ПРЕДЛОГ ЗАКОНА

О ПОТВРЂИВАЊУ ФИНАНСИЈСКОГ УГОВОРА АУТОПУТ Е-80 ДЕОНИЦА НИШ−МЕРДАРЕ ФАЗА I, ИЗМЕЂУ РЕПУБЛИКЕ СРБИЈЕ И ЕВРОПСКЕ ИНВЕСТИЦИОНЕ БАНКЕ

Члан 1.

Потврђује се Финансијски уговор Аутопут Е-80 деоница Ниш−Мердаре фаза I, између Републике Србије и Европске инвестиционе банке, који је потписан у Београду, 12. септембра 2019. године, у оригиналу на енглеском језику.

Члан 2.

Текст Финансијског уговора Аутопут Е-80 деоница Ниш−Мердаре фаза I, између Републике Србије и Европске инвестиционе банке, у оригиналу на енглеском језику и у преводу на српски језик гласи:

|  |  |
| --- | --- |
|  |  |
|  | FI N° 87700 |
|  | Serapis N° 2017-0258 |

E-80 HIGHWAY NIS-MERDARE PHASE I

Finance Contract

between the

The Republic of Serbia

and the

European Investment Bank

Belgrade, 12 September 2019

THIS CONTRACT IS MADE BETWEEN:

|  |  |  |
| --- | --- | --- |
| The Republic of Serbia, represented by the Deputy Prime Minister and the Minister of Construction, Transport and Infrastructure, Ms. Zorana Mihajlović, on behalf of the Government as representative of the Republic of Serbia, |  | (the "Borrower") |
| of the first part, and |  |  |
|  |  |  |
| The European Investment Bank having its seat at 100 blvd Konrad Adenauer, Luxembourg, L-2950 Luxembourg, represented Mr. Miguel Morgado, Director, and Ms. Ayse Nil Ada, Legal Counsel, |  | (the "Bank") |
| of the second part. |  |  |

WHEREAS:

1. The Borrower has stated that, through the KoridoriSrbije Beograd d.o.o., under the auspice of the Ministry of Construction Transport and Infrastructure (MoCTI) (the "**Promoter**"), it is undertaking a project consisting of the construction of approximately 32 km of highway as a first part of the phased construction of the whole missing link between Nis and the administrative line at Merdare, as more particularly described in the technical description (the "Technical Description") set out in Schedule A (the "Project").
2. The total cost of the Project, excluding VAT, as estimated by the Bank, is EUR 255,000,000.00 (two hundred fifty five million euros) and the Borrower has stated that it intends to finance the Project as follows:

|  |  |
| --- | --- |
| Source | Amount (EUR m) |
| Credit from the Bank | 100.00 |
| Other funding sources (including other loans, State Budget and EU Grants) | 155.00 |
| TOTAL | 255.00 |

1. In order to fulfil the financing plan set out in Recital (b), the Borrower has requested from the Bank a credit of EUR 100,000,000.00 (one hundred million euros) to be made available from the Bank's own resources and pursuant to the Bank’s 2014-2020 external lending mandate in accordance with the Decision as defined below (the “Mandate”).
2. In accordance with: (i) Decision No. 466/2014/EU, published in the Official Journal of the European Union No L 135 of 8 May 2014, the European Parliament and the Council of the European Union decided to grant a guarantee to the Bank against losses under financing operations supporting investment projects outside the European Union (the “Decision”); and (ii) the agreement entered into between the European Union, represented by the European Commission, and the Bank implementing the Decision, in the event of non-payment, the European Union, by a guarantee, covers certain payments not received by the Bank and due to the Bank in relation to the Bank’s financing operations entered into with, inter alias, the Borrower (the “EU Guarantee”). As of the date of this Contract (as defined below), Republic of Serbia is an Eligible Country (as defined below).
3. On 11 May 2009, Republic of Serbia and the Bank signed a framework agreement governing the Bank’s activities in the territory of Republic of Serbia (the “Framework Agreement”). The Bank makes the Credit (as defined below) available on the basis that the Framework Agreement continues to be in full force and effect during the term of this Contract.
4. By a letter dated 17 November 2017, the Republic of Serbia requested the financing of the Project (as defined below), as such the present project falls within the scope of the Framework Agreement. The Bank makes the Credit available to the Borrower on the basis that such statements continue to be true and correct in all respects during the term of this Contract.
5. The Bank considering that the financing of the Project falls within the scope of its functions, and is consistent with the objectives of the Mandate, and having regard to the statements and facts cited in these Recitals, has decided to give effect to the Borrower’s request providing to it a credit in an amount of EUR 100,000,000.00 (one hundred million euros) under this Finance Contract (the "Contract"); provided that the amount of the Bank loan shall not, in any case, exceed 50% (fifty per cent) of the total cost of the Project set out in Recital (b) nor when aggregated with any EU grants available for the Project, 90%   
   (ninety per cent) of the total cost of the Project set out in Recital (b).
6. The Borrower has authorised the borrowing of the sum of EUR 100,000,000.00 (one hundred million euros) represented by this credit on the terms and conditions set out in this Contract.
7. The Statute of the Bank provides that the Bank shall ensure that its funds are used as rationally as possible in the interests of the European Union; and, accordingly, the terms and conditions of the Bank's loan operations must be consistent with relevant policies of the European Union.
8. The Bank considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances and has therefore established its transparency policy, the purpose of which is to enhance the accountability of the Bank’s group towards its stakeholders.
9. The processing of personal data shall be carried out by the Bank in accordance with applicable European Union legislation on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data.
10. The Bank will allocate its funds to eligible schemes which are economically, technically and financially justified as well as environmentally sound.

NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

Interpretation

In this Contract:

1. references to Articles, Recitals, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles of, and recitals, schedules and annexes to this Contract;
2. references to "law" or "laws" mean:
   1. any applicable law and any applicable treaty, constitution, statute, legislation, decree, normative act, rule, regulation, judgement, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in any jurisdiction which is binding or applicable case law; and
   2. EU Law;
3. references to "applicable law", "applicable laws" or "applicable jurisdiction" means:
   1. a law or jurisdiction applicable to the Borrower, its rights and/or obligations   
      (in each case arising out of or in connection with this Contract), its capacity and/or assets and/or the Project; and/or, as applicable; or
   2. a law or jurisdiction (including in each case the Bank’s Statute) applicable to the Bank, its rights, obligations, capacity and/or assets;
4. references to a provision of law are references to that provision as amended or re-enacted;
5. references to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated; and
6. words and expressions in plural shall include singular and vice versa.

Definitions

In this Contract:

"Accepted Tranche" means a Tranche in respect of which a Disbursement Offer has been duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline.

"Agreed Deferred Disbursement Date" has the meaning given to it in Article 1.5.A(2)(b).

"Authorisation" means an authorisation, permit, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Authorised Signatory" means a person authorised to sign individually or jointly (as the case may be) Disbursement Acceptances on behalf of the Borrower and named in the most recent List of Authorised Signatories and Accounts received by the Bank prior to the receipt of the relevant Disbursement Acceptance.

"Business Day" means a day (other than a Saturday or Sunday) on which the Bank and commercial banks are open for general business in Luxembourg and Belgrade.

"Change-of-Law Event" has the meaning given to it in Article 4.3.A(3).

"Contract" has the meaning given to it in Recital (g).

"Contract Number" shall mean the Bank generated number identifying this Contract and indicated on the cover page of this Contract after the letters "FI N°".

"Credit" has the meaning given to it in Article 1.1.

"Deferment Indemnity" means a fee calculated on the amount of disbursement deferred or suspended being the higher of:

1. 0.125% (12.5 basis points), per annum, and
2. the percentage rate by which:
   1. the interest rate that would have been applicable to such amount had it been disbursed to the Borrower on the Scheduled Disbursement Date, exceeds
   2. EURIBOR (one month rate) less 0.125% (12.5 basis points), unless this value is less than zero, in which case it will be set at zero.

Such fee shall accrue from the Scheduled Disbursement Date to the Disbursement Date or, as the case may be, until the date of cancellation of the Accepted Tranche in accordance with this Contract.

"Disbursement Acceptance" means a copy of the Disbursement Offer duly countersigned by the Borrower.

"Disbursement Acceptance Deadline" means the date and time of expiry of a Disbursement Offer as specified therein.

"Disbursement Account" means, in respect of each Tranche, the bank account set out in the most recent List of Authorised Signatories and Accounts.

"Disbursement Date" means the date on which disbursement of a Tranche is made by the Bank.

"Disbursement Offer" means a letter substantially in the form set out in Schedule C.

"Dispute" has the meaning given to it in Article 11.2.

"Disruption Event" means either or both of

1. a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with this Contract; or
2. the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of either the Bank or the Borrower, preventing that party from
   1. performing its payment obligations under this Contract; or
   2. communicating with other parties,

and which disruption (in either such case as per (a) or (b) above) is not caused by, and is beyond the control of, the party whose operations are disrupted.

“EIB Statement of Environmental and Social Principles and Standards” means the statement published on EIB’s website that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.

"Eligible Country" means any country specified in Annex III to the Decision, as may be amended from time to time by the European Commission in accordance with Articles 4(2) and 18 of the Decision, or any other country in respect of which the European Parliament and the Council of the European Union have adopted a decision pursuant to Article 4(1) of the Decision.

"**Eligible Expenditure**" means the total expenditure (including costs of design and supervision, if relevant, and net of taxes and duties payable by the Borrower) incurred by the Borrower for the Project, in respect of works, goods and services relating to components of the Project specified in the Technical Description as eligible for financing under the Credit, which have been the object of contract or contracts executed on terms satisfactory to the Bank, having regard to the most recent edition of the Bank's Guide to Procurement, as published on its website. For the purpose of calculating the equivalent in euro of any sum spent in another currency, the Bank shall apply the reference exchange rate computed and published for that currency by the European Central Bank on such date falling within 15 (fifteen) days before the date of disbursement as the Bank shall decide (or, failing such a rate, the relevant exchange rate or rates then prevailing on any financial market reasonably chosen by the Bank).

"Environment" means the following, in so far as they affect human health and social well-being:

(a) fauna and flora;

(b) soil, water, air, climate and the landscape;

(c) cultural heritage; and

(d) the built environment.

"Environmental and Social Impact Assessment Study" means a study as an outcome of the environmental and social impact assessment identifying and assessing the potential environmental and social impacts associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders.

**“Environmental and Social Management Plan”** means the plan, with form and content agreed between the Bank and Promoter, that details the measures to reduce, mitigate or manage environmental and social risks of the project which, inter alia, will form part of the technical specifications of the works contracts necessary to implement the Project.

"Environmental and Social Standards" means:

(a) Environmental Laws and Social Laws applicable to the Project or the Borrower;

(b) the EIB Statement of Environmental and Social Principles and Standards; and

(c) the Environmental and SocialImpact Assessment Study.

"Environmental or Social Approval" means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.

"Environmental or Social Claim" means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.

"Environmental Law" means:

1. EU Law, including principles and standards save for any derogation accepted by the Bank for the purpose of this Contract based on any agreement between Republic of Serbia and the EU;
2. Republic of Serbia laws and regulations; and
3. international treaties and conventions signed and ratified by or otherwise applicable and binding on Republic of Serbia,

in each case of which a principal objective is the preservation, protection or improvement of the Environment.

"EU Guarantee" has the meaning given to it in Recital (d).

"EU Law" means the acquis communautaire of the European Union as expressed through the Treaties of the European Union, the regulations, directives, delegated acts, implementing acts, and the case law of the Court of Justice of the European Union.

"EUR" or "euro" means the lawful currency of the Member States of the European Union which adopt or have adopted it as their currency in accordance with the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union or their succeeding treaties.

