

CONFORMED COPY

LOAN NUMBER 4016 UA

Loan Agreement

(Coal Pilot Project)

between

UKRAINE

and

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

Dated July 11, 1996

LOAN NUMBER 4016 UA

LOAN AGREEMENT

AGREEMENT, dated July 11, 1996, between UKRAINE, acting on its own behalf or through its agencies or duly authorized representatives (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS: (A) the Borrower has adopted a program of actions, objectives and policies designed to facilitate the restructuring and modernization of the coal sector and, as part of such program, has recognized the need for closing a significant number of unprofitable and uneconomic mines located in the Donetsk Oblast (as hereinafter defined), including the Pravda Mine, the Krasniy Oktyabr Mine and the Removskaya Mine (the Project Mines), all as hereinafter defined;

(B) Pursuant to the implementation of the program described in Recital (A) hereof, and in order to demonstrate, on a pilot basis, a possible approach to the closing of mines in the Donetsk Oblast, the Borrower has decided to effect the closure of the Project Mines on the basis of a coordinated approach (the Project, as further described in Schedule 2 to this Agreement), consisting of the carrying out of the Mine Closure Plans (as hereinafter defined) adopted in respect of each of the Project Mines, together with provisions of other specific financial, social, institutional and technical assistance measures for the benefit of affected mine workers and the communities in which the Pilot Mines are located, as may be practical and appropriate to mitigate the consequences of the closure of the Project Mines;

(C) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project;

(D) Parts A, B.1, B.2, D and E of the Project will be carried out jointly by the Borrower and UDKR (as hereinafter defined), on the basis of assistance to be provided to UDKR as provided in this Agreement;

(E) Part B.3 and C of the Project will be carried out jointly by the Borrower and Donetsk Oblast, on the basis of assistance to be provided to Donetsk Oblast as provided in this Agreement; and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement, in the UDKR Project Agreement of even date herewith between the Bank and UDKR, and in the Donetsk Oblast Project Agreement of even date herewith between the Bank and Donetsk Oblast;

NOW THEREFORE the parties hereto hereby agree as follows:

#### ARTICLE I

##### General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) The last sentence of Section 3.02 is deleted.

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Bank and the Borrower shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a member of the Bank or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

(c) In Section 6.02, sub-paragraph (k) is re-lettered as sub-paragraph (l) and a new sub-paragraph (k) is added to read:

"(k) An extraordinary situation shall have arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of Agreement."

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Donetsk Oblast" means Donetsk Oblast of the Borrower;

(b) "Donetsk Oblast Project Agreement" means the agreement between the Bank and Donetsk Oblast of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Donetsk Oblast Project Agreement;

(c) "Donetsk Oblast Subsidiary Agreement" means the agreement to be entered into between the Borrower and Donetsk Oblast pursuant to the provisions of Section 3.01 (d) of this Agreement, as the same such agreement may be amended from time to time, and such term includes all schedules to the Donetsk Oblast Subsidiary Agreement;

(d) "Fiscal Agency Agreement" means the agreement referred to in Section 3.01 (e) (ii) of this Agreement;

(e) "Fiscal Agent" means the fiscal agent referred to in Section 3.01 (e) (i) of this Agreement;

(f) "Krasniy Oktyabr Mine" means the Krasniy Oktyabr mine, a state-owned economic and production unit organized and operating on the basis of Ukrainian law and state administration, belonging to the Association "Orzhonikidze Vuhillya" and located in the town of Yenakievo, Donetsk Oblast, together with the specific property assigned to its operational management, as such mine has been designated by the Borrower for closure pursuant to Order No. 80 of the Borrower's Minister of Coal Industry, dated March 6, 1996;

(g) "MCI" means the Borrower's Ministry of Coal Industry;

(h) "Mine Closure Plans" means the mine closure plans to be adopted and approved by the Borrower pursuant to paragraph 1 of Part B of Schedule 5 to this Agreement;

