

### Loan Supported by the Pan-European Guarantee Fund (“EGF”)

#### Schedule 1

#### Conditions Precedent

Microfinance Ireland (“MFI”) shall not be obliged to advance the Loan unless the following conditions are satisfied by the date on which the Loan is to be drawn PROVIDED that should MFI agree that the Loan may be drawn notwithstanding that all of the Conditions Precedent have not been satisfied, the obligation to satisfy the outstanding Condition(s) Precedent shall continue unless MFI gives a written waiver of the requirement. The Borrower agrees that each such conditions precedent are for the benefit of MFI only and each is a separate and distinct condition precedent, and satisfaction by the Borrower of any condition precedent may be waived in the absolute discretion of MFI, with or without conditions.

1. Return of the Loan Offer Letter duly signed by the Borrower.
2. Completion and return of the Direct Debit Mandate enclosed with the Loan Offer Letter.
3. Completion and return of the Drawdown Notice enclosed with the Loan Offer Letter.
4. Provision of current Tax Clearance Certificate of the Borrower.
5. Provision of recent (within six (6) months, up to current date) original business bank account statements.
6. **Certified** copy passport/driving licence of the Borrower. **(See details of certification on checklist provided with the Loan Offer Letter)**
7. **One** (1) recent (within six (6) months) original document is required for proof of current permanent address (e.g. utility bill, bank statement, tax free allowance certificate). **(See details on checklist provided with the Loan Offer Letter)**
8. The representations and warranties as set out in Schedule 2, are true with respect to the facts and circumstances existing.
9. MFI is satisfied that no Event of Default has occurred, or may occur, as a consequence of the Loan being drawn.
10. Delivery of such financial information as MFI may require in respect of the Borrower.
11. Up to date searches against the Borrower and all other appropriate registries and public offices in any relevant jurisdiction (including the Central Exclusion Database which is operated under Commission Regulation (EC, Euratom) No. 1302/2008) have been performed for the period of five (5) years immediately prior to the date of the Loan Offer Letter, with the full discharge of all acts which the MFI requires to be discharged.
12. The Borrower and its SME Business does not have a substantial focus on one or more Restricted Sectors as set out in Schedule 8.
13. The amount of the Loan shall not, when aggregated with the amount of principal committed by MFI to be available for utilisation by the Borrower under the original Loan Offer Letter and any other Loan Offer Letter, if any, exceed twenty five thousand euro (€25,000.00) in total.

### Schedule 2

#### Representations and Warranties

The Borrower represents and warrants as follows on the date of acceptance of the Loan Offer Letter, on the date of drawdown of the Loan and on the fifteenth (15<sup>th</sup>) day of each month thereafter:

1. Capacity: The Borrower is not bankrupt, of unsound mind or incapable of managing his/her own affairs.
2. Power and Authority: The Borrower has the power to enter into and perform its obligations under the Loan Offer Letter, and all necessary action has been taken to authorise the creation, delivery and performance of the Loan Offer Letter, and the entering into of the Loan offer Letter will not constitute a breach of any restrictions applicable to him/her.
3. Non-Conflict: The entry into and performance of the terms and conditions of the Loan offer Letter do not and shall not contravene or conflict any law, statute, regulation or other instrument binding on the Borrower or any of his/her assets, or any agreement or document to which the Borrower is a party or which is binding on the Borrower or any of his/her assets.
4. Breach of Other Agreements: The Borrower is not in breach of, or in default under, any agreement or document to which the Borrower is a party or by which the Borrower or any part of his/her assets may be bound which, in the opinion of MFI, is likely to have a material adverse effect on the Borrower's ability to perform fully his/her obligations under the Loan Offer Letter.
5. Litigation: No litigation, arbitration or other proceeding is taking place (including without limitation any action under any environmental law or regulation), pending, or threatened against the Borrower's assets or any part of the Borrower's assets or revenues which, in the opinion of MFI, is likely to have a material adverse effect on his/her ability to perform fully his/her obligations under the Loan Offer Letter.
6. Insolvency Proceedings: The Borrower has not taken any action, nor have any other steps been taken or legal proceedings been started, to have the Borrower declared bankrupt, or for the appointment of a liquidator, an official assignee or trustee in bankruptcy, a receiver, an insolvency practitioner or similar officer to the Borrower, or as the case may be, over, or in relation to any or all of the Borrower's assets or revenues.
7. Authorisations & Compliance: The Borrower (i) is in compliance with all applicable laws, regulations and practices (including environmental laws, regulations and practices) in connection with the SME Business, (ii) holds and is in compliance with all necessary licences, permits, consents or other authorisations essential for the conduct of his/her business; and (iii) has not previously conducted, nor is currently conducting, business in any manner which could form the basis of any material environmental claim against him/her.
8. No Default: No Event of Default, as set out in Schedule 4, has occurred.
9. Disclosure: All information furnished by the Borrower to MFI in connection with the Loan is true, complete and accurate in all material respects as of the date it was provided, and the Borrower has made full disclosure to MFI prior to the date of the Loan Offer Letter of all facts in relation to the Borrower's business and assets to enable MFI to obtain a true and correct view of the financial condition, business and assets of the Borrower.

10. During the period of five (5) years immediately prior to the date of the Loan Offer Letter, the Borrower shall not have:
- (i) been convicted of an offence concerning his/her professional conduct by a judgment which has the force of *res judicata*, which would affect his/her ability to implement the Loan Offer Letter; and
  - (ii) been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity, where such illegal activity is detrimental to the EU's financial interests.
11. Micro-enterprise: The Borrower represents and warrants that he/she is either establishing or developing a micro-enterprise, including for the purpose of self-employment, being a micro-enterprise (which can include a self-employed person) that
- (i) employs fewer than ten (10) persons; and
  - (ii) whose annual turnover or annual balance sheet total does not exceed two million euro (€2,000,000) in respect of the full fiscal year immediately preceding that in which this Loan Offer Letter is entered into,

in accordance with the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises (2003/361/EC) as amended, restated, supplemented and/or substituted from time to time ("**Micro-Enterprise**"), and in particular, the Borrower shall be

- (i) a vulnerable person who has lost or is at risk of losing their job; or
- (ii) a person who has experienced difficulties in either entering or re-entering the labour market; or
- (iii) a person who is at risk of social exclusion or is socially excluded

and furthermore is a person who is in a disadvantaged position with regard to access to the conventional credit markets.

