Template guarantee agreement for the InvestEU Programme

Indicative main terms and conditions

DISCLAIMER

In any phase of the negotiations prior to entering into a Guarantee Agreement or an amendment thereof with an Implementing Partner, the Commission reserves full discretion as to whether to conclude a Guarantee Agreement or an amendment thereof with an applicant, and no applicant shall have any claim or other right or may expect to ultimately sign a Guarantee Agreement or an amendment thereof as an Implementing Partner. Any negotiation of terms and conditions of the Guarantee Agreement or an amendment thereof (including those included in this template) by no means entails any obligation for the Commission to enter into such Guarantee Agreement or amendment thereof with the relevant applicant.

This Guarantee Agreement template (including the Financial Product model Annexes) has not been adopted or endorsed by the Commission. Any views expressed are the preliminary views of certain Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The terms and conditions reflected in this template provide a basis for negotiations, and thus may be subject to modifications and may be non-exhaustive.

EXPLANATORY NOTES

* This template of the indicative main terms and conditions of the EU Guarantee under the InvestEU Fund and the templates of the product specific terms and conditions (for (i) direct debt products with portfolio FLP coverage, (ii) direct debt products with *pari passu* coverage and (iii) intermediated equity products with *pari passu* coverage) are complementary and should be interpreted together.
* Other types of financial products may be proposed by the applicants in line with the Investment Guidelines. In such case the terms and conditions of such financial products will be negotiated on a case-by-case basis.
* The terms related to State aid shall be adapted to the specific circumstances and shall, in no event, exclude the Implementing Partner’s obligations to comply with relevant State aid rules.
* This template of the indicative main terms and conditions of the EU Guarantee under the InvestEU Fund and the templates of the product specific terms and conditions may be adjusted and complemented in the event that the Implementing Partner is established in a non-euro Member State or that FX provisions are agreed between the Parties.
* Administrative fees of the Implementing Partner might be covered by the EU Guarantee only in duly justified cases in line with Article 18(3) of the InvestEU Regulation and provided that they are performance-based in line with Article 209(2) of the Financial Regulation.
* As a general rule, in order to consider an operation as intermediated financing (and thus as an “Indirect Operation” (as defined in Article 1)), a separate legal entity shall intervene between the Implementing Partner and the Final Recipient in order to provide financing or investment, and a contract shall be concluded to that effect between the Implementing Partner and that separate legal entity (“Financial Intermediary” (as defined in Article 1)) defining the tasks, rights and obligations of the Implementing Partner and the Financial Intermediary. In an Indirect Operation Financial Sub-Intermediaries (as defined in Article 1) can also participate in the implementation chain that are separate legal entities that intervene between a Financial Intermediary and a Final Recipient.
* This template of the indicative main terms and conditions of the EU Guarantee under the InvestEU Fund and the templates of the product specific terms and conditions are applicable for Guarantee Agreements signed in the context of the second call for expression of interest with new Implementing Partners that do not yet have signed a Guarantee Agreement under InvestEU.
* Explanatory footnotes are also added where relevant. Those are marked *N.B.* and will be removed from the actual Guarantee Agreements.

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**[*insert logo of the Implementing Partner on the right*]**

AGREEMENT

between the

EUROPEAN UNION

and the

[*insert name of the Implementing Partner*]

ON THE EU GUARANTEE UNDER THE INVESTEU REGULATION

Dated on ­\_\_\_\_\_\_\_\_

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This Agreement is entered into between:

The **European Union**,

represented by the European Commission, Rue de la Loi 200, B-1049 Brussels, Belgium (the “**Commission**"), which is represented for the purposes of the signature of this Agreement by [*insert first name, LAST NAME, function*],

 the “**EU**” or “**Union**”,

of the one part, and

the **[*insert the name of the Implementing Partner*]**,

established at [*insert address*], which is represented for the purposes of the signature of this Agreement by [*insert first name, LAST NAME, function*],

 the “**Implementing Partner**”,

of the other part,

each a “**Party**” and jointly referred to as the “**Parties**”,

WHEREAS:

1. The InvestEU Regulation (as defined in Article 1) establishes, *inter alia*, the InvestEU Fund (as defined in Article 1) and provides for a guarantee granted by the EU to the implementing partners for financing and investment operations to support the policy objectives of the Union laid down in the InvestEU Regulation.
2. The InvestEU Fund should support policy objectives of the Union by means of Operations (as defined in Article 1) that contribute to (i) the competitiveness of the Union; (ii) growth and employment in the Union economy, the sustainability of the Union economy and its environmental and climate dimension; (iii) the social resilience; (iv) the promotion of scientific and technological advances, of culture, education and training; (v) the integration of the Union capital markets and the strengthening of the internal market; (vi) the promotion of economic, social and territorial cohesion; or (vii) the sustainable and inclusive recovery of the Union economy after the crisis caused by the Covid-19 pandemic, as further specified in particular in recitals 5 to 31 and Articles 3 and 8 of the InvestEU Regulation and in the Investment Guidelines (as defined in Article 1).
3. The Operations should provide additionality and address market failures or sub-optimal investment situations as defined in Annex V to the InvestEU Regulation and comply with the requirements laid down in the InvestEU Regulation as regards eligibility and complementarity to other Union programmes, as further set out in this Agreement. In particular, they should contribute to fulfilling the Union’s commitments to implement the Paris Agreement on Climate Change and the sustainable development goals set in the United Nations 2030 Agenda for Sustainable Development as well as the objective of EU climate neutrality by 2050 and the Union’s 2030 climate targets in line with the Sustainability Proofing Guidance, the Climate and Environmental Tracking Guidance (each as defined in Article 1) and the Investment Guidelines.
4. The Operations may also contribute to the Just Transition Scheme (as defined in Article 1) established under the InvestEU Fund in order to address social, economic and environmental consequences of reaching EU climate neutrality by 2050 and achieving the Union’s 2030 climate target. The Just Transition Scheme focuses on economically viable investments aligned with just transition objectives outlined in the Territorial Just Transition Plans (as defined in Article 1). These investments shall be located in or benefiting in a key manner territories identified in the Territorial Just Transition Plans.
5. Strategic investments, particularly in view of the green and digital transitions and the need to enhance competitiveness and resilience, promote entrepreneurship and job creation and strengthen strategic value chains, may be implemented under any of the Policy Windows (as defined in Article 1).
6. Transparent communication towards the public on the Operations should be put in place.
7. [*insert* *recital on the Implementing Partner, priorities, nature of Financial Products*]
8. The Implementing Partner should ensure that all Financial Products comply with the applicable EU State aid rules and follow all the relevant State aid procedures as set out in Article [⚫] of Annex I[[1]](#footnote-2) on State aid compliance.
9. The Commission selects its implementing partners other than the European Investment Bank Group in line with Article 15 of the InvestEU Regulation. On 25 October 2023, the Commission launched the second call for expression of interest to select implementing partners under the InvestEU Fund to implement the EU Compartment (as defined in Article 1). This call for expression of interest was published for an amount of up to EUR 1 600 000 000 of the EU guarantee within the meaning of Article 2(2) of the InvestEU Regulation.
10. The Implementing Partner submitted its application on [*insert date*] and was informed on the result of the selection process on [*insert* *date*]. Consequently, this Agreement has been negotiated to implement the EU Guarantee (as defined in Article 1) by the Implementing Partner. In accordance with Article 13(5) of the InvestEU Regulation, the guarantee under the EU Compartment to be granted to the implementing partners other than the European Investment Bank Group amounts to EUR 6 538 077 519, out of which the amount mentioned in recital 9) was object of the second call for expression of interest. Of this latter amount, EUR [*insert amount*] is granted to the Implementing Partner, as further specified in this Agreement.
11. Additional amount(s) of the EU guarantee within the meaning of Article 2(2) of the InvestEU Regulation may be available to the Implementing Partner through Member State Compartment(s) (as defined in Article 1), through participation of Third Countries, through a possible further selection following the second call for expression of interest or through selection following a possible further call for expression of interest. Such increase of the EU Guarantee may be addressed via an amendment of this Agreement or a separate agreement. In such case certain Articles of this Agreement may need to be amended.
12. [*If applicable*: To ensure that blending operations implemented in accordance with Article 6(1) of the InvestEU Regulation are implemented as smoothly as possible, in a manner that ensures efficient and coherent support for Union policies, the Commission and the Implementing Partner have established a framework for blending arrangements in Article 14.

Under this framework, an EU Sectorial Programme (as defined in Article 1) may provide support which may be combined within the EU Guarantee. Via a Top-Up Annex (as defined in Article 1) a part of the relevant EU Sectorial Programme’s budget is used to contribute to an [FLP of the relevant Portfolio (each as defined in Article 1)] resulting in a full mutualisation of losses from the Top-Up Operations (as defined in Article 1) with losses from the other Operations in the same Portfolio. Blending of the InvestEU Fund support with the support in the form of non-repayable resources or financial instruments from other EU Sectorial Programmes is implemented within “one-stop shop” in indirect management by the Implementing Partner delivering one single financing stream. This approach has the advantage to streamline implementation while reducing the administrative burden. To ensure that the Top-Up Contribution (as defined in Article 1) shall comply with the policy rules of the contributing EU Sectorial Programme the framework set out in Article 14 shall be further complemented with a Top-Up Annex (set out in Annex VIII). This framework may be adjusted or other frameworks may be established as necessary.]

1. In accordance with Article 13(5) of the InvestEU Regulation, the Implementing Partner shall provide a Financial Contribution (as defined in Article 1) as further specified in Article 4.
2. The IP Relevant Governing Body approved on [*insert date*] a Financial Contribution of [*insert amount*] and the signature of this Agreement.
3. The Implementing Partner will contribute through its Operations to the mobilization of EUR 372 000 000 000 of additional investment by all implementing partners as per recital 40 of the InvestEU Regulation.
4. Achievement of the objectives of the InvestEU Fund will be measured by reference to the Key Performance Indicators and Key Monitoring Indicators (each as defined in Article 1) set out in this Agreement.
5. Regular policy dialogue should be put in place between the Commission and the Implementing Partner in order to provide policy steer and to ensure flexibility and responsiveness to potentially changing market and policy needs.
6. The Implementing Partner should regularly monitor and report on activities supported by the InvestEU Fund in accordance with this Agreement.
7. [*If and as applicable:* In order to contribute to the rapid implementation of the InvestEU Fund, the Implementing Partner has signed Transitional Operations (as defined in Article 1), and approved other potential InvestEU Operations between 25 October 2023 and the Effective Date, as listed in Annex XI. Those Transitional Operations and other potential InvestEU Operations, provided that they receive a favourable decision in the policy check procedure and are approved by the Investment Committee (as defined in Article 1), should benefit from the EU Guarantee under the EU Compartment.]
8. This Agreement is the agreement foreseen in Article 17 of the InvestEU Regulation and provides the EU Guarantee under the EU Compartment. [*if applicable,* *insert* *reference to Member State Compartment*]
9. [*If applicable:* In addition, the Commission and the Implementing Partner have entered on [*insert date*] into the Advisory Hub Agreement (as defined in Article 1) to implement Article 25 of the InvestEU Regulation.]
10. [*insert reference to the Implementing Partner’s AML and NCJ policies*]
11. The pillar assessment of the Implementing Partner’s systems, rules and procedures referred to in Article 154 of the Financial Regulation (as defined in Article 1) [*if applicable, specify pillars if only a sub-set of pillars have been assessed*] has been successfully concluded on [*insert date*] *[if applicable, mention supervisory measures agreed*].
12. Should any substantive change be made to the systems, rules or procedures of the Implementing Partner which may impact the reliability of the Commission’s assessment, the Implementing Partner shall inform the Commission without undue delay so that the need for any new assessment can be discussed between the Commission and the Implementing Partner.

NOW THEREFORE, the Parties have agreed as follows:

# Part A – Definitions, Purpose, Tasks and Financial Contribution

1. **Definitions and Interpretation**
	1. Wherever used in this Agreement, the following terms shall have the meanings opposite them:

“**Accounting Officer**” means the person appointed by the Commission for the purpose of Article 77 of the Financial Regulation.

[*if applicable: “***Advisory Hub Agreement**” means the agreement between the Commission and the Implementing Partner on the implementation of the InvestEU Advisory Hub and advisory initiatives dated on [*insert date*] referred to in Article 25(4) of the InvestEU Regulation, as amended, restated, supplemented or substituted from time to time.]

“**Agreement**” means this agreement on the EU Guarantee under the InvestEU Regulation, being a guarantee agreement within the meaning of Article 2(12) of the InvestEU Regulation, as amended, restated, supplemented or substituted from time to time.

“**AML-CFT Policy**” means the Implementing Partner’s policy in respect of money laundering, terrorism financing, tax fraud and tax evasion, as amended, restated, supplemented or substituted from time to time.

“**Approval Period**” means the period starting on the Effective Date and ending on 31 December 2027, without prejudice Article 46.

[*If applicable:*

“**Available Global Cap**” *means as defined in the relevant Financial Product template.*]

“**Business Day**”meansany working day on which the Commission is open for business in Brussels and Luxembourg, and the Implementing Partner is open for business in [*insert seat of the Implementing Partner*].

“**C&E Contribution**“ has the meaning attributed to it in Article 22.

“**Claims Form**” means the quarterly claims form, as set out in Article 16 and substantially in the form as set out in Appendix 1 of Annex V.

“**Climate and Environmental**

**Tracking Guidance**” means the “*Guidance on the InvestEU Programme climate and environmental tracking for implementing partners*” issued in Commission Notice on the InvestEU climate and environmental tracking guidance of 6 May 2021 (C(2021/3316 final)) in accordance with Article 8(7) of the InvestEU Regulation.

“**Climate Contribution**”has the meaning attributed to it in Article 22.

“**Common Provisioning Fund**” means the fund established in accordance with Article 212 of the Financial Regulation.

[*if applicable:*

“**Contribution Agreement**” has the meaning attributed to it in Article 2(8) of the InvestEU Regulation.[[2]](#footnote-3)]

“**Cross-border Project**” means any project or operation financed by a Final Recipient Transaction which:

* + - * 1. involves entities located or established in one or more Member State(s); and
				2. extends to one or more Third Countries, including acceding States, candidate countries and potential candidates, countries falling within the scope of the European Neighbourhood Policy, the European Economic Area or the European Free Trade Area, to an OCT, regardless whether there is a partner in those Third Countries or OCT.

“**De-committed or Cancelled Amounts**” means any amount of an Operation no longer committed for disbursement based on the terms of the financing agreement between the Implementing Partner and the Financial Intermediary or the Final Recipient, as applicable. For the avoidance of doubt, any amount of an Operation excluded from the relevant Portfolio in accordance with Article [*insert reference to the relevant Article on non-eligibility or non-compliance with the investment criteria*] of Annex I, shall be treated as De-committed or Cancelled Amount.

“**Direct Operation**” means a Final Recipient Transaction entered into between the Implementing Partner and the Final Recipient.

“**Disbursement Leverage Effect**” means the Operations Leverage Effect calculated in respect of (i) Direct Operations under which a disbursement has been made, and (ii) Indirect Operations under which the Financial (Sub-)Intermediary has made a disbursement to or investment into a Final Recipient*.*

“**Disbursement Multiplier Effect**” means the Operations Multiplier Effect calculated in respect of (i) Direct Operations under which a disbursement has been made, and (ii) Indirect Operations under which the Financial (Sub-)Intermediary has made a disbursement to or investment into a Final Recipient.

“**ECB**”means the European Central Bank.

“**ECB Exchange Rate**” means the ECB exchange rate that is disseminated on the official website of ECB (euro foreign exchange reference rates on [www.ecb.europa.eu](http://www.ecb.europa.eu)). If on the determination date, an exchange rate was not available, the exchange rate from the last date preceding the determination date shall apply.

“**Effective Date**” means the last date on which a Party signed this Agreement.

“**Eligibility Checklist**”has the meaning attributed to it in Article 6.

“**Eligibility Checklist Procedure**” has the meaning attributed to it in Article 6.

“**EPPO**”means European Public Prosecutor’s Office in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office[[3]](#footnote-4).

“**EU Compartment**” means a compartment of the InvestEU Fund as further described in Article 9(1)(a) of the InvestEU Regulation.

“**EU Guarantee**” means the guarantee coverage provided to the Implementing Partner pursuant to Article 13.

“**EU Restrictive Measures**” means restrictive measures adopted pursuant to the Treaty on European Union or to the Treaty on the Functioning of the European Union.

[*if applicable*:

“**EU Sectorial Programme**”means a Union programme (including those financed from other sources than the Union budget such as the EU Emissions Trading Scheme (ETS) Innovation Fund) providing a Top-Up Contribution as referred to in the relevant Top-Up Annex.]

“**EU Taxonomy Regulation**” means Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088[[4]](#footnote-5) .

“**Executive Management**” means a body of a legal entity appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, or any other person having comparable decisional power, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making.

“**Final Recipient**” means an entity or a natural person that receives direct or indirect financial support under a Final Recipient Transaction.

“**Final Recipient Transaction**” means an operation to provide financing to, or investment in, a Final Recipient carried out by the Implementing Partner (for Direct Operations) or by a Financial (Sub-)Intermediary (for Indirect Operations).

[*if applicable: “***Finance Source**”means the programme financing the relevant part of the amount of the EU Guarantee, i.e.:

1. with regard to the amount indicated in Article 13.2 item (i): the InvestEU Fund;
2. with regard to Top-Up Contributions indicated in Article 13.2 item (ii): the relevant EU Sectorial Programme.]

“**Financial Contribution**” means the Implementing Partner’s aggregate contribution from its own resources to the [FLP, Pari Passu Protection and RRT, as applicable] as calculated in accordance with the methodology that is published on Key Risk Management Documents - InvestEU Wiki - EC Extranet Wiki (europa.eu)[[5]](#footnote-6) and may be amended in agreement with the Steering Board*,* being the financial contribution within the meaning of Article 2(7) of the InvestEU Regulation*.*

[*if applicable* “**Financial Framework**

**Partnership Agreement**” means the agreement for a long-term cooperation in the view of implementing EU funds under indirect management between the EU and the Implementing Partner dated [*insert date of signature*].]

“**Financial Intermediary**” means an entity that has entered with the Implementing Partner into an Operation that is an Indirect Operation.

“**Financial Product**” means a financial product within the meaning of Article 2(9) of the InvestEU Regulation, as further specified in Annex I.

“**Financial Regulation**” means Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EC, Euratom) No 966/2012[[6]](#footnote-7).

“**Financial (Sub-)Intermediary**” means a Financial Intermediary and a Financial Sub-Intermediary.

“**Financial Sub-Intermediary**” means an entity that has entered into a Sub-Operation with a Financial Intermediary or another Financial Sub-Intermediary under an Indirect Operation.

[*if applicable:* “**FLP**” means a first loss piece risk protection in a Portfolio as further specified in Annex I.]

“**Force Majeure**” means any unforeseeable exceptional situation or event beyond the Parties' control, which prevents either of them from fulfilling any of their obligations under this Agreement, which was not attributable to error or negligence on their part or on the part of their subcontractors and which could not have been avoided by the exercise of due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of *force majeure*, as well as labour disputes or strikes or financial difficulties cannot be invoked as *force majeure*.

“**Framework Operation**” means a facility, programme or structure which has underlying sub-projects within the meaning of Article 24(6) of the InvestEU Regulation, as further set out in Article 9.

“**GBER**”means the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation)[[7]](#footnote-8).

“**Global Cap**” has the meaning attributed to it in Article 13.5.

“**Guarantee Request Form**” means the request form within the meaning of Article 24(4) of the InvestEU Regulation.

“**Guaranteed Sums**” has the meaning attributed to it in Article 13.4.

“**IC Secretariat**” means the secretariat to the Investment Committee set up in accordance with Article 24(4) of the InvestEU Regulation.

“**IC Secretariat Rules of Procedure**” means the Rules of Procedure of the IC Secretariat as adopted by the Steering Board on 25 October 2021, as may be amended, restated, supplemented or substituted from time to time.

“**Indirect Operation**” means an operation entered into between the Implementing Partner and a Financial Intermediary aiming to cover directly or indirectly (via one or more Sub-Operations) one or more Final Recipient Transaction.

“**Internal Control**” means a process, implemented in accordance with the Implementing Partner’s rules, policies and procedures, applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:

1. effectiveness, efficiency and economy of Operations;
2. reliability of reporting;
3. safeguarding of assets and information;
4. prevention, detection, correction and follow-up of fraud and Irregularities; and
5. adequate management of the risks relating to the legality and regularity of the Operations, taking into account the multiannual character of the InvestEU Fund as well as the nature of the payments concerned.

“**InvestEU Advisory Hub**” means an advisory support mechanism established by Article 1 of the InvestEU Regulation.

“**InvestEU Blending Arrangement**” means a blending operation as defined in the InvestEU Regulation where a combination of support from the InvestEU Fund to specific Financial Products with:

1. repayable support from one or more EU Sectorial Programme, and/or
2. non-repayable support from one or more EU Sectorial Programme,

takes place at the level of the relevant Operation or Portfolio,

such arrangement being established in a Top-Up Annex or another Annex, as applicable.

“**InvestEU Common Rating Scale**” means the common reference scale based on the one-year probabilities of default for the purpose of categorizing credit risk consistently throughout the entire InvestEU Fund portfolio the EU has through its guarantee agreements with the implementing partners and shared by the Commission with the Implementing Partner in accordance with Article 38.

“**InvestEU Fund**” means the fund established by Article 1 of the InvestEU Regulation.

"**InvestEU Leverage Effect**" means, relating to the InvestEU Operations, the ratio between:

1. the sum of (x) in case of Direct Operations, the aggregate amount of financing expected to be provided by the Implementing Partner mobilised due to the InvestEU support, and by co-investors in case their financing is directly linked to the financing by the Implementing Partner supported by the EU Guarantee, and (y) in case of Indirect Operations, the aggregate amount expected to be committed by Financial (Sub-)Intermediaries under InvestEU Operations, and
2. the aggregate amount of EU Guarantee expected to be allocated to InvestEU Operations;

whereby, in case the InvestEU Operation is a Framework Operation, the Sub-Projects approved by the IP Relevant Governing Body are included (instead of the Framework Operation).

"**InvestEU MIS**" means the “*InvestEU Management Information System*”, being the IT system of the Commission used for the implementation of the InvestEU Fund.

“**InvestEU MIS Designated Users**” means the InvestEU MIS users communicated by the Implementing Partner to the Commission in accordance with Article 44.5.

“**InvestEU MIS Terms and Conditions**” means the document setting out the terms and conditions subject to which InvestEU MIS Designated Users may access and make use of, as well as contribute to, the InvestEU MIS.

"**InvestEU Multiplier Effect**" means, relating to the InvestEU Operations, the ratio between:

1. aggregate projected investments by the potential Final Recipients, and
2. aggregate amount of EU Guarantee expected to be allocated to InvestEU Operations, whereby, in case the InvestEU Operation is a Framework Operation, the Sub-Projects approved by the IP Relevant Governing Body are included (instead of the Framework Operation).

“**InvestEU Operation**”means a financing or investment operation of the Implementing Partner within the meaning of Article 2(10) of the InvestEU Regulation approved by the Investment Committee; for the avoidance of doubt, it also includes Framework Operations.

“**InvestEU Portal**” means the portal established by the Commission in accordance with Article 26 of the InvestEU Regulation.

“**InvestEU Programme**” means the programme established by the InvestEU Regulation.

“**InvestEU Regulation**” means Regulation (EU) No 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017[[8]](#footnote-9).

“**Investment Committee**” means the committee referred to in Article 24 of the InvestEU Regulation.

“**Investment Guidelines**” means Commission Delegated Regulation (EU) 2021/1078 of 14 April 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund[[9]](#footnote-10), as may be supplemented by the Steering Board.

“**IP Relevant Governing Body**” means the Board of Directors and/or any other person or body to which the Board of Directors has delegated final approval authority in relation to specific categories of Operations, in accordance with the Implementing Partner’s internal rules and procedures.

"**Irregularity**” means as set out in Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities’ financial interests[[10]](#footnote-11).

“**JTM Area**”means a geographical area of a Territorial Just Transition Plan.

“**Just Transition Fund Regulation**” means Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund[[11]](#footnote-12).

“**Just Transition Scheme**” means the scheme set out in Article 8(2) of the InvestEU Regulation as further specified in Section 3.3 of the Investment Guidelines.

“**Key Monitoring Indicators**” or “**KMIs**” means the monitoring indicators set out in Annex II.

“**Key Performance Indicators**”or“**KPIs**” means the performance indicators measuring success in delivering the InvestEU Fund and set out in Annex II.

“**Licensed Data**”means any data licensed to the European Investment Bank by *Moody’s Analytics UK Limited* or available to it pursuant to its membership in the *Global* *Emerging Markets Risk Database*, a cross-border pooling of anonymous data for credit risk set up in 2009 by the European Investment Bank and the *International Finance Corporation*.

“**Member State**” means any Member State of the Union.

[*if applicable*:

“**Member State Compartment**”means the compartment as further described in Articles 9 and 10 of the InvestEU Regulation.[[12]](#footnote-13)]

“**National Promotional Bank or Institution**” means a legal entity that carries out financial activities on a professional basis which has been given mandate by a Member State or a Member State's entity at central, regional or local level to carry out development or promotional activities.

“**NCJ Policy**” means the Implementing Partner’s rules and procedures related to tax avoidance and non-cooperative jurisdictions, as amended, restated, supplemented or substituted from time to time.

[*If applicable:*

“**Non-eligible Operation**” *means as defined in the relevant Financial Product template.*]

“**OCT**” means an overseas country or territory linked to a Member State as set out in Annex II to the Treaty.

“**OLAF**” means the European Anti-Fraud Office.

“**Operation**” means a Direct Operation or an Indirect Operation pertaining to an InvestEU Operation. For the avoidance of doubt, in case of an InvestEU Operation that is a Framework Operation, a reference to an Operation is a reference to the relevant underlying Sub-Project.

