



Европейска инвестиционна банка
Evropská investiční banka
Den Europæiske Investeringsbank
Europäische Investitionsbank
Euroopa Investeeringispank
Ευρωπαϊκή Τράπεζα Επενδύσεων
European Investment Bank
Banco Europeo de Inversiones
Banque européenne d'investissement
An Banc Eorpach Infheistíochta
Europska investicijska banka
Banca europea per gli investimenti

Eiropas Investīciju banka
Europos investicijų bankas
Európai Beruházási Bank
Bank Ęropew tal-Investment
Europese Investeringsbank
Europejski Bank Inwestycyjny
Banco Europeu de Investimento
Banca Europeană de Investiții
Európska investičná banka
Evropska investicijska banka
Euroopan investointipankki
Europeiska investeringsbanken

Statutární město Ústí nad Labem

Velká Hradební 8
401 00 Ústí Nad Labem
Czech Republic

For the attention of: PhDr. Ing. Petr Nedvěďický

By e-mail

Luxembourg, 12 December 2024

JU/OPS-POL/DMTA/2024-16898/RMG/cp

Subject: InvestEU Advisory Hub – ASApp no. AA-012141 - PSLF support to Usti nad Labem

Advisory services to be provided by the European Investment Bank (the “**Bank**”) to **Municipality of the City of Ústí nad Labem** (the “**City**”) pursuant to the InvestEU Advisory Hub (the “**InvestEU Advisory Hub**”)

Dear PhDr. Ing. Petr Nedvěďický,

In accordance with Article 11(1)(d) and Article 25 of Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021, establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (the “**InvestEU Regulation**”), the objective of the InvestEU Advisory Hub is to provide advisory support to public and private project promoters within the European Union for the identification, preparation, development, structuring, procuring and implementation of investment projects, and for enhancing the capacity of project promoters and financial intermediaries to implement financing and investment operations. The advice provided within the framework the InvestEU Advisory Hub can be delivered by the Bank or the Bank and the European Investment Fund (the “**EIF**”) (together, the “**EIB Group**”) experts, external providers or in collaboration with other advisory partners.

On 31 January 2024, you requested advisory support in order to support the City's project implementation unit through programme management support for the overall coordination of the investment programme, financed by the EIB framework operation as well as specialist advice on an ad hoc basis, as needed and appropriate for the development and implementation of the individual sub-projects, with respect to the project's specific objectives (the “**Project's Specific Objectives**”) as the latter are described in Section I of Annex 1 to the Agreement.

We are pleased to confirm below the terms and conditions pursuant to which the Bank shall provide the requested services to you:

1. The advisory services (the “**Services**”), including any related deliverables to be delivered by the Bank to the entity you represent (the “**Beneficiary**”) in the framework of the InvestEU Advisory Hub, are described in Annex 1 hereto.
2. Without prejudice to the provisions included in the present letter (the “**Letter**”), the mutual rights and obligations of the Bank and the Beneficiary shall be as set forth in the General Terms and Conditions (the “**GTC**”) for Advisory Services provided by the European Investment Bank set out in Annex 2 hereto.



3. The Commencement Date for the provision of the services shall be the one indicated in point 2.2 of the GTC; the performance period shall be of 24 months starting from the Commencement Date.
4. The Bank shall provide the Services to the Beneficiary free of charge. Article 4 of the GTC is not applicable.
5. For the purposes of Article 5 of the GTC, "Confidential Information" means information which is delivered to the attention of Ms Carla Faustino Coelho or such other person as the Bank shall have most recently notified for this purpose. Information on the personal data processing operation(s) performed by the Bank referred to in Article 15 of the GTC can be accessed here: <https://www.eib.org/en/privacy/lending.htm>.
6. For the purposes of Article 10.2 of the GTC, all notices and correspondence in relation to the Services shall be sent to the following addresses:

For the Bank:

European Investment Bank
 98-100, Boulevard Konrad Adenauer
 L-2950 Luxembourg
 Attention: Head of Division, Public and Infrastructure Finance
 e-mail: [REDACTED]

For the Beneficiary:

Statutární město Ústí nad Labem
 Velká Hradební 2336
 401 00 Ústí nad Labem, Czech Republic
 Attention: Bc. Martina Žirovnická
 Tel: [REDACTED]
 e-mail: [REDACTED]

7. This Letter, including its Annexes, shall be read and construed as one document and shall constitute a binding agreement between the Bank and the Beneficiary (the "**Agreement**"). In the event of any ambiguities, conflicts or inconsistencies between or among any of the provisions of the Letter, including its Annexes, the following order of priority shall apply:
 - Paragraphs 1 to 8 of this Letter;
 - Annex 2; and
 - Annex 1.
8. If any provision or part of a provision of this Letter is found by a court to be void or unenforceable, that provision or part of a provision is to be deemed deleted from this Letter and the remaining provisions to continue in full force and effect. The Bank and the Beneficiary shall in this event seek to agree upon a valid and enforceable provision or part of a provision to replace the provision or part of the provision found to be void and unenforceable.



The Parties hereto have caused this Agreement to be executed in the English language, by having their authorised representatives apply their respective qualified digital signature on their behalf in compliance with Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73–114).

Yours faithfully,

EUROPEAN INVESTMENT BANK

Julien Chebbo
Head of Division
Advisory Services Department

Martin Vatter
Managerial Adviser and Head of Unit
Legal Department

Agreed and accepted for and on behalf of
STATUTÁRNÍ MĚSTO ÚSTÍ NAD LABEM

PhDr. Ing. Petr Nedvědický
Mayor of the City of Ústí nad Labem

Enclosures:

- Annex 1: Description of Services
- Annex 2: General Terms and Conditions for Advisory Services provided by the European Investment Bank



Annex 1

Section I

1. Project background and General Objectives

The Beneficiary of this advisory assignment is a Czech sub-sovereign administration unit and the capital of Ústecký Region, located in the northwest of the Czech Republic (Bohemia).

