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NUMBER G-2820

INDEMNITY AGREEMENT

(Economic Growth and Fiscally Sustainable Services Policy-Based Guarantee)

between

UKRAINE

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Dated February 27, 2019

NUMBER G-2820

INDEMNITY AGREEMENT

This **INDEMNITY AGREEMENT**, dated February 27, 2019 (the “*Indemnity Agreement*”) between:

- (1) **UKRAINE** (the “*Member Country*”); and
- (2) the **INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the “*Bank*”).

in connection with the Guarantee (the “*Guarantee*”) in support of the Program (as defined in the Appendix to this Indemnity Agreement) with respect to that certain EUR 529,170,525.20 Term Facility Agreement, dated on or about the date hereof (the “*Guaranteed Agreement*”), between, *inter alia*, Ukraine, represented by the Acting Minister of Finance of Ukraine acting upon instructions of the Cabinet of Ministers of Ukraine, as Borrower, the Bank, as Guarantor, Deutsche Bank AG, London Branch, as Original Lender, arranged by Deutsche Bank AG, London Branch, as Mandated Lead Arranger, with TMF Global Services (UK) Limited as Agent (as each of the foregoing roles is defined in the Guaranteed Agreement). The Bank has decided to provide the Guarantee to the Agent for the benefit of the Tranche B Lenders (as defined in the Guaranteed Agreement) (the “*Beneficiary*”) on the basis, *inter alia*, of (a) the actions which the Member Country has already taken under the Program and which are described in Section I of the Schedule to this Indemnity Agreement, and (b) the Member Country’s maintenance of an adequate macroeconomic policy framework. The Member Country and the Bank therefore hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The provisions of the General Conditions (as defined in the Appendix to this Indemnity Agreement) set forth in Section II of the Appendix to this Indemnity Agreement constitute an integral part of this Indemnity Agreement.

Section 1.02. Unless the context otherwise requires, the capitalized terms used in this Indemnity Agreement have the meanings ascribed to them in the General Conditions or in Section I of the Appendix to this Indemnity Agreement.

ARTICLE II

Indemnity by Member Country to the Bank; Opinion; Guarantee Fee

Section 2.01. In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guaranteed Agreement, the Member Country hereby irrevocably and unconditionally agrees:

- (a) to reimburse the Bank immediately on demand or as the Bank may otherwise direct in writing for any amount paid by the Bank under the Guarantee together with interest thereon at the rate per annum determined by the Bank and notified to the Member Country (which rate shall not exceed the Bank's highest prevailing lending rate for loans with a fixed spread denominated in Euros, as may be shown from time to time on the Bank's external website) from the date such payment is made by the Bank until such amount is reimbursed in full;
- (b) to indemnify the Bank on demand and hold the Bank harmless against all actions, proceedings, liabilities, claims, losses, damages, costs and expenses brought against, suffered or incurred by the Bank directly or indirectly in relation to or arising out of or in connection with the Guaranteed Agreement (except as otherwise provided in Section 8.04(i) of the General Conditions);
- (c) that the obligations of the Member Country under this Indemnity Agreement will not be affected by any act, omission, matter or thing which, but for this Section, would reduce, release or prejudice any of its obligations under this Indemnity Agreement; and
- (d) in the event that the Bank receives funds from the Member Country pursuant to Section 2.01(a) and, in respect of the same amounts, the Bank receives a refund of funds from the Beneficiary pursuant to the Guarantee or receives funds as a result of the exercise of the Bank's subrogation rights under the Guarantee (the "**Double Payment**"), then the Bank shall promptly refund to the Member Country the amount of the Double Payment together with any interest payments received pursuant to the Guarantee by the Bank from the Beneficiary in respect of such Double Payment.

Section 2.02. Any payment required to be made by the Member Country pursuant to the terms of this Indemnity Agreement shall be applied first, to pay all interest and other charges due to the Bank and second, after such interest and other charges are paid, to pay all other amounts then due to the Bank under this Indemnity Agreement.

Section 2.03. The Member Country shall furnish to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank or, if the Bank so requests, an opinion satisfactory to the Bank of a competent official of the Member Country, showing the following matters: (a) that this Indemnity Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Member Country and is legally binding upon the Member Country in accordance with its terms; and (B) any other matter reasonably requested by the Bank in connection with this Indemnity Agreement or the Program. The Member Country acknowledges that the receipt by the Bank of such opinion or opinions will be a condition to the effectiveness of the Guarantee.