[*if applicable*:

“**Operation Termination Date**” *means as defined in the relevant Financial Product template.*]

“**Operational Report**” means the operational report to be provided by the Implementing Partner under Article 30 and Annex II.

“**Operations Leverage Effect**” means the ratio between:

1. the sum of (x) in case of Direct Operations, the aggregate amount of financing committed by the Implementing Partner mobilised due to the InvestEU support, and by co-investors in case their financing is directly linked to the financing by the Implementing Partner supported by the EU Guarantee, and (y) in case of Indirect Operations, the aggregate amount expected to be committed by Financial (Sub-)Intermediaries under Operations, and
2. the aggregate amount of EU Guarantee allocated to Operations.

“**Operations Multiplier Effect**” means relating to the Operations, the ratio between the aggregate projected investments by the Final Recipients and the aggregate amount of EU Guarantee allocated to Operations.

[*if applicable:*

“**Pari Passu Protection**” means a vertical tranche risk protection in a Portfolio as further specified in Annex I.]

“**Policy Check Request Form**” means the request form to be submitted to the Commission to launch the policy check procedure within the meaning of Article 23(1) of the InvestEU Regulation.

“**Policy Review Dialogue**” has the meaning attributed to it in Article 26.

“**Policy Window(s)**” has the meaning attributed to it in Article 2(3) of the InvestEU Regulation.

“**Portfolio**” means the aggregate amount of Operations signed under a Financial Product, as further set out in Annex I.

“**Portfolio Termination Date**” has the meaning attributed to it in Article [●] of Annex I.

“**Processed Data**” means certain metrics, products and/or deliverables that are derived by processing the Licensed Data (wholly or in part), including by aggregating or combining such Licensed Data with other data or information or by adapting the Licensed Data (wholly or in part), to such a degree that the Licensed Data cannot be reverse-engineered or otherwise identified from analysis or further processing of such derived data.

For the purposes of this Agreement, the Processed Data shall refer to (a) the InvestEU Common Rating Scale and (b) the associated probabilities of default and mapping guidance.

“**Product Schedule**” means the terms and conditions including the specific policy objectives for a Financial Product as set out in Annex I.

“**Progress Report**” means the report to be submitted by the Implementing Partner in accordance with Article 30.4 and Annex II.

“**Recovery**” means any amount net of recovery costs recovered in relation to an Operation for which a Guaranteed Sum has been called, including, without limitation, an amount for which the Guaranteed Sum has been called and that is paid by a Financial Intermediary or a Final Recipient to the Implementing Partner under an Operation as a result of, *inter alia*, the realisation of security, Irregularities or fraudulent actions of Final Recipients, the relevant Financial Intermediary or the Financial Sub-Intermediary or the exclusion of a Final Recipient Transaction or Sub-Operation from coverage by the Operation;

provided that, in case the Implementing Partner directs simultaneous recovery efforts against the same obligor in respect of both an outstanding amount under an Operation and an outstanding *pari passu* amount under its own risk operation not covered by the EU Guarantee, the proceeds from a successful recovery will be shared *pro rata* in relation to the outstanding amount under the Operation (whereby it will be treated as the “Recoveries”) and the outstanding amount due to the Implementing Partner under its own risk operation not covered by the EU Guarantee.

“**Research, Innovation and**

**Digitisation Window**”or“**RIDW**”means the policy window within the meaning of Article 8(1)(b) of the InvestEU Regulation.

“**Restricted Person**” means any entities, individuals or groups of individuals designated by the EU as subject to the EU Restrictive Measures.[[13]](#footnote-14)

“**Restructuring**”means any agreement, arrangement, standstill, revision, amendment or composition with creditors in relation to a transaction that consists of or is covered directly or indirectly by an Operation, entered into with a view to reducing potential losses or increasing potential recoveries for the Union budget regardless of whether or not an event of default has occurred (including, without limitation, by way of (w) a change in principal or interest, (x) a waiver or extension of time, (y) a debt to equity conversion and (z) triggering an existing clause in a financing agreement where the Implementing Partner takes a subordinated position allowing to defer a payment or to change the amount of principal or interest payable).

“**Risk Report**” means the risk report to be provided by the Implementing Partner under Article 30 and Annex IV.

“**RRF**”means the instrument established by Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility[[14]](#footnote-15).

[*if applicable*: “**RRT**” means the residual risk tranche that is the part of any of the Portfolios that the FLP or the Pari Passu Protection does not cover as further specified in Annex I.]

“**Scoreboard**” means the scoreboard set out in Commission Delegated Regulation EU 2021/1702 of 12 July 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out additional elements and detailed rules for the InvestEU Scoreboard[[15]](#footnote-16).

“**Separate Implementing Arrangement**” means any arrangement detailing technical aspects in relation to the implementation of the Agreement. Such arrangement will be agreed in writing (including in the form of exchange of letters) between the Commission services and the Implementing Partner.

“**Signature Period**”means the period starting on the Effective Date and ending on 31 December 2028, without prejudice to Article 46.

“**SME Window**” or “**SMEW**”means the policy window within the meaning of Article 8(1)(c) of the InvestEU Regulation.

“**Social Investment and Skills**

**Window**”or“**SISW**”means the policy window within the meaning of Article 8(1)(d) of the InvestEU Regulation.

[*if applicable*:

“**State Aid Report**”means the report to be submitted by the Implementing Partner in accordance with Article 30.8 and Annex X.]

“**Steering Board**” means the steering board within the meaning of Article 21 of the InvestEU Regulation.

“**Stop Commitment Event**” has the meaning attributed to it in Article 46.

“**(Sub-)Operation**”means an Operation and a Sub-Operation.

“**Sub-Operation**” means an operation entered into between a Financial (Sub-)Intermediary and a Financial Sub-Intermediary covering directly or indirectly a Final Recipient Transaction.

“**Sub-Project**” means a sub-project within the meaning of Article 24(6) of the InvestEU Regulation, which corresponds to an Operation under a Framework Operation.

“**Sustainability Proofing Guidance**” means ”*InvestEU Fund – Sustainability Proofing Guidance*” issued in Commission Notice on Technical guidance on sustainability proofing for the InvestEU Fund of 14 April 2021 (C(2021)2632 final)[[16]](#footnote-17) in accordance with Article 8(6) of the InvestEU Regulation.

“**Sustainability Proofing Summary**” means the summary in accordance with the Sustainability Proofing Guidance, as further specified in Article 8.2.

“**Sustainable Infrastructure**

**Window**”or“**SIW**”means the policy window within the meaning of Article 8(1)(a) of the InvestEU Regulation.

“**Technical Assessment Unit**”or“**TAU**” means the independent unit composed of risk management experts and established by the European Investment Bank Group for the tasks set out in Article 11(1), first subparagraph, points (b)(ii) to (b)(vi) of the InvestEU Regulation.

“**Territorial Just Transition Plans**” has the meaning attributed to it in Article 11 of the Just Transition Fund Regulation.

“**Third Country**” means any country that is not a Member State of the Union.

“**Third Country Entity**”means a legal entity established in a Third Country or, where it is established in the Union, having its Executive Management in a Third Country. The location of establishment of the legal entity is determined by the location of its registered office.

[*if applicable*: “**Top-Up Agreement**” means an agreement between the Parties to establish or amend an InvestEU Blending Arrangement via the inclusion or amendment of a Top-Up Annex, substantially in the form as set out in Annex VIII.]

[*if applicable*: “**Top-Up Annex**”has the meaning attributed to it in Article 14.2.]

[*if applicable:*

“**Top-Up Contribution**” means the contribution that takes the form of a financial instrument and is provided from an EU Sectorial Programme to the InvestEU Blending Arrangement.]

[*if applicable:* “**Top-Up Operation**”means anOperation that falls under an InvestEU Blending Arrangement.]

[*if applicable:*

“**Transitional Operation**”means an operation signed or entered into by the Implementing Partner during the period from 25 October 2023until the Effective Date as listed in Part A of Annex XI that has met the requirements set out in Article 19.]

“**Treaty**” means the Treaty on the Functioning of the European Union.

* 1. In this Agreement,
		1. headings are for convenience only and do not affect the construction or the interpretation of any provisions of this Agreement;
		2. words importing the singular include the plural and *vice versa*;
		3. a reference to an “Article”, “Recital”, “Section”, “Part”, “Annex”, “Appendix” or “Product Schedule” is a reference to such article, recital, section or part of, or annex, appendix or product schedule to this Agreement, except if otherwise specified or the context requires otherwise;
		4. the recitals, all of the Annexes, Appendices and Product Schedules form an integral part of the Agreement and, except if otherwise specified or the context requires otherwise, a reference to this Agreement includes the Annexes, Appendices and Product Schedules attached hereto; and
		5. a reference [*if applicable*: to a “semester” means a period on and from 1 January to and including 30 June or on and from 1 July to and including 31 December and] to a “quarter” means a period on and from 1 January to and including 31 March, on and from 1 April to and including 30 June, on and from 1 July to and including 30 September or on and from 1 October to and including 31 December.
	2. In the event of a conflict between:
		1. the terms and conditions in a Product Schedule and the terms and conditions of any of the Agreement, Annexes or Appendices, the terms and conditions in the Product Schedule shall prevail;
		2. the terms and conditions in an Appendix and the terms and conditions of any of the Agreement or Annexes, the terms and conditions in the Appendix shall prevail; and
		3. the terms and conditions in an Annex and the terms and conditions of any of the Agreement, the terms and conditions in the Annex shall prevail.
1. **Purpose of the Agreement**
	1. The purpose of this Agreement is to set out the provisions in relation to the EU Guarantee and the implementation thereof by the Implementing Partner, in line with the InvestEU Regulation.
	2. [*If applicable*: For the avoidance of doubt, the Financial Framework Partnership Agreement shall not be applicable to this Agreement.]
	3. This Agreement sets out the descriptions of the various Financial Products as well as the terms under which the Operations are to be provided by the Implementing Partner. The agreements documenting the Operations shall be approved, negotiated and concluded by the Implementing Partner in its own name, following its own decisions applying its own relevant rules, policies and procedures and notwithstanding the fact that the Operations benefit from the EU Guarantee.
	4. The Implementing Partner represents and warrants to the Commission that the Implementing Partner:
		1. has the right, power and authority to enter into and perform its obligations under this Agreement and that this Agreement constitutes valid and binding obligations on the Implementing Partner enforceable in accordance with its terms; and
		2. has taken all actions according to the [*insert reference to the statutes of the Implementing Partner*] dated [*insert date*],as amended from time to time, and its other applicable constituting documents necessary to the execution of this Agreement.
2. **Tasks of the Implementing Partner**
	1. The Implementing Partner shall implement the EU Guarantee in accordance with the InvestEU Regulation and the Investment Guidelines, as specified in this Agreement. In so doing, the Implementing Partner shall apply its rules, policies and procedures as applied to its own risk operations, as amended, restated, supplemented or substituted from time to time and [*insert “best banking practices” or “best market practices”, as applicable*], and the appropriate monitoring, control and audit measures set out in this Agreement.
	2. The Implementing Partner shall perform its obligations relating to the EU Guarantee and specifically set forth in this Agreement with the same degree of professional care, efficiency, transparency and diligence, as it applies in relation to the administration of its own risk operations.
	3. [*insert the Implementing Partner’s additional obligations resulting from the pillar assessment, if any*]
	4. The Implementing Partner shall implement the EU Guarantee through Operations that conform to the respective Financial Products.
	5. The Implementing Partner shall apply its rules, policies and procedures, including its NCJ Policy and its AML-CFT Policy to address the requirements in respect of money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion contained in Article 155(2)(a) of the Financial Regulation and to reflect the prohibition to enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant Union policy on non-cooperative jurisdictions or that are identified as high-risk third countries pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC[[17]](#footnote-18), as well as the possibility to derogate from this requirement when the action is physically implemented in one of those jurisdictions, contained in Article 155(2)(b) of the Financial Regulation.
	6. The Implementing Partner shall apply its AML-CFT Policy to address the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. In particular, to address the issue of beneficial ownership information mentioned in Article 155(3) of the Financial Regulation, the Implementing Partner shall make both direct funding or funding via Financial Intermediaries contingent upon the disclosure to the Implementing Partner or the Financial Intermediary respectively of beneficial ownership information in accordance with Directive (EU) 2015/849, or in case of a Final Recipient or Financial Intermediary, as applicable, that is not established in a Member State, in accordance with the principles and standards of Directive (EU) 2015/849. For the avoidance of doubt, the Implementing Partner may for this purpose rely on a written representation or undertaking from Financial Intermediaries that they received the respective required beneficial ownership information.
	7. Where Article 89(1) of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[[18]](#footnote-19) requires a Financial Intermediary to disclose data within the meaning of such Article, the Implementing Partner may rely on a representation from such Financial Intermediary that it discloses the data within the meaning of Article 89(1) of Directive 2013/36/EU that is not commercially sensitive and a Financial Intermediary may rely on an equivalent representation by a Financial Sub-Intermediary.
	8. Notwithstanding anything above, the Implementing Partner shall not in any event apply under this Agreement rules and procedures relating to tax standards that are less stringent than the ones it uses for its own risk operations.
	9. The Implementing Partner shall ensure in accordance with its rules, policies and procedures that no funds or economic resources are made available directly or indirectly to, or for the benefit of Restricted Persons.

The Implementing Partner shall implement this obligation through the following measures:

* + 1. in the case of Direct Operations, the Implementing Partner shall screen each Final Recipient before entering into such Operation, in order to assess whether the Final Recipient is a Restricted Person; and
		2. in the case of Indirect Operations, the Implementing Partner shall ensure through screening or through other appropriate means (that may include an ex-post verification) on a risk based approach, that no Restricted Person is involved in the implementation of the Operation neither as Final Recipient nor as Financial (Sub-)Intermediary.

In the event the Implementing Partner assesses that a Financial (Sub-)Intermediary or a Final Recipient is a Restricted Person, the Implementing Partner shall promptly inform the Commission and the Implementing Partner and the Commission shall consult each other with a view to jointly determining remedial measures in accordance with the applicable legal and contractual frameworks. Without prejudice to Article 42 and Article 46, where remedial measures cannot be agreed, the EU Guarantee shall not cover the Operations with the Financial (Sub-)Intermediary or Final Recipient that is a Restricted Person.

For the avoidance of doubt, the Parties acknowledge that if a Financial (Sub-)Intermediary or a Final Recipient becomes a Restricted Person after the date of signature of the relevant (Sub-)Operation or Final Recipient Transaction, as applicable, the provisions of the previous subparagraph shall not apply to the EU Guarantee made available to, or for the benefit of, the Restricted Person before its listing.

This Article 3.9 is without prejudice to the exceptions contained in the EU Restrictive Measures.

* 1. A Policy Review Dialogue shall take place as further specified in Article 26.
	2. In cases indicated in the relevant Product Schedule, the Eligibility Checklist Procedure shall apply.
	3. The Implementing Partner shall aim to achieve the climate and environment objectives as set out in Article 22.
	4. The Implementing Partner shall perform the sustainability proofing in line with the Sustainability Proofing Guidance. In case of InvestEU Operations that are Framework Operations, the sustainability proofing (if applicable) shall be at the level of the Operation and the summary of such sustainability proofing for Direct Operations shall be published by the Implementing Partner after the Investment Committee has approved the relevant Operation.
	5. The Implementing Partner shall pursue recoveries, or provide that recoveries are pursued, in accordance with Article 18.
	6. The Implementing Partner shall report on the implementation of the EU Guarantee in accordance with Article 30 and Annexes II, III and IV.
	7. The Implementing Partner shall, as appropriate, propose to project promoters or Financial Intermediaries applying for financing, including in particular small-sized projects, that they request the InvestEU Advisory Hub support for their projects, where appropriate, in order to enhance the preparation of their projects and to allow for the assessment of the possibility of bundling projects. Where relevant, the Implementing Partner shall also inform the project promoters or Financial Intermediaries of the possibility of listing their projects on the InvestEU Portal.
	8. The Implementing Partner shall inform the Commission without undue delay should any substantive change, which may impact the reliability of the Commission’s assessment, be made to the systems, rules or procedures of the Implementing Partner which have been positively assessed in the ex-ante pillar assessment conducted by the Commission in accordance with Article 154(4) of the Financial Regulation.
	9. The Implementing Partner shall address complaints from private investors in relation to Operations falling under the scope of this Agreement in accordance with its own rules, policies and procedures.
1. **Financial Contribution**
	1. The Implementing Partner shall progressively provide a Financial Contribution via its Operations such that at the end of the Signature Period it amounts to EUR [*insert amount*]. This amount is based on the full amount of the EU Guarantee provided to the Implementing Partner in accordance with Article 13.2 [item (i)] and has been estimated on the Effective Date in accordance with the methodology that is published on Key Risk Management Documents - InvestEU Wiki - EC Extranet Wiki (europa.eu).
	2. The Financial Contribution, as measured on the basis of the total amount of the Operations reported at the date of their signature minus De-committed or Cancelled Amounts, shall be adjusted as follows:
		1. if the amount of the EU Guarantee allocated for Operations by the end of the Signature Period is below EUR [*insert the total amount of the EU Guarantee under item [(i)] of Article 13.2*], the Financial Contribution shall be reduced accordingly; and
		2. if the required inputs for the calculation of the Financial Contribution change, the Financial Contribution shall be adjusted accordingly at the end of the Signature Period.

# Part B – Approval process

1. **Policy check**
	1. The Implementing Partner shall submit a Policy Check Request Form to the Commission for each proposed InvestEU Operation, including Framework Operations, through the InvestEU MIS in order for the Commission to be able to confirm in accordance with Article 23(1) of the InvestEU Regulation whether the proposed InvestEU Operation complies with Union law and policies.
	2. The policy check by the Commission is, as a rule, expected to be concluded within two (2) months from the date of submission of the Policy Check Request Form. The Commission aims at issuing the decisions in a shorter timeframe on a best effort basis.
	3. The Commission may ask additional information or clarification, or require confirmation from the Implementing Partner that certain conditions will be fulfilled or that certain issues related to compliance with EU law or EU policies will be verified before it can issue its decision. The Commission will strive to request such additional information, clarification or confirmation within fifteen (15) Business Days from the date of the submission of the Policy Check Request Form.
	4. Upon completion of the policy check, the Commission issues a favourable or an unfavourable decision, which shall be notified to the Implementing Partner through the InvestEU MIS within one (1) Business Day from the date of such decision.
	5. The Implementing Partner shall submit a request for confirmation of the favourable policy check decision to the Commission in the following cases:
		1. in case of submission of a Guarantee Request Form more than twelve (12) months after the date of the favourable policy check decision, or
		2. where, prior to the signature of an Operation, material changes within the meaning of Article 8.5 occur affecting the information previously submitted for policy check, or
		3. in the case of an increase of a Framework Operation in accordance with Articles 9.8 and 9.9, and, as the case may be, any amendment thereto.

Such request shall be submitted by the Implementing Partner by updating the initially submitted Policy Check Request Form indicating the reason for the update and all the changes compared to the initially submitted information.

Notwithstanding the provisions of Article 5.2, with respect to any submission by the Implementing Partner in accordance with points (a), (b) and (c), the Commission aims at providing its decision within twenty (20) Business Days on a best efforts basis, with due consideration to the need for an expedited response.

* 1. All the communications in relation to the policy check shall be made in electronic form using the InvestEU MIS.
1. **[*If applicable*: Eligibility Checklist Procedure][[19]](#footnote-20)**
	1. When indicated in the relevant Product Schedule, the additional procedure laid down in this Article shall apply (the “**Eligibility Checklist Procedure**”).
	2. The Implementing Partner shall submit to the Commission an eligibility checklist (the “**Eligibility Checklist**”) in respect of the potential Operation in order to obtain its approval on eligibility in electronic form using the InvestEU MIS. The template of the Eligibility Checklist for such Operations is attached as Annex IX which may be amended via a Separate Implementing Arrangement.
	3. In case of Indirect Operations, the approval on eligibility in the Eligibility Checklist Procedure shall not concern eligibility criteria regarding Final Recipients, Sub-Operations or Final Recipient Transactions.
	4. For the avoidance of doubt, in case of an Operation attributable to a Framework Operation, the Eligibility Checklist Procedure shall only apply to the proposed Sub-Project at the relevant time.
	5. Within ten (10) Business Days after reception of the eligibility checklist, the Commission shall deliver its opinion to the Implementing Partner. The Commission shall provide the Implementing Partner with a justification why it considers that the potential Operation is not, partially or totally, an eligible Operation, or why it requests more information to assess its eligibility. In the absence of any opinion from the Commission within ten (10) Business Days, the potential Operation may be considered by the Implementing Partner as eligible, without prejudice to Article 27.8. An Operation subject to the Eligibility Checklist Procedure cannot be included in a Portfolio without having complied with this paragraph.
2. **Investment Committee**
	1. The Investment Committee established in accordance with Article 24 of the InvestEU Regulation is responsible for examining the use of the EU Guarantee coverage for potential InvestEU Operations proposed to it in line with the InvestEU Regulation, the Investment Guidelines, the Scoreboard, the Sustainability Proofing Guidance, the rules of procedure of the Investment Committee and the IC Secretariat Rules of Procedure and the relevant provisions of this Agreement and approving the support of the EU Guarantee for such InvestEU Operations as the sole decision making body for that purpose.
	2. The decision of the Investment Committee on potential InvestEU Operations is taken on the basis of proposals made by the Implementing Partner providing all the information necessary for the Investment Committee to perform its tasks defined in Article 24(1) of the InvestEU Regulation, consisting of the information set out in Article 8.2 and, as requested, any other document and clarifications referred to in Article 24(4), second subparagraph, of the InvestEU Regulation.

1. **Submission of guarantee requests to the Investment Committee**
	1. The Investment Committee may only approve the coverage of the EU Guarantee for a potential InvestEU Operation submitted by the Implementing Partner if that potential InvestEU Operation has received a favourable decision by the Commission in the policy check procedure as further specified in Article 5.

For the avoidance of doubt, [*if applicable*: with the exception of Transitional Operations and potential InvestEU Operations referred to in Article 19.6], the approval of the InvestEU Operations by the IP Relevant Governing Body shall occur after the approval by the Investment Committee.

* 1. The Implementing Partner shall submit the following information to the Investment Committee in respect of proposed InvestEU Operations:
		1. a Guarantee Request Form,
		2. a Scoreboard,
		3. the Sustainability Proofing Summary, except if a justification is provided why no sustainability proofing is to be carried out or in case of Framework Operations (where for the avoidance of doubt Article 3.13 applies) or Indirect Operations, and
		4. other information the Implementing Partner considers relevant, if any.

The templates of the Guarantee Request Form, the Scoreboard and the Sustainability Proofing Summary are published on [https://webgate.ec.europa.eu/fpfis/wikis/display/InvestEUProg/Approval+Process](https://webgate.ec.europa.eu/fpfis/wikis/display/InvestEUProg/Approval%2BProcess), and may be amended in agreement with the Steering Board.

All information shall be provided in English.

The detailed procedure for submission of potential InvestEU Operations to the Investment Committee is further specified in the rules of procedure of the Investment Committee and the IC Secretariat Rules of Procedure. The Implementing Partner shall submit the information, including the documents and clarifications referred to in Article 7.2, to the IC Secretariat through the InvestEU MIS. In case of an incomplete submission, the IC Secretariat shall notify the Implementing Partner without delay, in accordance with Article 6(3) of the IC Secretariat Rules of Procedure.

