

Annex IV to the Open Call for Expression of Interest to select Financial Intermediaries  
under the Silesia EIF Fund of Funds



## ANNEX IV: Indicative Terms and Conditions of the First Loss Portfolio Guarantee (FLPG)

### Important Disclaimer

*This summary term sheet is for information purposes only. This document is an outline of the principal terms and conditions for the product described herein, which are subject to change and non-exhaustive.*

*This document is intended to provide a basis for discussions and does not constitute a recommendation, a solicitation, an offer or a binding commitment – either implicit or explicit – on the part of the European Investment Fund (EIF) and/or any other person to enter into one or more transaction(s). Any finance commitment by the EIF can only be made, inter alia, after appropriate approval, conclusion of legal due diligence and finalisation of the required legal documentation. The EIF does not act as adviser to you or owe you any fiduciary duty. The EIF does not make any representations or warranties (whether explicitly or implicitly) with respect to the information contained in this document.*

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*Capitalised terms used in this Term Sheet and not otherwise defined herein shall have the meaning given to them in the Call for Expression of Interest.*

### Rationale

The purpose of the FLPG (the “**Guarantee**”) is to support debt financing to Eligible SMEs by providing credit risk protection in order to reduce the particular difficulties that SMEs face in accessing finance because of the lack of sufficient collateral in combination with the relatively high risk they represent.

The objective of the Guarantee is to enhance SME access to finance by primarily:

- i) reducing interest rate, including risk related margin; and
- ii) reducing collateral levels.

### Overview

The Guarantee shall be issued by EIF (the “**Guarantor**”) acting through the Silesia EIF Fund of Funds (“**Silesia EIF FoF**”) for the benefit of a Financial Intermediary (the “**Financial Intermediary**”). It shall partly cover the credit risk associated with underlying, newly extended debt financing (including loans and finance leases) to SMEs (“**SME Transactions**”) included in the guaranteed portfolio (the “**Portfolio**”).

In order to ensure an alignment of interest between the Financial Intermediary and the Silesia EIF FoF, Eligible SME Transactions shall be covered by EIF at a guarantee rate of 80%, subject to a maximum liability in respect of losses expressed as a guarantee cap amount (the “**Guarantee Cap Amount**”) calculated on a portfolio basis as a percentage of the portfolio (the “**Guarantee Cap Rate**”).

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The Guarantee shall constitute a direct financial guarantee and shall cover losses relating to unpaid principal and interest (the “**Defaulted Amounts**”) incurred by the Financial Intermediary in respect of each defaulted Eligible SME Transaction up to the Guarantee Cap Amount.

The origination, due diligence, documentation and servicing of the SME Transactions shall be performed by the Financial Intermediary in accordance with its standard origination and servicing procedures.

In this context, the Financial Intermediary shall retain the direct client credit relationship with each SME.

Eligible SME Transactions will be automatically covered, by way of submitting inclusion notices on a quarterly basis until the end of the relevant Inclusion Period.

**Indicative Terms and Conditions of the Guarantee**

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| <p><b>Target Region</b></p> | <p>Silesia Voivodship (Poland)</p>   |
| <p><b>Structure</b></p>     | <div style="text-align: center;"> </div> <p>The Guarantee is a first loss portfolio capped direct financial guarantee providing credit risk coverage on a loan by loan (or lease by lease) basis for the creation of a portfolio of Eligible SME Transactions.</p> <p>The Guarantee shall cover Defaulted Amounts incurred by the Financial Intermediary in respect of each defaulted Eligible SME Transaction in accordance with the Guarantee Rate and subject to the Guarantee Cap Amount.</p> <p>Defaulted Amounts covered by the Guarantee in respect of the Portfolio of Eligible SME Transactions shall in aggregate not exceed the Guarantee Cap Amount agreed in the guarantee agreement between EIF and the Financial Intermediary (the “<b>Guarantee Agreement</b>”).</p> <p>The Financial Intermediary shall maintain an economic exposure of at least 20% of the outstanding principal amount of each SME Transaction included in the Portfolio, and it shall not enter into any credit support, guarantee or other</p> |