The City has developed a multi-sector investment programme, planned to be implemented over the next seven years. The investment programme will contribute to the implementation of the City's urban development strategy and its relevant sector plans. It aims at addressing urban development and modernisation through investments in public buildings, the City's urban infrastructure and facilities, energy efficiency and management of its public buildings, and urban mobility improvements. The region is one of three Czech territories eligible for funding support under the Public Sector Loan Facility ("PSLF"), a component of the Just Transition Mechanism, which is a European Union's initiative developed to address social and economic effects of the transition to a climate-neutral economy. Under the PSLF, the Bank financing may be complemented by an EU grant of up to 25% of the Bank loan amount.

The total estimated value of this programme developed by the City is around EUR 58 million, and the Bank has committed to financially support this operation through a framework loan, a flexible financing structure that allows for co-financing of multi-sector investment programmes consisting of several projects (allocations) of smaller size. Moreover, it is envisaged that most investment schemes under this programme may meet the PSLF eligibility criteria¹. In which case the Bank loan could be complemented by a PSLF grant, for which the City may apply for through the PSLF call for proposals².

This assignment is therefore initiated with the aim to directly support the implementation of the Bank lending operation referred to as "Usti nad Labem Municipal Infrastructure II, No. 2023-0252", approved by the Bank Management Committee on 19 January 2024.

The overall objective of this assignment is to strengthen the City's capacity to manage this multi-sector investment programme, to develop and to implement the underlying investment projects and thereby contribute towards a successful implementation of the projects financed by the Bank. The City's administration staff will benefit from this advisory assistance, as well as its affiliated organisations and subordinated organisations, including and in particular the municipal zoo.

The strategic and regulatory framework of the City is considered robust, coherent and integrated, and complemented by suitable management and control systems. However, the size and structure of the investment programme is an ambitious endeavour for the City's administration with limited experience with such programmes. Some shortcomings in the City's project management capacity have been identified and to this end, the City has already organised a Project Implementation Unit ("PIU") and appointed a programme coordinator. Moreover, the City aims to request support from the European Local Energy Assistance ("ELENA") facility for developing project proposals with a strong focus on energy efficiency. However, this assistance only covers part of this multi-sector investment programme and therefore, in order to support orderly progress with the preparation and implementation of this programme, the City has requested additional support by means of advisory assistance that would help develop their management and administration capacity.

¹ The eligibility criteria for the PSLF grants are specified in the [PSLF Regulation](#), the [PSLF Call for Proposals](#) and the Czech [Territorial Just Transition Plan](#).

² The [PSLF Call for Proposals](#) is managed by the European Climate, Infrastructure and Environment Executive Agency (CINEA)



2. Project's Specific Objectives supported by the Services

Specific objectives of this assignment are the following:

- To support the City's administration in upgrading its technical and administrative capacity to implement the proposed investment programme;
- To provide the City's PIU and, as appropriate, its affiliated institutions with hands-on project management assistance, including sector expertise where relevant;
- Support the City's monitoring the implementation of supported projects and reporting thereof to the Bank requirements; and
- Assist in preparation of application for grants under the PSLF facility.

Section II

3. General Description of the Services/background

The investment programme currently envisages a tentative pipeline of around 15 sub-projects (schemes) covering a wide range of sectors, such as energy efficiency and its sourcing in public buildings, revitalisation of municipal zoo facilities and its utilities, social infrastructure including schools, elderly homes and housing, urban mobility and other public urban infrastructure. The investment schemes are currently in various stages of preparation, from conception, feasibility and technical studies to tendering for project documentation.

In this context, the advisory assistance will be provided in the form of a generalist, project management assistance as well as in terms of sector expertise as and where relevant.

The Bank will procure an external service provider with appropriate background and specialisation and appoint a team of its internal experts (Bank's advisory team) to guide and supervise the work of the service provider. The service provider will be expected to ensure local presence and hands-on support for the City through regular on-site visits of the expert team and through ad-hoc engagements of sector specialists where needed. Specifically, the advisory services will cover the following areas:

(i) Project management support: Support to the overall coordination of the investment programme, financed by the Bank framework operation. The service may include guidance and advice in preparation of project documentation, in consultations with experts and stakeholders, in permitting process, and in procurement and contracting of related works and services. The service will also include supervision, monitoring and progress reporting towards the City and the Bank. Moreover, the service will aim to assist the City in ensuring compliance with relevant sector regulations, standards and Bank lending policies, and meet the Bank reporting requirements. This type of support will be provided through continuous and frequent on-site visits of one or two experts to the City's administration, its PIU, utilities, and affiliated organisations involved in implementation of the programme.

(ii) Specialist advice will be provided on an ad-hoc basis and may cover the areas listed below, as needed and appropriate for individual projects:

- Energy efficiency in public buildings, including for instance through better insulation and use of renewable energy sources.
- Revitalisation of the zoo facilities through several sub-projects, such as buildings renovation, energy and water management solutions.
- Reconstruction, extension and upgrade of elementary schools and kindergartens, including related sports facilities.



