

FORM OF FINANCING AGREEMENT FOR GRANTS

AFD AGREEMENT No. [●]

FINANCING AGREEMENT

dated [●]

between:

AGENCE FRANÇAISE DE DEVELOPPEMENT

AFD

and

[●]

The Recipient

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FINANCING AGREEMENT

BETWEEN:

[●*Recipient's name*],

represented by [●], in his/her capacity as [●], duly authorized for the purposes hereof pursuant to [●],

(hereinafter, the “**Recipient**”);

OF THE ONE PART

AND

AGENCE FRANCAISE DE DEVELOPPEMENT, a French public entity, whose registered office is at 5, Rue Roland Barthes, 75598 PARIS Cedex 12 – France, registered with the Paris Trade and Companies Register under number 775 665 599 represented by [●], duly authorized for the purpose hereof,

(hereinafter, “**AFD**”);

OF THE SECOND PART

(hereinafter jointly referred to as the “**Parties**” and individually as a “**Party**”)

WHEREAS,

- (A) The Recipient intends to [●]¹ (the “**Project**”).
- (B) The Recipient has requested AFD to make available a Grant for the purpose of financing the Project.
- (C) Pursuant to its board resolution n° [●] dated [●], AFD has agreed to make available the Grant to the Recipient subject to the terms and conditions hereunder.

¹ Briefly describe the project.

ON THE BASIS OF THE FOREGOING, IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

Capitalized terms used in this Agreement (including those appearing in the recitals above and in the Schedules hereto) shall have the meaning given to them in Schedule **Erreur! Source du renvoi introuvable.** **Erreur! Source du renvoi introuvable.** (*Definitions*), except as otherwise provided herein.

1.2 Interpretation

Terms used in this Agreement shall be construed pursuant to the provisions of Schedule **Erreur! Source du renvoi introuvable.** **B** (*Interpretation*), except as otherwise provided herein.

2. AMOUNT, PURPOSE AND CONDITIONS OF UTILIZATION

2.1 Amount

AFD undertakes to make available to the Recipient, upon request and subject to the terms and conditions provided herein, in particular the provisions set forth in Clause 2.3 (*Conditions of utilization*) hereinafter, a Grant in a maximum aggregate amount of [*amount in words*] Euros (EUR [●]).

2.2 Purpose

The Recipient shall apply all funds from this Grant exclusively towards the financing of the Project, excluding taxes, duties and levies of any kind, in accordance with the Project's description set forth in Schedule 2 (*Project Description*) and the Financing Plan set forth in Schedule 3 (*Financing Plan*).

[The funds shall be [on-granted / on-lent] by the Recipient to the [Final Recipient / Final Beneficiary]² in the form of a [grant] / *or* / [loan]³ on terms and conditions subject to AFD's prior approval.]⁴

2.3 Conditions of Utilization

AFD shall make the requested drawdown available to the Recipient only if on the drawdown request date and on the contemplated drawdown date:

- (a) none of the events listed in Clause 4 (*Postponement or rejection of drawdown requests*) has occurred or is continuing;
- (b) all conditions precedent listed in Schedule 4 (*Conditions Precedent*) have been fulfilled to the satisfaction of AFD; and

² Here as well as everywhere in the Agreement when Final Recipient and Final Beneficiary are bracketed together, select Recipient for a grant or Beneficiary for a loan.

³ Select the form applicable to the Project; Final Recipient shall apply in case of On-granting and Final Beneficiary in case of On-lending.

⁴ Delete when there is no On-granting nor On-lending.

- (c) in the event that fulfilment of all or part of the conditions precedent set forth in Schedule 4 (*Conditions Precedent*) consists in the delivery of documents:
- the final versions of such documents, which drafts have been (x) previously provided to AFD and (y) agreed upon by AFD, shall not reveal differences and/or inconsistencies with such drafts likely to affect the Project or an essential feature of the Project; and
 - all documents, other than those mentioned in subparagraph above, shall be in form and substance satisfactory to AFD.

3. DRAWDOWN OF FUNDS

3.1 Drawdown Request

Subject to conditions set forth in Clause 2.3 (*Conditions of utilization*), funds from the Grant shall be made available to the Recipient, in one or several instalments, upon submission of a duly completed drawdown request.

Each drawdown request shall be sent by the Recipient (represented by [*insert the name of the entity entitled to request the drawdown*]) to the Director of AFD at the following address: [*address of the relevant office of AFD*].

or [Pursuant to the [On-granting Agreement / On-lending Agreement], the Recipient has authorized the [Final Recipient] [Final Beneficiary] [Implementing Agency] to submit drawdown requests to the Director of the AFD branch in [*address of the relevant office of AFD*]. The [Final Recipient] [Final Beneficiary] [Implementing Agency] shall send a copy of each drawdown request to the Recipient. The drawdown requests shall be previously countersigned by [●] *or* [the Recipient].]⁵

Each drawdown request shall be considered duly submitted only if all documents and supporting attachments are attached to the drawdown request, as provided for in Clause 3.2 (*Payment Mechanics*).

Provided that all of the conditions set forth herein have been fulfilled, AFD shall make available the requested funds to the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]].

3.2 Payment Mechanics

The funds shall be made available in accordance with the following terms:

3.2.1 Refinancing of expenses incurred by the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]]⁶

The funds shall be paid directly to the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]] pursuant to the conditions set forth in

⁵ Optional wording to be inserted if there is a On-granting Agreement / On-lending Agreement or Implementing Agency Agreement providing for direct drawing by the Final Recipient / Final Beneficiary or Implementing Agency. In this case the previous paragraph shall be deleted.

⁶ Insert applicable words and delete the word Recipient if there is On-granting / On-lending or implementing agency with direct payment to the Final Recipient / Final Beneficiary or Implementing Agency.

this Agreement upon evidence, satisfactory to AFD, of payment of expenses incurred by the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]].

Any drawdown request shall be delivered to AFD together with all relevant documents, satisfactory to AFD, evidencing that such costs and expenses have been incurred and duly paid by the Recipient.

Documentary evidence, such as bills of costs or paid invoices, may be submitted as photocopy or duplicate, in both cases certified true by the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]], and shall mention the references and dates of the payment orders. The Recipient undertakes not to part with the originals and to make them available to AFD on permanent basis, as well as to provide AFD with certified true duplicates upon request [*or* to procure that the [Final Recipient] [Final Beneficiary] [Implementing Agency]] shall not part with the originals, shall make them available to AFD on permanent basis and shall provide AFD with certified true duplicates upon request].

In addition, AFD may request the Recipient [*or* [Final Recipient] [Final Beneficiary] [Implementing Agency]] to provide any other document evidencing that the investment corresponding to the relevant costs and expenses has been duly made.

3.2.2 Direct Payments by AFD to Contractors

- (a) The Recipient may request [*or* acknowledges and accepts that the [Final Recipient] [Final Beneficiary] [Implementing Agency] may request]⁷ AFD to make direct payments to the contractors working for the implementation of the Project.

In that respect, the Recipient shall deliver to AFD [*or* shall procure that the [Final Recipient] [Final Beneficiary] [Implementing Agency] delivers o AFD] all instructions necessary to allow AFD to make the requested direct payment. Such instructions shall be delivered together with bills of costs, invoices or down payment requests satisfactory to AFD which may be submitted as photocopy or duplicate in both cases certified true by the Recipient [*or* the [Final Recipient] [Final Beneficiary] [Implementing Agency]].

- (b) The Parties agree that AFD shall act as an agent for the Recipient [and of the [Final Recipient] [Final Beneficiary] [Implementing Agency]] and shall not be obliged to verify whether it exists an impediment of whatever nature with respect to the requested payment. However, in the event AFD becomes aware of any such impediment, AFD reserves the right to reject any such requests.