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|                                    | transfer of risk arrangements with respect to such portion (provided that any collateral, security or guarantee payable to the Financial Intermediary that qualify as recoveries under the relevant Guarantee Agreement shall not be taken into account for this purpose).   |
| <b>Governing Law and Language</b>  | The terms of the Guarantee Agreement shall be in the English language and the Guarantee Agreement shall be governed by the laws of England or Luxembourg.  |
| <b>Guarantee Currency</b>          | The Guarantee shall be denominated in PLN. Unless otherwise notified in writing by EIF, all amounts referred to and payments made under the Guarantee Agreement by or to the EIF shall be in PLN.  |
| <b>Inclusion Period</b>            | <p>The period during which Eligible SME Transactions may be included (and disbursed) by the Financial Intermediary in the Portfolio, provided that the Inclusion Period shall terminate no later than the Disbursement Longstop Date.</p> <p>Such period shall typically last between 30 to 42 months, or such other period as decided by EIF (unless terminated earlier because of an Event of Default, a Default Rate Trigger Event or a Portfolio Trigger Event).</p> <p>Inclusions occur automatically upon receipt by EIF of an inclusion notice submitted by the Financial Intermediary on a quarterly basis, and the SME Transactions are deemed to be covered from their respective effective date.</p>  |
| <b>Default Ratio Trigger Event</b> | A Default Ratio Trigger Event occurs, if, on one or more specified dates during the Inclusion Period, the aggregate outstanding principal amount of defaulted SME Transactions included in the Portfolio exceeds a predetermined level(s).   |
| <b>Portfolio Trigger Event</b>     | A Portfolio Trigger Event occurs, if, on one or more specified dates during the Inclusion Period, the aggregate committed principal amount of SME Transactions included in the Portfolio for the Financial Intermediary does not reach a predetermined level(s).   |
| <b>Agreed Portfolio Volume</b>     | <p>The aggregate amount of principal of the SME Transactions (the relevant amount for a Revolving SME Transaction being the Credit Limit Amount) expected to be included in the Portfolio, as agreed for each relevant Guarantee<sup>1</sup>.</p> <p>For the avoidance of doubt, a volume of the Portfolio below the Agreed Portfolio Volume shall not affect the legal validity of the Guarantee.</p> <p>At any time during the Inclusion Period, the Agreed Portfolio Volume may be reduced by EIF if the Financial Intermediary materially lags behind its Portfolio ramp up time schedule as reflected in the Guarantee Agreement.</p> <p>At any time during the Inclusion Period, provided there are sufficient budgetary resources available, EIF may agree with the Financial Intermediary to increase the amount of Agreed Portfolio Volume if the ramp-up of the Portfolio has been</p> |

<sup>1</sup> In case of finance leases, the references to the 'principal amount' shall deem to refer to the 'capital amount', which means at any time the amount financed by the Financial Intermediary to the SME under an SME Transaction, i.e. the net purchase price of the leased asset reduced by the amount of a down payment thereunder.

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|                                | substantially achieved or, considering the facts and circumstances, is certain to be achieved well before the end of the Inclusion Period.  |
| <b>Actual Portfolio Volume</b> | <p>The aggregate amount of the principal committed to be available under Eligible SME Transactions (the relevant amount for a Revolving SME Transaction being the Credit Limit Amount) included in the Portfolio from time to time, provided that, for the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>a) if any Eligible SME Transaction is prepaid and/or repaid, then this shall not reduce the Actual Portfolio Volume;</li> <li>b) if an SME Transaction is excluded from the Portfolio as a result of the exclusion process described below, then such SME Transaction shall not be taken into account for the calculation of the Actual Portfolio Volume; and</li> <li>c) the Actual Portfolio Volume may in no circumstances exceed the Agreed Portfolio Volume.</li> </ul> <p>Any amendments of the terms of Revolving SME Transactions as a result of a Rollover or Conversion (as described below) shall not affect the calculation of the Actual Portfolio Volume.</p> |
| <b>Guarantee Rate</b>          | The Guarantee Rate shall be 80% on each Eligible SME Transaction.   |
| <b>Guarantee Cap Rate</b>      | The Guarantee Cap Rate shall not exceed 25%.  |
| <b>Guarantee Cap Amount</b>    | Expressed in PLN, the pre-set amount at which EIF's obligation to pay a portion of the Loss arising under a Portfolio is capped, which is, at any time, the maximum liability guarantee amount under the Guarantee. The Guarantee Cap Amount is calculated on a Portfolio basis as the product of i) the Actual Portfolio Volume (adjusted to reflect disbursed amounts), ii) the Guarantee Rate, and iii) the Guarantee Cap Rate.  |
| <b>Guarantee Fee</b>           | The Guarantee shall be provided free of charge to the Financial Intermediaries.   |
| <b>Management Fee</b>          | <p>A Management Fee may be paid to Financial Intermediaries in the form of a performance-based remuneration on SME Transaction amounts co-financed by the EIF in respect of: a) amounts disbursed to SMEs and b) principal repayments and Recoveries under the SME Transactions.</p> <p>The Management Fee may not exceed the thresholds specified in Article 13 of the Commission Delegated Regulation (EU) No 480/2014.</p>   |
| <b>Defaulted Amounts</b>       | The Guarantee covers Defaulted Amounts incurred by the Financial Intermediary at the Guarantee Rate, subject to the Guarantee Cap Amount, that have been incurred by the Financial Intermediary, where Defaulted  |