### Schedule 3

#### Covenants and Undertakings

The Borrower covenants and undertakes that until the Loan is repaid in full:

1. Use of Loan: He/she shall use the Loan for the purpose specified in the Loan Offer Letter, and shall prepare, update and make available documentation which will verify this, and that the Loan is being properly implemented. If deficiencies in the maintenance of this information are identified at any time, the Borrower shall promptly, and no later than three (3) months after being informed of such deficiencies (or sooner if required), comply with any instructions given to rectify such deficiencies.
2. Financial Information: He/she shall prepare, update and supply to MFI promptly such up-to-date financial and other information in relation to the Borrower and his/her SME Business may from time to time specify or as may be specified in the Loan Offer Letter and shall ensure that all accounts and other financial information submitted to MFI are prepared consistently and in accordance with generally accepted accounting principles in Ireland. If deficiencies in the maintenance of this information are identified at any time, the Borrower

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shall promptly, and no later than three (3) months after being informed of such deficiencies (or sooner if required), comply with any instructions given to rectify such deficiencies.

3. Authorisations and Compliance: The Borrower shall comply with all applicable laws, regulations, or other legal requirements and obtain, renew and comply with the terms of all licences, permits, consents or other authorisations held in respect of his/her SME Business.
4. Notification of Default: He/she shall notify MFI of any Event of Default immediately upon becoming aware of its occurrence, and he/she shall immediately notify MFI in writing of the intention of any person of which the Borrower becomes aware who may take steps or present a petition or take similar proceedings to have the Borrower declared bankrupt, or for the appointment of a liquidator, an official assignee or trustee in bankruptcy, a receiver, an insolvency practitioner or similar officer to the Borrower, or as the case may be, over, or in relation to, any or all of the Borrower's assets or revenues.
5. Negative Pledge: He/she shall not borrow any monies or funds whatsoever from any other source without the prior written consent of MFI. He/she shall not create or permit to subsist any mortgage, charge, lien, encumbrance or other security interest (except a lien arising by operation of law in the ordinary course of business) on the whole or any part of the Borrower's present or future assets except with the prior written consent of MFI.
6. Material Change in Business or Disposal of Assets: He/she shall not make any material change, in the opinion of the MFI, in the nature of the Borrower's SME Business as presently conducted, except with the prior written consent of MFI; he/she shall not sell, transfer, lease (or where a lease is already in existence, consent to the lease being assigned) or otherwise dispose of, by one or more transactions, all or a substantial part of his assets, except with the prior written consent of MFI.
7. Insurance: He/she shall keep all his/her property and assets of an insurable nature insured with a well-established reputable insurance company against such risks and to a value such as a prudent person carrying on a similar business to that of the Borrower would normally insure such property and assets, subject to any insurance requirements as may be specified in the Loan Offer Letter.
8. Other Creditors: He/she shall promptly pay all creditors who would rank as preferential creditors in the event of his/her insolvency or upon the appointment of a receiver over any of his/her property or assets. All payments in respect of VAT, PAYE and Income Tax and any other taxes of the Borrower shall be kept up to date, and the Borrower shall not default on them. It shall ensure that MFI's claims against the Borrower under the Loan Offer Letter rank at least equally with the claims of all the Borrower's other unsecured and unsubordinated creditors save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.
9. Mentoring: The Borrower shall accept and engage with any mentoring, training, coaching or advice which MFI might directly or indirectly provide, and, without limitation, which might be provided to the Borrower by, or through, a Local Enterprise Office ("LEO") to which the Borrower might be referred.

### Schedule 4

#### Events of Default

Upon the occurrence of any of the events specified below, MFI may by written notice to the Borrower terminate the Loan and/or demand immediate repayment of all or any amounts drawn and outstanding under the Loan and all accrued interest and other sums payable in respect of the Loan (and if the Loan is undrawn or only partially drawn, the Loan or the portion of the Loan which remains undrawn shall be cancelled) and MFI may declare that any security has become immediately enforceable:

1. Non-Payment: the Borrower fails to pay on the due date any amount payable under the Loan Offer Letter; or
2. Breach of Other Obligations: the Borrower fails to comply with any other obligation, covenant, term or condition of the Loan Offer Letter, unless failure to pay is caused by an administrative or technical error and payment is made within two (2) Business Days of its due date; or
3. Misrepresentation: any representation or warranty made or repeated by the Borrower in the Loan Offer Letter is, or proves to have been, incorrect in any material respect, in the opinion of MFI, when made or repeated; or
4. Cross Default: the Borrower defaults in the performance of any other agreement for monies borrowed so as to accelerate or potentially accelerate, in the opinion of MFI, the due date or repayment thereunder, or such borrowed monies are not repaid in full when due; or
5. Death/Bankruptcy/Incapacity: the Borrower shall die, become bankrupt, make any arrangement with his/her creditors, become or be declared to be of unsound mind or become a ward of court; or
6. Payment of Debts: the Borrower stops or threatens to stop payment of, or suspends making payments on, any of the Borrower's debts; or
7. Bankruptcy Proceedings and Analogous Proceedings: if any person petitions or takes any step, or other legal proceedings are started, to have the Borrower declared bankrupt or for the appointment of an official assignee or trustee in bankruptcy, a receiver, an insolvency practitioner or similar officer, to the Borrower, or as the case may be, over, or in relation to, any or all of the Borrower's assets or revenues; or
8. Distress or Execution: any distress, execution, attachment or other legal process affects the whole or a material part of the assets of the Borrower and is not discharged within twenty one (21) days; or
9. Judgments: any judgment is obtained against any Borrower and remains unpaid for a period of fourteen (14) days from the date of such judgment; or
10. Material Adverse Change: any event occurs after the date of this Agreement which in MFI's opinion is likely to have a material adverse effect on the ability of the Borrower to comply with its obligations under this Agreement; or
11. Illegality: any provision of the Loan Offer Letter becomes illegal, unlawful, invalid or unenforceable, or if the Borrower breaches or repudiates the Loan Offer Letter.

12. **Non-Compliance:** if through no fault of MFI the Borrower fails to comply with the terms of the Loan Offer Letter MFI reserves the right to either:
- (i) accelerate payment of all amounts owed to it by the Borrower under the Loan Offer Letter; or
  - (ii) terminate this Loan
- no later than thirty (30) calendar days following the end of the calendar quarter immediately following the date on which it became aware of same.