The Recipient holds AFD free and clear of any responsibility with respect to any payment made according to this clause 3.2.2 (*Direct Payment by AFD to Contractors*) and waives any action and recourse against AFD. The Recipient

⁷ Insert and delete the word Recipient if there is On-granting / On-lending or implementing agency with direct payment to the Final Recipient / Final Beneficiary or Implementing Agency.

shall be liable for any potential consequences arising from third parties actions against AFD in the context of performance of such agency.

- (c) To the extent that a down payment would be made directly to the contractor in connection with contracts entered into for the implementation of the Project, the Recipient hereby undertakes to promptly assign [*or* procure that the [Final Recipient] [Final Beneficiary] [Implementing Agency]] promptly assigns] to AFD, upon AFD's request, any guarantee covering such down payments.

In addition, when contracts entered into for the implementation of the Project and financed by the Recipient provide for the issuance of performance bond ("*garantie de bonne fin*") as well as the granting of guarantee replacing the holdback ("*retenue de garantie*"), the Recipient shall promptly assign [*or* procure that the [Final Recipient] [Final Beneficiary] [Implementing Agency] promptly assigns] to AFD, upon AFD's request, all or part of such guarantee.

3.3 Deadline for Drawdown

The deadline for drawdown of funds shall be [●]. No more funds shall be made available after said deadline.

The last drawdown request must be received by AFD no later than fifteen (15) days prior to such deadline. Drawdown requests made within the month preceding the deadline for drawdown shall be sent to AFD by recorded delivery with acknowledgment of receipt.

Any portion of the Grant not drawn on the deadline shall be automatically cancelled.

3.4 Closing Place

Drawdowns made under the Grant shall be transferred by AFD to the bank account in France, as indicated for that purpose by the Recipient [Final Recipient] [Final Beneficiary] [Implementing Agency]⁸.

Notwithstanding anything to the contrary, and subject to AFD's prior approval, funds to be made available to the Recipient [Final Recipient] [Final Beneficiary] [Implementing Agency] may be paid into a bank account opened in the Recipient's country or any other location as agreed with AFD.

The funds shall be then transferred to any financial institution located in the Recipient's country and, at the Recipient's [Final Recipient's] [Final Beneficiary] [Implementing Agency's] 's request, shall be paid either (i) in Euros to a bank account in Euros, or (ii) at the exchange value on the date of the Drawdown in the currency that is legal tender in the Recipient's country on a bank account in that currency, or (iii) in a convertible currency to a bank account in the relevant currency.

⁸ Insert and delete the word Recipient if there is On-granting / On-lending or implementing agency with direct payment to the Final Recipient / Final Beneficiary or Implementing Agency.

4. POSTPONEMENT OR REJECTION OF DRAWDOWN REQUESTS

AFD reserves the right to postpone or permanently reject any drawdown request if any of the following events occurs:

(a) Project Documents

Any of the Project Documents or any of the rights and obligations provided for therein is no longer in full force and effect, a request is made to terminate a Project Document, or its validity or enforceability is challenged.

(b) Undertakings and Obligations

The Recipient fails to comply with any provision of the Agreement, including, but not limited to, its undertakings made under Clause 6 (*Undertakings*) and Clause 7 (*Information Undertakings*) of the Agreement.

(c) Misrepresentation

Any representation or statement made by the Recipient pursuant to the Agreement and in particular in respect of Clause 5 (*Representations*) or in any other document provided by or on behalf of the Recipient pursuant or relating to the Agreement, is inaccurate or misleading or was so at the time it was made or is deemed to have been made.

(d) Unlawfulness

It is or becomes unlawful or impossible for the Recipient to perform any of its obligations under the Agreement [*or*: the Financing Documents]⁹.

(e) Material Adverse Effect

An event (including a change in the political situation in the Recipient's country) or a measure likely to have a Material Adverse Effect has occurred or is likely to occur.

(f) Withdrawal from or Suspension of the Project

One of the following events occurs:

- the implementation of the Project is suspended or postponed of for a period of time exceeding six (6) months; or
- the Project has not been completed on the Technical Completion Date; or
- the Recipient [*or*] [Final Recipient] [Final Beneficiary]¹⁰ withdraws from the Project or ceases from participating in the Project.

⁹Insert Financing Documents and delete Agreement in case of On-granting or On-lending.

¹⁰ Insert in case of On-granting or On-lending.

(g) Authorizations

Any Authorization required for the Recipient [or [Final Recipient] [Final Beneficiary]]¹¹ to perform or comply with its obligations under the Agreement [*or*: the Financing Documents]¹² or other material obligations set forth in any Project Document, or which is required in the ordinary course of the Project is not obtained on time, is cancelled, becomes invalid or ceases to be in full force and effect.

(h) Implementation of the Project

The Recipient [or [Final Recipient] [Final Beneficiary]]¹³ has contractual relationship for implementation of the Project with a company listed on any of the Financial Sanctions Lists (notably in connection with the fight against the financing of terrorism).

The Recipient [or [Final Recipient] [Final Beneficiary]]¹⁴ purchases equipment from or supplies equipment to, or operates in a sector under embargo by:

- the United Nations,
- the European Union,
- France.

(i) Illicit Origin of Funds

The funds invested in the Project, other than those of government origin, [*or*: The Recipient's equity and/or the sums invested in the Project]¹⁵ are of illicit origin pursuant to French law, including, but not limited to, because they are linked to drug trafficking, fraud on the financial interests of European Communities, corruption, organised crime or the financing of terrorism.

(j) Corruption

The Project has given rise to Corruption (including at the time of the negotiation, awarding or performance of the contracts financed through the Grant).

(k) Co-Financiers¹⁶

The Project's Co-Financier(s) suspend(s) its (their) contributions to the Project.

¹¹ Insert in case of On-granting or On-lending.

¹² Insert Financing Documents and delete Agreement in case of On-granting or On-lending.

¹³ Insert in case of On-granting or On-lending.

¹⁴ Insert in case of On-granting or On-lending.

¹⁵ Insert and delete the previous part of the sentence when the Recipient is a company or a bank/financial institution. .

¹⁶ Delete when there is no Co-Financiers.

(l) Suspension of Free Currency Convertibility and Transfers¹⁷

The free currency conversion and transfer of repayments, interest payments and other sums owed to AFD in respect of any loan extended by AFD to the Recipient or to any borrower located in the country where the Project takes place are jeopardized.

(m) Changes in the Recipient's Situation¹⁸

The Recipient is affected by one of the following events:

- (i) sale of some or all, or part contribution, of the Recipient's assets adversely affecting the Recipient's solvency;
- (ii) merger, split-up, dissolution or liquidation of the Recipient; termination or substantial modification of the Recipient's business activities;
- (iii) Recipient's failure to meet its financial obligations (*cessation de paiements*); insolvency proceedings filed against the Recipient.

(n) Default of the [Final Recipient] [Final Beneficiary]¹⁹

The [Final Recipient] [Final Beneficiary] (i) fails to fulfil any of its obligations in respect of the [On-granting / On-lending] Agreement, including, but not limited to, those set forth in Clauses 6 (*Undertakings*) and 7 (*Information undertakings*) of the Agreement, which must be reiterated by the [Final Recipient] [Final Beneficiary] in the [On-granting / On-lending] Agreement, or (ii) fails to fulfil any of its obligations in respect of a Project Document or other documents executed in connection with the implementation of the Project, or (iii) suspends its payments under the Project.