- Development of new elderly home facility, its conception and design, and repurposing of the former elderly home premises into social and affordable housing.
- Reconstruction of roads, development of cycle paths networks and other urban mobility solutions.
- Identification of climate adaptation elements in the investment projects, monitoring and reporting on their application, as well as guidance on preparation of the City's "Climate Adaptation Strategy" acceptable for the Bank.
- Application of the building information modelling (BIM) concept in the buildings design process.
- Review and advice on preparing tender documentation and on drafting service contracts. This may include drafting of document templates but will exclude any direct support or other involvement in any of the procurement processes.
- Financial planning of the investment programme and underlying projects.
- Finally, the advisory support will include assistance in preparing a PSLF grant application to be submitted in relation to the Bank framework loan.

Each of the above specialist services will be deployed in consultation with the City and only as specifically approved by the Bank. The services will be described in a form of actions with concrete outputs to the extent these activities can be effectively delegated by the City and executed independently by the identified specialists. However, neither the Bank nor the service provider shall bear administrative or management responsibilities in respect of the City's investment programme.

Complementarity with the ELENA programme

The City may also benefit from the ELENA technical assistance programme, in parallel to this assignment. For avoidance of doubt, this assignment will not include any of the ELENA supported activities in case the City benefits from the ELENA technical assistance programme. In this regard, the City shall ensure that the activities under the two parallel assistance programmes are fully complementary, do not overlap or duplicate efforts. The list of specialist services provided by the service provider represents an overall framework and is not an exhaustive list of expertise to be provided under this assignment. Specifically with regards to the energy efficiency projects or components of projects addressing the energy efficiency, these will be primarily covered under the ELENA programme and this expertise will be complementary and beyond the potential technical assistance to be provided under the ELENA programme. For example, given that ELENA is dedicated primarily to preparation of investment schemes, the assistance under this assignment would focus more on follow-up, implementation and monitoring activities.

Implementation considerations

The advisory services provided under this Assignment will aim to support and assist the City as the investor, supervisor and beneficiary of the Bank financing operation. The communication between the Beneficiary, its staff and affiliated organisations, and the service provider will be held in the Czech language. However, the language of reports and other documentation to be exchanged with the Bank will be English.

The services under this Assignment will be delivered over a period of up to 24 months. In this period, the service provider will be expected to ensure its experts' presence on site between one and two days a week, for the programme support component and on average 5 days a month for the specialist services.



The overall implementation plan, specific tasks for the programme and its (sub)projects, as well as logistical arrangements for the advisory services will be developed during the assignment's inception phase and presented in the inception report. The plan will be discussed and agreed in a kick-off meeting between the City, the Bank's advisory team and the service provider.

It is important to note that the service and expertise provided under this assignment will not replace, nor assume any legal or other formal responsibilities towards the preparation and implementation of the investment projects as foreseen by the applicable regulation or contractual arrangements between the City and providers of works and services in this respect.

The assignment duration is planned for the first two years of the Bank supported investment programme, spanning over seven years. This assignment's activities will predominantly focus on the preparation and launching of individual projects in this early phase of the programme. Throughout the implementation period and through working closely with the service provider, the expectation is that the City's administrative and project management capacity will increase advance to a level where less external intervention will be needed to implement and manage the programme. However, at the end of the 24-month implementation period, the assignment will be reassessed together with the City. Should there be a need for continued support, an additional phase of advisory support will be discussed with the City.

4. Description of advisory tasks to be performed under the Services provided to the Beneficiary by the Bank

In order to provide the City with appropriate advisory support in this endeavour, the Bank will compose a team of internal experts in the subject areas and procure an external service provider with suitable expertise. Specifically, the Bank's advisory team will:

- Prepare the terms of reference and undertake a procurement process to contract external consultancy services to deliver the technical outputs of this assignment;
- Manage the delivery of the assignment, monitor and supervise the work of external consultant(s), review and approve their final deliverable(s); and
- Regularly liaise and coordinate with the City throughout the implementation of activities under this Agreement.

The assignment will consist of two main tasks to pursue the above objectives:

Task 1: programme management support for the overall coordination of the investment programme, financed by the Bank framework operation, as detailed above.

Task 2: specialist advice will be provided on an ad-hoc basis and may cover the areas detailed on an ad hoc basis, as needed and appropriate for individual projects



5. Description of Deliverables as a result of the tasks listed above, indicative Timetable/Approval Process

Deliverable	Delivery Schedule for submission	Deadline to provide comments by Client*	Deadline for final submission by the Bank
Kick-off meeting with the consultant	Within 1 month from the signature of the Agreement	/	/
Inception Report	Within 1 month from the signature of the Agreement	10 working days from the submission	10 working days from receiving the comments
3 Monthly Interim Report ³	Every 3 months from the signature of the Agreement	10 working days from the submission	10 working days from receiving the comments
Final Report ⁴	Within 1 month from the end of the Agreement	10 working days from the submission	10 working days from receiving the comments

***Note: the Bank will take into account the Beneficiary's comments provided that they are justified (i.e. content is incorrect, inaccurate, incomplete, misleading, inappropriate or irrelevant). The Bank shall provide the Services under this Agreement only in accordance with its standards and based on the relevant data available. If the Beneficiary expresses no position on the deliverables within ten (10) calendar days from the submission, the deliverables are considered tacitly approved.**

³ A Quarterly Report includes a description of technical progress including summary of all activities pending and completed in the reporting period, problems encountered, accompanied by finalised technical deliverables, where relevant.

⁴ The Final Report is a concise document with an introduction that recalls the assignment background, a main section that details the activities implemented and concludes on the results achieved and recommendations (if any).