### Schedule 5

#### Interest, Fees and Charges

1. Interest will accrue and will be calculated and charged in accordance with the provisions of this section unless otherwise stated.
2. The interest rate applicable to the Loan shall be as set out in the Loan Offer Letter. Interest will be charged on account at the end of MFI's normal charging period, which is currently the fifteenth (15<sup>th</sup>) day of each month on the fifteenth (15<sup>th</sup>) day of the following month. MFI may alter its charging period by providing written notice to the Borrower. MFI reserves the right to charge interest at the contractual rate on unpaid interest due monthly.
3. No fees or charges will be incurred by the Borrower, either in the arrangement of or acceptance of this Loan Offer.
4. No charges will be incurred by the Borrower for full or partial early repayment of this Loan.

### Schedule 6

#### Instructions and Related Indemnities

The Borrower authorises MFI to act on the instructions of the Borrower in accordance with the mandate or resolution provided to MFI. Any transactions so done, and instructions so communicated, shall be unconditionally binding on the Borrower.

1. MFI is authorised, but is not obliged, to rely upon and to act in accordance with any instructions communicated to MFI which may from time to time be, or purport to be, given by telephone, facsimile, electronic mail or any electronic system or communications network used by MFI from time to time by the Borrower. MFI shall not be obliged to enquire as to the authority or identity of the person making or purporting to make such communication but may, at its discretion from time to time, make such enquiries as it deems appropriate.
2. The Borrower shall be bound by the terms of any instruction made by telephone, facsimile, electronic mail or any electronic system or communications network used by MFI from time to time, and no written confirmation shall be required before or after MFI shall act on such instructions. MFI may provide the Borrower with written confirmation of a transaction but any such confirmation shall not in itself constitute a contract, and shall be subject to the exclusion of any errors or omissions.

3. MFI assumes no liability or responsibility for consequences arising out of the interruption of, delay and/or loss in transit of any messages, letters or documents or for any delay, mutilation or other errors arising in transmission or any instructions sent by telephone, facsimile, electronic mail and/or any electronic system and/or communications network used by MFI from time to time or for errors in the translation of and/or interpretation of technical terms and MFI assumes no liability or responsibility for consequences arising out of the interpretation of instructions.
4. In consideration of MFI acting in accordance with the terms of these provisions, the Borrower undertakes to indemnify MFI and to keep MFI indemnified (on a full indemnity basis) against all losses, claims, actions proceedings, demands, damages, costs and expenses incurred or sustained by MFI of whatever nature and howsoever arising out of or in connection with such instructions provided MFI acts in good faith.
5. The Borrower indemnifies and agrees to keep indemnified MFI against all claims, demands, liabilities, losses, costs (including legal fees on a full indemnity basis), actions, proceedings, charges, and expenses arising which MFI may incur or suffer by reason of:
  - (a) MFI acting on any instructions received by telephone, facsimile, via the internet, electronic mail or any electronic system or communications network used by MFI from time to time;
  - (b) any breach of any covenant, representation or warranty by the Borrower or any default by the Borrower in the performance of any of the obligations expressed to be assumed by it;
  - (c) Any change in the law or its interpretation or administration or compliance with any requirements of any regulatory authority,

and the Borrower shall pay all such liabilities, losses, damages, costs, expenses, interest, fees, premiums, penalties and other sums forthwith on demand being made therefor by MFI, and MFI is hereby authorised to debit any account in the name of the Borrower with any sums so payable by the Borrower.

### Schedule 7

#### Miscellaneous

##### ***Breach and Variation***

1.
  - (a) MFI may release or discharge any person from any liability under or in relation to the Loan or take any composition from or make any other arrangement or variation with any such person without thereby releasing or discharging any other person or otherwise prejudicing MFI's rights or remedies against any other person.
  - (b) No failure to exercise, nor any delay in exercising, on the part of MFI, any right or remedy under the Loan Offer Letter shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise, of any other right or remedy. The rights and remedies provided in the Loan Offer Letter are cumulative and not exclusive of any rights or remedies provided by law.

##### ***Certificate of Officer***

2. Any certificate issued by any officer of MFI as to any amount payable in respect of the Loan (whether principal, interest, or otherwise), will be final and binding on the Borrower, save in the case of manifest error.

### **Assignment**

3. The Borrower shall not be entitled to assign any of his/her rights, or transfer any of his/her rights or obligations, under the Loan Offer Letter, any related document, or in respect of the Loan.
4. MFI shall have the right to assign, transfer or sub-participate its rights and obligations under the Loan Offer Letter or any related document, without the prior consent of the Borrower, to any bank, financial institution, trust, fund, person or other entity, and the Borrower irrevocably authorises and consents to any such assignment or transfer and agrees to enter into such documents (if any) as MFI may reasonably stipulate in order to effect any such assignment or transfer.

### **Disclosure**

5. In order to conclude the Borrower's application or to administer the Loan or in connection with any transfer or assignment of the Loan or of MFI's rights, title or interest in or to, or obligations under the Loan Offer Letter or for any other purposes relating to the Loan, the Borrower hereby authorises MFI to disclose any personal data and information held by MFI in relation to the Borrower, its accounts, its financial condition, operation or assets or any information in relation to its accounts or otherwise as MFI may consider appropriate. Such a disclosure may be made to any LEO, the Social Finance Foundation ("**SFF**"), the European Commission ("**Commission**") European Investment Fund ("**EIF**"), the European Court of Auditors ("**ECA**"), or their agents, a prospective or actual assignee or transferee of the Loan or a prospective or actual participant in the Loan. The Borrower hereby consents to any such disclosure, which shall include consent to the disclosure and further processing of any such personal data and information by any disclosee. The Borrower warrants that all relevant consents have been obtained from any other data subject whose personal data might be involved, and further undertakes to procure such consents where necessary.
6. The Borrower hereby consents to the disclosure of any personal data relating to the Borrower by MFI to any credit bureau, any third party providing credit reference services or any financial institution or to any organisation engaged in fraud prevention and the further processing of such data by such institutions. The Borrower warrants that all relevant consents have been obtained from any other data subject whose personal data might be involved, and further undertakes to procure such consents where necessary.

### **Law and Force Majeure**

7. If at any time one or more of the terms and conditions of the Loan Offer Letter either becomes invalid, illegal or unenforceable in any respect under any law, the legality, validity, or enforceability of the remaining provisions will not in any way be affected or impaired thereby.
8. If in the opinion of MFI any change shall take place in any applicable law or regulation or in the interpretation thereof so that it shall be unlawful or impossible for MFI to maintain or give effect to its obligations as contemplated in the Loan Offer Letter, MFI shall be at liberty to give notice of that fact to the Borrower and may by the same or a subsequent notice declare the Loan immediately due and payable/expired and whereupon the same shall become so payable together with accrued interest and any other sums then outstanding hereunder.
9. MFI will not be liable for any failure to perform any of its obligations under this Agreement arising directly or indirectly for the action or inaction or any governmental or local or other



authority or utility provider or any strike, boycott, blockage, act of God or civil disturbance or other events it cannot control.