* 1. Potential InvestEU Operations proposed to the Investment Committee shall have undergone the selection process of the Financial Intermediary set out in Article 27, if applicable, and due diligence in accordance with the rules, policies and procedures of the Implementing Partner. Notwithstanding the previous sentence, in case of an InvestEU Operation pertaining to a Framework Operation, the Sub-Projects shall undergo the selection process of the Financial Intermediary set out in Article 27, if applicable, and due diligence at the relevant time, but in any case before the approval of the Sub-Project by the IP Relevant Governing Body.
	2. The Investment Committee is entitled to rely on the assessment by the Implementing Partner that the potential InvestEU Operations proposed to it are deemed economically and technically viable, are structured in line with [*insert “best banking practices” or “best market practices”, as applicable*], and comply with the risk management, AML-CFT Policy and NCJ Policy as set by the Implementing Partner in its rules, policies and procedures as amended, restated, supplemented or substituted from time to time. However, it shall not be bound by assessments by the Implementing Partner for the purposes of approving the coverage of the EU Guarantee for potential InvestEU Operations. For the avoidance of doubt, in the case of a potential InvestEU Operation that is a Framework Operation, the assessment referred to in this paragraph shall be made on the Framework Operation on the basis of the information available to the Implementing Partner at that time and by taking into consideration the characteristics of the Financial Product to which the Framework Operation is allocated.
	3. Subject to the provisions of the Investment Guidelines and this Agreement, the benefit of the support of the EU Guarantee shall be determined by reference to the circumstances existing at the date of the Investment Committee’s approval and shall not be affected by changes to such circumstances occurring after this date. In the event that, due to a material change in circumstances prior to signature, the Implementing Partner resubmits to the IP Relevant Governing Body which initially approved the InvestEU Operation, a proposal for which the Investment Committee had already approved the EU Guarantee coverage, it shall also resubmit the proposal to the Investment Committee for approval of the EU Guarantee coverage, unless the change relates to any area outside the competence of the Investment Committee. An increase in the requested amount of the EU Guarantee coverage is considered in any case as a material change regardless of whether the InvestEU Operation is re-submitted to the IP Relevant Governing Body[, except where the increase in the euro amount of the EU Guarantee coverage approved by the Investment Committee is only due to the fluctuation of the currency of the InvestEU Operation between the approval by the Investment Committee and the signature of the Operation. For the avoidance of doubt, any such increase in the euro amount of the EU Guarantee coverage due to the fluctuation of the currency of the InvestEU Operation shall under no circumstances result in exceeding the allocated amount of the EU Guarantee for the relevant Policy Window, or for the relevant Financial Product as set out in Article 21.6, and shall not have any effect on the Global Cap as set out in Article 13.5[[20]](#footnote-21)].
	4. The Implementing Partner shall accept the decisions by the Commission in the context of the policy check provided for in Article 23(1) of the InvestEU Regulation (as further set out in Article 5) and the Investment Committee in the context of the examination laid down in Article 24 of the InvestEU Regulation as regards the use of the EU Guarantee coverage for the benefit of the proposed InvestEU Operation, without prejudice to the ability of the IP Relevant Governing Body to approve the proposed InvestEU Operation without the EU Guarantee (both in case of a negative or positive decision). The Implementing Partner may enter into discussion with the Commission or the Investment Committee to understand the rationale for a negative decision.
	5. In case of potential Sub-Projects submitted to the Investment Committee in accordance with Article 9.6, Articles 8.2, 8.3, 8.4 and 8.5 and the provisions related to the Investment Committee in Article 8.6 apply to them in addition to the Framework Operations under which they belong.
	6. At the latest ten (10) Business Days after the date of the signature of an Operation, and in case of a Framework Operation after the date of signature of the first Sub-Project, [and *if applicable*, in case of a Transitional Operation after the date of the approval by the Investment Committee,] the Implementing Partner shall submit a public version of the Scoreboard to the IC Secretariat for publication. Such version shall not contain any commercially sensitive or confidential information.
	7. The members of the Investment Committee shall receive a copy of this Agreement, and any amendments thereof, save that commercially sensitive information shall be redacted unless otherwise agreed between the Parties, for the purposes of performing their functions.
1. **Framework Operations**
	1. The Implementing Partner may submit Framework Operations both to the Commission for the purpose of the policy check and to the Investment Committee for approval where such option is set out in the relevant Product Schedule.
	2. Subject to Article 9.6, in the case of Framework Operations, the granting of the EU Guarantee coverage comprises all underlying Sub-Projects.
	3. At the stage of the policy check under Article 5, the Commission shall verify that the Framework Operation respects the following requirements:
		1. a Framework Operation shall satisfy all of the following criteria:
			1. it shall cover Sub-Projects that fall under a single Financial Product;
			2. in case of Financial Products in the form of equity, it shall not include investments in

(x) Funds of Funds, or

(y) funds managed or advised by National Promotional Banks or Institutions[[21]](#footnote-22); and

* + - 1. in case of Indirect Operations, it shall cover Financial (Sub-)Intermediaries established (or to be established) in a Member State or in an OCT.
		1. the amounts requested under a single Framework Operation and underlying Sub-Projects shall not exceed the following limits:
			1. in the case of Direct Operations, EUR [*insert amount*] for the Framework Operation and EUR [*insert amount*] for each underlying Sub-Project included in such Framework Operation;
			2. in the case of Indirect Operations in the form of debt:
				1. that are [indirect debt operations], EUR [*insert amount*] for the Framework Operation; and
				2. that are [capped guarantees] under the same Framework Operation, EUR [*insert amount*] for the total amounts of the underlying Sub-Projects.
			3. in the case of Indirect Operations in the form of equity:
				1. EUR [*insert amount*] for the Framework Operation for [infrastructure funds]; and
				2. EUR [*insert amount*] for the Framework Operation for [other equity funds].
		2. [*if applicable*: For the purpose of calculation of the limits set out in point (b) of this Article 9.3, the euro equivalent shall be calculated by reference to the relevant ECB Exchange Rate.]
	1. Potential InvestEU Operations that do not comply with the requirements set out in Article 9.3 cannot be considered as Sub-Projects of a Framework Operation and shall be submitted for the policy check and to the Investment Committee separately.
	2. When submitting a Framework Operation for approval by the Investment Committee, the Implementing Partner shall identify to the extent possible its potential Sub-Projects, including via pipeline expectations or examples of the envisaged financing forms.
	3. In case the Investment Committee decides to examine separately one or more potential Sub-Project(s) with a principal amount equal to or above EUR 3 000 000, in accordance with Article 24(6) of the InvestEU Regulation, the Implementing Partner shall separately submit the relevant Sub-Project(s) for Investment Committee approval in order to request coverage of the EU Guarantee for such Sub-Project(s) under that Framework Operation. The favourable policy check decision regarding the Framework Operation in question remains applicable to the separately submitted Sub-Projects, unless Article 5.5 applies.
	4. Without taking into account any increases in accordance with Article 17.2, the aggregate amount of Sub-Projects signed under a Framework Operation shall not exceed the amount of such Framework Operation as approved by the Investment Committee. If a Sub-Project is cancelled, whether in full or in part, after its approval by the Implementing Partner, it can be replaced by one or more Sub-Projects up to the total amount of the relevant Framework Operation approved by the Investment Committee.
	5. The Implementing Partner may request the Investment Committee to increase the amount of an approved Framework Operation provided that (i) this increase is requested within one (1) calendar year following the approval date of such Framework Operation, (ii) the amount of the increase requested does not exceed 50 % of the amount initially approved by the Investment Committee and the amounts set out in Article 9.3(b) and (iii) all the conditions of the submission remain unchanged. Such request can be presented one time for an approved Framework Operation.
	6. The approval process of an increase of a Framework Operation and, as the case may be, any amendment thereto, shall be based on a policy check in accordance with Article 5.5(c) before the submission of such request to the Investment Committee for approval following the provisions of Article 8. For the avoidance of doubt, the increased amount of a Framework Operation shall not be included in the limits set out in Article 9.3(b).
	7. For the avoidance of doubt, Operations corresponding to Sub-Projects under an approved Framework Operation will be subject to the IP Relevant Governing Body’s approval as provided in Article 2.3.
	8. All relevant reporting and visibility requirements as defined in Article 30, Article 40 and Article 41 shall apply at the Sub-Project level irrespective of their approval as part of a Framework Operation.
1. **[*If applicable*: Commission non-objection][[22]](#footnote-23)**
	1. Prior to the presentation of a Sub-Project under an intermediated equity Financial Product to the IP Relevant Governing Body for approval, the Implementing Partner shall, subject to Article 10.3, provide the Commission with the following information:
		1. identification of the Financial Product and relevant Top-Up Contribution, if any;
		2. the Framework Operation reference(s)/ID(s);
		3. name of the prospective Financial Intermediary and of its manager;
		4. country of establishment of the Financial Intermediary and of its manager;
		5. short description of the prospective Financial Intermediary;
		6. an outline of the investment strategy of the prospective Financial Intermediary, including targeted policy objectives and type of Final Recipients;
		7. country/ies targeted;
		8. expected timing of the Implementing Partner’s commitment;
		9. approximate size of the Operation and the EU Guarantee amount, including Top-Up Contribution, if any, in euro (and in currency, if applicable) and in % of fund target size;
		10. description of the fit with the Framework Operation under which the Sub-Project falls.

The above information shall be sent by the Implementing Partner in electronic form using the InvestEU MIS.

* 1. The Commission shall reply to the Implementing Partner within ten (10) Business Days. In the absence of any objection from the Commission within ten (10) Business Days, the proposal of the Sub-Project shall be deemed approved by the Commission and may be presented to IP Relevant Governing Body for approval. Any objection to the Sub-Project submitted in accordance with Article 10.1 shall be duly justified by the Commission. Proposed Sub-Projects with respect to which the Implementing Partner has received explicit written objection from the Commission shall not be presented for approval to the IP Relevant Governing Body under InvestEU support and cannot benefit from coverage of the EU Guarantee.
	2. Notwithstanding Article 10.1, Sub-Projects of up to EUR [*insert amount*] (or euro equivalent) with respect to the [*specify Financial Product*][, or up to [*insert limits with reference to each Financial Product*], do not have to be submitted by the Implementing Partner to the Commission for non-objection.
1. **[Intentionally omitted]**

# Part C – EU Guarantee

1. **General principles of the EU Guarantee**
	1. The EU Guarantee shall be used in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity and in accordance with its objectives and duration, as specified in this Agreement. The EU Guarantee shall not be aimed at replacing potential support and investment from other public and private sources through satisfying the additionality criteria referred to in Article 24.1.
	2. In the implementation of the Financial Products, the EU Guarantee shall not generate undue advantages to third parties, in particular in the form of undue dividends or profits to third parties. In particular, any preferential treatment of investors providing co-investment or risk-sharing shall be justified, taking into account the riskiness of the Operation and limited to the minimum necessary to ensure their investment or risk-sharing, as set out in Annex I.
	3. Financial support under the EU Guarantee shall not be granted to any Financial
	(Sub-)Intermediary or Final Recipient that is in one of the situations referred to in Article 28.1, as further specified in Article 24.6(b).
	4. [*If applicable:* The Implementing Partner shall pay a remuneration for the EU Guarantee as set out in Article(s) [●] of Annex I.]
2. **Scope and amount of the EU Guarantee**
	1. In accordance with the terms of this Agreement, the EU irrevocably, unconditionally and on demand guarantees as a primary obligor and not merely as a surety to the Implementing Partner the full and punctual performance of the Guaranteed Sums.
	2. The amount of the EU Guarantee provided to the Implementing Partner consists of [(i)] EUR [*insert amount*] provided in accordance with Article 13(5) of the InvestEU Regulation [if applicable: as increased with (ii) the aggregate amount of Top-Up Contributions].
	3. The EU shall pay to the Implementing Partner any and all Guaranteed Sums, subject to Article 13.5.
	4. The EU Guarantee may be called with respect to any and all of the following amounts (“**Guaranteed Sums**”):
		1. [the portion of Operations that is covered by the EU Guarantee];
		2. [*if applicable*: funding costs proportionate to the part of the investment covered by the EU Guarantee in case of Operations in the form of equity];
		3. [*if applicable*: *specify* *other amounts covered by the EU Guarantee*].
	5. The aggregate amount up to which the EU Guarantee may be called with respect to the Guaranteed Sums shall not exceed, at any point of time, the amount of the EU Guarantee set out in Article 13.2 (“**Global Cap**”). The called amount of the EU Guarantee in each Claims Form shall not exceed the Available Global Cap at the time of its submission.
	6. The EU shall have no further exposure or liability to the Implementing Partner beyond the Global Cap.
3. **[*If applicable:* InvestEU Blending Arrangements involving repayable support from one or more EU Sectorial Programme][[23]](#footnote-24)**
	1. The Commission and the Implementing Partner may establish an InvestEU Blending Arrangement for each Financial Product where such option is set out in the relevant Product Schedule, via one or more Top-Up Agreements. Under each Top-Up Agreement, one or more Top-Up Operations may be entered into.
	2. Other forms of combining the InvestEU Fund support with non-repayable support from any other Union programme, as referred to in point b) of the definition of InvestEU Blending Arrangement, are not contemplated by this Article 14.
	3. The annex to the Top-Up Agreement (the “**Top-Up Annex**”) shall be substantially in the form as set out in Annex VIII, and set out:
		1. the policy rules for the Top-Up Operations via:
			1. identifying the Financial Product to which the Top-Up Operation shall be allocated, and
			2. defining the sub-set of the eligible policy objectives of the Financial Product under which the Top-Up Operation shall fall;
		2. the maximum amount of the Top-Up Contribution that the Commission commits;
		3. the additional Financial Contribution provided by the Implementing Partner with regard to the Top-Up Contribution, if applicable;
		4. whether the relevant Finance Source shall be treated as *pari passu* or subordinated to the other relevant Finance Sources.
	4. The Eligibility Checklist Procedure in accordance with Article 6 shall apply to all potential Top-Up Operations and the relevant Eligibility Checklist in the Appendix of the Top-Up Annex shall be used for this purpose.
	5. A proposed InvestEU Operation pertaining to potential Top-Up Operation(s) shall be submitted for policy check and to the Investment Committee in the same manner as other proposed InvestEU Operations. Reference to the Top-Up Annex shall be indicated in the Policy Check Request Form and in the Scoreboard.
	6. For the avoidance of doubt, in case of a Top-Up Contribution that takes the form of a financial instrument, the Implementing Partner shall provide a Financial Contribution via its Top-Up Operations as set out in the Top-Up Annex.
	7. The Top-Up Operation shall be included in the Portfolio of the relevant Financial Product and treated in the same manner as (and not be segregated from) any other Operation included in the same Portfolio, including for the purpose of:
		1. use of the EU Guarantee, and
		2. application of the waterfalls.
4. **Calls of the EU Guarantee**
	1. The EU Guarantee may be called in respect of a Guaranteed Sum.
	2. The Implementing Partner may decide not to call the EU Guarantee immediately or at all, in accordance with its rules, policies and procedures, provided that calls on the EU Guarantee may only be made until the earlier date of (i) twelve (12) months after the event of default or (ii) the Portfolio Termination Date [*if applicable*: or the Operation Termination Date, as applicable].
	3. The Parties agree that neither the obligations of the EU under the EU Guarantee, nor the rights, powers and remedies of the Implementing Partner with respect to the EU Guarantee or conferred upon it by law shall be discharged, impaired or otherwise affected by the winding-up, dissolution, administration or reorganisation of the underlying obligor or any other person under any applicable law or any change in the status, function, control or ownership of the underlying obligor or by any obligations of the underlying obligor becoming illegal or unenforceable or ineffective in any respect or by any amendment or variation to any document to which the underlying obligor is a party or by any other act, omission, matter or event which would, but for this Article, reduce, release or prejudice any of the EU’s obligations under the Agreement, except as set out in this Agreement.
5. **Terms of payments under the Agreement**
	1. The Implementing Partner shall request the payment from the Commission on a quarterly basis, by submitting the Claims Form through the InvestEU MIS partially in an unstructured form (i.e. the cover letter) and partially in a structured form (i.e. Appendix 1 of Annex V – Claims Form). The Claims Form shall be submitted in fifty (50) calendar days following the end of each relevant quarter.
	2. Payment by the Commission shall be made no later than thirty (30) calendar days of the date of the receipt of the Claims Form. Amounts to be paid to the Implementing Partner under this Agreement shall be transferred to the bank account of the Implementing Partner indicated in the financial identification form in Part A of Annex VII. The legal entity file of the Implementing Partner is set out in Part B of Annex VII.
	3. The Implementing Partner shall notify the Commission of an amount payable to the Commission on a quarterly basis, by submitting the Claims Form through the InvestEU MIS in in the form set out in Article 16.1.The notification shall be submitted in fifty (50) calendar days following the end of each relevant quarter.
	4. Payment to the Commission shall be made no later than thirty (30) calendar days following receipt of the debit note issued by the Commission after receipt of the Claims Form. Amounts to be paid to the Commission under this Agreement shall be transferred to the bank account of the Commission indicated in Article 16.7.
	5. The payments under this Article 16 shall be requested or notified in euro [*if applicable*: or in the euro equivalent of the respective due currencies specified] in each Claims Form. [*if applicable*: The conversion shall be made using the approach set out in Article [2] of Annex I.] In accordance with Article 99(2)(b) and 116(5) of the Financial Regulation, the interest rate for amounts not paid within thirty (30) calendar days following the receipt of the Claims Form or the debit note, as applicable, shall be the rate applied by the ECB to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the deadline falls, increased by 3.5 percentage points.
	6. Where the Implementing Partner makes a Recovery in whole or in part after the Implementing Partner has called the EU Guarantee, but before the EU has made the corresponding payment to the Implementing Partner, the Implementing Partner shall take into account the Recovery in the following quarterly Claims Form in accordance with this Agreement (including Article[s] [●] of Annex I).
	7. The bank accounts of the Commission and the Implementing Partner shall be the following, subject to changes notified in accordance with Article 44:
		1. for the Commission: [*insert bank account details*]

Account holder: [●]

Account name: [●]

IBAN: [●]

SWIFT: [●]

Bank: [●]

* + 1. for the Implementing Partner:

as indicated in the financial identification form in Part A of Annex VII.

* 1. The Implementing Partner shall transpose the payment terms defined in this Article into its agreements with Financial Intermediaries as regards the frequency of payments.
1. **Restructuring and other actions**
	1. In its management of Operations, the Implementing Partner shall, subject to its obligations under this Agreement and in the best interest of the Union, including its obligation to follow its rules, policies and procedures, have the right to do any of the following:
		1. to grant to any Financial Intermediary or Final Recipient a waiver of any obligation or an extension of time to perform that obligation;
		2. to enter into a Restructuring, including to agree any amendment to any legal documentation (including to sell or assign any exposure to a third party, to reduce or write off any amount outstanding or, subject to Article 17.2, to increase the amount of any loan or other investment) as part of a Restructuring;
		3. to grant to any Financial Intermediary or Financial Sub-Intermediary the right to grant waivers or extensions or enter into Restructurings or agree amendments as set out above in favour of or in relation to any Financial Sub-Intermediary or Final Recipient; and
		4. to appoint external consultants and advisors in the context of a Restructuring (both before and after a call under the EU Guarantee).
	2. In line with the Implementing Partner’s rules, policies and procedures and subject to required approvals, the Restructuring of an Operation may require an increase in the amount of the Operation as a means to reduce potential losses or increase potential recoveries for the Union budget. In such case, the Implementing Partner shall notify the increase and its rationale in the Operational Report or separately.
	3. Where the Implementing Partner takes any action under Article 17.1:
		1. the EU Guarantee shall continue in full force and effect and shall not be reduced or adversely affected in any way as a result of such actions;
		2. the Implementing Partner shall not be liable to the EU for any losses, damage or injury sustained by the EU in respect of such actions unless as a result of the wilful misconduct or gross negligence of the Implementing Partner.
2. **Subrogation and recoveries**
	1. Where the EU makes a payment to the Implementing Partner upon a call on the EU Guarantee, either (i) the Union shall be subrogated into the relevant rights (including in respect of any security), to the extent they continue to exist and to the extent permitted by applicable law, of the Implementing Partner relating to any of its Operations or (ii) the Implementing Partner shall be obliged to allocate the Recoveries received from the Financial Intermediaries or Final Recipients, as applicable, in a waterfall [which includes a reinstatement of the EU Guarantee] as further set out in Article[s] [●] of Annex I*.*
	2. The Implementing Partner shall, in the interests of the Union, pursue the recovery of claims for the amounts referred to in Article 18.1 (including entering into Restructurings) in accordance with the Implementing Partner’s rules, policies and procedures as applied to its own risk operations, as amended, restated, supplemented or substituted from time to time, with the same degree of professional care, efficiency, transparency and diligence, as it applies in relation to the administration of its own risk operations. In the case of Indirect Operations in the form of debt instruments, the Implementing Partner may rely on an obligation of the Financial Intermediary to pursue the recovery of claims in accordance with its internal credit and collection policy.
	3. Recovery proceedings shall be undertaken by the Implementing Partner for as long as possible recovery proceedings are likely to result in recovery of sums in excess of the costs of such recovery and with the same degree of professional care, efficiency, transparency and diligence applied in recovery proceedings initiated in respect of any sums to be recovered in relation to operations financed by the Implementing Partner without an EU Guarantee. The Implementing Partner shall reimburse the EU from the sums recovered in accordance with Article [●] of Annex I (for Debt Operations) / Article [●] of Annex I (for Equity Operations). Any recovery costs will initially be borne by the Implementing Partner and shall be subsequently deducted from the related gross recoveries, prior to any allocation of the Recoveries being made in accordance with Article [●] of Annex I. In addition, when the amount of the gross recoveries is insufficient to finance all recovery costs in relation to an Operation, the Implementing Partner shall have the right to offset the amount of the shortfall in recovery costs attributable to the EU against any EU Recoveries that are payable to the Commission pursuant to Article [●] of Annex I.
	4. The Implementing Partner shall transpose the requirements of this Article related to recoveries in its agreement with Financial Intermediaries or impose equivalent safeguards and measures protecting financial interests of the Union.
3. **[*If applicable:*****Transitional Operations and certain other InvestEU Operations][[24]](#footnote-25)**
	1. The Transitional Operations shall be considered Operations benefitting from the EU Guarantee in accordance with Article 35(4) of the InvestEU Regulation and the terms of this Agreement, following a favourable decision in the policy check procedure by the Commission and approval by the Investment Committee.
	2. The Implementing Partner shall submit its proposed Transitional Operations to the Commission for the policy check providing the information required by Article 5 and to the Investment Committee in accordance with Article 8.

* 1. Article 8 applies to proposed Transitional Operations, except that the submission to the Investment Committee occurs after the approval by the IP Relevant Governing Body (which may or may not be the first Investment Committee meeting after the Effective Date).
	2. Only operations that are not classified as non-performing or distressed or placed on a watchlist or are subject to an equivalent classification in accordance with the Implementing Partner’s rules, policies and procedures at the date of submission to the Investment Committee can be submitted to the Investment Committee as Transitional Operations. The Investment Committee shall assess the proposed Transitional Operations and, where they comply with the requirements and objectives set out in the InvestEU Regulation and the Investment Guidelines, decide that the EU Guarantee coverage extends to them.

For this assessment, the Implementing Partner shall provide the same information that the Investment Committee would receive if it were already in place at the time of approval of the potential InvestEU Operation by the IP Relevant Governing Body in accordance with Article 8.

* 1. Notwithstanding Article [●] of Annex I on inclusions, Transitional Operations shall be included in a Portfolio as and from the date of approval of the relevant Transitional Operation by the Investment Committee.
	2. Articles 19.2 and 19.3shall also apply to potential InvestEU Operations approved but not yet signed by the Implementing Partner during the period from 1 January 2021 until the Effective Date as listed in Part B of Annex XI.

# Part D – Policy Windows, Financial Products, Eligibility, Additionality

1. **Policy Windows**
	1. The applicable Policy Windows and the per Policy Window split of the EU Guarantee, without any Top-Up Contributions, as at the Effective Date is as set out below:[[25]](#footnote-26)

|  |  |
| --- | --- |
| **Policy Window** | **EU Guarantee****(EUR)** |
| Sustainable Infrastructure Window (SIW) | [*insert amount*] |
| Research, Innovation and Digitisation Window (RIDW) | [*insert amount*] |
| SME Window (SMEW) | [*insert amount*] |
| Social Investment and Skills Window (SISW) | [*insert amount*] |
| **Total** | [*insert amount*] |

1. **Financial Products**
	1. The Financial Products under which Operations are originated by the Implementing Partner are described in the Product Schedules.
	2. Each Financial Product shall be allocated to one or more Policy Window(s) as set out in the relevant Product Schedule.
	3. The allocation of the EU Guarantee, without any Top-Up Contributions, to Financial Product(s) as at the Effective Date is as set out below.

|  |  |
| --- | --- |
| **Financial Product**  | **EU Guarantee (EUR)** |
| [*insert name of the Financial Product 1*] | [*insert amount*] |
| [*insert name of the Financial Product 2*] | [*insert amount*] |
| […] | […] |
| **Total** | [***insert total amount***] |

* 1. A potential InvestEU Operation shall be allocated to the Financial Product to which it conforms. In case of a potential InvestEU Operation meeting the criteria of more than one Financial Product, it shall be allocated to the Financial Product under which its main objective falls. The Implementing Partner shall propose the Financial Product to which the potential InvestEU Operation shall be allocated.
	2. [if applicable: Any Financial Product shall be implemented through more than one InvestEU Operation.]
	3. The Implementing Partner shall suspend the signature of or inclusion into a Portfolio of an Operation if, as a result of such additional signature or inclusion, the aggregate amount of the EU Guarantee allocated for Operations would exceed the respective EU Guarantee amount allocated *[in case of a Financial Product using several Policy Windows*: per Policy Window and] per Financial Product. [*If applicable*: The aggregate amount of the allocated EU Guarantee may be increased by the amount of the applicable Top-Up Contribution(s), as set out in the relevant Top-Up Annex.]
1. **Policy Targets**
	1. In the implementation of the EU Guarantee, the Implementing Partner shall pursue the policy objectives set out in the respective Product Schedules.
	2. The Implementing Partner shall aim to achieve that at least:
		1. [30]% of the aggregate signed amount of Operations under all Policy Windows supports climate objectives (“**Climate Contribution**”) [*if applicable:*, and
		2. [60]% of the aggregate signed amount of Operations under the SIW supports climate & environment objectives (“**C&E Contribution**”)].

The amount of the Climate Contribution and the C&E Contribution will be determined using [*as applicable: InvestEU markers/substantial contribution criteria of the adopted delegated acts of the EU Taxonomy Regulation*] as described in the Climate and Environmental Tracking Guidance.

