RECOVERY AND RESILIENCE FACILITY
LOAN AGREEMENT

between the Commission and the Kingdom of Spain

This Loan Agreement is made by and between

the European Union, represented by the European Commission,

hereinafter referred to as "**the Commission**"

and

the Kingdom of Spain, represented by the Fourth Vice-President and Minister of Finance and Public Administration,

Hereinafter referred to as "**the Member State**",

hereinafter jointly referred to as the "Parties" and each of them a "Party".

PREAMBLE

Whereas:

(1) Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility[1] ('**RRF Regulation**') has the specific objective to provide Member States with financial support with a view to achieving the milestones and targets of reforms and investments as set out in their recovery and resilience plans. Such support is financed from the borrowing by the Union on the basis of Article 5 of Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom[2] ("Decision (EU, Euratom) 2020/2053"), which is available for the financing of measures under Article 1(2)(b) of Council Regulation (EU) 2020/2094

[1] OJ L 57, 18.02.2021, p. 17.
[2] OJ L 424, 15.12.2020, p. 1.

of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 pandemic[3] ('EURI Regulation');

(2) Support is provided following the approval of the assessment of the Recovery and Resilience Plan (the 'RRP') by the Council in accordance with Article 20(1) of the RRF Regulation, on the basis inter alia of a loan agreement to be concluded between the Commission and the Member State;

(3) In accordance with Articles 14, 15(2), 24 of the RRF Regulation, the disbursement of the loan support should be provided in instalments, based on the satisfactory fulfilment of milestones and targets laid down in the Council Implementing Decision. In line with Article 24(1) of the RRF Regulation, disbursements of the loan should be subject to the available funding;

(4) On 6 June 2023, the Member State submitted a revised RRP to the Commission and requested a loan support pursuant to Article 14(2) of the RRF Regulation;

(5) The Council Implementing Decision establishes a loan support amounting to a maximum of EUR 83 160 060 000 for the Member State. In accordance with the second paragraph of Article 2a of the Council Implementing Decision and Article 21d of the RRF Regulation an amount of EUR 340 000 000 of the loan support is to be disbursed as pre-financing to the Member State;

(6) Pursuant to Article 22(2) of the RRF Regulation, the loan agreement to be concluded between the Commission and the Member State shall provide for obligations of the Member State to regularly check that the financing provided has been properly used and that there has been a proper implementation of measures; to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests and legal actions to recover funds that have been misappropriated; to accompany a request for payment with a management declaration and summary of the audits carried out; to collect and ensure access to the standardised categories of data; to authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights; to keep records;

(7) According to Article 9 of the RRF Regulation, reforms and investment projects may receive support from other Union programmes and instruments provided that such support does not cover the same costs; according to Article 22(2)(c)(i) of the RRF Regulation the agreement to be concluded with the Member State should set out that requests for payment should be accompanied by management declarations that the control systems put in place give the necessary assurances that the funds were managed in accordance with all applicable rules, including on double funding;

(8) Article 34 of the RRF Regulation sets out Member State obligations with respect to communication and publicity;

(9) Provisions of the Financial Regulation relating to the implementation of financial assistance by the Commission should apply to the Loan Facility under this Loan Agreement. According to Article 15 (2)(b) of the RRF Regulation, Article 220(2) of the Financial Regulation should not apply with regard to the average maturity of the loan support;

[3] OJ L 433 I, 22.12.2020, p. 23.

(10) The Commission will launch on behalf of the Union bond issues, notes, commercial paper, short-term bills or any other appropriate short and/or long term financial transactions ("**Funding Instruments**") for the funding of the loan support requested by the Member State;

(11) The Commission's funding strategy, set out in Article 7 of Commission Implementing Decision (EU, EURATOM) 2022/2544 of 19 December 2022 establishing the arrangements for the administration and implementation of the EU borrowing and debt management operations under the diversified funding strategy and related lending operations[4] (**"Diversified Funding Strategy"**) should apply to the funding of non-repayable financial support and loan support provided under the RRF Regulation.

(12) The Commission should offer loan instalments with a long-term maturity of 30 years, in full respect of sound financial management principles. Gradual repayment of loan instalments will ensure that the weighted average maturity of total loan instalments under this Agreement are kept within predictable and managed limits. Repayment of the principal on these loans should be spread evenly over time, from the end of a moratorium, providing fiscal space to emerge from the crisis as well as avoiding lumpy repayment obligations for the beneficiary Member State.

(13) Pursuant Article 15(3) of the RRF Regulation, the application of the Cost Allocation Methodology should ensure that all costs incurred by the Union that relate to the loan support are borne by the beneficiary Member State.

(14) The financial terms of each Disbursement will be determined in accordance to the RRF Regulation, the Council Implementing Decision, the Cost Allocation Methodology and this Loan Agreement.

(15) The Conclusions on Next Generation EU Green Bonds 7817/21 approved by the Council on 23 April 2021 welcomed the Commission's target that up to 30% of Next Generation EU proceeds should be mobilised through the issuance of NGEU Green bonds, agreed that the relevant information on eligible RRF expenditures should be made available by Member States to the Commission on a regular basis and welcomed the intention of the Commission to include relevant text in the financing and loan agreements.

The Parties have agreed as follows:

Article 1 Subject of the agreement

1. This Loan Agreement sets out the rights and obligations of the Parties and terms and conditions applicable to the loan support provided with a view to the satisfactory fulfilment of the milestones and targets of reforms and investments by the Member State in the Council Implementing Decision.
2. Subject to the provisions of the RRF Regulation, the Council Implementing Decision, the Cost Allocation Methodology, and this Loan Agreement, the Union makes available

[4] OJ L 328, 22.12.2022, p. 109–122

to the Member State a Loan Facility in euro in the aggregate principal amount of maximum EUR 83 160 060 000.

3. The maximum number of Loan Instalments is laid down in the Council Implementing Decision.

4. The Member State shall use all amounts borrowed under the Loan Facility in conformity with the RRF Regulation, the Council Implementing Decision, and, if relevant, the Commision decision on disbursement under Article 24(5) RRF Regulation.

5. The Loan shall be denominated solely in euro, which shall be the currency of account and payment. The Availability Period of the loan support shall be until 31.12.2026.

Article 2 Maturity

1. Each Disbursement shall have a maturity of 30 years from the date of disbursement.
2. The repayment of the principal amount of a Disbursement shall start after a grace period of 10 years from the date of disbursement and be spread evenly in equal repayments over the remaining maturity of the Disbursement.
3. The average maturity of the Disbursements under the Loan Facility shall not exceed 20 years. The average maturity shall be calculated as the weighted average maturity of the Disbursements made under the Loan Facility.

Article 3 Entry into force

1. Following its signature by all Parties, this Loan Agreement shall enter into force on the date on which the Commission has received the official notification in the form of the Legal Opinion drawn up in accordance with Annex VI to this Loan Agreement by the Member State that all constitutional and legal requirements for the entry into force of this Loan Agreement and the valid and irrevocable commitment of the Member State to all obligations under this Loan Agreement have been fulfilled.

2. The entry into force shall not be later than 3 months after signature of this Loan Agreement. If this Loan Agreement has not entered into force by that date, the Parties to the Loan Agreement shall cease to be bound by it.

Article 4 Definitions

In this Loan Agreement (including its recitals), the following terms have the following meaning:

1. **"Availability Period"** means the period that runs up to the date defined in Article 1(5) of this Loan Agreement.

2. **"Average Maturity"** means the weighted average maturity of all the Loan Instalments or Tranches made available under the Loan Agreement, at the moment when it is calculated, where the maturity of each Loan Instalment or Tranche is

determined by reference to the scheduled amortisation of capital on principal amounts due based on Loan Instalments or Tranches.

