 November 2020

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## LOAN AGREEMENT

**AGREEMENT** dated 16 November 2020 between **STOCK COMPANY "UKRPOSHTA"** (identification code of a legal entity 21560045) (the "Borrower") and **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "Bank").

### PREAMBLE

**WHEREAS**, the Bank has been established to provide financing for specific projects to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in certain countries committed to and applying the principles of multiparty democracy, pluralism and market economics;

**WHEREAS**, the Borrower intends to implement the Project as described in Schedule 1 which is designed to assist the Borrower in acquisition and equipment of postal vans and in development of modern automated sorting hubs, as well as an associated network of regional sorting depots;

**WHEREAS**, Ukraine and the Borrower have requested assistance from the Bank in financing part of the Project;

**WHEREAS**, the Borrower intends to contract a loan from the European Investment Bank (the "Co-financier") in the amount of EUR 30,000,000 (*thirty million Euros*) to assist in financing Part B of the Project (as described in Schedule 1 to this Agreement), subject to the terms and conditions to be set forth in an agreement (the "Co-financing Agreement") between the Borrower and the Co-financier. Pursuant to a guarantee agreement (the "Co-financing Guarantee Agreement") between Ukraine and the Co-financier, Ukraine shall guarantee the obligations of the Borrower under the Co-financing Agreement;

**WHEREAS**, pursuant to a guarantee agreement dated on or about the date hereof between Ukraine as guarantor (the "Guarantor") and the Bank (the "Guarantee Agreement" as defined in the Standard Terms and Conditions), the Guarantor has guaranteed the obligations of the Borrower under this Agreement; and

**WHEREAS**, the Bank has agreed on the basis of, *inter alia*, the foregoing to make a loan to the Borrower in the amount of EUR 63,000,000 (*sixty three million Euros*), subject to the terms and conditions set forth or referred to in this Agreement.

**NOW, THEREFORE**, the parties hereby agree as follows:

## ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

### Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2018 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications (such provisions as so modified are hereinafter called the "Standard Terms and Conditions"):

(a) The definition of the "Available Amount" contained in Section 2.02 (Definitions) of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

""Available Amount" means (i) until but not including the Tranche 3 Availability Date, so much of Tranche 1 and Tranche 2 of the Loan as shall not, from time to time, have been cancelled or drawn down or made subject to a conditional or unconditional Reimbursement Commitment; and (ii) from and including the Tranche 3 Availability Date, so much of the Loan as shall not, from time to time, have been cancelled or drawn down or made subject to a conditional or unconditional Reimbursement Commitment (and all capitalised terms used in this definition and which are not otherwise defined herein shall have the meanings ascribed to those terms in the Loan Agreement)."

(b) The following definition of "Co-financier Guide to Procurement" shall be added:

""Co-financier Guide to Procurement" means European Investment Bank's Guide to Procurement dated September 2018 as amended from time to time."

(c) Section 3.05 (*Commitment Charge and Front-End Commission*) of the Standard Terms and Conditions shall, for purposes of this Agreement, be modified to read as follows:

"(a) The Borrower shall pay to the Bank a commitment charge at the rate specified in the Loan Agreement, payable on the total of the Available Amount plus any amount of the Loan that is subject to a Reimbursement Commitment and is not yet drawn down, provided that the Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment shall be 0.5% per annum greater than the rate of the Commitment Charge specified in the Loan Agreement. The Commitment Charge shall accrue:

(1) with respect to each of Tranche 1 and Tranche 2, from the date sixty (60) days after the date of the Loan Agreement; and

(2) with respect to Tranche 3, from the date sixty (60) days after the Tranche 3 Availability Date,

or, in the case of Commitment Charge payable on the amount of the Loan subject to an unconditional Reimbursement Commitment, from the date of issuance of such unconditional Reimbursement Commitment, and shall accrue and be calculated on the same basis as interest under Section 3.04(b)(ii). The Commitment Charge shall be payable on each Interest Payment Date (even though no interest may be payable on such date) commencing on the first Interest Payment Date following the Effective Date.

(b) The Borrower shall pay to the Bank a front-end commission equal to one per cent (1%) (or such other amount specified in the Loan Agreement) of the principal amount of the Loan as follows:

(1) with respect to Tranche 1, EUR 230,000 (*two hundred thirty thousand Euros*);

(2) with respect to Tranche 2, EUR 300,000 (*three hundred thousand Euros*); and

(3) with respect to Tranche 3, EUR 100,000 (*one hundred thousand Euros*).

(c) The Bank shall, on behalf of the Borrower, withdraw from the Available Amount on the Effective Date, or within seven (7) days thereafter, and pay to itself the amount of the Front-end Commission payable pursuant to Section 3.05(b) with respect to Tranche 1 and Tranche 2.

(d) The Borrower may opt to pay the Front-end Commission with respect to Tranche 1 and Tranche 2 out of its own resources and in this event such Front-end Commission shall be due and payable with respect to Tranche 1 and Tranche 2 within seven (7) days after the Effective Date.

(e) The Bank shall, on behalf of the Borrower, withdraw from the Available Amount on the Tranche 3 Availability Date, or within seven (7) days thereafter, and pay to itself the amount of the Front-end Commission payable pursuant to Section 3.05(b) with respect to Tranche 3.

(f) The Borrower may opt to pay the Front-end Commission with respect to Tranche 3 out of its own resources and in this event such Front-end Commission shall be due and payable with respect to Tranche 3 within seven (7) days after the Tranche 3 Availability Date.

(g) All capitalized terms used in this Section 3.05 and not otherwise defined in these Standard Terms and Conditions shall have the meaning ascribed to those terms in the Loan Agreement."