Section 2.04. In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guaranteed Agreement, the Member Country shall pay directly to the Bank (i) a front-

end fee (the “*Front-end Fee*”) in an amount equal to 0.25% (25 basis points) of the Guaranteed Amount, and (ii) a guarantee fee (the “*Guarantee Fee*”) equivalent to 0.50% (50 basis points) per annum applied against the financial exposure (as calculated by the Bank) for each applicable period of the Guaranteed Amount, payable as a lump-sum payment. The Front-end Fee and the Guarantee Fee shall be due and payable to the Bank on or before the effective date of the Guarantee. The Front-end Fee and the Guarantee Fee shall be paid to the Bank by electronic transfer in immediately available freely transferable funds in Euros to the bank account designated by the Bank.

ARTICLE III

Program

Section 3.01. The Member Country declares its commitment to the Program and its implementation. To this end:

- (a) the Member Country and the Bank shall from time to time, at the request of either party, exchange views on the Member Country’s macroeconomic policy framework and the progress achieved in carrying out the Program;
- (b) prior to each such exchange of views, the Member Country shall furnish to the Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall reasonably request;
- (c) notwithstanding any other provision herein, the Member Country shall not take, authorize, permit or facilitate any action to reverse any of the actions set forth in Section I of the Schedule to this Agreement; and
- (d) without limitation upon the provisions of paragraphs (a), (b) and (c) of this Section, the Member Country shall promptly inform the Bank of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program.

Section 3.02. The Member Country shall apply the proceeds of the financing provided under the Guaranteed Agreement in support of the Program in accordance with Section II of the Schedule to this Indemnity Agreement.

ARTICLE IV

Remedies

Section 4.01. In addition to the other remedies available to the Bank under loan and guarantee agreements between the Bank and the Member Country, in the event that: (i) the Member Country has failed to perform any of its obligations under Article II, Article III or any other provision of this Indemnity Agreement and such failure has continued and remained uncured in the opinion of the Bank for sixty (60) days or more after notice thereof shall have been given to the Member Country by the Bank; or (ii) any representation made by the Member Country in or pursuant to this

Indemnity Agreement, or any representation or statement furnished by the Member Country and intended to be relied on by the Bank in providing the Guarantee, shall in the opinion of the Bank have been incorrect in any material respect, then the Bank may suspend or cancel in whole or in part the Member Country's right to make withdrawals under any loan agreement between the Bank and the Member Country, or declare the outstanding principal and interest of any such loan due and payable immediately.

ARTICLE V

Effective Date

Section 5.01. This Indemnity Agreement shall come into force and effect upon signature by the parties. This Indemnity Agreement may be executed in counterparts, all of which, taken together, shall constitute one and the same instrument.

Section 5.02. Any amendment to this Agreement shall be executed by agreement of the parties hereto in accordance with the provisions of Section 10.02 of the General Conditions. Such amendment shall come into force as set forth in the amending agreement.

ARTICLE VI

Representative; Addresses

Section 6.01. The Member Country's Representative is its Minister of Finance.

Section 6.02. For purposes of Section 10.01 of the General Conditions:

(a) the Member Country's Address is:

Address: Ministry of Finance
12/2 Hrushevsky St.
Kyiv, 01008
Ukraine

Attention: Minister of Finance of Ukraine

(b) the Member Country's Electronic Address is:

Facsimile: (380-44) 425-90-26
(380-44) 277-54-82

Section 6.03. For purposes of Section 10.01 of the General Conditions:

(a) The Bank's Address is:

International Bank for Reconstruction and Development

1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Attention: Vice President, Europe and Central Asia Region

(b) the Bank's Electronic Address is:

Facsimile: +1-202-477-6391

With a copy to: Practice Manager, Guarantees (IPG, Financial Structuring
& PPPs)
Global Themes Practice (GTIFP)

Facsimile: +1-202-522-0761

AGREED as of the day and year first above written.

UKRAINE

By: _____
Authorized Representative

Name (printed): Yuriy Meletiy

Title: Deputy Minister of Finance
of Ukraine for European Integration

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

By: _____
Authorized Representative

Name (printed): _____

Title: _____

AGREED as of the day and year first above written.

UKRAINE

By: _____
Authorized Representative

Name (printed): _____

Title: _____

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

By: _____
Authorized Representative

Name (printed): SATU KÄHKÖNEN

Title: COUNTRY DIRECTOR

SCHEDULE

Section I. Actions Taken under the Program. The actions taken by the Member Country under the Program include the following:

1. The Member Country has: (i) enacted Law No. 2491-VIII “On Amendments to Certain Legislative Acts of Ukraine on Improving the Functioning of the Financial Sector in Ukraine” dated July 5, 2018 (Official Gazette “Golos Ukrainy” No. 212 dated November 9, 2018) to establish independent supervisory boards and strengthen risk management at State Owned Banks (SOBs); and (ii) approved a strategy for the development of SOBs which establishes a roadmap for gradual divestiture, as evidenced by Cabinet Decision No. 7, dated February 21, 2018.
2. The Member Country has: (i) enacted Law No. 2245-VIII “On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine on Balancing Budget Revenues in 2018” dated December 7, 2017 (Official Gazette “Golos Ukrainy” No. 248 dated December 30, 2017) to remove the 25 percent ceiling for provisioning expenses and issued orders on the tax treatment of transactions involving nonperforming loans, as evidenced by the Ministry of Finance’s Order No. 77 dated February 1, 2018, Order No. 400 dated April 3, 2018, and Order No. 673 dated August 3, 2018; and (ii) enacted Law No. 2478-VIII “On Amending Certain Legislative Acts of Ukraine Regarding Resumption of Lending” dated July 3, 2018 (Official Gazette “Golos Ukrainy” No. 208 dated November 3, 2018) to increase creditors’ rights.
3. The Member Country has strengthened the transparency of agriculture land records by: (i) integrating the cadaster and the registry data; (ii) approving Cabinet Decision No. 31, dated August 22, 2018, to commit to the registration of all state agricultural land by December 2020; and (iii) establishing a land governance monitoring system including rental and sales prices.
4. The Member Country has enacted Law No. 2447-VIII “On the High Anti-Corruption Court”, dated June 7, 2018 (Official Gazette “Golos Ukrainy” No. 107, dated June 13, 2018) to establish a specialized High Anti-Corruption Court comprised of independent judges selected in line with the recommendations of the Venice Commission.
5. The Member Country has enacted Law No. 2148-VIII “On Amendments to Certain Legislative Acts of Ukraine on Increase of Pensions” dated October 3, 2017 (Official Gazette “Golos Ukrainy” No. 188 dated October 10, 2017) to improve fiscal sustainability, adequacy of old age benefits, and incentives to contribute by providing incentives to retire later in exchange for higher benefits and preserving the value of benefits over time through systematic indexation.
6. The Member Country has improved the Housing Utility Subsidy (HUS) program to: (i) revise social norms and parameters of the formula and introducing additional means-testing mechanisms; and (ii) monetize the HUS settlement at the level of gas and heating utilities, as evidenced by Cabinet Resolution No. 329, dated April 27, 2018 and Cabinet Resolution No. 951 dated November 8, 2017.

7. The Member Country has adopted the charter of the Energy Efficiency Fund (EEF), including procedures for using budget funds for the operation of the EEF, as evidenced by Cabinet Resolution No. 1099 dated December 20, 2017.
8. The Member Country has enacted Law No. 2168-VIII “On Public Financial Guarantees of Health Care for the Population” dated October 19, 2017 (Official Gazette “Golos Ukrainy” No. 248 dated December 30, 2017) to transform the financing of health care by: (i) shifting from in-patient curative to preventive health care and from input-based to output-based financing; and (ii) putting in place a new transparent health benefit package.

Section II. Availability of Proceeds of the Financing Provided Under the Guaranteed Agreement

- A. Deposits of Proceeds.** Except as the Bank may otherwise agree:
1. all withdrawals of the proceeds of the financing provided under the Guaranteed Agreement shall be deposited by the Member Country into an account designated by the Member Country and acceptable to the Bank; and
 2. the Member Country shall ensure that upon each such deposit, an equivalent amount is accounted for in the Member Country’s budget management system, in a manner acceptable to the Bank.
- B. Closing Date.** The Closing Date is December 31, 2019.

APPENDIX

Section I. Definitions.

1. “**Double Payment**” has meaning set forth in Section 2.01(d) of this Agreement.
2. “**EEF**” means the Energy Efficiency Fund, established pursuant to Law No. No. 2095-VIII, dated June 8, 2017, and duly published in the Member Country’s Official Gazette “Golos Ukrainy” No. 134 dated July 22, 2017.
3. “**General Conditions**” means the “General Conditions for IBRD Financing (2017): Development Policy Financing”, dated July 14, 2017, with the modifications set forth in Section II of this Appendix.
4. “**Guarantee**” means the guarantee provided by the Bank pursuant to the Guaranteed Agreement.
5. “**Guaranteed Amount**” has the meaning set forth in the Guaranteed Agreement.
6. “**HUS**” means Housing Utility Subsidy.
7. “**State Owned Banks**” or “**SOBs**” means the following banks: (i) PrivatBank; (ii) Oschadbank; (iii) Ukreximbank; and (iv) Ukgazbank.
8. “**Member Country’s Representative**” means the representative of the Member Country so designated in Article VI of this Indemnity Agreement.
9. “**Program**” means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated November 15, 2018 from the Member Country to the Bank declaring the Member Country’s commitment to the execution of the Program, and requesting assistance from the Bank in support of the Program during its execution.