(i) "Mining Associations" means, collectively, Association "Orzhonikidze Vuhillya", Association "Donetskuvuhillya", and Association "Torezantratsit";

(j) "MOF" means the Borrower's Ministry of Finance;

(k) "NBU" means the National Bank of Ukraine;

(l) "Operational Guidelines" means the operational guidelines referred to in Section 2.01 (b) (ii) of the UDKR Project Agreement;

(m) "Participating Cities" means the city of Donetsk, and the towns of Yenakievo and Sznezhnoye;

(n) "Pravda Mine" means the Mine Named after the Newspaper Pravda, a state-owned economic and production unit organized and operating on the basis of Ukrainian law and state administration, belonging to the Association "Donetskuvuhillya" and located in the Proletarsky rayon of the city of Donetsk, Donetsk Oblast, together with the specific property assigned to its operational management, as such mine has been designated by the Borrower for closure pursuant to Order No. 80 of the Borrower's Minister of Coal Industry, dated March 6, 1996;

(o) "Project Mines" means the Krasniy Oktyabr Mine, Pravda Mine and Removskaya Mine;

(p) "PSC" means the project steering committee referred to in paragraph 1 of Part A of Schedule 5 to this Agreement;

(q) "Removskaya Mine" means the Removskaya mine, a state-owned economic and production unit organized and operating on the basis of Ukrainian law and state administration, belonging to the Association "Torezantratsit" and located in the town of Sznezhnoye, Donetsk Oblast, together with the specific property assigned to its operational management, as such mine has been designated by the Borrower for closure pursuant to Order No. 80 of the Borrower's Minister of Coal Industry, dated March 6, 1996;

(r) "Special Accounts" means the accounts referred to in Section 2.02 (b) of this Agreement;

(s) "Sub-borrower" means any individual residing in the communities affected by the Project Mines' closure to whom the Fiscal Agent, acting on behalf of the Borrower, proposes to make or has made a Sub-loan out of the micro-credit facility referred to in Part B.2 of Schedule 2 to this Agreement, in accordance with the terms and conditions referred to in Section 3.01 (e) (iii) of this Agreement;

(t) "Sub-loan" means a sub-loan made or proposed to be made by the Fiscal Agent, acting on behalf of the Borrower, out of the proceeds of the Loan, as described in Section 3.01 (e) of this Agreement, for the purposes of financing qualifying new business investments, in accordance with the guidelines referred to in paragraph 3 (a) of Part B of Schedule 5 to this Agreement;

(u) "UDKR" means the Ukrainska derzhavna kompania z restrukturizatsii pidpriemstv vuhilnoi promislovennosti (Ukruglrestrukturizatsia) (the Ukrainian State

Company for Restructuring of Enterprises of the Coal Industry), established pursuant to MCI Decree No. 11, dated January 12, 1996, and duly registered by the executive committee of the City Council of People's Deputies of the City of Donetsk on March 13, 1996, or any successor thereto;

(v) "UDKR Project Agreement" means the agreement between the Bank and UDKR of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the UDKR Project Agreement; and

(w) "UDKR Subsidiary Agreement" means the agreement to be entered into between the Borrower and UDKR pursuant to Section 3.01 (c) of this Agreement, as the same such agreement may be amended from time to time, and such term includes all schedules to the UDKR Subsidiary Agreement;

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, various currencies that shall have an aggregate value equivalent to the amount of fifteen million eight hundred ten thousand Dollars (\$15,810,000), being the sum of withdrawals of the proceeds of the Loan, with each withdrawal valued by the Bank as of the date of such withdrawal.