Annex 2

General Terms and Conditions for Advisory Services provided by the Bank

Article 1 – Subject

- 1.1 This Agreement sets out the terms upon which the Bank shall provide the Services to the Beneficiary. “**Services**” means the advisory services, including any related deliverables, to be delivered by the Bank to the Beneficiary in the framework of the InvestEU Advisory Hub, as further described in Annex 1, Section II supporting the Project’s Specific Objectives.
- 1.2 The Bank and the Beneficiary (each a “**Party**” and together, the “**Parties**”) acknowledge and agree that the Services are rendered to the Beneficiary independently from any assessment for potential financing to be made available to the Beneficiary by the EIB Group, and do not represent a commitment by the EIB Group, to provide such financing to the Beneficiary.

Article 2 – Entry into Force and Duration

- 2.1 This Agreement shall enter into force on the date of its signature by the last Party (the “**Effective Date**”) and shall remain valid for as long as any rights, obligations or liabilities arising out of its provisions remain outstanding, unless it is otherwise terminated in accordance with the provisions of Article 9 (*Amendments, Assignment, Suspension and Termination*).
- 2.2 The Commencement Date shall be the first business day (i.e. any working day on which the Bank is open for business in Luxembourg) following the Effective Date (the “**Commencement Date**”).

Article 3 – Performance of the Services

- 3.1 The Bank undertakes to use its reasonable endeavours to carry out the Services in a timely manner. The Bank shall provide the Services with the requisite professional degree of care, skill and ability it applies to the discharge of its own affairs. Without prejudice to the preceding, the Beneficiary acknowledges and accepts that the work programme and timetable set out in Annex 1 have been prepared in good faith based on information available to the Bank at the time of signature of this Agreement and that compliance with such work programme and timetable is subject to, *inter alia*:
- a) the Beneficiary fulfilling its obligations under this Agreement in a satisfactory and timely manner, in particular by making any decisions in a timely manner and by providing, without undue delay, any information or support as specified in this Agreement or as may be reasonably requested by the Bank during the provision of the Services;

- b) other authorities, entities or bodies in the country of establishment of the Beneficiary and/or in the country(ies) where the project is located, whose cooperation is essential for the timely delivery of the Services, in particular those benefitting from the Services, acting in a satisfactory and timely manner when their input is required for the performance of the Services.

- 3.2 The Parties agree that the Beneficiary shall act as the main counterpart to the Bank for the purposes of this Agreement and that the Bank may, unless expressly stated otherwise, assume that any notice, approval or other communication provided by the Beneficiary to the Bank in relation to this Agreement represents the views of the Beneficiary and of any and all other entities benefitting from the Services, as these are identified in Annex 1.

- 3.3 The Bank, at its sole discretion, may commission one or more third parties including the EIF, to perform part of the Services. The Beneficiary acknowledges and accepts that the Bank shall apply its own internal procurement rules when engaging the services of such third parties. The Bank shall inform the Beneficiary on the engagement of such parties, it being understood that such commissioning by the Bank of third parties shall not create, nor be construed to create, any contractual relationship between such third party and the Beneficiary.

The Bank procures that if it commissions a third party in accordance with this Article 3, such third party shall perform the Services with reasonable skill and care.

- 3.4 The Beneficiary shall provide all reasonably necessary information and assistance, at no cost to the Bank, in order to enable the Bank (including any third party commissioned by the Bank pursuant to this Article 3), to perform the Services in accordance with the terms of this Agreement. The Beneficiary warrants and undertakes that any information provided to the Bank pursuant to this Agreement is and will be accurate and that the Bank shall be entitled to rely on such information and assistance without enquiry as to the accuracy or origin of the same.

- 3.5 Subject to the provisions of Article 5 (*Confidentiality*), any documents or information of which the Bank becomes aware pursuant to the performance of the Services may be shared for the purpose of performing the Services within the EIB Group and with third parties involved in the performance of the Services.

- 3.6 The Beneficiary undertakes to comply with all the laws and regulations applicable to it.



3.7 The Beneficiary undertakes to provide the Bank with information on the evolution of the Project's General and Specific Objectives (referred to in Annex 1), following completion of the Services. The scope of information may also relate to the nature of any funding sources that the project either benefitted, or will benefit, from. Such request may be addressed to the Beneficiary after at least a period of twelve months starting from the date of submission of the Services' final deliverable to the Beneficiary. Following completion of the Services, the Beneficiary undertakes to complete a satisfaction survey within the deadline specified by the Bank.

3.8 The assignment may be selected as a success story within the framework of the InvestEU Advisory Hub, and the Beneficiary authorises the Bank and/or the European Commission to publish a summary of the project, including the name and the locality of the Beneficiary, on their respective websites or social media, subject to the provisions of Article 5 (*Confidentiality*) and Article 15 (*Personal Data*). The Beneficiary may provide adequate written justification to request that the publication be waived, for example if the publication risks harming its commercial interests or risks threatening the rights and freedoms of persons or entities as protected by the Charter of Fundamental Rights of the European Union. The Bank shall not unreasonably withhold its acceptance of such request.

Article 4 – Cost of Services

4.1 Any payments to the Bank under this Agreement shall be made using accounts acceptable to the Bank. Any account in the name of the Beneficiary held with a duly authorised financial institution in the jurisdiction where the Beneficiary has its place of residence or is incorporated is deemed acceptable to the Bank. The Beneficiary shall not fund all or part of the contribution costs under the Agreement out of proceeds derived from activities or businesses with entities or persons being the target of (a) Sanction(s), or otherwise subject of any Sanction, entities or persons in breach of (a) Sanction(s) or in any manner that would directly result in a breach by the Bank of the Sanction(s).