(o) Changes in the [Final Recipient] [Final Beneficiary]'s Status²⁰

The [Final Recipient] [Final Beneficiary] is affected by one of the following events:

- i) sale of some or all, or part contribution, of the [Final Recipient] [Final Beneficiary]'s assets, adversely affecting its solvency;
- ii) merger, split-up, dissolution or liquidation of the [Final Recipient] [Final Beneficiary]; termination or substantial modification of the [Final Recipient] [Final Beneficiary]'s business activities;
- iii) the [Final Recipient] [Final Beneficiary]'s failure to meet its financial obligations (*cessation de paiements*); insolvency proceedings filled against the [Final Recipient] [Final Beneficiary].

¹⁷ Insert only when the Recipient is a State.

¹⁸ Insert when the Recipient is a company or a bank/financial institution.

¹⁹ Insert when there is On-granting or On-lending.

²⁰ Insert when the Recipient is a company or a bank/financial institution.

(p) Authority's Intervention²¹

Any Authority:

- (i) takes a decision to close, seize or expropriate, all or part of the Project's facilities or one or more of the Recipient's [or the [Final Recipient] [Final Beneficiary]'s]²² assets necessary to carry out its activities; or
- (ii) enters into possession or takes control of all or part of the Project's facilities or of the Recipient's [or the [Final Recipient] [Final Beneficiary]'s]²³ assets necessary to carry out its activities; or
- (iii) takes any measure in order to liquidate, judicially administrate, reorganize or restructure the Recipient [or the [Final Recipient] [Final Beneficiary]]²⁴; or
- (iv) takes any measure that would prevent the Recipient [or the [Final Recipient] [Final Beneficiary]]²⁵ from carrying out of some or all of its activities or operations.

5. REPRESENTATIONS AND WARRANTIES

The Recipient makes the representations and gives the warranties set forth in this Clause 5 (*Representations and Warranties*) to AFD.

5.1 Status²⁶

The Recipient is a validly incorporated or established [company / *or* / association / *or* / foundation / *or* / bank / *other to be specified*] under the laws of its registered office's jurisdiction.

The Recipient has all requisite power to validly own its assets and carry out its business activities as currently conducted. The Recipient's articles of association are in conformity with applicable laws and regulations.

5.2 Power and Authority

The Recipient has the legal authority to execute and perform the Agreement [*or*: the Financing Documents]²⁷ and the Project Documents, and to perform the obligations arising therefrom, to perform the Project activities financed by the Grant, and has completed all required formalities in this respect.

²¹ Insert when (i) the Recipient is a company, a NGO (set up as an association, foundation or other) or a bank/financial institution and/or (ii) when there is On-granting or On-lending if the Final Recipient/Final Beneficiary is a company, a NGO (set up as an association, foundation or other) or a bank/financial institution.

²² Insert when there is On-granting or On-lending.

²³ Insert when there is On-granting or On-lending.

²⁴ Insert when there is On-granting or On-lending.

²⁵ Insert when there is On-granting or On-lending.

²⁶ Insert only when the Recipient is a company, a NGO (set up as an association, foundation or other) or a bank/financial institution.

²⁷ Insert Financing Documents and delete Agreement in case of On-granting or On-lending.

5.3 Binding Obligations

The Recipient's obligations under the Agreement [*or*: the Financing Documents] are in compliance with the laws and regulations of the country where the Recipient has its registered office and constitute valid and binding obligations of the Recipient, enforceable in accordance with their terms. They may be enforced in court.

5.4 Non-conflict with other Recipient's Obligations

The execution of the Agreement [*or*: the Financing Documents] by the Recipient and the performance of the obligations arising therefrom do not conflict with any applicable domestic or foreign law, regulation or provision, [any of its incorporation documents (or the equivalent thereof)]²⁸ or any agreement or instrument binding upon the Recipient or affecting any of its assets.

5.5 Validity and Admissibility in Evidence

All Authorizations required:

- (a) to enable the Recipient to execute the Agreement [*or*: the Financing Documents] and Project Documents and to exercise its rights and fulfil its obligations thereunder; and
- (b) to make the Agreement [*or*: the Financing Documents] and the Project Documents admissible as evidence in the courts of the Recipient's jurisdiction;

have been obtained and are in full force and effect, and no circumstance exists that could result in the withdrawal, non-renewal or modification, in whole or in part, of any such Authorizations.

5.6 Project Authorizations

All Project Authorizations have been obtained and are in full force and effect and there are no circumstances of any kind that could result in the withdrawal, non-renewal, or modification, in whole or in part, of any such Project Authorizations.

5.7 Licit Origin of the Funds

The Recipient represents that [Option 1²⁹: all funds invested in the Project are coming from the government's budget appropriations] [Option 2: the funds invested in the Project, other than those provided by the government, are not of illicit origin pursuant to French law, including, but not limited to, the fact that they are not linked to drug trafficking, fraud on the financial interests of European Communities, corruption, organised crime or the financing of terrorism].

[The Recipient represents that i) neither the funds invested in the Project, ii) nor its shareholder capital, are of illicit origin under French law, including, but not limited to, the fact that they are not linked to drug trafficking, fraud on the financial interests of

²⁸ Insert only when the Recipient is a company, an NGO (organised as an association, a foundation or otherwise) or a bank/financial institution.

²⁹ Delete this Option 1 and insert Option 2 if the Recipient is not a State or if the Recipient is not in a position to make Option 1 representation.

the European Communities, corruption, organised crime or the financing of terrorism.]³⁰

5.8 No Corruption

The Recipient represents that the Project (in particular the negotiation, award and performance of the contracts financed through the Grant) has not given rise to Corruption.

[Other representations may be inserted depending on the Project and/or the Recipient]

6. UNDERTAKINGS

The undertakings in this Clause 6 (*Undertakings*) shall remain in force from the Signing Date and during the entire term of the Agreement.

6.1 Legal Existence³¹

The Recipient undertakes to maintain its legal existence and activity and to refrain from changing its legal form, registered office, business or activity without AFD's prior approval.

6.2 Authorizations

The Recipient undertakes to promptly obtain, comply with, and do all that is necessary to maintain in full force and effect any Authorization required by applicable law or regulation to enable the performance of its obligations under the Agreement [*or*: the Financing Documents]³² and to ensure the legality, validity, enforceability or admissibility as evidence thereof.

6.3 Project Documents

The Recipient undertakes to submit to AFD, for information, any change in the Project Documents and to request AFD's prior approval of any material change in the Project Documents.

6.4 Compliance with Laws and Regulations

The Recipient undertakes to comply with all laws and regulations applicable to the Recipient and to the Project, including those relating to environmental protection, safety and labour issues. The Recipient shall comply in all respects with all of its obligations under the Project Documents to which it is a party.

6.5 Audit

The Recipient authorizes AFD to carry out or arrange for monitoring and audit missions with respect to the conditions of the Project's performance and operation, as

³⁰ Insert and delete the previous paragraph when the Recipient is a company or a bank/financial institution.

³¹ Insert only when the Recipient is a company, an NGO (organised as an association, a foundation or otherwise) or a bank/financial institution.

³² Insert Financing Documents and delete Agreement in case of On-granting or On-lending.

well as for the purpose of assessing the Project's impact and the achievement of the Project's objectives.

Accordingly, the Recipient undertakes to allow such monitoring and audits of documents or on-site, which shall take place, with a frequency and in a manner to be determined by AFD, following consultations with the Recipient.