## **Section 1.02. Definitions**

Wherever used in this Agreement (including the Preamble and Schedules), unless stated otherwise or the context otherwise requires, the terms defined in the Preamble have the respective meanings given to them therein, the terms defined in the Standard

Terms and Conditions have the respective meanings given to them therein and the following terms have the following meanings:

"Anti-Corruption Programme"	means the Anti-Corruption Programme of the Borrower prepared in accordance with the Law of Ukraine "On Prevention of Corruption" dated 14 October 2014 No. 1700-VII and approved by Order of the Borrower No. 485 dated 16 May 2019.
"Authorisation"	means any consent, registration, filing, agreement, notarisation, certificate, license, approval, permit, authority or exemption from, by or with any Governmental Authority, whether given or withheld by express action or deemed given or withheld by failure to act within any specified time period and all corporate, creditors' and shareholders' approvals or consents.
"Borrower's Authorised Representative"	means the General Director ( <i>heneral'nyi dyrektor</i> ) of the Borrower or any other duly authorized person acting in the General Director's capacity.
"ClientNet"	means the Bank's online portal for the transmission of documents and information between the Bank and its clients, and any replacement website as the Bank may from time to time notify the Borrower.
"Co-financier"	has the meaning assigned to it in the Preamble to this Agreement.
"Co-financing Agreement"	has the meaning assigned to it in the Preamble to this Agreement.
"Co-financing Guarantee Agreement"	has the meaning assigned to it in the Preamble to this Agreement.
"Corporate Governance Action Plan"	means a document, in form and in substance satisfactory to the Bank, prepared with the technical assistance of the Bank which sets out corporate governance measures for the Borrower to be adopted by the Borrower and delivered to the Bank in accordance with Section 6.01(d), as such document may be amended from time to time with a prior written consent of the Bank.
"Debt"	means, with respect to any person, all obligations of such person, whether incurred as principal or surety and

whether present, future, actual or contingent, for the payment or repayment of money, including:

- (a) any amounts payable by such person under leases or similar arrangements over their respective periods;
- (b) any credit to such person from a supplier of goods or under any instalment purchase or other similar arrangement; and
- (c) any liabilities and obligations of third parties to the extent that they are guaranteed by such person or such person has otherwise assumed or become liable for the payment of such liabilities or obligations or to the extent that they are secured by any Lien upon property owned by such person whether or not such person has assumed or become liable for the payment of such liabilities or obligations.

"Designated Performance Requirements"

means Performance Requirements 1 through 8 and 10 (or, as the context may require, any one of such Performance Requirements) of the Performance Requirements dated April 2019 and related to the Bank's Environmental and Social Policy dated April 2019.

"EBITDA"

means profit or loss of the Borrower, for any relevant period, before (i) any interest, commissions, discounts and other financing fees and costs and any interest earned, (ii) any provision for taxation, (iii) any depreciation on fixed assets and amortisation and any amounts attributable to amortisation of Goodwill and other intangible assets and (iv) foreign exchange gains/losses on financing activities.

"EBRD/EIB Project Implementation Agreement"

means an agreement between the Bank and the Co-financier with respect to implementation of Part B of the Project described in Schedule 1.

"Enforcement Policy and Procedures"

means the Bank's Enforcement Policy and Procedures dated 4 October 2017.

"Environmental and Social Action Plan"

means the plan of environmental and social mitigation and improvement measures dated 5 October 2020, as such plan may be amended from time to time with the prior written consent of the Bank in accordance with Section 3.04(c).

"Environmental and Social Law"

means any applicable law in any relevant jurisdiction, concerning the protection of the environment, workers, communities or project affected people.

"EIB Environmental and Social Standards"

means the statement published on the Co-financier's website that outlines the standards that the Co-financier requires of the projects that it finances and the responsibilities of the various parties.

"Environmental and Social Matter"

means any matter that is the subject of any Environmental and Social Law, any Designated Performance Requirement or the Environmental and Social Action Plan.

"Financial Debt"

means, with respect to any person, any Debt of such person for or in respect of (without double counting):

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would in accordance with IFRS, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and



(i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

"Fiscal Year" means the Borrower's fiscal year commencing on 1 January of each year.

"Governmental Authority" means the government of the Guarantor, or of any political subdivision thereof, whether state, regional or local, and any agency, authority, branch, department, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government or any subdivision thereof (including any supra-national bodies), and all officials, agents and representatives of each of the foregoing.

"IFRS" means International Financial Reporting Standards issued or adopted by the International Accounting Standards Board and consistently applied.

"Independent Environmental and Social Consultant" means an independent firm of consultants as may be selected from time to time by the Bank.

"Net Finance Charges" means, in relation to any relevant period, the aggregate amount of interest and any other finance charges (whether or not paid, payable or capitalized) accrued by the Borrower in that relevant period in respect of Financial Debt including:

(a) the interest element of leasing and hire purchase;

(b) commitment fees, commissions, arrangement fees and guarantee fees, adjusted (but without double counting) by deducting:

(i) interest income of the Borrower in respect of that relevant period to the extent freely distributable to the Borrower in cash, and

(ii) interest income of the Borrower from any cash, as determined from the Financial Statements of the Borrower delivered under the terms and conditions of this Agreement; and

(c) amortization of deferred financing fees and other original issue discount and banking fees, charges and

	commissions (e.g. letter of credit fees and commitment fees.
"PIU"	means the project implementation unit referred to in Section 3.02.
"Project"	has a meaning described in Schedule 1.
"Project Implementation Plan"	has the meaning assigned to it in Section 6.01(b).
"Statute"	means the charter of the Borrower approved by the Order of the Ministry of Infrastructure of Ukraine No. 611 dated 14 December 2018, as may be amended or restated from time to time.
"Special Account"	means the special deposit account referred to in Section 2.03(b) and Schedule 3.
"Targeted Corruption Risk Management Action Plan"	means the plan to be developed under Part C-5 of the Project described in Schedule 1.
"Tranche"	means any of Tranche 1, Tranche 2 or Tranche 3.
"Tranche 1"	means the amount of the Loan referred to in Section 2.01(b)(1).
"Tranche 2"	means the amount of the Loan referred to in Section 2.01(b)(2).
"Tranche 3"	means the amount of the Loan referred to in Section 2.01(b)(3).
"Tranche 3 Availability Date"	means the date (being not later than 31 December 2023 or such later date as may be agreed by the Bank in writing), when the Bank, acting at sole and absolute discretion, upon written request from the Borrower notifies the Borrower that Tranche 3 has become available to the Borrower, subject to the terms and conditions stipulated in the notice and/or set out in this Agreement.
"Workforce Transformation and Retrenchment Plan"	means the plan to be developed under Part C-2 of the Project described in Schedule 1.

### **Section 1.03. Interpretation**

In this Agreement, a reference to a specified Article, Section or Schedule shall, except where stated otherwise in this Agreement, be construed as a reference to that specified Article or Section of, or Schedule to, this Agreement.

## **ARTICLE II - PRINCIPAL TERMS OF THE LOAN**

### **Section 2.01. Amount and Currency**

(a) The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of EUR 63,000,000 (*sixty three million Euros*).