1. **General principles regarding eligibility criteria**
	1. The main part of this Agreement, Annex I and the relevant Product Schedule shall be read together for determining the applicable eligibility criteria for InvestEU Operations, Operations, Sub-Operations, Final Recipient Transactions, Financial Intermediaries, Financial Sub-Intermediaries and Final Recipients, as applicable. The eligibility criteria of both the Operation and the Final Recipient Transaction shall be applicable to Direct Operations.
	2. The Implementing Partner shall only present potential InvestEU Operations to the Investment Committee which it, in good faith and following appropriate due diligence or assessment, believes satisfy the eligibility criteria set out in Article 24, Annex I and the relevant Product Schedule. However, and without prejudice to Articles 8.4 and 8.5, the final determination of whether a proposed InvestEU Operation satisfies these eligibility criteria for the purposes of benefitting from the coverage under the EU Guarantee shall be made by the Investment Committee at the date of its approval.
	3. The eligibility criteria referred to in Article 23.2 shall be met at the date of submission of the document(s) relating to the InvestEU Operation to the Investment Committee and also at the date of approval of the Operation by the Implementing Partner. These eligibility criteria shall not be continuing.
	4. Notwithstanding Article 23.3, a Financial (Sub-)Intermediary shall include Final Recipient Transactions or Sub-Operations (as applicable) in its individual portfolio according to the relevant eligibility criteria, as set out in this main part of the Agreement, Annex I and the relevant Product Schedule.
	5. The process regarding [*insert Non-eligible Operations and/or Operations non-compliant with the exclusion and investment criteria*] is set out in Article(s) [*insert reference to the relevant Article on non-eligibility or non-compliance with the investment criteria*] of Annex I.
2. **Additionality, leverage and multiplier requirement and eligibility criteria**
	1. InvestEU Operations shall satisfy the criteria of market failures, suboptimal investment situations and additionality as further defined in Section A of Annex V to the InvestEU Regulation.
	2. In accordance with Article 14(1)(a) of the InvestEU Regulation and Article 209(2)(d) of the Financial Regulation, the Implementing Partner will contribute to the mobilization of EUR 372 000 000 000 of additional investment by all implementing partners as per recital 40 of the InvestEU Regulation, through its Operations. For the purposes of reporting the contribution to the above mobilization, the Implementing Partner shall report on the InvestEU Multiplier Effect, Operations Multiplier Effect, InvestEU Leverage Effect and Operations Leverage Effect. In addition*,* the Implementing Partner shall report on the Disbursement Multiplier Effect and the Disbursement Leverage Effect.
	3. An Operation shall comply with each of the following eligibility criteria:
		1. it shall be attributable to an InvestEU Operation having received a favourable decision in the policy check procedure from the Commission and approved by the Investment Committee during the Approval Period;
		2. it shall be signed during the Signature Period;
		3. in case of Direct Operations, the signed principal amount of such Operation, or the sum of the signed principal amount of such Operation and the signed principal amount of any other direct operation that is supported by the InvestEU Fund and entered into by any other implementing partner under the InvestEU Fund for the same project shall not exceed 50% of the total project investment cost, whereby regarding the Final Recipients’ operations with other implementing partners the Implementing Partner may rely on a representation by the Final Recipient;
		4. in case of Indirect Operations in the form of equity, the signed principal amount of such Operation, or the sum of the signed principal amount of such Operation and the signed principal amount of an indirect operation in the form of equity that is supported by the InvestEU Fund and entered into by any other implementing partner under the InvestEU Fund for the same fund shall not exceed 50% of the fund size, unless otherwise provided in this Agreement, whereby regarding the Operations with other implementing partners the Implementing Partner may rely on a representation by the Financial Intermediary;
		5. it shall not support activities referred to in Section B of Annex V of the InvestEU Regulation; whereby for Indirect Operations the Implementing Partner may rely on a representation or undertaking by the Financial Intermediary;
		6. it shall not be in the form of a refinancing (such as replacing existing loan agreements or other forms of financial support for projects which have already partially or fully materialised), except in specific exceptional and well justified circumstances, only if and as further set out in Annex I.
	4. In addition to the eligibility criteria set out in Article 24.3, an Operation concerning:
		1. for defence: investments in defence technologies and products identified in the annual work programme for the European Defence Fund;
		2. for space: investments in atomic clocks, strategic launchers and space products defined in a list decided by the Commission on an annual basis and communicated to the Steering Board;
		3. for cybersecurity: investments focusing solely on developing and deploying cybersecurity tools and solutions, including when these are part of deploying or upgrading digital networks and data infrastructure;

except:

* + - 1. in case of a Direct Operation with a signed principal amount below EUR 10 000 000;
			2. in case of an Indirect Operation whereby the Final Recipient Transactions have a signed principal amount below EUR 10 000 000; or
			3. if the Final Recipient demonstrates (which may be in the form of a representation in the relevant agreement) that it is a legal entity for which the Member State in which it is established has approved a guarantee in line with the principles concerning eligible entities set out in the relevant provisions of the European Defence Fund Regulation[[26]](#footnote-27) or the Commission waiver granted in accordance with principles concerning eligible entities set out in the relevant provisions of the Space Regulation[[27]](#footnote-28);

shall comply with the following eligibility criteria:

* + - * 1. Final Recipients of Operations falling under Articles 24.4(a) to 24.4(c) shall not be controlled by a Third Country or a Third Country Entity and shall have their Executive Management in the Union;
				2. suppliers and subcontractors of Final Recipients of Operations falling under Article 24.4(a) shall not be controlled by a Third Country or a Third Country Entity and shall have their Executive Management in the Union;
				3. in case of Operations concerning the field of 5G connectivity falling under Articles 24.4(a) to 24.4(c), the Final Recipients as well as their suppliers shall comply with the measures and risk mitigation plans pursuant to the 5G Cybersecurity Toolbox. For this purpose, suppliers of Final Recipients notably include vendors of telecom equipment and manufactures and other third-party suppliers, such as cloud infrastructure providers, managed service providers, systems integrators, security and maintenance contractors and transmission equipment manufacturers;

whereby control means the ability to exercise a decisive influence on a legal entity directly or indirectly through one or more intermediate legal entities.

* 1. A Final Recipient Transaction shall comply with the following eligibility criteria:
		1. it shall be denominated in (i) euro [*if applicable:, (ii) another tradeable currency that is the legal tender of the Member State where the Final Recipient is established, or (iii) currencies other than the legal tender of the Member State where the Final Recipient is established and other than euro, only when there is a strong economic rationale for doing so*];
		2. the sum of the signed principal amount of the Final Recipient Transaction and the signed principal amount of another operation that is supported by the InvestEU Fund or other Union programmes for the same project shall not exceed the total project investment cost, whereby regarding the Final Recipients’ operations with other implementing partners the Implementing Partner may rely on a representation or undertaking by the Final Recipient or Financial Intermediary, as applicable;
		3. it shall finance a project or operation that is situated in a Member State, in an OCT or that constitutes a Cross-border Project, whereby the application of this criterion may be further specified in Annex I.
	2. A Final Recipient shall comply with the following eligibility criteria:
		1. it shall be deemed economically viable according to internationally accepted standards; whereby (i) for Indirect Operations the Implementing Partner may rely on a representation or undertaking by the Financial Intermediary, as applicable, (ii) the applicable standards may differ in light of the typology or features of the Final Recipient, and (iii) in case non-grant financing is provided to the Final Recipient by another entity than the Implementing Partner for the same purpose (which includes, for the avoidance of doubt, the Financial Intermediary’s own risk taking) the criterion shall be deemed to be met; and
		2. it shall not be in one of the situations referred to in Article 28.1, whereby in case of Indirect Operations the Implementing Partner may rely on representations as set out in Article 29.1(b)(viii).
	3. The Implementing Partner undertakes not to include the same operation it signs under the RRF or under another Union programme as an Operation in a Portfolio.
1. **Undertakings of Financial (Sub-)Intermediaries and Final Recipients**
	1. The Implementing Partner shall ensure that the Financial (Sub-)Intermediary shall undertake:
		1. not to include the same Final Recipient Transaction or Sub-Operation in more than one portfolio supported by the InvestEU Fund or by any other Union programme; and
		2. for Indirect Operations in the form of debt instruments, to retain an economic exposure of at least 20% (in case of capped and uncapped guarantees, ranking *pari passu* with the guarantee provided by the Implementing Partner) of the outstanding committed principal amount of, as applicable, the Final Recipient Transaction or Sub-Operation that is included in the Financial (Sub-)Intermediary’s individual portfolio, as further specified and adjusted in Article [●] of Annex I.
	2. The Implementing Partner shall ensure, or shall ensure that the Financial (Sub-)Intermediary undertakes to ensure, as applicable, that the Final Recipient shall undertake:
		1. not to use a grant from a Union programme to reimburse the relevant Final Recipient Transaction;
		2. not to use the Final Recipient Transaction to pre-finance a grant from a Union programme;
		3. for Operations falling under Article 24.4(a) to 24.4(c), within five (5) years after the date of the final disbursement under the relevant Operation, not to exclusively license or transfer intellectual property rights to related critical technologies and technologies instrumental to safeguarding the essential security interest of the Union and its Member States directly resulting from such Operations to Third Countries or Third-Country Entities, unless approved by the Member State in which the Final Recipient is established; and
		4. to maintain and be able to produce all the documentation related to the implementation of the EU Guarantee for a period of five (5) years following the expiry or termination of the agreement concluded between the Implementing Partner or the Financial (Sub-)Intermediary, as applicable, and the Final Recipient. By derogation from the previous sentence, the retention period shall be three (3) years where the amount of the Final Recipient Transaction was lower than or equal to EUR 60 000.
2. **Policy Review Dialogue**
	1. The Commission and the Implementing Partner shall organise regular meetings (the “**Policy Review Dialogues**”) to discuss the implementation of the Financial Products.
	2. The Policy Review Dialogue is a consultative forum aimed to: (i) discuss the pipeline of operations under a specific Financial Product, where a list of applicants at the due diligence stage will be provided based on the Implementing Partner’s assessment at earlier stages, subject to confidentiality requirements; (ii) review the performance of the Financial Products and their implementation status (including geographical coverage); (iii) provide guidance on the interpretation of eligibility criteria. Further topics may be discussed at the request of the Commission or the Implementing Partner.
	3. The Implementing Partner shall use reasonable efforts to take into account the views of the Commission expressed in the Policy Review Dialogue.
	4. Starting from the year 2024 and until the end of 2027, a Policy Review Dialogue shall take place once per year, on the date agreed by the Commission and the Implementing Partner, unless the Commission considers such a Policy Review Dialogue not necessary. It may consist of one or more meetings covering all Policy Windows. The meetings can take place in physical or hybrid form or remotely, as agreed by the Commission and the Implementing Partner. If during a Policy Review Dialogue any substantial issues arise, the Commission may request additional ad hoc meetings with the Implementing Partner to discuss those issues.
	5. The Commission and the Implementing Partner shall agree on the agenda of the meeting. The agreed agenda as well as any documents to be discussed during the Policy Review Dialogue meetings shall be distributed to the Commission and the Implementing Partner at least ten (10) Business Days in advance.
	6. The minutes from each of the Policy Review Dialogue meeting shall be prepared by the Implementing Partner and shared with the Commission, within one (1) month following the meeting concerned. The minutes will be adopted swiftly by consensus of the Commission and the Implementing Partner by exchange of emails or other means agreed in the meeting concerned.

# Part E – Final Recipients [and Financial (Sub-)Intermediaries]

1. **[*If applicable*: Selection of Financial Intermediaries][[28]](#footnote-29)**
	1. In the implementation of its intermediated Financial Products, the Implementing Partner shall select under its responsibility one or more Financial Intermediaries fulfilling the requirements laid down in this Agreement. They shall be selected in accordance with the provisions of this Agreement and following the rules, policies and procedures of the Implementing Partner.
	2. Financial Intermediaries shall be selected in respect of the principles of open, transparent, proportionate and non-discriminatory procedures, while avoiding conflict of interests and taking due account of the nature of the Financial Product and the experience and financial and operational capacity of the Financial Intermediary.
	3. Such selection process shall be advertised by appropriate means, whereby the criteria for the selection of Financial Intermediaries shall be proportionate and non-discriminatory, and shall be set out in advance and communicated to potential Financial Intermediaries in a transparent manner.
	4. Applications may be assessed by the Implementing Partner on a “first-come, first-assessed basis” or following other criteria defined by the Implementing Partner for the selection process in accordance with the principles set out Article 27.3.

The selection process of each application shall generally entail the following steps:

* + 1. screening (pre-selection);
		2. due diligence;
		3. assessment and approval in accordance with the Implementing Partner’s internal assessment and decision making rules, subject to Articles 5 to 11; and
		4. negotiation and signature of the Operations.
	1. The Implementing Partner shall conduct due diligence of the applicant. The Implementing Partner shall apply the same processes and procedures as for its own risk operations.
	2. Assessment of the application by the Implementing Partner shall comprise an evaluation of its compatibility with the eligibility criteria. The Implementing Partner shall apply the same processes and procedures in assessment of the application as for its own risk operations.
	3. The decision to assess a Financial Intermediary rests exclusively with the Implementing Partner. At any time before signature, the Implementing Partner may decide to reject an application and inform an applicant accordingly. Notwithstanding, an applicant shall have the right to withdraw the application at any stage before signature.
	4. The Implementing Partner has no obligation to enter into an Operation with selected applicants. The Implementing Partner’s commitment to an Operation may be subject to certain conditions.
1. **Exclusion of Final Recipients [and Financial (Sub-)Intermediaries][[29]](#footnote-30)**
	1. Final Recipients and Financial (Sub-)Intermediaries that are in one of the situations below shall not be selected:
		1. they are bankrupt, are subject to insolvency, are being wound up, are having their affairs administered by a liquidator or by the courts, in this context are in an arrangement with creditors, are having their business activities suspended or a standstill (or equivalent) agreement has been signed with creditors and validated by the competent court when required by the applicable law, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
		2. in the past five (5) years, they have been the subject of a final judgment or final administrative decision for being in breach of their obligations relating to the payment of taxes or social security contributions in accordance with the applicable law and where such obligations remain unpaid unless a binding arrangement has been established for payment thereof;
		3. in the past five (5) years, they or persons having powers of representation, decision-making or control over them have been convicted by a final judgement or a final administrative decision for grave professional misconduct, where such conduct denotes wrongful intent or gross negligence, which would affect their ability to implement the Operation, Sub-Operation or Final Recipient Transaction, as applicable, and which is for one of the following reasons:
			1. negligently providing misleading information that may have a material influence or fraudulently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of eligibility or selection criteria or in the performance of a contract or an agreement;
			2. entering into agreements with other persons or entities aimed at distorting competition;
			3. attempting to unduly influence the decision-making process of the contracting authority during the relevant award procedure (as this term is defined in the Financial Regulation);
			4. attempting to obtain confidential information that may confer upon it undue advantages in the relevant award procedure (as this term is defined in the Financial Regulation);
		4. in the past five (5) years, they or persons having powers of representation, decision-making or control over them have been the subject of a final judgment for:
			1. fraud;
			2. corruption;
			3. participation in a criminal organisation;
			4. money laundering or terrorist financing;
			5. terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences;
			6. child labour and other forms of trafficking in human beings;
		5. they are subject to a decision on exclusion contained in the published early detection and exclusion system database referred to in Article 39;

provided that notwithstanding the above and without prejudice to Article 39.1, the Implementing Partner may decide not to exclude a Final Recipient or a Financial Intermediary where the Final Recipient or the Financial Intermediary can provide evidence that remedial measures have been adopted to demonstrate its reliability despite the existence of a ground for exclusion, or where it is indispensable to ensure the continuity of the service, for a limited duration and pending the adoption of remedial measures, or where an exclusion would be disproportionate taking into account the circumstances.

* 1. If the Implementing Partner identifies that a Final Recipient or a Financial Intermediary it is considering for selection to implement part of the EU Guarantee or persons having powers of representation, decision-making or control over them has been, in the past five (5) years, subject to a final judgment or administrative decision by a national court or authority that it was created with the intent to illegally circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business, the Implementing Partner shall assess whether the entity has the resources, capability, creditworthiness and integrity to carry out the tasks and perform the obligations foreseen under the relevant agreements.
	2. In case of suspected or reported misrepresentation by a Final Recipient or a Financial Intermediary, of its situation or qualifications, including in respect of information provided in the context of the process referred to in Article 27.1, and to the extent that such suspected or reported misrepresentation falls within the scope of OLAF competences referred to in Article 31.9, the Implementing Partner shall inform OLAF in accordance with the relevant provisions of Article 31.6.
	3. To protect against any Operations being misused for illegal purposes, including money laundering, terrorism financing, tax fraud, and tax evasion, the Implementing Partner shall require appropriate contractual arrangements with their Final Recipients and Financial (Sub-)Intermediaries and/or other appropriate means. Furthermore, the Implementing Partner shall transpose the requirements of Article 155(2) a) and b) of the Financial Regulation into the relevant agreements with its Financial Intermediaries and shall request the Financial Intermediaries to report on their observance.
1. **[*If applicable*: Agreements with Financial Intermediaries]**[[30]](#footnote-31)
	1. Agreements concluded by the Implementing Partner with Financial Intermediaries shall reflect all applicable obligations of the Implementing Partner under this Agreement, including as set out in Articles 16.8 and 18.4. In particular, such agreements shall require that for the purpose of the implementation of the EU Guarantee, the selected Financial Intermediaries, in order to:
		1. fully cooperate in the protection of the Union's financial interests; and
		2. provide for the right of the Commission to comprehensively exercise its competences;

shall:

* + - 1. provide OLAF with all the facilities and the information and documentation on operations concerned to comprehensively exercise its competences allowing it to carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013, Regulation (Euratom, EC) No 2185/96 and Regulation (EC, Euratom) No 2988/95 in order to protect the financial interests of the Union with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with any Operation. In accordance with the applicable provisions of EU law, OLAF may transmit the results of such investigations to the institutions, bodies, offices and agencies concerned and to competent authorities of the Member States concerned;
			2. provide EPPO with all the facilities and information which must be provided to it under applicable law for the performance of its tasks pursuant to Regulation (EU) 2017/1939 in respect of those Member States participating in the enhanced cooperation, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with any Operation;
			3. maintain and be able to produce all the documentation related to the implementation of the EU Guarantee for a period of five (5) years following the expiry or termination of the agreement concluded by the Implementing Partner with the Financial Intermediary. By derogation from the previous sentence, the retention period shall be three (3) years where the amount of the Operation entered into with the Financial Intermediary by the Implementing Partner was lower than or equal to EUR 60 000;
			4. afford the European Court of Auditors all the facilities and give it all the information which it considers necessary for the performance of its tasks, pursuant to Article 257 of the Financial Regulation;
			5. provide for the Commission to carry out controls and audits, including on-the-spot checks and inspections in accordance with the provisions and procedures laid down in Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests[[31]](#footnote-32) and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests[[32]](#footnote-33);
			6. comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and the fight against tax fraud;
			7. comply with the provisions set out in Articles 3.5 to 3.9;
			8. transpose the conditions set out in this Article 29.1 and in Article 28.1 (save that the early detection and exclusion system referred to in Article 28.1(e) shall refer only to the published list of economic operators excluded or subject to financial penalty), with respect to any Financial Sub-Intermediaries and Final Recipients, into their agreements with them. Financial Sub-Intermediaries and Final Recipients shall give representations (which may be included in the relevant agreement) that, to their knowledge, they are not in an exclusion situation as set out under Article 28.1 and the Implementing Partner may rely on such representations.

# Part F – Reporting

1. **Operational, financial, risk and complementary reporting**
	1. The Implementing Partner shall keep records related to InvestEU Operations in its database in accordance with its rules, policies and procedures that clearly and transparently identify them.
	2. The Implementing Partner shall submit a semi-annual Operational Report to the Commission on InvestEU Operations in accordance with Annex II.
	3. The Implementing Partner shall report on the Key Performance Indicators and Key Monitoring Indicators in accordance with Annex II.
	4. The Implementing Partner shall submit a Progress Report to the Commission, as further specified in Annex II.
	5. The Operational Report and Progress Report shall be submitted based on data and information received from Final Recipients, Financial Sub-intermediaries, Financial Intermediaries and others, as appropriate. The Implementing Partner shall perform their customary verifications of any operational data and information received in line with their rules, policies and procedures.
	6. The Implementing Partner shall provide the Commission with financial reporting on InvestEU Operations in accordance with Annex III.
	7. The Implementing Partner shall provide the Commission with Risk Report in accordance with Annex IV.
	8. [*if applicable*: The Implementing Partner shall provide the Commission with a State Aid Report in accordance with Annex X.]
	9. The Implementing Partner shall include semi-annually in the quarterly Claims Form a forecast of cash flows in relation to the EU Guarantee at the level of each Portfolio for the next twelve (12) months, substantially in the form of Appendix 2 to Annex V. The cash flow forecast may be based on information included in the Operational Report and Risk Report from the previous reporting period. The Commission acknowledges and accepts that (i) cash flow forecast is based on projections, forecasts, estimates, beliefs and similar information, which are subjective and forward looking statements, not historical facts, (ii) cash flow forecasts are indicative and provided for illustrative purposes only, and are not intended to serve as, and must not be relied upon by the Commission as an assurance, a prediction or a definitive statement of fact or probability, and (iii) the actual claims on the EU Guarantee may be materially different from the cash flow forecast.
	10. The Implementing Partner shall support the Commission in the preparation of the annual accounts and reports to the European Parliament, the Council and the Court of Auditors, that are required by the InvestEU Regulation or the Financial Regulation and, upon request, provide to the Commission additional information in its possession or reasonably available to it that is necessary to fulfil the Commission's obligations in relation to the InvestEU Regulation or the Financial Regulation, including obligations regarding the management of the Common Provisioning Fund and in relation to the EU annual accounts.
	11. Reports to be submitted to the Commission shall be expressed in euro and in addition, to the extent required, in the relevant currencies as set out in Annexes II, III and IV. These reports may be drawn from financial statements or reports denominated in other currencies. Unless otherwise set out in the relevant Annex, the amounts denominated in a currency other than euro, shall be converted into euro at the ECB Exchange Rate as of the last day of the relevant reporting period (for stock or outstanding amounts) or at the applicable ECB Exchange Rate as of the date of the relevant event (for example approvals, signatures, disbursements).
	12. In addition, once a year from 2024 until 2028, the Implementing Partner may provide the Commission information on barriers to investment encountered when carrying out Operations.
	13. The Parties shall endeavour to agree appropriate and reasonable modifications to the reporting provisions under this Agreement during the implementation of the InvestEU Fund should the Parties, the European Parliament, the European Court of Auditors or other controlling body so require and to promote close collaboration and exchange of information between their officials.

# Part G – Controls, Audit and Evaluations

1. **Controls and monitoring**
	1. The Implementing Partner shall ensure the functioning of an effective and efficient Internal Control system throughout the duration of this Agreement with regard to the implementation of this Agreement.
	2. The Implementing Partner shall monitor the implementation of this Agreement by means of the reporting and/or financial statements provided by the Financial Intermediaries, the audits available and any controls carried out by them or by the Implementing Partner. Where there is no Financial Intermediary, the Implementing Partner shall monitor the implementation of Operations by means of the reporting and/or financial statements provided by the Final Recipients. Annex VI sets out specific monitoring and controls to be carried out by the Implementing Partner and the Financial Intermediaries.
	3. The Implementing Partner shall carry out *ex ante* and *ex post* controls on the Operations in accordance with its rules, policies and procedures and this Agreement, including where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that an Operation is effectively and correctly implemented, and in order, *inter alia*, to prevent and correct Irregularities and fraud. When negotiating contractual documentation in relation to the above, the Implementing Partner shall take into account the nature of the Financial Products under which the Operations are implemented. The Commission may accompany the Implementing Partner to on-the-spot checks upon the Commission’s request or at the Implementing Partner’s request.
	4. The Implementing Partner shall include in its reporting, as of the end of each year, a summary of the final audit reports and controls carried out as specified in Annex III.
	5. Agreements entered into by the Implementing Partner which pertain to Operations shall expressly entitle the European Court of Auditors, the Commission, including OLAF and EPPO, as applicable: (i) to receive access to all relevant documentation and information relating to Operations and/or to visit the sites, installations or works financed by the Operations; and (ii) to conduct such on-the-spot audits and checks as they may wish.
	6. The Implementing Partner shall without delay notify OLAF and provide it with the necessary information when, at any stage of preparation, implementation or closure of InvestEU Operations and Operations, it has grounds to suspect that there is a potential case of fraud, corruption or other illegal activity that may affect the financial interests of the EU. The Implementing Partner, in close cooperation with OLAF, shall take appropriate precautionary measures, including measures for the safeguarding of evidence. In the event of Irregularities in relation to any InvestEU Operations and Operations, the Implementing Partner shall inform the Commission, without delay and undertake all necessary actions including legal proceedings, to recover any amounts due.
	7. The monitoring of the implementation by the Commission shall be intended to enable the Commission to assess (i) whether the Internal Control system set up by the Implementing Partner for the implementation of this Agreement is efficient and effective; (ii) whether the InvestEU Fund support has been used in compliance with this Agreement; and (iii) the progress towards the achievement of policy objectives reflected in the relevant output and result indicators.
	8. The Commission may carry out controls and monitoring on the implementation of the EU Guarantee by means of financial statements provided by the Implementing Partner, and may, where appropriate, perform on-the-spot checks on the Financial (Sub-)Intermediaries or Final Recipients on representative and/or risk-based samples of transactions. The Implementing Partner shall contribute to any such controls and monitoring by the Commission by providing all relevant information and documentation related to the implementation of this Agreement reasonably requested by the Commission.
	9. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[[33]](#footnote-34), Council Regulation (Euratom, EC) No 2185/96[[34]](#footnote-35) and Council Regulation (EC, Euratom) No 2988/95[[35]](#footnote-36), in order to protect the financial interests of the EU, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU in connection with any InvestEU Operation or Operation.
	10. Where such illegal activities are proven, the Implementing Partner shall take appropriate recovery or other action (taking into account the nature of the Financial Product under which the Operation in question is implemented) in relation to the relevant Operation in accordance with its rules, policies and procedures.
	11. OLAF shall as soon as possible notify the Implementing Partner of the opening of such investigations, unless it considers that this information is such as to prejudice the legitimate interests of the person concerned and the effectiveness of the investigation and of the action to be taken subsequent thereto, or any confidentiality requirements.
	12. In addition, in case of criminal conduct in a Member State participating in the enhanced cooperation, in which EPPO could exercise its competence, the Implementing Partner shall without undue delay report to EPPO, in accordance with the applicable provisions of Regulation (EU) 2017/1939.
	13. EPPO may carry out investigations and prosecutions pursuant to Regulation (EU) 2017/1939, in order to protect the financial interests of the Union. The Implementing Partner shall assist and support the investigations and prosecutions of EPPO, in accordance with the principle of sincere cooperation in respect of those Member States participating in the enhanced cooperation.
	14. Agreements entered into by the Implementing Partner which are pertaining to Operations shall include appropriate contractual remedies (taking into account the nature of the relevant Financial Product) in case of fraud, corruption or other illegal activity in accordance with this Agreement, Implementing Partner’s policies and applicable regulatory requirements.
2. **Audit**
	1. In line with the relevant Union law, the European Court of Auditors shall have the power to audit the implementation of the EU Guarantee.
	2. The Commission may carry out any audit on the implementation of the EU Guarantee by the Implementing Partner or have such audit carried out on its behalf. The rules under which the Commission shall carry out such audits shall follow the principles laid down in Annex VI.
	3. Agreements entered into by the Implementing Partner for Operations shall contain provisions allowing the European Court of Auditors full access to the Operations.
	4. The Implementing Partner shall contribute to any audit carried out by the Commission or on its behalf on the implementation of the EU Guarantee by providing all relevant information and documentation related to the implementation of the EU Guarantee.