6.6 Procurement

Regarding the procurement and award of contracts relating to the implementation of the Project, the Recipient undertakes:

- (a) to comply with the principles of competition and transparency, in accordance with internationally recognized standards recommended by OECD and the United Nations' convention against corruption for the award and procurement of contracts, in particular concerning the information and pre-selection of suppliers, the content and publication of tender specifications, the assessment of offers and award of contracts.
- (b) [to take any and all measures required to adapt local provisions concerning public procurement to the said principles;]³³
- (c) to award contracts for the execution of works and the provision of services necessary for the implementation of the Project to companies offering sufficient guarantees in all respects in relation to their capacity to successfully perform such works or services. No exception relating to awarded contracts may be raised or enforced against AFD.
- (d) to use its best efforts to include in invitations to tender regarding the implementation of the Project a clause aiming at favouring the recruiting of local unskilled workforce.
- (e) (i) to submit the Procurement Plan to AFD's no-objection, (ii) to update the Procurement Plan on, at least, an annual basis according to the Project's development and to provide AFD with such update, and (iii) to implement the Procurement Plan pursuant to the conditions approved by AFD.
- (f) to ascertain that requests for expression of interest and invitations to tender are widely advertised. The publication of such invitations shall be done through press and appropriate websites, including at least one publication on AFD's website.
- (g) for each procurement to be financed by the Grant, to submit to AFD's written no-objection:
 - (i) in the case of invitation to tender with pre-qualification, the pre-qualification file including the pre-qualification notice and contemplated method of assessment;

³³ Delete when the Recipient is not a State.

- (ii) in the case of invitation to tender with pre-qualification, the list of proposed candidates having qualified or the short list as well as the candidates assessment report;
- (iii) the invitation to tender file or the contractors' consultation documents;
- (iv) the name of the temporary beneficiary of the awarded contracts (to that effect, the Recipient shall deliver a detailed assessment and comparison report of the received offers, the recommendations concerning the award of contracts and a copy of the offer made by temporary beneficiary of the contract, provided that AFD shall be entitled to request a copy of all offers received).

In the event the method of assessing tenders requires two envelopes submission (one for the technical offer and the other for the financial offer), the Recipient shall obtain AFD' s no-objection with respect to the result of the technical offers assessment and, following the assessment of the financial offers, with respect to the choice of the temporary beneficiary of the awarded contract.

The Recipient also undertakes, if AFD so requests, to ask AFD to attend, as an observer, the opening tenders committee and to provide AFD with the minutes relating to the opening of tender offers.

- (h) to submit to AFD's written no-objection, prior to their execution, any orders, contracts or amendments thereto in connection with the implementation of the Project.

In the event of direct execution of the works by the Recipient, the Recipient undertakes to submit to AFD's written no-objection the works' plans and estimates.

- (i) to insert in all contracts financed by AFD a clause pursuant to which the contracting company represents that *"it has not engaged in any practice likely to influence the Project's implementation process to the Recipient's detriment, and that there was not and will not be Collusion."*
- (j) to insert in all contracts financed by AFD a clause pursuant to which the contracting company represents that *"the negotiation, awarding and performance of the contract has not given rise and shall not give rise to corruption, as defined in the United Nations Convention Against Corruption of October 31, 2003."*

[The Recipient undertakes to implement all measures necessary to procure that the Implementing Agency assumes and complies with all undertakings made by the Recipient under this Clause 6.6 (*Procurement*).]³⁴

³⁴ Insert only if there is an Implementing Agency.

6.7 Additional Financing

The Recipient undertakes to submit any change in the Financing Plan to AFD's prior written approval and, in the event of additional costs, to organize the financing to cover all additional cost on terms and conditions satisfactory to AFD.

6.8 Implementation of the Project

The Recipient undertakes that contractors participating in the implementation of the Project shall not be listed on any of the Financial Sanctions Lists (notably in connection with the fight against the financing of terrorism).

[The Recipient undertakes not to have contractual relationships with person(s), group(s) or entity(ies) listed on any of the Financial Sanctions Lists (including in particular the fight against terrorism financing).]³⁵

The Recipient undertakes not to purchase or supply any equipment or to perform any activity in any sector under embargo by:

- the United Nations,
- the European Union,
- France.

6.9 Licit Origin of the Funds

The Recipient undertakes to ensure that the funds invested in the Project, other than funds provided by the government, are not of illicit origin under French law, including, but not limited to, that they are not linked to drug trafficking, fraud on the financial interests of the European Communities, corruption, organised crime or the financing of terrorism.

[The Recipient undertakes that i) neither its share capital, ii) nor all funds invested in the Project are of illicit origin under French law, including, but not limited to, that they are not linked to drug trafficking, fraud on the financial interests of the European Communities, corruption, organised crime or the financing of terrorism.]³⁶

The Recipient undertakes to ensure that the said funds are not of illicit origin under its own applicable law.

In all circumstances, the Recipient undertakes to promptly notify AFD in the event that information comes to the Recipient that puts under suspicion the origin of said funds.

6.10 No Corruption

The Recipient represents that the Project (including the negotiation, award and performance of contracts financed with the Grant) has not given rise to Corruption.

³⁵ Insert and delete the previous paragraph when the Recipient is a company or a Bank/financial institution. Moreover, in this case, replace the title of clause 6.8 "Implementation of the Project" with "Business Relationships".

³⁶ Insert and delete the previous paragraph when the Recipient is a company or a Bank/financial institution.

6.11 Environmental and Social Liability

OPTION 1: To be inserted if the Recipient is the State:

In order to promote sustainable development, the Parties agree that it is necessary to encourage compliance with internationally recognised environmental and social standards, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties.

To that effect, the Recipient undertakes in connection with the Project:

- (a) to insert in the tender specifications and procurement contracts a clause requiring companies to undertake and to procure that their sub-contractors, if any, undertake to comply with internationally recognised environmental and social standards consistent with the laws and regulations applicable in the jurisdiction of the implementation of the Project. AFD reserves the right to request a report from the Recipient with respect to the environmental and social aspects of the Project's implementation.
- (b) to implement specific impact mitigation measures for the Project, as set forth in connection with the Project's environmental and social risks management policy, i.e:
 - (i) *(for a class A project)* the measures described in the environmental and social management plan (ESMP) attached as Schedule 5 (*Mitigation measures within the context of the environmental and social risks management policy*);
 - (ii) *(for a class B project)* the measures set forth in the environmental and social impact specifications attached as Schedule 5 (*Mitigation measures within the context of the environmental and social risks management policy*)³⁷.
- (c) to require that the contractors selected for the implementation of the Project apply these mitigation measures and procure that their subcontractors, if any, comply with all these measures, and in case of failure to implement these mitigation measures, take all appropriate measures to remedy such failure; and
- (d) to provide AFD with [annual] [biannual] progress reports with respect to the ESMP implementation.³⁸

OPTION 2 : To be inserted (and OPTION 1 and 3 deleted) if the Recipient is a public entity, a local authority, a company or a NGO (partnership, foundation or other):

In order to promote sustainable development, the Parties agree that it is necessary to encourage compliance with internationally recognised environmental and social

³⁷ When the ESMP is not finalized on the Signing Date, delivery of the ESMP shall be a condition precedent for first drawing, and the Recipient shall undertake to implement the ESMP and to provide AFD with progress reports.

³⁸ Insert only for class A project.

standards, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties.

To that effect, the Recipient undertakes:

In its business operation:

- a. to comply with national and international environmental and labour standards, in a manner consistent with laws and regulations applicable in the jurisdiction of implementation of the Project, including the fundamental treaties of the International Labour Organisation (ILO) and international environmental treaties.

