Европейска инвестиционна банка
Evropská investiční banka
Den Europæiske Investeringsbank
Europäische Investitionsbank
Euroopa Investeerimispank
Ευρωπαϊκή Τράπεζα Επενδύσεων
European Investment Bank
Banco Europeo de Inversiones
Banque européenne d'investissement
An Banc Eorpach Infheistíochta
Europska investicijska banka
Banca europea per gli investimenti
Eiropas Investīciju banka
Europos investicijų bankas
Európai Beruházási Bank
Bank Ewropew tal-Investiment
Europese Investeringsbank
Europejski Bank Inwestycyjny
Banco Europeu de Investimento
Banca Europeană de Investiții
Európska investičná banka
Evropska investicijska banka
Euroopan investointipankki
Europeiska investeringsbanken

BY COURIER AND FAX

Ministry of Finance of Ukraine
12/2 Grusjevskogo Street
Kyiv 01008
Ukraine

<u>**COPY TO**</u>:

Ministry of Economic Development and Trade of Ukraine
12/2 Grusjevskogo Street
Kyiv 01008
(pursuant to the Finance Contract 1 and the Finance Contract 4)

Ministry of Energy and Coal Industry of Ukraine
30, Khreschatyk Street
Kyiv 01601
Ukraine
(pursuant to the Finance Contract 4)

Dnipro City Council
D. Yavornytskoho av. 75
49000, Dnipro
Ukraine
(pursuant to the Finance Contract 3)

the State Road Agency of Ukraine
MSP 03680, 9, Fizkultury Street,
Kyiv 03150
Ukraine
(pursuant to the Finance Contract 1)

EXP.BEI-EIB
B 001727 20.APR.18

Public Joint Stock Company "Ukrtransgaz"
9/1 Kiovskyi Uzviz Street
01021 Kyiv, Ukraine
(pursuant to the Finance Contract 2)

Private Joint Stock Company "Ukrhydroenergo"
07300 Vyshgorod town, Kyiv Region
Ukraine
(pursuant to the Finance Contract 4)

Luxembourg, 16 April 2018

JU OPS/CEE/GG/EP/lf/2018-738
EIB – Corporate Use

<u>Ref</u>:

1. **EUROPEAN ROADS UKRAINE II** (FI N° 26.131, 26.132 Serapis N° 2009 - 0268)
Finance Contract between Ukraine and the Bank dated 27 May 2011 as in force on the Effectiveness Date hereof (the "**Finance Contract 1**")

2. **URENGOY- POMARY- UZHGOROD GAS PIPELINE**
(FI N° 81.420, Serapis N° 2010 - 0598)

Finance Contract between Ukraine and the Bank dated 1 December 2014 as in force on the Effectiveness Date hereof (the "**Finance Contract 2**")

3. **DNIPROPETROVSK METRO CONSTRUCTION COMPLETION PROJECT**
(FI N° 81.423, Serapis N° 2010 - 0492)

Finance Contract between Ukraine and the Bank dated 25 October 2013 as in force on the Effectiveness Date hereof (the "**Finance Contract 3**")

4. **UKRAINE - HYDRO POWER PLANTS REHABILITATION PROJECT**
(FI N° 31.177, Serapis N° 2009 - 0485)

Finance Contract between Ukraine and the Bank dated 21 September 2012 as in force on the Effectiveness Date hereof (the "**Finance Contract 4**")

5. **UKRAINE EARLY RECOVERY PROJECT** (FI N° 84.160, Serapis N° 2014 - 0532)

Finance Contract between Ukraine and the Bank dated 22 December 2014 as in force on the Effectiveness Date hereof (the "**Finance Contract 5**")

6. **PROJECT "UKRAINE MUNICIPAL INFRASTRUCTURE PROGRAMME"**
(FI N° 81.425, Serapis N° 2011 - 0487)

Finance Contract between Ukraine and the Bank dated 23 July 2015 as in force on the Effectiveness Date hereof (the "**Finance Contract 6**")

7. **UKRAINE URBAN PUBLIC TRANSPORT PROJECT**
(FI N° 85.103, Serapis N° 2015 - 0503)

Finance Contract between Ukraine and the Bank dated 11 November 2016
(the "**Finance Contract 7**")

8. **UKRAINE HIGHER EDUCATION PROJECT**
(FI N° 84.172, Serapis N° 2012 - 0493)

Finance Contract between Ukraine and the Bank dated 19 December 2016
(the "**Finance Contract 8**")

9. **UKRAINE RAILWAY MODERNIZATION PROJECT**
(FI N° 81.843, Serapis N° 2012 - 0197)

Finance Contract between Ukraine and the Bank dated 19 December 2016
(the "**Finance Contract 9**")

10. **BESKYD RAILWAY TUNNEL PROJECT**
(FI N° 81.421 (UA), Serapis N° 2011 - 0053)
Guarantee Agreement between Ukraine and the Bank dated 7 May 2014 as in force on the Effectiveness Date hereof (the "**Guarantee Agreement**")

(jointly - the "**Documents**", and each individually – a "**Document**").

AMENDMENT LETTER

Dear Sirs,

Capitalised terms used but not defined in this letter (the "**Amendment Letter**") have the meanings given to them in each Document.

We refer to our recent discussions related to changes to the Documents. We agree to amend the Documents subject to the terms and conditions set out herein.