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement, and to be financed out of the proceeds of the Loan; and (ii) other expenditures incurred under the Project in respect of UDKR Operating Expenses, Grants by UDKR for Social Mitigation Expenses, Coal Distributions, Sub-loans, and Social Asset Transfer Costs (as defined in Schedule 1 to this Agreement), all to the extent that such expenditures may be deemed eligible for financing in accordance with the provisions of Schedule 1 of this Agreement;

(b) The Borrower may open and maintain, in commercial banks, on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure or attachment, two special deposit accounts in Dollars (the Special Accounts), and hereby designated Special Account A, which shall be for the purposes of Parts A, B.1, B.2, D and E of the Project, and Special Account B, which shall be for the purposes of Parts B.3 and C of the Project, respectively. Deposits into, and payments out of, the Special Accounts shall be made in accordance with the provisions of Schedule 6 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1999, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three fourths of one percent ( $3/4$  of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to the Cost of Qualified Borrowings determined in respect of the preceding Semester, plus one-half of one percent ( $1/2$  of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rate applicable during such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Semester.

(c) For the purposes of this Section:

(i) "Interest Period" means a six-month period ending on the date

immediately preceding each date specified in Section 2.06 of this Agreement, beginning with the Interest Period in which this Agreement is signed.

(ii) "Cost of Qualified Borrowings" means the cost, as reasonably determined by the Bank and expressed as a percentage per annum, of the outstanding borrowings of the Bank drawn down after June 30, 1982, excluding such borrowings or portions thereof as the Bank has allocated to fund: (A) the Bank's investments; and (B) loans which may be made by the Bank after July 1, 1989 bearing interest rates determined otherwise than as provided in paragraph (a) of this Section.

(iii) "Semester" means the first six (6) months or the second six months of a calendar year.

(d) On such date as the Bank may specify by no less than six (6) months' notice to the Borrower, paragraphs (a), (b) and (c) (iii) of this Section shall be amended to read as follows:

"(a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Quarter equal to the Cost of Qualified Borrowings determined in respect of the preceding Quarter, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rates applicable during such Interest Period."

"(b) As soon as practicable after the end of each Quarter, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Quarter."

"(c) (iii) 'Quarter' means a three-month period commencing on January 1, April 1, July 1 or October 1 in a calendar year."

Section 2.06. Interest and other charges shall be payable semiannually on September 15 and March 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

Section 2.08. The Borrower hereby designates the Director General of UDKR as representative of the Borrower in respect of Parts A, B.1, B.2, D and E of the Project, and the Chairman of the Donetsk Oblast Administration as representative of the Borrower in respect of Parts B.3 and C of the Project, for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

### ARTICLE III

#### Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and to this end, shall carry out: (i) Part A of the Project through the MOF and MCI, acting jointly in conjunction with UDKR; (ii) Parts B.1 and B.2 of the Project through the MOF, acting jointly in conjunction with UDKR and Donetsk Oblast; (iii) Parts B.3 and C of the Project through the MOF and MCI, acting jointly in conjunction with Donetsk Oblast and the Participating Cities; (iv) Part D of the Project through the MOF, acting jointly in conjunction with UDKR; and (v) Part E of the Project through the MOF and MCI, acting jointly in conjunction with UDKR; all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, labor, social and environmental practices; and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation or restriction upon any of its other obligations under the Loan Agreement, the Borrower shall cause UDKR and Donetsk Oblast to perform in accordance with the provisions of the UDKR Project Agreement and the Donetsk Oblast

Project Agreement, respectively, all the obligations of UDKR and Donetsk Oblast therein set forth, shall take or cause to be taken the actions provided for in the Implementation Program set forth in Schedule 5 to this Agreement, and all other action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable UDKR and Donetsk Oblast to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(c) The Borrower shall make available the equivalent of the proceeds of the Loan allocated from time to time to Categories (1), (2), (3), (4), (5), (9) and (10) of Schedule 1 of this Agreement to UDKR under a subsidiary agreement (UDKR Subsidiary Agreement) to be entered into between the Borrower and UDKR, under terms and conditions which shall have been approved by the Bank, and which shall include provisions related to UDKR's responsibilities under Parts A, B.1, B.2, D and E of the Project, budget, staffing, and procedures to be followed in implementing mine closures, including requirements with respect to the carrying out by UDKR of the Mine Closure Plans.