(b) The Loan shall consist of three Tranches, as follows:

(1) Tranche 1 in the amount of EUR 23,000,000 (*twenty three million Euros*);

(2) Tranche 2 in the amount of EUR 30,000,000 (*thirty million Euros*);

(3) Tranche 3 in the amount of EUR 10,000,000 (*ten million Euros*).

(c) Notwithstanding anything to the contrary expressed or implied in this Agreement:

(1) Each of Tranche 1 and Tranche 2 is committed from the date of this Agreement; and

(2) Tranche 3 is uncommitted and will become committed only upon EBRD determining in its absolute discretion that it is prepared to make Tranche 3 available to the Borrower and notifying the Borrower in writing the Tranche 3 Availability Date.

### **Section 2.02. Other Financial Terms of the Loan**

(a) The Minimum Drawdown Amount shall be EUR 3,000,000 (*three million Euros*).

(b) The Minimum Prepayment Amount shall be EUR 3,000,000 (*three million Euros*).

(c) The Minimum Cancellation Amount shall be EUR 3,000,000 (*three million Euros*).

(d) The Interest Payment Dates shall be 20 June and 20 December of each year.

(e) (1) The Borrower shall repay:

(A) Tranche 1 of the Loan in twelve equal (or as nearly equal as possible) semi-annual instalments on 20 June and 20 December of each year, with

the first Loan Repayment Date being the first Interest Payment Date falling on or immediately after the date which is 24 (twenty four) months from the date of this Agreement and the last Loan Repayment Date being the Interest Payment Date on or immediately after 96 (ninety six) months from the date of this Agreement;

(B) Tranche 2 of the Loan in sixteen equal (or as nearly equal as possible) semi-annual instalments on 20 June and 20 December of each year, with the first Loan Repayment Date being the first Interest Payment Date falling on or immediately after the date which is 48 (forty eight) months from the date of this Agreement and the last Loan Repayment Date being the Interest Payment Date on or immediately after 144 (one hundred forty four) months from the date of this Agreement; and

(C) Tranche 3 of the Loan in twelve equal (or as nearly equal as possible) semi-annual instalments on 20 June and 20 December of each year, with the first Loan Repayment Date being the first Interest Payment Date falling on or immediately after the date which is 24 (twenty four) months from the Tranche 3 Availability Date and the last Loan Repayment Date being the Interest Payment Date on or immediately after 96 (ninety six) months from the Tranche 3 Availability Date.

(2) Notwithstanding the foregoing, in the event that (i) the Borrower does not draw down the entire amount of a Tranche prior to the first Loan Repayment Date for the respective Tranche specified in this Section 2.02(e), and (ii) the Bank extends the Last Availability Date for the respective Tranche specified in Section 2.02(f) below to a date which falls after such first Loan Repayment Date, then the amount of each drawdown made on or after the first Loan Repayment Date shall be allocated for repayment in equal amounts to the several Loan Repayment Dates which fall after the date of such drawdown (with the Bank adjusting the amounts so allocated as necessary so as to achieve whole numbers in each case). The Bank shall, from time to time, notify the Borrower of such allocations.

(f) The Last Availability Date shall be:

(1) with respect to Tranche 1, the date which is 24 (twenty four) months from the date of this Agreement; and

(2) with respect to Tranche 2, the date which is 48 (forty eight) months from the date of this Agreement; and

(3) with respect to Tranche 3, the date which is 24 (twenty four) months from the Tranche 3 Availability Date,

or such later dates that the Bank may in its discretion establish and notify to the Borrower and the Guarantor.

(g) The rate of the Commitment Charge shall be 0.5% per annum.

(h) The Loan is subject to a Variable Interest Rate. Notwithstanding the foregoing, the Borrower may, as an alternative to paying interest at a Variable Interest Rate on all

or any portion of the Loan then outstanding, elect to pay interest at a Fixed Interest Rate on such portion of the Loan in accordance with Section 3.04(c) of the Standard Terms and Conditions.

### **Section 2.03. Drawdowns**

(a) The Available Amount may be drawn down from time to time in accordance with the provisions of Schedule 2 to finance (1) expenditures made (or, if the Bank so agrees, to be made) in respect of the reasonable cost of goods, works and services required for the Project, and (2) the Front-end Commission.

(b) The Borrower shall, for purposes of the Project, open and maintain a special deposit account denominated in EUR at a commercial bank acceptable to the Bank on terms and conditions satisfactory to the Bank. If the Borrower wishes, and the Bank agrees, to make Drawdowns for deposit into, and direct payments out of, the Special Account (instead of Drawdowns pursuant to Section 2.03(a)), such Drawdowns shall be made in accordance with the provisions of Schedule 3.

## **ARTICLE III - EXECUTION OF THE PROJECT**

### **Section 3.01. Other Affirmative Project Covenants**

In addition to the general undertakings set forth in Article IV of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

(a) Take all action necessary to provide adequate funds for the completion of the Project;

(b) Diligently implement each of the recommendations and actions set out in the Corporate Governance Action Plan and Anti-Corruption Programme;

(c) By 31 December 2022, in cooperation with the external consultant engaged under Part C-5 of the Project described in Schedule 1 complete an external corruption risk assessment and diligently implement each of the recommendations and actions set out in the Targeted Corruption Risk Management Action Plan;

(d) By 31 December 2022, in cooperation with the external consultant engaged under Part C-2 of the Project described in Schedule 1 diligently implement each of the recommendations and actions set out in the Workforce Transformation and Retrenchment Plan;

(e) By 31 December 2023, in cooperation with the external consultant engaged under Part C-6 of the Project described in Schedule 1 establish risk management and compliance functions in accordance with the Corporate Governance Action Plan and as permitted under Ukrainian legislation;

- (f) By 31 December 2022, in cooperation with the external consultant engaged under Part C-6 of the Project described in Schedule 1 approve and diligently implement key compliance policies (Code of Conduct, Ethics, Anti-Corruption and Money-Laundering, Conflict of Interest);
- (g) By 30 June 2022, in cooperation with the external consultant engaged under Part C-6 of the Project described in Schedule 1 develop and adopt an Internal Governance Policy;
- (h) By 30 June 2022 develop and diligently implement a system for management reporting;
- (i) By 31 December 2022, in cooperation with the external consultant engaged under Part C-4 of the Project described in Schedule 1 diligently implement a formal road safety management system; and
- (j) By 31 December 2023, in cooperation with the external consultant engaged under Part C-3 of the Project described in Schedule 1 complete an assessment of possibilities for certification of sorting hubs in accordance with international sustainable certification scheme (Building Research Establishment Environmental Assessment Method / Leadership in Energy and Environmental Design (BREEAM/LEED)).