### **Governing Law and Courts**

10. The Loan Offer Letter shall be governed and construed in accordance with the laws of Ireland.
11. The Borrower irrevocably agrees for the benefit of MFI that the courts of Ireland shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with the Loan Offer Letter or its formation or validity, and, for such purposes, irrevocably submits to the exclusive jurisdiction of such courts.
12. The Borrower hereby irrevocably waives any objection which it might now or hereafter have to the courts being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with the Loan Offer Letter and agrees not to claim that any such court is not a convenient or appropriate forum.
13. Delay by MFI in giving notice or in exercising any of its rights shall not amount to a waiver of those rights or prejudice the subsequent exercise of those rights by MFI.

### **Changes to the Terms & Conditions set out in the Schedules to this Loan Offer letter**

14. MFI may vary the terms and conditions of the Loan Offer Letter from time to time, and MFI will write to the Borrower to give the Borrower reasonable advance notice of any changes.

These terms may be amended, replaced and/or supplemented from time to time by MFI in the following circumstances:

- (a) to comply with any changes in applicable law, or with the requirements or recommendations of any regulatory authority, or with the decision of a court of law or an ombudsman;
- (b) to reflect any changes in banking practice;
- (c) to comply with any requirements of the Guarantee Facility for the time being established under The Pan European Guarantee Fund ("EGF" Guarantee) Instrument, implemented by the European Investment Fund with the financial backing of the Member States contribution to the EGF from which the financing of the Loan benefits; or
- (d) to reflect any enhancements made to MFI's computer systems.

### **Information**

15. The Loan is being made available to the Borrower on the understanding that you have given MFI full information concerning all material facts in respect of the Borrower and the SME Business. It is a further condition that the Borrower makes available to MFI, on demand, all information (including access to bank accounts) that may reasonably be required to satisfy MFI that the Loan has been applied solely for the agreed purpose.
16. This loan is being supported by the SFF. The Borrower acknowledges that the SFF has facilitated this Loan. It is a condition of the Loan Offer Letter that the Borrower consents to the use by SFF of the Borrower's name and non-financial details in any publication, promotional material issued by SFF, or in relation to any information sent to stakeholders, interested parties, media or members of the public by SFF.

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17. The financing under the Loan Offer Letter benefits from a guarantee issued under the Pan European Guarantee Fund (“EGF” Guarantee) Instrument, implemented by the European Investment Fund with the financial backing of the Member States contribution to the EGF. The supported financing benefits from the support of the European Union under the EGF Guarantee Instrument, implemented by the European Investment Fund with the financial backing of the Members States contributing to the EGF.
18. The borrower acknowledges and agrees that the European Court of Auditors (“ECA”), the representatives and advisors of the Participating Member States, the European Anti-Fraud Office (“OLAF”), European Investment Fund (the “EIF”), the European Investment Bank (“EIB”), the agents of the EIF or any other person designated by the EIF or the EIB, the Commission, the agents of the Commission (including OLAF), the European Public Prosecutor’s Office (“EPPO”), any other European Union institution or European Union body which is entitled to verify the use of the Guarantee in the context of the EGF Guarantee Instrument and any other relevant national authorities and their representatives, or other competent national court of auditors or duly authorised body or institution under applicable law which is entitled to carry out audit or control activities (collectively, the “Relevant Parties”) shall have the right to carry out audits and controls and to request information in respect of this agreement and its execution. Subject to applicable laws, the [counterparty] shall;
  - a. permit remote monitoring and monitoring visits and inspections by each of the Relevant Parties of its business operations, books and records;
  - b. allow interviews conducted by each of the Relevant Parties of its representatives and not obstruct contacts with representatives or any other person involved in the EGF Guarantee Instrument;
  - c. permit the Relevant Parties to conduct on the spot audits and checks and for this purpose shall permit access to its premises during normal business hours;
  - d. permit review of its books and records in relation to this agreement and to take copies of these and related documents to the extent permitted by applicable law and as may be required” and
19. The Borrower undertakes to promptly provide, upon request, any document or information related to itself or the relevant Final Recipient Transaction and required to be included in any report by the Intermediary, or any Relevant Party.
20. The borrower agrees that, (i) the Guarantor (ii) the EIB or (iii) the Commission shall be entitled to publish on their website information relating to their loan including (i) the name, nature and purpose of the loan; (ii) name and address, and the type and amount of financial support received; and (iii) the name, country of establishment the borrower and the region at NUTS 2 level, and the type of financial support received; except if:
  - (i) with respect to the Intermediary, (1) it would be illegal under the applicable laws and regulations, or (2) prior to receiving financial support under the Guarantee, the Intermediary informs the Guarantor in writing that:
  - (ii) (a) the publication requirement risks harming its commercial interests;  
or

- (iii) (b) it risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union; and
- (iv) with respect to borrowers,
  - (a) the Aid Amount of the loan is lower than EUR 100,000 (EUR 10,000 in the case of borrowers active in agricultural and fisheries sector) (in which case the information published shall be limited to statistical data, aggregated in accordance with relevant criteria, such as geographical situation, economic typology of Final Recipient, type of support received and the EU policy area under which such support was provided),
  - (b) prior to receiving financial support under the Final Recipient Transaction, the borrower informs MFI in writing that the borrower is a natural person who objects to publication.

### **Compliance with Laws**

- 21. The Borrower undertakes to comply in all respects with all laws and regulations (whether national laws and regulations or laws and regulations of the European Union, including those related to data protection) to which it may be subject, the breach of which may
  - (i) adversely impact the performance of the Loan Offer Letter; or
  - (ii) adversely prejudice the interests of the EIF or the Commission.
- 22. The Borrower undertakes not to commit any Irregularity (as set out in Article 1.2 in Council Regulation (EC, Euratom) No 2988/95 of 18 December 19951) or fraud (including, without limitation, any fraud affecting the EU's financial interests).
- 23. Without prejudice to clauses 21 and 22 above, the Borrower undertakes
  - (i) at all times to comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and the fight against tax fraud; and
  - (ii) not (other than as a result only of events or circumstances beyond the control of the Borrower) to be established in a Non-Cooperative Jurisdiction. In case the status of a jurisdiction changes after the date of the Loan Offer Letter, this change in status shall only be applicable on or after the date of such change.