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|                                      | <p>Amounts mean:</p> <p>a) Principal<sup>2</sup> and/or interest amounts<sup>3</sup> (excluding (i) late payment or default interest, capitalised interest, fees and other costs and expenses, and (ii) in the case of Revolving SME Transactions, principal amounts exceeding the relevant Credit Limit Amount and any interest amounts which accrued thereon and (iii) any interest amounts which accrued after a period of 90 days from the last payment due) due, payable and outstanding at such time (or, in the case of an SME Transaction subject to a SME Transaction Default, which would be due if that SME Transaction were accelerated at such time on the assumption that an event of default had occurred at such time) under the terms of a SME Transaction following the occurrence of either an SME Transaction Default or an SME Transaction Acceleration;</p> <p>b) Any reduction in principal or interest amounts (excluding late payment or default interest, capitalised interest, fees and other costs and expenses and excluding any interest amounts which accrued after a period of 90 days from the last payment due) payable as a result of an SME Transaction Restructuring.</p> |
| <b>SME Transaction Default</b>       | Means, in respect of an SME Transaction and unless otherwise specified in the specific terms of the Guarantee Agreement that (i) the Financial Intermediary considers at any time (acting reasonably in accordance with its internal procedures) that an SME is unlikely to meet its payment obligations under such SME Transaction (without recourse by the Financial Intermediary to action such as realisation of security); or (ii) an SME has failed to meet any payment obligation under the relevant SME Transaction which has continued for at least 90 consecutive calendar days.   |
| <b>SME Transaction Acceleration</b>  | Means, in respect of an SME Transaction, and unless otherwise specified in the specific terms of the Guarantee Agreement, the occurrence of an event of default (howsoever defined) under such SME Transaction which has entitled the Financial Intermediary to accelerate payment of any amounts owed to it and the Financial Intermediary has exercised such right of acceleration (or is prevented from exercising such rights of acceleration solely by application of mandatory laws and regulations preventing or staying the exercise of such right).   |
| <b>SME Transaction Restructuring</b> | Means, in respect of an SME Transaction and unless otherwise specified in the specific terms of the Guarantee Agreement, that the Financial Intermediary, acting in a commercially reasonable manner and in accordance with its standard internal procedures, agrees to the restructuring of such SME Transaction such that the amount of principal scheduled to be paid, or any   |

<sup>2</sup> In case of finance leases, the references to the 'principal amount' shall mean the amount financed by the Financial Intermediary under a finance lease, which is the purchase price of an asset leased by the Financial Intermediary, reduced by any down-payment amount paid by the SME.

<sup>3</sup> In case of finance leases, the references to the 'interest amount' shall be deemed to be references to "lease interest amount", which shall mean the interest amount charged by the Financial Intermediary to the SME at the rate set out in the relevant SME Transaction documentation.