(d) The Borrower shall make available the equivalent of the proceeds of the Loan allocated from time to time to Categories (7) and (8) of Schedule 1 to this Agreement, to Donetsk Oblast under a subsidiary agreement (Donetsk Oblast Subsidiary Agreement) to be entered into between the Borrower and Donetsk Oblast, under terms and conditions which shall have been approved by the Bank, and which shall include provisions related to the ownership of and operational responsibility for social assets divested under Part C of the Project, the contribution by Donetsk Oblast of the funds, facilities, services and other resources necessary for Parts B and C of the Project, and accounting, auditing and record keeping requirements.

(e) The Borrower shall, for the purposes of carrying out Part B.2 of the Project, and except as the Bank and the Borrower shall otherwise agree:

(i) select an agent (the Fiscal Agent) in accordance with the criteria and procedures set forth or referred to in paragraph 3 (c) of Part B of Schedule 5 to this Agreement;

(ii) enter into a fiscal agency agreement (the Fiscal Agency Agreement) with the Fiscal Agent, setting forth the terms and conditions under which the corresponding amounts of credit shall be made available to such Fiscal Agent for the purposes of financing the micro-credit facility referred to in Part B.2 of Schedule 2 to this Agreement, and other provisions satisfactory to the Bank, and which shall include, without limitation, provisions related to the Fiscal Agent's scope of responsibilities and fees; and

(iii) relend in accordance with the Fiscal Agency Agreement, the equivalent of the proceeds of the Loan allocated from time to time to Category (6) of Schedule 1 to this Agreement, to qualified sub-borrowers (Sub-borrowers) selected in accordance with the procedures and on the terms and conditions set forth or referred to in paragraph 3 (a) of Part B of Schedule 5 to this Agreement.

(f) The Borrower shall exercise its rights under the UDKR Subsidiary Agreement and the Donetsk Oblast Subsidiary Agreement in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan, and, except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the UDKR Subsidiary Agreement or the Donetsk Oblast Subsidiary Agreement or any provision thereof.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish

to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, a plan with respect to any facilities financed pursuant to the Project and remaining in the Borrower's ownership and control for the future maintenance and operation of such facilities; and

(b) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.04. The Bank and the Borrower hereby agree that the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of: (a) Parts A, B.1, B.2, D and E of the Project, shall be carried out by UDKR pursuant to Section 2.03 of the UDKR Project Agreement; and (b) Parts B.3 and C of the Project, shall be carried out by Donetsk Oblast pursuant to Section 2.02 of the Donetsk Oblast Project Agreement.

Section 3.05. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about June 1, 1997, June 1, 1998, and June 1, 1999, respectively, an annual report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Bank, by July 15, 1997, July 15, 1998, and July 15, 1999, respectively, or such later dates as the Bank shall request, the reports referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Bank's views on the matter.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section, including those for the Special Accounts, for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditures, the Borrower shall:

- (a) of this
- (i) maintain or cause to be maintained, in accordance with paragraph Section, records and accounts reflecting such expenditures;
  - (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
  - (iii) enable the Bank's representatives to examine such records; and
  - (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

#### ARTICLE V

##### Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional events are specified:

- (a) UDKR or Donetsk Oblast shall have failed to perform any of its obligations under the UDKR Project Agreement or Donetsk Oblast Project Agreement, respectively.
- (b) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that UDKR or Donetsk Oblast will be able to perform its obligations under the UDKR Project Agreement or Donetsk Oblast Project Agreement, respectively.
- (c) The charter of UDKR or any other founding documents of UDKR shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of UDKR to perform any of its obligations under the UDKR Project Agreement.
- (d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of UDKR or for the suspension of its operations.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

- (a) any event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower; and
- (b) any event specified in paragraphs (c) and (d) of Section 5.01 of this Agreement shall occur.