4.2 In accordance with Article 21 of the Protocol on the Privileges and Immunities of the European Union, the activities of the Bank and of its organs carried out in accordance with its Statute are not subject to any turnover tax. Pursuant to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (VAT), as subsequently amended, the Beneficiary understands that the contribution costs may be subject to VAT in the country of establishment of the Beneficiary and/or in the country(ies) where the project is located, and shall be fully responsible for, and shall indemnify the Bank for, and in respect of, payment of any amount made in connection with either the performance of the Services or any payment or benefit received by the Beneficiary in respect of the Services.

4.3 The Beneficiary shall be responsible for the payment of any taxes, social security contributions, duties, fees and other impositions of whatsoever nature, including VAT, which are due or it may incur in accordance with the laws of the country of establishment of the Beneficiary and/or the country(ies) where the project is located in connection with either the performance of the Services or any payment or benefit received by the Beneficiary in respect of the Services.

Article 5 – Confidentiality

5.1 For the purpose of this Agreement, "**Confidential Information**" means information which:

- a) is furnished by the Beneficiary to the Bank for the purpose of enabling the Bank to provide Services to the Beneficiary;
- b) is in written or other permanent (including electronic) form;
- c) the Beneficiary has clearly and conspicuously identified as "Confidential Information";

but excludes information which:

- d) was, at the time of its disclosure to the Bank by the Beneficiary, public knowledge or generally available to the public in written or other permanent form;
- e) the Bank already had knowledge of at the time of receipt from the Beneficiary or which is or becomes available to the Bank, without a duty of confidentiality, from sources which, to the Bank's knowledge and belief, are under no duty of confidentiality towards the Beneficiary; or
- f) becomes part of the public domain through no fault of the Bank.

5.2 The Beneficiary undertakes to designate information as "Confidential Information" only if, and to the extent that, the Beneficiary believes in good faith that such information is confidential.

5.3 The Bank undertakes to keep all Confidential Information confidential and not to divulge, disclose or make available any part thereof to anyone outside the Bank; for the purposes of this paragraph the term "Bank" shall include (i) the EIB Group employees, agents, directors, governing bodies, and (ii) the EIB Group professional advisers, auditors, consultants, or other service providers and parties having an analogous contractual relationship with the Bank that have undertaken towards the Bank specific confidentiality obligations or are bound by a general professional duty of confidentiality.

5.4 Without prejudice to the provisions of Article 5.5 below, the Bank undertakes to use any Confidential Information solely for the purposes necessary for the provision of the Services.



5.5 The Bank may use and/or disclose such Confidential Information as the Bank considers appropriate in each case, and shall not be in breach of its duty of confidentiality by making such use or disclosure thereof:

- a) if required by law or regulation, in accordance with any treaty, or document of similar nature binding on the Bank, obligation pursuant to any agreement to which the Bank is a party which implements such law, regulation, treaty or binding document of a similar nature or pursuant to the rules of any relevant stock exchange;
- b) to the European Commission, the European Court of Auditors, the European Anti-Fraud Office (OLAF) and/or the European Public Prosecutor's Office (EPPO);
- c) to Member States of the European Union (including their representatives) or committees set up by the European Commission and/or Member States under any mandate under which the Bank operates, in order to obtain any opinion, consent, or waiver required in connection with the Services;
- d) if information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, or by any equivalent body of the European Union or of any of its Member States;
- e) if information is required to be disclosed in connection with and for the purposes of any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- f) in order to protect its interests in the course of any legal or arbitration proceedings to which both the Beneficiary and the Bank are a party;
- g) in accordance with the Bank's [Transparency Policy](#) and [Anti-fraud Policy](#) (as published on the Bank's website); or
- h) with the consent of the Beneficiary.

5.6 The obligations undertaken by the Bank in this Article 5 shall expire on the second anniversary following the day of signature of this Agreement by the last contracting Party.

Article 6 – Ownership of Results and Intellectual Property Rights

6.1 For the purposes of this Agreement, intellectual property rights shall be understood to mean any copyright and related rights, rights in designs, database rights, rights in computer software, domain names, trademarks, service marks, patents, trade names or any applications for any of the foregoing, rights in confidential information (including know-how and trade secrets) or similar rights or obligations,

whether registerable or not, moral rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world (the “**Intellectual Property Rights**”).

6.2 Any pre-existing Intellectual Property Rights of any of the Parties in any reports, studies, analyses or other documents used by the Parties in connection with this Agreement will remain with that Party.

6.3 Subject to any pre-existing Intellectual Property Rights of any natural or legal person, including any of the Parties, the Intellectual Property Rights in new materials delivered by the Bank to the Beneficiary in the performance of this Agreement, as described in Annex 1, shall belong to and be the absolute property of the Bank.

6.4 Without prejudice to the provisions of Article 6.3, the Bank hereby grants to the Beneficiary a non-exclusive, royalty-free licence, for an indefinite duration, to use any new materials delivered by the Bank to the Beneficiary in the performance of this Agreement. The licence may be terminated by the Bank at any time, subject to a notice period of three (3) months.

6.5 The Bank shall inform the Beneficiary of the scope of Intellectual Property Rights vested with the deliverables (and any limitations in that respect) granted by a third party to the Bank pursuant to the provisions of this Article.

6.6 Subject to prior consent of the Bank, which consent shall not be unreasonably withheld, the Beneficiary may disclose the materials delivered in performance of this Agreement to a third party. The Beneficiary agrees, acknowledges and accepts that should a third party wish to use or rely on such materials for its own purposes, it shall ensure that such third party is informed on the Bank's proprietary rights and shall commit the third party to enter into a licence letter with the Bank. No prior licence letter shall be required if the third party is a contractor of the Beneficiary and performs services related to the present assignment on behalf and upon request of the latter or if the third party is an affiliated or subordinated organisation of the Beneficiary.