In connection with the Project:

- b. to insert in procurement contracts and, where applicable, in tender specifications, a clause requiring companies to undertake to comply with national and international environmental and labour standards, in a manner consistent with laws and regulations applicable in the jurisdiction of implementation of the Project. This undertaking shall apply to the Recipient's sub-contractors, if any. AFD reserves the right to request a report from the Recipient on the environmental and social aspects of the Project's implementation;
- c. to implement specific impact mitigation measures for the Project, as set out in connection with the Project's environmental and social risks management policy, i.e:
 - (i) (***For class A project***) the measures described in the environmental and social management plan (ESMP) attached as Schedule 5 (*Mitigation measures within the context of the environmental and social risks management policy*);
 - (ii) (***For class B project***) the measures set forth in the environmental and social impact specifications attached as Schedule 5 (*Mitigation measures within the context of the environmental and social risks management policy*)³⁹.
- d. to require that the contractors selected for the implementation of the Project comply with these mitigation measures and procure that their subcontractors, if any, comply with these measures, and in case of failure to implement these mitigation measures, take all appropriate measures to remedy such failure; and
- e. to provide AFD with [annual] [biannual] progress reports with respect to ESMP implementation.⁴⁰

³⁹ When the ESMP is not finalized on the Signing Date, delivery of the ESMP shall be a condition precedent for first drawing, and the Recipient shall undertake to implement the ESMP and to provide AFD with progress reports.

⁴⁰ Insert for class A Project. Cross out "annual" or "biannual".

OPTION 3 : Option to be used when the Recipient is a bank/financial institution.
(OPTION 1 and 2 shall be deleted):

In order to promote sustainable development, the Parties agree that it is necessary to ensure compliance with internationally recognised environmental protection and labour standards applicable in the Recipient's jurisdiction, including the fundamental treaties of the International Labour Organisation (ILO) and international treaties with respect to environmental matters.

To that effect, the Recipient undertakes:

- (i) to carry out its business pursuant to laws and regulations applicable in the jurisdiction of implementation of the Project and to comply with international standards and regulations set out in the preceding paragraph; and
- (ii) to require its Clients Beneficiaries to comply with all standards and regulations set out in the preceding paragraph in the operation of their businesses.

Sub-option 1: AFD considers that the bank's/financial institution's environmental and social liability policy (ESL) is satisfactory

In order to comply with above-mentioned environmental and social standards, the Recipient undertakes to comply with its environmental and social responsibility policy including:

- an exclusion list setting forth the projects that the Recipient undertakes not to finance;
- a process regarding environmental and social risk management for project financed by the Recipient; and
- an in-house social liability process (hereinafter "ISL")

Furthermore, the Recipient undertakes to provide AFD on each anniversary date of the Agreement with a progress report regarding its environmental and social liability policy.

Sub-option 2: AFD considers that the bank's/financial institution's environmental and social liability policy (ESL) needs to be elaborated or improved

The Recipient undertakes:

- to elaborate and implement within two (2) years from the Signing Date of the Agreement, environmental and social liability policy in accordance with principles set forth in the ESAP attached as Schedule 5 (*Environmental and Social Action Plan*).

or

- to improve within eighteen (18) months from the Signing Date, environmental and social liability policy in accordance with principles set forth in the ESAP attached as Schedule 5 (*Environmental and Social Action Plan*).⁴¹

Furthermore, the Recipient undertakes to provide AFD on each anniversary date of the Agreement with a progress report regarding its environmental and social liability policy together with next steps schedule.

6.12 Insurance

The Recipient undertakes to insure all property financed with funds from the Grant against the main risks to which the implementation and operation of the Project are likely to be exposed.

The Recipient undertakes to assign to AFD, if so requested by AFD, any proceeds of the insurance subscribed by the Recipient or on the Recipient's behalf by contractors participating in the execution of the Project.

6.13 Financial Ratios⁴²

The Recipient undertakes to comply with the following financial ratios [●].

6.14 [On-granting / On-lending] Agreement – Monitoring of [Final Recipient] [Final Beneficiary]⁴³

The Recipient undertakes:

- (a) to ensure that the [On-granting / On-lending] Agreement includes, *inter alia*, all undertakings made by the Recipient on behalf of the [Final Recipient] [Final Beneficiary] under the Agreement, including, but not limited to, the undertakings of Clause 6 (*Undertakings*) and 7 (*Information undertakings*) of the Agreement [as well as the powers of attorney granted to the [Final Recipient] [Final Beneficiary] to act on behalf and for the account of the Recipient, notably to request drawdowns];
- (b) to systematically collect and make available to AFD the details of individuals (name, nationality, address) and/or legal entities (company name, registered office, names of owners/partners/shareholders) to which the funds are [on-granted / on-lent];
- (c) to provide AFD with all data relating to the [On-granting / On-lending] [(including the collection status of any On-lending)]⁴⁴ to be recorded in the books of the [Final Recipient] [Final Beneficiary];

⁴¹ When the ESAP is not finalized on the Signing Date, delivery of the ESAP shall be a condition precedent for first drawing, and the Recipient shall undertake to implement the ESAP and to provide AFD with progress reports.

⁴² Undertaking applicable when the Recipient is a company, a NGO or a bank/financial institution.

⁴³ Delete when there is no On-granting or On-lending.

⁴⁴ Delete in case of On-granting.

- (d) [to submit to AFD's approval the allocation of proceeds from the repayment by the Final Beneficiary to the Recipient of the Grant on-lent to the Final Beneficiary;]⁴⁵
- (e) to ensure that the [Final Recipient] [Final Beneficiary] fulfils its obligations under the [On-granting / On-lending] Agreement and uses the [on-granted / on-lent] funds exclusively to finance the Project as provided for in the Agreement;
 - (i) [to procure that the [Final Recipient] [Final Beneficiary] insures the assets financed with funds from the Grant against the main risks to which the execution and operation of the Project are likely to be exposed]
 - (ii) [to procure that the [Final Recipient] [Final Beneficiary] complies with the following financial ratios [●] and undertakes to [●].]⁴⁶

6.15 [Prevention of Money Laundering and Financing of Terrorism⁴⁷

The Recipient undertakes for the entire term of the Grant to use in its dealings with clients procedures consistent with the duty of vigilance prescribed by FATF standards.]

[Other undertakings may be added depending on the Project and/or the Recipient]

7. INFORMATION UNDERTAKINGS

The undertakings in this Clause 7 (*Information Undertakings*) shall remain in force from the Signing Date and during the entire term of the Agreement.

7.1 Progress Report

Until the Technical Completion Date, the Recipient shall provide AFD with a technical and financial progress report relating to the execution of the Project, at the end of each [quarter/half year/year].

Within three (3) months after the Technical Completion Date, the Recipient shall deliver a Project completion report to AFD.

⁴⁵ Insert only in case of On-lending.

⁴⁶ Undertaking applicable when the Recipient is a company, a NGO or a bank/financial institution.

⁴⁷ Insert only when the Recipient is a bank/financial institution.

7.2 Co-Financing⁴⁸

The Recipient shall promptly notify AFD if any Co-Financing is cancelled in whole or in part, or if any Co-Financing is prepaid.

7.3 Miscellaneous Information

The Recipient shall notify AFD:

- (a) immediately after becoming aware thereof, of any event causing or likely to cause a Material Adverse Effect, the nature of such event and all the actions taken, as the case may be, to remedy it;
- (b) as promptly as possible following its occurrence, of any incident or accident directly related to the implementation of the Project which might have a significant effect on the environment or on the work conditions of its employees or its contracting parties working for the implementation of the Project, the nature of such incident or accident and all the actions taken or to be taken, as the case may be, by the Recipient to remedy it;
- (c) as promptly as possible, of any decision or event which might affect the organization, completion or continuance of the Project;
- (d) for the entire period in which services are performed, including studies and audits, if any, of the interim and final reports prepared by the service providers and, following the performance of work, a general completion report;
- (e) for the entire period of time during which Services are performed, of the interim and final reports prepared by the service providers and/or the Operator(s) and, following the performance of work, a general completion report;
- (f) as promptly as possible, of any other information or evidence concerning the performance of the contracts and Project Documents which AFD may reasonably request;
- (g) of any transaction which might result in a transfer of ownership of five per cent (5%) or more of its share capital, or in a direct or indirect change of Control.⁴⁹

7.4 Corporate and Financial Information

The Recipient undertakes to:

- (i) inform AFD of any amendments to its statutory documents which must be published pursuant to the law;
- (ii) provide AFD with its annual financial and budgetary documents as soon as they are approved, as well as all information AFD may reasonably request concerning the Recipient's financial position;

⁴⁸ Delete when there is no co-financing.