#### ARTICLE VI

##### Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

- (a) the UDKR Subsidiary Agreement has been executed on behalf of the Borrower and UDKR; and
- (b) UDKR has been staffed in accordance with the provisions of Section 3.01



of the UDKR Project Agreement.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

(a) that the UDKR Project Agreement and the Donetsk Project Agreement have been duly authorized or ratified by UDKR and Donetsk Oblast, and are legally binding upon UDKR and Donetsk Oblast, respectively, in accordance with the terms thereof; and

(b) that the UDKR Subsidiary Agreement has been duly authorized or ratified by the Borrower and UDKR and is legally binding upon the Borrower and UDKR in accordance with its terms.

Section 6.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

#### ARTICLE VII

##### Representative of the Borrower; Addresses

Section 7.01. Except as provided in Section 2.08 of this Agreement, the Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance  
12/2 Hrushevsky St.  
Kyiv-8  
Ukraine 252008

Telex:

131450

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

248423 (RCA)  
82987 (FTCC)  
64145 (WUI) or  
197688 (TRT)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

UKRAINE

By /s/ Valeri Kuchinsky

Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Basil Kavalsky

Acting Regional Vice President  
Europe and Central Asia

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Works pursuant to Mine Closure Plans under Part A of the Project in respect of:		
(a) Pravda Mine	2,300,000 )	70%
(b) Krasniy Oktyabr Mine	1,400,000 )	
(c) Removskaya Mine	1,800,000 )	
(2) Goods pursuant to Mine Closure Plans under Part A of the Project in respect of:		
(a) Pravda Mine	200,000 )	100% of foreign expenditures,
(b) Krasniy Oktyabr Mine	200,000 )	100% of local expenditures (ex-factory cost) and 80%
(c) Removskaya Mine	200,000 )	of local expenditures for other items procured locally
(3) UDKR Incremental Operating Expenses	300,000	50% of expenditures incurred up to December 31, 1997, 33% of expenditures incurred up to December 31, 1998, and 16% of expenditures incurred thereafter

(4)	Grants by UDKR for Social Mitigation Expenses under Part B.1 of the Project	2,400,000	100%
(5)	Coal Distributions	700,000	75% of expenditures incurred up to December 31, 1997, 50% of expenditures incurred up to December 31, 1998, and 25% of expenditures incurred thereafter
(6)	Sub-loans under Part B.2 of the Project	2,000,000	100%
(7)	Public Works for Environmental Improvements under Part B.3 of the Project	210,000	100%
(8)	Social Assets Transfer Costs of Participating Cities under Part C of the Project	1,700,000	75% of expenditures incurred up to December 31, 1997, 50% of expenditures incurred up to December 31, 1998, and 25% of expenditures incurred thereafter
(9)	Consultants' Services	300,000	100%
(10)	Expenditures by UDKR under Part A.1 of the Project for Project Mines' Post-Closure Operating Expenses:		
	(a) Pravda Mine	400,000 )	30%
		)	
	(b) Krasniy Oktyabr Mine	200,000 )	
		)	
	(c) Removskaya Mine	400,000 )	
		)	
(11)	Unallocated	1,100,000	
		<hr/>	
	TOTAL	15,810,000	
		=====	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the

territory of any country other than that of the Borrower;

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

(c) "UDKR Incremental Operating Expenses" means reasonable and necessary operating expenses of UDKR in respect of its operations and administration of activities under the Project, and consisting of any expenses incurred by UDKR, which would not have been incurred in the absence of the Project, and which are payable on account of the cost of rent and utilities, salaries, office equipment and supplies, maintenance, communication, and transportation, all valued in accordance with a calculation methodology acceptable to the Bank;