3. **"Business Day"** means a day on which the TARGET2 payment system is open for business.

4. **"Business Day Convention"** means the business day convention communicated in the Confirmation Notice.

5. **"Commission"** means the European Commission.

6. **"Confirmation Notice"** means the Commission's written notice to the Member State in the form of Annex V setting out the terms of a Loan Instalment or Tranche.

7. **"Conflict of Interests"** means a situation as defined in Article 61(2) and (3) of the Financial Regulation.

8. **"Corruption"** means corruption within the meaning of Article 136(1)(d) (ii) of the Financial Regulation.

9. **"Cost of Carry"** is the Cost of Carry as defined in the Cost Allocation Methodology.

10. **"Cost of Funding"** is the Cost of Funding as defined in the Cost Allocation Methodology.

11. **"Cost of Liquidity Management"** is the Cost of Liquidity Management as defined in the Cost Allocation Methodology.

12. **"Cost of Service"** is the Cost of Service as defined in the Cost Allocation Methodology.

13. **"Council Implementing Decision"** means Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain (ST 10150/21; ST 10150/21 ADD 1 REV 2; ST 13695/23; ST 13965/23 ADD1 REV 1).

14. **"Disbursement"** means a disbursement of a Loan Instalment or Tranche to the Member State under this Loan Agreement.

15. **"Disbursement Date"** means, in relation to any Disbursement, the date of transfer of the Net Disbursement Amount to the Member State's account with the Central Bank of the Member State.

16. **"Double Funding"** means funding provided in violation of Article 9 of the RRF Regulation.

17. **"Due Date"** means the twentieth Business Day after the corresponding Transfer Date.

18. "**Early Reimbursement**" means any voluntary early repayment, in total or in part, of the Loan Facility at the initiative of the Member State.

19. "**Early Repayment**" means the early repayment of the Loan Facility requested by the Commission.

20. "**ECB**" means the European Central Bank.

21. "**EU**" means the European Union.

22. "**Event of Default**" means an event defined in Article 15 (1) of this Loan Agreement.

23. "**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 (EU, Euratom) No 966/2012.

24. "**Financing Agreement**" means the Financing Agreement signed between the Commission and the Member State under Article 2 of the Council Implementing Decision.

25. "**Fraud**" means fraud within the meaning of Article 136(1)(d)(i) of the Financial Regulation.

26. "**General Government Debt**" means indebtedness comprising general government debt as determined in accordance with the European System of Accounts 2010 ("ESA 2010") as laid down by Council Regulation No (EC) 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community.

27. "**Interest Payment Date**" means any date on which interest is payable under the Loan Agreement.

28. "**Interest Period**" means the Interest Period as defined in the Cost Allocation Methodology;

29. "**Legal Opinion**" means the legal opinion issued by the Ministry of Justice, the Ministry of Finance, or a relevant national authority of the Member State, in the form of Annex VI.

30. "**Loan Instalment**" means the sums which have been the subject of a Request for Payment;

31. "**Loan Agreement**" means this loan agreement.

32. "**Loan Facility**" means the loan support that the Commission makes available to the Member State under this Loan Agreement and in accordance with the Council Implementing Decision.

33. "**Market Disruption Event**" means, at the time of a proposed issuance of Funding Instruments, the occurrence of events or circumstances affecting the national or international financial, political or economic conditions or international capital markets or currency exchange rates or exchange controls which in the reasonable view of the Commission are likely to prejudice materially the ability of the Commission to achieve a successful issue, offering or distribution of Funding Instruments at a reasonable price.

34. "**Maturity Date**" means the scheduled date for full repayment of principal of a Loan Instalment or Tranche as defined in a Confirmation Notice.

35. "**Net Disbursement Amount**" means the proceeds of the Funding Instrument less the aggregate amount of clearing of the pre-financing according to Article 6 in relation to any Disbursement, resulting to an amount to be disbursed to the Member State.

36. "**Operational arrangements**" means the operational arrangements agreed by the Member State and the Commission after the adoption of the Council Implementing Decision, as referred to in Article 20 (6) of the RRF Regulation.

37. "**Pre-financing Loan Instalment**" means the part of Loan Facility to be disbursed as pre-financing indicated in Article 6.

38. "**Cost Allocation Methodology**" means the Commission Implementing Decision (EU, Euratom) 2022/2545 of 19 December 2022 on establishing the framework for allocating costs related to borrowing and debt management operations under the diversified funding strategy[5], as supplemented, amended or replaced as the case may be.

39. "**Public External Indebtedness**" means all indebtedness which constitutes General Government Debt (i) which is denominated or payable in a currency other than the currency of the Member State and (ii) which was not originally incurred or assumed under an agreement or instrument made with or issued to creditors substantially all of whom are residents of the Member State or entities having their head office or principal place of business within the territory of the Member State.

40. "**Public Internal Indebtedness**" means all General Government Debt which (i) is denominated in the currency of the Member State, (ii) is in the form of or represented by bonds, notes or other securities or any guarantee thereof and (iii) is or may be quoted or listed or ordinarily purchased and sold on any stock exchange, automated trading system, over the counter or other securities market.

41. "**Relevant Indebtedness**" means Public External Indebtedness and Public Internal Indebtedness.

[5] OJ L 328, 22.12.2022, p. 123.

42. **"Request for Payment"** means the Member State's request for the payment of Loan Instalments referred to in Article 24(2) of RRF Regulation, in the form of Annex II.

43. "**RRP**" means the Member State's recovery and resilience plan that was assessed by the Commission and whose assessment was approved by the Council through the adoption of the Commission proposal for a Council Implementing Decision by the Council.

44. **"RRF Regulation"** means Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021;

45. **"Serious Breach of Obligations"** in the context of Article 22(5) of the RRF Regulation and of this Loan Agreement means a breach by the Member State of the obligations incorporated in this Loan Agreement and/or in the Financing Agreement that adversely affects, in a material or substantial manner, the rights of the Commission or the proper implementation of Union funds pursuant to this Loan Agreement concerning Articles 5, 6, 19, 20 and 21 thereof and/or the Financing Agreement concerning Articles 4, 5, 10, 11 and 12 thereof.

46. "**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which uses a single shared platform and which was launched on 19 November 2007.

47. "**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

48. "**TFEU**" means the Treaty on the Functioning of the European Union.

49. "**Tranche**" means a part of a Loan Instalment.

50. "**Transfer Date**" means any date indicated in the Confirmation Notice on which a payment of principal amount, Cost of Funding, Cost of Service, and Cost of Liquidity Management is to be made.

Article 5 Responsibility of the Member State

1. The Member State shall be responsible for the implementation of the RRP, including for the satisfactory fulfilment of the milestones and targets set out in the Council Implementing Decision and further specified in the Operational Arrangements.
2. In accordance with Article 28 of the RRF Regulation, the Member State shall foster synergies and ensure effective coordination between the recovery and resilience facility established by the RRF Regulation and other Union programmes and instruments, and in particular with measures financed by the Union funds in a manner commensurate to its responsibilities. Pursuant to Article 9 of the RRF Regulation, the Member State shall ensure that no double funding takes place.

Article 6 Pre-financing

1. The Commission shall disburse an amount of EUR 340 000 000 of pre-financing (the "**Pre-financing Loan Instalment**") in up to two payments as follows:

   (a) the Commission shall pay the first pre-financing payment, to the extent possible, within two months from the entry into force of this Loan Agreement;

   (b) the Commission shall pay the second pre-financing payment, to the extent possible, within 12 months of the entry into force of the Council Implementing Decision approving the assessment of the revised RRP including a REPowerEU chapter.