### **Section 3.02. Project Implementation Unit**

In order to coordinate, manage, monitor and evaluate all aspects of Project implementation, including the procurement of goods, works and services for the Project, the Borrower shall, unless otherwise agreed with the Bank, establish and at all times during execution of the Project operate a project implementation unit with adequate resources and suitably qualified personnel, under terms of reference acceptable to the Bank.

### **Section 3.03. Procurement**

For the purposes of Section 4.03 of the Standard Terms and Conditions, the following provisions shall, except as the Bank otherwise agrees, govern procurement of goods, works and services required for the Project and to be financed out of the proceeds of the Loan:

- (a) Goods, works and services shall be procured through open tendering.
- (b) For the purposes of Section 3.03(a), the procedures for open tendering for procurement of goods, works and services for Part A of the Project described in Schedule 1 are set out in Section III of the EBRD Procurement Rules.
- (c) For the purposes of Section 3.03(a), the procedures for procurement of goods, works and services for Part B of the Project described in Schedule 1 are those for "Operations outside of the European Union" set out in the Co-financier Guide to Procurement.

(d) All contracts for Part A of the Project described in Schedule 1 shall be subject to the review procedures set out in the EBRD Procurement Rules and shall be subject to prior review by the Bank.

(e) For any contract in respect of which payment is to be made out of the Special Account, procurement procedures shall be followed that ensure that the review requirements of Section 3.03(d) are satisfied prior to the making of the first payment out of the Special Account in respect of such contract.

#### **Section 3.04. Environmental and Social Compliance Covenants**

Without limiting the generality of Sections 4.02(a), 4.04(a)(iii), and 5.02(c)(iii) of the Standard Terms and Conditions, unless the Bank otherwise agrees:

(a) The Borrower shall, and shall cause any contractor to, carry out the Project in accordance with the Designated Performance Requirements.

(b) Without limiting the foregoing, the Borrower shall diligently implement and adhere to the Environmental and Social Action Plan and monitor the implementation of such plan in accordance with the monitoring provisions contained in such plan.

(c) The Borrower and the Bank may from time to time agree to amend the Environmental and Social Action Plan in response to changes in the circumstances of the Project or the Borrower, unforeseen events and the results of monitoring. Without limiting the generality of the foregoing,

(1) if there is any adverse environmental or social impact or issue that was not foreseen by or contemplated in the Environmental and Social Action Plan either entirely or as to its severity,

(2) if any impact mitigation measure set out in the Environmental and Social Action Plan is not sufficient to eliminate or reduce any environmental or social impact to the level contemplated by the relevant Designated Performance Requirements within the time frame set out in the Environmental and Social Action Plan, or

(3) if any material non-compliance with the Environmental and Social Action Plan or with any Environmental and Social Law has been identified by the Borrower, the Bank or an inspection from any regulatory or enforcement authority,

the Borrower shall, as soon as reasonably practicable and subject to the consent of the Bank, develop and incorporate into the Environmental and Social Action Plan such additional or revised mitigation measures as may be necessary to achieve compliance with the Designated Performance Requirements, the Environmental and Social Action Plan or Environmental and Social Laws, in each case in a manner satisfactory to the Bank.

### **Section 3.05. Consultants**

(a) In order to assist in the implementation of the Project, the Borrower shall, unless otherwise agreed with the Bank, employ or cause to be employed, as required, and use consultants whose qualifications, experience and terms of reference are satisfactory to the Bank, including consultants to assist the PIU and a supervising engineer in respect of Part B of the project described in Schedule 1.

(b) The Borrower shall provide, without charge, to any consultants engaged to assist in matters relating to the Project or the operations of the Borrower all facilities and support necessary for the carrying out of their functions, including office space, photocopying equipment and supplies, secretarial services and transportation, as well as all documents, materials and other information that may be relevant to their work.

### **Section 3.06. Reporting Frequency and Submission Requirements**

(a) Commencing from the Effective Date, until the full amount of the Loan has been repaid or cancelled, the Borrower shall submit to the Bank annual reports on Environmental and Social Matters arising in relation to the Borrower or the Project, as referred to in Section 5.02(c)(iii) of the Standard Terms and Conditions, within 90 days after the end of the year being reported on. Such reports shall include information on the following specific matters:

(1) information on compliance by the Borrower with the Designated Performance Requirements as described in Section 3.04(a) and the implementation of the Environmental and Social Action Plan;

(2) information on how the Borrower has monitored the compliance with the Designated Performance Requirements and the Environmental and Social Action Plan by any contractor engaged for the Project and a summary of any material non-compliance by such contractor with the Designated Performance Requirements and the Environmental and Social Action Plan and of any measures taken to remedy such non-compliance;

(3) information on implementation of the stakeholder engagement plan and grievance mechanism required by Designated Performance Requirement 10, including a summary of any grievances received and how such grievances were resolved;

(4) information on compliance by the Borrower with Environmental and Social Laws in relation to the Project and the Borrower's business and operations, including a description of any claim, proceeding, order or investigation commenced or threatened against the Borrower, the status of any Authorisation required for the Project, the results of any inspection carried out by any regulatory authority, any violation of applicable laws, regulations or standards and any remedial action or fine relating to such violation, a summary of any material notice, report and other communication on Environmental and Social Matters relating to the Project and the Borrower's business and operations submitted by



the Borrower to any regulatory authority and any other circumstances giving rise to liability of the Borrower for any Environmental and Social Matter;

(5) information on occupational health and safety management and the occupational health and safety record of the Project and the Borrower's business and operations, including the rates of accidents, lost time incidents and near-misses, any preventive or mitigative measures taken or planned by the Borrower, any staff training on occupational health and safety and any other initiatives in relation to occupational health and safety management which have been implemented or planned by the Borrower;

(6) a summary of any change in Environmental and Social Laws which may have a material effect on the Project; and

(7) copies of any information on Environmental and Social Matters periodically submitted by the Borrower to its shareholder or the general public.

(b) Commencing from the Effective Date, the Borrower shall submit the periodic Project reports referred to in Section 4.04(a)(v) of the Standard Terms and Conditions semi-annual, within 30 days after the end of the period being reported on, until the Project has been completed. Such reports shall include the following specific features:

(1) The following general information:

(A) the physical progress accomplished in the implementation of the Project to the date of report and during the reporting period;

(B) actual or expected difficulties or delays in the implementation of the Project and their effect on the implementation schedule, and the actual steps taken or planned to overcome the difficulties and avoid delays;

(C) expected changes in the completion date of the Project;

(D) key personnel changes in the staff of the PIU, the consultants or the contractors;

(E) matters that may affect the cost of the Project; and

(F) any development or activity likely to affect the economic viability of any Part of the Project.