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|  | interest amount due, by the relevant SME is reduced, in order to improve the collectability of the claims arising from the relevant SME Transaction.  |
| <b>Payment Demand</b>                        | Means a request for payment under the Guarantee issued by the Financial Intermediary to the Guarantor pursuant to the terms of the Guarantee Agreement.   |
| <b>Guarantee Payment Date</b>                | Following the occurrence of a Defaulted Amount on one or more Eligible SME Transactions and subject to receiving valid payment demands, EIF shall make guarantee payments under the Guarantee within 60 calendar days of the relevant Payment Demand Date.  |
| <b>Events of Default under the Guarantee</b> | Standard events of default (including non-payment, breach of agreement, repudiation, unlawfulness and insolvency). The occurrence of an event of default, if it has not been remedied within the relevant grace period (if any) may result in the termination of the Guarantee Agreement (such event, an "Early Termination"). Upon Early Termination all amounts due by EIF or Financial Intermediary would be calculated in accordance with the terms of the Guarantee Agreement as if the Report Date were the Early Termination date. |
| <b>Latest SME Transaction Maturity Date</b>  | Means the latest day on which an SME Transaction included in the Portfolio is scheduled to be repaid by the relevant SME in accordance with the scheduled repayment provisions of the documentation governing such SME Transaction (including as a result of any amendment to the terms of such SME Transaction).   |
| <b>Guarantee Termination Date</b>            | The Guarantee shall terminate on the earlier of: (i) six months following the Latest SME Transaction Maturity Date; (ii) the date on which an Early Termination (if any) has occurred, (iii) the date (if any) on which EIF is no longer liable to effect further payments to the Financial Intermediary and has no further claims under the Guarantee and (iv) 31 December 2031.   |

**SMEs and Eligibility Criteria**

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| <b>SME</b>                       | Any micro, small or medium-sized enterprise that qualifies as an SME under the Commission Recommendation 2003/361/EC (OJ L124, 20.05.2003, p. 36) "concerning the definition of micro, small and medium-sized enterprises" notified under document number C(2003)1422) as amended, restated, supplemented or substituted from time to time.  |
| <b>SME Transaction</b>           | Loans and/or finance leases, in each case entered into by the Financial Intermediary and SMEs during the Inclusion Period  |
| <b>Revolving SME Transaction</b> | An SME Transaction in the form of a loan (which shall include an overdraft line of credit and exclude any credit or loan resulting from utilisation of credit card limits or in the form of purchase of receivables, whether on a recourse or non-recourse basis) to an SME that can use, on a revolving basis, the financing available for a specified period through one or more drawdowns and repayments up to the Credit Limit Amount, including by settling obligations |

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|   | arising from a letter of credit.  |
| <b>Credit Limit Amount</b>                  | The maximum principal amount that a Financial Intermediary commits under a Revolving SME Transaction.   |
| <b>Eligible SME Transaction</b>             | An SME Transaction which complies with all relevant Eligibility Criteria.   |
| <b>Eligibility Criteria</b>                 | <p>SMEs, SME Transactions and the Portfolio, as relevant, will have to comply with a set of Eligibility Criteria set out below.</p> <p>A breach of any of the Eligibility Criteria shall result in an exclusion of the relevant SME Transaction from the Portfolio, save as specified in the "Exclusion Process".</p>   |
| <b>SME Eligibility Criteria</b>             | <p>The SME shall comply with each of the following eligibility criteria:</p> <ul style="list-style-type: none"> <li>i) Qualifies as an SME under the Commission Recommendation 2003/361/EC (OJ L124, 20.05.2003, p. 36) "concerning the definition of micro, small and medium-sized enterprises" notified under document number C(2003)1422) as amended, restated, supplemented or substituted from time to time.;</li> <li>ii) is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors, as set out in art. 4.3 (a) of the De Minimis Regulation;</li> <li>iii) (i) is potentially economically viable (as assessed by the Financial Intermediary in accordance with its internal procedures); and<br/>(ii) not be an "undertaking in difficulty" within the meaning of art. 2.1 of the EU Directive On State Aid For Rescuing And Restructuring Firms In Difficulty (2004/C 244/02, JO C 244,1.10.2004, p2) as amended;</li> <li>iv) is not delinquent or in default in respect of any other loan or lease either granted by the Financial Intermediary or by another financial institution pursuant to checks made in accordance with the Intermediary's internal guidelines and standard credit policy;</li> <li>v) not have a substantial focus on one or more Restricted Sectors (which determination shall be made by the Financial Intermediary in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant SME);</li> <li>vi) be established and/or operating in Silesia Voivodship (Poland);</li> <li>vii) not be to its knowledge in an Exclusion Situation.</li> </ul> <p>The SME Eligibility Criteria shall only be met on the signing date of the relevant SME Transaction.</p> |
| <b>SME Transaction Eligibility Criteria</b> | <p>SME Transactions shall comply with each of the following eligibility criteria:</p> <ul style="list-style-type: none"> <li>1) Newly originated SME Transaction(s), entered into by the Financial</li> </ul>   |