2. The Member State acknowledges and irrevocably agrees that:

   a) the disbursement of the Pre-Financing Loan Instalment shall be subject to availability of funds;

   b) Cost of Funding, Cost of Liquidity Management and Cost of Service for the Pre-financing Loan Instalment shall be based on the Cost Allocation Methodology;

   c) The Maturity Dates of the Pre-financing Loan Instalment shall be 30 years;

   d) The Pre-financing Loan Instalment shall be disbursed in one or several Tranches;

   e) It shall pay any fees, costs and expenses, including if applicable breakage costs and cost of carry.

3. The Commission shall issue to the Member State a Confirmation Notice setting out the financial terms of the Pre-financing Loan Instalment or Tranche. The Member State shall be deemed to have accepted in advance the terms of the Pre-financing Loan Instalment or Tranche set out in the Confirmation Notice.

4. For pre-financing paid in accordance with paragraph 1 an amount corresponding to the percentage equal to the ratio of the remaining uncleared pre-financing over remaining amounts of the Loan Facility to be disbursed shall be deducted from each Disbursement to calculate the Net Disbursement Amount in order to clear the pre-financing until it has been fully cleared.

5. Upon request of the Member State in its payment request, additional amounts may be deducted from each Disbursement in order to clear the pre-financing earlier.

6. Amounts of pre-financing that have not been cleared by 31 December 2026 shall be immediately due and payable. The Commission shall be entitled to offset such amounts against any claim that the Member State has vis-à-vis the Commission under the RRF and/or other EU programmes.

7. Any pre-financing shall be declared immediately due and payable following the termination of this Loan Agreement in the case referred to in Article 24(9) of the RRF Regulation. Article 15(3) of this Loan Agreement shall apply.

Article 7 Request for payments and verification of conditions

1. When submitting Requests for Payment in accordance with Article 24(2) of the RRF Regulation, the Member State shall duly justify that the milestones and targets for the

respective Loan Instalment as set out in Section 2 of the Annex of the Council Implementing Decision have been satisfactorily fulfiled. The Operational Arrangements shall be signed by the Member State and the Commission before the first request for payment.

2. When submitting the Request for Payment pursuant to Article 24 of the RRF Regulation, the Member State shall:
    a) Provide due justification of the satisfactory fulfilment of the relevant milestones and targets set out in the Council Implementing Decision;
    b) Request in relation to the Loan Facility a maximum of the amount as set out in the Council Implementing Decision;
    c) Use the form set out in Annex II of this Loan Agreement;
    d) In order to comply with the obligation set in Article 22(2)(c) of the RRF Regulation;
        (i) Enclose a duly signed Management Declaration drawn up in accordance with the model set out in Annex III of this Loan Agreement; and
        (ii) Enclose a summary of the audits carried out, including weaknesses identified and any corrective actions taken.
3. The Member State shall on a best effort basis seek to abide by the indicative payment request schedule set out in the Operational Arrangements. The final Request for Payment shall be submitted by 30 September 2026.
4. The preliminary assessment under Article 24(3) of the RRF Regulation shall be carried out by the Commission on the basis of the information provided by the Member State in accordance with paragraph 2. For the purpose of the assessment, the Operational Arrangements shall also be taken into account. The Commission may ask supplementary information and/or carry out checks and on-the-spot controls to verify the completion of milestones and targets, including on the non-reversibility of previously satisfactorily fulfiled milestones and targets. In case the Commission notifies the Member State of the need for major additional information or corrections of its payment request, the period between the date of the Commission request until the date of the submission of additional or corrected documents shall not be considered for the purposes of calculation of the deadline referred to in Article 24(3) of the RRF Regulation.
5. Where, as a result of the assessment under Article 24 of the RRF Regulation, the Commission establishes in accordance with Article 24(6) of the RRF Regulation that only a subset of the milestones and targets set out in the Council Implementing Decision have been satisfactorily fulfilled, the Commission shall determine the share of the Loan Instalment to be suspended following an observations procedure in accordance with Article 25.

    In case a milestone and/or target related to the Member State's control system is not satisfactorily fulfilled, the Commission may suspend the entire Disbursement and future Disbursements, until such time as the relevant milestone and/or target is satisfactorily fulfilled.

Article 8 Ex post reporting on climate change objectives

1. The Member State, together with the submission of a request for payment, shall declare the total cumulative expenditure disbursed up to that moment by the Member State for the implementation of each reform and investment of the national recovery and resilience plan assigned a positive climate marker under the methodology in the RRF Regulation, as contributing to climate change objectives.
2. The information referred to in paragraph 1 shall not be taken into account by the Commission for the assessment of the achievement of the milestones and targets under the request for payment.

Article 9 Drawdown, Conditions Precedent and Disbursement

1. Without prejudice to Article 6 of this Loan Agreement, any Disbursement shall be conditional upon the Commission having adopted a decision according to Article 24(5) of the RRF Regulation and shall be limited to the amount established in that decision.

2. No disbursement shall be made before the Commission has received:

   (a) the official notification in the form of the Legal Opinion by the Member State that all constitutional and legal requirements for the provisions concerning loans to take effect and the valid and irrevocable commitment of the Member State to all obligations under this Loan Agreement have been fulfilled, and

   (b) a Request for Payment (not applicable for the Pre-financing Loan Instalment).

   The Member State is irrevocably bound by the terms of the Request for Payment..

3. A Request for Payment shall not be regarded as having been duly completed unless it specifies the information set out in Annex II.

4. Following submission of a Request for Payment by the Member State, the Commission's obligation to pay the Net Disbursement Amount in respect of a Loan Instalment to the Member State under this Loan Agreement shall be subject to:

   a. no event having occurred that would render incorrect any statement made in the Legal Opinion;

   b. the Commission having received from the Minister of Finance of the Member State an official document indicating the persons authorised to sign the Request for Payment (and thus validly commit the Member State) and containing the specimen signatures of these persons;

   c. the Commission having adopted a decision authorising the disbursement in accordance with Article 24(5) of the RRF Regulation;

   d. availability of funding;

e. no Market Disruption Event having occurred;

f. no material adverse change having occurred since the date of signature of this Loan Agreement such as would, in the opinion of the Commission, after consultation with the Member State be likely to prejudice materially the ability of the Member State to fulfil its payment obligations under this Loan Agreement, *i.e.* to service any of the Loan Instalments to be funded and to repay them;

g. no Event of Default having occurred which has not been cured to the satisfaction of the Commission.

5. A Loan Instalment may be disbursed in one or more Tranches.

6. In accordance with the RRF Regulation, and the Council Implementing Decision, the Commission shall launch any appropriate Funding Instruments for the funding of the amount of a Loan Instalment under the Diversified Funding Strategy.

7. The Commission shall issue to the Member State a Confirmation Notice setting out the financial terms of the Disbursement. The Member State shall be deemed to have accepted in advance the terms of the Loan Instalment or Tranche set out in the Confirmation Notice. For the avoidance of doubt, the Commission is under no obligation to consider favourably any request from the Member State at any time to modify any of the financial terms of a Loan Instalment or Tranche.

8. The Commission shall instruct the ECB to transfer the Net Disbursement Amount of a Loan Instalment or Tranche on the Disbursement Date to the following euro account of the Member State or the Member State's agent held with the European System of Central Banks: ES5890000001210900012051. A payment to this bank account shall discharge the Commission from its payment obligation under this Loan Agreement with regard to the respective Disbursement.

9. The Member State's right to receive Loan Instalments or Tranches under this Loan Agreement expires at the end of the Availability Period, following which any undisbursed amount of the Loan Facility shall be considered as immediately cancelled, except for any situation described under Article 3(9) of the EURI Regulation.