(2) A bar-type progress chart, based on the Project Implementation Plan, showing the progress in each Part of the Project and including a planned and actual expenditure graph.

(3) Financial statements showing details of the expenditures incurred under each Part of the Project and the Drawdowns, together with a statement showing:

(A) original cost estimates;

(B) revised cost estimates, if any, with reasons for changes;

- (C) original estimated expenditures and actual expenditures to date;
  - (D) reasons for variations of actual expenditures to date from original estimated expenditures to date; and
  - (E) estimated expenditures for the remaining quarters of the year.
- (4) A brief statement of the status of compliance with each of the covenants contained in this Agreement.
- (c) Immediately upon the occurrence of any incident or accident relating to the Borrower or the Project which has or is likely to have a significant adverse effect on the environment, workers, or on public or occupational health or safety, the Borrower shall inform the Bank and promptly thereafter give the Bank notice thereof specifying the nature of such incident or accident and any steps the Borrower is taking to remedy the same. Where an incident involves sensitive information in relation to a person or any risk of retaliation, the initial notice to the Bank shall not include any details of the identity of the persons involved. Without limiting the generality of the foregoing,
- (1) an incident or accident relates to the Project if it occurs on any site used for the Project or, if it is caused by Project workers and/or facilities, equipment, vehicles or vessels used for or relating to the Project (whether or not being used on any site of the Project and whether or not being used by authorised or unauthorised persons);
  - (2) an incident or accident is considered to have a significant adverse effect on the environment or on public or occupational health or safety if:
    - (A) any applicable law requires notification of such incident or accident to any Governmental Authority,
    - (B) such incident or accident involves fatality of any person (whether or not such person is employed by the Borrower),
    - (C) more than one person (whether or not such persons are employed by the Borrower) has received serious injury requiring hospitalisation,
    - (D) such incident involves violence and harassment, bullying, intimidation, and/or exploitation, including any form of gender-based violence,
    - (E) such incident involves forced and child labour relating to the Project or the Borrower's business and operations, or
    - (F) such incident or accident has become, or is likely to become, public knowledge whether through media coverage or otherwise.
- (d) The Borrower shall promptly notify the Bank of any significant protest or petition by workers or members of the public directed at or relating to the Borrower or the Project which might have a material adverse effect on the Borrower or the Project or

which has become, or is likely to become, public knowledge through media coverage or otherwise. Within ten days following such notification, the Borrower shall submit a report satisfactory to the Bank specifying the outcome of the Borrower's investigation into such protest, and any steps taken, or proposed to be taken, by the Borrower to resolve the issues raised in the protest.

## **ARTICLE IV - FINANCIAL AND OPERATIONAL COVENANTS**

### **Section 4.01. Financial Records and Reports**

(a) The Borrower shall maintain procedures, records and accounts adequate to reflect, in accordance with internationally accepted accounting standards consistently applied, the operations and financial condition of the Borrower and its Subsidiaries, if any, and adequate to monitor and record the progress of the Project (including its costs and the benefits to be derived from it).

(b) The Borrower shall:

(1) have its records, accounts and financial statements (including its balance sheet, income statement and statement of changes in financial position, and notes thereon), including those relating to the Special Account, and the records, accounts and financial statements of its Subsidiaries, for each Fiscal Year audited by independent auditors acceptable to the Bank in accordance with internationally accepted auditing principles and standards;

(2) furnish to the Bank as soon as available, but in any case not later than six months after the end of each Fiscal Year:

(A) certified copies of its financial statements for such Fiscal Year as so audited;

(B) the report of such audit by such auditors of such scope and in such detail as the Bank may reasonably request (including calculation by the auditors of financial covenants listed in Section 4.03);

(C) a statement of all financial transactions between the Borrower and each of its Subsidiaries and Affiliates;

and

(3) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, as the Bank may from time to time reasonably request.

#### Section 4.02. Negative Financial Covenants

(a) The Borrower shall not, except as the Bank otherwise agrees, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

- (1) enter into any agreement or arrangement to guarantee or in any way or under any condition to become obligated for all or any part of any financial or other obligation of another person, including any Subsidiary or Affiliate, except for the agreements on provision of guarantees and indemnities under which the total amount recoverable from the Borrower does not exceed EUR 2,000,000 (*two million Euros*) in aggregate or its equivalent in any other currency or currencies;
- (2) enter into any transaction with any person except in the ordinary course of business, on ordinary commercial terms and on the basis of arm's length arrangements, or establish any sole and exclusive purchasing or sales agency, or enter into any transaction whereby the Borrower might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products or services;
- (3) enter into any partnership, profit-sharing or royalty agreement or other similar arrangement whereby the Borrower's income or profits are, or might be, shared with any other person, and the amount of such income or profits exceeds (i) EUR 10,000,000 (*ten million Euros*) or its equivalent in any other currency or currencies in aggregate in any Fiscal Year or (ii) EUR 5,000,000 (*five million Euros*) or its equivalent in any other currency or currencies per each such arrangement;
- (4) whether voluntarily or involuntarily make any prepayment, repurchase or early redemption of any debt or make a repayment of any debt pursuant to any provision of any agreement or note which provides directly or indirectly for acceleration of repayment in time or amount, unless in any such case, if the Bank so requires, the Borrower contemporaneously makes a proportionate prepayment of the principal amount then outstanding of the Loan in accordance with the provisions of Section 3.07 of the Standard Terms and Conditions (except that the amount of any such prepayment shall not be subject to the Minimum Prepayment Amount requirements);
- (5) sell, transfer, lease or otherwise dispose of all or a substantial part of its assets (whether in a single transaction or in a series of transactions, related or otherwise) except for the following:
  - (A) disposals made in the ordinary course of business of the Borrower;
  - (B) disposals made in exchange for other assets of at least the same or superior type, value and quality;
  - (C) disposals made with the prior written consent of the Bank; or
  - (D) disposals of non-core assets or assets which are not used in the operating activities of the Borrower via open auction where the

aggregate value of the assets disposed in any Fiscal Year does not exceed (1) EUR 1,000,000 (*one million Euro*) (or its equivalent in another currency or currencies) for movable assets on the basis of the consideration received for those assets; and (2) EUR 10,000,000 (*ten million Euros*) (or its equivalent in another currency or currencies) for immovable assets on the basis of independent valuation prepared in connection with such disposal;

or

(6) undertake or permit any merger, consolidation or reorganisation.

(b) The Borrower shall not, unless it informs the Bank at least 30 days in advance, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

(1) enter into any management contract or similar arrangement whereby its business or operations are managed by any other person, including any Subsidiary or Affiliate; or

(2) form any Subsidiary, or make or permit to exist loans or advances to, or deposits (except deposits in the ordinary course of business with reputable banks) with, other persons or investments in any person, including any Subsidiary or Affiliate; provided, however, that the Borrower shall be at liberty to invest in short-term investment grade marketable securities solely to give temporary employment to the Borrower's idle resources.

#### **Section 4.03. Other Financial Covenants**

The Borrower shall:

(a) Starting from Fiscal Year 2022, at all times maintain a ratio of Financial Debt to EBITDA (where EBITDA is calculated on a 12-month rolling basis) of not more than 3.5:1; and

(b) At all times maintain a ratio of EBITDA (where EBITDA is calculated on a 12-month rolling basis) to Net Finance Charges of not less than 5.0:1.

#### **Section 4.04. Conduct of Business and Operations**

The Borrower shall, except as the Bank otherwise agrees:

(a) Conduct its business and operations in accordance with internationally recognised sound administrative, financial, engineering and other relevant standards and practices, and with due regard to all its principal operating policies;

(b) Promptly take all action within its powers to maintain its legal existence, to carry on its operations and to acquire, maintain and renew all rights, properties, powers, privileges and franchises that are necessary for the conduct of its business, including the carrying out of the Project;

- (c) Not sell, lease or otherwise dispose of any of its assets that are required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Agreement;
- (d) Promptly notify the Bank of any proposal to amend, suspend or repeal any provision of the Statute and afford the Bank an adequate opportunity to comment on such proposal prior to taking any action thereon;
- (e) Take out and maintain with responsible insurers, or make other provisions satisfactory to the Bank in respect of, insurance against such risks of loss, damage and liability and in such amounts as are consistent with appropriate practice; and
- (f) At all times operate and maintain its plant, facilities, equipment and other property in good working order and, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound business and financial practice.

## **ARTICLE V - SUSPENSION; ACCELERATION; CANCELLATION**

### **Section 5.01. Suspension**

The following are specified for purposes of Section 7.01(a)(xvii) of the Standard Terms and Conditions:

- (a) The legislative and regulatory framework applicable to the sectors in the territory of the Guarantor in which the Borrower operates at any given point of time shall have been amended, suspended, abrogated, repealed or waived so as to, in the Bank's sole and absolute opinion, materially and adversely affect the Project, the operations or the financial condition of the Borrower or its ability to carry out the Project or to perform any of its obligations under this Agreement;
- (b) The Statute shall have been amended, suspended, abrogated, repealed or waived;
- (c) The Borrower shall have taken any of the actions referred to in Section 4.02(b) so as to affect materially and adversely the operations or the financial condition of the Borrower or its ability to carry out the Project or to perform any of its obligations under this Agreement;
- (d) The Borrower fails to perform any of its obligations under Section 3.01 or Section 3.04 of this Agreement or fails to maintain financial covenants at the level prescribed in Section 4.03;
- (e) Control of the Borrower shall have been transferred to a party other than the Ministry of Infrastructure of Ukraine.

## **Section 5.02. Acceleration of Maturity**

The following are specified for purposes of Section 7.06(f) of the Standard Terms and Conditions:

- (a) The occurrence of any of the events set out in Section 5.01; or
- (b) The Borrower shall have taken any of the actions referred to in Section 4.02(a) so as to affect materially and adversely the operations or the financial condition of the Borrower or its ability to carry out the Project or to perform any of its obligations under this Agreement.

## **Section 5.03. Cancellation**

- (a) If at any time the Bank determines that a payment from, or any use of, the Special Account has been made inconsistently with the requirements of Schedule 3 and establishes the amount of the Loan as to which such misuse applies, the Bank may, by notice to the Borrower and the Guarantor, terminate the right of the Borrower to make Drawdowns with respect to such amount. Upon the giving of such notice, such amount of the Loan shall be cancelled.

# **ARTICLE VI - EFFECTIVENESS**

## **Section 6.01. Conditions Precedent to Effectiveness**

The following are specified for purposes of Section 9.02(c) of the Standard Terms and Conditions as additional conditions to the effectiveness of this Agreement and the Guarantee Agreement:

- (a) The Bank shall have received evidence acceptable to it confirming that the Project and the guarantee provided under the Guarantee Agreement does not involve or constitute "illegal state aid" (in Ukrainian: *незаконна державна допомога*) and is compatible with the Law of Ukraine "On State Aid to Commercial Enterprises" dated 1 July 2014 No. № 1555-VII;
- (b) The Borrower has submitted to the Bank the implementation plan with respect to the Project (the "Project Implementation Plan") acceptable to the Bank;
- (c) The PIU has been established in accordance with Section 3.02; and
- (d) The Bank shall have received the Corporate Governance Action Plan approved by the Borrower and acceptable to the Bank.

#### **Section 6.02. Legal Opinions**

(a) For purposes of Section 9.03(a) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Borrower by the Head of the Legal Department of the Borrower.

(b) For purposes of Section 9.03(b) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Guarantor by the Minister of Justice of the Guarantor.

#### **Section 6.03. Termination for Failure to Become Effective**

The date 90 days after the date of this Agreement is specified for purposes of Section 9.04 of the Standard Terms and Conditions.

#### **Section 6.04. Conditions Precedent to Drawdowns of Tranche 1**

The Borrower's right to draw down from Tranche 1 shall be subject to the prior fulfilment, in form and substance satisfactory to EBRD, or at the sole discretion of EBRD the waiver, whether in whole or part and whether subject to conditions or unconditional, of the following conditions precedent:

(a) The Bank shall have received copies of the duly executed original contract(s) for the supply of postal vans in form and substance satisfactory to the Bank.

#### **Section 6.05. Conditions Precedent to Drawdowns of Tranche 2**

The Borrower's right to draw down from Tranche 2 shall be subject to the prior fulfilment, in form and substance satisfactory to EBRD, or at the sole discretion of EBRD the waiver, whether in whole or part and whether subject to conditions or unconditional, of the following conditions precedent:

(a) The Co-financing Agreement has been executed and delivered;

(b) The Co-financing Guarantee Agreement has been executed and delivered;

(c) The EBRD/EIB Project Implementation Agreement has been executed and delivered by the Bank and the Co-financier;

(d) The Bank having received from the Borrower an environmental impact assessment report and supporting information for the respective facilities to be financed, and such reports having been reviewed by the Bank or its designated advisor with the results of those reviews confirming, to the satisfaction of the Bank, that the respective project component complies with the applicable laws, Designated Performance Requirements, relevant European Union requirements and the EIB Environmental and Social Standards;



- (e) The Borrower having established (in a manner satisfactory to the Bank) the compliance and risk management functions in accordance with best practice and as currently permitted under Ukrainian legislation;
- (f) The Borrower having appointed the Chief Risk Officer and Chief Compliance Officer or assigned relevant responsibilities to existing officials within its organisation structure;
- (g) The Borrower having appointed a Corporate Secretary; and
- (h) The Bank shall have received copies of the duly executed original contract(s) for goods, works, services and consultancy services contracts, as applicable, in form and substance satisfactory to the Bank.

#### **Section 6.06. Conditions Precedent to Drawdowns of Tranche 3**

The Borrower's right to draw down from Tranche 3 shall be subject to the prior fulfilment, in form and substance satisfactory to EBRD, or at the sole discretion of EBRD the waiver, whether in whole or part and whether subject to conditions or unconditional, of the following conditions precedent:

- (a) The entire Tranche 1 had been utilized pursuant to the terms of this Agreement;
- (b) The Borrower having adopted (in a manner satisfactory to the Bank) the Workforce Transformation and Retrenchment Plan;
- (c) The Borrower having adopted (in a manner satisfactory to the Bank) the Targeted Corruption Risk Management Action Plan;
- (d) The Borrower having adopted (in a manner satisfactory to the Bank) the risk management policies and rule-book;
- (e) The Borrower having adopted (in a manner satisfactory to the Bank) the Long-term Strategy defining the Borrower's main business lines as envisaged in the Corporate Governance Action Plan;
- (f) The Borrower having adopted (in a manner satisfactory to the Bank) the Long-term financial model as envisaged in the Corporate Governance Action Plan; and
- (g) The Bank shall have received copies of the duly executed original contract(s) for the supply of postal vans in form and substance satisfactory to the Bank.

### **ARTICLE VII - MISCELLANEOUS**

#### **Section 7.01. Notices**

- (a) The following addresses are specified for purposes of Section 10.01 of the Standard Terms and Conditions:

For the Borrower:

STOCK COMPANY "UKRPOSHTA"  
22 Kreschatyk Street, Kyiv  
01001 Ukraine

Attention: Maksym Paliy  
Telephone: +38 044 323 2008  
Email: LogisticsNetwork@ukrposhta.ua

For the Bank:

European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom

Attention: Operation Administration Department  
Telephone: +44 20 7338 6000  
Email: [oad@ebrd.com](mailto:oad@ebrd.com)

(b) The Bank may invite the Borrower to register to use ClientNet or another form of electronic communication and, if the Borrower and the Bank agree to use ClientNet or such other form of electronic communication, any notice, application or other communication from the Borrower to the Bank or from the Bank to the Borrower (other than any notice, application or other communication that is required by this Agreement to be in an original, certified or hard copy), may, subject to the terms and conditions of ClientNet or such other form of electronic communication, be given or made by posting such notice, application or other communication on ClientNet or sent in accordance with the terms agreed concerning such other form of electronic communication.

(c) Any notice, application or other communication delivered by hand, airmail or facsimile transmission or via ClientNet or another agreed form of electronic communication will only be effective when actually received (or made available) in readable form, provided that any notice, application or other communication that is received (or made available) after 5:00 p.m. in the place in which the party to whom the relevant notice, application or communication is sent has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

(d) The following are the names, titles and email addresses of the persons designated as the initial contacts of the Borrower for purposes of any invitation the Bank may send to the Borrower regarding ClientNet:

<i>Name</i>	<i>Title</i>	<i>E-mail address</i>
Maksym Paliy	Deputy General Director on Finance	LogisticsNetwork@ukrposhta.ua

**IN WITNESS WHEREOF**, the parties hereto, acting through their duly authorised representatives, have caused this Agreement to be signed in five copies and delivered at Kyiv, Ukraine as of the day and year first above written.

**STOCK COMPANY "UKRPOSHTA"**

By: \_\_\_\_\_

Name: Igor Smelyansky  
Title: General Director

**EUROPEAN BANK  
FOR RECONSTRUCTION AND DEVELOPMENT**

By: \_\_\_\_\_

Name: Mark Magaletsky  
Title: Associate Director, Deputy Head Ukraine, Sustainable Infrastructure

## **SCHEDULE 1 - DESCRIPTION OF THE PROJECT**

1. The purpose of the Project is to assist the Borrower in acquisition and equipment of postal vans and in development of modern automated sorting hubs, as well as an associated network of regional sorting depots.
2. The Project consists of the following Parts, subject to such modifications thereof as the Bank and the Borrower may agree upon from time to time:

**Part A:** The Rural Post Office project component will support the reorganisation of the Borrower's branch network to ensure sustainable provision of modern delivery, retail and other services to the country's rural population. Tranches 1 and 3 will finance the acquisition and furnishing a total of approximately 1,900 postal vans (with related goods and services).

**Part B:** The Logistical Network project component will help focus the transformation of the Borrower's logistical model to improve operating efficiency and quality of service in its delivery business. Tranche 2 of the Loan will finance the construction and equipment of not less than three modern automated sorting hubs and associated network of regional sorting depots. Part B is expected to be co-financed by a parallel loan in the amount of EUR 30 million from the Co-financier.

### **Part C: Technical Assistance**

**Part C-1: Environmental and Social Assessment.** External consultants to undertake an Environmental and Social Assessment for Tranche 2 (including E&S audit, ESAP, SEP, NTS). Donor funds to be sought by the Bank.

**Part C-2: Retrenchment Plan Development and Implementation Support.** External consultants to assist the Borrower with developing and implementing a Workforce Transformation and Retrenchment Program. Donor funds to be sought by the Bank.

**Part C-3: Energy efficiency improvements** External consultants to assist the Borrower in Energy efficiency improvements and assessment of possibilities for certification of sorting hubs in accordance with international sustainable certification scheme (BREEAM/LEED). Donor funds to be sought by the Bank.