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|  | <p>Intermediary during the Inclusion Period;</p> <p>2) the purpose of the SME Transaction shall be: (1) investment in tangible or intangible assets, and/or (2) working capital;</p> <p>3) The SME Transaction shall not refinance or restructure existing loans and/or leases;</p> <p>4) The investments to be supported by the SME Transaction shall be expected to be financially viable (as assessed by the Financial Intermediary in accordance with its internal procedures) and shall not have been physically completed or fully implemented the date of the SME Transaction approval;</p> <p>5) The amount of the SME Transaction that is dedicated to the purchase of land cannot exceed 10% of the initial principal amount of the SME Transaction;</p> <p>6) The SME Transaction shall not finance pure financial activities or real estate development when undertaken as a financial investment activity and shall not finance the provision of consumer finance;</p> <p>7) SME Transaction Principal Amount shall not be greater than the lower of i) the PLN equivalent of EUR 1.5m for transactions of an agreed portfolio volume of up to and inclusive the PLN equivalent of EUR 30m or 5% of the APV for transactions of an agreed portfolio volume above the PLN equivalent of EUR 30m (unless otherwise decided by EIF) and ii) amount that would not cause the GGE to exceed de minimis limits, in accordance with State Aid rules;</p> <p>8) The SME Transaction shall have a fixed repayment schedule or be a Revolving SME Transaction;</p> <p>9) The SME Transaction shall not be in the form of a mezzanine loan, a subordinated debt or a quasi-equity transaction;</p> <p>10) If the SME Transaction is a lease, it shall be in the form of financial lease;</p> <p>11) Maturity: minimum maturity of 12 months and maximum maturity of 120 months (rounded to the nearest full calendar quarter) including any relevant grace period;</p> <p>12) The SME Transaction currency shall be Polish Zloty (PLN);</p> <p>13) Transfer of the benefit of the Guarantee: the SME transaction must comply with the terms of the Guarantee Agreement relating to the transfer of benefit (e.g. reduction of interest rate and / or collateral requirements);</p> <p>14) The SME Transaction shall not finance activities mentioned in Article 1 (Scope) and in Article 3(2), second paragraph of the De Minimis Regulation;</p> <p>15) SME Transaction shall not be affected by an irregularity or fraud</p> <p>16) With respect to an expenditure item financed by the SME Transaction, in addition to the assistance received through the SME Transaction, SMEs may receive assistance from another ESI Funds or rural development programme or from another instrument supported by the</p> |
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|  | <p>budget of the EU provided that:</p> <ul style="list-style-type: none"> <li>(i) such combination of assistance is in line with applicable EU state aid rules;</li> <li>(ii) separate records are maintained for each source of assistance;</li> <li>(iii) the eligible expenditure financed by the SME Transaction is distinct from expenditure financed by other sources of assistance; and</li> <li>(iv) if the other sources of assistance cover the same eligible expenditure, the sum of all sources of support combined does not exceed the total amount of the expenditure item concerned.</li> </ul> <p>17) SME Transactions shall not be used to pre-finance grants.</p> <p>The SME Transaction Eligibility Criteria shall be met at all times, except those under 1) and 4) above, which must only be satisfied at the date of the document evidencing the relevant SME Transaction.</p>   |
| <p><b>Portfolio Eligibility Criteria</b></p> | <p>Portfolios shall ensure some diversification as per the specific terms of the Guarantee Agreement (e.g. obligor, industry, etc.) to be assessed on a case-by-case basis. Portfolio Eligibility Criteria may, inter alia, include:</p> <ul style="list-style-type: none"> <li>a) minimum internal rating of the SME (in accordance with the Financial Intermediary's rating systems);</li> <li>b) maximum aggregate amount of SME Transactions: (1) internally rated below a defined rating level in accordance with the Financial Intermediary rating systems, (2) operating in given NACE Sectors (expressed by NACE Code – Rev.2 Division Level), (3) entered into with a single SME or</li> <li>c) maximum aggregate amount of SME Transactions: (1) with balloon/bullet repayment schedule, (2) classified as Start-ups etc.</li> </ul>   |
| <p><b>Exclusion Situations</b></p>           | <p>Means the Financial Intermediary or the SME, as the case may be, is in any of the following situations:</p> <ul style="list-style-type: none"> <li>(a) it is as of the relevant date bankrupt or being wound up, is as of the relevant date having its affairs administered by the courts, in this context, has during the last five (5) years from the relevant date entered into an arrangement with creditors, has as of the relevant date suspended business activities, is as of the relevant date the subject of proceedings concerning those matters or is as of the relevant date in any analogous situation arising from a similar procedure provided for in national legislation or regulations;</li> <li>(b) during the last five (5) years from the relevant date, it or persons having powers of representation, decision-making or control over it has been convicted of an offence concerning its professional conduct by a judgment which has the force of res judicata, which would affect their ability to implement the Guarantee Agreement (in case of the Financial Intermediary) and the SME Transaction (in case of the SME). Alternatively, where such judgments exist they can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over it, who are subject to this judgment;</li> <li>(c) during the last five (5) years from the relevant date, it or persons having</li> </ul> |