Article 7 – Non-Exclusivity, Conflicts of Interests, Applicable Policies and Representations

7.1 The Parties acknowledge and agree that the Services are not rendered on an exclusive basis to the Beneficiary and that nothing in this Agreement shall prevent the Bank or the EIB Group from delivering similar services to other parties in any other business sector, trade, profession or occupation during the validity of this Agreement.



- 7.2 Nothing in this Agreement shall prevent the Bank or the EIB Group from continuing any existing engagements with the Beneficiary, or from acting in the future in multiple capacities in relation to the Beneficiary, including as financier, lender, equity or guarantee provider, shareholder, fund manager, agent or adviser.
- 7.3 The Bank shall manage any potential conflicts of interest issues in accordance with the Bank's internal rules and procedures regarding the management of conflicts of interest.
- 7.4 The Beneficiary shall take all necessary precautions to avoid, eliminate or address any facts or circumstances which could give rise to a conflict of interest (that is, a situation where the impartial and objective exercise of the functions of any person implementing the Services is compromised) in the execution of this Agreement.
- 7.5 The Beneficiary acknowledges that the Bank is bound by its [Code of Conduct for EIB Group Staff](#), its [Anti-Fraud Policy](#), its [Policy towards weakly-regulated, non-transparent and uncooperative jurisdictions](#), and its [Anti-Money Laundering and Combating Financing of Terrorism Policy](#) as amended and supplemented from time to time and published on the Bank's website, aiming at preventing prohibited conducts, targeted activities and other criminal activities, each as defined in the aforementioned EIB policies (the "**Offences**"). It is the common understanding of the Parties that they shall endeavour to ensure that all activities and/or operations relating to this Agreement are free from any Offences.
- 7.6 The Beneficiary represents and warrants that neither the Beneficiary, nor any other person acting on its behalf or under its control, has committed any Offences in connection with this Agreement and that to the best of its knowledge, no funds (if any)

provided or used by the Beneficiary under this Agreement are of illicit origin, including products of money laundering or linked to the financing of terrorism. The Beneficiary shall promptly inform the Bank if at any time it becomes aware of the illicit origin of any such funds or of any fact or information confirming or reasonably suggesting that an Offence has occurred in connection with the Agreement.

- 7.7 The Beneficiary represents and warrants that it is not the target or otherwise subject of or in breach of any Sanction⁵; the Beneficiary warrants and represents that, to the best of its knowledge and belief, no Relevant Person⁶ is the target or otherwise subject of or in breach of any Sanction. Both Parties acknowledge that the Beneficiary's representations and undertakings set out in any part of this Agreement are only sought and given to the extent that to do so is permissible pursuant to any applicable anti-boycott rule of the European Union, such as Regulation (EC) 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country and actions based thereon or resulting therefrom, as amended from time to time.
- 7.8 The Beneficiary undertakes not to breach, nor cause the Bank to breach, any Sanctions and shall inform the Bank in writing as soon as possible if any sanction event occurs, that is where the Beneficiary or any Relevant Person breaches or becomes in breach of or becomes the target or otherwise the subject of a Sanction (the "**Sanction Event**"). The Beneficiary undertakes to exclude any Relevant Person affected by a Sanction Event from any activities related to the Agreement within a reasonable timeframe and keep the Bank informed. The Beneficiary undertakes not to maintain or enter into a business relationship in relation to the Services or make all or part of the proceeds of the Services under this Agreement available to or for the benefit of (directly or indirectly)

⁵ For the purposes of the Agreement, the term "**Sanction**" refers to the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures (including, in particular, but not limited to, measures related to the financing of terrorism) enacted, administered, implemented or enforced from time to time by any of the following: the United Nations, including, *inter alia*, the United Nations Security Council; the European Union including, *inter alia*, the Council of the European Union and the European Commission, and any competent bodies/institutions or agencies of the European Union; the government of the United States of America, and any department, division, agency, or office thereof, including, *inter alia*, the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury, the United States Department of State and/or the United States Department of Commerce; and the government of the United Kingdom, and any department, division, agency, office or authority, including, *inter alia*, the Office of Financial Sanctions Implementation of His Majesty's Treasury and the Department for International Trade of the United Kingdom.

⁶ For the purposes of this Agreement, the term "**Relevant Person**" shall mean: i) For Beneficiaries with status of private entity: any member of its management bodies; or any of its employees or any other person acting on behalf of the Beneficiary or under the Beneficiary's control, having the power to give directions and exercise control with respect to the Agreement ii) For Beneficiaries with status of public entity: any official or representative, or any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Agreement.



any person or entity that is the target or otherwise subject to any Sanction. The Beneficiary undertakes to inform the Bank promptly about any changes affecting its ownership, control or holding interest situation that may result in a Sanction Event or cause the Bank to breach a Sanction. For the purposes of a Sanction(s), the words “control”, “interest” and “ownership” shall be interpreted as defined by the relevant sanctions authority in relation with the relevant Sanctions. The Beneficiary shall ensure that it maintains appropriate internal controls and safeguards designed to prevent the violation of any Sanction.

- 7.9 The Beneficiary represents that, on the date of its signature of this Agreement, it is not in any of the following circumstances: been bankrupt or subject to insolvency or winding-up procedures, having its affairs administered by a liquidator or by a court, entered into arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations, or been found in breach (by a final judgment or final administrative decision) of its obligations relating to the payment of taxes or social security contributions in accordance with applicable law.
- 7.10 The Beneficiary shall keep the Bank informed of any kind of advisory support or grant that the Beneficiary has benefitted, is benefitting or benefits from prior to or during the validity of this Agreement that contributes to the Project's Specific Objectives, partially or exclusively financed by EU-financed- programmes (including EU-financed programmes implemented and available also at national level). The Beneficiary represents and warrants that any such contributions do not cover the same costs as incurred in the provision of Project's Specific Objectives.