### **Data Protection**

- (iii) The Data Protection Acts 1988 and 2003 (as amended) and the General Data Protection Regulation (the 'GDPR') detail how we may use your personal information and our obligations under Data Protection Law. We

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<sup>1</sup> That is to say, not to commit any infringement of a provision of Community law by doing anything, or omitting to do something, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

keep the Data Protection Documents under regular review and any amendments and/ or updates we make will be reflected in the relevant Data Protection Document which is accessible online at <https://www.microfinanceireland.ie/privacy-policy/>

24. The Borrower notes and agrees, with reference to

(a) Regulation (EU) N° 2018/1725 of the European Parliament and of the Council, dated 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 (OJ L 295, 21.11.2018, p.39-98);

(b) Regulation (EU) N° 2016/679 of the European Parliament and of the Council dated 27 April 2016 relating to the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("GDPR"); and/or

(c) all applicable laws and regulations relating to the processing of Personal Data, including national legislation implementing the Data Protection Directive (Directive 95/46/EC) and the Directive on Privacy and Electronic Communications (Directive 2002/58/EC), and any other laws and regulations implementing, derogating from or made under them, and any orders and codes of practice, guidelines and recommendations issued by the applicable Regulatory Authorities,

in each case as amended, restated, supplemented or substituted from time to time.

(i) that pursuant to Article 5(a) of the Regulation, the name, address and purpose of the Borrower and personal data information in connection with the Loan Offer Letter will be communicated to the EIF and/or the Commission;

(ii) that any personal data communicated to the EIF and/or the Commission will be stored until five (5) years after the Termination Date and may be published;

(iii) that requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the EIF and/or the Commission, as the case may be, should be addressed to the EIF and/or the Commission, as applicable, at the following address:

- in respect of the EIF:

European Investment Fund  
37B Avenue J.F. Kennedy  
L-2968, Luxembourg  
Grand Duchy of Luxembourg  
Attention: Debt Services/Portfolio Guarantees  
and

- in respect of the Commission:

Commission Européenne  
Directorate General Economic and Financial Affairs  
L-2920 Luxembourg  
Grand Duchy of Luxembourg  
Attention: Head of Unit L2 – EIF Programme Management

Such requests shall be treated as described in Articles 13 to 19 of the Regulation in its Section 5: "Rights of the Data Subject"; and

(i) That pursuant to Article 32, paragraph (2) of the Regulation, the Borrower may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her rights under Article 286 of the Treaty establishing the European Community have been infringed as a result of the processing of personal data by the EIF and/or the Commission.

(ii) For the avoidance of doubt, any reference to personal data in the Loan Offer Letter (Data protection) shall mean personal data as defined in the Data Protection Regulation.

The Borrower undertakes to bring this clause to the attention of any other data subjects whose personal data may be involved, and to procure any relevant consents for the purposes of this clause from the data subjects concerned.

"EIB Privacy Statement" means EIB guidelines on the handling of personal data available at: <https://www.eib.org/en/privacy/lending.htm>, as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation.

"EIF Final Recipient Data Protection Statement" means EIF guidelines on the handling of personal data of Final Recipients available at: <http://www.eif.org/attachments/processing-of-final-recipients-personal-data.pdf>, as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation.

"EIF Financial Intermediary Data Protection Statement" means EIF guidelines on the handling of personal data of Intermediaries available at: [http://www.eif.org/attachments/eif\\_data\\_protection\\_statement\\_financial\\_intermediaries\\_due\\_diligence\\_en.pdf](http://www.eif.org/attachments/eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf), as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation and together with the EIF Final Recipient Data Protection Statement, the "EIF Data Protection Statements".

"Personal Data" means personal data within the meaning of the applicable Data Protection Regulation.

"Regulatory Authorities" means all governmental, statutory or regulatory bodies and any other competent authorities in any jurisdiction having responsibility for the regulation or governance of the applicable Data Protection Regulation, and "Regulatory Authority" means any of them.

### Invalidity/Severability

25. Without prejudice to MFI's rights under Schedule 4, paragraph 11, if at any time any provision, or part of any provision, of the Loan Offer Letter is or becomes illegal, unlawful, invalid or unenforceable in any respect, that shall not affect or impair the legality, lawfulness, validity or enforceability of any other provision of this Agreement, or as the case may be, the other part or parts of the provision concerned.

### Schedule 8

#### EIB Group Excluded Sectors

1. Production or activities involving harmful or exploitative forms of forced labour harmful child labour
2. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements.
3. Any business relating to pornography or prostitution.
4. Production or trade in wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species or Wild Fauna and Flora (CITES).
5. Production or use of or trade in hazardous materials such as radioactive materials (except for medical isotopes and materials for diagnostics and treatment in healthcare provision), unbounded asbestos fibres and products containing PCBs.
6. Cross-border trade in waste and waste products unless compliant with the Basel Convention and the underlying national and EU regulations but for the avoidance of doubt, use of waste as a fuel in district heating is not excluded.
7. Unsustainable fishing methods (i.e. drift net fishing in the marine environment using nets in excess of 2.5 km in length and blast fishing).
8. Production or trade in pharmaceuticals, pesticides/herbicides, chemicals, ozone depleting substances and other hazardous substances subject to international phase-outs or bans.
9. Destruction of Critical Habitats. Production and distribution of racist, anti-democratic and/or neo-Nazi media.
10. Tobacco, if it forms a substantial part of the Final Recipient's primary financed business activities or a substantial part of the EGF Final Recipient Transaction.
11. Live animals for scientific and experimental purposes, including the breeding of these animals, unless in compliance with the EU Directive 2010/63/EU as amended by Regulation (EU) 2019/1010 of the European Parliament and of the Council on the protection of animals used for scientific purposes.
12. Ammunition and weapons, military/police equipment, infrastructure or correctional facilities, prisons.
13. Gambling, casinos and equivalent enterprises or hotels hosting such facilities.
14. Commercial concessions over, and logging on, tropical natural forest; conversion of natural forest into a plantation.
15. Purchase of logging equipment for use in tropical natural forests or high nature value forest in all regions; and activities that lead to clear cutting and/or degradation of tropical natural forests or high nature value forest.
16. New palm oil plantations.
17. Any business with a political or religious content.