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|                          | <p>powers of representation, decision-making or control over it has been the subject of a judgment which has force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests. Alternatively, where such judgments exist they can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over it, who are subject to this judgment;</p> <p>(d) as of the relevant date, it is guilty of misrepresentation in supplying information required for selection as a Financial Intermediary or as an SME (as the case may be) or fails to supply this information; and</p> <p>(e) at the relevant signing date, it is, to its knowledge, listed in the central exclusion database, established under Commission Regulation (EC, Euratom) No 1302/2008 of 17 December 2008 on the central exclusion database.</p>   |
| <b>Fraud</b>             | <p>Includes, without limitation, as set out in Article 1 in the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p.49), fraud affecting the European Union's financial interests.</p>  |
| <b>Irregularity</b>      | <p>Shall have the meaning as set out in Article 1.2 in Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p.1).</p>  |
| <b>Exclusion Process</b> | <p>If an SME Transaction which has been included in the Portfolio does not comply with relevant Eligibility Criteria, it shall be excluded from the Portfolio (and shall not be covered by the Guarantee).</p> <p>However, if an SME Transaction is or becomes non-eligible 1) as a result of any event or circumstance beyond the control of the Financial Intermediary and 2) after a Payment Demand relating to such SME Transaction was served by the Financial Intermediary to the Guarantor, such SME Transaction shall remain covered by the Guarantee.</p> <p>Similarly, if an SME Transaction is or becomes non-eligible 1) as a result of any event or circumstance beyond the control of the Financial Intermediary but 2) before a Payment Demand relating to such SME Transaction was served by the Financial Intermediary to the Guarantor, then such SME Transaction shall remain covered by the Guarantee if the Financial Intermediary accelerated payment of all amounts owed to it under such SME Transaction no later than on the Report Date immediately following the date on which it became aware of the same. However, if the Financial Intermediary does not accelerate such SME Transaction within the timeframe specified above then the relevant SME Transaction shall be excluded from the Portfolio and shall be deemed never to have been covered by the Guarantee.</p> <p>The Actual Portfolio Volume shall be adjusted following an exclusion from the Portfolio by deducting the aggregate committed principal amount of the SME Transactions excluded.</p> |

