

CONFORMED COPY

LOAN NUMBER 4016 UA

UDKR  
Project Agreement

(Coal Pilot Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

UKRAINSKA DERZHAVNA KOMPANIA Z  
RESTRUKTURIZATSII PIDPRIEMSTV VUHILNOI  
PROMISLOVENNOSTI  
(UKRUGLRESTRUKTURIZATSIA)

Dated July 11, 1996

LOAN NUMBER 4016 UA

PROJECT AGREEMENT

AGREEMENT, dated July 11, 1996, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and UKRAINSKA DERZHAVNA KOMPANIA Z RESTRUKTURIZATSII PIDPRIEMSTV VUHILNOI PROMISLOVENNOSTI (UDKR).

WHEREAS (A) by the Loan Agreement of even date herewith between UKRAINE (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to fifteen million eight hundred ten thousand Dollars (\$15,810,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that UDKR agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary agreement to be entered into between the Borrower and UDKR, a portion of the proceeds of the loan provided for under the Loan Agreement will be made available to UDKR on the terms and conditions set forth in said UDKR Subsidiary Agreement; and

WHEREAS UDKR, in consideration of the Bank entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

## Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) UDKR declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out, jointly with the relevant agencies of the Borrower, the Mine Closure Plans and other activities referred to under Parts A, B, D and E of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, labor, social and environmental practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the activities to be carried out by UDKR under such Parts A, B, D and E of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Bank and UDKR shall otherwise agree, UDKR shall:

- (i) carry out the relevant activities under Parts A, B, D and E of the Project in accordance with the relevant provisions of the Implementation Program set forth in Schedule 5 to the Loan Agreement; and
- (ii) carry out its operations in accordance with specific operational guidelines (Operational Guidelines) to be adopted by UDKR in respect of particular project activities, which shall be acceptable to the Bank, which shall include, without limitation:
  - (A) regulations on the manner of effecting social mitigation expenditures for the consequences of mine closure; and
  - (B) regulations on the manner of distribution of coal.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works, and services required for Parts A, B, D and E of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to the Loan Agreement.

Section 2.03. (a) UDKR shall carry out 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 the UDKR Project Agreement and Parts A, B, D and E of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, UDKR shall:

- (i) 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 for the future operation of the facilities financed pursuant to the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan.

Section 2.04. UDKR shall duly perform all its obligations under the UDKR Subsidiary Agreement. Except as the Bank shall otherwise agree, UDKR shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the UDKR Subsidiary Agreement or any provision thereof.

Section 2.05. (a) UDKR shall, at the request of the Bank, exchange views with the Bank with regard to the progress of Parts A, B, D and E of the project, the performance of its obligations under this Agreement and under the UDKR Subsidiary Agreement, and other matters relating to the purposes of the Loan.

(b) UDKR shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Parts A, B, D and E of the Project, the accomplishment of the purposes of the Loan, or the performance by UDKR of its obligations under this Agreement and under the UDKR Subsidiary Agreement.

### ARTICLE III

#### Management and Operations of UDKR

Section 3.01. UDKR shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering, labor, social and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. UDKR shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and environmental practices.

Section 3.03. UDKR shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

### ARTICLE IV

#### Financial Covenants

Section 4.01. (a) UDKR shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) UDKR shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements), and the records and accounts for the Special Account A, 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, (A) certified copies of its financial statements for such year as so audited and (B) 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, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

### ARTICLE V

#### Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of UDKR thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify UDKR thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

#### ARTICLE VI

##### Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

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)

For UDKR:

General Director  
7 Artioma Street  
Donetsk 340000  
Ukraine

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of UDKR, or by UDKR on behalf of the Borrower under the Loan Agreement, may be taken or executed by the General Director or such other person or persons as General Director shall designate in writing, and UDKR shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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.

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Basil Kavalsky

Acting Regional Vice President  
Europe and Central Asia

UKRAINSKA DERZHAVNA KOMPANIA Z  
RESTRUKTURIZATSII PIDPRIEMSTV

VUHILNOI PROMISLOVENNOSTI

By /s/ Valeri Kuchinsky

Authorized Representative