**Schedule 9**  
**Eligibility Criteria**

A. "Final Recipient Eligibility Criteria" means the following criteria:

No.	Final Recipient Eligibility Criteria
1.	The Final Recipient shall not have a substantial focus on one or more EIB Group Excluded Sectors (which determination shall be made by the Intermediary in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant Final Recipient).
2.	The Final Recipient must be established and operating in a Participating Member State.
3.	The Final Recipient shall not be incorporated or established in a Non-Compliant Jurisdiction, unless in the case of NCJ Implementation.
4.	The Final Recipient shall not be engaged in any Illegal Activities.
5.	The Final Recipient is not a Sanctioned Person and is not in breach of Restrictive Measures.
6.	The Final Recipient is not, to the best of its knowledge, in an Exclusion Situation.
7.	If the Final Recipient is established or incorporated in a country listed for HPTR in Annex I and/or Annex II of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, the Final Recipient does not benefit from any HPTR as evidenced by a self-declaration of the Final Recipient provided in a written form to the Intermediary.
8.	The Final Recipient is not delinquent (for more than 20 days) or in default in respect of any transaction (in the case of refinancing, including the transaction that is being refinanced) granted by the Intermediary or by another financial institution pursuant to checks made in accordance with the Intermediary's internal guidelines and Credit and Collection Policies.

B.

"Final Recipient Transaction Eligibility Criteria" means the following criteria:

No.	Final Recipient Transaction Eligibility Criteria
1.	The Final Recipient Transaction shall be provided in compliance with the Relevant State Aid Regime in accordance with either paragraph 2 (EGF Regime by analogy to Section 3.1 TF) or 3 (EGF Regime by analogy to Section 3.2 TF) or paragraph <b>Error! Reference source not found. (Error! Reference source not found.)</b> or <b>Error! Reference source not found..</b>
2.	The Final Recipient Transaction must be made available in a Participating Member State <sup>2</sup> , which means that: (a) for Final Recipient Transactions the purpose of which shall be: 1. the financing of working capital/liquidity needs or refinancing of existing obligations, pursuant to paragraph 4 of Section B of this Schedule 3, or

<sup>2</sup> For the avoidance of doubt, the eligibility of Overseas Territories (OCTs) and Overseas Countries is subject to confirmation from the Contributors Committee and shall be deemed not to be eligible prior to such confirmation.

## TERMS AND CONDITIONS FOR SOLE TRADERS

No.	Final Recipient Transaction Eligibility Criteria
	<p>2. the financing of an investment in tangible or intangible assets, pursuant to paragraph 4 of Section B of this Schedule 3 and a clear geographical allocation of such investment is not possible;</p> <p>the registered office of the relevant Final Recipient shall be located in a Participating Member State;</p> <p>(b) for Final Recipient Transactions the purpose of which shall be the financing of an investment in tangible or intangible assets, pursuant to paragraph 4 of Section B of this Schedule 3 and a clear geographical allocation of such investment is possible the relevant investment shall be carried out in a Participating Member State.</p>
3.	The Final Recipient Transaction shall be entered into by the Intermediary during the Inclusion Period.
4.	The Final Recipient Transaction shall be granted for one or more of the following permitted purposes: (1) investment in tangible and/or intangible assets and/or (2) working capital/liquidity needs and/or (3) refinancing of existing obligations as defined by the Intermediary's Credit and Collection Policies. For the avoidance of doubt, business transfers shall also be allowed.
5.	The Final Recipient Transaction shall be denominated in the Base Currency or an Additional Currency.
6.	The Final Recipient Transaction shall have a minimum maturity of 3 (three) Months.
7.	The Final Recipient Transaction must comply with the terms of this Agreement relating to the Transfer of Benefit.
8.	The Final Recipient Transaction shall not finance Illegal Activities or artificial arrangements aimed at tax avoidance.
9.	The documents governing the Final Recipient Transaction are legal, valid, binding and enforceable under applicable law.
10.	The final maturity date of a Final Recipient Transaction shall not fall after 30 December 2037.
11	The Final Recipient Transaction shall not finance transactions with a Sanctioned Person.



**SCHEDULE 10**

**State Aid**

**1. Definitions**

For the purposes of this Schedule, the following terms shall have the following meanings:

“Agricultural Block Exemption Regulation” means the Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 193 of 1.7.2014, p.1), as amended or replaced from time to time.

“Aid Amount” means the amount the Final Recipient shall consider as the State Aid it receives under EGF, and;

in relation to Final Recipient Transactions subject to the EGF Regime by analogy to Section 3.1 TF, such amount shall be the EGF Guaranteed Amount of the Final Recipient Transaction;

in relation to Final Recipient Transactions subject to the EGF Regime by analogy to Section 3.2 TF, such amount shall be the principal amount committed by the Intermediary under the Final Recipient Transaction.

"Communication 2014/C 249/01" means Communication from the Commission "Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty" (2014/C 249/01) (OJ C 249, 31.7.2014, p. 1–28), as amended, restated, supplemented and/or substituted from time to time.

“Commission Decision” means the Commission decision C (2020) 9237 dated 14 December 2020 approving the Participating Member States’ notifications of the EGF under a bespoke regime in line with Article 107(3) TFEU regarding the Pan-European Guarantee Fund in response to COVID-19.

“De Minimis Regulations” means Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

“EGF Regime by analogy to Section 3.1 TF” means the conditions set out in the Commission Decision which is based on the relevant terms and conditions from Section 3.1 of the Temporary Framework, as amended from time to time.

“EGF Regime by analogy to Section 3.2 TF” means the conditions set out in the Commission Decision which is based on the relevant terms and conditions from Section 3.2 of the Temporary Framework, as amended from time to time.

“Fisheries Block Exemption Regulation” means the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 369 of 24 December 2014, p. 37), as amended or replaced from time to time.

**"General Block Exemption Regulation"** means Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

**"Relevant State Aid Regime"** means

- (a) EGF Regime by analogy to Section 3.1 TF;
- (b) EGF Regime by analogy to Section 3.2 TF.

"State Aid" means aid granted by a member state of the European Union or through such state's resources, as further set out in Articles 107 and 108 of the Treaty.

"Temporary Framework" means the Temporary Framework for State aid Measures to Support the Economy in the Current COVID-19 Outbreak, Communication from the Commission of 19 March 2020, C(2020)1863 (OJ C 91I, 20.3.2020, p. 1) as amended from time to time .