"EURIBOR" has the meaning given to it in Schedule B.

"Event of Default" means any of the circumstances, events or occurrences specified in Article 10.1.

"Final Availability Date" means the date falling 60 (sixty) months from the signature of this Contract or a later date if approved in writing by the Bank upon formal written request by the Borrower.

"Financing of Terrorism" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of the EU Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

"Fixed Rate" means an annual interest rate determined by the Bank in accordance with the applicable principles from time to time laid down by the governing bodies of the Bank for loans made at a fixed rate of interest, denominated in the currency of the Tranche and bearing equivalent terms for the repayment of capital and the payment of interest. Such rate shall not be of negative value.

"Fixed Rate Tranche" means a Tranche on which the Fixed Rate is applied.

"Floating Rate" means a fixed-spread floating annual interest rate, determined by the Bank for each successive Floating Rate Reference Period equal to EURIBOR plus the Spread. If the Floating Rate for any Floating Rate Reference Period is calculated to be below zero, it will be set at zero.

"Floating Rate Reference Period" means each period from one Payment Date to the next relevant Payment Date; the first Floating Rate Reference Period shall commence on the date of disbursement of the Tranche.

"Floating Rate Tranche" means a Tranche on which the Floating Rate is applied.

"Framework Agreement" has the meaning given in Recital (e).

"Guide to Procurement" means the Guide to Procurement published on EIB’s website that informs the promoters of projects financed in whole or in part by the EIB of the arrangements to be made for procuring works, goods and services required for the Project.

"ILO" means the International Labour Organisation.

"ILO Standards" means any treaty, convention or covenant of the ILO signed and ratified by or otherwise applicable and binding on the Republic of Serbia, and the Core Labour Standards (as defined in the ILO Declaration on Fundamental Principles and Rights at Work).

"Indemnifiable Prepayment Event" means a Prepayment Event other than those specified in paragraphs 4.3.A(2) or 4.3.A(4).

"Interest Revision/Conversion" means the determination of new financial conditions relative to the interest rate, specifically the same interest rate basis ("revision") or a different interest rate basis ("conversion") which can be offered for the remaining term of a Tranche or until the next Interest Revision/Conversion Date.

"Interest Revision/Conversion Date" means the date, which shall be a Payment Date, specified by the Bank pursuant to Article 1.2.B in the Disbursement Offer.

"Interest Revision/Conversion Proposal" means a proposal made by the Bank under Schedule D.

"Interest Revision/Conversion Request" means a written notice from the Borrower, delivered at least 75 (seventy-five) days before an Interest Revision/Conversion Date, requesting the Bank to submit to it an Interest Revision/Conversion Proposal. The Interest Revision/Conversion Request shall also specify:

1. the Payment Dates chosen in accordance with the provisions of Article 3.1;
2. the amount of the Tranche for which the Interest Revision/Conversion shall apply ; and
3. any further Interest Revision/Conversion Date chosen in accordance with Article 3.1.

"List of Authorised Signatories and Accounts" means a list, in form and substance satisfactory to the Bank, setting out:

1. the Authorised Signatories, accompanied by evidence of signing authority of the persons named on the list and specifying if they have individual or joint signing authority;
2. the specimen signatures of such persons; and
3. the bank account(s) to which disbursements may be made under this Contract (specified by IBAN code if the country is included in the IBAN Registry published by SWIFT, or in the appropriate account format in line with the local banking practice), BIC/SWIFT code of the bank and the name of the bank account(s) beneficiary.

"Loan" means the aggregate of the amounts disbursed from time to time by the Bank under this Contract.

"Loan Outstanding" means the aggregate of the amounts disbursed from time to time by the Bank under this Contract that remains outstanding.

"Mandate" has the meaning given in Recital (c).

"Market Disruption Event" means any of the following circumstances:

1. there are, in the reasonable opinion of the Bank, events or circumstances adversely affecting the Bank’s access to its sources of funding;
2. in the opinion of the Bank, funds are not available from the Bank's ordinary sources of funding in order to adequately fund a Tranche in the relevant currency and/or for the relevant maturity and/or in relation to the reimbursement profile of such Tranche; or
3. in relation to a Tranche in respect of which interest would be payable at Floating Rate:
   1. the cost to the Bank of obtaining funds from its sources of funding, as determined by the Bank, for a period equal to the Floating Rate Reference Period of such Tranche (i.e. in the money market) would be in excess of the applicable EURIBOR; or
   2. the Bank determines that adequate and fair means do not exist for ascertaining the applicable EURIBOR for the relevant currency of such Tranche or it is not possible to determine EURIBOR in accordance with the definition contained in Schedule B.

"Material Adverse Change" means, in relation to the Borrower any event or change of condition affecting the Borrower, which, in the opinion of the Bank:

(a) materially impairs the ability of the Borrower to perform its obligations under this Contract; or

(b) materially impairs the financial condition or prospects of the Borrower.

"Maturity Date" means the last Repayment Date of a Tranche specified pursuant to Article 4.1.A(b)(iv).

"Money Laundering" means:

1. the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
2. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
3. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or
4. participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

"Payment Date" means: the annual, semi-annual or quarterly dates specified in the Disbursement Offer until and including the Interest Revision/Conversion Date, if any, or the Maturity Date, save that, in case any such date is not a Relevant Business Day, it means:

for a Fixed Rate Tranche, the following Relevant Business Day, without adjustment to the interest due under Article 3.1 except for those cases where a payment is made in full and in relation to the Interest Revision/Conversion in accordance with Schedule D, point C, and to the final interest payment only, when it shall mean the preceding Relevant Business Day with adjustment to the interest due under Article 3.1; and

for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.1.

"Prepayment Amount" means the amount of a Tranche to be prepaid by the Borrower in accordance with Article 4.2.A or Article 4.3.A, as applicable.

"Prepayment Date" means the date, which shall be a Payment Date, on which the Borrower proposes to or is requested by the Bank, as applicable, to effect prepayment of a Prepayment Amount.

"Prepayment Event" means any of the events described in Article 4.3.A.

"Prepayment Indemnity" means in respect of any principal amount to be prepaid or cancelled, the amount communicated by the Bank to the Borrower as the present value (calculated as of the Prepayment Date or the date of cancellation pursuant to Article 1.6.C(2)) of the excess, if any, of:

1. the interest that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date or the date of cancellation pursuant to Article 1.6.C(2) to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not prepaid; over
2. the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.15% (fifteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate, applied as of each relevant Payment Date.

"Prepayment Notice" means a written notice from the Bank to the Borrower in accordance with Article 4.2.C.

"Prepayment Request" means a written request from the Borrower to the Bank to prepay all or part of the Loan Outstanding, in accordance with Article 4.2.A.

“**Project Implementation Unit (PIU)**” means all project implementation arrangements, which rely on a group of staff members designated officially to work together full-time or almost full-time, with separate accountability, to coordinate and manage project implementation.

"Prohibited Conduct" means any Financing of Terrorism, Money Laundering or Prohibited Practice.

"Prohibited Practice" means any:

1. Coercive Practice, meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
2. Collusive Practice, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
3. Corrupt Practice, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
4. Fraudulent Practice, meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation; or
5. Obstructive Practice, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project, (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intending to materially impede the exercise of the contractual rights of audit or access to information.

"Project" has the meaning given to it in Recital (a).

"Promoter" has the meaning given to it in Recital (a).

"Redeployment Rate" means the fixed annual rate determined by the Bank, being a rate which the Bank would apply on the day of the indemnity calculation to a loan that has the same currency the same terms for the payment of interest and the same repayment profile to the Interest Revision/Conversion Date, if any, or the Maturity Date as the Tranche in respect of which a prepayment or cancellation is proposed or requested to be made. Such rate shall not be of negative value.

"Relevant Business Day" means a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 (TARGET2) is open for the settlement of payments in EUR.

"Repayment Date" shall mean each of the Payment Dates specified for the repayment of the principal of a Tranche in the Disbursement Offer, in accordance with the criteria set out in Article 4.1.

"Requested Deferred Disbursement Date" has the meaning given to it in Article 1.5.A(1)(b).

**“Resettlement Action Plan”** means a plan covering one or more phases of the Project, consistent with the Resettlement Policy Framework dated July 2018 and with form and content agreed with the Bank, detailing the actions to be taken to resettle and compensate people affected that have or will be economically displaced as a result of that phase of the Project.

**“Resettlement Policy Framework”** means the policy framework document dated July 2018, prepared and approved by the Promoter, as may be amended from time to time with approval of the Bank, that specifies the legal and procedural basis for ensuring that economic displacement arising from the Project is performed in compliance with EIB Social Standards.

“Sanction Lists” means:

1. any economic, financial and trade restrictive measures and arms embargoes issued by the European Union pursuant to Chapter 2 of Title V of the Treaty on European Union as well as Article 215 of the Treaty on the Functioning of the European Union, as available in the official EU websites http://ec.europa.eu/external\_relations/cfsp/sanctions/consol-list\_en.htm and http://eeas.europa.eu/cfsp/sanctions/docs/measures\_en.pdf, as amended and supplemented from time to time or on any successor page; or,
2. any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to Article 41 of the UN Charter as available in the official UN website http://www.un.org/Docs/sc/committees/INTRO.htm, as amended and supplemented from time to time or on any successor page.

"Sanctioned Persons" means any individual or entity listed in one or more Sanction Lists.

"Scheduled Disbursement Date" means the date on which a Tranche is scheduled to be disbursed in accordance with Article 1.2.B.

"Security" means any mortgage, pledge, lien, charge, assignment, hypothecation, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“Social Law” means each of:

(a) any law, rule or regulation applicable in the Republic of Serbia relating to Social Matters;

(b) any ILO Standards; and

(c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on the Republic of Serbia.

"Social Matters" means all, or any of, the following: (i) labour and employment conditions,   
(ii) occupational health and safety, (iii) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (iv) cultural heritage (tangible and intangible), (v) public health, safety and security, (vi) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (vii) public participation and stakeholder engagement.

"Spread" means the fixed spread (being of either positive or negative value) to EURIBOR as determined by the Bank and notified to the Borrower in the relevant Disbursement Offer or Interest Revision/Conversion Proposal.

**“Stakeholder Engagement Plan”** means the plan, with form and content to be agreed with the Bank, that specifies who, how and when project stakeholders are to be engaged by the Promoter, or others acting on behalf of the Promoter, in the interests of the implementation of the Project.

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

"Technical Description" has the meaning given to it in Recital (a).

"Tranche" means each disbursement made or to be made under this Contract. In case no Disbursement Acceptance has been received, Tranche shall mean a Tranche as offered under Article 1.2.B.

Credit and Disbursements

## Amount of Credit

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, a credit in an amount of EUR 100,000,000.00 (one hundred million euros) for the financing of the Project (the "Credit").

## Disbursement procedure

### Tranches

The Bank shall disburse the Credit in up to 15 (fifteen) Tranches. The amount of each Tranche, if not being the undrawn balance of the Credit, shall be in a minimum amount of EUR 1,000,000.00 (one million euros).

### Disbursement Offer

Upon request by the Borrower and subject to Article 1.4.A, provided that no event mentioned in Article 1.5 or Article 1.6.B has occurred and is continuing, the Bank shall send to the Borrower within 5 (five) Business Days after the receipt of such request a Disbursement Offer for the disbursement of a Tranche. The latest time for receipt by the Bank of such Borrower’s request is 15 (fifteen) Business Days before the Final Availability Date. The Disbursement Offer shall specify:

1. the amount of the Tranche in EUR;
2. the Scheduled Disbursement Date, which shall be a Relevant Business Day, falling at least 10 (ten) days after the date of the Disbursement Offer and on or before the Final Availability Date;
3. the interest rate basis of the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche, in each case, pursuant to the relevant provisions of Article 3.1;
4. the Payment Dates and the first interest Payment Date for the Tranche;
5. the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.1;
6. the Repayment Dates and the first and the last Repayment Date for the Tranche;
7. the Interest Revision/Conversion Date, if requested by the Borrower, for the Tranche;
8. for a Fixed Rate Tranche, the Fixed Rate and for a Floating Rate Tranche the Spread, applicable until the Interest Revision/Conversion Date, if any, or until the Maturity Date; and
9. the Disbursement Acceptance Deadline.