**Part C-4: Road Safety Management.** External consultants to assist the Borrower with developing and implementing a formal Road Safety Management System. Donor funds to be sought by the Bank.

**Part C-5: Anti-Corruption Action Plan.** External consultants to conduct an independent corruption risk assessment for the Borrower, develop a Targeted Corruption Risk Management Action Plan, and assist the company with its implementation. Donor funds to be sought by the Bank.

**Part C-6: Corporate Governance Action Plan.** External consultant to assist the Borrower with establishing a risk management function and compliance function as part of the agreed Corporate Governance Action Plan. Donor funds to be sought by the Bank.

3. The Project is expected to be completed by 31 December 2023.

## **SCHEDULE 2 - CATEGORIES AND DRAWDOWNS**

1. The table attached to this Schedule sets forth the Categories, the amount of the Loan allocated to each Category and the percentage of expenditures to be financed in each Category.
2. The Bank shall be entitled to make, on the Borrower's behalf, Drawdowns as required to make payments when due of the Front-end Commission.

**Attachment to Schedule 2**

Category	Amount of the Loan in the Loan Currency (EUR)	Estimated % of Expenditures to be financed (excluding taxes and duties)
(1) Goods, works and services for Part A of the Project (Tranche 1)	22,770,000	Up to 100% of contract value excluding any taxes
(2) Goods, works and services for Part B of the Project (Tranche 2)	29,700,000	Up to 100% of contract value excluding any taxes
(3) Goods, works and services for Part A of the Project (Tranche 3)	9,900,000	Up to 100% of contract value excluding any taxes
(4) Front-end fee for Tranches 1 and 2	530,000	
(5) Front-end fee for Tranche 3	100,000	
Total	63,000,000	

### SCHEDULE 3 - SPECIAL ACCOUNT

1. For purposes of this Schedule, the following terms shall have the following meanings:

"Eligible Category" means Categories (1), (2) and (3) in Schedule 2 of this Agreement.

"Eligible Expenditures" means expenditures in respect of the reasonable cost of goods, works and services required for the Project which are to be financed out of the proceeds of the Loan and which are allocated from time to time to an Eligible Category in accordance with the provisions of Schedule 2.

"Special Account Maximum Balance" means an amount equal to EUR 5,000,000 (*five million Euros*).

"Special Account Minimum Drawdown Amount" means an amount equal to EUR 3,000,000 (*three million Euros*).

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

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened in accordance with terms and conditions acceptable to the Bank, the Borrower may draw down from the Available Amount and deposit into the Special Account an initial amount that shall not exceed the Special Account Maximum Balance and shall not be less than the Special Account Minimum Drawdown Amount.

4. Thereafter, the Borrower may draw down additional amounts from the Available Amount and deposit such amounts into the Special Account, subject to the limitations specified in paragraph 6 below and satisfaction of the following conditions for each requested Drawdown:

(a) The Borrower shall have submitted to the Bank account statements and documents, and any other evidence requested by the Bank, to demonstrate that amounts disbursed from the Special Account have been properly applied.

(b) After giving effect to the requested Drawdown and deposit of the amount of such Drawdown into the Special Account, the balance of the Special Account shall not exceed the Special Account Maximum Balance.

(c) Except as the Bank may from time to time agree, the amount of the requested Drawdown for deposit into the Special Account shall not be less than the Special Account Minimum Drawdown Amount.

5. Without prejudice to the requirement of paragraph 4(a) above, the Borrower shall furnish, at any time the Bank may reasonably request, a report on the balance and other



details of the Special Account, including account statements and such other documents and evidence as the Bank may request to show that payments made from the Special Account have been made in accordance with the requirements set forth in this Schedule.

6. Notwithstanding the provisions of paragraph 4 of this Schedule, the Borrower shall not, unless the Bank otherwise agrees, draw down funds from the Available Amount for deposit into the Special Account:

- (a) if, at any time, the Bank has determined that all further Drawdowns should be made in accordance with the provisions of Section 2.03(a); or
- (b) once the Available Amount allocated to the Eligible Categories equals twice the amount of the Special Account Maximum Balance.

Thereafter, Drawdowns allocated to the Eligible Categories shall follow such procedures as the Bank may specify by notice to the Borrower. Such further Drawdowns shall be made only after and to the extent that the Bank has been satisfied that all amounts remaining on deposit in the Special Account as of the date of such notice will be utilised in making payments for Eligible Expenditures.

7. If the Bank determines at any time that any payment out of, or any use of, the Special Account:

- (a) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or
- (b) was not justified by the evidence furnished to the Bank;

then the Bank may require the Borrower to:

- (1) provide such additional evidence as the Bank may request; and/or
- (2) deposit into the Special Account (or, if the Bank so requests, repay to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified.

In the event the Bank makes such a determination under (a) or (b) above, no further Drawdowns shall, unless the Bank otherwise agrees, be made for deposit into the Special Account until such time as the Borrower has either (A) deposited into the Special Account or repaid to the Bank an amount equal to the amount of such payment (or portion thereof) determined not to be eligible or justified, or (B) provided additional evidence satisfactory to the Bank that the amounts previously disbursed from the Special Account were applied properly.

8. If:

- (a) the Bank determines at any time that any amount outstanding in the Special Account will not be required to cover further payments for Eligible Expenditures; or

(b) the Bank directs the Borrower to repay to the Bank an amount pursuant to paragraph 7(2);

then the Borrower shall, promptly upon notice from the Bank, prepay to the Bank a portion of the Loan equal to such amount. For this purpose, the requirement that prepayments of the Loan must occur on Interest Payment Dates shall, subject to paragraph 10 below, be waived.

9. The Borrower may, upon prior notice to the Bank given in accordance with Section 3.07(a) of the Standard Terms and Conditions, prepay on any Interest Payment Date all or any portion of the funds deposited into the Special Account.

10. Any prepayment pursuant to paragraph 8 or 9 above shall be made in accordance with Section 3.07 of the Standard Terms and Conditions; provided, however, that (a) notwithstanding Section 3.07(c)(i)(A) of the Standard Terms and Conditions, such prepayment shall not be subject to the Minimum Prepayment Amount, and (b) any prepayment that is made on a date other than an Interest Payment Date shall be subject to payment of Unwinding Costs in accordance with Section 3.10 of the Standard Terms and Conditions. Any prepayment pursuant to paragraph 8 or 9 above shall be applied by the Bank in accordance with Section 3.07(c)(ii) of the Standard Terms and Conditions.