(d) "Social Mitigation Expenses" means expenditures under Part B.1 of the Project to support re-employment of ex-miners and mine-related workers; training and self-employment payments to ex-miners and mine-related workers; and other social mitigation expenses agreed by the Bank pursuant to paragraph 2 of part B of Schedule 5 to this Agreement;

(e) "Social Assets Transfer Costs" means the costs incurred by the Participating Cities on account of any such obligations which may have been assumed by such Participating Cities in connection with the divestiture of social assets from the Mines Associations to such Participating Cities under Part C of the Project, and relating to the operation and maintenance of any such housing, kindergartens, and other social facilities whose transfer has been duly effected and whose eligibility for inclusion in the Project has been established in accordance with the provisions of this Agreement;

(f) "Project Mines' Post-Closure Operating Expenses" means utility, electricity, and other post-closure operating costs approved by the Bank, provided, however, that such term shall not be construed to include salaries payable to regular staff and management of the Project Mines; and

(g) "Coal Distributions" means costs incurred by UDKR for the purchase and distribution of coal subsidies to eligible recipients under Part B.1 of the Project.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not to exceed the equivalent of \$1,500,000, may be made on account of payments made for expenditures before that date but after January 12, 1996;

(b) payments for expenditures in respect of Categories (1) (a), (2) (a) and (10) (a) of this Schedule, until a Mine Closure Plan for the Pravda Mine shall have been adopted;

(c) payments for expenditures in respect of Categories (1) (b), (2) (b) and (10) (b) of this Schedule, until a Mine Closure Plan for the Krasniy Oktyabr Mine shall have been adopted;

(d) payments for expenditures in respect of Categories (1) (c), (2) (c) and (10) (c) of this Schedule, until a Mine Closure Plan for the Removskaya Mine shall have been adopted;

(e) payments in respect of any Grants by UDKR for Social Mitigation Expenditures under Category (4) of this Schedule, or any Coal Distributions under Category (5) of this Schedule, until UDKR has adopted the Operational Guidelines;

(f) payments for expenditures in respect of any Sub-loans under Category (6) of this Schedule, until the Borrower has entered into the Fiscal Agency Agreement; and

(g) payments for expenditures by Donetsk Oblast in respect of any Social Assets Transfer Costs of any Participating City under Category (8) of this Schedule, until: (i) the Borrower has entered into the Donetsk Oblast Subsidiary Agreement; and (ii) the Borrower has furnished evidence acceptable to the Bank that the divestiture

of the social assets concerned to the respective Participating City has occurred in accordance with the provisions of the respective Mine Closure Plan and the Participating City Agreement referred to in paragraph 2.01 (b) (ii) of the Donetsk Project Agreement.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures for UDKR Incremental Operating Expenses, Project Mines' Post-Closure Operating Expenses, Social Mitigation Expenses, Coal Distributions and Social Assets Transfer Costs, expenditures for goods and works under contracts costing less than \$300,000 equivalent and for expenditures for consultants' services under contracts costing less than (i) \$100,000 equivalent for consulting firms; and (ii) \$50,000 equivalent for individuals, under such terms and conditions as the Bank shall specify by notice to the Borrower.

## SCHEDULE 2

### Description of the Project

The objectives of the Project are to provide, on a pilot basis, a comprehensive program of assistance for the mitigation of the social, labor, and environmental consequences of the Borrower's decision to close the Project Mines, undertaken by the Borrower as part of the Borrower's coal sector restructuring program.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

#### Part A: Mitigation of Mine Closure

Carrying out of specific activities to ensure environmentally safe and technically sound closure of the Project Mines, as provided for under Mine Closure Plans adopted in respect of each of:

1. Pravda Mine;
2. Krasniy Oktyabr Mine; and
3. Removskaya Mine.

#### Part B: Social Mitigation and Re-employment Support

Mitigation and monitoring of the social and labor consequences of the closure of the Project Mines, through:

1. the provision of financial support to UDKR for implementation of specific social mitigation measures, coal distribution to ex-mine workers and their families, and re-employment support programs, as provided for under Mine Closure Plans adopted in respect of each of Pravda Mine, Krasniy Oktyabr Mine and Removskaya Mine;
2. the creation of a micro-credit facility providing Sub-loans to eligible individuals residing in the communities affected by the Project Mines' closure, in order to enable such individuals to obtain financing for new business start-up costs; and
3. carrying out of selected public works for environmental improvements in areas affected by the closure of the Project Mines.