### Disbursement Acceptance

The Borrower may accept a Disbursement Offer by delivering a Disbursement Acceptance to the Bank no later than the Disbursement Acceptance Deadline. The Disbursement Acceptance shall be signed by an Authorised Signatory with individual representation right or two or more Authorised Signatories with joint representation right and shall specify the Disbursement Account to which the disbursement of the Tranche should be made in accordance with Article 1.2.D.

If a Disbursement Offer is duly accepted by the Borrower in accordance with its terms on or before the Disbursement Acceptance Deadline, the Bank shall make the Accepted Tranche available to the Borrower in accordance with the relevant Disbursement Offer and subject to the terms and conditions of this Contract.

The Borrower shall be deemed to have refused any Disbursement Offer which has not been duly accepted in accordance with its terms on or before the Disbursement Acceptance Deadline.

### Disbursement Account

Disbursement shall be made to the Disbursement Account specified in the relevant Disbursement Acceptance provided that such Disbursement Account is acceptable to the Bank.

Notwithstanding Article 5.2(e), the Borrower acknowledges that payments to a Disbursement Account notified by the Borrower shall constitute disbursements under this Contract as if they had been made to the Borrower's own bank account.

Only one Disbursement Account may be specified for each Tranche.

## Currency of disbursement

The Bank shall disburse each Tranche in EUR.

## Conditions of disbursement

### Condition precedent to the first request for Disbursement Offer

The Bank shall have received from the Borrower in form and substance satisfactory to the Bank:

1. evidence that the execution of this Contract by the Borrower has been duly authorised and that the person or persons signing this Contract on behalf of the Borrower is/are duly authorised to do so together with the specimen signature of each such person or persons; and
2. the List of Authorised Signatories and Accounts;

prior to requesting a Disbursement Offer under Article 1.2.B by the Borrower. Any request for a Disbursement Offer made by the Borrower without the above documents having been received by the Bank and to its satisfaction shall be deemed not made.

### First Tranche

The disbursement of the first Tranche under Article 1.2 is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date, of the following documents or evidence:

1. evidence that the Borrower has obtained all necessary Authorisations, required in connection with this Contract and the Project;
2. evidence that the Project Implementation Unit has been established within the Promoter with staff, resources and competences acceptable to the Bank;
3. evidence that the Competent Authority for the Environment has issued its positive decision on the Project;
4. evidence that the Competent Authority for nature conservation has issued its opinion on the significance of the impact of the project on protected areas and species;
5. a favourable legal opinion issued in English language by the Minister of Justice of the Borrower confirming, inter alia, (i) the authority of persons signing this Contract on behalf of the Borrower; and (ii) this Contract has been duly executed by the Borrower and constitutes valid, binding and enforceable obligations of the Borrower according with its terms; (iii) the valid choice of laws of the Grand Duchy of Luxembourg law and The Court of Justice of the European Union under this Contract, and (iv) the recognition and enforcement of judgments of The Court of Justice of the European Union in any proceedings taken in the Republic of Serbia in relation to this Contract;
6. the Borrower shall have taken all action necessary to exempt from taxation for all payments of principal, interest and other sums due hereunder and to permit the payment of all such sums gross without deduction of tax at source shall have been taken; and
7. any necessary exchange control consents shall have been obtained to permit receipt of disbursements hereunder, repayment of the same and payment of interest and all other amounts due hereunder; such consents must extend to the opening and maintenance of the accounts to which disbursement of the Credit is directed.

### All Tranches

The disbursement of each Tranche under Article 1.2, including the first, is subject to the following conditions:

1. that the Bank has received, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date for the proposed Tranche, of the following documents or evidence:
2. a certificate from the Borrower in the form of Schedule E signed by an authorised representative of the Borrower and dated no earlier than the date falling 15 (fifteen) days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively);
3. other than the last Tranche, evidence that the Borrower or the Promoter will incur Eligible Expenditure in an amount of at least equal to the aggregate of 80% (eighty per cent) of the amount of the Tranche to be disbursed and 100% (one hundred per cent) of the amounts of all previously disbursed Tranches, within 180 (hundred and eighty) days following the Scheduled Disbursement Date of the relevant Tranche;
4. that the Environmental & Social Management Plan and Resettlement Action Plan, both with form and content satisfactory to the Bank, are prepared for the phase or phases of works to be financed in whole or in part by the relevant Tranche;
5. that the findings of a road safety audit, with content and prepared in a manner consistent with the principles of the Road Safety Directive 2008/96/EC and Tunnel Safety Directive 2004/54/EC, have been duly incorporated into the final design of the works, for the phase or phases of works to be financed in whole or in part by the relevant Tranche;
6. a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, this Contract or the legality, validity, binding effect or enforceability of the same; and
7. that the Bank is satisfied that on the date of the relevant Disbursement Request and the Disbursement Date for the proposed Tranche:
   1. all facts and statements contained in the Recitals are true and correct in all respects;
   2. the EU Guarantee is legal, valid, binding and enforceable and that no event or circumstance has occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EU Guarantee, its applicability to any Tranche under this Contract or the Bank's right to make a demand under the EU Guarantee;
   3. Republic of Serbia is an Eligible Country;
   4. the Framework Agreement is legal, valid, binding and enforceable and that no event or circumstance has occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement;
   5. involuntary resettlement has progressed in accordance with the Resettlement Policy Framework dated July 2018, the Resettlement Action Plan to be agreed with the Bank and in correlation with the works planned progress;
   6. staff, resources and technical assistance are available for the implementation of the project;
   7. an independent supervision engineer, with staff, resources and terms of reference satisfactory to the Bank, is in operation; and
8. that on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, on the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche:
   1. the representations and warranties which are repeated pursuant to Article 6.9 are correct in all respects; and
   2. no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute:
      1. an Event of Default; or
      2. a Prepayment Event

has occurred and is continuing unremedied or unwaived or would result from the disbursement of the proposed Tranche.

## Deferment of disbursement

### Grounds for deferment

#### Borrower's request

The Borrower may send a written request to the Bank requesting the deferral of the disbursement of an Accepted Tranche. The written request must be received by the Bank at least 5 (five) Business Days before the Scheduled Disbursement Date of an Accepted Tranche and specify:

1. whether the Borrower would like to defer the disbursement in whole or in part and if in part, the amount to be deferred; and
2. the date until which the Borrower would like to defer a disbursement of the above amount (the “Requested Deferred Disbursement Date”), which must be a date falling not later than:
   1. 6 (six) months from its Scheduled Disbursement Date;
   2. 30 (thirty) days prior to the first Repayment Date of the Tranche; and
   3. the Final Availability Date.

Upon receipt of such a written request, the Bank shall defer the disbursement of the relevant amount until the Requested Deferred Disbursement Date.

#### Failure to satisfy conditions to disbursement

1. The disbursement of an Accepted Tranche shall be deferred if any condition for disbursement of such an Accepted Tranche referred to in Article 1.4 is not fulfilled both:
   1. at the date specified for fulfilment of such condition in Article 1.4; and
   2. at its Scheduled Disbursement Date (or, where the Scheduled Disbursement Date has been deferred previously, the date expected for disbursement).
2. The Bank and the Borrower shall agree the date until which the disbursement of such an Accepted Tranche shall be deferred (the "Agreed Deferred Disbursement Date"), which must be a date falling:
   1. not earlier than 7 (seven) Business Days following the fulfilment of all conditions of disbursement; and
   2. not later than the Final Availability Date.
3. Without prejudice to the Bank’s right to suspend and/or cancel the undisbursed portion of the Credit in whole or in part pursuant to Article 1.6.B, the Bank shall defer disbursement of such an Accepted Tranche until the Agreed Deferred Disbursement Date.

#### Deferment Indemnity

If disbursement of an Accepted Tranche is being deferred pursuant to paragraphs 1.5.A(1) or 1.5.A(2) above, the Borrower shall pay the Deferment Indemnity.

### Cancellation of a disbursement deferred by 6 (six) months

If a disbursement has been deferred by more than 6 (six) months in aggregate pursuant to Article 1.5.A, the Bank may notify the Borrower in writing that such disbursement shall be cancelled and such cancellation shall take effect on the date of such written notification. The amount of the disbursement which is cancelled by the Bank pursuant to this Article 1.5.B shall remain available for disbursement under Article 1.2.

## Cancellation and suspension

### Borrower’s right to cancel

The Borrower may send a written notice to the Bank requesting the cancellation of the undisbursed portion of the Credit. The written notice:

1. must specify whether the Borrower would like to cancel the undisbursed portion of the Credit in whole or in part and, if in part, the amount of the Credit the Borrower would like to cancel; and
2. must not relate to an Accepted Tranche which has a Scheduled Disbursement Date falling within 5 (five) Business Days of the date of the notice.

Upon receipt of such written notice, the Bank shall cancel the requested undisbursed portion of the Credit with immediate effect.

### Bank’s right to suspend and cancel

1. At any time upon the occurrence of the following events, the Bank may notify the Borrower in writing that the undisbursed portion of the Credit shall be suspended and/or (apart from on the occurrence of a Market Disruption Event) cancelled in whole or in part:
   1. a Prepayment Event;
   2. an Event of Default;
   3. an event or circumstance which would with the passage of time or giving of notice under this Contract constitute a Prepayment Event or an Event of Default;
   4. if the Republic of Serbia is no longer an Eligible Country for operations under the Mandate;
   5. a Material Adverse Change; or
   6. a Market Disruption Event provided the Bank has not received a Disbursement Acceptance.
2. On the date of such written notification the relevant undisbursed portion of the Credit shall be suspended and/or cancelled with immediate effect. Any suspension shall continue until the Bank ends the suspension or cancels the suspended amount.

### Indemnity for suspension and cancellation of a Tranche

#### Suspension

If the Bank suspends an Accepted Tranche upon the occurrence of an Indemnifiable Prepayment Event or an Event of Default or upon the occurrence of a Material Adverse Change, the Borrower shall pay to the Bank the Deferment Indemnity calculated on the amount of disbursement suspended.

#### Cancellation

1. If an Accepted Tranche which is a Fixed Rate Tranche is cancelled:
   1. by the Borrower pursuant to Article 1.6.A;
   2. by the Bank upon an Indemnifiable Prepayment Event or upon the occurrence of a Material Adverse Change or pursuant to Article 1.5.B or Article 1.6.B(a)(iv),

the Borrower shall pay to the Bank the Prepayment Indemnity. The Prepayment Indemnity shall be calculated as if the cancelled amount had been disbursed and repaid on the Scheduled Disbursement Date or, to the extent that the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice.

1. If the Bank cancels an Accepted Tranche upon the occurrence of an Event of Default, the Borrower shall indemnify the Bank in accordance with Article 10.3.
2. Save in the cases (a) or (b) above, no indemnity is payable upon cancellation of a Tranche.

## Cancellation after Final Availability Date

On the day following the Final Availability Date, and unless otherwise specifically agreed to in writing by the Bank, any part of the Credit in respect of which no Disbursement Acceptance has been received in accordance with Article 1.2.C shall be automatically cancelled, without any notice being served by the Bank to the Borrower and without liability arising on the part of either party.