⁴⁹ Delete when the Recipient is the State, a local authority or a NGO.

- (iii) provide AFD, upon request, with the minutes and reports of its board meetings and, where applicable, auditors' reports and financial audit reports or any reports on performance and control of the Recipient's budget and finance.

7.5 Information Concerning the [Final Recipient] [Final Beneficiary] ⁵⁰

The Recipient undertakes to take all necessary measures to procure that, during the Project's implementation and operation, the [Final Recipient] [Final Beneficiary]:

- (i) provides AFD with its annual financial and budgetary documents as soon as they are approved, as well as all information AFD may reasonably request concerning the [Final Recipient] [Final Beneficiary]'s financial position;
- (ii) provides AFD, upon request, with the minutes and reports of its board meetings and, where applicable, auditors' reports and financial audit reports or reports on the performance and control of the [Final Recipient] [Final Beneficiary]'s budget and finance;
- (iii) notifies AFD of any transaction which might result in a transfer of ownership of five per cent (5%) or more of its share capital or in a direct or indirect change of Control.⁵¹

[Other undertakings may be added depending on the Project and/of the Recipient]

8. INCIDENTAL EXPENSES - REGISTRATION

Incidental expenses to be paid by the Recipient shall include all expenses and costs other than those reasonably incurred in connection with the negotiation, drafting, execution and performance of the Agreement, such as (i) lawyers' fees, if any, (ii) registration duties if registration is required by one of the Parties, and all similar taxes to which the Agreement may be subject, as well as, where applicable, (iii) fees and expenses for the transfer of funds from Paris to any other place as agreed with AFD.

Any incidental costs paid by AFD shall be considered part of the Grant and shall be charged against the Grant's available balance.

9. MISCELLANEOUS

9.1 Language

The language of the Agreement is English. If a translation is made thereof, only the English version shall be deemed authentic in the event of conflicting interpretations of the Agreement's provisions or disputes between the Parties.

All communication or document provided under or in connection with this Agreement shall be written in English.

⁵⁰ Delete when there is no On-granting or On-lending.

⁵¹ Delete when the Recipient is the State, a local authority or a NGO.

If such communication or document is not written in English and if AFD so requests, a certified English translation shall be attached and, in this event, the English translation shall prevail, except if the relevant document is a legal text or any other official document.

9.2 Partial Invalidity

If, at any time, any provision of the Agreement is or becomes invalid, the validity of the other provisions under the Agreement shall not be affected.

The invalidity of a provision under any law of a jurisdiction shall not affect its validity under the law of another jurisdiction.

9.3 No Waiver

No failure to exercise, nor delay in exercising, on the part of the Lender, any right under this Agreement shall operate as a waiver to exercise such right.

No partial exercise of a right shall prevent any further exercise of such right, nor more generally the exercise of rights and remedies provided by law.

The rights and remedies set forth in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

9.4 Legal Value

The Schedules hereto and the recitals hereof are part of the entire Agreement and have the same legal value.

9.5 Entire Agreement

As of the Signing Date, the Agreement constitutes the entire agreement between the Parties relating to the purpose hereof, and supersedes and replaces all previous documents, agreements or understandings that could have been exchanged or communicated as part of the negotiation of the Agreement.

9.6 Amendment

No provision of the Agreement shall be amended, unless such amendment is expressly agreed in writing between the Parties.

9.7 Confidentiality

Notwithstanding any existing confidentiality agreement, AFD may disclose all information or document in relation to the Project (i) to its auditors, counsels, rating agencies, and (ii) to any person or entity for the purpose of taking any protective measures or protecting the rights of AFD under the Agreement.

10. NOTICES

10.1 Written Notices

Any notice, request or other communication to be given or made under this Agreement or relating to it shall be made in writing and, except anything to the contrary herein, any such communication may be delivered by facsimile or by letter to the Party's following address and number:

To the Recipient:

[RECIPIENT]

Address: [●]

Telephone: [●]

Facsimile: [●]

Attention: [●]

To AFD:

AFD PARIS HEAD OFFICE

Address: 5, rue Roland Barthes – 75598 Cedex 12

Telephone: [●]

Facsimile: [●]

Attention: [●]

With copy to:

AFD [insert the relevant country] OFFICE

Address: [●]

Telephone: [●]

Facsimile: [●]

Attention: [●]

or at such other address, facsimile or department or responsible person as a Party notifies to the other Party subject to notice of at least five (5) Business Days.

10.2 Receipt

Any notice, request or communication made or any document send by a person to another under or relating to the Agreement shall be effective:

- (i) for a facsimile, when it is received in a readable form; and
- (ii) for letter when it is deposited at the correct address;

and, in the event a person or a department has been specified, on condition that the communication is addressed to the relevant person or department.

10.3 Electronic Communications

- (a) Any communication made under or in connection with this Agreement may be made by electronic mail or other electronic means if the Parties :
 - (i) agree on such communication, unless and until notified to the contrary;
 - (ii) inform each other in writing of their electronic mail address and /or provide any other contact information required to enable the information exchange by that mean; and
 - (iii) notify each other of any change to their address or any other contact information provided by them.
- (b) Any electronic communication made between the Parties will be effective only upon receipt in a readable form.

11. EFFECTIVENESS – TERM – TERMINATION

- 11.1 The Agreement shall become effective on the Signing Date [provided that any formalities required by the laws and regulations of the Recipient's jurisdiction to ensure the validity of the Agreement have been fulfilled in a manner satisfactory to AFD]⁵² and shall remain in full force and effect for a term of [●] years from its Signing Date.
- 11.2 AFD reserves the right to terminate the Agreement without formalities in the event that the conditions precedent to drawdowns have not been fulfilled within eighteen (18) months from the date the Grant was extended, i.e. the date of the decision referred to in paragraph (C) of the Preamble.
- 11.3 Furthermore, AFD reserves the right to terminate the Agreement if any of the events set forth in Clause 4 (*Postponement or rejection of requests for funds*) occurs.

The Recipient shall be notified by AFD thereof by recorded delivery and undertakes, if so requested by AFD, and by reason of the said breach (or breaches), to repay to AFD some or all of the funds received under the Grant.

12. GOVERNING LAW, JURISDICTION AND CHOICE OF RESIDENCE

12.1 Governing Law

This Agreement is governed by French law.

⁵² Insert when the Recipient is a State or local authority.

12.2 Jurisdiction

Any dispute arising under the Agreement or related thereto shall be referred to the courts having jurisdiction in Paris.

12.3 Choice of domicile

Without prejudice to applicable law and regulations, the Recipient irrevocably chooses its registered office as its address indicated in Clause 10.1 (*Written notices*) and AFD at its address indicated in Clause 10.1 (*Written notices*), for the service of judicial and extrajudicial documents relating to the aforementioned actions or proceedings.