Article 10 Representations, Warranties and Undertakings

1. Representations

By signing this Loan Agreement, the Member State represents and warrants to the Commission that on the date of this Loan Agreement and on each Disbursement Date:

(a) each Loan Instalment shall constitute an unsecured, direct, unconditional, unsubordinated and general obligation of the Member State and will rank at least *pari passu* with all other present and future unsecured and unsubordinated loans and obligations of the Member State arising from its present or future Relevant Indebtedness; and

(b) the Legal Opinion is accurate and correct.

2. Undertakings

The Member State undertakes, until such time as all principal under this Loan Agreement has been fully reimbursed and all interest and additional amounts, if any, due under this Loan Agreement have been fully paid:

(a) to utilise the Net Disbursement Amount of each Disbursement in accordance with the RRF Regulation, the Council Implementing Decision and any related conditions applicable at the time of issuing the Request for Payment;

(b) to obtain and maintain in full force and effect all authorisations necessary for it to comply with its obligations under this Loan Agreement;

(c) to comply in all respects with applicable laws which might affect its ability to perform this Loan Agreement;

(d) to pay any fees, costs, overheads and expenses, including if applicable breakage costs and cost of carry, calculated according to the Cost Allocation Methodology;

(e) without prejudice to Protocol 7 annexed to the Treaties, to recognise that the Commission shall have the identical legal capacity and privileges as accorded to international financial institutions;

(f) to ensure that the checks and measures referred to under Article 20 of this Loan Agreement are in place;

(g) with the exception of those encumbrances enumerated in subparagraphs (1) to (8) below:

(i) not to secure by mortgage, pledge or any other encumbrance upon its own assets or revenues any present or future Relevant Indebtedness and any guarantee or indemnity given in respect thereof, unless the Loan Facility at the same time shares *pari passu* and *pro rata* in such security; and

(ii) taking into consideration the particularities of the Union lending instruments, not to grant to any other creditor or holder of its General Government Debt any priority over the Commission.

The grant of the following encumbrances shall not constitute a breach of this Article 10:

(1) encumbrances upon any property incurred to secure financing for the purchase price or construction of such property and any renewal or extension of any such encumbrance which is limited to the original property covered thereby and which secures any renewal or extension of the original secured financing; and

(2) encumbrances on commercial goods arising in the course of ordinary commercial transactions (and expiring at the latest within one year thereafter) to finance the import or export of such goods into or from the Member State; and

(3) encumbrances securing or providing for the payment of Relevant Indebtedness incurred exclusively in order to provide financing for a specific investment project, provided that the properties to which any such encumbrances apply are properties which are the subject of such project financing, or which are revenues or claims which arise from the project; and

(4) any other encumbrances in existence on the date of the signing of this Loan Agreement, provided that such encumbrances remain confined to the properties presently affected thereby and properties which become affected by such encumbrances under contracts in effect on the date of the signing of this Loan Agreement (including, for the avoidance of doubt, the crystallization of any floating charge which had been entered into at the date of this Loan Agreement), and provided further that such encumbrances secure or provide for the payment of only those obligations so secured or provided for on the date hereof or any refinancing of such obligations; and

(5) all other statutory encumbrances and privileges which operate solely by virtue of law and which cannot be reasonably avoided by the Member State; and

(6) any encumbrance granted or consented to under a securitization transaction which has been consented to in advance by the Commission and is accounted for in national accounts in accordance with ESA 2010 principles and Eurostat guidance on securitization operations conducted by Member States' governments; and

(7) any encumbrance securing the Member State's obligations with any central securities depository such as Euroclear given in the normal course of the business; and

(8) any encumbrance securing an indebtedness of less than EUR 3 million, provided that the maximum aggregate amount of indebtedness secured by such encumbrances does not exceed EUR 50 million.

As used in this Article 10, "financing for a specific investment project" means any financing of the acquisition, construction or development of any properties in connection with a project if the providing entity for such financing expressly agrees to look to the properties financed and the revenues to be generated by the operation of, or loss or damage to, such properties as the principal source of repayment for the moneys advanced.

Article 11 Costs and Expenses

1. In respect of each outstanding Loan Instalment, the Member State shall transfer to the account referred to in Article 14 in respect of each Loan Instalment or Tranche

(a) on each Transfer Date the amount of Cost of Funding;

(b) on each Transfer Date the amount of Cost of Service;

(c) on each Transfer Date the amount of Cost of Liquidity Management.

2. The Interest Period and Transfer Dates, shall be, for each Loan Instalment or Tranche, set in the Confirmation Notice for that Loan Instalment or Tranche and be communicated to the Member State.
   The Commission shall communicate to the Member State the amount of Cost of Funding, Cost of Service, and Cost of Liquidity Management at the latest twenty business days before the Transfer Date.

3. The costs incurred by the Commission under this Loan Agreement and imputable to the Member State will be calculated based on a pricing formula composed of Cost of Funding, Cost of Service, and Cost of Liquidity Management which are to be calculated and invoiced based on the applicable Cost Allocation Methodology.

4. Without prejudice to the terms of Article 15 of this Loan Agreement and by derogation from Article 99 of the Financial Regulation, if the Member State fails to pay any sum payable under this Loan Agreement on its Transfer Date, the Member State shall pay in addition default interest on such sum (or, as the case may be, the amount thereof for the time being due and unpaid) to the Commission from the Transfer Date to the date of actual payment in full, calculated by reference to successive interest periods (each of such length as the Commission may from time to time select, the first period beginning on the relevant Transfer Date and, wherever possible, the length of such period shall be that of one week) on such overdue sum at the higher of

   (a) a rate per annum being the aggregate of

      (i) 350 basis points, and

      (ii) the rate applied by the European Central Bank to its principal refinancing operations, or

   (b) 200 basis points over the Cost of Funding which would have been payable if the overdue amount had, during the period of non-payment, constituted an Instalment, or

   (c) 0 basis points.

   So long as the failure to pay continues, such rate shall be re-fixed in accordance with the provisions of this paragraph (4) of this Article 11 on the last day of each such interest period and unpaid interest under this Article 11 concerning previous interest periods shall be added to the amount of interest due at the end of each such interest period. The default interest is immediately due and payable.

5. The Member State undertakes to pay to the Commission all additional interest and all costs and expenses, including legal fees, incurred and payable by the Commission as a result of a breach of any obligation under this Loan Agreement by the Member State. For the avoidance of doubt, and without prejudice to Article 12(2), a payment by the Member State on any date different from the Transfer Date will be construed as in breach of repayment obligations under this Loan Agreement.

Article 12 Repayment and Early Reimbursement

1. The Member State shall repay the principal amount of each Loan Instalment on the Transfer Date(s) and under the conditions notified to it by the Commission in the relevant Confirmation Notice.

   The Member State shall transfer the amount of principal due to the account referred to in Article 14(3) on the Transfer Date.

   Any amount of principal which is transferred for the purpose of a repayment to the account referred to in Article 14(3) by the Member State cannot be re-borrowed by the same Member State.

2. The Member State shall be entitled to ask for a partial or total Early Reimbursement. In this case, the Commission shall assess the request and, in its full discretion, set the terms and conditions for such Early Reimbursement. The Commission shall set a deadline for the Member State for the acceptance of those terms and conditions.

   The terms and conditions shall in particular ensure that the Member State bears all the costs resulting from all Funding Instruments impacted, including accrued interests due, expenses, fees, Cost of Liquidity Management, breakage costs and costs of termination of any hedging.

   Amounts repaid by the Member State may not be re-borrowed by the same Member State.