## Sums due under Article 1.5 and 1.6

Sums due under Articles 1.5 and 1.6 shall be payable in EUR. Sums due under Articles 1.5 and 1.6 shall be payable within 15 (fifteen) days of the Borrower’s receipt of the Bank’s demand or within any longer period specified in the Bank’s demand.

The Loan

## Amount of Loan

The Loan shall comprise the aggregate amount of Tranches disbursed by the Bank under the Credit, as confirmed by the Bank pursuant to Article 2.3.

## Currency of repayment, interest and other charges

Interest, repayments and other charges payable in respect of each Tranche shall be made by the Borrower in the currency in which the Tranche is disbursed.

Other payment, if any, shall be made in the currency specified by the Bank having regard to the currency of the expenditure to be reimbursed by means of that payment.

## Confirmation by the Bank

Within 10 (ten) days after disbursement of each Tranche, the Bank shall deliver to the Borrower the amortisation table referred to in Article 4.1, if appropriate, showing the Disbursement Date, currency, the amount disbursed, the repayment terms and the interest rate of and for that Tranche.

# 

Interest

## Rate of interest

### Fixed Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Fixed Rate Tranche at the Fixed Rate quarterly, semi-annually or annually in arrear on the relevant Payment Dates as specified in the Disbursement Offer, commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 15 (fifteen) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

Interest shall be calculated on the basis of Article 5.1 (a).

### Floating Rate Tranches

The Borrower shall pay interest on the outstanding balance of each Floating Rate Tranche at the Floating Rate quarterly or semi-annually or annually in arrear on the relevant Payment Dates, as specified in the Disbursement Offer commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 15 (fifteen) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

The Bank shall notify the Borrower of the Floating Rate within 10 (ten) days following the commencement of each Floating Rate Reference Period.

If pursuant to Articles 1.5 and 1.6 disbursement of any Floating Rate Tranche takes place after the Scheduled Disbursement Date EURIBOR applicable to the first Floating Rate Reference Period shall apply as though the disbursement had been made on the Scheduled Disbursement Date.

Interest shall be calculated in respect of each Floating Rate Reference Period on the basis of Article 5.1.(b).

### Revision or Conversion of Tranches

Where the Borrower exercises an option to revise or convert the interest rate basis of a Tranche, it shall, from the effective Interest Revision/Conversion Date (in accordance with the procedure set out in Schedule D) pay interest at a rate determined in accordance with the provisions of   
Schedule D.

## Interest on overdue sums

Without prejudice to Article 10 and by way of exception to Article 3.1, if the Borrower fails to pay any amount payable by it under this Contract on its due date, interest shall accrue on any overdue amount payable under the terms of this Contract from the due date to the date of actual payment at an annual rate equal to:

1. for overdue sums related to Floating Rate Tranches, the applicable Floating Rate plus 2% (200 basis points);
2. for overdue sums related to Fixed Rate Tranches, the higher of
   1. the applicable Fixed Rate plus 2% (200 basis points); and
   2. EURIBOR plus 2% (200 basis points);
3. for overdue sums other than under (a) or (b) above, EURIBOR plus 2% (200 basis points),

and shall be payable in accordance with the demand of the Bank. For the purpose of determining the EURIBOR in relation to this Article 3.2, the relevant periods within the meaning of Schedule B shall be successive periods of one month commencing on the due date. Any unpaid but due interest may be capitalised in conformity with article 1154 of the Luxembourg Civil Code. For the avoidance of doubt, capitalisation of interest shall occur only for interest due but unpaid for a period of more than one year. The Borrower hereby agrees in advance to have the unpaid interest due for a period of more than one year compounded and that as of the capitalisation, such unpaid interest will in turn produce interest at the interest rate set out in this Article 3.2.

If the overdue sum is in a currency other than the currency of the Loan, the following rate per annum shall apply, namely the relevant interbank rate that is generally retained by the Bank for transactions in that currency plus 2% (200 basis points), calculated in accordance with the market practice for such rate.

## Market Disruption Event

If at any time from the receipt by the Bank of a Disbursement Acceptance in respect of a Tranche, and until the date falling 30 (thirty) calendar days prior to the Scheduled Disbursement Date, a Market Disruption Event occurs, the Bank may notify to the Borrower that this clause has come into effect. In such case, the following rules shall apply:

1. The rate of interest applicable to such Accepted Tranche until the Maturity Date or the Interest Revision/Conversion Date if any, shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

The Borrower shall have the right to refuse in writing such disbursement within the deadline specified in the notice and shall bear charges incurred as a result, if any, in which case the Bank shall not effect the disbursement and the corresponding portion of the Credit shall remain available for disbursement under Article 1.2.B. If the Borrower does not refuse the disbursement in time, the parties agree that the disbursement and the conditions thereof shall be fully binding for both parties.

1. The Spread or the Fixed Rate previously accepted by the Borrower shall no longer be applicable for that Tranche.

# 

Repayment

## Normal repayment

### Repayment by instalments

1. The Borrower shall repay each Tranche by instalments on the Repayment Dates specified in the relevant Disbursement Offer in accordance with the terms of the amortisation table delivered pursuant to Article 2.3.
2. Each amortisation table shall be drawn up on the basis that:
   1. in the case of a Fixed Rate Tranche without an Interest Revision/Conversion Date, repayment shall be made quarterly, semi-annually or annually by equal instalments of principal or constant instalments of principal and interest;
   2. in the case of a Fixed Rate Tranche with an Interest Revision/Conversion Date or a Floating Rate Tranche, repayment shall be made by equal quarterly, semi-annual or annual instalments of principal;
   3. the first Repayment Date of each Tranche shall be a Payment Date falling not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the first Repayment Date immediately following the 5th (fifth) anniversary of the Scheduled Disbursement Date of the Tranche; and
   4. the last Repayment Date of each Tranche shall be a Payment Date falling not earlier than 4 (four) years and not later than 30 (thirty) years from the Scheduled Disbursement Date.

## Voluntary prepayment

### Prepayment option

Subject to Articles 4.2.B, 4.2.C and 4.4, the Borrower may prepay all or part of any Tranche, together with accrued interest and indemnities if any, upon giving a Prepayment Request with at least 30 (thirty) calendar days' prior notice specifying:

1. the Prepayment Amount;
2. the Prepayment Date;
3. if applicable, the choice of application method of the Prepayment Amount in line with Article 5.5.C(a); and
4. the Contract Number.

The Prepayment Request shall be irrevocable.

### Prepayment indemnity

#### Fixed rate tranche

Subject to Article 4.2.B(3) below, if the Borrower prepays a Fixed Rate Tranche, the Borrower shall pay to the Bank on the Prepayment Date the Prepayment Indemnity in respect of the Fixed Rate Tranche which is being prepaid.

#### Floating rate tranche

Subject to Article 4.2.B(3) below, the Borrower may prepay a Floating Rate Tranche without indemnity on any relevant Payment Date.

#### REVISION/CONVERSION

Prepayment of a Tranche on its Interest Revision/Conversion Date may be effected without indemnity unless the Borrower has accepted in writing a Fixed Rate under an Interest Revision/Conversion Proposal, as accepted under Article 1.2.C or pursuant to Schedule D.

### Prepayment mechanics

Upon presentation by the Borrower to the Bank of a Prepayment Request, the Bank shall issue a Prepayment Notice to the Borrower, not later than 15 (fifteen) days prior to the Prepayment Date. The Prepayment Notice shall specify the Prepayment Amount, the accrued interest due thereon, the Prepayment Indemnity payable under Article 4.2.B or, as the case may be, that no indemnity is due, the method of application of the Prepayment Amount and if a Prepayment Indemnity is applicable, the deadline by which the Borrower may accept the Prepayment Notice.

If the Borrower accepts the Prepayment Notice no later than by the deadline (if any) specified in the Prepayment Notice, the Borrower shall effect the prepayment. In any other case, the Borrower may not effect the prepayment.

The Borrower shall accompany the payment of the Prepayment Amount by the payment of accrued interest, the Prepayment Indemnity, if any, due on the Prepayment Amount, as specified in the Prepayment Notice.

* + 1. Administrative Fee

If the Borrower prepays a Tranche on a date other than a relevant Payment Date, or if the Bank exceptionally accepts, solely upon the Bank’s discretion, a Prepayment Request with prior notice of less than 30 (thirty) calendar days, the Borrower shall pay to the Bank an administrative fee in such amount as the Bank shall notify to the Borrower.

## Compulsory prepayment

### Prepayment Events

#### Project cost reduction

If the total cost of the Project falls below the figure stated in Recital (b) so that the amount of the Credit exceeds

1. 50% (fifty per cent) of such total cost of the Project, and/or
2. when aggregated with the amount of any other funds from the European Union made available for the Project, 90% (ninety per cent),

the Bank may forthwith, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding up to the amount by which the Credit exceeds the limits referred to in (a) or (b) above, together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid. The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

#### Pari Passu to non-EIB Financing

If the Borrower voluntarily prepays (for the avoidance of doubt, prepayment shall include a repurchase or cancellation where applicable) a part or the whole of any Non-EIB Financing and:

1. such prepayment is not made within a revolving credit facility (save for the cancellation of the revolving credit facility);
2. such prepayment is not made out of the proceeds of a loan or other indebtedness having a term at least equal to the unexpired term of the Non-EIB Financing prepaid;

the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid. The proportion of the Loan Outstanding that the Bank may require to be prepaid shall be the same as the proportion that the prepaid amount of the Non-EIB Financing bears to the aggregate outstanding amount of all Non-EIB Financing.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

For the purposes of this Article, "**Non-EIB Financing**" includes any loan (save for the Loan and any other direct loans from the Bank to the Borrower), credit bond or other form of financial indebtedness or any obligation for the payment or repayment of money originally granted to the Borrower for a term of more than 3 (three) years.

#### Change of law

The Borrower shall promptly inform the Bank if a Change-of-Law Event has occurred or is likely to occur. In such case, or if the Bank has reasonable cause to believe that a Change-of-Law Event has occurred or is about to occur, the Bank may request that the Borrower consult with it. Such consultation shall take place within 30 (thirty) days from the date of the Bank’s request. If, after the lapse of 30 (thirty) days from the date of such request for consultation the Bank is of the opinion that the effects of the Change-of-Law Event cannot be mitigated to its satisfaction, the Bank may by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

For the purposes of this Article "Change-of-Law Event" means the enactment, promulgation, execution or ratification of or any change in or amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation) that occurs after the date of this Contract and which, in the opinion of the Bank, would materially impair the Borrower's ability to perform its obligations under this Contract.

#### Illegality

If:

1. it becomes unlawful in any applicable jurisdiction for the Bank to perform any of its obligations as contemplated in this Contract or to fund or maintain the Loan;
2. the Framework Agreement is or, in the reasonable opinion of the Bank, is likely to be:
   1. repudiated or terminated by Republic of Serbia or not binding on Republic of Serbia in any respect;
   2. not effective in accordance with its terms or alleged by Republic of Serbia to be ineffective in accordance with its terms; or
   3. breached as a result of Republic of Serbia ceasing to fulfil any obligation assumed by it in the Framework Agreement with respect to any loan made to any borrower in the territory of Republic of Serbia from the resources of the Bank or the European Union; or
3. in relation to the EU Guarantee:
   1. it is no longer valid or in full force and effect;
   2. the conditions for cover thereunder are not fulfilled;
   3. it does not apply to any Tranche disbursed or to be disbursed under this Contract; or
   4. it is not effective in accordance with its terms or is alleged to be ineffective in accordance with its terms,

the Bank may by notice to the Borrower immediately (i) suspend or cancel the undisbursed portion of the Credit; and/or (ii) demand prepayment of the Loan, together with accrued interest and all other amounts accrued or outstanding under this Contract on the date indicated by the Bank in its notice to the Borrower.