**"Undertaking in Difficulty"** means:

an undertaking in respect of which, one of the following circumstances had occurred:

- (a) In the case of a limited liability company (other than an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU<sup>3</sup> and 'share capital' includes, where relevant, any share premium.
- (b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- (d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee or has received restructuring aid and is still subject to a restructuring plan.
- (e) In the case of an undertaking that is not an SME, where, for the past two years:
  - (1) the undertaking's book debt to equity ratio has been greater than 7,5 and

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<sup>3</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

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- (2) the undertaking's EBITDA interest coverage ratio has been below 1,0.

### 2. Additional Eligibility Criteria only for EGF Regime by analogy to Section 3.1 TF

- (a) Final Recipient subject to the EGF Regime by analogy to Section 3.1 TF shall comply with the following additional Eligibility Criteria:

No.	Final Recipient Eligibility Criteria
1.	The Final Recipient is (i) an SME, or (ii) unless otherwise provided in section <b>Error! Reference source not found. (Error! Reference source not found.)</b> of the Specific Terms, a Small Mid-cap.
2.	<p>If the Final Recipient is an Undertaking in Difficulty as at the Final Recipient Transaction Effective Date, it will be deemed to comply with this Eligibility Criterion provided that it was not an Undertaking in Difficulty as of 31 December 2019.</p> <p>As an exception to the above, if the Final Recipient is a Micro-enterprise or a Small-Enterprise that was an Undertaking in Difficulty on 31 December 2019, it shall be eligible, provided that on the Final Recipient Transaction Effective Date:</p> <p>(a) it is not subject to collective insolvency procedure under the relevant national laws; and</p> <p>(b) it has not received:</p> <p style="padding-left: 40px;">(i) rescue aid, which has not been reimbursed (if the aid is in the form of a loan) or terminated (if the aid is in the form of a guarantee); or</p> <p style="padding-left: 40px;">(ii) restructuring aid to which it is subject to<sup>4</sup></p> <p style="padding-left: 40px;">as at the Final Recipient Transaction Effective Date.</p>
3.	The Final Recipient has not benefitted of State Aid which has been declared illegal or noncompliant by the Commission which has not yet been returned.

- (b) Final Recipient Transactions subject to the EGF Regime by analogy to Section 3.1 TF shall comply with the following Eligibility Criteria:

No.	Final Recipient Transaction Eligibility Criteria
1.	<p>The amount committed by the Intermediary shall not result in the EGF Guaranteed Amount of the Final Recipient Transaction, together with any other 3.1 Relevant Aid Amounts, to exceed the 3.1 Maximum Aid Threshold.</p> <p>For the purposes of this Eligibility Criterion;</p> <p>"3.1 Relevant Aid Amounts" means any other amounts provided to the Final Recipient (together with any other linked enterprises as per the Commission Recommendation), that are subject to the EGF Regime by analogy to Section 3.1 TF (not, for the avoidance of doubt, with any other aid granted under the Temporary Framework) whether through the Intermediary or otherwise.</p>

<sup>4</sup> E.g. on the Final Recipient Transaction Effective Date, the Final Recipient will no longer be subject to a restructuring plan.

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No.	Final Recipient Transaction Eligibility Criteria
	<p>"EGF Guaranteed Amount of the Final Recipient Transaction" means, in respect of a Final Recipient Transaction, the product of (i) the Guarantee Rate and (ii) the amount of principal committed by the Intermediary to a Final Recipient under such Final Recipient Transaction.</p> <p>"3.1 Maximum Aid Threshold" means;</p> <p>(a) for Final Recipients active in the primary production of agricultural products EUR 100 000.</p> <p>(b) for Final Recipients active in the fishery and aquaculture sector EUR 120 000.</p> <p>(c) for Final Recipients active in other sectors EUR 800,000.</p> <p>When a Final Recipient is active in several of the sectors set out above, such undertaking may be considered eligible provided that the Intermediary is able to reflect a separation of activities and accounts<sup>5</sup>, in order for the relevant amounts for each sector listed through (a) to (c) above are complied with.</p> <p>With respect to Final Recipient Transactions denominated in a currency other than EUR, for the purposes of checking compliance with the 3.1 Maximum Aid Threshold above, the Relevant FX Rate used by the Financial Intermediary shall be the exchange rate applicable on the Final Recipient Transaction Effective Date.</p>
2.	The amount of the Final Recipient Transactions benefitting a Final Recipient active in the primary production of agricultural products shall not be fixed on the basis of the price or quantity of products put on the market.
3.	<p>In relation to Final Recipient Transactions entered into with Final Recipients active in the fishery and aquaculture sector:</p> <p>(a) the amount of the Final Recipient Transaction shall not be fixed on the basis of price or quantity of products purchased or put on the market;</p> <p>(b) Final Recipient Transaction shall not relate to export-related activities towards third countries or Member States, namely financing directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;</p> <p>(c) Final Recipient Transaction shall not be contingent upon the use of domestic over imported goods;</p> <p>(d) Final Recipient Transaction shall not related to purchase of fishing vessels;</p> <p>(e) Final Recipient Transaction shall not finance modernisation or replacement of main or ancillary engines of fishing vessels;</p> <p>(f) Final Recipient Transaction shall not finance operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;</p> <p>(g) Final Recipient Transaction shall not finance construction of new fishing vessels or importation of fishing vessels;</p>

<sup>5</sup> Through the acquisition in the business plan as provided by the Final Recipients when applying for a Final Recipient Transaction, as well as the pro-forma invoices or any equivalent justifying document.

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No.	Final Recipient Transaction Eligibility Criteria
	<p>(h) Final Recipient Transaction shall not finance temporary or permanent cessation of fishing activities unless specifically provided for in the Regulation (EU) No 508/2014;</p> <p>(i) Final Recipient Transaction shall not finance exploratory fishing;</p> <p>(j) Final Recipient Transaction shall not finance transfer of ownership of a business;</p> <p>(k) Final Recipient Transaction shall not finance direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking.</p>
4.	<p>Final Recipients Transactions entered into with Final Recipients active in the processing and marketing of agricultural products:</p> <p>(a) the Final Recipient Transaction shall not be conditional on being partly or entirely passed on to primary producers; and</p> <p>(b) the amount of Final Recipient Transaction shall not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.</p>
5.	<p>Final Recipient Transaction shall not relate to export-related activities towards third countries or Member States, namely financing directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity. For the avoidance of doubt, companies that export their goods or services can benefit from the EGF guarantee, provided that the financing does not cover costs specifically linked to the act of exporting.</p>
6.	<p>The Final Recipient Transaction shall have been entered into by no later than 31 December 2021.</p>
7.	<p>The Final Recipient Transaction shall be in the form of a senior loan, Finance Leasing, revolving credit lines (including overdrafts), Bank Guarantee, Letter of Credit, Factoring Transaction; Subordinated Debt Transaction; Quasi-Equity Transaction.</p>