Article 13 Suspension and Cancellation of undrawn amounts

1. The Commission may suspend any undrawn Loan Instalments or Tranche of the Loan Facility if:
   (a) the Member State does not comply with the Loan Agreement;
   (b) The Members State commits or shall commit a Serious Breach of Obligations;
2. Following the suspension referred to in paragraph 1 the Commission may cancel the amounts concerned after having followed the observations procedure in accordance with Article 25.
3. The Commission may suspend or cancel any undrawn Loan Instalments or Tranche of the Loan Facility if the Member State declares its intention not to draw any more under the Loan Facility.

Article 14 Payments

1. All payments to be made by the Member State shall be paid without set-off or counterclaim, free and clear of, and without deduction for and on account of, any Taxes, commissions and any other charges for the entire term of this Loan Agreement.

2. The Member State declares that all payments and transfers under this Loan Agreement, as well as the Loan Agreement itself, are not subject to any Tax or any other levy, impost or duty in the Member State and shall not be so subject for the entire term of this Loan Agreement. If nevertheless the Member State or the Central Bank of the Member State is required by law to make any such deductions, the Member State shall pay the requisite additional amounts so that the Commission receives in full the amounts specified by this Loan Agreement.

3. All payments by the Member State shall be made on the Transfer Date before 11:00 a.m. Luxembourg time to the European Commission's account 4062990131 at the ECB, via TARGET2 participant SWIFT-BIC ECBFDEFFBAC, in favour of the final beneficiary EUCOLULLXXX.

   A payment made on the Transfer Date on such account shall discharge the Member State from the relevant repayment obligation.

4. If the Member State pays an amount in relation to any of the Loan Instalments which is less than the total amount due and payable under this Loan Agreement, the Member State hereby waives any rights it may have to make any appropriation of the amount so paid as to the amounts due.

   The amount so paid in respect of an Loan Instalment shall be applied in or towards satisfaction of payments due under such Instalment in the following sequence:

   (a) *first* against any fees, expenses and indemnities;

   (b) *second* against any interest for late payments as determined under Article 11(4);

   (c) *third* against interest; and

   (d) *fourth* against principal,

   provided that these amounts are due or overdue for payment on that date.

5. Any calculation and determination by the Commission under this Agreement:

   (a) shall be made in a commercially reasonable manner; and

   (b) shall, absent manifest error, be binding on the Commission and the Member State.

6. Business Day Convention (Day Count Convention) as communicated in the Confirmation Notice shall apply.

Article 15 Events of Default

1. The Commission may by written notice to the Member State declare the outstanding principal amount of the Loan to be immediately due and payable, together with accrued interest, and/or cancel any undrawn Loan Instalment or Tranche if:

(a) the Member State fails or shall fail to pay on the relevant Transfer Date any amount of principal or Costs of Funding or Costs of Service, or any other amounts due under this Loan Agreement on their due dates, whether in whole or in part, in the manner as agreed in this Loan Agreement, in respect of any Loan Instalment or Tranche; or

(b) the Member State defaults or shall default in the performance of any obligation under this Loan Agreement (other than those referred to in Article 15(1)(a)including the obligation set out in Article 1(4) of this Loan Agreement), and such default shall continue for a period of one month after written notice thereof shall have been given to the Member State by the Commission; or

(c) the Commission sends the Member State a declaration of default in circumstances where the Member State's obligations under this Agreement are declared by the Court of Justice of the European Union not to be binding on or enforceable against the Member State or to be illegal; or

(d) the Commission sends the Member State a declaration of default in circumstances where any representation or warranty made by the Member State under this Loan Agreement is inaccurate, untrue or misleading and which in the opinion of the Commission could have a negative impact on the capacity of the Member State to fulfill its obligations under this Loan Agreement or on the rights of the Commission under it; or

(e) any loan agreement between the Member State and the Commission or any EU institution or body, regardless of the amount, is subject of a declaration of default, or there is a default on any payment obligation of any kind towards the Commission or any EU institution by the Member State which gives rise to a declaration of default; or

(f) Relevant Indebtedness of the Member State having an aggregate principal amount in excess of EUR 250 million is the subject of a declaration of default as defined in any instrument governing or evidencing such indebtedness and as a result of such a declaration of default there is an acceleration of such indebtedness or a *de facto* moratorium on payments; or

(g) the Member State does not pay a substantial portion of its Relevant Indebtedness as it falls due or declares or imposes a moratorium on the payment of its Relevant Indebtedness or of Relevant Indebtedness assumed or guaranteed by it.

2. The Commission may, but is not obliged to, exercise its rights under this Article 15 and may also exercise them only in part without prejudice to the future exercise of such rights. No waiver is to be implied from any delay in exercise of any such rights.

3. The Member State shall reimburse all costs, expenses and fees payable by the Commission as a consequence of an Early Repayment of any Loan Instalment or Tranche under this Article 15, in particular resulting from all Funding Instruments impacted. In addition, the Member State shall pay default interest, as provided for in Article 11(3), which shall accrue as from the date when the outstanding principal amount of the Loan has been declared immediately due and payable, until the date of actual payment in full.

Article 16 Information Undertakings

1. The Member State shall supply to the Commission any information pertaining to any event which could reasonably be expected to cause an Event of Default to occur (and the steps, if any, being taken to remedy it).

2. The Member State shall supply to the Commission any information pertaining to the checks, measures and actions referred to under Article 20 of this Loan Agreement.

3. In order to prepare the report foreseen under Article 31 of the RRF Regulation, the Commission may request reports on the use of the Loan Facility.

4. The Member State undertakes to inform the Commission promptly if any event occurs that would render incorrect any statement made in the Member State's Legal Opinion.

Article 17 Miscellaneous

The Member State shall not have any right to assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Commission.

Article 18 Liability for damages

The Commission shall not be held liable for any damage caused by the Member State or any third parties involved in the implementation of the RRP, as a consequence of the implementation of the Loan Agreement.

Article 19 Publication of information, visibility of Union funding and right of use

1. Without prejudice to Article 34 of the RRF Regulation, Member State information, communication and publicity for funding in implementation of the RRP shall be at least of the same level as that required by the rules of the Member State for public funding without contributions from the Union budget.

2. In order to respect its obligations under Article 34(2) of the RRF Regulation, and in particular to ensure provision of coherent, effective and proportionate targeted information to multiple audiences, including the media and the public, the Member State shall:
    a. Have a strategy at Member State level to raise awareness and ensure recognition of the RRF's contribution to Europe's recovery and, in particular, the twin green and digital transitions.
    b. Where applicable, correctly and prominently display in all communication activities at project and Member State level the EU emblem with an appropriate funding statement that reads (translated into local languages where appropriate) "funded by the European Union – NextGenerationEU".

c. Establish and maintain a single web space providing information on the RRP and related projects and communicate the dedicated web link to the Commission.
d. Ensure that the final recipients of Union funding under the RRF acknowledge the origin and ensure the visibility of the Union funding.

3. When displayed in association with another logo, the European Union emblem must be displayed at least as prominently and visibly as the other logos. The emblem must remain distinct and separate and cannot be modified by adding other visual marks, brands or text. Apart from the emblem, no other visual identity or logo may be used to highlight the EU support.
4. Any communication or dissemination activity that relates to the RRP and is made by the Member State in any form and using any means, shall use factually accurate information.
5. Where applicable, the Member State shall indicate the following disclaimer (translated into local languages where appropriate): *"Funded by the European Union – NextGenerationEU. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the European Commission can be held responsible for them."*
7. The Member State grants the Commission the right to use free of charge the communication materials relating to the RRP.