### Prepayment mechanics

Any sum demanded by the Bank pursuant to Article 4.3.A, together with any interest or other amounts accrued or outstanding under this Contract including, without limitation, any indemnity due under Article  4.3.C, shall be paid on the date indicated by the Bank in its notice of demand.

### Prepayment indemnity

In the case of an Indemnifiable Prepayment Event, the indemnity, if any, shall be determined in accordance with Article 4.2.B.

## General

* + 1. No prejudice to Article 10

This Article 4 shall not prejudice Article 10.

* + 1. No reborrowing

A repaid or prepaid amount may not be reborrowed.

Payments

## Day count convention

Any amount due by way of interest or indemnity from the Borrower under this Contract, and calculated in respect of a fraction of a year, shall be determined on the following respective conventions:

1. in respect of interest and indemnities due under a Fixed Rate Tranche, a year of 360 (three hundred and sixty) days and a month of 30 (thirty) days;
2. in respect of interest and indemnities due under a Floating Rate Tranche, a year of 360 (three hundred and sixty) days and the number of days elapsed.

## Time and place of payment

1. Unless otherwise specified in this Contract or in the Bank’s demand, all sums other than sums of interest, indemnity and principal are payable within 15 (fifteen) days of the Borrower’s receipt of the Bank’s demand.
2. Each sum payable by the Borrower under this Contract shall be paid to the relevant account notified by the Bank to the Borrower. The Bank shall notify the account not less than 15 (fifteen) days before the due date for the first payment by the Borrower and shall notify any change of account not less than 15 (fifteen) days before the date of the first payment to which the change applies. This period of notice does not apply in the case of payment under Article 10.
3. The Borrower shall indicate the Contract Number in the payment details for each payment made hereunder.
4. A sum due from the Borrower shall be deemed paid when the Bank receives it.
5. Any disbursements by and payments to the Bank under this Contract shall be made using account(s) acceptable to the Bank. Any account in the name of the Borrower held with a duly authorised financial institution in the jurisdiction where the Borrower is incorporated or where the Project is undertaken is deemed acceptable to the Bank.

## No set-off by the Borrower

All payments to be made by the Borrower under this Contract shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

## Disruption to Payment Systems

If either the Bank determines (in its discretion) that a Disruption Event has occurred or the Bank is notified by the Borrower that a Disruption Event has occurred:

1. the Bank may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of this Contract as the Bank may deem necessary in the circumstances;
2. the Bank shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) of this Article 5.4 if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes; and
3. the Bank shall not be liable for any damages, costs or losses whatsoever arising as a result of a Disruption Event or for taking or not taking any action pursuant to or in connection with this Article 5.4.

## Application of sums received

### General

Sums received from the Borrower shall only discharge its payment obligations if received in accordance with the terms of this Contract.

### Partial payments

If the Bank receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under this Contract, the Bank shall apply that payment:

1. first, in or towards pro rata to each of any unpaid fees, costs, indemnities and expenses due under this Contract;
2. secondly, in or towards payment of any accrued interest due but unpaid under this Contract;
3. thirdly, in or towards payment of any principal due but unpaid under this Contract; and
4. fourthly, in or towards payment of any other sum due but unpaid under this Contract.

### Allocation of sums related to Tranches

1. In case of:
   1. a partial voluntary prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied pro rata to each outstanding instalment, or, at the request of the Borrower, in inverse order of maturity; or
   2. a partial compulsory prepayment of a Tranche that is subject to a repayment in several instalments, the Prepayment Amount shall be applied in reduction of the outstanding instalments in inverse order of maturity.
2. Sums received by the Bank following a demand under Article 10.1 and applied to a Tranche, shall reduce the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.
3. In case of receipt of sums which cannot be identified as applicable to a specific Tranche, and on which there is no agreement between the Bank and the Borrower on their application, the Bank may apply these between Tranches at its discretion.

# 

Borrower undertakings and representations

The undertakings in this Article 6 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

A. PROJECT UNDERTAKINGS

## Use of Loan and availability of other funds

The Borrower shall use all amounts borrowed by it under this Contract for the execution of the Project.

The Borrower shall ensure that it has available to it the other funds listed in Recital (b) and that such funds are expended, to the extent required, on the financing of the Project.

The Loan proceeds shall not be used for the payment of value added tax on sales of goods and services and import of goods and services, costs of customs duties and other import duties, taxes and other impositions occurring in the execution of implementation of the Project.

## Completion of Project

The Borrower shall, and shall ensure that the Promoter will, carry out the Project in accordance with the Technical Description as may be modified from time to time with the approval of the Bank, and complete it by the final date specified therein.

## Increased cost of Project

If the total cost of the Project exceeds the estimated figure set out in Recital (b), the Borrower shall obtain the finance to fund the excess cost without recourse to the Bank, so as to enable the Project to be completed in accordance with the Technical Description. The plans for funding the excess cost shall be communicated to the Bank without delay.

## Procurement procedure

The Borrower shall, and shall ensure that the Promoter

purchase equipment, secure services and order works for the Project by acceptable procurement procedures complying, to the Bank's satisfaction, with its policy as described in its Guide to Procurement;

submit the detailed procurement plan before each allocation and will promptly inform the Bank of any changes to the initial procurement plan(s); and

consult with the Bank regarding the amendment of the contracts financed by the Bank and shall seek the Banks non-objection prior to entering into any material amendments to contracts financed by the Bank.

The review procedures for remedies, as provided for in Serbian law, shall be available to any party having had an interest in obtaining a particular contract and who has been or risk being harmed by an alleged infringement.

## Continuing Project undertakings

The Borrower shall, and ensure that the Promoter shall (as applicable):

1. Maintenance: maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;
2. Project assets: unless the Bank shall have given its prior consent in writing retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under article 309 of the Treaty on the Functioning of the European Union;
3. Insurance: insure all works and property forming part of the Project with first class insurance companies in accordance with the most comprehensive relevant industry practice;
4. Rights and Permits: maintain in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;
5. Environment and Social: implement and operate the Project in compliance with Environmental and Social Standards; and obtain, maintain and comply with requisite Environmental or Social Approvals for the Project;
6. EU law: execute and operate the Project in accordance with the relevant laws of Republic of Serbia and the relevant standards of EU law, save for any general derogation made by the European Union; and
7. Accounts: ensure that the Promoter requests any disbursements from the Borrower, and the Borrower makes any payments to the Promoter in relation with the Project to a bank account in the name of the Promoter held with a duly authorised financial institution in the jurisdiction where the Promoter is located or where the Project is undertaken by the Promoter.

## Additional Undertakings

The Borrower, directly or by means of the Promoter, shall:

promptly inform the Bank of any changes occurring with regards to the Project Implementation Unit;

maintain an adequately staffed Project Implementation Unit until project completion to the satisfaction of the Bank;

ensure that the review procedures for remedies, as provided in Serbian law, shall be available to any party having had an interest in obtaining a particular contract and who has been or risks being harmed by an alleged infringement. The remedy mechanism procedures have to be included in all tender dossiers;

implement the project in accordance with the Resettlement Policy Framework, Environmental and Social Management Plan, Resettlement Action Plan and Stakeholder Engagement Plan;

undertake third party evaluation of the implementation of the Resettlement Action Plan within six months of its completion;

within six months prior to commissioning the Project, submit an operation and maintenance plan for the project, satisfactory to the Bank, and then continue to implement such plan for the life of the Loan.

B. GENERAL UNDERTAKINGS

## Compliance with laws

The Borrower shall and shall ensure that the Promoter will comply in all respects with all laws and regulations to which it or the Project is subject.

## Integrity

1. (a) Prohibited Conduct**:** 
   1. The Borrower shall not and shall procure that the Promoter shall not engage in   
      (and shall not authorise or permit any other Person acting on its behalf to engage in) any Prohibited Conduct in connection with the Project, any tendering procedure for the Project, or any transaction contemplated by the Contract.
   2. The Borrower undertakes and shall procure that the Promoter undertakes to take such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.
   3. The Borrower undertakes and shall procure that the Promoter undertakes to ensure that contracts financed by this Loan include the necessary provisions to enable the Borrower or the Promoter to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

(b) Sanctions**:** The Borrower shall not and shall procure that the Promoter shall not (i) enter into a business relationship with any Sanctioned Person, or (ii) make any funds available to or for the benefit of, directly or indirectly, any Sanctioned Person;

(c) Borrower’s and Promoter’s Official: The Borrower undertakes and shall procure that the Promoter undertakes to take within a reasonable timeframe appropriate measures in respect of any member of its management bodies or senior staff members who:

* 1. becomes a Sanctioned Person; or
  2. is indicted or is convicted by a court or is subject of the lifting of immunity in connection with Prohibited Conduct

in order to ensure that such member is suspended, dismissed or in any case excluded from any Borrower’s or Promoter’s activity in relation to the Loan and to the Project.

## General Representations and Warranties

The Borrower represents and warrants to the Bank that:

1. it has the power to execute, deliver and perform its obligations under this Contract and all necessary governmental and other action have been taken to authorise the execution, delivery and performance of the same by it;
2. this Contract constitutes its legally valid, binding and enforceable obligations;
3. the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not contravene or conflict with:
   1. any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject;
   2. any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Contract;
4. there has been no Material Adverse Change since 7 November 2018 on which the Bank’s Management Committee approved this loan operation as documented under this Contract;
5. no event or circumstance which constitutes a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived;
6. no litigation, arbitration, administrative proceedings or investigation is current or to its knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against it any unsatisfied judgement or award;
7. it has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;
8. its payment obligations under this Contract rank not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its debt instruments except for obligations mandatorily preferred by law;
9. it is in compliance with Article 6.5 (e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental or Social Claim has been commenced or is threatened against it;
10. it is in compliance with all undertakings under this Article 6;
11. to the best of its knowledge, no funds invested in the Project by the Borrower are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism;
12. neither the Borrower its officers and directors nor any other person acting on its or their behalf or under its or their control has committed nor will commit (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Contract; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering; and
13. the Project (including without limitation, the negotiation, award and performance of contracts financed or to be financed by the Loan) has not involved or given rise to any Prohibited Conduct.

The representations and warranties set out above shall survive the execution of this Contract and are, with the exception of the representation set out in paragraph (d) above, deemed repeated on each date of Disbursement Acceptance, Disbursement Date and on each Payment Date.

# 

Security

The undertakings in this Article 7 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

## Pari passu ranking

The Borrower shall ensure that its payment obligations under this Contract rank, and will rank, not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its debt instruments except for obligations mandatorily preferred by law.

In particular, if the Bank makes a demand under Article 10.1 or if an event or potential event of default under any unsecured and unsubordinated External Debt Instrument of the Borrower or of any of its agencies or instrumentalities has occurred and is continuing, the Borrower shall not make (or authorize) any payment in respect of any other such External Debt Instrument (whether regularly scheduled or otherwise) without simultaneously paying, or setting aside in a designated account for payment on the next Payment Date a sum equal to, the same proportion of the debt outstanding under this Contract as the proportion that the payment under such External Debt Instrument bears to the total debt outstanding under that External Debt Instrument. For this purpose, any payment of an External Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the External Debt Instrument have subscribed, shall be disregarded.

In this Contract, “**External Debt Instrument**” means (a) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement), (b) an obligation evidenced by a bond, debenture or similar written evidence of indebtedness or (c) a guarantee granted by the Borrower for an obligation of a third party; provided in each case that such obligation is: (i) governed by a system of law other than the law of the Borrower; or (ii) payable in a currency other than the currency of the Borrower’s country; or (iii) payable to a person incorporated, domiciled, resident or with its head office or principal place of business outside the Borrower’s country.