1. **Evaluations**
	1. The Implementing Partner shall contribute to and provide the necessary information for the evaluations, reports and reviews referred to in Article 29 of the InvestEU Regulation.

# Part H – General Provisions

1. **Conflict of interests**
	1. The Parties shall take all necessary precautions to avoid conflicts of interests of individuals acting on behalf of the Parties and shall inform the other Party without delay of any situation constituting or likely to lead to any such conflict. In the event of a conflict of interest, the Party concerned shall take appropriate measures.
	2. There is a conflict of interests where the impartial and objective exercise of the functions of any natural person under this Agreement is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.
2. **Protection of personal data**
	1. The Commission, in the implementation of this Agreement, shall protect personal data according to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC[[36]](#footnote-37).
	2. With respect to the Operations, the Implementing Partner shall comply and shall require Financial Intermediaries, who shall require the Financial Sub-Intermediaries, to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data[[37]](#footnote-38) or with other applicable rules that ensure an adequate level of protection of personal data in the sense of Article 45 of Regulation (EU) 2016/679.
3. **Confidentiality**
	1. The Parties shall apply their transparency and disclosure policies, unless otherwise provided in this Agreement.
	2. Having regard to the fact that some of the information exchanged in the context of this Agreement may be of a confidential character or commercially sensitive, the Parties undertake to abstain from divulging without the prior written consent of the other, any confidential information received by them in this context. This undertaking, however, shall not affect any communication of information which is required by law, regulation, treaty, by an order of a court having jurisdiction in the matter, or in particular, to the European Court of Auditors. The Implementing Partner may also disclose such information as necessary to its governing bodies, auditors and advisers. The Commission may also disclose such information as necessary to its auditors and advisers, or to the Technical Assessment Unit for the purposes set out in Article 37.2.
	3. In the event that disclosure to third parties of any confidential information received by them in this context appears necessary pursuant to a Party’s respective rules on access to documents, the Commission and the Implementing Partner shall consult with each other with a view to agreeing on a suitable solution prior to disclosure of such information. The Implementing Partner acknowledges that the Agreement shall be made available to the European Parliament and to the Council at their request. If the Commission is required to disclose confidential information to the European Parliament or the Council following such request or in the discharge procedure, it shall ensure the secure transmission of such confidential information and apply the arrangements regarding sensitive documents agreed between these institutions for these purposes.
	4. For the purposes of this Article confidential information means any information in written or other permanent (including electronic) form which is clearly identified as confidential by a Party. For the avoidance of doubt, information contained in a Risk Report under Annex IV and any information or data exchanged in accordance with Article 37 and Article 38 is confidential and can only be used and disclosed in accordance with this Agreement.
4. **Information to be provided to the Technical Assessment Unit**
	1. The Implementing Partner acknowledges that the Technical Assessment Unit will provide to the Commission technical expertise on banking related aspects for the purposes defined in Article 11(1), first subparagraph, points (b)(ii) to (b)(vi) of the InvestEU Regulation.
	2. The following information is considered as strictly necessary for the Technical Assessment Unit to fulfil its tasks specified in Article 11(1), first subparagraph, points (b)(iv) to (b)(vi) of the InvestEU Regulation and the Implementing Partner agrees to disclose it to the Technical Assessment Unit notwithstanding Article 36.2:
		1. the relevant Articles of this Agreement, in particular of Annex I, in relation to the Financial Product(s), including the type of assets to be supported, region and country of exposure, EU Guarantee amount per Operation and/or Portfolio, probability of default rating mapped to the InvestEU Common Rating Scale, recovery rate, maturity and grace period for the Financial Product(s) covered, where applicable, and the deployment plan / schedule of the EU Guarantee; and
		2. the relevant data provided by the Implementing Partner through reporting in accordance with Annexes II and IV, in an anonymised form to the extent necessary; and
		3. any other information requested by the Technical Assessment Unit and agreed by the Parties.
	3. Any communication to the Technical Assessment Unit shall be done through the Commission. For the purposes of transmitting the information to the Technical Assessment Unit, the Implementing Partner shall provide to the Commission all relevant information not available to the latter.
5. **Provision of Processed Data**
	1. For the purposes of implementing this Agreement, until the end of the Signature Period, the Commission shall give the Implementing Partner access to the InvestEU Common Rating Scale and the associated one-year probabilities of default and mapping guidance, forming part of the Processed Data. The Implementing Partner shall use the one-year probabilities of default and the mapping guidance to map their internal rating system against the InvestEU Common Rating Scale.
	2. The Implementing Partner may store and archive the Processed Data, as an integral component of the Commission’s database or application which incorporates the Processed Data and through which access to such data was granted or as otherwise required by the Commission. The Implementing Partner shall have no rights in or to the Processed Data other than the right to use them in accordance with the express terms of this Agreement. The Implementing Partner shall be bound by legends, disclaimers and notices appearing from time to time in connection with the Processed Data.
	3. For the purpose of Article 38.1, the Implementing Partner represents and warrants to the Commission that it is not: (i) subject to asset freeze sanctions, such as by inclusion on the list of Specially Designated Nationals and Blocked Persons maintained by the United States of America’s Office of Foreign Assets Control, or the consolidated lists of asset freeze targets published by the United Nations, European Union, or United Kingdom, nor is it owned or controlled by any such person(s) whether individually or collectively; (ii) organized or headquartered in a country or territory subject to comprehensive geographic sanctions imposed by the United States of America’s Government (currently Crimea, Cuba, North Korea, Iran, and Syria) or owned or controlled by any such person; or (iii) subject to restrictions regarding the receipt of items originating from the United States of America by virtue of being on the *Denied Persons List* or the *Entity List* maintained by the United States of America’s Commerce Department. For the purposes of this provision, “person” means any natural or legal person; “owned” and “controlled” shall be interpreted as per the relevant applicable sanctions law or regulation. The Parties acknowledge and agree that the representations and warranties under this Article 38.3 are only sought and given to the extent that to do so is permissible pursuant to any applicable anti-boycott rule of the European Union, such as Regulation (EC) 2271/96. The Implementing Partner shall notify the Commission if it learns that any representation made herein is no longer accurate. The prohibitions set forth in this Article 38.3 shall apply notwithstanding any terms in any other applicable contractual document, addendum or other writing, whether express or implied.
	4. The Implementing Partner undertakes not to:
		1. remove any trademarks or identifiers associated with the Processed Data;
		2. make any Processed Data accessible (including through a database or other application populated with the Processed Data), re-sell, sub-license, transfer or disclose the Processed Data by any means, including any electronic means, to any third party;
		3. use the Processed Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request; and/or
		4. redistribute, extract, reutilise, use, exploit, copy, store or archive the Processed Data for any purpose not explicitly allowed under this Agreement.
	5. The access to the Processed Data may be suspended or terminated, if (a) any misuse, security breach or unauthorised access to or disclosure of the Processed Data is reasonably suspected, until such misuse, security breach or unauthorised access or disclosure is remedied, or (b) if the Implementing Partner is in breach of Article 38.3, or (c) if the licence rights of the Commission related to the Processed Data are suspended or terminated, in which case the Commission notifies accordingly the Implementing Partner on the actions to be taken. In case the access to the Processed Data is terminated, the Implementing Partner shall cease any further use of the Processed Data upon such notification by the Commission.
	6. Neither the Commission, nor the European Investment Bank (neither its licensors nor licensors of the licensors) shall have any liability to the Implementing Partner or to any third party receiving and/or benefitting from the Processed Data, for any error, inadequacy, or inaccuracy in the Processed Data that is caused, directly or indirectly, by an error, inaccuracy, incompleteness or inadequacy of the Licensed Data that is used for obtaining the Processed Data. The Implementing Partner acknowledges that Licensed Data is provided to the European Investment Bank without warranty of any kind, and that its licensors expressly disclaim all representations and warranties with respect to Licensed Data, express or implied, and whether oral or written, including without limitation (a) any warranty as to the accuracy, timeliness, completeness, adequacy or the results to be obtained from the use of the Licensed Data, (b) the implied warranties of non-infringement, merchantability and fitness for a particular purpose even if they have been informed of such purpose, and (c) any warranties arising by implication or from course of performance, course of dealing, or usage of trade, and neither the licensors of the European Investment Bank, nor their licensors accept any liability towards the European Investment Bank, or to any third party with respect to any of the foregoing.
	7. To the extent permitted by law, under no circumstance shall the Commission, the European Investment Bank (or its licensors) have any liability to the Implementing Partner for:
6. any loss, damage or other injury in whole or in part caused by, resulting from or relating to, any error (negligent or otherwise), or any other circumstance or contingency within or outside the control of the Commission, the European Investment Bank or any of their directors, officers, employees or agents, or licensors, in connection with the procurement, collection, compilation, analysis, interpretation, communication, publication or delivery of the Processed Data, or
7. any indirect, special, consequential, incidental or compensatory damages whatsoever (including, without limitation, lost profits), even if the Commission, or the European Investment Bank shall have been advised in advance of the possibility of such damages, in either case caused by, resulting from or relating to the use of, or inability to use, any Processed Data.
	1. The Implementing Partner shall indemnify the Commission and the European Investment Bank against any claims, losses, damages, costs (including all reasonable legal fees) and expenses incurred by or awarded against the Commission, the European Investment Bank or its licensors arising out of or in connection with the access to or use of the Processed Data by the Implementing Partner other than in accordance with this Article 38.
8. **Early detection and exclusion system**
	1. The Implementing Partner shall have access to the information on decisions on exclusion contained in the early detection and exclusion system database set up and operated by the Commission in order to verify whether there is an exclusion and to exclude a person or entity subject to a decision on exclusion contained in the early detection and exclusion system database, when acting within the scope of this Agreement.
	2. The Implementing Partner shall transmit to the Commission information related to cases of detected fraud or Irregularity and their follow up pursuant to Article 142(2)(e) of the Financial Regulation, containing all the elements specified in Article 142(3) of the Financial Regulation, as regards, *inter alia*, applicants and tenderers for financing under a Financial Product, Financial Intermediaries and Final Recipients.
9. **Communication, visibility and transparency**
	1. The InvestEU Fund communication strategy has as its objectives to:
		1. create support for the initiative by aiming at making the InvestEU Fund’s objectives known, understood and shared by the largest possible number of stakeholders and by the general public;
		2. underpin the operational objectives by ensuring that stakeholders, including potential and actual clients and partners of the Implementing Partner, have all necessary information on the functioning of the InvestEU Fund and on how to engage with them to apply for potential Operations; and
		3. ensure broad public access to information about the InvestEU Fund’s performance and results, contributing to its accountability and the understanding of its impact.

The Implementing Partner shall contribute to these objectives by carrying out its communication activities in accordance with its own rules, policies and procedures. In order to ensure a consistent branding and communication approach, the Commission and the Implementing Partner shall engage in regular consultations to plan, implement, review and adapt communication activities, at national, EU-wide, and global level, as appropriate.

* 1. In order to promote the InvestEU Fund:
		1. the Implementing Partner shall inform, or shall contractually require the Financial Intermediaries, if any, to inform the Financial Sub-Intermediaries, if any, and Final Recipients of Operations that these Operations benefit from EU support under the InvestEU Fund by including a statement in all financing agreements pertaining to Operations in the following form:

“This operation benefits from support from the European Union under the InvestEU Fund”;

* + 1. the Commission or the Implementing Partner may hold workshops, conferences or press events relating to the InvestEU Fund. The Commission and the Implementing Partner shall seek to inform the other about such events in good time and invite the other to them and shall provide the other with reasonable assistance in connection with such events, if so requested in writing, whereby each Party shall cover its own travel expenses;
		2. the Implementing Partner, in coordination with the Commission, shall identify show cases, taking into account, amongst other features, their geographical coverage. Subject to the consent of the Final Recipient or Financial Intermediary, for such identified show cases, a document indicating the name of the Final Recipient or Financial Intermediary, its address, the financing form, the sector of activity and a short summary why the respective Operation should be considered a show case shall be prepared by the Implementing Partner or submitted by the Financial Intermediary to the Implementing Partner. Visibility will be sought for the show cases, whilst ensuring that operational considerations and the need to safeguard client relations are taken into account. The visibility on the show case may include audio visual material or print publications for the promotion of the InvestEU Fund produced by the Commission;
		3. subject to confidentiality requirements, the Progress Report may be used by the Commission for providing content for communication material, including for the regular updating of the access2finance.eu website, where applicable. The Commission shall provide information to the Implementing Partner for the purpose of updating its relevant website on the InvestEU Fund, where applicable; and
		4. the Implementing Partner shall, in line with its communication strategy, actively promote the #InvestEU hashtag in its social media communication.
	1. In addition to the regular bilateral consultations between the Commission and the Implementing Partner as set out in the second subparagraph of Article 40.1, the Implementing Partner and the Commission shall participate in the regular coordination of the InvestEU Fund communication strategy in the InvestEU Fund communication network, where all of its implementing partners are represented, in order to cooperate with the other implementing partners in the coordination and implementation of the InvestEU Fund’s communication activities. The coordination revolves around the following elements: visibility of the InvestEU Fund on the websites of the Commission and of the implementing partners, joint communications on signed Operations, press releases, social media promotion and events. The communication network primarily takes the form of regular remote meetings and email exchanges. Physical events may be organised in exceptional cases.
	2. The Implementing Partner shall use and shall contractually require Financial (Sub-)Intermediaries and Final Recipients, as applicable, to use the emblem of the Union or a reference to the EU, as appropriate, in a visible way (and with similar prominence as the Implementing Partner’s logo, if applicable) in all its press releases, communications material, the social media, as well as in all contractual documentation directly related to an Operation. When doing so, the emblem of the Union from the following website can be used <https://ec.europa.eu/info/sites/default/files/eu-emblem-rules_en.pdf>.

The Commission shall use the Implementing Partner’s logo in a visible way and with similar prominence as the Commission’s logo in all the Commission’s communications material directly related to the InvestEU Fund activities involving the Implementing Partner.

* 1. Regarding press releases concerning the InvestEU Fund, the following rules shall apply:
		1. the Commission and the Implementing Partner may issue joint communications or press releases where appropriate, for example upon the signature of the first Operation under the InvestEU Fund in a Member State. A joint press release shall be published by the Commission and the Implementing Partner on the same day on their respective websites;
		2. the Implementing Partner shall share the content of its press releases regarding the InvestEU Fund prior to the publication with the Commission who may decide to publish the press releases also on its website. In duly justified cases, the Commission may request the Implementing Partner to modify the content of a press release. The Commission shall share the content of its press releases regarding the InvestEU Fund activities involving the Implementing Partner prior to the publication with the Implementing Partner who may decide to publish the press releases also on its website. In duly justified cases, the Implementing Partner may request the Commission to modify the content of a press release;
		3. the Implementing Partner shall consult with the relevant Final Recipient or the Financial Intermediary, as applicable, before publishing a press release which concerns, respectively, the Direct Operation or Indirect Operation. The Commission shall consult with the Implementing Partner before publishing a press release on the Implementing Partner’s Operation.
	2. The Implementing Partner shall create on its website a section dedicated to the InvestEU Fund which shall contain visibly the emblem of the Union and the logo of the Commission. Such website section dedicated to the InvestEU Fund shall provide the following information:
		1. the Financial Products proposed under the InvestEU Fund, the financing forms available, a description of the key eligibility criteria and the policy objectives supported under each Financial Product;
		2. information on the application and selection process for Financial (Sub-)Intermediaries or Final Recipients, where applicable;
		3. relevant publications and press releases on signed Operations; and
		4. a link to the InvestEU Fund website and in the case of Indirect Operations to the website http://access2finance.eu.

Similarly, the InvestEU Fund website of the Commission shall have a link to the Implementing Partner’s website section dedicated to the InvestEU Fund. The InvestEU Fund website may also display the name, contact information and corporate logo of the Implementing Partner.

* 1. The Parties shall ensure that the communication respects any applicable copyrights.
	2. The application of this Article 40 to Operations in defence and space sectors and in cybersecurity shall be subject to respect for any confidentiality or secrecy obligations.
1. **Visibility and publication of information on
Financial (Sub-)Intermediaries and Final Recipients**
	1. Subject to Article 41.3, the Implementing Partner shall publish annually on its website no later than 30 June of each year the information on Financial (Sub-)Intermediaries and Final Recipients supported under the InvestEU Fund since the Effective Date until the end of the previous calendar year (which for an Indirect Operation may be until an earlier date, if this is the latest available information to the Implementing Partner). Information on Financial (Sub-)lntermediaries and Final Recipients which are no longer supported under the InvestEU Fund in the beginning of the previous calendar year may be removed. For natural persons, the published information shall be removed two (2) years after the end of the financial year when the financial support was provided.
	2. Subject to Article 41.3, the publication in accordance with Article 41.1 shall include the following information:
		1. the name of the Financial Product, the financing form and the policy objectives supported by the Operation;
		2. for Direct Operations:
			1. a list of Final Recipients of Final Recipient Transactions with a principal amount of at least EUR 500 000 or equivalent, containing for each Final Recipient its name, financing form and the location of the Final Recipient (meaning the address when the Final Recipient is a legal person and the region on NUTS 2 level when the Final Recipient is a natural person).
		3. for Indirect Operations:
			1. a list of Financial (Sub-)lntermediaries, containing for each Financial (Sub-)Intermediary its name, address, and the financing form; in case of Financial Intermediaries the principal amount of the Operation shall be included; and
			2. a list of Final Recipients of Final Recipient Transactions with a principal amount of at least EUR 500 000 or equivalent, containing for each Final Recipient its name, the financing form and the location of the Final Recipient (meaning the address when the Final Recipient is a legal person and the region on NUTS 2 level when the Final Recipient is a natural person).
	3. In accordance with Article 38(3)(d) of the Financial Regulation, the publication shall not be required if any Financial (Sub-)lntermediary or Final Recipient, prior to receiving financial support under any Financial Product, declares in writing to the Implementing Partner or Financial (Sub-)Intermediary (including by a representation in the relevant agreement) that the publication requirements set out in this Article 41 risk harming its commercial interests or risk threatening the rights and freedoms of the persons or entities concerned as protected by the Charter of Fundamental Rights of the European Union. In the case of Indirect Operations, in the context of its controlling and monitoring activities only, the Commission may directly request further explanations from a Financial (Sub-)lntermediary or Final Recipient in this respect.

In addition, such publication shall not be required if it would be illegal under the applicable laws and regulations.

As far as natural persons are concerned, the publication shall comply with the requirements set out in Articles 4 and 5 of Regulation (EU) 2018/1725 in line with Article 35. Where the Final Recipient is a natural person, prior consent to such publication may not be made a condition for receiving financial support under a Financial Product.

1. **Liability**
	1. Without prejudice to Article 17.3 and Articles 38.6 to 38.8, the Parties shall be liable for the performance of their duties and obligations under this Agreement with a professional degree of care and diligence.
	2. A Party faced with Force Majeure shall not be held to be in breach of its obligations under this Agreement if it has been prevented from fulfilling them by Force Majeure. A Party faced with Force Majeure shall notify the other Party without delay, stating the nature, likely duration and foreseeable effects. The Parties shall take the necessary measures to limit or minimise costs and possible damages due to Force Majeure.
2. **Assignment**
	1. The Parties shall not assign or novate in whole or in part, any of their rights or obligations under this Agreement to any third parties without the prior written consent of the other Party.
3. **Notices and communications**
	1. Notices relating to this Agreement from one Party to the other shall be made in writing and sent by courier or registered letter. They shall be sent exclusively to the following addresses:

|  |  |
| --- | --- |
| For the EU: | European CommissionDirectorate-General Economic and Financial AffairsDirectorate LL-2920 Luxembourg EC-INVESTEU-GUARANTEE-AGREEMENT@ec.europa.eu |
| For the Implementing Partner: | [*insert* *address*][*insert functional email address]*  |

* 1. Any change made to the above addresses, or changes to the bank account details specified in Article 16.7, shall have effect only after it has been notified to the other Party in accordance with Article 44.1.
	2. Other communications shall be made in electronic form using the InvestEU MIS or other communication details agreed between the Parties. It remains understood that in the event that the InvestEU MIS is not operational or not technically functioning, any communications or documents that under this Agreement must be submitted through the InvestEU MIS shall be submitted by email for communications addressed to the Commission to the email address mentioned in Article 44.1, and for communications addressed to the IC Secretariat to the email address EC-INVESTEU-IC-SECRETARIAT@ec.europa.eu. or by other means agreed between the Commission and the Implementing Partner. Communications or documents shall be submitted in structured or unstructured format, as set out in this Agreement. If the structured format is not operational at the time of submission, the communications or documents shall be submitted in unstructured format (i.e. in Excel format, unless it is not feasible).
	3. Notices and communications are deemed to have been made when they are received by the receiving Party.
	4. Within twenty (20) Business Days from the Effective Date, the Implementing Partner shall communicate in electronic form the list of its InvestEU MIS Designated Users and the requested access rights. Thereafter, the Implementing Partner shall promptly communicate to the Commission any changes to the list of its InvestEU MIS Designated Users and the requested access rights, in accordance with the InvestEU MIS Terms and Conditions.

The InvestEU MIS Designated Users of the Implementing Partner shall have access to the InvestEU MIS in order to receive from or to send to the Commission notices, communications and reporting in relation to this Agreement. The InvestEU MIS shall be accessible to the InvestEU MIS Designated Users in accordance with the InvestEU MIS Terms and Conditions.

1. **Effectiveness – Term**
	1. This Agreement shall enter into force on the Effective Date.
	2. This Agreement shall be in force until all relevant exposures or liabilities in connection with InvestEU Operations and under this Agreement have been fully discharged. The Commission and the Implementing Partner shall agree in writing on such termination.
2. **Stop Commitment Events**
	1. The Commission may notify the Implementing Partner that signature of and inclusion of Operations in a Portfolio shall be suspended with immediate effect (such notification, a “**Stop Commitment Event**”) without prejudice to Article 42, where the Implementing Partner:
		1. fails to comply with its material obligations under this Agreement, including any material obligations under Articles 3.1 to 3.9, or
		2. commits fraud or Irregularities, or
		3. becomes bankrupt, is subject to the appointment of an administrator, or to an order that is made or an effective resolution that is passed for its winding-up, liquidation or administration (except for the purposes of a reconstruction or merger the terms of which have previously been approved by the Commission in accordance with Article 43); or
		4. compromises with its creditors generally or is subject to such measures that are officially decreed; or
		5. ceases to carry on the whole or a substantial part of its business (except for the purposes of a reconstruction or merger the terms of which have previously been approved by the Commission in accordance with Article 43).

In cases referred to in points (a) and (b), such notification by the Commission may be made after prior consultation with the Implementing Partner for a period of forty-five (45) calendar days after the Commission has given written notice of the material non-compliance or fraud or Irregularities, as applicable, to the Implementing Partner, at the end of which time the material non-compliance, fraud or Irregularities, as applicable, is unremedied or the Implementing Partner has not provided a satisfactory explanation.

In cases referred to in points (c) to (e), the Commission may make such notification immediately upon occurrence of the relevant event.

* 1. Upon the occurrence of a Stop Commitment Event under this Agreement and until the date of the notification referred to in Article 46.5(c), if applicable, the Implementing Partner shall suspend the signature and inclusion of an Operation in a Portfolio. The future approvals of InvestEU Operations by the Investment Committee and submissions for approvals to the Investment Committee shall also be suspended, unless the Commission specifies otherwise in such notification.
	2. The Implementing Partner may suspend the performance of its obligations under this Agreement, if the Commission fails to perform any of its payment obligations under the terms of this Agreement, after prior consultation with the Commission for a period of forty-five (45) calendar days after the Implementing Partner has given written notice of the non-compliance to the Commission, at the end of which time the non-compliance is unremedied or the Commission has not provided a satisfactory explanation. This shall continue until the date of any notification by the Implementing Partner to the Commission revoking such suspension.
	3. Upon a Stop Commitment Event or an event occurring pursuant to Article 46.3, the Party at fault shall take the necessary measures to limit or minimise costs and possible damages.
	4. A Stop Commitment Event under this Agreement:
		1. shall not affect the duty of each Party to continue to perform its obligations under this Agreement in respect of an Operation already signed and included in the Portfolio at the time of such Stop Commitment Event;
		2. shall be without prejudice to the rights acquired by each Party pursuant to this Agreement prior to such Stop Commitment Event; and
		3. shall continue until the date of any Commission notification to the Implementing Partner revoking the Stop Commitment Event notification referred to in Article 46.1.
	5. The Commission may, after at least twenty (20) calendar days of suspension from the occurrence of a Stop Commitment Event under Article 46.1, by written notice to the Implementing Partner, terminate the available EU Guarantee not yet committed by the Implementing Partner for Operations with effect from the day falling ten (10) calendar days after the receipt of such notice by the Implementing Partner, save that such termination shall have no effect on the duty of each Party to continue to perform its obligations under this Agreement in respect of the Operations already signed and included in the Portfolio at the time of such termination.
1. **Revisions**
	1. The Parties undertake to examine together any revisions that may need to be made to this Agreement, in particular should the InvestEU Regulation be amended and in relation to implementation of new Financial Products, if any.