### 3. Additional Eligibility Criteria only for EGF Regime by analogy to Section 3.2 TF

- (a) Final Recipient subject to the EGF Regime by analogy to Section 3.2 TF shall comply with the following Eligibility Criteria:

No.	Final Recipient Eligibility Criteria
1.	<p>The Final Recipient is an SME.</p>
2.	<p>If the Final Recipient is an Undertaking in Difficulty as at the Final Recipient Transaction Effective Date, it will be deemed to comply with this Eligibility Criterion provided that it was not an Undertaking in Difficulty as at 31 December 2019.</p> <p>As an exception to the above, if the Final Recipient is a Micro-enterprise or a Small-Enterprise that was an Undertaking in Difficulty on 31 December 2019, it shall be eligible, provided that on the Final Recipient Transaction Effective Date:</p> <p>(a) it is not subject to collective insolvency procedure under the relevant national laws; and</p>

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No.	Final Recipient Eligibility Criteria
	<p>(b) it has not received<sup>6</sup>:</p> <p style="padding-left: 40px;">(i) rescue aid which has not been reimbursed (if the aid is in the form of a loan) or terminated (if the aid is in the form of a guarantee); or</p> <p style="padding-left: 40px;">(ii) restructuring aid , to which it is subject to<sup>7</sup></p> <p style="text-align: center;">as at the Final Recipient Transaction Effective Date.</p>
3.	The Final Recipient has not benefitted of State Aid which has been declared illegal or noncompliant by the Commission which has not yet been returned.

- (b) Final Recipient Transactions subject to the EGF Regime by analogy to Section 3.2 TF shall comply with the following Eligibility Criteria:

No.	Final Recipient Transaction Eligibility Criteria
1.	<p>The principal amount committed by the Intermediary under the Final Recipient Transaction, together with any other 3.2 Relevant Aid Amounts shall not exceed the 3.2 Maximum Aid Threshold.</p> <p>For the purposes of this Eligibility Criterion;</p> <p><b>"3.2 Relevant Aid Amounts</b></p> <p>means any other amounts provided to the Final Recipient that:</p> <p style="padding-left: 20px;">(a) has also been guaranteed under the EGF Regime by analogy to Section 3.2 TF, or under any national guarantee scheme operated under Section 3.2 of the Temporary Framework,</p> <p style="padding-left: 20px;">(b) benefits from an interest rate subsidy under Section 3.3 of the Temporary Framework, and</p> <p>whether through the Intermediary or otherwise.</p> <p><b>"3.2 Maximum Aid Threshold"</b> means any of the below thresholds, at the discretion of the Financial Intermediary:</p> <p style="padding-left: 20px;">(a) Double the annual wage bill of the Final Recipient (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the 3.2 Maximum Aid Threshold must not exceed the estimated annual wage bill for the first two years in operation; or</p> <p style="padding-left: 20px;">(b) 25% of the Final Recipient's total turnover in 2019 or for the last year available; or</p> <p style="padding-left: 20px;">(c) Based on a self-declaration by the Final Recipient (but in any case in line with the Intermediary's applicable credit policies and procedures), up to the Final Recipient's foreseen financing needs for a period of 18 months for SMEs.</p>

<sup>6</sup> As defined under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p.1.

<sup>7</sup> E.g. on the Final Recipient Transaction Effective Date, the Final Recipient will no longer be subject to a restructuring plan.

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	<p>With respect to Final Recipient Transactions denominated in a currency other than EUR, for the purposes of checking compliance with the 3.2 Maximum Aid Threshold (where such thresholds are set out in EUR) above, the Relevant FX Rate used by the Financial Intermediary shall be the exchange rate applicable on the Final Recipient Transaction Effective Date.</p>
2.	<p>The amount of the Final Recipient Transactions benefitting a Final Recipient active in the primary production of agricultural products shall not be fixed on the basis of the price or quantity of products put on the market.</p>
3.	<p>In relation to Final Recipient Transactions entered into with Final Recipients active in the fishery and aquaculture sector,:</p> <ul style="list-style-type: none"> <li>(a) the amount of the Final Recipient Transaction shall not be fixed on the basis of price or quantity of products purchased or put on the market;</li> <li>(b) Final Recipient Transaction shall not relate to export-related activities towards third countries or Member States, namely financing directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;</li> <li>(c) Final Recipient Transaction shall not be contingent upon the use of domestic over imported goods;</li> <li>(d) Final Recipient Transaction shall not related to purchase of fishing vessels;</li> <li>(e) Final Recipient Transaction shall not finance modernisation or replacement of main or ancillary engines of fishing vessels;</li> <li>(f) Final Recipient Transaction shall not finance operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;</li> <li>(g) Final Recipient Transaction shall not finance construction of new fishing vessels or importation of fishing vessels;</li> <li>(h) Final Recipient Transaction shall not finance temporary or permanent cessation of fishing activities unless specifically provided for in the Regulation (EU) No 508/2014;</li> <li>(i) Final Recipient Transaction shall not finance exploratory fishing;</li> <li>(j) Final Recipient Transaction shall not finance transfer of ownership of a business;</li> <li>(k) Final Recipient Transaction shall not finance direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking.</li> </ul>
4.	<p>Final Recipients Transactions entered into with Final Recipients active in the processing and marketing of agricultural products:</p> <ul style="list-style-type: none"> <li>(a) the Final Recipient Transaction shall not be conditional on being partly or entirely passed on to primary producers; and</li> <li>(b) the amount of Final Recipient Transaction shall not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.</li> </ul>
5.	<p>Final Recipient Transaction shall not relate to export-related activities towards third countries or Member States, namely financing directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity. For the avoidance of doubt, companies that export their goods or services can benefit from the EGF guarantee, provided that the financing does not cover costs specifically linked to the act of exporting.</p>

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6.	The Final Recipient Transaction shall have been entered into by no later than 31 December 2021.
7.	The Final Recipient Transaction may be in the form of a senior loan, Finance Leasing, revolving credit lines (including overdrafts), Bank Guarantee, Letter of Credit, Reverse Factoring Transaction and Recourse Factoring Transaction.