## Additional Security

If the Borrower grant to a third party any security for the performance of any External Debt Instrument or any preference or priority in respect thereof, the Borrower shall, if so required by the Bank, provide to the Bank equivalent security for the performance of its obligations under this Contract or grant to the Bank equivalent preference or priority.

## Clauses by inclusion

If the Borrower concludes with any other financial creditor a financing agreement that includes a loss-of-rating clause or a covenant or other provision regarding its financial ratios, if applicable, that is not provided for in this Contract or is more favourable to the relevant financial creditor than any equivalent provision of this Contract is to the Bank, the Borrower shall promptly inform the Bank and shall provide a copy of the more favourable provision to the Bank. The Bank may request that the Borrower promptly executes an agreement to amend this Contract so as to provide for an equivalent provision in favour of the Bank.

Information and Visits

## Information concerning the Project

The Borrower shall, and shall procure that the Promoter shall (as applicable):

1. deliver to the Bank:
   1. the information in content and in form, and at the times, specified in A.2 of Schedule A or otherwise as agreed from time to time by the parties to this Contract; and
   2. any such information or further document concerning the financing, procurement, implementation, operation of the Project and related environmental or social matters as the Bank may reasonably require within a reasonable time;

provided always that if such information or document is not delivered to the Bank on time, and the Borrower does not rectify the omission within a reasonable time set by the Bank in writing, the Bank may remedy the deficiency, to the extent feasible, by employing its own staff or a consultant or any other third party, at the Borrower’s expense, as applicable   
(within the limit of reasonable and duly documented expenses) and the Borrower, as applicable, shall provide such persons with all assistance necessary for the purpose;

1. submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, inter alia, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;
2. promptly inform the Bank of:
   1. any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or the Promoter or any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it with regard to any matters affecting the Project;
   2. true copies of contracts financed with the proceeds of the Loan and evidence of expenditures relating to disbursements;
   3. any fact or event known to the Borrower or the Promoter, which may substantially prejudice or affect the conditions of execution or operation of the Project;
   4. any non-compliance by it with any Environmental and Social Standard;
   5. any suspension, revocation or modification of any Environmental or Social Approval,
   6. a genuine allegation or complaint with regard to any Prohibited Conduct related to the Project;
   7. should it become aware of any fact or information confirming or reasonably suggesting that (a) any Prohibited Conduct has occurred in connection with the Project, or (b) any of the funds invested in its share capital or in the Project was derived from an illicit origin;
   8. any changes to the initial procurement plan;

and set out the action to be taken with respect to such matters.

## Information concerning the Borrower

The Borrower shall:

1. deliver to the Bank:
   1. from time to time, such further information on its general financial situation as the Bank may reasonably require or such certificates of compliance with the undertakings of Article 6 as the Bank may deem necessary; and
   2. any such information or further document concerning customer due diligence matters of or for the Borrower and/or the Promoter to comply with “know your customer” (KYC) or similar identification procedures as the Bank may reasonably require within a reasonable time,

as the Bank may deem necessary or may reasonably require to be provided within a reasonable time; and

1. inform the Bank immediately of:
   1. any fact which obliges it to prepay any financial indebtedness or any European Union funding;
   2. any event or decision that constitutes or may result in a Prepayment Event;
   3. any intention on its part to relinquish ownership of any material component of the Project;
   4. any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract;
   5. any Event of Default having occurred or being threatened or anticipated;
   6. any fact or event which results in (a) any member of its or Promoter’s management bodies or (b) any of its controlling entities being a Sanctioned Person;
   7. to the extent permitted by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against the Borrower, the Promoter or its controlling entities or members of the Borrower’s or Promoter’s management bodies in connection with Prohibited Conduct related to the Loan or the Project;
   8. any measure taken by the Borrower pursuant to Article 6.8 of this Contract;
   9. any litigation, arbitration or administrative proceedings or investigation which is current, threatened or pending and which might if adversely determined result in a Material Adverse Change;
   10. any material development in relation to any pending litigation, arbitration or administrative proceedings or investigation with respect to tax avoidance.

## Visits, Right of Access and Investigation

The Borrower acknowledges, and shall ensure that the Promoter will acknowledge, that the Bank may be obliged to communicate information relating to the Borrower, the Promoter and the Project to any competent institution or body of the European Union in accordance with the relevant mandatory provisions of European Union law.

1. The Borrower shall allow persons designated by the Bank, as well as persons designated by the competent EU institutions including the European Court of Auditors, the European Commission and the European Anti-Fraud Office to:
   1. visit the sites, installations and works comprising the Project and to conduct such checks as they may wish for purposes connected with this Contract and the financing of the Project,
   2. interview representatives of the Borrower and/or Promoter, and not obstruct contacts with any other person involved in or affected by the Project; and
   3. review the Borrower’s and/or Promoter’s books and records in relation to the execution of the Project and to be able to take copies of related documents to the extent permitted by the law.
2. The Borrower shall facilitate investigations by the Bank and by other competent European Union institutions or bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct and shall provide the Bank, or ensure that the Bank is provided, with all necessary assistance for the purposes described in this Article.

Charges and expenses

## Taxes, duties and fees

The Borrower shall pay all Taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, arising out of the execution or implementation of this Contract or any related document and in the creation, perfection, registration or enforcement of any Security for the Loan to the extent applicable.

The Borrower shall pay all principal, interest, indemnities and other amounts due under this Contract gross without any withholding or deduction of any national or local impositions whatsoever required by law or under an agreement with a governmental authority or otherwise. If the Borrower is obliged to make any such withholding or deduction, it shall gross up the payment to the Bank so that after withholding or deduction, the net amount received by the Bank is equivalent to the sum due.

In such cases, the Borrower shall ensure that the proceeds of the Loan shall not be used for financing of customs duties and Taxes levied by, or in the territory of, the Borrower in respect of all goods, works and services procured by the Promoter for the purposes of the Project.

## Other charges

The Borrower shall bear all charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation, enforcement and termination of this Contract or any related document, any amendment, supplement or waiver in respect of this Contract or any related document, and in the amendment, creation, management, enforcement and realisation of any security for the Loan; it being understood that the Borrower shall not bear any amendment fees in connection with any amendments or extensions to the Final Availability Date and to the project calendar and non-material amendments (in the reasonable opinion of the Bank) to the Schedule A.

## Increased costs, indemnity and set-off

1. The Borrower shall pay to the Bank any costs or expenses incurred or suffered by the Bank as a consequence of the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or compliance with any law or regulation which occurs after the date of signature of this Contract, in accordance with or as a result of which:
   1. the Bank is obliged to incur additional costs in order to fund or perform its obligations under this Contract, or
   2. any amount owed to the Bank under this Contract or the financial income resulting from the granting of the Credit or the Loan by the Bank to the Borrower is reduced or eliminated.
2. Without prejudice to any other rights of the Bank under this Contract or under any applicable law, the Borrower shall indemnify and hold the Bank harmless from and against any loss incurred as a result of any full or partial discharge that takes place in a manner other than as expressly set out in this Contract.
3. The Bank may set off any matured obligation due from the Borrower under this Contract (to the extent beneficially owned by the Bank) against any obligation (whether or not matured) owed by the Bank to the Borrower regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Bank may set off in an amount estimated by it in good faith to be the amount of that obligation.

# 

Events of Default

## Right to demand repayment

The Borrower shall repay all or part of the Loan Outstanding (as requested by the Bank) forthwith, together with accrued interest and all other accrued or outstanding amounts under this Contract, upon written demand being made by the Bank in accordance with the following provisions.

### Immediate demand

The Bank may make such demand immediately without prior notice (mise en demeure préalable) or any judicial or extra judicial step:

1. if the Borrower does not pay on the due date any amount payable pursuant to this Contract at the place and in the currency in which it is expressed to be payable, unless:
   1. its failure to pay is caused by an administrative or technical error or a Disruption Event and
   2. payment is made within 3 (three) Business Days of its due date;
2. if any information or document given to the Bank by or on behalf of the Borrower or any representation, warranty or statement made or deemed to be made by the Borrower in or pursuant to this Contract or in connection with the performance of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect;
3. if, following any default of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than the Loan:
   1. the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, discharge, close out or terminate ahead of maturity such other loan or obligation; or
   2. any financial commitment for such other loan or obligation is cancelled or suspended;
4. if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or seeks to make a composition with its creditors;
5. if an encumbrancer takes possession of, or a receiver, liquidator, administrator, administrative receiver or similar officer is appointed, whether by a court of competent jurisdiction or by any competent administrative authority any property forming part of the Project;
6. if the Borrower defaults in the performance of any obligation in respect of any other loan granted by the Bank or financial instrument entered into with the Bank;
7. if the Borrower defaults in the performance of any obligation in respect of any other loan made to it from the resources of the Bank or the European Union;
8. if any expropriation, attachment, arrestment, distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;
9. if a Material Adverse Change occurs, as compared with the Borrower’s condition at the date of this Contract; or
10. if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract or this Contract is not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms.

### Demand after notice to remedy

The Bank may also make such demand without prior notice (mise en demeure préalable) or any judicial or extra judicial step (without prejudice to any notice referred to below):

1. if the Borrower fails to comply with any provision of this Contract other than those referred to in or Article 10.1.A; or
2. if any fact related to the Borrower or the Project stated in the Recitals materially alters and is not materially restored and if the alteration either prejudices the interests of the Bank as lender to the Borrower or adversely affects the implementation or operation of the Project,

unless the non-compliance or circumstance giving rise to the non-compliance is capable of remedy and is remedied within a reasonable period of time specified in a notice served by the Bank on the Borrower.

## Other rights at law

Article 10.1 shall not restrict any other right of the Bank at law to require prepayment of the Loan Outstanding.

## Indemnity

### Fixed Rate Tranches

In case of demand under Article 10.1 in respect of any Fixed Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with the indemnity on any amount of principal due to be prepaid. Such indemnity shall (i) accrue from the due date for payment specified in the Bank’s notice of demand and be calculated on the basis that prepayment is effected on the date so specified, and (ii) be for the amount communicated by the Bank to the Borrower as the present value (calculated as of the date of the prepayment) of the excess, if any, of:

1. the interest that would accrue thereafter on the amount prepaid over the period from the date of prepayment to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not prepaid; over
2. the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.15% (fifteen basis points).

The said present value shall be calculated at a discount rate equal to the Redeployment Rate, applied as of each relevant Payment Date of the applicable Tranche

### Floating Rate Tranches

In case of demand under Article 10.1 in respect of any Floating Rate Tranche, the Borrower shall pay to the Bank the amount demanded together with a sum equal to the present value of 0.15% (fifteen basis points) per annum calculated and accruing on the amount of principal due to be prepaid in the same manner as interest would have been calculated and would have accrued, if that amount had remained outstanding according to the applicable amortisation schedule of the Tranche, until the Interest Revision/Conversion Date, if any, or the Maturity Date.

The value shall be calculated at a discount rate equal to the Redeployment Rate applied as of each relevant Payment Date.

### General

Amounts due by the Borrower pursuant to this Article 10.3 shall be payable on the date specified in the Bank’s demand.

## Non-Waiver

No failure or delay or single or partial exercise by the Bank in exercising any of its rights or remedies under this Contract shall be construed as a waiver of such right or remedy. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies provided by law.

# 

Law and dispute resolution, miscellaneous

## Governing Law

This Contract shall be governed by the laws of the Grand Duchy of Luxembourg.