#### Part C: Local Administrations' Social Services Support Program

Implementation of a program consisting of a specific plan in respect of each of the Pravda Mine, the Krasniy Oktyabr Mine, and the Removskaya Mine, for: (i) the orderly divestiture of selected housing, kindergartens, and cultural and social facilities from the Mining Associations concerned to the respective Participating City; (ii) assumption by the local administration of the respective Participating City of obligations related to the ownership and operation of such facilities; and (iii) financing, through the provision of the necessary budgetary support by Donetsk Oblast to the Participating City, in accordance with Participating City Agreements between

Donetsk Oblast and the Participating Cities, to ensure the continued delivery and monitoring of the essential social services which are being provided through such facilities.

Part D: Institutional Strengthening

Strengthening the institutional capacity of UDKR, through the financing of services and incremental operating costs.

Part E: Technical Services

1. Feasibility studies and business plans for new investment in selected economically-viable ongoing mines; and
2. Social assessment, monitoring, public information, and local participation of affected parties in the communities involved in the implementation of the Project.

\* \* \*

The Project is expected to be completed by June 30, 1999.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in Dollars)*
September 15, 2000	385,000
March 15, 2001	395,000
September 15, 2001	410,000
March 15, 2002	425,000
September 15, 2002	440,000
March 15, 2003	455,000
September 15, 2003	470,000
March 15, 2004	485,000
September 15, 2004	505,000
March 15, 2005	520,000
September 15, 2005	540,000
March 15, 2006	560,000
September 15, 2006	580,000
March 15, 2007	600,000
September 15, 2007	620,000
March 15, 2008	640,000
September 15, 2008	665,000
March 15, 2009	685,000
September 15, 2009	710,000
March 15, 2010	735,000
September 15, 2010	760,000
March 15, 2011	790,000
September 15, 2011	815,000
March 15, 2012	845,000
September 15, 2012	875,000
March 15, 2013	900,000

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\* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of any maturity of the Loan to be prepaid shall be the percentage specified for the applicable time of prepayment below:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.18
More than three years but not more than six years before maturity	0.35
More than six years but not more than 11 years before maturity	0.65
More than 11 years but not more than 15 years before maturity	0.88
More than 15 years before maturity	1.00

#### SCHEDULE 4

#### Procurement and Consultants' Services

##### Section I. Procurement of Goods and Works

##### Part A: General

Goods and works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995, and in revised in January 1996 (the Guidelines), and the following provisions of this Section, as applicable.

##### Part B: Procurement Procedures

##### 1. Limited International Bidding

Goods which the Bank agrees can only be purchased from a limited number of suppliers, regardless of the cost thereof, may be procured under contracts awarded in accordance with the provisions of paragraph 3.2 of the Guidelines.

##### 2. International Shopping

Goods estimated to cost less than \$300,000 equivalent per contract, up to an aggregate amount not to exceed \$400,000 equivalent, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

##### 3. National Competitive Bidding

Works which meet the requirements of paragraphs 3.3 and 3.4 of the Guidelines, and costing \$5,500,000 equivalent or less in the aggregate, may, with the Bank's prior agreement, be carried out by national competitive bidding in accordance with the provisions of said paragraphs of the Guidelines.

4. The following provision shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B of this Schedule.

##### Grouping of Contracts

To the extent practicable, contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$300,000 or more each.