Article 20 Protection of the financial interests of the Union

1. The Member State shall:

   a. regularly check that the financing provided has been properly used in accordance with all applicable rules and that any measure for the implementation of reforms and investment projects under the RRP has been properly implemented in accordance with all applicable rules in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests;

   b. take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests as defined in Article 61(2) and (3) of the Financial Regulation affecting the financial interests of the Union and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the RRP;

   c. for the purpose of audit and control and to provide for comparable information on the use of funds in relation to measures for the implementation of reforms and investment projects under the RRP, to collect and ensure access to the following standardised categories of data:

i. name of the final recipient of funds;

ii. name of the contractor and sub-contractor, where the final recipient of funds is a contracting authority in accordance with Union or national law on public procurement;

iii. first name(s), last name(s) and date of birth of beneficial owner(s) of the recipient of funds or contractor, as defined in Article 3(6) of Directive (EU) 2015/849 of the European Parliament and of the Council;

iv. a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the Loan Facility and under other Union funds;

d. keep records in accordance with Article 132 of the Financial Regulation.

2. For the purpose of fulfilling the obligations under paragraph 1, Article 5(2) and Article 21 of this Loan Agreement, the Member State shall ensure that the control system referred to in Article 22(1) of the RRF Regulation complies with the key requirements listed in Annex I.

3. Any amendments to the Member State's internal control system that was included in the RRP concerning elements that were assessed by the Commission shall be duly communicated to the Commission without delay.

4. The Commission shall be sufficiently assured that the Member State's internal control system fulfils the key requirements provided in paragraph 1. The Commission may request supplementary information and perform on-the-spot system audits. These system audits may be carried out on a risk basis. If needed, the Commission may be assisted by independent outside experts or external audit firms.

Article 21 Verifications and checks by the Commission, the European Anti-Fraud Office (OLAF) the European Court of Auditors (ECA) and the European Public Prosecutor's Office (EPPO)

1. In addition to controls under Article 7(4) and audits under Article 20(4) of this Loan Agreement, the Commission may exert its rights as provided for in Article 129(1) of the Financial Regulation and may carry out verifications, reviews, checks and audits for the implementation of the RRP regarding:
   a) the prevention, detection and correction of fraud, corruption and conflicts of interests affecting the financial interests of the Union, including the application of Article 20,
   b) the application of Article 5(2),
   c) the information and justification regarding the satisfactory fulfilment of milestones and targets in a payment request.

   Such verifications, reviews, checks and audits may be carried out during the implementation of the RRP and until five years starting from the date of the final

Disbursement and may cover the information system used by Member States to collect and provide data that is used to justify the completion of milestones and targets. These procedures shall be formally notified to the Member State. If needed, the Commission may be assisted by independent outside experts or external audit firms.

2. The Member State shall keep and provide adequate supporting documents proving, in particular, that the RRP has been implemented properly, that its implementation complies with the obligations listed in Article 20(1) of this Agreement and that the milestones and targets specified in the Council Implementing Decision have been satisfactorily fulfilled, if requested to do so in the context of the checks or audits described in this Article.
3. The following bodies may exert their rights as provided for in Article 129(1) of the Financial Regulation and carry out reviews, checks, audits and investigations:
   - the European Anti-Fraud Office (OLAF) under Regulations No 883/2013[6] and No 2185/96[7],
   - the European Public Prosecutor's Office (EPPO) under Regulation 2017/1939, to the extent that the EPPO is competent, and
   - the European Court of Auditors (ECA) under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 257 of the Financial Regulation.
4. The Member State shall agree to and cooperate in view of the above mentioned verifications, reviews, checks, audits and investigations as well as controls under Article 7(4) and audits under Article 20(4), and provide any information and documents as requested for their purpose.
5. The Member State shall grant officials of the Commission, OLAF, the ECA and, to the extent that it is competent, EPPO, and their authorised representatives access to sites and premises at which investments and reforms financed under this Loan Agreement are carried out, and to any documents and computerised data concerning the management of those investments and reforms, and to take every appropriate measure to facilitate their work. Access by authorised agents of the Commission, OLAF, the ECA and, to the extent the Member State is participating enhanced cooperation on its establishment, EPPO shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject.
6. In order to comply with point (e) of Article 22(2) of the RRF Regulation, the Member State shall impose obligations on all final recipients of funds paid for the measures for the implementation of reforms and investment projects included in the RRP, or to all other persons or entities involved in their implementation to expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129(1) of the Financial Regulation and to impose similar obligations on all final recipients of funds disbursed, to ensure that any third party

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6 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

7 Council Regulation (Euratom, EC) No 2185/1996 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 against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

involved in the implementation of the RRP grants the rights and access in accordance with paragraphs (1) to (4) above.

7. In case of audits or reviews by the Commission, on the basis of the findings made during the audit or review, a provisional report shall be drawn up. The Commission or the auditors shall formally notify the report to the Member State and an observations procedure shall take place in accordance with Article 25. The final report must be sent to the Member State within 60 calendar days of expiry of the time limit for submission of observations.
8. On the basis of the final findings, the Commission may take the measures it considers necessary, including, in cases of fraud, corruption, conflict of interest or a Serious Breach of Obligations in this Loan Agreement, declaration of outstanding Loan Instalments immediately due and payable, in part or in full, and cancellation of undrawn Loan instalments in accordance with Article 13(2).

Article 22 Implementation of measures under Article 21(8)

1. When taking the measures referred to Article 21(8) in accordance with the second subparagraph of Article 22(5) of the RRF Regulation, the Commission shall take into account the principle of proportionality, as well as the size and maturities of the outstanding Loan Instalments and the estimated costs of such measures. Such measures shall be implemented following an observations procedure in accordance with Article 25.
2. In order to respect the principle of proportionality and to take into account the seriousness of the fraud, corruption, conflict of interests affecting the financial interests of the Union that has not been corrected by the Member State, or of the Serious Breach of Obligation, when taking the measures described under Article 21(8) the Commission shall proceed as follows:
    a) In case of fraud, corruption, conflict of interest, a breach of Article 5(2) or the information and justification underlying a payment request is found to be incorrect, the amount of the outstanding Loan Instalments to be declared immediately due and payable and of the undrawn Loan Instalments to be cancelled in accordance with Article 13(2) shall correspond to the amount affected.
    b) In case of serious breach of obligation of this Loan Agreement, other than Article 5(2), the amount of the outstanding Loan Instalments to be declared immediately due and payable and of the undrawn Loan Instalments to be cancelled in accordance with Article 13(2) shall be established taking into account the frequency and extent of the serious breach of obligations.

    In the specific case of a deficiency in a Member State's controls system that leads to a serious breach of an obligation under Article 20(1) of this Loan Agreement, the amount of the outstanding Loan Instalments to be declared immediately due and payable and of the undrawn Loan Instalments to be cancelled in accordance with Article 13(2) shall be established in accordance with the principle of proportionality as follows:

a. where the deficiency is so fundamental, frequent or widespread that it represents a complete failure of the system that puts at risk the proper use of all expenditure, a flat rate reduction of 100 % of the Loan Facility shall be applied;

b. where the deficiency is so frequent and widespread that it represents an extremely serious failure of the system that puts at risk the proper use of a very high proportion of the expenditure, a flat rate reduction of 25 % of the Loan Facility shall be applied;

c. where the deficiency is due to the system not fully functioning or functioning so poorly or so infrequently that it puts at risk the proper use of a high proportion of the expenditure, a flat rate reduction of 10 % of the Loan Facility shall be applied;

d. where the deficiency is due to the system which is functioning but not with the consistency, frequency, or depth required so that it puts at risk the proper use of a high proportion of the expenditure, a flat rate reduction of 5 % of the Loan Facility shall be applied.

3. Where the amount of the outstanding Loan Instalments is declared immediately due and payable under this Article 22, the Member State shall reimburse all costs, expenses and fees payable by the Commission as a consequence thereof, in particular resulting from all Funding Instruments impacted. In addition, the Member State shall pay default interest, as provided for in Article 11(4), which shall accrue as from the date when the outstanding principal amount of the Loan Instalment has been declared immediately due and payable, until the date of actual payment in full.