13. [CAISSE AUTONOME D'AMORTISSEMENT]

[An original copy of the Agreement shall be delivered to the *Caisse Autonome d'Amortissement* of [●], with the understanding that the Recipient shall fulfil the formalities required by the *Caisse Autonome* to monitor flows of funds in its books.]⁵³

Executed⁵⁴ in [*number in words*] ([●]) original copies, at [●], on [●].

⁵³ If applicable.

⁵⁴ Two original copies for AFD + the number of original copies required by the Recipient + if necessary, one copy for the *Caisse Autonome d'Amortissement* + one copy for registration purposes, if required by local law.

THE RECIPIENT

[INSERT NAME OF THE RECIPIENT]

Represented by:

AGENCE FRANÇAISE DE DEVELOPPEMENT

Represented by :

His Excellency Mr. [•], French Ambassador, Co-Signatory⁵⁵.

⁵⁵ To be replaced by « Mrs. or Mr. Minister [•], Co-Signatory », when the Agreement is signed by a French Minister.

SCHEDULE 1 - A - DEFINITIONS

Agreement	means this financing agreement, including its recitals, clauses, schedules, and, as the case may be, any future amendments.
Authority(ies)	means any government or any body, department, commission exercising a public prerogative, administration, court, agency or state, governmental, administrative, tax or judicial entity.
Authorization(s)	means all consents, registrations, filings, conventions, certificates, authorizations, approvals, permits and/or mandates, or any exemptions thereof, obtained from or provided by an Authority, whether granted by means of an explicit act or due to an absence of answer within a defined time limit.
Client(s) Beneficiary(ies)	means each natural or legal person who is a customer of the Recipient and is the recipient of one or more loans or credit facilities.
Co-Financier(s)⁵⁶	<p>means the co-financiers participating in the financing of the Project, i.e.:</p> <p>[●] for an amount (known or planned) of [<i>amount in words</i>] ([●] <i>amount in numbers</i>) [<i>currency</i>]</p> <p>or, individually, one of them.</p>
Co-Financing⁵⁷	means, collectively [<i>[●] insert the Grants or co-financed facilities</i>] and individually each of them.
Collusion	<p>means concerted action, agreements, express or implied collusion or alliances, including through the intermediary of an affiliate operating in any country whatsoever, intended or likely to prevent, restrain or distort competition in a market, including by:</p> <ul style="list-style-type: none">- restricting access to the market or the free play of competition by other businesses;- impeding the determination of free market prices by artificially raising or lowering them;- limiting or controlling production, outlets, capital expenditures or technical advances;- allocating markets and supply sources.

⁵⁶ Delete when there is no Co-Financiers.

⁵⁷ Delete when there is no co-financing.

Control means a direct or indirect holding by any person or entity of a portion of a company's share capital granting it a majority of the voting rights at that company's general meetings.

Corruption means the following acts:

- the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage of any nature, for the official himself or herself or another person or entity, in order that the official acts or refrains from acting in the exercise of his or her official duties;
- the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage of any nature, for the official himself or herself or another person or entity, in order that the official acts or refrains from acting in the exercise of his or her official duties.

ESMP⁵⁸ means the Environmental and/or Social Management Plan attached in the Schedule 5 hereof. The ESMP is an operating document setting forth all measures aimed at mitigating or compensating the Project's negative impacts, the following up measures, and the institutional arrangements for their implementation.

ESAP means the environmental and Social Action plan attached as Schedule 5 (*Environmental and Social Action Plan*), i.e., the operating document setting forth the process, schedule and human and financial resources allocated by the Recipient for its environmental and Social Action in order to set up or improve its exclusion list, its way of managing environmental and social risks with respect to financed projects and its in-house social liability policy (ISL).

Euro(s) or EUR means the single European currency of member States of the European Economic and Monetary Union, including France, and having legal tender in such States.

Final [Recipient]/ or [Beneficiary]⁵⁹ means [●], which is responsible for the implementation of the Project on its own name and in its own behalf as owner and principal in respect of capital expenditures financed with the Grant funds [on-granted] [on-lent] to it by the Recipient.

Financial Sanctions Lists means the list of persons, groups or entities which are subject to United Nations, European Union or French financial sanction.

For information purposes only and not to the benefit of the

⁵⁸ Delete when no class A Project.
⁵⁹ Delete when there is no On-granting or On-lending.

Recipient (who may not take any advantage whatsoever of or rely on the references listed below and provided by AFD):

- **As regards the United Nations**, the lists may be consulted at the following address :

<http://www.un.org/french/sc/committees/1267/consolist.shtml>
1 (Taliban/AlQaida),
<http://www.un.org/french/sc/committees/1737/index.shtml>
(Iran) and
<http://www.un.org/Docs/sc/committees/INTRO.htm>;

- **As regards the European Union**, the lists may be consulted at the following address:

http://ec.europa.eu/external_relations/cfsp/sanctions/list/consol-list.htm

- **As regard France**, lists the lists may be consulted at the following address:

http://www.minefe.gouv.fr/directions_services/dgtpe/sanctions/sanctionsliste_nationale.php

Financing Documents⁶⁰ means the Agreement, the [On-granting / On-lending] Agreement as well as any documents directly relating thereto.

Financing Plan means the financing plan of the Project, attached hereto as Schedule 3 (*Financing Plan*).

Grant means the financing granted by AFD in accordance with this Agreement in a maximum amount set forth in Clause 2.1 (*Amount*).

Implementing Agency⁶¹ means [●], in charge of implementing the Project in the name and on behalf of the Recipient [Final Recipient] [Final Beneficiary] and authorized by the Recipient [Final Recipient] [Final Beneficiary]] for that purpose.

Material Adverse Effect means any event or circumstance adversely and durably affecting the Recipient, which is likely to affect the Recipient's ability to fulfil any of its obligations under the Agreement.

[On-granting/On-lending] Agreement(s)⁶² means the agreement(s) setting forth the terms and conditions on which the Recipient shall [on-grant/on-lend] part or all of the funds from the Facility to the [Final

⁶⁰ Delete when there is no On-granting or On-lending.

⁶¹ Delete when there is no Implementing Agency.

	Recipient] [Final Beneficiary].
Operator(s) ⁶³	means the entity or entities selected by the Recipient [<i>or</i> by the Final Recipient] [Final Beneficiary] ⁶⁴ to perform some or all of the technical assistance services relating to the Project, as set out in the outline referred to in Schedule 2 (<i>Project Description</i>).
Operator's Contract	means any of the contracts for services executed between one or more Operators and the Recipient [<i>or</i> the Final Recipient] [Final Beneficiary] ⁶⁵ in connection with the Project.
Procurement Plan	means the procurement plan to be set up by the Recipient and providing at least for (i) contracts for supply, works and/or services necessary to the implementation of the Project on a minimum schedule of eighteen (18) months (as from the beginning of the implementation of the Project) and (b) the proposed methods for the award of such contracts (procurement rules, deadline for the presentation of offers, name and address of the persons or entities to be contacted) which should allow AFD to deliver a prior notification to the Development Assistance Committee of the OECD no later than thirty (30) calendar days before the beginning of the period of presentation of offers (DAC Recommendation on Untying Official Development Assistance of May 14, 2001).
Project	means the project as described in Schedule 2 (<i>Project Description</i>).
Project Authorizations	means the Authorizations required (i) by the Recipient [<i>or</i> [Final Recipient] [Final Beneficiary]] ⁶⁶ to implement the Project and execute all Project Documents to which it is a party, exercise its rights and perform its obligations relating thereto and (ii) for the Project Documents to which the Recipient [<i>or</i> [Final Recipient] [Final Beneficiary]] ⁶⁷ is a party to be admissible as evidence in the courts of the country where the Recipient has its registered office or before the competent arbitration boards or arbitral tribunals.
Project Documents	means all documents, including contractual documents, delivered or executed by the Recipient [<i>or</i> [Final Recipient] [Final Beneficiary]] in connection with the Project [<i>i.e.</i> in particular, the following documents: the Implementing Agency assignment/agreement between the Recipient and [●], the project management agreement between the

⁶² Delete when there is no On-granting or On-lending.