1. **Amendments and miscellaneous**
	1. Any amendment, variation or modification of this Agreement shall require an instrument in writing duly signed by each of the Commission and the Implementing Partner and it shall specify the date when it takes effect. In cases expressly mentioned in this Agreement, such amendment, variation or modification may be done through a Separate Implementing Arrangement.
	2. The waiver or forbearance of a Party in insisting in any one or more instances upon the performance of any provision of this Agreement shall not be construed as a waiver of that Party’s rights to future performance of such provision and the other Party’s obligation in respect of such future performance shall continue in full force and effect.
	3. Each Party may assume that the other Party will ensure that the matters under this Agreement falling within its competences are complied with.
	4. If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
	5. An amendment to this Agreement shall be reported by the Commission to the European Parliament and the Council, in case the Agreement has been communicated to them.
	6. This Agreement constitutes the entire agreement and supersedes all prior agreements, commitments and understandings, both written and oral, between the Parties with respect to the subject matter hereof. All such prior agreements, commitments and understandings are hereby terminated and deemed of no further force or effect.
2. **Governing law and jurisdiction**
	1. This Agreement is governed by EU law.
	2. The Parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or performance of this Agreement, including its existence, validity or termination.
	3. In default of an amicable settlement, the Parties agree that the General Court or, on appeal the Court of Justice of the European Union, shall have exclusive jurisdiction to settle any dispute in connection with this Agreement.
3. **Annexes**
	1. The following Annexes form an integral part of this Agreement:

|  |  |
| --- | --- |
| Annex I | Financial Products and Portfolios |
| Annex II | Operational reporting |
| Annex III | Financial reporting |
| Annex IV | Risk reporting |
| Annex V | Claims Form |
| Annex VI | Monitoring, controls and audit modalities |
| Annex VII | Financial identification form [*if applicable:* and legal entity file] of the Implementing Partner |
| Annex VIII | [*if applicable*: Form of amendment for Top-Up Annex] |
| Annex IX | [*if applicable:* Eligibility Checklist] |
| Annex X | [*if applicable*: State Aid Report] |
| Annex XI | [*if applicable*: Transitional Operations and certain other InvestEU Operations] |
|  |  |

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in four (4) originals in the English language, each taking two (2) copies, as of the date specified on the cover page of this Agreement.

[*insert place*], [*insert date*]

For and on behalf of the

EUROPEAN UNION

[*insert first name, LAST NAME*]

[*insert function*]

[*insert place*], [*insert date*]

For and on behalf of the

[*insert name of the Implementing Partner*]

[*insert name, LAST NAME, function*]

# Annex I – Financial Products and Portfolios

# I. General provisions for Financial Products and Portfolios

1. **Interpretation**
	1. In this Annex I, a reference to an “Article”, “Section”, “Part”, “Appendix” or “Product Schedule”, is a reference to such article, section or part of, or appendix or product schedule to this Annex I, except if otherwise specified or the context requires otherwise.
	2. In this Annex I, a reference to an “Article of the Agreement” is a reference to such Article in the main part of the Agreement.
2. **[*If applicable*: Use of currencies and management of currency risk][[38]](#footnote-39)**

[*if applicable: insert specific rules concerning non euro exposures*]

1. **State aid [*as applicable:* consistency or compliance]**
	1. The conclusion of this Agreement is without prejudice to the competence of the Commission in the field of State aid under Article 107 and 108 of the Treaty, where relevant. The Implementing Partner, on behalf of the Member State, shall ensure that all Financial Products comply with the relevant EU State aid rules and follow all the relevant State aid procedures, including notification to the Commission in accordance with Article 108(3) of the Treaty.
	2. The Implementing Partner, by signing this Agreement, declares that the implementation of the Financial Products as enshrined in this Agreement will comply with the relevant EU State aid rules and that all the relevant State aid procedures will be followed. This includes, in relation to each Financial Product covered by this Agreement [*insert only the compatibility ground with State aid rules that is applicable to Financial Product(s) from the below points (a) to (c) :*
	3. the relevant Member State having pre-notified or notified the Financial Product to the Commission in view of complying with the prior notification obligation in accordance Article 108(3) of the Treaty; or
	4. having reached a common understanding with the relevant Commission services on the applicable Article(s) of the GBER, and/or other State aid rules, that allow(s) the Financial Product to be exempted from the prior notification obligation referred to in Article 3.2(a); or
	5. having reached a common understanding with the relevant Commission services on whether Operations under the Financial Products may or may not be generally interpreted as constituting State aid, in accordance with the Commission Notice on the notion of State aid

before the signature of this Agreement.]

**Article [•]**

[*insert any other necessary general provision for Financial Products and Portfolios*]

# Annex II – Operational reporting

1. **General Provisions**
2. The reports under this Annex II shall be submitted through the InvestEU MIS using a structured format and an xml template agreed between the Implementing Partner and the Commission.
3. Amounts denominated in a currency other than euro, unless reported in that currency, shall be converted into euro at the ECB Exchange Rate prevailing at the last day of the relevant reporting period (for stock or outstanding amounts), or at the applicable ECB Exchange Rate as of the date of the relevant event (for example approvals, signatures, disbursements), as set out in the xml template referred to in Article 1.1.
4. For the avoidance of doubt, in case of an Operation attributable to a Framework Operation, the reporting defined in this Annex II shall apply to the Sub-Projects.
5. This Annex can be amended by Separate Implementing Arrangement.
6. **Operational Reports**
7. The Implementing Partner shall prepare biannual Operational Reports on statistical data on an aggregated basis.

The annual report shall be prepared as of 31 December (which for Indirect Operations may be as of an earlier date, if this is the latest available information to the Implementing Partner) and provided to the Commission by 15 of February of the following year as from the Effective Date.

The mid-year report shall be prepared as of 30 June (which for Indirect Operations may be as of an earlier date, if this is the latest available information to the Implementing Partner) and provided to the Commission by the 15 September of each year following the Effective Date.

Operational Reports shall include information related to the assessment of the Key Performance Indicators (“**KPI**”) and Key Monitoring Indicators (“**KMI**”), in particular the indicators laid down in Annex III of the InvestEU Regulation. The Implementing Partner shall use in its reporting the methodology regarding KPI and KMI adopted by the Steering Board. The KPI and KMI reporting will be based on the information available to the Implementing Partner at the time of approval by the Implementing Partner. Where relevant, their final value will be based on amounts as calculated in the project completion report in accordance with the Implementing Partner’s rules, policies and procedures for Operations that have been completed and for which a completion report has been finalized (which for Indirect Operations shall be based on amounts reported by Financial Intermediaries to the Implementing Partner).

1. The Commission and the Implementing Partner agree to explore options for streamlining of the Operational Reports which would apply from the end of the Signature Period.
2. The content of the Operational Report is defined as follows[[39]](#footnote-40):

**A. Key Performance and Monitoring Indicators**

1. Unless otherwise specified, references (including to investment, volume and number) in Sections A2 until A4 below shall be on the basis of the aggregate signed principal amount of the Operations.

**A1. Indicators for all Operations**

1. Volume of financing supported by the InvestEU Fund (at the aggregate level, broken down by Financial Product):
	1. Volume of Operations signed (i.e. aggregate signed principal amount of Operations)
	2. Investment mobilised (i.e. aggregate projected investments by the Final Recipients, with regard to InvestEU Operations and Operations)
	3. Amount of private finance mobilised (i.e. aggregate projected investments by the Final Recipients that is supported by private finance, with regard to InvestEU Operations and Operations)
	4. Leverage and multiplier effect achieved (i.e. InvestEU Leverage Effect, Operations Leverage Effect, Disbursement Leverage Effect, InvestEU Multiplier Effect, Operations Multiplier Effect, Disbursement Multiplier Effect)
2. Geographical coverage of the aggregate level of Operations and of InvestEU Operations, broken down by Financial Product:
3. Number of countries (Member States and Third Countries)
4. Number of regions at the common classification of territorial units for statistics (NUTS) at NUTS 2 level, unless not available at NUTS 2 level
5. Volume of Operations (i.e. aggregate signed principal amount of Operations) per country (Member State and Third Country) or “multi-country” and per region or “multi-region”
6. Impact of financing supported by the InvestEU Fund (whereby investment and volume refers to the aggregate signed principal amount of Operations)
7. Number of jobs created or supported (by the aggregate of the Operations)
8. Investment supporting climate objectives (as defined in Article 22.2(a) of the Agreement, broken down by Policy Window
9. Investment supporting climate or environmental objectives (as defined in Article 22.2(b) of the Agreement) under the SIW, broken down per climate or environmental objective
10. Investment supporting climate change mitigation
11. Investment supporting climate change adaptation
12. Investment supporting water resources
13. Investment supporting circular economy
14. Investment supporting pollution, prevention & control
15. Investment supporting biodiversity & ecosystems
16. Investment supporting digitisation
17. Investment supporting industrial transition
18. Investment supporting just transition
19. Strategic investment:
	* Number and volume of Operations contributing to the provision of critical infrastructure
	* Number and volume of Operations contributing to investment in cybersecurity, space and defence
20. Investments supporting gender equality
21. Financial Intermediaries: Number of Financial Intermediaries with an environmental and social management system or similar procedures (i.e. procedures to manage environmental, climate and social risk management) in place:
	* Financial Products in the form of debt
	* Financial Products in the form of equity, out of which infrastructure funds

**A2. Indicators for Operations in the Sustainable Infrastructure Window (SIW)**

1. Energy: Additional renewable and other safe and sustainable zero and low-emission energy generation capacity installed (in megawatts-hours (MWh))
2. Energy: Number of households, number of public and commercial premises with improved energy consumption classification
3. Energy: Estimated energy savings generated by the projects (in kilowatt-hours (kWh)
4. Energy: Annual green-house gas emissions reduced/avoided in tonnes of CO2 equivalent
5. Energy: Volume of investment in the development, smartening and modernisation of sustainable energy infrastructure
6. Digital: Additional households, enterprises or public buildings with broadband access of at least 100 Mbps upgradable to gigabit speed, or number of WIFI-hotspots created
7. Transport: Investment mobilised, in particular in TEN-T:
	* Number of cross-border and missing links projects (including projects relating to urban nodes, regional cross-border rail connections, multimodal platforms, maritime ports, inland ports, connections to airports and railroad terminals of the TEN-T core and comprehensive network)
	* Number of projects contributing to the digitisation of transport, in particular through the deployment of European Rail Traffic Management System (ERTMS), River Information System (RIS), Intelligent Transportation System (ITS), vessel traffic monitoring and information system (VTMIS)/e-maritime services and Single European Sky ATM Research (SESAR)
	* Number of alternative fuel supply points built or upgraded
	* Number of projects contributing to the safety of transport
8. Environment: Investment contributing to the implementation of plans and programmes required by the Union environmental acquis relating to air quality, water, waste and nature

**A3. Indicators for Operations in the Research, Innovation and Digitisation Window (RIDW)**

1. Contribution of the investment mobilised to the objective of 3 % of the Union’s gross domestic product (GDP) invested in research, development and innovation
2. Number of enterprises supported by size carrying out research and innovation projects (regarding size e.g. SME, Small Mid-Cap)

**A4. Indicators for Operations in the SME Window (SMEW)**

1. Number of enterprises supported by size (micro, small, medium-sized and small mid-cap companies)
2. Number of enterprises supported by stage (early, growth/expansion)
3. Number of enterprises supported by Member State and region at NUTS 2 level
4. Number of enterprises supported by sectors by statistical classification of economic activities in the European Union (NACE) code
5. Percentage of investment volume directed towards SMEs

The indicators A4 shall be reported as per Section C of this Annex II.

**A5. Indicators for Operations in the Social Investment and Skills Window (SISW)**

1. Social infrastructure: Capacity and access to supported social infrastructure by sector: housing, education, health, other
2. Microfinance and social enterprise finance: Number of microfinance recipients and social enterprises supported
3. Skills: Number of individuals acquiring new skills or having their skills validated and certified: formal, education and training qualification

**B. Operation identification for all Operations[[40]](#footnote-41)**

**B1. Operation identification**

1. Implementing Partner and Investment CommitteeOperation IDs
2. Operation name
3. Financial Product
4. Operation status (including cancellations)
5. Direct or Indirect
6. Type of finance provided by the Implementing Partner
7. Type of finance provided to the Final Recipient (only for Indirect Operations)
8. With Financial Sub-Intermediaries (Y/N)
9. Framework Operation ID
10. Reference to the relevant Top-Up Annex
11. Operation description/objective (for the InvestEU Fund website publication)
12. Operation contributing to the Just Transition Scheme (i.e. Operations where the project or Final Recipient is located in a JTM Area or, if not, the project is key to the transition of a JTM Area, and aligned with the just transition objectives outlined in the relevant Territorial Just Transition Plan) (Y/N)

**B2. Operation counterparty**

1. Counterparty (i.e. Final Recipient in case of Direct Operation and Financial Intermediary in case of Indirect Operation) name
2. Counterparty establishment location (NUTS) (at NUTS 2 level, unless not available at NUTS 2 level)
3. Counterparty sector
4. Counterparty set-up (type)

**B3. Operation amounts**

1. Approved EU Guarantee amount
2. Signed EU Guarantee amount
3. Currency of the Operation
4. Operation approved amount in local currency and euro equivalent
5. Operation signed amount in local currency and euro equivalent
6. Top-Up Contribution applied to Operations
	* EU Sectorial Programme
	* Amount in euro
7. Target fund size (equity only) in local currency
8. Actual fund size (equity only) in local currency
9. Operation Agreed Portfolio Volume (guarantee only) in local currency
10. Operation Actual Portfolio Volume (guarantee only) in local currency

**B4. Operation dates**

1. Implementing Partner’s governing body (first) approval date
2. Implementing Partner’s governing body re-approval date
3. Investment Committee approval date
4. First signature date
5. First closing date (equity only)
6. Planned end of investment period (equity only)
7. End of Inclusion Period (guarantees only)

**B5. Operation focus**

1. Operation NACE focus and related percentages
2. Operation location focus (NUTS) (at NUTS 2 level, unless not available at NUTS 2 level) and related percentages
3. Stage focus (equity only)
4. Policy objectives (eligible areas as per Annex II of the InvestEU Regulation)
5. Policy Window(s) used and Policy Window usage in % (only for joint Financial Products)

**B6. Investors**

1. Type of investor
2. % of aggregate total commitments by type of investor

**B7. Framework Operations**

1. Investment Committee Framework Operation ID
2. Implementing Partner Framework Operation ID
3. Framework Operation name
4. Financial Product
5. Policy Window(s) and Policy Window(s) allocation in % (for joint Financial Products)
6. Framework Operation status (including cancellations)
7. Currency of the Framework Operation
8. Approved EU Guarantee amount in euro
9. Framework Operation approved amount in euro
10. Framework Operation approved amount in currency of the Operation
11. Investment Committee approval date
12. IP Relevant Governing Body (first) approval date
13. IP Relevant Governing Body re-approval date
14. Operation NACE focus and NACE focus allocation in %
15. Operation location focus (NUTS) (at NUTS 2 level, unless not available at NUTS 2 level) and

location focus allocation in %

1. Eligible areas (as per Annex II of the InvestEU Regulation) and eligible areas allocation in %
2. Non-disclosure (yes/no)

**C. Final Recipients – only for Indirect Operations**

**C1. Guarantee Final Recipients - enterprises**

**C1.1. Items to be reported at Operation level**

1. Number of Guarantee Final Recipient Transactions
2. Number of Guarantee Final Recipients
3. Actual Volume of Guarantee Final Recipient Transactions

**C1.2. Items to be reported on aggregated data per Guarantee Product**

1. Actual Volume and number of Guarantee Final Recipient Transactions and number of Guarantee Final Recipients
2. per Guarantee Final Recipient size (number of employees)
	* <10
	* 10-50
	* 50-250
	* >250
3. per region (NUTS level 2)
4. per sector (NACE Level 4)
5. per Guarantee Final Recipient Transaction size
	* 0-25k
	* 25k-100k
	* 100k-1m
	* 1m-7.5m
6. per purpose of financing
	* working capital
	* investment
	* business transfer
	* mixed
7. Actual Volume and number of Guarantee Final Recipients per Guarantee Final Recipient age (since Final Recipient’s incorporation)
	* <1 Y
	* 1-3Y
	* 3-5Y
	* 5Y+
8. Actual Volume and number of Guarantee Final Recipient Transactions per status
	* performing
	* expired
	* defaulted

**C2. Guarantee Final Recipients - private individuals**

**C2.1. Guarantee Final Recipients - private individuals (all Guarantee Products)**

1. Number of Guarantee Final Recipient Transactions
2. Number of Guarantee Final Recipients
3. Actual Volume of Guarantee Final Recipient Transactions

**C2.2. Guarantee Final Recipients - private individuals - on an annual basis - to be included only in the year-end Operational Report**

1. Actual Volume / number of Guarantee Final Recipients ***per Employment status***
2. Full-time employed
3. Part-time employed
4. Self-employed/entrepreneur
5. Unemployed/inactive
6. Studying
7. Actual Volume / number of Guarantee Final Recipients per ***Educational background***: split per ISCED level of education (0-8)
8. Actual Volume / number of Guarantee Final Recipients ***per Disadvantaged and vulnerable person status***
9. Gender (M/F)
10. Youth: participants below 30 years of age
11. Elderly: participants above 54 years of age
12. Migrant background / Minorities (distinguish between Third Country nationals, participants with a foreign background, minorities including marginalised communities such as Roma)
13. Participants with disabilities (Y/N)
14. Unemployed incl. long-term unemployed (people having lost their job during the last 1 year, people having lost their job for more than 1 year)
15. Actual Volume / number of Guarantee Final Recipients that enrolled in Training/mentoring: (Y/N)
16. Actual Volume / number of Guarantee Final Recipients per ***client type***:
17. Never applied for a loan
18. Previously applied for a loan and rejected
19. Previously applied and received a loan

**C2.3. Guarantee Final Recipients - private individuals**

1. Number of Guarantee Final Recipients:
	* by country of residence
	* by country of studies
	* by nationality
	* by level of study undertaken (using ISCED classification)

**C3. Eligible Equity Final Recipients**

**C3.1. Items to be reported at Operation level**

1. Operation ID
2. Amount invested in Eligible Equity Final Recipients
3. Number of Eligible Equity Final Recipients
4. Number of employees at first investment

**C3.2. Items to be reported at Final Recipient level[[41]](#footnote-42) – on an annual basis - to be included only in the year-end Operational Report**

1. Operation ID
2. Date of first investment
3. Name of Eligible Equity Final Recipient
4. Amount invested in the Eligible Equity Final Recipient
5. Number of employees at first investment
6. Eligible Equity Final Recipient stage
7. Eligible Equity Final Recipient country
8. Eligible Equity Final Recipient NACE4
9. Eligible Equity Final Recipient policy objective
10. Eligible Equity Final Recipient is listed (Y/N)

**C3.3. Items to be reported on an aggregated basis per Financial Product**

1. Amount invested and number of Eligible Equity Final Recipients per country
2. Amount invested and number of Eligible Equity Final Recipients per NUTS2
3. Amount invested and number of Eligible Equity Final Recipients per sector (NACE 4)
4. Amount invested and number of Eligible Equity Final Recipients per Eligible Equity Final Recipients age (since Final Recipient incorporation)
	* <1 Y
	* 1-3Y
	* 3-5Y
	* 5Y+
5. Amount invested/number of Eligible Equity Final Recipients per policy objective
6. Amount and number of Eligible Equity Recipient Transactions per status
	* active
	* totally sold
	* written off
7. **Progress Reports**
8. The Progress Report shall be prepared as of 28 February, 30 April, 31 August and 31 October (which for Indirect Operations may be as of an earlier date, if this is the latest available information to the Implementing Partner) and provided to the Commission by 15 April, 15 June, 15 October and 15 December, respectively, as from the Effective Date until end of the Signature Period, through the InvestEU MIS in a structured form.
9. With reference to Article 40.2(d) of the Agreement, the Implementing Partner shall indicate which items are subject to confidentiality requirements.
10. The content of the Progress Report is for each Operation approved by both the IP Relevant Governing Body and by the Investment Committee the following items indicated in Article 2.3 of the Operational Report:
11. all items of Section B1 (*Operation identification*);
12. items 1, 2 and 3 of Section B2 (*Operation counterparty*);
13. items 1,2, 3, 4 and 5 of Section B3 (*Operation amounts*);
14. items 1, 2, 3, 4 and 6 of Section B4 (*Operation dates*), and
15. all items of Section B5 (*Operation focus*).

# Annex III – Financial reporting

**Part A. Financial reporting requirements**

1. By 15 February of each year following the Effective Date, the Implementing Partner shall provide the Commission with a complete set of unaudited financial statements of the previous calendar year. The Implementing Partner shall prepare those financial statements made from the perspective of the EU Guarantee and on the basis of the latest data available to the Implementing Partner. The Implementing Partner shall prepare those financial statements in accordance with the accounting rules as adopted by the Accounting Officer of the Commission, which are based on the International Public Sector Accounting Standards (IPSAS). The Commission communicates these accounting rules and any amendments thereof in advance to the Implementing Partner. The financial statements shall comprise the following information:
	1. statement of financial performance;
	2. balance sheet;
	3. statement of changes in net assets;
	4. cash-flow statement, as appropriate;
	5. notes to the financial statements, including disclosures on financial risk management.
2. The unaudited financial statements shall be accompanied by a standardised reporting template (‘reporting package’) to be delivered in a form that will be provided by the Commission to the Implementing Partner by no later than 1 November of each year. This template is based on the accounting rules referred to in point (a) of Part A of this Annex III.
3. The Implementing Partner shall ensure that the unaudited financial statements referred to in point (a) of Part A of this Annex III are audited by an independent external auditor in accordance with internationally accepted audit standards. The audit opinion shall state whether the financial statements are prepared in accordance with the accounting rules referred to in point (a) of Part A of this Annex III.
4. By 15 March of each year following the Effective Date, the Implementing Partner shall provide the Commission with the complete set of audited financial statements for the previous calendar year (along with the audit opinion itself), prepared in accordance with point (a) of Part A of this Annex III. They shall be audited in accordance with point (c) of Part A of this Annex III. To the extent the Implementing Partner receives the same, it shall provide to the Commission a copy of the external auditors' management letter in relation to the EU Guarantee, which may include observations on the main internal controls, if applicable, and the corrective measures, if any.
5. The financial statements and the ‘reporting package’ shall be expressed in euro. They may be drawn from financial statements denominated in other currencies. Where necessary, amounts denominated in a currency other than euro shall be converted into euro at the ECB Exchange Rate prevailing at the relevant reporting date.
6. The financial statements shall be provided in electronic format (PDF). The ‘reporting package’ shall be submitted through the InvestEU MIS in a structured format by using an xml template provided by the Commission. In case the submission in a structured format is not technically feasible, the ‘reporting package’ shall be submitted in Excel format or in another electronic format provided by the Commission, in each case through the InvestEU MIS.
7. Upon receipt of the financial statements and ‘reporting package’, the Commission may request clarifications on the information provided in these documents. The Implementing Partner shall use its reasonable endeavours to reply to the Commission.
8. In addition to its regular reporting under this Annex III, upon request in writing by the Commission and provided that the relevant information is available to the Implementing Partner, the Implementing Partner shall provide reasonable assistance in connection with the answering by the Commission to queries from the European Court of Auditors, the European Parliament, the Council and other European Union institutions.
9. The Implementing Partner shall keep and make available all relevant financial information (originals or copies) related to the EU Guarantee and to each Operation for a period of five (5) years after the date on which any liability under this Agreement ends and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim or investigation by the OLAF, if notified to the Implementing Partner, has been closed.
10. The Implementing Partner shall transpose the obligation in point (i) of Part A of this Annex III to its contracts with each Final Recipient (in case of Direct Operations) or Financial Intermediary (in case of Indirect Operations).
11. [The accounting procedures applied by the Implementing Partner shall ensure that separate records are kept regarding the EU Guarantee in case the Agreement provides for support from more than one Finance Source.

The notes to the financial statements referred to in point A(a)(v) above shall include:

* + - * 1. an additional note presenting a statement of financial performance, balance sheet and statement of changes in net assets prepared at the level of each Finance Source
				2. a breakdown of the EU FLP or EU Pari Passu [or *if applicable*: EU Mezzanine or EU Senior Tranche], as applicable, at the level of each Finance Source

((a) and (b) together, the “**Special Note**”).

In the Special Note, the allocation to each Finance Source shall be based on the risk and revenue sharing provisions applicable to each Finance Source, as stipulated in the relevant section of the Agreement.

In addition to the reporting package referred to in point (b) of Part A of this Annex III, a separate reporting package shall be provided for each Finance Source that is consolidated in the EU financial statements, within the deadline and in the format indicated in point (b) of Part A of this Annex III, with the exception of the financial risk disclosures.

[*or, in case there are no different Finance Sources defined in the Agreement*]

The accounting procedures applied by the Implementing Partner shall ensure that separate records are kept regarding the EU Guarantee in case the Agreement provides for support not only from the EU guarantee, as set out in Article 13(5) of the InvestEU Regulation, but also from other sources.]

In respect of the Portfolios, the notes to the financial statements referred to in point (a)(v) of Part A of this Annex III shall include sufficient details to allow the EU for the proper follow-up of the net available EU Guarantee and the associated risk exposure, as well as the related revenues and expenses at the level of those Portfolios.

1. All reports under this Annex III (Parts A, B and C) shall be submitted through the InvestEU MIS in an unstructured form, except the reporting package that shall be submitted in accordance with point (f) above.

**Part B. Annual Management Reporting requirements**

1. By 15 February of each year, following the Effective Date, the Implementing Partner shall provide the Commission with:
2. a Management Declaration of Assurance substantially in the form set out below (Form of Management Declaration of Assurance);

If this Management Declaration of Assurance is qualified, it shall be updated by 15 March of each year.

1. to the extent relevant for implementation of the EU Guarantee, a summary of the final audits and of controls carried out and, where errors and/or weaknesses in systems are identified, an analysis of their nature and extent, as well as information on corrective measures taken or planned.
2. No later than 15 March of each year, following the Effective Date, the Management Declaration of Assurance and the summary report of audits and controls carried out shall be complemented by audit conclusions from an independent audit body resulting from an agreed upon procedure drawn up in accordance with internationally accepted audit standards. These audit conclusions shall establish whether the control systems put in place function properly and, where relevant, are cost-effective, and whether the underlying transactions are legal and regular and managed in accordance with the provisions of this Agreement. These audit conclusions shall also state whether the audit work puts in doubt the assertions made in the Management Declaration of Assurance.
3. Without prejudice to existing possibilities for carrying out further audits, where an audit based on internationally accepted audit standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of a Union contribution, that audit shall form the basis of the overall assurance, provided that there is sufficient evidence of the independence and competence of the auditor. To that end, the report of the independent auditor and the related audit documentation shall be made available on request to the European Parliament, the Commission and the Court of Auditors.

**Form of Management Declaration of Assurance**

The {*Implementing* *Partner*} declares that, in its opinion, in relation

* to the guarantee agreement dated {*insert date*} (the “**Guarantee Agreement**”) between the European Union, represented by the European Commission, and *{the Implementing* *Partner}*, and
* to Article 155(1)(c) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union[[42]](#footnote-43) (the “**Financial Regulation**”),

the {*Implementing* *Partner*} can give reasonable assurance that in all material respects:

1. the report on the implementation of budgetary guarantees by the {*Implementing Partner*} pursuant to Annex II and the unaudited financial statements submitted pursuant to point (a) of Part A of Annex III of the Guarantee Agreement for the period ended on 31 December {*insert year*} are properly presented in the agreed form, complete and accurate.

2. the amounts made available to the {*Implementing Partner*} under the Guarantee Agreement were used for their intended purpose as set out in the Guarantee Agreement.

3. a professional standard of care and diligence in its implementation of the Guarantee Agreement was applied by the {*Implementing Partner*}.

4. the activities were performed in compliance with the obligations of the {*Implementing Partner*} laid down in the Guarantee Agreement and in compliance with Article 154(3) and (4) of the Financial Regulation.

5. the control systems and procedures put in place provide reasonable assurance as to the legality and regularity of the Operations signed by the {*Implementing Partner*}.

This reasonable assurance is based on the {*Implementing* *Partner*}’s judgement and on the information at the {*Implementing* *Partner*}’s disposal, including, from control and audit work carried out in line with international professional standards and practices, including sample based controls.

*{This assurance is however subject to the following reservations:*

*…* [*short description of the reservation to be included, if applicable*]*}*

Furthermore, the {*Implementing* *Partner*} confirms that it is not aware of any undisclosed matter during the period in question which could be damaging to the financial interests of the European Union other than any matters brought to the attention of the Commission by the {*Implementing* *Partner*} in accordance with the Agreement.

Signed by

––––––––––––––––––––––––––––––

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

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

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

**Part C. Summary of the final audit reports and controls carried out**

By 15 February of each year, following the Effective Date, the Implementing Partner shall provide the Commission with a summary of the final audit reports and controls carried out by the Implementing Partner in accordance with points 1 to 3 of Section I of Annex VI which shall include:

* an overview of the monitoring approach by the Implementing Partner and the description of checks performed through desk monitoring and monitoring visits
* a summary of the findings at the level of the Financial (Sub‑)Intermediary and Final Recipient
* an analysis of the nature and extent of errors and weaknesses identified
* the progress in Restructuring and losses linked to Restructuring and
* the steps undertaken for and progress on the recovery actions on Direct Operations.

The summary shall also include the following information:

1. error rates detected by controls carried out (annual/cumulative)
2. coverage of sample of controls carried out (annual/cumulative)
3. correction of errors/Irregularities (% / EUR) (annual/cumulative)
4. results of the selection procedure of Financial Intermediaries (in case of Indirect Operations), number of applicants, number of selected applicants, number of redress procedures, time to select
5. cases of fraud or other illegal activity reported to OLAF in accordance with Article 31.6 of the Agreement
6. cases of criminal conduct reported to EPPO in accordance with Article 31.12 of the Agreement
7. actions taken under Articles 31.6 and 31.10 of the Agreement.

# Annex IV – Risk reporting

**Article 1**

1. In accordance with Article 30.7 of the Agreement, the Implementing Partner shall submit two Risk Reports per year, as set out in this Annex IV.

The reports shall be submitted through the InvestEU MIS in a structured form and an xml template agreed between the Implementing Partner and the Commission.

A provisional version of the year-end report shall be submitted by 15 February of each year and a final version of the year-end report shall be provided by 28 February of each year with reference to 31 December of the previous year (the “**Year-end Risk Report**”) and a mid-year report shall be submitted by 15 September of each year with reference to 30 June of the same year (the “**Mid-year Risk Report**”).

1. [In accordance with Article 30.11 of the Agreement, amounts denominated in a currency other than euro, unless reported in that currency, shall be converted into euro at the ECB Exchange Rate as of the last day of the relevant reporting period (for stock or outstanding amounts) or at the applicable ECB Exchange Rate as of the date of the relevant event (for example approvals, signatures, disbursements), as set out in the xml template referred to in Article 1.1..]
2. The reporting on Direct Operations and Large Indirect Guarantee Final Recipient Transactions[[43]](#footnote-44) shall be done in accordance Articles 2 and 3. The reporting on all Indirect Operations (including Large Indirect Guarantee Final Recipient Transactions) shall be done in accordance with Article 4.[[44]](#footnote-45)
3. In Article 2, item 1.5 (Operation), and in Article 3, item 1.2 (Portfolio), the fields marked with ‘o’ shall be filled in optionally, in case (any of) these data can be produced by the Implementing Partner.
4. For all at least partially disbursed Operations, information on cash flows shall be reported only for principal amounts, as per item 1.6 (Cash-flow) of Article 2. All undisbursed Operations shall be reported as per item 1.7 (Undisbursed) of Article 2.
5. Before the submission of the first Risk Report under this Annex, the Implementing Partner shall submit to the Commission information on the mapping of its internal rating system to the InvestEU Common Rating Scale in accordance with the mapping guidance as set out in Article 38.1 of this Agreement. In each Year-end Risk Report, the Implementing Partner shall certify in writing that its mapping and any subsequent changes in its mapping methodology is in line with the mapping guidance referred to in Article 38.1 of this Agreement and inform the Commission of any such change.
6. This Annex can be amended by Separate Implementing Arrangement.

**Article 2**

The Year-end Risk Report for Direct Operations shall contain the following data. The Year-end Risk Report for Large Indirect Guarantee Final Recipient Transactions shall contain the data required in items 1.4, 1.5, 1.6 and 1.7.

* 1. [*insert:* Implementing Partner name]

|  |  |
| --- | --- |
| 1 | Reporting date |
| 2 | Reporting status |

* 1. Portfolio(1)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Total amount of the Operations signed under the Portfolio | X | X |
| 3 | Total amount of the Operations signed under the Portfolio, in CCY (if applicable) | X | X |
| 4 | Total amount of the EU Guarantee used for the Operations under the Portfolio  | X | X |
| 5 | Correlation | X |   |
| 6 | Expected Loss (EL) % (lifetime, cumulative) | X |   |
| 7 | Weighted Average Life (WAL) | X | X |
| 8 | Minimum underwriting requirement | X | X |
| 9 | Loss Given Default (LGD) | X |   |
| 10 | Called Guaranteed Sums | X | X |
| 11 | Called Guaranteed Sums, in CCY (if applicable) | X | X |
| 12 |  N/A |   |  |
| 13 |  N/A |  |  |
| 14 | Recoveries paid to the Commission and reversal of Value Adjustments, under Operations (aggregate) | X | X |
| 15 | Recoveries paid to the Commission and reversal of Value Adjustments, under Operations (aggregate), in CCY (if applicable) | X | X |
| 16 | Financial Contribution amount | X | X |
| 17 | Investment phase (ramp up (i.e. until end of the Signature Date) or amortization (afterwards)) | X | X |

(1) Fields related to FX risk management are not part of this template. They are to be added only if relevant.

* 1. EU Guarantee structure

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Attachment point | X | X |
| 3 | Detachment point | X | X |
| 4 | Implementing Partner share in the FLP or Pari Passu Protection | X | X |

* 1. Final Recipient

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Final Recipient ID | X | X |
| 3 | Operation ID | X | X |
| 4 | Status-Non-Performing Exposure (NPE) | X |   |
| 5 | Class (corporates; financial institutions; sovereign; public sector enterprise; regional, government and local authorities (RGLA), multilateral development bank) | X | X |
| 6 | Country | X | X |
| 7 | Sector | X | X |
| 8 | Internal rating notch /scoring of Final Recipient, at signature date | X | X |
| 9 | Common rating notch mapped of Final Recipient, at signature date | X |   |
| 10 | Internal rating notch / scoring of Final Recipient, at reporting date | X | X |
| 11 | Common rating notch of Final Recipient, at reporting date | X |   |
| 12 | Internal rating notch (guarantor, at reporting date) | X |   |
| 13 | Common rating notch (guarantor, at reporting date) | X |   |
| 14 | Last internal rating validation date | X |   |

* 1. Operation(2)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity(3) (Mandatory: X, Optional: O)** |
| 1 | Direct Operation/ Large Indirect Guarantee Final Recipient Transaction | X | X |
| 2 | Financial Intermediary name (in case of Large Indirect Guarantee Final Recipient Transactions) | X |  |
| 3 | Originator name (Financial (Sub-)Intermediary, as applicable, in case of Large Indirect Guarantee Final Recipient Transactions) | X | X |
| 4 | Portfolio ID | X | X |
| 5 | Final Recipient ID | X | X |
| 6 | Operation ID | X | X |
| 7 | Operation name | X | X |
| 8 | Type of finance provided to the Final Recipient (in case of Large Indirect Guarantee Final Recipient Transactions) | X |  |
| 9 | Amount/equity commitment size approved by the Investment Committee | X | X |
| 10 | Amount in CCY/equity commitment size in CCY approved by the Investment Committee (if applicable) | X | X |
| 11 | Signed amount/Equity commitment size | X | X |
| 12 | Signed amount in CCY / Equity commitment size in CCY (if applicable) | X | X |
| 13 | Disbursed amount / Invested amount | X | X |
| 14 | Disbursed amount / Invested amount, in CCY (if applicable) | X | X |
| 15 | Outstanding amount / Net Invested amount |  X | X  |
| 16 | Outstanding amount / Net Invested amount, in CCY (if applicable) |  X |  X |
| 17 | Amount of the EU Guarantee approved by the Investment Committee  | X | X |
| 18 | Amount of the EU Guarantee signed under the Operation by the Implementing Partner | X | X |
| 19 | Reimbursed principal amounts/Cumulative repayments | X | X |
| 20 | Reimbursed principal amounts/Cumulative repayments, in CCY (if applicable) | X | X |
| 21 | Currency | X | X |
| 22 | FX rate at signature date | X | X |
| 23 | FX rate at reporting date | X | X |
| 24 | Signature date | X | X |
| 25 | Loss Given Default (LGD) | X |   |
| 26 | Expected Loss | X |   |
| 27 | Unexpected Loss (at 95% confidence level) | X |   |
| 28 | Total risk pricing | X |   |
| 29 | Maturity date | X | X |
| 30 | Net Asset Value (NAV) |   | X |
| 31 | Net Asset Value (NAV), in CCY (if applicable) |  | X |
| 32 | Paid-in Capital |   | X |
| 33 | Paid-in Capital, in CCY (if applicable) |  | X |
| 34 | Total Value to Paid in (TVPI) |   | X |
| 35 | Internal Rate of Return (IRR) |   | X |
| 36 | Financial Asset at fair value through Profit or Loss |   | O |
| 37 | Financial Asset at fair value through Profit or Loss, in CCY (if applicable) |  | O |
| 38 | Vintage year |   | O |
| 39 | Stage of investment |   | O |
| 40 | Fund type |   | O |
| 41 | Number of funds (for Fund of Funds)  |   | O |
| 42 | Nature of the investment |   | O |
| 43 | Size of fund |   | O |
| 44 | PICC (Paid-In to Committed Capital ratio) |   | O |
| 45 | DPI (Distributed to Paid-In ratio) |   | O |
| 46 | Functional currency of the Final Recipient |   | O |
| 47 | EBITDA  |   | O |
| 48 | EBITDA, in CCY (if applicable) |  | O |
| 49 | Total net debt |   | O |
| 50 | Total net debt, in CCY (if applicable) |  | O |
| 51 | Total equity  |   | O |
| 52 | Total equity, in CCY (if applicable) |  | O |
| 53 | Ownership percentage in the Final Recipient |   | O |
| 54 | Reporting date of the items 46-53 |   | O |

(2) In accordance with Article 9.11 of the Agreement, the data shall be provided at Sub-Project level in case of Framework Operations.

(3) Equity (Mandatory) indicates all the fields that are mandatory to be reported for all Equity Operations, while filling out any of the Equity (Optional) fields remain optional. The Commission however may consider the reporting of all the Equity (Optional) fields to become mandatory at a later stage, in agreement with the Implementing Partner.

* 1. Cash-flow

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Operation ID | X | X |
| 3 | Disbursement ID | X | X |
| 4 | Payment frequency | X |   |
| 5 | Bullet/amortizing flag | X |   |
| 6 | Currency | X | X |
| 7 | Amount in EUR | X | X |
| 8 | Amount in CCY (if applicable) | X | X |
| 9 | Date | X | X |

* 1. Undisbursed

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Operation ID | X | X |
| 3 | Grace period (in years) | X |  |
| 4 | Undisbursed exposure | X | X |
| 5 | Undisbursed exposure, in CCY (if applicable) | X | X |
| 6 | Drawdown request limit (loans and equity) / final availability date (guarantees) | X | X |
| 7 | Maximum tenor | X |   |

* 1. Rating scale(4)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Scale name | X | X |
| 3 | Rating / scoring scale code | X | X |
| 4 | Internal rating / scoring  | X | X |
| 5 | Mapped rating | X |   |

(4) In form of one table per Portfolio.

* 1. Discount rates(5)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Discount Rates ID |  X |   |
| 2 | Value date |  X |   |
| 3 | Currency |  X |   |
| 4 | Forward date |  X |   |
| 5 | Discount rate |  X |   |

(5) For all currencies part of the Portfolio

**Article 3**

The Mid-Year Risk Report for Direct Operations and Large Indirect Guarantee Final Recipient Transactions shall contain the following data:

* 1. [*insert:* Implementing Partner name]

|  |  |
| --- | --- |
| 1 | Reporting date |
| 2 | Reporting status |

* 1. Portfolio

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Total amount of the Operations signed under the Portfolio | X | X |
| 3 | Total amount of the Operations signed under the Portfolio, in CCY (if applicable) | X | X |
| 4 | Portfolio currency (distribution in EUR) | X | X |
| 5 | Number of Operations | X | X |
| 6 | Sector (distribution in EUR) | X | X |
| 7 | Country (distribution in EUR) | X | X |
| 8 | Weighted Average Life (WAL) | X | X  |
| 9 | Expected Loss (EL) % (lifetime, cumulative) | X |   |
| 10 | Loss Given Default (LGD) | X |   |
| 11 | Ratings (distribution in EUR) | X |   |
| 12 | Net Asset Value (NAV) |   | X |

* 1. EU Guarantee Structure

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Amount of the EU Guarantee used for the Operations under the Portfolio | X | X |

**Article 4**

The Mid-Year and Year-end Risk Report for all Indirect Operations (including Large Indirect Guarantee Final Recipient Transactions) shall contain the following data:

* 1. [*insert:* Implementing Partner name]

|  |  |
| --- | --- |
| 1 | Reporting date |
| 2 | Reporting status |

* 1. Portfolio(6)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   |  | **Debt(7)** | **Capped Guarantees** | **Uncapped Guarantees** | **Equity** |
| 1 | Portfolio ID | X | X | X | X |
| 2 | Correlation | X | X | X |   |
| 3 | Expected Loss (EL) % (lifetime, cumulative) | X | X | X |   |
| 4 | Weighted Average Life (WAL) | X | X | X |   |
| 5 | Loss Given Default (LGD) | X | X | X |   |
| 6 | Unexpected loss (at 95% confidence level) | X |  | X |   |
| 7 | Initial Rating | X |  | X |   |
| 8 | Total amount of Operations signed  | X | X | X | X |
| 9 | Total amount of Operations signed in CCY (if applicable) | X | X | X | X |
| 10 | Disbursed amount of Operations  |  X |  X | X | X  |
| 11 | Disbursed amount of Operations in CCY (if applicable) |  X |  X |  X | X  |
| 12 | Outstanding amount of Operations  | X | X | X | X |
| 13 | Outstanding amount of Operations in CCY (if applicable) | X | X | X | X |
| 14 | Number of Final Recipient Transactions per status | X | X | X |   |
| 15 | Cumulative drawdowns (for funded Financial Products) |  |  |  | X |
| 16 | Cumulative drawdowns (for funded Financial Products), in CCY (if applicable) |   |   |   | X |
| 17 | Cumulative non-recallable distributions (for funded Financial Products) |  |  |  | X |
| 18 | Cumulative non-recallable distributions (for funded Financial Products), in CCY (if applicable) |   |   |   | X |
| 19 | Net Paid-in |   |   |   | X |
| 20 | Net Paid-in, in CCY (if applicable) |  |  |  | X |
| 21 | Total Value to Paid in (TVPI) |   |   |   | X |
| 22 | Net Asset Value (NAV) |   |   |   | X |
| 23 | Net Asset Value (NAV), in CCY (if applicable) |  |  |  | X |
| 24 | Internal Rate of Return (IRR) |   |   |   | X |
| 25 | Investment phase (ramp up (i.e. until end of the Signature Date) or amortization (afterwards)) | X | X | X | X |

(6) Fields related to FX risk management are not part of this template. They are to be added, if relevant.

(7) Debt means a funded Operation in the form of debt between the Implementing Partner and the Financial Intermediary.

* 1. Portfolio structure

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   |  | **Debt** | **Capped Guarantees** | **Uncapped Guarantees** | **Equity** |
| 1 | Portfolio ID | X | X | X | X |
| 2 | Attachment Point | X | X | X | X |
| 3 | Detachment Point | X | X | X | X |
| 4 | EU FLP amount | X | X | X |   |
| 5 | EU Investment |   |   |   | X |
| 6 | Outstanding amount of EU Investment |   |   |   | X |
| 7 | Aggregate amount of Guarantee Call Claims from EU FLP | X | X | X |   |
| 8 | Aggregate amount of Guarantee Call Claims from EU FLP, in CCY (if applicable) | X | X | X |  |
| 9 | Aggregate EU Recoveries amount | X | X | X |   |
| 10 | Aggregate EU Recoveries amount, in CCY (if applicable) | X | X | X |  |
| 11 | Outstanding amount of EU FLP | X | X | X |   |
| 12 | Implementing Partner’s Pari Passu Protection amount | X |   |   | X |
| 13 | Implementing Partner’s RRT amount  |   |   | X | X |
| 14 | Implementing Partner Financial Contribution amount  | X | X | X | X |

* 1. Financial Intermediary Contract Risk Indicators

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  | **Debt** | **Capped Guarantees** | **Uncapped Guarantees** | **Equity(8) (Mandatory: X, Optional: O)** |
| 1 | Financial Product ID | X | X | X | X |
| 2 | Operation ID | X | X | X | X |
| 3 | Financial Intermediary name | X | X | X | X |
| 4 | Originator name (Financial (Sub-)Intermediary, as applicable) | X | X | X | X |
| 5 | Type of finance provided by the Implementing Partner | X | X | X | X |
| 6 | Type of finance provided to the Final Recipient | X | X | X | X |
| 7 | Individual guarantee Termination Date | X | X | X |   |
| 8 | Weighted Average Life (WAL) | X | X | X |   |
| 9 | Estimated PD, at signature | X | X | X |   |
| 10 | Estimated PD, at reporting date | X | X | X |   |
| 11 | Internal rating of the Individual Portfolio, at signature date | X | X | X |   |
| 12 | Internal rating of the Individual Portfolio, at reporting date | X | X | X |   |
| 13 | Common InvestEU rating / equity score equivalent of the Implementing Partner’s internal rating of the Individual Portfolio at Financial Intermediary level, at signature date  | X | X | X | X |
| 14 | Common InvestEU rating / equity score equivalent of the Implementing Partner’s internal rating of the Individual Portfolio at Financial Intermediary level, at reporting date | X | X | X | X |
| 15 | Estimated Loss Given Default (LGD) | X | X | X |   |
| 16 | Estimated Expected Loss (EL) % (lifetime, cumulative) | X | X | X |   |
| 17 | Number of Guarantee Final Recipient Transactions | X | X | X |   |
| 18 | Total amount of Guarantee Final Recipient Transactions | X | X | X |   |
| 19 | Total amount of Guarantee Final Recipient Transactions, in CCY (if applicable) | X | X | X |  |
| 20 | Cumulative Repayments of Guarantee Final Recipient Transactions | X | X | X |   |
| 21 | Cumulative Repayments of Guarantee Final Recipient Transactions, in CCY (if applicable) | X | X | X |  |
| 22 | Outstanding amount of Guarantee Final Recipient Transactions | X | X | X |   |
| 23 | Outstanding amount of Guarantee Final Recipient Transactions, in CCY (if applicable) | X | X | X |  |
| 24 | Amount committed under Operations  |   |   |   | X |
| 25 | Amount committed under Operations, in CCY (if applicable) |  |  |  | X |
| 26 | Cumulative drawdowns under Operations |   |   |   | X |
| 27 | Cumulative drawdowns under Operations, in CCY (if applicable) |  |  |  | X |
| 28 | Cumulative distributions under Operations |   |   |   | X |
| 29 | Cumulative distributions under Operations, in CCY (if applicable) |  |  |  | X |
| 30 | Vintage year |   |   |   | X |
| 31 | Net Paid-in |   |   |   | X |
| 32 | Net Paid-in. in CCY (if applicable) |  |  |  | X |
| 33 | Distributed to Paid-in ratio (DPI) |   |   |   | X |
| 34 | Total Value to Paid in (TVPI) |   |   |   | X |
| 35 | Net Asset Value (NAV) |   |   |   | X |
| 36 | Net Asset Value (NAV), in CCY (if applicable) |  |  |  | X |
| 37 | Internal Rate of Return (IRR) |   |   |   | X |
| 38 | Fund Type |   |   |   | X |
| 39 | Strategy of the portfolio fund |   |   |   | X |
| 40 | Financial Asset at fair value through Profit or Loss |   |   |   | O |
| 41 | Financial Asset at fair value through Profit or Loss, in CCY (if applicable) |  |  |  | O |
| 42 | Stage of investment |   |   |   | O |
| 43 | Number of funds (for Fund of Funds)  |   |   |   | O |
| 44 | Nature of the investment |   |   |   | O |
| 45 | Size of fund |   |   |   | O |
| 46 | PICC (Paid-In to Committed Capital ratio) |   |   |   | O |
| 47 | Class (corporates; financial institutions; sovereign; public sector enterprise; RGLA; multilateral development bank)  | X | X | X | X |
| 48 | Country | X | X | X | X |
| 49 | Sector | X | X | X | X |

(8) Equity (Mandatory) indicates all the fields that are mandatory to be reported for all equity transactions, while filling out any of the Equity (Optional) fields remain optional. The Commission, however, may consider the reporting of all the Equity (Optional) fields to become mandatory at a later stage, in agreement with the Implementing Partner.

* 1. Rating scale(9)

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Debt** | **Equity** |
| 1 | Portfolio ID | X | X |
| 2 | Scale name | X | X |
| 3 | Rating / scoring scale code | X | X |
| 4 | Internal rating/ scoring | X | X |
| 5 | Mapped rating | X | X |

(9) In form of one table per Portfolio

# Annex V – Claims Form

**Template - Claims Form - on quarterly basis**

**European Commission**

**Directorate-General Economic and Financial Affairs**

**Directorate L “InvestEU and financial institutions”**

**L-2920 Luxembourg**

Luxembourg, [*insert date*]

**[*insert name and address of the Implementing Partner*]**

**Subject: Quarterly payment under the Agreement**

**Ref**: Agreement between the EU and the [*insert name of the Implementing Partner*] on the EU Guarantee under the InvestEU Regulation dated [*insert date*] as amended, restated, supplemented or substituted from time to time (the “**Agreement**”).

Dear Sir, Madam,

We refer to the Agreement, including Articles 16 and 30.9. Terms defined in the Agreement have the same meaning when used in this letter.

With this letter the [*insert name of the Implementing Partner*] is [requesting payment from]/[notifying an amount payable to] the Commission:

|  |  |
| --- | --- |
| **TOTAL AMOUNT [TO/FROM] COMMISSION** | **EUR [*insert amount*]** |

Details of this amount are set out in the Appendix 1 to this letter.

The cash flow forecast referred to in Article 30.9 of the Agreement is set out in Appendix 2 to this letter.