## Jurisdiction

1. The Court of Justice of the European Union has exclusive jurisdiction to settle any dispute arising out of or in connection with this Contract (including a dispute regarding the existence, validity or termination of this Contract or the consequences of its nullity).
2. The parties agree that the Court of Justice of the European Union is the most appropriate and convenient court to settle any disputes between them and, accordingly, that they will not argue to the contrary.
3. The parties to this Contract hereby waive any immunity from or right to object to the jurisdiction of the Court of Justice of the European Union. A decision of the Court of Justice of the European Union given pursuant to this Article shall be conclusive and binding on each party without restriction or reservation.

## Place of performance

Unless otherwise specifically agreed by the Bank in writing, the place of performance under this Contract, shall be the seat of the Bank.

## Evidence of sums due

In any legal action arising out of this Contract the certificate of the Bank as to any amount or rate due to the Bank under this Contract shall, in the absence of manifest be prima facie evidence of such amount or rate.

## Entire Agreement

This Contract constitutes the entire agreement between the Bank and the Borrower in relation to the provision of the Credit hereunder, and supersedes any previous agreement, whether express or implied, on the same matter.

## Invalidity

If at any time any term of this Contract is or becomes illegal, invalid or unenforceable in any respect, or this Contract is or becomes ineffective in any respect, under the laws of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

1. the legality, validity or enforceability in that jurisdiction of any other term of this Contract or the effectiveness in any other respect of this Contract in that jurisdiction; or
2. the legality, validity or enforceability in other jurisdictions of that or any other term of this Contract or the effectiveness of this Contract under the laws of such other jurisdictions.

## Amendments

Any amendment to this Contract shall be made in writing and shall be signed by the parties hereto.

Final clauses

## Notices

* + 1. Form of Notice

1. Any notice or other communication given under this Contract must be in writing and, unless otherwise stated, may be made by letter, electronic mail and facsimile.
2. Notices and other communications for which fixed periods are laid down in this Contract or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter, facsimile or by electronic mail. Such notices and communications shall be deemed to have been received by the other party:
   1. on the date of delivery in relation to a hand-delivered or registered letter;
   2. on receipt of transmission in relation to a facsimile;
   3. in the case of any electronic mail sent between the parties to this Contract, only when actually received in readable form and only if it is addressed in such a manner as the Bank shall specify for this purpose; or
3. Any notice provided by the Borrower to the Bank by electronic mail shall:
   1. mention the Contract Number in the subject line; and
   2. be in the form of a non-editable electronic image (pdf, tif or other common non editable file format agreed between the parties) of the notice signed by an Authorised Signatory with individual representation right or by two or more Authorised Signatories with joint representation right of the Borrower as appropriate, attached to the electronic mail.
4. Notices issued by the Borrower pursuant to any provision of this Contract shall, where required by the Bank, be delivered to the Bank together with satisfactory evidence of the authority of the person or persons authorised to sign such notice on behalf of the Borrower and the authenticated specimen signature of such person or persons.
5. Without affecting the validity of electronic mail or facsimile notices or communication made in accordance with this Article 12.1, the following notices, communications and documents shall also be sent by registered letter to the relevant party at the latest on the immediately following Business Day:
   1. Disbursement Acceptance;
   2. any notices and communication in respect of the deferment, cancellation and suspension of a disbursement of any Tranche, interest revision or conversion of any Tranche, Market Disruption Event, Prepayment Request, Prepayment Notice, Event of Default, any demand for prepayment; and
   3. any other notice, communication or document required by the Bank.
6. The parties agree that any above communication (including via electronic mail) is an accepted form of communication, shall constitute admissible evidence in court and shall have the same evidential value as an agreement under hand.
   * 1. Addresses

The address, fax number and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication to be made or document to be delivered under or in connection with this Contract is:

|  |  |
| --- | --- |
| For the Bank | Attention: OPS/MA-3 PUB SEC (SI,HR,WBs)  100 boulevard Konrad Adenauer  L-2950 Luxembourg  Facsimile no: +352 4379 58417  E-mail address: OPS\_MA-3\_SecDiv@eib.org |
|  |  |
| For the Borrower | Ministry of Finance  20 Kneza Milosa Street  11000 Belgrade  Republic of Serbia  Facsimile no: +381 11 3618 961  E-mail address: kabinet@mfin.gov.rs |

### Notification of communication details

The Bank and the Borrower shall promptly notify the other party in writing of any change in their respective communication details.

## English language

1. Any notice or communication given under or in connection with this Contract must be in English.
2. All other documents provided under or in connection with this Contract must be:
   1. in English; or
   2. if not in English, and if so required by the Bank, accompanied by a certified English translation and, in this case, the English translation will prevail.

## Entry into force

This Contract shall enter into force upon confirmation by the Bank to the Borrower that it has received a copy of the Official Gazette of the Republic of Serbia publishing the law on ratification of this Contract by the Parliament of the Republic of Serbia.

## Recitals, Schedules

The Recitals and following Schedules form part of this Contract:

1. Project Specification and Reporting
2. Definition of EURIBOR
3. Forms for Borrower
4. Interest Rate Revision and Conversion
5. Certificate to be provided by the Borrower

The parties hereto have caused this Contract to be executed in 6 (six) originals in the English language.

At Belgrade, this 12 September 2019

|  |  |  |
| --- | --- | --- |
| Signed for and on behalf of  THE REPUBLIC OF SERBIA | Signed for and on behalf of  EUROPEAN INVESTMENT BANK | |
| Ms. Zorana Mihajlović | Mr. Miguel Morgado | Ms. Ayse Nil Ada | |
| Deputy Prime Minister and Minister of Construction, Transport and Infrastructure | Director | Legal Counsel |

1. 2. Project Specification and Reporting

# A.1 TECHNICAL DESCRIPTION

**1. Purpose, Location**

The project concerns the construction of approximately 32 km of highway, very largely on a new alignment, from the existing junction between the A1 motorway and E80 highway at Merosina and the community of Beloljin.

The project is the first phase of the staged improvement of the whole 100 km long section between Nis and Pristina, which is the major missing link in the 314 km long SEETO Road Route 7.

The purpose is to improve travel times and safety, particularly for through traffic, as well as to alleviate congestion and local environmental nuisance in the communities adjacent to the current E80 highway.

The project is located in a largely rural environment in south-west Serbia.

**2. Description**

The project consists of three components as follows:

***2.1 Works Component***

The main technical elements of the highway works are as follows:

* Construction of a second carriageway and reconstruction of the existing carriageway for about 5 km between junction Merosina and junction Merosina 1 (dual two lane once complete);
* Construction of about 27 km of new single carriageway highway between Merosina 1 and Beloljin junctions;
* Construction of six tunnels, with aggregate length of about 2,700 metres;
* Construction of 38 bridges and viaducts various span on the main carriageway, with aggregate length of about 4,300 metres;
* Construction of five grade separated junctions;
* Construction of retaining walls and slope stabilization works;
* Construction of two service areas and a rest area;
* Rehabilitation and reconfiguration of the road and utility networks affected by the project; and
* Supply and installation of Tunnel M&E as well as Intelligent Transport System equipment.

The main parameters of the highway works include:

* design speed of 130 km/hr (operating speed of 80-100 km/hr for single carriageway);
* axle load 11.5 tonne;
* minimum running lane width of 3.75 metres and minimum emergency lane width of 2.50 metres;
* road safety measures in line with the recommendations of the independent audit; and
* environmental mitigation measures compliant with the requirements of the Environmental Decision.

Apart from the section Merosina to Merosina 1, the project will be constructed for a single carriageway but will be designed and constructed with passive provision (in alignment and relevant earthworks and structures) for subsequent optimal upgrading to full Trans European Motorway standards when traffic levels justify.

***2.2 Services Component***

Consulting services for supervision of works, monitoring and auditing as well as technical assistance to support implementation and future project preparation.

***2.3 Right of way***

Necessary land acquisition, resettlement and compensation.

**Calendar**

The construction of the project is expected over the period 2020 to 2025.

The project may be implemented in 3 or 4 phases to be agreed between the Promoter and the Bank, for which detailed design, safety auditing, tendering, resettlement and works commencement may be staggered in time.

# A.2 PROJECT INFORMATION TO BE SENT TO THE BANK AND METHOD OF TRANSMISSION

1. Dispatch of information: designation of the person responsible

The information below has to be sent to the Bank under the responsibility of:

|  |  |  |
| --- | --- | --- |
|  | **Financial Contact** | **Technical Contact** |
| Contact person | *Zoran Babić* | *Zoran Babić* |
| Title | *Acting Director* | Acting Director |
| Function / Department financial and technical | *Acting Director / Koridori Srbije d.o.o. Beograd* | *Acting Director / Koridori Srbije d.o.o. Beograd* |
| Address | *21 Kralja Petra Street, 11000 Belgrade, Republic of Serbia* | *21 Kralja Petra Street, 11000 Belgrade, Republic of Serbia* |
| Phone | *+381 11 3344 174* | *+381 11 3344 174* |
| Fax | */* | / |
| Email | *office@koridorisrbije.rs* | *office@koridorisrbije.rs* |

The above-mentioned contact person(s) is (are) the responsible contact(s) for the time being.

The Borrower shall inform or shall ensure that the Promoter informs the EIB immediately in case of any change.

1. Information on specific subjects

The Borrower shall deliver or shall ensure that the Promoter delivers to the Bank the following information at the latest by the deadline indicated below.

|  |  |
| --- | --- |
| **Document / information** | **Deadline** |
| Evidence to Bank’s satisfaction that:   * the Competent Authority for the Environment has issued its positive decision; and * the Competent Authority for Nature Conservation has issued its opinion on the significance of the impact of the project on protected areas and species (Form A/B equivalent); | First disbursement for works |
| Prior to each disbursement for the works component, the Promoter shall **provide evidence satisfactory to the Bank that:**   * Involuntary resettlement has progressed in accordance with the Resettlement Policy Framework dated July 2018 and Resettlement Action Plan to be agreed with the Bank; * The Project Implementation Unit is in operation with terms of reference, staff, resources and technical assistance all satisfactory to the Bank; * An independent Supervision Engineer, with staff, resources and terms of reference satisfactory to the Bank, is in operation; * the Resettlement Action Plan is prepared; and * the findings of a road safety audit, with content and prepared in a manner consistent with the principles of the Road Safety Directive 2008/96/EC, have been duly incorporated into the final design of the works | Each disbursement for works |
| Third party evaluation of the implementation of the RAP | Within six months of RAP completion |
| Operation and maintenance plan for the project, satisfactory to the Bank. | Six months prior to commissioning the project |

1. Information on the project’s implementation

The Borrower shall deliver or shall ensure that the Promoter delivers to the Bank the following information on project progress during implementation at the latest by the deadline indicated below.

|  |  |  |
| --- | --- | --- |
| **Document / information** | **Deadline** | **Frequency of reporting** |
| Project Progress Report   * A brief update on the Technical Description, explaining the reasons for significant changes vs. initial scope; * Update on the date of completion of each of the main project’s components, explaining reasons for any possible delay; * Update on the cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost; * Update on the finance plan; * A description of any major issue with impact on the environment; * Update of the procurement plan; * Any significant issue that has occurred and any significant risk that may affect the project’s operation; * Any legal action concerning the project that may be on-going; * Update on the implementation of the ESMP and RAP. * Non-confidential project-related pictures, if available. | February 28 and August 31, starting August 2020 | Every six months |

1. Information on the end of works and first year of operation

The Borrower shall deliver or shall ensure that the Promoter delivers to the Bank the following information on project completion and initial operation at the latest by the deadline indicated below.

|  |  |
| --- | --- |
| **Document / information** | **Date of delivery  to the Bank** |
| Project Completion Report, including:   * A final Technical Description of the project as completed, explaining the reasons for any significant change compared to the Technical Description in A.1.; * The date of completion of each of the main project’s components, explaining reasons for any possible delay; * The final cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost; * The final finance plan for the project; * Employment effects of the project: person-days required during implementation as well as permanent new jobs created; * A description of any major issue with impact on the environment or social impacts; * Update on procurement procedures and explanation of deviations from the procurement plan; * Update on the project’s demand or usage and comments; * Any significant issue that has occurred and any significant risk that may affect the project’s operation; * Any legal action concerning the project that may be on going; * Non-confidential project-related pictures, if available. * An update on the following Monitoring Indicators: * AADT on project road, % heavy vehicles * AADT, on old road, % heavy vehicles * Average speed on old road and project road | March 31 2027 |

The financing for this project benefits from an EU guarantee to the Bank under DECISION No 466/2014/EU of the European Parliament and of the Council. Pursuant to Article 9 (2) of this Decision, the Bank “shall require the project promoters to carry out thorough monitoring during project implementation until completion, inter alia, on the economic, development, social, environmental and human rights impact of the investment project. The EIB shall verify on a regular basis the information provided by the project promoters and make it publicly available if the project promoter agrees. Where possible, project completion reports related to EIB financing operations shall be published excluding confidential information.”