Section II. General Conditions.

The following provisions of the General Conditions, with the modifications set forth below, constitute an integral part of this Indemnity Agreement:

1. Article I.
2. Section 2.04, modified by replacing the words “Loan proceeds” with “proceeds of the financing provided under the Guaranteed Agreement” and by adding the following sentences to the end of that Section:

“If the Bank determines at any time that an amount of such financing was used to make a payment for an Excluded Expenditure, the Member Country shall, promptly upon notice from the Bank, deposit into the account described in Part A of Section II of the Legal Agreement (or, if the Member Country cannot or fails to do so, prepay to the Beneficiary in accordance with the terms of the Guaranteed Agreement) an amount equal to the amount of

such payment. Any such deposits made hereunder shall be utilized only for Eligible Expenditures.”

3. Sections 3.06, 3.07, 3.09 and 3.10.

4. Section 5.03, modified to read as follows:

“The Member Country shall retain all relevant documentation evidencing expenditures from the proceeds under the financing provided under the Guaranteed Agreement until two years after the Closing Date. The Member Country shall enable the Bank’s representatives to examine such records.”

5. Section 5.04, modified to read as follows:

“(a) The Member Country shall maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the progress of the Program and the achievement of its objectives.

(b) The Member Country shall prepare or cause to be prepared and furnish to the Bank not later than twelve (12) months after the Closing Date, a report of such scope and in such detail as the Bank shall reasonably request, on the execution of the Program, the performance by the Member Country and the Bank of their respective obligations under this Indemnity Agreement and the accomplishment of the purposes of the financing provided under the Guaranteed Agreement.”

6. Sections 5.05 (modified by replacing references to the term “Loan” with the term “Guarantee”), 5.06 and 5.07.

7. Section 6.01.

8. Section 6.02(a), modified to read as follows:

“It is the policy of the Bank, in making loans to, or with the guarantee of, its member countries not to seek, in normal circumstances, special security from the member concerned but to ensure that no other Covered Debt shall have priority over its loans in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of such member country. To that end, if any Lien is created on any Public Assets as security for any Covered Debt, which will or might result in a priority for the benefit of the creditor of such Covered Debt in the allocation, realization or distribution of foreign exchange, such Lien shall, unless the Bank shall otherwise agree, *ipso facto* and at no cost to the Bank, equally and ratably secure the amounts payable by the Member Country under this Indemnity Agreement, which, for purposes of this Section only, shall be deemed to be equal to EUR 330,731,578.25, and the Member Country, in creating or permitting the creation of such Lien, shall make express provision to that effect; provided, however, that if for any constitutional or other legal reason such provision cannot be made with respect to any Lien created on assets of any of its political or administrative subdivisions, the Member Country shall promptly and at no cost to the Bank secure all amounts payable by the Member Country under this Indemnity Agreement by an equivalent Lien on other Public Assets satisfactory to the Bank.”

9. Section 6.02(c).

10. Section 6.02(d).
11. Article VIII.
12. Article X.
13. Paragraphs 6 and 10 of the Appendix.
14. Paragraph 11 of the Appendix, modified to read as follows:
““Borrower” means the Member Country that is the party to the Loan Agreement.”
15. Paragraphs 25, 26, 41, 42, 43, 44 of the Appendix.
16. Paragraph 45 of the Appendix, modified by replacing the words “the Loan” with “the financing provided under the Guaranteed Agreement”.
17. Paragraphs 47 and 48 of the Appendix.
18. Paragraph 65 of the Appendix, modified to read as follows:
““Legal Agreement” means this Indemnity Agreement.”
19. Paragraph 70 of the Appendix, modified to read as follows:
““Loan Agreement” means the Legal Agreement.”
20. Paragraph 71 of the Appendix, modified to read as follows:
““Loan Currency” means Euro, or such other Currency as the Bank may designate.”
21. Paragraph 72 of the Appendix, modified to read as follows:
““Loan Party” means the Member Country.”
22. Paragraph 73 of the Appendix, modified to read as follows:
““Loan Payment” means any amount payable by the Member Country under the Legal Agreement.”
22. Paragraph 82 of the Appendix, modified to read as follows:
““Program” means the program referred to in the Legal Agreement in support of which the Guarantee is provided.”
23. Paragraphs 81, 96 and 97 of the Appendix.