Yours faithfully,

**[*insert name of the Implementing Partner*]**

|  |  |  |
| --- | --- | --- |
| [*Name*] | [*Name*] | [*Name*] |

**Appendix 1 –** **Claims Form[[45]](#footnote-46)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Reference to the Agreement** | **Description[[46]](#footnote-47)** | **Operation ID** | **Portfolio[[47]](#footnote-48)** |
| **A** | **B** | **C** | **D** | **E** | **F** |
|   | **A. Amount to be paid by the Implementing Partner to the Commission** |   |   |   |   |   |   |   |
| Art. [•] | [EU Guarantee remuneration / EU revenues] |   |   |   |   |   |   |   |
|  | [Gross Equity Reflows pertaining to the EU Investment] |  |  |  |  |  |  |  |
|  | [Net negative or positive interests and bank charges pertaining to the EU Investment] |  |  |  |  |  |  |  |
|  | [Total amount of Equity Reflows allocated to the EU Investment] |  |  |  |  |  |  |  |
|  | [Equity Reflows allocated to reduce the EU Investments Outstanding Amount] |  |  |  |  |  |  |  |
|  | [Equity Reflows allocated as EU Portfolio Revenues] |  |  |  |  |  |  |  |
| Art. [•] | Gross amount of recoveries |   |   |   |   |   |   |   |
|  | Recovery costs |  |  |  |  |  |  |  |
|  | Recoveries (net amount) |  |  |  |  |  |  |  |
|  | Recoveries allocated to the Commission (EU Recoveries) |  |  |  |  |  |  |  |
| Art. [•] | [Out of which Recoveries to be used to reinstate the EU Guarantee] |   |   |   |   |   |   |   |
| Art. [•] | [Out of which Recoveries not reinstating the EU Guarantee] |  |  |  |  |  |  |  |
|   | *Subtotal A* |   |   |   |   |   |   |   |
|   | **B. Amount to be paid by the Commission to the Implementing Partner** |   |   |   |   |   |   |   |
| Art. [•] | [Calls on Operations covered by the EU Guarantee (to be further split by type following the negotiated terms in the Agreement)] |   |   |   |   |   |   |   |
|  | [Out of which the portion of the InvestEU Sums attributable to the EU Guarantee] |  |  |  |  |  |  |  |
|  | [Out of which any EU Guarantee Call Shortfall Amount] |  |  |  |  |  |  |  |
|  | [Out of which any EU Investment Shortfall Amount] |  |  |  |  |  |  |  |
| Art. [•] | [Out of which Funding Costs related to Equity Operations covered by the EU Guarantee] |   |   |   |   |   |   |   |
|  | [Out of which Equity Portfolio Final Call Amounts] |  |  |  |  |  |  |  |
| Art. [•] | [Out of which: specify any other amounts covered by the EU Guarantee, if any] |   |   |   |   |   |   |   |
|   | *Subtotal B* |   |   |   |   |   |   |   |
|   | **Total (B-A)** |   |   |   |   |   |   |   |
|  |  |  |  |  |  |  |  |  |
|  | Maximum EU Guarantee (Global Cap) |  |  |  |  |  |  |  |
|  | + Cumulative Recoveries that reinstate the EU Guarantee until the end of the relevant quarter |  |  |  |  |  |  |  |
|  | - Cumulative called Guaranteed Sums until the end of the relevant quarter |  |  |  |  |  |  |  |
|  | - Cumulative Releases of the EU Guarantee until the end of the relevant quarter |  |  |  |  |  |  |  |
| Art. [•] | Available Global Cap |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
| Art. [•] | **Net EU Guarantee available for Operations included in the Portfolio before the submission of this Claims Form**  |  |  |  |  |  |  |  |
| Art. [•] | **Net EU Guarantee available for Operations included in the Portfolio after the submission of this Claims Form** |  |  |  |  |  |  |  |

**Appendix 2 –** **Cash flow forecast**

|  |  |  |
| --- | --- | --- |
| Reference to the Agreement | Description | Portfolio |
|  | **A** | **B** | **C** | **D** | **E** | **F** |
| From the Implementing Partner to the Commission |
| Art. [•] | Gross EU Guarantee remuneration |  |  |  |  |  |  |
| Art. [•] | Recoveries |  |  |  |  |  |  |
| From the Commission to the Implementing Partner  |
| Art. [•] | Guaranteed Sums (to be split to the extent applicable) |  |  |  |  |  |  |
| Total |  |  |  |  |  |  |

# Annex VI – Monitoring, controls and audit modalities

**I. Monitoring and controls**

1. **General provisions**

The provisions in this Annex shall cover, as applicable, Financial (Sub-)Intermediaries and Final Recipients.

The monitoring by the Implementing Partner shall encompass:

* its own controls, and
* monitoring and control activities carried out by the Financial Intermediary and, if applicable, Financial Sub-Intermediary.
1. **The Implementing Partner’s own controls and monitoring**

In line with its rules, policies and procedures, the Implementing Partner shall:

1. monitor the compliance of the Operations with this Agreement
2. assess the eligibility of Financial Intermediaries or Final Recipients, as applicable, in accordance with the provisions of this Agreement
3. monitor the proper execution by, the Financial Intermediaries (in case of Indirect Operations) or the Final Recipients (in case of Direct Operations) of their contractual obligations, including their reporting obligations and their recovery actions in accordance with Article 18 of this Agreement; to that end, the Implementing Partner shall, where requested in this Agreement, obtain from Financial Intermediaries an undertaking that the relevant requirements are transposed in the respective agreements with the Financial Sub-Intermediaries and Final Recipients, and
4. monitor the payment demands by and payments due to, where relevant, Financial Intermediaries and Final Recipients.
5. **Financial (Sub-)Intermediaries’ controls and monitoring**

The Implementing Partner shall require the Financial Intermediaries to:

1. monitor the proper execution by, as applicable, the Financial Sub-Intermediaries and by the Final Recipients of their contractual obligations; to that end, the Financial Intermediary shall, where requested in this Agreement, obtain from Financial Sub-Intermediaries an undertaking that the relevant requirements are transposed in the respective agreements signed with the Financial Sub-Intermediaries and Final Recipients;
2. where applicable, assess the eligibility of Financial Sub-Intermediaries in accordance with the provisions of this Agreement; and
3. assess the eligibility of Final Recipients, as applicable, in accordance with the provisions of this Agreement.
4. **Commission’s controls and monitoring**

For the purposes of Article 31.3 of this Agreement, as regards the control and monitoring activities by the Commission the following applies:

* When an on-site monitoring is planned, the Implementing Partner shall inform the Commission on the plan for the monitoring visits (i.e. on the spot checks) of Financial (Sub-)Intermediaries or Final Recipients, for the next calendar year. If the Implementing Partner requests to be accompanied by the Commission to a monitoring visit, it shall inform the Commission at least twenty (20) Business Days in advance to the date of the planned visit.
* The Commission may decide to accompany the Implementing Partner, at the Commission’s own cost, to any monitoring visit that is organised by the Implementing Partner. The Commission shall inform the Implementing Partner of its decision to participate to a visit at least twenty (20) Business Days in advance to the date of the planned visit.
* With reference to the last sentence of the Article 31.3 of the Agreement, the Implementing Partner shall have at least twenty (20) Business Days (unless otherwise agreed between the Commission and the Implementing Partner) to organise on-the-spot check.
1. **Additional information**

To the extent such information is available to the Implementing Partner, the Implementing Partner shall provide any additional information that the Commission may reasonably request, including additional control indicators needed by the authorising officer, for management, reporting and discharge purposes in terms of assurance building on the achievement of the internal control objectives.

The Commission may reasonably request the Implementing Partner to provide a description of the rules, policies and procedures for the monitoring and controls by the Implementing Partner in connection with the InvestEU Fund.

1. **Verification of claims**

When the EU Guarantee is called and the payment has been made, should the Commission request it, the Implementing Partner shall within a reasonable time provide the Commission a copy of the relevant agreement together with any related documents in the possession of the Implementing Partner concerning the sums paid under the EU Guarantee together with an explanation and details of any measures taken (if any).

**II. Audit modalities**

The Commission and the Implementing Partner acknowledge that any audits carried out in accordance with this Annex must be conducted diligently and in good faith, with due regard for the legitimate concerns of each of them.

**1. Documentary audits**

1.1 The Implementing Partner shall take all appropriate measures to allow effective documentary audits of the Operations, in order to allow the Commission to discharge its obligations under the Financial Regulation.

1.2 To this end, the Commission and the Implementing Partner agree to allow an appropriate flow of documentation and related information between them on Operations in order to allow conducting as complete a documentary audit as possible.

1.3 The Operations which such audits will cover shall be selected by the Commission according to its own criteria and the Commission shall inform the Implementing Partner of the outcome of such selection.

The Commission shall notify the launch and the scope of documentary audits to the Implementing Partner and send the main questions in writing and sufficiently in advance to the Implementing Partner.

1.4 The procedure whereby the Implementing Partner provides the necessary information for documentary checks to the Commission, in relation to Operations, shall be as follows:

(a) The Implementing Partner shall make available to the Commission the documentation and related information requested and in its possession within ten (10) Business Days from the date of receipt of the request by the Implementing Partner. Where the information is not in the possession of the Implementing Partner but such information is reasonably obtainable, or in other duly justified cases, longer periods shall be agreed between the Commission and the Implementing Partner, if necessary.

(b) The Commission may address to the Implementing Partner reasonable requests for additional documentation and related information, to the extent pertinent to the scope of the audit. The Implementing Partner shall make the documentation and related information requested available to the Commission as soon as practicable.

(c) In the event of exceptional and duly substantiated urgency due to an imminent audit visit requiring documents to be made available virtually immediately, the deadline for making them available shall be agreed between the Commission and the Implementing Partner.

**2. On the spot audits**

2.1 The Commission shall inform the Implementing Partner at regular intervals, on the basis of its annual work programme, of the Operations for which it considers that an on-the-spot audit at the level of the Implementing Partner, or, if necessary, of selected Financial Intermediaries or a Final Recipient (provided that necessary information is not available at the level of the Implementing Partner or the relevant Financial Intermediary), and of the proposed timetable for carrying this out. The Operations to be audited shall be selected by the Commission according to its own criteria. Access to the Implementing Partner’s premises for on-the-spot audits shall only take place through mutually agreed pre-arranged meetings.

2.2. Any on-the-spot audits at the level of Financial Intermediaries and Final Recipients (provided that necessary information is not available at the level of the Implementing Partner or the relevant Financial Intermediary) shall be scheduled by the Commission and the Implementing Partner, so that the audits can generally be conducted jointly and to the satisfaction of both of them. If it is found that the availability of the Implementing Partner is not compatible with the requirements of the Commission’s timetable, the Implementing Partner may decline to take part in a scheduled visit. In that event, the Implementing Partner shall inform the Commission accordingly within no more than two (2) weeks from the date of receipt of the proposed dates for any particular visit.

2.3. Preparation for the audits shall be undertaken by the Commission and the Implementing Partner in preparatory meetings.

2.4. The logistical organisation of audits, as far as arrangements for on the spot visits are concerned (dates, itinerary, timetable, transport, accommodation) shall be the responsibility of the Commission, in consultation with the Implementing Partner. The practical constraints of the Commission and the Implementing Partner shall be taken into consideration.

3. Both the Commission and the Implementing Partner carry their own costs in relation to an audit.

4. The representatives of the Commission and the Implementing Partner shall have the right to request the documentation relating to the Operations and ask such questions as they consider useful for their audits.

5 All the participants of the Commission and the Implementing Partner in the on-the-spot audits shall be bound to respect professional secrecy.

6. The conclusions of the Commission’s audit may be communicated to the Implementing Partner’s clients only by the Implementing Partner. The Commission shall send the Implementing Partner its draft observations sufficiently before of the finalisation of its audit report. The Implementing Partner may express its point of view on the observations.

7. All the information obtained during the audits on Operations shall be treated with the utmost discretion.

# Annex VII – Financial identification form and legal entity file of the Implementing Partner

**Part A – Financial identification form**

[*to insert:* the financial identification form[[48]](#footnote-49), filled out and signed by the Implementing Partner.]

**Part B – Legal entity file**

[*to insert:* the legal entity file for *public law bodies* or for *private law bodies*, as applicable[[49]](#footnote-50), filled out and signed by the Implementing Partner only in cases where it has not yet been provided to the Commission or if changes to the relevant data occurred.]

# [*If applicable*: Annex VIII – Form of amendment for Top-Up Annex]

This amendment is entered into on [*insert date*] between:

The **European Union**,

represented by the European Commission, Rue de la Loi 200, B-1049 Brussels, Belgium (the “**Commission**"), which is represented for the purposes of the signature of this Agreement by [●],

 the “**EU**” or “**Union**”,

of the one part, and

the [*insert the name of the Implementing Partner*],

established at [*insert address*], which is represented for the purposes of the signature of this Agreement by [●],

 the “**Implementing Partner**”,

of the other part,

each a “**Party**” and jointly referred to as the “**Parties**”,

WHEREAS:

1. Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017[[50]](#footnote-51) establishes, *inter alia****,*** the InvestEU Fund and provides for a guarantee granted by the EU to the Implementing Partner for financing and investment operations to support the policy objectives of the Union laid down in the InvestEU Regulation. The Commission and the Implementing Partner entered on [*insert date*] into the guarantee agreement in accordance with Article 2(12) of the InvestEU Regulation, as amended, restated, supplemented or substituted from time to time (the “**Agreement**”).
2. To ensure that blending operations implemented in accordance with Article 6 of the InvestEU Regulation shall be implemented as smoothly as possible, in a manner that ensures efficient and coherent support for Union policies, the Commission and the Implementing Partner have established a framework for Top-Up Operations in Article 14 of the Agreement.
3. Under this framework, the Parties now enter into a Top-Up Agreement with a view to [*insert description of policy objectives of the programme regarding the Top-Up Contribution*]. This Top-Up Agreement amends the Agreement by adding a Top-Up Annex to it.
4. The IP Relevant Governing Body approved on [*insert date*] the signature of this Top-Up Agreement.

NOW THEREFORE, the Parties have as follows:

**Article 1
Interpretation**

Capitalised terms used in this Top-Up Agreement shall, unless otherwise defined in this Top-Up Agreement, have the meanings given to them in the Agreement.

**Article 2
Amendment of the Agreement**

With effect from the Effective Amendment Date (as defined in Article 3) the Agreement shall be amended such that the Annex to this Top-Up Agreement shall be included as Annex VIII to the Agreement.

**Article 3
Effective date of the amendments**

The “**Effective Amendment Date**” means the last date on which a Party signed this Top-Up Agreement.

**Article 4
Governing law and jurisdiction**

Article 49 of the Agreement shall apply *mutatis mutandis* to this Top-Up Agreement.

**Article 5
Incorporation**

The provisions of Article 48 of the Agreement shall be deemed to be incorporated in this Top-Up Agreement as if set out in this Top-Up Agreement in full but as if references to “**this Agreement**” were references to this Top-Up Agreement.

**Article 6
Annex**

The Annex to this Top-Up Agreement forms an integral part of this Top-Up Agreement.

IN WITNESS WHEREOF, each of the Parties has caused this Top-Up Agreement to be executed in four (4) originals in the English language, each taking two (2) copies, as of the date specified on the cover page of this Agreement.

[*insert date and place*]

 For and on behalf of the

 EUROPEAN UNION

[*insert date and place*]

For and on behalf of the

Implementing Partner

**Annex to the Top-Up Agreement**

**Article 1
Definitions**

1. Defined terms shall have the same meaning as set out in the Agreement, unless specified otherwise in this Top-Up Annex.

**Article 2
Annex to the Agreement**

1. The Top-Up Operations shall be subject to the provisions of the Agreement as amended through this Top-Up Annex, including Article 14 of the Agreement.

**Article 3
Policy rules**

1. The Finance Source is [*insert relevant EU Sectorial Programme*].
2. The Top-Up Operations shall comply with the following eligibility criterion:
	1. it shall fall under the following policy objectives: [*insert the description of the specific policy objective for the top-up in accordance with Article 6 of the InvestEU Regulation*]
3. The Top-Up Operations shall be allocated to [*insert name of applicable Financial Product*].
4. The Eligibility Checklist to be used in accordance with Article 14.3 of the Agreement is set out in the Appendix of this Top-Up Annex.

**Article 4
Top-Up Contribution**

[*Insert applicable option:]*

* The maximum amount of the Top-Up Contribution shall be EUR [*insert budget available for Top-Up Operations at the moment of signature*]
* [*In case of a for multiannual envelope with first annual contribution indicated in paragraph 1*] The total projected envelope for annual Top-Up Contributions shall be EUR [*insert provisional budget envelope*], subject to budgetary decisions. The first maximum amount of the Top-Up Contribution shall be EUR [*insert budget available for Top-Up Operations at the moment of signature*]. Based on the deployment of the Top-Up Contribution and upon duly justified annual request by the Implementing Partner, including the projected amount of financing at aggregate level for Top-Up Operations, the Commission shall notify the Implementing Partner of any additional Top-Up Contributions in accordance with Article 44.

**Article 5
[*If applicable* : Financial Contribution[[51]](#footnote-52)**

1. The Implementing Partner shall progressively provide a Financial Contribution via its Top-Up Operations such that at the end of the Signature Period it amounts to at least EUR [*insert amount]*, based on the amount of the Top-Up Contribution provided to it in accordance with this Top-Up Annex.]

**Article 6
Special Note**

[*insert applicable option:*]

* [In the Special Note, the Finance Source shall be treated as ***pari passu*** to the InvestEU and the allocation to the Finance Source shall be as follows: [*insert further details on the split*].] or
* [In the Special Note, the Finance Source shall be treated as **subordinated** to the InvestEU and the allocation to the Finance Source shall be as follows: [*insert further details on the split*].]

**Appendix
Eligibility Checklist for Top-Up Operations[[52]](#footnote-53)**

# [*If applicable*: Annex IX – Eligibility Checklist[[53]](#footnote-54)]

# [*If applicable*: Annex X – State Aid Report]

1. The Implementing Partner shall prepare for Financial Products falling under the GBER an annual State Aid Report as of 31 December and provide it to the Commission by 30 June of the following year following the Effective Date. The State Aid Report shall be submitted through the InvestEU MIS using a structured format and an xml template agreed between the Implementing Partner and the Commission.
2. The content of the State Aid Report is defined as follows[[54]](#footnote-55):
3. **TRANSPARENCY AWARD MODULE (TAM) SECTION**

This Section A is to be provided only for Final Recipient Transactions with an amount exceeding EUR 500 000.

1. Date of the Final Recipient Transaction
2. Name of the Final Recipient
3. Final Recipient with VAT number Y/N
4. Final Recipient's VAT number
5. Final Recipient's national registration number
6. Final Recipient type
7. Final Recipient region code - NUTS2
8. Actual Final Recipient sector - NACE4
9. Amount of the Final Recipient Transaction in euro (Conversion at the ECB Exchange Rate at the date of the Final Recipient Transaction)
10. Financial Intermediary name
11. Financial Intermediary is a National Promotional Bank or Institution Y/N
12. Member State Compartment used Y/N
13. **EXPENDITURE SECTION**
14. Financial Product
15. Operation ID
16. Amount of the Final Recipient Transactions in euro (Conversion at the ECB Exchange Rate at the date of the Final Recipient Transaction)
17. Year of the Final Recipient Transactions
18. Member State Compartment used Y/N
19. Co-financing percentage (Member State Compartment %)

# [*If applicable*: Annex XI – Transitional Operations and certain other InvestEU Operations]

**Part A - Transitional Operations**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of Operation** | **Financial Product** | **Portfolio** | **Date of approval by the Implementing Partner** | **Signature date** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Part B - Operations approved but not yet signed by the Implementing Partner during the period from 1 January 2021 until the signature of this Agreement**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of Operation** | **Financial Product** | **Portfolio** | **Date of approval by the Implementing Partner** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

1. *N.B.* Whenever there is a reference to Annex I, please refer to the relevant Financial Product template. [↑](#footnote-ref-2)
2. In case a Member State Compartment will be implemented by the Implementing Partner, detailed rules shall be elaborated in accordance with the relevant Contribution Agreement. [↑](#footnote-ref-3)
3. OJ L 283, 31.10.2017, p. 1. [↑](#footnote-ref-4)
4. OJ L 198, 22.6.2020, p. 13. [↑](#footnote-ref-5)
5. Available via the link: <https://webgate.ec.europa.eu/fpfis/wikis/pages/viewpage.action?spaceKey=InvestEUProg&title=Key+Risk+Management+Documents&preview=/980059258/980059268/20211015_InvestEU_Financial%20Contribution_to%20IEU%20GOverning%20Group.docx> [↑](#footnote-ref-6)
6. OJ L 193, 30.7.2018, p. 1. [↑](#footnote-ref-7)
7. OJ L 187, 26.6.2014, p. 1. [↑](#footnote-ref-8)
8. OJ L 107, 26.3.2021, p. 30. [↑](#footnote-ref-9)
9. OJ L 234, 2.7.2021, p.18. [↑](#footnote-ref-10)
10. OJ L 312, 23.12.1995, p. 1. [↑](#footnote-ref-11)
11. OJ L 231, 30.6.2021, p. 1. [↑](#footnote-ref-12)
12. In case a Member State Compartment will be implemented by the Implementing Partner, detailed rules shall be elaborated in accordance with the relevant Contribution Agreement. [↑](#footnote-ref-13)
13. Consolidated list (the “**EU sanctions list**”) presently available at [EU Sanctions Map](https://www.sanctionsmap.eu/#/main) (www.sanctionsmap.eu). Note that the EU Official Journal is the official source of EU law and, in case of conflict, its content prevails. [↑](#footnote-ref-14)
14. OJ L 57, 18.2.2021, p. 17. [↑](#footnote-ref-15)
15. OJ L 339, 24.9.2021, p. 4. [↑](#footnote-ref-16)
16. OJ C 280, 13.7.2021, p. 1. [↑](#footnote-ref-17)
17. OJ L 141, 5.6.2015, p. 73. [↑](#footnote-ref-18)
18. OJ L 176, 27.6.2013, p. 338. [↑](#footnote-ref-19)
19. *N.B.* If the Article is not applicable, the paragraphs should be replaced by one paragraph only: “6.1 Not applicable.” [↑](#footnote-ref-20)
20. *N.B.* The clause in brackets is to be included for agreements with Operations in other currencies than euro. [↑](#footnote-ref-21)
21. Which includes entities, in which National Promotional Banks or Institutions hold more than 50% of voting rights, as at the date of the submission of the Framework Operation to the Investment Committee. [↑](#footnote-ref-22)
22. *N.B.* If the Article is not applicable, the paragraphs should be replaced by the sole paragraph “10.1. Not applicable.” [↑](#footnote-ref-23)
23. *N.B.* In case this Article is not applicable, all paragraphs shall be replaced by a single paragraph “14.1 Not applicable.” [↑](#footnote-ref-24)
24. *N.B.* In case this Article is not applicable, all paragraphs shall be replaced by a single paragraph “19.1 Not applicable.” [↑](#footnote-ref-25)
25. *N.B.* Only applicable Policy Windows to be listed. [↑](#footnote-ref-26)
26. Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (OJ L 170, 12.5.2021, p. 149). [↑](#footnote-ref-27)
27. Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69). [↑](#footnote-ref-28)
28. *N.B.* In case of only Financial Products that are implemented through Direct Operations, all paragraphs shall be replaced by the sole paragraph “27.1 Not applicable.” [↑](#footnote-ref-29)
29. *N.B.* In case of only Financial Products implemented through Direct Operations, all mentions of Financial (Sub-)Intermediaries should be removed from this Article. [↑](#footnote-ref-30)
30. *N.B.* In case of only Financial Products implemented through Direct Operations, all paragraphs shall be replaced by the sole paragraph “29.1 Not applicable.” [↑](#footnote-ref-31)
31. OJ L 312, 23.12.1995, p. 1. [↑](#footnote-ref-32)
32. OJ L 292, 15.11.1996, p. 2. [↑](#footnote-ref-33)
33. OJ L 248, 18.9.2013, p. 1. [↑](#footnote-ref-34)
34. OJ L 292, 15.11.1996, p. 2. [↑](#footnote-ref-35)
35. OJ L 312, 23.12.1995, p. 1. [↑](#footnote-ref-36)
36. OJ L 295, 21.11.2018, p. 39. [↑](#footnote-ref-37)
37. OJ L 119, 4.5.2016, p. 1. [↑](#footnote-ref-38)
38. *N.B.* In case this Article is not applicable, a single paragraph shall be inserted “2.1 No currency risk management for currencies other than euro is foreseen under this Agreement.” [↑](#footnote-ref-39)
39. Only items applicable for the relevant Financial Product shall be filled out based on the xml template referred to in Article 1.1. [↑](#footnote-ref-40)
40. Operations after approval by both the IP Relevant Governing Body and by the Investment Committee. [↑](#footnote-ref-41)
41. For the avoidance of doubt, data at Final Recipient level will not be reported for Fund of Funds investments. [↑](#footnote-ref-42)
42. OJ L 193, 30.7.2018 p. 1. [↑](#footnote-ref-43)
43. N.B: The reporting obligation concerning Large Indirect Guarantee Final Recipient Transactions will be defined individually in the relevant Guarantee Agreements based on the specific circumstances of the financial product. In other cases, a footnote indicating “Not applicable.” will be introduced. [↑](#footnote-ref-44)
44. Only items applicable for the relevant Financial Product shall be filled out based on the xml template referred to in Article 1.1. [↑](#footnote-ref-45)
45. Relevant ECB Exchange Rates shall be included. [↑](#footnote-ref-46)
46. All items in square brackets are applicable only if and to the extent agreed between the Parties in the Agreement. [↑](#footnote-ref-47)
47. In case of a Top-Up Contribution, split by Finance Sources shall be made for the relevant Portfolio(s). [↑](#footnote-ref-48)
48. *N.B.* The template financial identification form is available via the link: <https://ec.europa.eu/info/publications/financial-identification_en> [↑](#footnote-ref-49)
49. *N.B.* The template legal entity files for both the public and the private law bodies are available via the link: <https://ec.europa.eu/info/publications/legal-entities_en> [↑](#footnote-ref-50)
50. OJ L 107, 26.3.2021, p. 30. [↑](#footnote-ref-51)
51. Applicable only for Top-Up Contributions in the form of a financial instrument. [↑](#footnote-ref-52)
52. *N.B.* The Eligibility Checklist to be used for Top-Up Operations shall be developed based on the policy objectives of the InvestEU Blending Arrangement. [↑](#footnote-ref-53)
53. *N.B.* Applicable in case of thematic Financial Products. To be developed in function of the concrete Financial Product. [↑](#footnote-ref-54)
54. Only items applicable for the relevant Financial Product(s) shall be filled out based on the xml template referred to in paragraph 1 of this Annex X. [↑](#footnote-ref-55)