Article 8 – Use of Results, Liability, Force Majeure

- 8.1 The Beneficiary is solely responsible for deciding whether to pursue or implement any proposals, studies, presentations or recommendations made by the Bank or by third parties commissioned by the Bank as part of the Services, as well as for making its own assessment on the appropriateness of the Services for the use it intends to make thereof. The Bank makes no representation and provides no warranty as to such fitness for purpose, and shall not bear any liability in that respect.
- 8.2 The Bank makes no representation or warranty as to the outcome of the advisory activities or as to the accuracy or completeness of any reports, documents or analyses prepared or delivered in connection with the performance of the Services. The Beneficiary accepts and agrees that any course of action taken or to be taken, or not taken or not to be taken by the Beneficiary will be decided upon solely by the Beneficiary based upon its own evaluation of the relevant circumstances, and that the Bank is not responsible and shall bear no liability related to any

such decision of the Beneficiary. No advice provided or views expressed by the Bank shall constitute, or be construed as constituting, legal advice, including with respect to compliance with any applicable laws or regulations.

- 8.3 To the maximum extent permitted by the applicable law, the Bank shall bear no contractual liability towards the Beneficiary, its employees, agents or officers upon any claim for any special direct, indirect or incidental damage of any kind suffered or incurred by the Beneficiary, including, without limitation, economic damage or any damages resulting from loss of use, loss of business, loss of revenue, loss of profits arising in connection with this Agreement, the Bank's performance of Services or of any other obligations relating to this Agreement, unless such loss, damage or expense shall be proven to result directly from fraud, gross negligence or wilful misconduct by the Bank.
- 8.4 The Beneficiary shall indemnify and hold harmless the European Union, the Bank, their respective employees, officers, Governors, delegates, servants or agents from and against any and all losses, claims, demands, damages, liabilities of any kind or fines relating to or arising under, out of or in connection with the activities performed or Services provided pursuant to this Agreement, unless such losses, claims, demands, damages or liabilities have resulted solely from the Bank's gross negligence or wilful misconduct in the performance of the Services.
- 8.5 Force majeure shall mean any unforeseeable exceptional situation or event beyond each of the Parties' control which is not attributable to error or negligence on their part, proves insurmountable in spite of all due diligence and prevents them from fulfilling any of their obligations under the Agreement. Delays in making information, necessary for the provision of the Services, available to the Bank or financial difficulties affecting the Beneficiary may not be invoked as force majeure. A Party faced with force majeure shall inform the other Party in writing without delay stating the nature, probable duration and foreseeable effects. The Party faced with force majeure shall not be held in breach of its obligations under the Agreement if it is prevented from fulfilling them by force majeure. The Parties shall make every effort to minimize any damage due to force majeure.

Article 9 – Amendments, Assignment, Suspension and Termination

- 9.1 Any amendments to this Agreement must be set out in writing in a contractual amendment signed by the Parties, to become effective on the terms set out therein.
- 9.2 Changes of address or of contact details may be notified to the other Party in writing, in accordance with Article 10 (*Notices and Other Communications*).



- 9.3 A Party may not assign or transfer to a third party, or otherwise dispose of, any of its rights or obligations under this Agreement without the prior written notification to and consent of the other Party. Any change on the Beneficiary's legal form shall be communicated to the Bank within thirty (30) days after it occurs.
- 9.4 Without prejudice to the Bank's right to terminate the Agreement, the Bank may suspend the Agreement, or any part thereof, at any time, if it becomes aware of allegations suggesting the committal of (an) Offence(s) or a Sanction Event that is likely to affect the Beneficiary or the Bank. Suspension shall take effect on the day that the Beneficiary receives written notice from the Bank and shall last until the Bank notifies the Beneficiary of termination of the suspension period or termination of the Agreement.
- 9.5 Either Party may terminate this Agreement upon serving a thirty (30) calendar days' written notice to the other Party, if such Party believes that the purposes of this Agreement can no longer be effectively or appropriately carried out.
- 9.6 The Bank may terminate this Agreement with immediate effect, and without incurring any liability, by serving a written notice to the Beneficiary, if at any time:
- the Beneficiary is found guilty of any Offence, as defined in Article 7.5 (*Non-Exclusivity, Conflicts of Interests, Applicable Policies and Representations*);
 - the Beneficiary or any entity or person which directly or indirectly owns or controls or directs the Beneficiary or of which the Beneficiary acts on behalf of, or any Relevant Person is affected by the Sanction Event referred to in Article 7 (*Non-Exclusivity, Conflicts of Interests, Applicable Policies and Representations*);
 - the Beneficiary commits a material breach of any of its obligations undertaken through the Agreement;
 - the Beneficiary makes a resolution for its winding up, commences negotiations or makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or a winding-up order is made or an administrator or receiver is appointed in relation to the Beneficiary;
 - the Beneficiary acts in any manner which in the opinion of the Bank brings, or is likely to bring, the Bank into disrepute or is materially adverse to the interests of the Bank and the Beneficiary fails to comply with the Bank's request to cure;
 - the *force majeure* situation mentioned under Article 8.5. lasts for more than ninety (90) calendar days;
- g) it becomes illegal for the Bank to continue the provision of services or fulfilment of any other obligation under this Agreement.
- 9.7 The Bank may also terminate this Agreement without incurring any liability, by serving a thirty (30) calendar days' written notice to the Beneficiary, if at any time:
- the Beneficiary knowingly and intentionally provides any information or document to the Bank in connection with the Services which is, or proves to have been, incorrect in any material respect; or
 - where the cost of the Services is expected to be covered, wholly or partially, by a third party, including the European Union, and such financing is cancelled or withdrawn by the third party or if for any reason whatsoever the InvestEU Regulation and/or the Advisory Agreement between the Bank and the European Union represented by the European Commission in respect of the InvestEU Advisory Hub are terminated or cease to be valid and in full force and effect.
- 9.8 Immediately after the notice to terminate is received, the Parties will take all appropriate steps to close in an orderly manner the on-going activities under this Agreement. Orderly manner encompasses the obligation of the Beneficiary to pay the Bank for the Services actually provided and any costs and expenses arising from such early termination, among other obligations.
- 9.9 The rights of either Party under Articles 9.4 to 9.7 are without prejudice to any other rights that the Parties may have at law to terminate this Agreement.
- 9.10 Any delay by a Party in exercising its rights to terminate the Agreement shall not constitute a waiver thereof.