Article 23 Administrative sanctions and other measures

Nothing in this Loan Agreement may be construed as preventing the adoption of administrative sanctions (such as financial penalties) or other public law measures, in addition or as an alternative to the measures provided under this Loan Agreement (see, for instance, Articles 135 to 145 of the Financial Regulation and Articles 4 and 7 of Regulation 2988/95[8]).

Article 24 Communication between parties

1. All notices in relation to this Loan Agreement shall be validly given in writing, including via email, and sent to the addressees listed in Annex IV to this Loan Agreement. Each Party shall update addressees and notify it to the other Party hereto upon the same being amended from time to time.

2. Notices become effective on the date of receipt of the e-mail or letter by which they are delivered.

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[8] Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (*OJ L 312, 23.12.1995, p. 1).*

3. Each Party to this Loan Agreement shall notify to the other Party the list and specimen signatures of the persons authorised to act on its behalf under this Loan Agreement, promptly upon signature of this Loan Agreement. Likewise, each Party shall update such list and notify the other Party hereto upon the same being amended from time to time.

Article 25 Observations procedure

Where Article 7 and Article 22 of this Loan Agreement refers to the observations procedure in this Article 25, the Member State shall be given the opportunity to submit observations within a period of one month.

Where Article 13 of this Loan Agreement refers to the observations procedure in this Article, the Member State shall be given the opportunity to submit observations within a period of two months.

The Commission may extend the deadline for submitting observations.

Article 26 Amendments

Any amendment agreed by the Parties shall be in writing and shall form part of this Loan Agreement.

Article 27 Governing law and jurisdiction

1. This Loan Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and shall be construed in accordance with European Union law, supplemented if necessary by the Luxembourgish law.

2. The Parties undertake to submit any dispute that may arise relating to the legality, validity, interpretation or performance of this Loan Agreement to the exclusive jurisdiction of the Court of Justice of the European Union in accordance with Article 272 of the TFEU.

Article 28 Partial invalidity and unintentional gaps

1. If one or more of the provisions contained in this Loan Agreement should be or become fully or in part invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained in this Loan Agreement shall not in any way be affected or impaired thereby. Provisions that are fully or in part invalid, illegal or unenforceable shall be interpreted and thus implemented according to the spirit and purpose of this Loan Agreement.
2. The Preamble and the Annexes to this Loan Agreement do and shall hereafter form an integral part of this Loan Agreement.

Article 29 Annexes

The Annexes to this Agreement shall constitute an integral part thereof:

Annex I:	Key requirements of the Member State's control system
Annex II:	Form of Request for Payment
Annex III:	Management Declaration Template
Annex IV:	List of Contacts
Annex V:	Form of Confirmation Notice
Annex VI:	Form of Legal Opinion

Done in Madrid on 20 December 2023 and in Brussels on 22.12.2023 . Done in duplicate, both being equally authentic, each of which shall constitute an original instrument.

KINGDOM OF SPAIN

Represented by

- signed by -

María Jesús Montero Cuadrado

Fourth Vice-President and

Minister of Finance and

Public Administration

EUROPEAN UNION

represented by

EUROPEAN COMMISSION

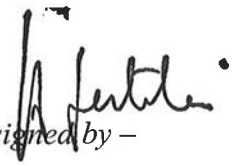
Represented by

- signed by -

Johannes Hahn

Commissioner for Budget and Administration

Represented by



- signed by –

Paolo Gentiloni

Commissioner for Economy

ANNEX I

Key requirements of the Member State's control system

1) In compliance with Article 22(1) of the RRF Regulation, the Member State shall provide an effective and efficient internal control system, including separation of functions and reporting and monitoring arrangements. Member States may rely on their regular national budget management systems.

   This includes:

   - the nomination of an authority as "coordinator" having the overall responsibility for monitoring the implementation of the RRP on behalf of the Member State and being the single point of contact for the Commission;
   - that the coordinator has the (i) administrative capacity in terms of human resources (staff numbers and profiles), institutional experience and expertise, and (ii) the mandate and authority to exercise all relevant tasks, including reporting and monitoring responsibilities;
   - the identification of the authorities entrusted with the implementation of the RRP measures;
   - the identification of the authority responsible for signing the management declaration accompanying the payment requests with procedures ensuring that this authority will get assurance about the satisfactory fulfilment of the milestones and targets set in the RRP, that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention, corruption and double funding;
   - an appropriate separation between implementation and audit functions.

2) In compliance with Article 22(2)(a) of the RRF Regulation, the Member State shall conduct an effective implementation of proportionate anti-fraud and anti-corruption measures, as well as any necessary measure to effectively avoid conflict of interests.

   This includes:

   - appropriate measures related to the prevention, detection and correction of fraud, corruption and conflict of interest, as well as avoidance of double funding and to take legal actions to recover funds that have been misappropriated;
   - a fraud risk assessment and the definition of appropriate anti-fraud mitigating measures.

3) In compliance with Article 22(2)(c) of the RRF Regulation, the Member State shall maintain appropriate procedures for drawing up the management declaration and summary of the audits carried out at national level.

   This includes:

   - An effective procedure for drawing up the Management Declaration, documenting the summary of audits and keeping the underlying information for audit trail;
   - Effective procedures to ensure that all cases of fraud, corruption and conflict of interests are properly reported and corrected through recoveries.

4) To provide the information necessary for Article 22(2)(c)(i) of the RRF Regulation, the Member State shall ensure appropriate measures, including procedures for checking the fulfilment of milestones and targets and compliance with horizontal principles of sound financial management.

   This includes:

   - appropriate measures through which authorities entrusted with the implementation of the RRP measures will check the fulfilment of milestones and targets (e.g. desk reviews, on-the-spot checks);
   - appropriate measures through which the authorities entrusted with the implementation of the RRP measures will check the absence of serious irregularities (fraud, corruption and conflict of interest) and double funding (e.g. desk reviews, on-the-spot checks).

5) In compliance with Article 22(1) of the RRF Regulation and to provide the information necessary for Article 22(2)(c)(ii) of the RRF Regulation, the Member State shall conduct adequate and independent audits of systems and cases of support to investments and reforms.

   This includes:

   - The identification of the body/ies which will carry out the audits of systems and cases of support to investments and reforms and how its/their functional independence is ensured;
   - The allocation of sufficient the resources to this body/ies for the purpose of the RRF;
   - The effective tackling by the audit body/ies of the risk of fraud, corruption, conflict of interest and double funding both through system audits and audits of cases of support to investments and reforms.

6) In compliance with Article 22(2)(d) and (e) of the RRF Regulation, the Member State shall maintain an effective system to ensure that all information and documents necessary for audit trail purposes are held.

   This includes:

   - effective collection and storage of data on the final recipients of funds;
   - access for the Commission, OLAF, ECA and EPPO (where applicable) to the data on final recipients, contractors, subcontractors and beneficial owners for the purpose of audit and control.

ANNEX II

FORM OF REQUEST FOR PAYMENT

[*on letterhead of the Member State*]

[*date*]

European Commission
Directorate-General for Economic and Financial Affairs
Unit R2 - Finance
Attn.: Head of Unit
Office: CHAR 13/056
B-1049 Brussels
Belgium

Subject: **RRF – Request for Payment for Loan Instalment**

Dear Sir/Madam,

We refer to Regulation (EU) 2021/241, notably Article 24 thereof, and the Loan Agreement dated [insert date] between the European Union, represented by the European Commission (the "**Commission**"), and [insert MS] (the "**Member State**"). Terms defined in the Loan Agreement shall have the same meaning herein.