1. Amendment

In accordance with Article 11.06 (*Amendments*) of the Finance Contract 2, Article 12.05 (*Amendments*) of the Finance Contracts 3 and 4, Article 11.06 (*Amendments*) of the Finance Contracts 5-7, Article 11.6 (*Amendments*) of the Finance Contracts 8 and 9 and Article 6.14 (*Amendments*) of the Guarantee Agreement, the Documents are amended, with effect from the Effectiveness Date, as follows:

(a) In Finance Contract 1 and Finance Contract 2 the following paragraph should be inserted at the end of Article 1.02D (*Disbursement Account*):

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

(b) In Finance Contract 3 and Finance Contract 4 the following paragraph should be inserted at the end of Article 1.02D (*Collection Account*):

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

(c) In Finance Contract 5 and Finance Contract 6 the following paragraph should be inserted at the end of Article 1.02D (*Disbursement Account*):

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

(d) In Article 1.02D (*Disbursement Account*) of Finance Contract 7 and in Article 1.2.D (*Disbursement Account*) of Finance Contract 8, the last paragraph should be replaced by the following wording:

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

(e) In Finance Contract 9 the last paragraph of Article 1.2.D (*Disbursement Account and other Project Accounts*) should be replaced by the following wording:

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

(f) In the Guarantee Agreement new Article 4.3 (*Disbursement Account*) shall be added as follows:

> *"4.3. **Disbursement Account***
>
> *The Guarantor shall ensure that no Ukrainian legislation or regulation (including any regulations of the National Bank of Ukraine) on currency restrictions, licensing or convertibility shall apply to the proceeds of the Loan, including without limitation any payments from any Disbursement Account to contractors duly appointed for the purposes of implementing the Project."*

For avoidance of doubt, all other provisions of the Documents:

(i) remain in full force and effect and valid; and

(ii) apply, without any reservations, waivers or limitations despite the amendments set out herein.

2. Governing Law

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

3. Jurisdiction

Any dispute, disagreement, controversy or claim (together referred to as a "**Dispute**") arising in connection with the existence, validity, interpretation, implementation or termination of this Amendment Letter shall, to the extent possible, be settled amicably by agreement between the Bank and the Borrower/Guarantor through consultations and negotiations. If a Dispute cannot be amicably settled by the Bank and the Borrower/Guarantor within 60 (sixty) days of the notification of the Dispute by either Party, the Dispute shall be settled by final and binding arbitration in accordance with the United Nations Commission on International Trade Law (UNCITRAL) UNCITRAL Arbitration Rules in effect at the date of this Amendment Letter, which rules are deemed to be incorporated by reference into this Article.

The number of arbitrators shall be three. The language of the arbitral procedure shall be English. The arbitration proceedings shall take place in The Hague, the Netherlands.

Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within six months of the constitution of the arbitral tribunal. The tribunal shall render its decision within 60 (sixty) days following the delivery of the final submissions.

Any final award of the tribunal shall be binding from the day it is made, and the Parties hereby waive any right of appeal on the law and/or the merits to any court. Notwithstanding the UNCITRAL Arbitration Rules, the tribunal shall not take or provide and the Borrower/Guarantor shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank.

The Borrower/Guarantor shall abide by and carry out any such award in its territory without delay.

In case of failure by the Borrower/Guarantor to comply with its obligation in the preceding paragraph within 3 months from the date of the award, then, to the extent that the Borrower/Guarantor may in any jurisdiction claim for itself or its assets immunity from suit, enforcement, attachment or other legal process, the Borrower/Guarantor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

4. General

Notwithstanding anything herein to the contrary, nothing in this Amendment Letter or in the agreement constituted by the Borrower's acceptance of it constitutes a waiver, renunciation or other modification of any immunities, privileges or exemptions of the Bank.

No consents, waivers or amendments are given under this Amendment Letter in respect of any breach of, or default (howsoever defined) under any Document which might result from any other circumstance at any time other than in respect of the issues as specifically set out herein.

The agreement of the parties contained in this Amendment Letter shall only apply to the matters specifically referred to herein. Such agreement shall be without prejudice to any rights which the Bank or the Borrower may now or hereafter have in relation to any other circumstances or matters other than the issues as specifically referred to herein (and whether subsisting on the date hereof or otherwise).

No amendment fees will be charged by the Bank for the aforementioned proposed change.

Please indicate your agreement to the above by initialling each page of this Amendment Letter, and countersigning and dating each of the four originals of this Amendment Letter. Please then arrange for the return of two duly signed originals to the Bank by registered mail or courier, together with copies of the signing authorities of those persons signing on behalf of the Borrower, marked for the attention of Mr. Garth Grisbrook.

The amendments set out in this Amendment Letter shall become effective on the date (the "**Effectiveness Date**") the Bank notifies to you in writing that the Amendment Letter has:

(a) been duly signed by all parties hereto; and

(b) been duly ratified, if required under the laws of Ukraine, by the Parliament of Ukraine.

Yours faithfully,

EUROPEAN INVESTMENT BANK

P.P.

L. RAPAILLE
Head of Division

G. GRISBROOK
Head of Unit

Agreed to
for and on behalf of
UKRAINE

Name:
Title:
Date: 07. 02. 2019