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|  | <p>If the Actual Portfolio Volume is adjusted pursuant to this section, the Financial Intermediary may include one or more further Eligible SME Transactions in the Portfolio to extent that the Actual Portfolio Volume does not exceed the Maximum Portfolio Volume and provided that such inclusions are made until the Disbursement Longstop Date.</p>   |
| <b>Restricted Sectors</b>                        | <p>Available on EIF's website:<br/><a href="http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm">http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm</a></p>   |
| <b>Right of Clawback by EIF</b>                  | <p>EIF will be entitled to be repaid by the Financial Intermediary certain amounts in specified circumstances, including any amounts paid under the Guarantee by EIF in excess of the Guarantee Cap Amount, and any excess amount paid by EIF as a result of an exclusion of an SME Transaction from the Portfolio.</p>  |
| <b>Adjustment of the Actual Portfolio Volume</b> | <p>In respect of each Eligible SME Transaction included in the Portfolio, if on the date which is (such date, the "<b>Adjustment Date</b>"):         <ol style="list-style-type: none"> <li>1. the end of a disbursement period (when amounts cease to be available for utilisation by an SME),</li> <li>2. the date on which the commitment made available for utilisation under an Eligible SME Transaction is cancelled,</li> </ol> <p>but in any case no later than the Disbursement Longstop Date, the committed amount of principal has not been fully drawn by an SME (in the case of the Revolving SME Transaction meaning that the aggregate of drawdown amounts is less than the Credit Limit Amount), then the Actual Portfolio Volume shall be adjusted to reflect the actual amount of principal drawn by the relevant SME. The Financial Intermediary shall reflect any such adjustment in the Report immediately following such Adjustment Date.</p> <p>If the Actual Portfolio Volume is adjusted pursuant to this section or the section "Exclusion Process" as described above (the amount of reduction of the Actual Portfolio Volume, the "<b>Adjusted Portion</b>"), the Financial Intermediary may include one or more further Eligible SME Transactions in the Portfolio up to the aggregate of Adjusted Portions and to the extent that the Actual Portfolio Volume does not exceed the Agreed Portfolio Volume and if such inclusions are made, at the latest, in the Report due 31 January 2024.</p> <p>The replacements shall be made pursuant to the terms described in the Inclusion Period section above.</p> </p> |
| <b>Disbursement Longstop Date</b>                | <p>Means 31 December 2023</p>  |

**SME Transaction conditions**

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| <b>Credit Policy</b>    | <p>Intermediary Transactions shall be originated and monitored and amendments and waivers shall be made, in compliance with the internal guidelines and procedures of the Financial Intermediary.</p> |
| <b>SME Transactions</b> | <p>SME Transactions shall be extended to the Eligible SMEs on the basis of the</p>  |

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| <b>Pricing and Collateral Requirements</b> | <p>pricing and collateral policy submitted by the selected Financial Intermediary under the Expression of Interest.</p> <p>Note for collateral policy: The collateral policy submitted by the Financial Intermediaries under the Expression of Interest shall take into consideration the risk coverage provided by the Guarantee.</p> <p>Note for pricing policy: When submitting their proposed pricing policy, the Financial Intermediaries should take into consideration that the Guarantee will cover the Guarantee Rate of the risk exposure of each SME Transaction (up to the Cap Rate).</p>  |
| <b>Servicing and Recoveries</b>            | <p>The Financial Intermediary shall perform the servicing of the Portfolio, including monitoring and recovery actions, in accordance with its internal guidelines and procedures.</p> <p>The Financial Intermediary shall take recovery actions (including the enforcement of any security) in relation to each defaulted SME Transaction in accordance with its internal guidelines and procedures.</p> <p>Recoveries<sup>4</sup> mean each and every amount, net of recovery and foreclosure costs (if any), recovered or received by the Financial Intermediary in respect of a Defaulted Amount. EIF will rank pari passu with the Financial Intermediary with respect to Recoveries, which shall be shared between EIF and the Financial Intermediary pro rata to the Guarantee Rate.</p> |

**Miscellaneous**

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| <b>Reporting</b> | <p>Financial Intermediaries shall provide EIF within 30 calendar days after the end of each calendar quarter (the '<b>Report Date</b>') with quarterly information in a standardised form (see Annex V), including among others, information on the SMEs covered by the Guarantee, new Eligible SME Transactions provided and Eligible SME Transaction amounts outstanding (the '<b>Report</b>').</p>   |
| <b>State Aid</b> | <p>The Financial Intermediary shall ensure, in respect of the SME Transactions included in the Portfolio, compliance with applicable State aid rules, i.e. the De Minimis Regulation, according to the de minimis aid scheme as implemented by the local legislation in force. For such purpose and before entering into an SME Transaction, the Financial Intermediary shall calculate the relevant Gross Grant Equivalent (GGE) and ensure that the total GGE received by the SME over the relevant timeframe is not higher than the threshold set out in the De Minimis Regulation and report the GGE of individual SME Transactions to EIF.</p> <p>Furthermore, the Financial Intermediary shall ensure compliance with the Regulation regarding the electronic State Aid registry (UOKiK, <a href="http://www.uokik.gov.pl">www.uokik.gov.pl</a>). In this context, it is envisaged that the Financial Intermediary will input the state</p> |