[We confirm that the relevant milestones and targets referred to under the [first/second/third/etc.] instalment for loan support as specified in Section 2: Financial Support of the Annex to Council Implementing Decision (EU) [XXX/XXX] have been satisfactorily fulfilled and we hereby request the disbursement of EUR [the value set out in the Council Implementing Decision].] OR

[We confirm that the following relevant milestones and targets referred to under the [first/second/third/etc.] instalment for loan support as specified in Section 2: Financial Support of the Annex to Council Implementing Decision (EU) [XXX/XXX] have been satisfactorily fulfilled and we hereby request the disbursement of up to EUR [the value as set out in the Council Implementing Decision]:

Milestone [number reference of the milestone]

Target [number reference of the target]

[repeat as necessary]]

We have uploaded the due justification for this payment request to the relevant tool as provided by the Commission. Furthermore, we have declared the total cumulative expenditure disbursed up to that

moment for the implementation of each reform and investment of the national recovery and resilience plan assigned a positive climate marker under the methodology in Regulation (EU) 2021/241, as contributing to climate change objectives. We confirm that measures related to previously satisfactorily fulfilled milestones and targets have not been reversed[9].

A duly signed Management Declaration and summary of audits carried out are annexed to this letter.

1. We hereby irrevocably request that Loan Instalments be disbursed under and in accordance with the Loan Agreement and upon the following terms:

    a. Total principal amount of the Loan Instalment: up to EUR [•a maximum of the amount as set out in the Council Implementing Decision].

    b. We request a Cost of Funding, Cost of Liquidity Management and Cost of Service for the Loan Instalment based on the Cost Allocation Methodology.

    c. The Maturity Date of the Loan Instalment shall be 30 years with amortized repayment of principal starting after a grace period of 10 years.

    d. The Loan Instalment shall be disbursed in one or several Tranches.

2. We acknowledge and agree that the Disbursement shall be in accordance with and subject to

    a. the Commission being satisfied at all times that the corresponding funds are available to it from counterparties in the international capital markets on terms and conditions that are acceptable to it;

    b. the Commission having previously obtained through Funding Instruments the funds requested in this Request for Payments. We irrevocably undertake to pay any fees, costs and expenses, including if applicable breakage costs and cost of carry, calculated according to the Cost Allocation Methodology.

    c. the issuance by the Commission, in due course, of a Confirmation Notice.

3. We confirm that:

    a. The list of authorised signatories sent on behalf of the Member State by the Minister of Finance on [date] remains valid and applicable.

    b. No event has occurred that would render incorrect any statement made in the Legal Opinion issued on [date].

    c. No Event of Default has occurred.

[Signature]

[9] For the first payment request, please delete this sentence.

Annexes

- Management Declaration
- Summary of Audits

Copy to:

European Central Bank

ANNEX III

MANAGEMENT DECLARATION – TEMPLATE

I, the undersigned, [First Name, Surname], in my capacity as [Function] of [Member State Responsible authority]

Declare that, in relation to the implementation of the Recovery and Resilience Plan (RRP) approved by the Council Implementing Decision of [date] on the approval of the assessment of the recovery and resilience plan for [Member State] ([reference]), based on my own judgement and on the information at my disposal, in particular the results from the national control and audit systems described in the RRP:

1. The funds were used for their intended purpose as defined in Article 1(1) of the Loan Agreement Recovery and Resilience Plan between the Commission and [Member State] (the 'Loan Agreement').
2. The information submitted with the request for payment is complete, accurate and reliable; duly justifying that the milestones and/or targets concerned have been satisfactorily fulfiled and that the audit trail demonstrating the achievement of these milestones and targets is in place.
3. The control systems in place give the necessary assurances that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention and corruption in accordance with the principle of sound financial management;
4. The activities implemented to achieve the milestones and targets under the RRP as declared in the request for payment are not financed by any other Union programme or instrument or, where applicable, the other Union programmes and instruments do not cover the same cost.

A summary of the national audits carried out in relation to § 1 to 4 above, with an analysis of the related weaknesses found and the corrective actions taken or planned, is complementing this management declaration. [In the accompanying summary of the audits, no breaches in terms of fraud, corruption or conflict of interests have been detected.][In the accompanying summary of the audits, the following breaches in terms of fraud, corruption or conflicts of interests have been detected: (identify and specify remedial action taken)]

I confirm that the irregularities identified during final audit or control reports in relation to the implementation of the RRP have been appropriately corrected and recovered from final recipients or are in the course of being corrected and recovered. Where necessary, adequate follow-up was given to deficiencies in the control system reported in those reports or is on-going as regards the following

required remedial actions: (if appropriate indicate which remedial actions are still on-going, at the date of signing the declaration).

I confirm that I am not aware of any undisclosed matter, which could harm the interests of the European Union.

[However, the following reservations should be noted: .....] (delete this sentence if not applicable)

[With reference to the reservation made in the previous Management Declaration – [Reference] – [follow-up given].] (delete this sentence if not applicable)

Place ....., date .....

.....

(signature)

[Name and Function of the signatory]

ANNEX IV

LIST OF CONTACTS

For the Commission:

European Commission

Directorate General for Economic and Financial Affairs

Unit R2 - Finance

B-1049 Brussels

Attn: Head of Unit

Tel.: +32 229 64900

E-mail: ECFIN-R2-RRF@ec.europa.eu

and

Directorate General for the Budget

Unit E-3 "Borrowing and lending Operations"

L-2920 Luxembourg

Attn: Head of Unit

Tel.: +352 4301 30070

E-mail: BUDG-RRF-LOANS@ec.europa.eu

With copy to:

European Central Bank

Sonnemannstr. 20

D-60314 Frankfurt am Main

Attn: Head of Division "Financial Operations Services"
Tel.: + 49 69 1344 7672

For the Member State:

Jordi Colgan

Head of Unit for Programming of the Recovery and Resilience Plan

Directorate General for the Recovery and Resilience Plan

Secretariat General for European Funds

Ministry of Finance and Public Administration

Tel.: +34 91 583 51 29

E-mail: jcolgan@sepg.hacienda.gob.es

With copy to:

Banco de España

Attn: Responsable de la Unidad de Cuentas Corrientes

E-mail: cuentascorrientes@bde.es

ANNEX V

FORM OF CONFIRMATION NOTICE

EUROPEAN COMMISSION
DIRECTORATE GENERAL
BUDGET
Asset and risk management
Borrowing and lending

[insert Member State's contact details]

Subject: **RRF – Disbursement of a Loan Instalment or Tranche of EUR [•]**

Dear Sir or Madam,

We refer to the Loan Agreement dated [•] between the European Commission (the "**Commission**") acting on behalf of the European Union, and [insert MS] (the "**Member State**") of a maximum amount of EUR [•] ("the Loan Agreement"). Terms defined in the Loan Agreement shall have the same meaning herein.

In line with the [Article 6 of the Loan Agreement (Pre-Financing)] Request for Payment dated [•], the terms of the Disbursement are as follows:

Principal amount	EUR [•]
Net disbursement amount	EUR [•]
Disbursement Date	[•]
[Amount of clearing of Pre-Financing]	[•]
Average Maturity	[•]
Maturity Date	[•]
Interest payment dates	Annually on [•]
First interest payment date	[•]

Transfer Dates	[•]
Interest period	[•]

The applicable Day Count Convention is Actual/Actual (ICMA), following unadjusted [unless otherwise specified].

According to Article 6(3) and Article 9(7) of the Loan Agreement, please find attached the payment schedule of the loan setting out the Transfer Dates and the amounts of repayment of principal.

EUROPEAN UNION
represented by
EUROPEAN COMMISSION

[•] [•]

Copy to

European Central Bank