Part C: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for goods and works estimated to cost the equivalent of \$300,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to: (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each; or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to: (a) the terms of reference for such contracts; (b) single-source selection of consulting firms; (c) assignments of a critical nature, as reasonably determined by the Bank; (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above; or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 5

Implementation Program

Part A: Overall Management and Implementation of the Project

1. The Borrower shall establish and maintain, under terms of reference satisfactory to the Bank, a project steering committee (PSC), which shall be responsible for policy guidance and oversight of the overall execution of the Project, and whose members shall include officials from the Borrower's Ministry of Economy, the MOF, Ministry of Social Protection, UDKR and Donetsk Oblast.

Part B: Implementation of Particular Parts of the Project

1. Mitigation of Mine Closure

MCI shall adopt a mine closure plan (Mine Closure Plan) in respect of each of



Krasniy Oktyabr, Removskaya and Pravda Mines of a scope and detail satisfactory to the Bank, approved in accordance with procedures acceptable to the Bank.

## 2. Social Mitigation

The eligibility of social mitigation expenses to be financed under Part B.1 of the Project shall be determined in accordance with criteria acceptable to the Bank.

## 3. Eligibility and Procedures for the Micro-credit Facility

The eligibility and procedures for the micro-credit facility under Part B.2 of the Project shall be as follows:

(a) The eligibility of sub-borrowers and qualifying new business investments shall be determined in accordance with guidelines promulgated by the MOF and Donetsk Oblast for such purposes, such guidelines to be acceptable to the Bank.

(b) Applications for sub-loans under the micro-credit facility shall be appraised in accordance with guidelines promulgated by the MOF and Donetsk Oblast for such purposes, such guidelines to be acceptable to the Bank.

(c) The Fiscal Agent shall be selected in accordance with procedures and criteria acceptable to the Bank.

(d) Sub-loans shall be made on terms and conditions acceptable to the Bank, which shall include, without limitation, the following: (i) the maturity and terms of repayment (up to five (5) years); and (ii) the interest rate payable by the Sub-borrower, which rate shall be determined in accordance with the policy of the Borrower, established for such purposes, in consultation with the Bank, and taking into account the discount rate of NBU and the administrative costs and lending risk; and (iii) the procedures according to which the goods required for the Sub-borrower's new business investment shall be purchased, which shall be in accordance with prevailing commercial practices of the Sub-borrowers.

## 4. Public Works for Environmental Improvements

The Borrower shall, together with Donetsk Oblast: (i) adopt a plan for specifying the criteria for the selection of the public works for environmental improvements to be carried out in respect of areas affected by the closure of the Project Mines, and setting forth regulations on the manner of carrying out such works under the Project; and (ii) and shall ensure that all public works under Part B.3 of the Project shall be carried out by the Participating Cities in accordance with such plan.

## 5. Social Assets Transfer

The specific social assets which are to be transferred from the ownership of Mining Associations to the ownership of the Participating Cities under Part C of the Project shall be selected or otherwise identified in accordance with procedures satisfactory to the Bank.

## SCHEDULE 6

### Special Accounts

#### 1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1), (2), (3), (4), (5), (6), (9) and (10) in the case of Special Account A, and Categories (7) and (8) in the case of Special Account B, such Categories being set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means: (i) an amount equivalent to \$500,000 to be withdrawn from the Loan Account and deposited in the Special Account A pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$250,000 until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$3,000,000; and (ii) an amount equivalent to \$200,000 to be withdrawn from the Loan Account and deposited in the Special Account B pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the respective Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower, or its designated representatives, as provided in Section 2.08 of this Agreement, shall furnish to the Bank a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Bank requests for deposits into the respective Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the respective Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the respective Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into either Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) if the Borrower shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

(c) if, at any time, the Bank shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General

Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Categories for the Project, less the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories for the Project shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the respective Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of either Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the respective Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in any Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Accounts.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