<sup>4</sup> In relation to SME Transactions which are finance leases, "Recoveries" means each and every amount (including, in case assets leased to an SME are repossessed by the Financial Intermediary (i) any amount received by the Financial Intermediary as a result of the sale of such assets, and/or (ii) in case such assets are re-leased, the purchase price of such assets agreed with the new lessee), net of recovery and foreclosure costs (if any), recovered or received by the Financial Intermediary in respect of Losses, where EIF has paid amounts under the Guarantee in respect of such Losses.

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|   | <p>aid received by each SME through the instrument in the UOKiK.</p> <p>The details on the calculation of the GGE shall be set out in the Guarantee Agreement.</p>   |
| <b>De Minimis Regulation</b>                    | Means either Commission Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.  |
| <b>Monitoring and Audit</b>                     | Financial Intermediaries and the relevant SMEs covered by the Guarantee shall agree to allow and to provide access to documents and premises related to the relevant Guarantee for the European Commission (including the European Anti-Fraud Office (OLAF)), the European Court of Auditors, EIF, any other European Union institution or European Union body which is entitled to verify the use of the Guarantee in the context of Silesia EIF FoF and any other authorised bodies duly authorised under applicable law to carry out audit or control activities. To that effect, the Financial Intermediaries shall ensure the inclusion of appropriate provisions in each agreement with the SMEs.  |
| <b>Compliance with Laws</b>                     | <p>The Financial Intermediary shall comply in all respects with all laws and regulations (whether national laws and regulations or laws and regulations of the European Union) to which it may be subject and the breach of which may (i) adversely impact the performance of the Guarantee Agreement or (ii) adversely prejudice the interests of EIF or the Commission under the Guarantee Agreement.</p> <p>The Financial Intermediary shall include in the documentation applicable to each Eligible SME Transaction included in the Portfolio, representations, warranties and undertakings for the purpose of ensuring that each such Eligible SME Transaction shall comply at any relevant time with the Eligibility Criteria in accordance with the Guarantee Agreement.</p>   |
| <b>Publicity</b>                                | <p>Financial Intermediaries shall be required to ensure that the following statement (in the relevant language) is transposed in the relevant agreements with SMEs: <i>“the finance provided by the [name of Financial Intermediary] has been made possible through the support from the European Regional Development Fund within the framework of the Regional Operational Programme of the Silesia Voivodship for 2014-2020”</i>.</p> <p>Financial Intermediaries shall also be required to include in any press release and in any publication that the Financial Intermediary may choose to make with regard to the Guarantee the statement referred to above, including the Union Emblem. Instead of issuing a press release, the Financial Intermediary may choose alternative ways of communication in which case the same visibility requirements shall apply, whenever possible.</p> |
| <b>Additional Structural Funds Requirements</b> | The Guarantee is funded by EU structural and investment funds (ESIF) and it is therefore subject to ESIF regulation and requirements, some of which have already been presented in this document. It should be noted, however, that more detailed information on actions necessary to ensure compliance of operations linked to the Guarantee with all ESIF requirements (e.g. retention of documents, environmental protection, equality and non-discrimination) will be  |

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|  | <p>provided to, and discussed with, the selected Financial Intermediary(ies) during the contractual negotiations process.</p> <p>The Guarantee is further subject to additional national ESIF requirements. National ESIF requirements may apply, inter alia, to any amendment of the Guarantee Agreement which may in particular be necessary if the purpose, objective, eligibility conditions, timeframe of, or the budget for, the Guarantee changes. Save as otherwise provided under relevant law, such changes in the Guarantee would only apply as of the date of implementation in the Guarantee Agreement of the additional requirements.</p> |
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