Article 10 – Notices and Other Communications

- 10.1 Any notice given under, or in connection with, this Agreement must be in English. All other documents provided under, or in connection with, this Agreement must be in English or, if not in English, and if so required by the Bank, accompanied by its translation into English and, in this case, the English translation shall prevail unless the document is a constitutional, statutory or other similar official document.
- 10.2 Except for notices relating to litigation whether pending or threatened, which shall be served at the addresses specified in the Letter according to the applicable procedural rules, all notices and correspondence in relation to this Agreement and the Services shall be sent by post, or, to the extent agreed by the Parties in writing, by e-mail or other means of electronic communication, to the addresses indicated in the Letter.



- 10.3 Any change made to the communication details shall have effect only after it has been notified in writing, in paper or electronic form, to the other Party at the above addresses.
- 10.4 Notices and other communications are deemed to have been made when they are received by the receiving Party.

Article 11 – Status

- 11.1 Nothing in this Agreement will create, or be construed as creating, a partnership or joint venture, agency, lawyer-client or similar relationship between the Parties nor authorise any Party to make any statements or enter into any agreement on behalf of any other Party, except as expressly set out in this Agreement.
- 11.2 The Bank does not owe the Beneficiary any fiduciary duty.

Article 12 – Governing Law and Dispute Settlement

- 12.1 This Agreement and its formation, construction and validity will be governed by the general principles of European Union law common to the Member States, as interpreted by the Court of Justice of the European Union.
- 12.2 The Parties shall endeavour to settle amicably any dispute arising between them out of, or in connection with, this Agreement or its subject matter or formation (including non-contractual disputes or claims). If no amicable agreement is reached within sixty (60) calendar days from the notification of such dispute or complaint from one Party to the other, in accordance with Article 10 (*Notices and other Communications*), all disputes concerning this Agreement shall be submitted to the exclusive jurisdiction of the Court of Justice of the European Union.

Article 13 – Evaluations

Without prejudice to confidentiality obligations assumed by the Bank, in case the Bank or the European Commission carries out an evaluation or a monitoring mission related to the Services provided under this Agreement, the Beneficiary undertakes to provide to the Bank or the European Commission or third parties authorised by them, any document or information, or grant the necessary access rights, which will assist them in performing the evaluation or monitoring mission.

Article 14 – Visibility

The Beneficiary undertakes to acknowledge, in any information given to the press or to any third parties, related publicity material, official notices, reports or publications, the fact that the Services were provided benefiting from the support of the European Union, and if applicable of the Bank, in the framework of the InvestEU Advisory Hub. To this effect, the Bank shall make available to the Beneficiary any logos or other visibility tools to be applied in respect of the InvestEU Advisory Hub.

Article 15 – Personal Data

The Parties mutually agree that each of them acts as independent controller with regard to any personal data processing operation it performs in implementation or in relation to the Agreement. As such, the Parties have to comply with the obligations set forth by the data protection legislation applicable to their operation. Specifically, if the provision of the Services under this Agreement involves processing of personal data by the Beneficiary, the Beneficiary shall do so in accordance with the provisions of Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC. If the provision of Services under this Agreement involves processing of personal data by the Bank, the Bank shall do so in accordance with the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. For the Bank, the terms “controller” and “personal data” have the meaning defined in Article 3 of the above-mentioned Regulation. The privacy statement informing about the Bank’s personal data processing operations can be accessed via the following link which is published on the Bank’s website: <https://www.eib.org/en/privacy/lending.htm>. The Beneficiary undertakes to pass this information on to data subjects whose personal data can be processed by the Bank in implementation of the Services.

Article 16 – Audits

- 16.1 The Beneficiary acknowledges and agrees that, given the status of the Bank as a body of the European Union, national audit authorities do not enjoy any auditing rights and the Bank is only subject to audit verification (including on-the-spot-visits) performed directly by the European Court of Auditors in accordance with Article 287(3) of the TFEU and the Tripartite Agreement entered into between the European Court of Auditors, the European Commission and the Bank, mentioned in Article 287(3) of the TFEU.
- 16.2 The Beneficiary shall allow the Bank, the European Court of Auditors, the European Commission, the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO), and any third party authorised by any of the preceding, to carry out audits and controls, including on-the-spot checks and inspections, in relation to the Beneficiary and to request information from the Beneficiary in respect of this Agreement and its execution. These verifications may take place up to five (5) years after the finalisation of the Services, and the Beneficiary shall keep records of this Agreement and its execution during this period.