⁶³ Insert only in case of FERC or technical assistance with respect to the Project.

⁶⁴ Delete when there is no On-granting or On-lending.

⁶⁵ Delete when there is no On-granting or On-lending.

⁶⁶ Delete when there is no On-granting or On-lending.

⁶⁷ Delete when there is no On-granting or On-lending.

Recipient [or [Final Recipient] [Final Beneficiary]] and [●], the Operator's Contract or Contracts between the Recipient [or [Final Recipient] [Final Beneficiary]] and [●], [● *other agreements/documents to be specified*]]

Public Official

means:

- any holder of legislative, executive, administrative or judicial office appointed or elected, serving on a permanent basis or otherwise, paid or unpaid, regardless of rank;
- any other person exercising a public function, including for a public agency or company, or providing a public service;
- any other person defined as a public official under the domestic law of the Recipient's jurisdiction.

Schedule

means a schedule or schedules to this Agreement

Service(s)

means the studies and/or technical assistance to be provided in connection with the Project, as set out in Schedule 2 (*Project Description*).

Signing Date

means the signing date of this Agreement.

Technical Completion Date

means the contemplated date for the technical completion of the Project, i.e. [●].

SCHEDULE 1 - B - INTERPRETATION

- (a) “assets” includes present and future properties, revenues and rights of any nature;
- (b) any reference to the “Recipient”, a “Party” or the “Agency” includes its successors, assigns and beneficiaries;
- (c) any reference to the Agreement, to any other agreement or instrument is a reference to the Agreement, or to such agreement or instrument as amended, restated or supplemented and includes, if applicable, any instrument which replaces it through novation, in accordance with the Agreement;
- (d) a “guarantee” means any security or any guarantee including autonomous and irrevocable guarantee of payment;
- (e) a “person” includes any person, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal personality);
- (f) a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, direction, or any division of any other authority or organization;
- (g) any reference to a provision of law includes a reference to that provision as amended;
- (h) unless otherwise provided, any reference to a time of day is a reference to Paris time;
- (i) section, Clause and Schedule headings are for ease of reference only and shall not influence the interpretation of this Agreement;
- (j) unless otherwise provided, a term used in any other document related to the Agreement or in any notice given under or in connection with the Agreement shall have the meaning ascribed to it in this Agreement;
- (k) references to a Clause or schedule shall be a reference to a Clause or Schedule of this Agreement.

SCHEDULE 2 - PROJECT DESCRIPTION⁶⁸

⁶⁸ The Project description must set forth its main features (component, duration, participants and operating methods) without being too precise in order to avoid interfering with amendments in case of insignificant changes. An indicative projected drawdown schedule must be included.

SCHEDULE 3 - FINANCING PLAN

SCHEDULE 4 - CONDITIONS PRECEDENT⁶⁹

Part I – Conditions Precedent to be satisfied on the signing date

Delivery by the Recipient to AFD of a copy of the resolutions of the Recipient's competent bodies, certified true by the Recipient, approving the terms of the Agreement and authorizing a specified person or persons to execute it on its behalf.

[Delivery by the Recipient to AFD of the following documents⁷⁰:

- (i) a certified true copy of each (a) the memorandum and articles of association and (b) the certificate of incorporation of the Recipient;
- (ii) an original or a certified true copy of the Recipient's registration (equivalent to French Kbis);
- (iii) a certified true copy of the resolution(s) of the Recipient's competent body authorising the Recipient to enter into the Agreement and authorising one or more than one person or persons to execute those documents in its name and on its behalf.]

Part II- Conditions Precedent to the first drawdown

- (a) Evidence of any filing or registration, deposit or publicity requirements of the Agreement and of the payment of any stamp duty, registration fee or similar duty concerning the Agreement, if applicable.
- (b) Delivery by the Recipient to AFD of the Project Documents:
 - (i) a certified true copy, issued by an authorized representative of the Recipient, of any of the Project Documents duly signed by each of the Parties;
 - (ii) evidence of the fulfilment of the relevant formalities provided by the Project Documents in order to ensure that they enter into force and become enforceable against third parties; and
 - (iii) evidence of the granting of any Authorization which AFD considers to be necessary or preferable to certify the validity of the Project Documents or to carry out the operations set forth therein and delivery of a certified true copy of any relevant Authorization.
- (c) Delivery by the Recipient of a certificate issued by an authorized signatory of the Recipient listing the person(s) authorized to sign, on behalf of the Recipient, the

⁶⁹ These conditions precedent list must be reviewed according to the Project, in particular in case of budget financing. Any other relevant conditions precedent may be included.

⁷⁰ Insert and delete the previous paragraph when the Recipient is a company, a NGO or a bank/financial institution.

drawdown requests and any certificate under this Agreement and to take all measures or sign all other authorized or required documents on behalf of the Recipient under this Agreement, as well as the certified form of signature of such person(s).

- (d) Prior AFD's no-objection to the provisions of the Operator's Contract(s) and delivery to AFD of an executed copy thereof.
- (e) Delivery by the Recipient to AFD of the finalized ESMP which shall have been previously submitted to the AFD's no-objection⁷¹.
- (f) Prior AFD's no-objection to the provisions of the [On-granting / On-lending] Agreement and delivery to AFD of an executed copy thereof.⁷²
- (g) Prior AFD's no-objection to the provisions of the agency agreement between the Recipient and the Implementing Agency and delivery to AFD of an executed copy thereof.⁷³
- (h) Delivery to AFD of the documents attesting that the governing bodies of the Co-Financiers have agreed to extend financial assistance as set out in the Financing Plan.⁷⁴
- (i) Delivery to and approval by AFD of the ESAP⁷⁵

Part III – Conditions Precedent to each Drawdown (including the first Drawdown)

- (a) Delivery to AFD of the contracts, order or procurement letters and, where applicable, plans and estimates previously submitted to AFD pursuant to the provisions of Clause 6.6 (*Procurement*), relating to the requested drawdowns, as well as the supporting documents as indicated in Clause 3.2 (*Modes of payment*).
- (b) Delivery to AFD of a progress report with respect to the Recipient's environmental and social risk management policies together with the schedule for the next steps.⁷⁶

[Other conditions precedent may be added depending on the Project]

⁷¹ Insert only for Class A Projects or if the ESMP has not been delivered prior the Signing Date.

⁷² Delete when there is no On-granting or On-lending. In case of On-granting or On-lending, a copy of the On-granting or On-lending Agreement shall be provided to TJF/JUR contract monitoring department.

⁷³ Delete when there is no Implementing Agency. When there is an Implementing Agency, the Implementing Agency Agreement must be provided to TJF/JUR contract monitoring department.

⁷⁴ Delete when there is no Co-Financiers.

⁷⁵ Insert when the Recipient is a bank/financial institution and the ESAP is requested or the ESAP approved by AFD has not been delivered prior to the Signing Date.

⁷⁶ Insert when the Recipient is a bank/financial institution and the ESAP is not requested or the ESAP approved by AFD has been delivered prior to the Signing Date.

**SCHEDULE 5 - MITIGATION MEASURES WITHIN THE CONTEXT OF THE ENVIRONMENTAL
AND SOCIAL RISKS MANAGEMENT POLICY**

For Class A Projects: Append the ESMP

For Class B Projects: Append the notice of environmental and social impact