 Accordingly, and without prejudice to the Bank’s obligation to make publicly available any project-related environmental information under Aarhus Convention or Regulation, the Bank shall make publicly available all information provided by the Borrower or Promoter in the Project Progress Reports and Project Completion Report provided that such information is expressly marked by the Borrower or the Promoter as “for publication on the EIB website”.

Alternatively, the Borrower or the Promoter may also decide to publish this information on its own website and provide the EIB with the corresponding link (URL) which will be used as a source for EIB publication.

The EIB will not take any responsibility for the content of such information made public on its website. Documents marked as “for publication on the EIB website” will be published as received and will not be edited by the EIB. Only functioning URLs that link to the relevant project-related information will be published by the EIB.

1. Information required 3 years after the Project Completion Report

The Borrower shall deliver or shall ensure that the Promoter delivers to the Bank the following information 3 years after the project completion report at the latest by the deadline indicated below.

|  |  |
| --- | --- |
| **Document / information** | **Date of delivery  to the Bank** |
| * An update on the following Monitoring Indicators: * AADT on project road, % heavy vehicles * AADT, on old road, % heavy vehicles * Average speed on old road and project road | *36 months after Project Completion Report* |
| **Language of reports** | **English** |

# Schedule B

Definition of EURIBOR

* + 1. EURIBOR

"EURIBOR" means:

1. in respect of a relevant period of less than one month, the Screen Rate   
   (as defined below) for a term of one month;
2. in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and
3. in respect of a relevant period of more than one month for which a Screen Rate is not available, the rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period next shorter and the other for a period next longer than the length of the relevant period,

(the period for which the rate is taken or from which the rates are interpolated being the "Representative Period").

For the purposes of paragraphs b) and c) above:

1. "**available**" means the rates, for given maturities, that are calculated and published by Global Rate Set Systems Ltd (GRSS), or such other service provider selected by the European Money Markets Institute (EMMI), under the sponsorship of EMMI and EURIBOR ACI, or any successor to that function of EMMI and EURIBOR ACI as determined by the Bank; and
2. "**Screen Rate**" means the rate of interest for deposits in EUR for the relevant period as published at 11h00, Brussels time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal euro-zone offices of four major banks in the euro-zone, selected by the Bank, to quote the rate at which EUR deposits in a comparable amount are offered by each of them as at approximately 11h00, Brussels time, on the Reset Date to prime banks in the euro-zone interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations.

If fewer than 2 (two) quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the euro-zone, selected by the Bank, at approximately 11h00, Brussels time, on the day which falls 2 (two) Relevant Business Days after the Reset Date, for loans in EUR in a comparable amount to leading European banks for a period equal to the Representative Period.

If no rate is available as provided above, EURIBOR shall be the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

* + 1. GENERAL

For the purposes of the foregoing definitions:

1. All percentages resulting from any calculations referred to in this Schedule will be rounded, if necessary, to the nearest one thousandth (in respect of EURIBOR) of a percentage point, with halves being rounded up.
2. The Bank shall inform the Borrower without delay of the quotations received by the Bank.
3. If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EMMI and EURIBOR ACI (or any successor to that function of EMMI and EURIBOR ACI as determined by the Bank) in respect of EURIBOR, the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

Schedule C

Forms for Borrower

C.1 Form of Disbursement Offer/Acceptance (Articles 1.2.B and 1.2.C.)

To: The Republic of Serbia

From: European Investment Bank

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Subject: Disbursement Offer/Acceptance for the Finance Contract between European Investment Bank and The Republic of Serbia dated \_\_\_\_\_\_\_\_\_\_\_\_\_   
(the "Finance Contract")

Serapis number 2017-0258 FI number 87.700

Dear Sirs,

We refer to the Finance Contract. Terms defined in the Finance Contract have the same meaning when used in this letter.

Following your request for a Disbursement Offer from the Bank, in accordance with Article 1.2.B of the Finance Contract, we hereby offer to make available to you the following Tranche:

1. Amount to be disbursed in EUR:
2. Scheduled Disbursement Date:
3. Interest rate basis:
4. Interest payment periodicity:
5. Payment Dates:
6. Terms for repayment of principal:
7. The Repayment Dates and the first and the last Repayment Date for the Tranche:
8. The Interest Revision/Conversion Date:
9. The Fixed Rate or Spread, applicable until the Interest Revision/Conversion Date if any, or until the Maturity Date.

To make the Tranche available subject to the terms and conditions of the Finance Contract, the Bank must receive a Disbursement Acceptance in the form of a copy of this Disbursement Offer duly signed on your behalf, to the following fax number +352 4379 58417 or e-mail OPS\_MA-3\_SecDiv@eib.org, no later than the Disbursement Acceptance Deadline of [time] Luxembourg time on [date].

The Disbursement Acceptance below must be signed by an Authorised Signatory and must be fully completed as indicated, to include the details of the Disbursement Account.

If not duly accepted by the above stated time, the offer contained in this document shall be deemed to have been refused and shall automatically lapse.

If you do accept the Tranche as described in this Disbursement Offer, all the related terms and conditions of the Finance Contract shall apply, in particular, the provisions of Article 1.4.

Yours faithfully,

EUROPEAN INVESTMENT BANK

We hereby accept the above Disbursement Offer:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

for and on behalf of The Republic of Serbia

Date:

Account to be credited:

Account N°: …………………………………………………………………………………………….

Account Holder/Beneficiary: …………………………………………………………………………

(please, provide IBAN format if the country is included in IBAN Registry published by SWIFT, otherwise an appropriate format in line with the local banking practice should be provided)

Bank name and address: ……………………………………………..……………………………...

Bank identification code (BIC): ………………………………………………………………………

Payment details to be provided: …………………………………………………………………….

Please transmit information relevant to:

Name(s) of the Borrower's Authorised Signatory(ies):

………………………………………………………..………………………………………………..

Signature(s) of the Borrower’s Authorised Signatory(ies):

IMPORTANT NOTICE TO THE BORROWER:

BY COUNTERSIGNING ABOVE YOU CONFIRM THAT THE LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS PROVIDED TO THE BANK WAS DULY UPDATED PRIOR TO THE PRESENTATION OF THE ABOVE DISBURSEMENT OFFER BY THE BANK.

IN THE EVENT THAT ANY SIGNATORIES OR ACCOUNTS APPEARING IN THIS DISBURSEMENT ACCEPTANCE ARE NOT INCLUDED IN THE LATEST LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS RECEIVED BY THE BANK, THE ABOVE DISBURSEMENT OFFER SHALL BE DEEMED AS NOT HAVING BEEN MADE.

Schedule D

Interest Rate Revision and Conversion

If an Interest Revision/Conversion Date has been included in the Disbursement Offer for a Tranche, the following provisions shall apply.

A. Mechanics of Interest Revision/Conversion

Upon receiving an Interest Revision/Conversion Request the Bank shall, during the period commencing 60 (sixty) days and ending 30 (thirty) days before the Interest Revision/Conversion Date, deliver to the Borrower an Interest Revision/Conversion Proposal stating:

1. the Fixed Rate or the Spread that would apply to the Tranche, or of its part indicated in the Interest Revision/Conversion Request pursuant to Article 3.1; and
2. that such rate shall apply until the Maturity Date or until a new Interest Revision/Conversion Date, if any, and that interest is payable quarterly, semi-annually or annually in accordance with Article 3.1, in arrear on designated Payment Dates.

The Borrower may accept in writing an Interest Revision/Conversion Proposal by the deadline specified therein.

Any amendment to this Contract requested by the Bank in this connection shall be effected by an agreement to be concluded not later than 15 (fifteen) days prior to the relevant Interest Revision/Conversion Date.

Fixed Rates and Spreads are available for periods of not less than 4 (four) years or, in the absence of a repayment of principal during that period, not less than 3 (three) years.

1. Effects of Interest Revision/Conversion

If the Borrower duly accepts in writing a Fixed Rate or a Spread in respect of an Interest Revision/Conversion Proposal, the Borrower shall pay accrued interest on the Interest Revision/Conversion Date and thereafter on the designated Payment Dates.

Prior to the Interest Revision/Conversion Date, the relevant provisions of this Contract and Disbursement Offer and Disbursement Acceptance shall apply to the Tranche in its entirety. From and including the Interest Revision/Conversion Date onwards, the provisions contained in the Interest Revision/Conversion Proposal relating to the new Fixed Rate or the new Spread shall apply to the Tranche (or any part thereof, as indicated in the Interest Revision/Conversion Request) until the new Interest Revision/Conversion Date, if any, or until the Maturity Date.

1. No or Partial Interest Revision/Conversion

If the Borrower does not submit an Interest Revision/Conversion Request or does not accept in writing the Interest Revision/Conversion Proposal for the Tranche or if the parties fail to effect an amendment requested by the Bank pursuant to paragraph A above, the Borrower shall repay the Tranche (or the part thereof, as indicated in the Interest Revision/Conversion Request) on the Interest Revision/Conversion Date, without indemnity.

In case of a partial Interest Revision/Conversion, the Borrower will repay, without indemnity, on the Interest Revision/Conversion Date any part of the Tranche which was not covered by the Interest Revision/Conversion Request and which is therefore not subject to the Interest Revision/Conversion.

Schedule E

Certificates to be provided by the Borrower

E.1 Form of Certificate from Borrower (Article 1.4.C)

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  | | --- | --- | --- | | To: | European Investment Bank | | | From: | The Republic of Serbia | | | Date: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | Subject: | E-80 HIGHWAY NIS-MERDARE PHASE I Finance Contract between European Investment Bank and The Republic of Serbia dated \_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Finance Contract") | | |  | Contract Number 87.700 | Operation Number 2017-0258 | | |

Dear Sirs,

Terms defined in the Finance Contract have the same meaning when used in this letter.

For the purposes of Article 1.4 of the Finance Contract we hereby certify to you as follows:

1. no Prepayment Event has occurred and is continuing unremedied or unwaived;
2. no security of the type prohibited under Article 7.1 has been created or is in existence;
3. there has been no material change to any aspect of the Project or in respect of which we are obliged to report under Article 8.1, save as previously communicated by us;
4. we have sufficient funds available to ensure the timely completion and implementation of the Project in accordance with the Technical Description;
5. no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute an Event of Default has occurred and is continuing unremedied or unwaived;
6. no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us any unsatisfied judgement or award;
7. the representations and warranties to be made or repeated by us under Article 6.9 are true in all respects; and
8. no Material Adverse Change has occurred, as compared with the situation at the date of the Finance Contract.

Yours faithfully,

For and on behalf of The Republic of Serbia

Date: