ПРЕДЛОГ ЗАКОНА

О ПОТВРЂИВАЊУ ФИНАНСИЈСКОГ УГОВОРА COVID-19 ПОДРШКА ВЛАДИ СРБИЈЕ ЗА МАЛА И СРЕДЊА ПРЕДУЗЕЋА И ПРЕДУЗЕЋА СРЕДЊЕ ТРЖИШНЕ КАПИТАЛИЗАЦИЈЕ ИЗМЕЂУ ЕВРОПСКЕ ИНВЕСТИЦИОНЕ БАНКЕ И РЕПУБЛИКЕ СРБИЈЕ

Члан 1.

Потврђује се Финансијски уговор COVID-19 подршка Влади Србије за мала и средња предузећа и предузећа средње тржишне капитализације између Европске инвестиционе банке и Републике Србије, који је потписан у Луксембургу, 14. јуна 2021. године и у Београду 18. јуна 2021. године, у оригиналу на енглеском језику.

Члан 2.

Текст Финансијског уговора COVID-19 подршка Влади Србије за мала и средња предузећа и предузећа средње тржишне капитализације између Европске инвестиционе банке и Републике Србије, у оригиналу на енглеском језику и преводу на српски језик гласи:

|  |  |
| --- | --- |
|  |  |
|  |  |
|  | Contract Number (FI N°) 92.618 |
|  | Operation Number (Serapis N°) 2020-0562 |

**COVID-19 SERBIAN GOVERNMENT SUPPORT**

**SMES AND MID-CAPS**

Finance Contract

*between the*

European Investment Bank

*and the*

Republic of Serbia

Luxembourg, 14 Junе 2021

Belgrade, 18 Junе 2021

THIS CONTRACT IS MADE BETWEEN:

|  |  |
| --- | --- |
| The **European Investment Bank**  having its seat at 100 blvd Konrad Adenauer, L-2950, Luxembourg, represented by Mr. Matteo Rivellini, Head of Division, and Alessandro Cagnato, Senior Legal Counsel  of the first part, and | (the “**Bank**”) |
| The **Republic of Serbia**  represented by the Minister of Finance Mr. Siniša Mali, Minister of Finance, on behalf of the Government as representative of the Republic of Serbia  of the second part. | (the “**Borrower**”) |

**WHEREAS:**

1. The Borrower has requested the Bank to establish in its favour a credit in an amount of EUR 200,000,000.00 (two 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 amended (the “Mandate”).

The credit is requested to be provided to the Republic of Serbia, which will channel the funds via the Ministry of Economy (the “**Promoter**”) through the Fond Za Razvoj Republike Srbije (the Development Fund of the Republic of Serbia, hereinafter the “**Development Fund**” or the “**Intermediary**”) for the financing of eligible projects (together referred to as “**Projects**”) carried out by final beneficiaries that are small and medium-sized enterprises (hereinafter referred to as “**SMEs**”) and mid-caps (hereinafter referred to as “**Mid-Caps**”) located in the Republic of Serbia, which have been impacted by COVID-19 pandemic and which meet the eligibility criteria set out in the Side Letter (the “**Final Beneficiaries**”).

1. The Projects are required to be eligible for financing by the Bank having regard to the Bank’s Statutes, to the provisions of Article 309 of the Treaty on the Functioning of the European Union, and to the provisions of this Contract and of the Side Letter.
2. The aggregate of the Loan (as defined herein below) shall be used for the financing of Projects, out of which, at least 70% (seventy per cent) shall be used for the financing of Projects undertaken by SMEs and, up to 30% (thirty per cent) may be used for the financing of Projects undertaken by Mid-Caps.
3. The provision of finance for each project is to be the subject of:
4. national law regulating on-lending of working capital loans and Decree adopted by the Government of the Republic of Serbia regulating on-lending of investment loans, followed by an agreement between the Promoter, represented by the Minister of Economy, and the Intermediary for the purpose of on-lending funds disbursed hereunder (the “**Intermediary Agreement**”); and
5. a loan agreement between the Intermediary and a Final Beneficiary (each a “**Sub-Financing Agreement**”), for the purpose of on-lending to such Final Beneficiary funds disbursed under this Contract and the Intermediary Agreement (hereinafter referred to as “**Sub-Financing**”).
6. On 11 May 2009, the Republic of Serbia executed with the Bank a framework agreement governing the Bank’s activities in the territory of the Republic of Serbia (the “**Framework Agreement**”) and the present projects fall within the scope of the Framework Agreement.
7. The Bank considering that the financing of the Projects falls within the scope of its functions, 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 200,000,000.00 (two hundred million euros) under this contract (the “**Contract**”).
8. The Government of the Republic of Serbia has authorised the borrowing of the sum of   
   EUR 200,000,000.00 (two hundred million euros) represented by this credit on the terms and conditions set out in this Contract and in the Side Letter.
9. The Intermediary, pursuant to its founding law (decree promulgating the law on investment a development fund of the Republic of Serbia, Official Gazette of the Republic of Serbia, No. 36/2009, 88/2010, 119/2012 and 5/2015, as subsequently amended from time to time, and hereinafter, the “**Intermediary’s Founding Law**”). More specifically, the financial obligations of the Borrower under this Contract are without any condition, irrevocably and upon first demand, without the necessity of issuing any guarantee document. Such responsibility of the Republic of Serbia is unlimited.
10. By Decision No. 2018/412/EU (Official Journal of the European Union, L 76, 19 March 2018) amending Decision No. 466/2014/EU (the “**Decision**”), the European Parliament and the Council of the European Union have decided to grant a guarantee to the Bank against certain losses incurred by it under loans and loan guarantees granted from 2014 to 2020 (as extended) for projects carried out in certain countries outside the European Union listed in the Decision. The Republic of Serbia is an eligible country under Annex III of the Decision.
11. 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.
12. In accordance with the Recommendations of the Financial Action Task Force, as established within the Organisation for Economic Cooperation and Development, the Bank gives special attention to its transactions and its business relations in those cases where it provides finance (a) for a project located in a country that does not sufficiently apply those recommendations or (b) for a borrower or beneficiary resident in any such country.
13. By entering into this Contract the Borrower acknowledges that the Bank may be bound to comply with the Sanctions (as defined below) and that it cannot, therefore, amongst others, make funds available, directly or indirectly, to or for the benefit of a Sanctioned Person (as defined below).
14. 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.
15. 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.
16. The Bank supports the implementation of international and EU standards in the field of anti-money laundering and countering the financing of terrorism and promotes tax good governance standards. It has established policies and procedures to avoid the risk of misuse of its funds for purposes which are illegal or abusive in relation to applicable laws. The EIB Group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, money laundering and financing of terrorism is available on the Bank’s website and offers further guidance to EIB contracting counterparties.[[1]](#footnote-1)

**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” means:
   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 the Contract), its capacity and/or assets and/or the Projects; 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 or a treaty 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:

“**Agreed Deferred Disbursement Date**” has the meaning given to it in Article 1.05A(2)(b).

“**Allocation**”has the meaning given to it in Article 1.09B.

“**Allocation Period**” has the meaning given to it in Article 1.09A.

“**Allocation Proposal**”has the meaning given to it in Article 1.09A.

“**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 Requests 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 Request.

“**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-Control Event**” has the meaning given to it in Article 4.03A(3).

“**Change-of-Law Event**” has the meaning given to it in Article 4.03A(4).

“**Contract**” has the meaning given to it in Recital (F).

“**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°”.

“**Covid-19 Eligibility Window**” means the period between the Effective Date of this Contract and 31 August 2022.

“**Credit**” has the meaning given to it in Article 1.01.

“**Decision**” has the meaning given to it in Recital (I).

“**Deferment Fee**” means a fee calculated on the amount of a Notified Tranche deferred or suspended at the rate of 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 Tranche 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 such rate is less than zero in which case it shall 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 Notified Tranche in accordance with this Contract.

“**Development Fund**” has the meaning given to it in Recital (A).

“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 Notice**” means a notice from the Bank to the Borrower pursuant to and in accordance with Article 1.02C.

“**Disbursement Request**” means a notice substantially in the form set out in Schedule B.

“Dispute” has the meaning given to it in Article 11.02.

“**Disruption Event**” means either or both of:

(a) 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

(b) 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:

(i) performing its payment obligations under this Contract; or

(ii) 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.

“**Effective Date**” has the meaning given to it in Article 12.03.

“**EIB**” means the Bank.

“**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 have adopted a decision pursuant to Article 4(1) of the Decision.

“**Environment**” means the following, in so far as they affect human health or social wellbeing:

(a) fauna and flora;

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

(c) cultural heritage; and

(d) the built environment.

“**Environmental and Social Documents**” means (a) the Environmental and Social Impact Assessment Study, and (b) Non-Technical Summary and the Stakeholder Engagement Plan.

“**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 Standards**” means:

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

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

(c) the Environmental and Social Documents.

“**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 Projects.

“**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 Projects including any breach or alleged breach of any Environmental and Social Standard.

“**Environmental Law**” means:

(a) EU Law, standards and principles save for any derogation accepted by the Bank for the purpose of this Contract based on any agreement between the Republic of Serbia and the EU;

(b) laws and regulations of the Republic of Serbia; and

(c) international treaties and conventions signed and ratified by or otherwise applicable and binding on the Republic of Serbia.

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

“**EU Guarantee**” means a European Union guarantee to the Bank against certain losses under loans for projects outside the European Union, in the event of non-payment, pursuant to the Decision.

“**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 A.

“**Event of Default**” means any of the circumstances, events or occurrences specified in Article 10.01.

“**External Debt Instrument**” has the meaning given to it in Article 7.01.

“**Final Availability Date**” means the date falling 24 (twenty-four) months after the Effective Date or a later date if approved in writing by the Bank upon formal written request by the Borrower, provided that the EU Guarantee continues to apply to each Tranche being disbursed.

“**Final Beneficiary**” means the entities described in Recital (A).

“**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 the 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 to it in Recital (E).

“**Free Quota**” has the meaning given to it in Article 1.01.

“**GAAP**” means generally accepted accounting principles in the Republic of Serbia, including IFRS.

“**Guide to Procurement**” means the latest version of the Guide to Procurement published on EIB’s website available at https://www.eib.org/en/publications/guide-to-procurement 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 Projects.

“**IFRS**” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

“**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 under Article 4.03A other than those specified in Articles 4.03A(2) (*Pari Passu* to Non-EIB Financing) or 4.03A(5) (Illegality).

“**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, if any.

“**Interest Revision/Conversion Date**” means the date, which shall be a Payment Date, specified by the Bank pursuant to Article 1.02C in the Disbursement Notice.

“**Interest Revision/Conversion Proposal**” means a proposal made by the Bank under Schedule C.

“**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 3.01;
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 3.01.

“**Intermediary**” has the meaning given to it in Recital (A).

“**Intermediary Agreement**” has the meaning given to it in Recital (D).

“**Investment Loan Tranche**” means a Tranche which shall be used to finance medium to long-term investments for the SMEs and Mid-Caps, as specified in the Side Letter.

“**Letter of Allocation**”has the meaning given to it in Article 1.09B.

“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;
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 (A).

“**Market Disruption Event**” means any of the following circumstances:

(a) there are, in the reasonable opinion of the Bank, events or circumstances adversely affecting the Bank’s access to its sources of funding;

(b) 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;

(c) in relation to a Tranche in respect of which interest would be payable at Floating Rate:

(i) 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

(ii) the Bank determines that adequate and fair means do not exist for ascertaining the applicable EURIBOR for such Tranche.

“**Material Adverse Change**” means, any event or change of condition, which, in the reasonable opinion of the Bank has a material adverse effect on:

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

(b) the financial condition or prospects of the Borrower; or

(c) the rights or remedies of the Bank under this Contract.

“**Maturity Date**” means the last Repayment Date of a Tranche specified pursuant to Article 4.01.A(b)(iv) and Article 4.01.A(b)(vi) or the sole Repayment Date of a Tranche specified pursuant to Article 4.01.B.

“**Mid-Cap**” has the meaning given to it in Recital (A).

“**Money Laundering**” means:

(a) 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;

(b) 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;

(c) 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

(d) 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.

“**Non-EIB Financing**” has the meaning given to it in Article 4.03A(2).

“**Notified Tranche**” means a Tranche in respect of which the Bank has issued a Disbursement Notice.

“**Payment Date**” means the annual, semi-annual or quarterly dates specified in the Disbursement Notice 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:

1. for a Fixed Rate Tranche either:
   1. the following Relevant Business Day, without adjustment to the interest due under Article 3.01; or
   2. the preceding Relevant Business Day with adjustment (but only to the amount of interest due under Article 3.01 that accrued over the last interest period), in case repayment of principal is made in a single instalment in accordance with Schedule C point C or Article 4.01.B; and
2. for a Floating Rate Tranche, the following Relevant Business Day in that month, or, failing that, the nearest preceding Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.01.

“**Prepayment Amount**” means the amount of a Tranche to be prepaid by the Borrower in accordance with Article 4.02A or Article 4.03A, as applicable.

“**Prepayment Date**” means the date, as requested by the Borrower and agreed by the Bank or indicated by the Bank (as applicable) on which the Borrower shall effect prepayment of a Prepayment Amount.

“**Prepayment Event**” means any of the events described in Article 4.03A.

“**Prepayment Indemnity**” means in respect of any principal amount to be prepaid, the amount communicated by the Bank to the Borrower as the present value (calculated as of the Prepayment Date) of the excess, if any, of:

(a) the interest that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not prepaid; over

(b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen 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 4.02C.

“**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 4.02A.

“**Prohibited Conduct**” means any Financing of Terrorism, Money Laundering or Prohibited Practice.

“**Prohibited Practice**” means any:

(a) 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;

(b) 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;

(c) 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;

(d) 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 (including, for the avoidance of doubt, taxation related) or other benefit or to avoid an obligation;

(e) Obstructive Practice, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project, (i) 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 (ii) acts intending to materially impede the exercise of the contractual rights of audit or access to information; or

(f) Tax Crime, meaning all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of the Republic of Serbia, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year.

“**Projects**” has the meaning given to it in Recital (A).

“**Promoter**” has the meaning given to it in Recital (A).

“**Reallocation**” means, during the Allocation Period, a re-assignment of the Allocation by the Borrower (or by the Intermediary) from a Project already approved by the Bank on the terms of the Letter of Allocation towards financing of another Project(s), which satisfy the eligibility criteria set out in the Side Letter and on the terms and conditions of the allocation procedures set out in Article 1.10 and “**Reallocate**” shall be construed accordingly.

“**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.

“**Reemployment**” means, after the end of the Allocation Period, the re-assignment of the Allocation by the Borrower (or by the Intermediary) from a Project (either already approved by the Bank on the terms of the Letter of Allocation, Reallocated pursuant to Article 1.10 or previously Reemployed pursuant to Article 1.11) towards financing of another Project(s) in accordance with Article 1.11, and “**Reemploy**” shall be construed accordingly.

“**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.

“**Relevant Person**” means:

1. with respect to the Republic of Serbia, any official or representative of any of its ministries, other central executive government bodies or other governmental sub-divisions, or any other person acting on its behalf or under its control, having, in accordance with applicable local laws, the right to manage and/or supervise the Loan or the Projects; and
2. with respect to the Development Fund, any official or representative, or any other person acting on its behalf or under its control, having the power to give directions and exercise control with respect to the Loan or the Projects.

“**Repayment Date**” shall mean each of the Payment Dates specified for the repayment of the principal of a Tranche in the Disbursement Notice in accordance with the criteria set out in Article 4.01.

“**Requested Deferred Disbursement Date**” has the meaning given to it in Article 1.05A(1).

“**Sanction Lists**” means:

(a) 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, including but not limited to those as available in the official EU websites http://eeas.europa.eu/cfsp/sanctions/docs/measures\_en.pdf https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions\_en, http://ec.europa.eu/dgs/fpi/what-we-do/sanctions\_en.htm and https://sanctionsmap.eu/#/main, as amended and supplemented from time to time or on any successor page; or

(b) 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, including but not limited to those as available in the official UN websites https://www.un.org/sc/suborg/en/ and https://www.un.org/securitycouncil/content/un-sc-consolidated-list, as amended and supplemented from time to time or on any successor page.

“**Sanctioned Person**” means any individual or entity (for the avoidance of doubt, the term entity includes, but is not limited to any government, group or terrorist organisation) who is listed in one or more Sanction Lists or is a designated target of, or who is otherwise the subject of, Sanctions.

“**Sanctions**” means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures (including, in particular, but not limited to, measures in relation to the financing of terrorism) enacted, administered, implemented and/or enforced from time to time by any of the following:

1. the United Nations, and any agency or person which is duly appointed, empowered or authorised by the United Nations to enact, administer, implement and/or enforce Sanctions; and
2. the European Union, and any agency or person which is duly appointed, empowered or authorised by the European Union to enact, administer, implement and/or enforce Sanctions.

“**Scheduled Disbursement Date**” means the date on which a Tranche is scheduled to be disbursed in accordance with Article 1.02C.

“**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.

“**Side Letter**” means a side letter issued by the Bank on or around the date of this Contract that can be modified from time to time and delivered by the Bank to the Borrower on or around the date hereof, setting out the eligibility criteria as well as certain restrictions in relation to Projects.

“**SME**” has the meaning given to it in Recital (A).

“**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: (a) labour and employment conditions, (b) occupational health and safety, (c) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (d) cultural heritage (tangible and intangible), (e) public health, safety and security, (f) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (g) public participation and stakeholder engagement.

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

“**Sub-Financing**” has the meaning given to it in Recital (D).

“**Sub-Financing Agreement**” has the meaning given to it in Recital (D).

“**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).

“**Tranche**” means each disbursement made or to be made under this Contract. In case no Disbursement Notice has been delivered, Tranche shall mean a Tranche as requested under Article 1.02B.

“**Working Capital Tranche**” means a Tranche which shall be used to finance working capital, as defined in the Side Letter.

**ARTICLE 1**

**Credit and Disbursements**

* 1. **Amount of Credit**

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, the credit in an amount of EUR 200,000,000.00 (two hundred million euros) for the financing of the Projects (the “**Credit**”).

The Credit may be used by the Borrower as follows:

1. an amount not lower than EUR 110,000,000.00 (one hundred ten million euros) for the financing of Working Capital Loans; and
2. an amount up to EUR 90,000,000.00 (ninety million euros) for the financing of the Investment Loans;

on the terms and conditions set out in this Contract and in the Side Letter.

Without prejudice to any other provision of this Contract, the Borrower also has the right to use the Credit, up to a maximum total amount of EUR 40,000,000.00 (forty million euros) (hereinafter, the “**Free Quota**”), for eligible Working Capital Loans, on the terms and conditions set out in this Contract.

It being understood that the amount of the proposed Tranche to be disbursed as Free Quota, when aggregated with the amounts of the other Tranches previously disbursed as Free Quota pursuant to this Article 1.01 and the Article 1.02A shall not exceed EUR 40,000,000.00 (forty million euros).

During the 6 (six) months following each disbursement carried out as Free Quota (and in any case, if earlier, no later than the end of the Allocation Period), the Borrower shall use the amounts disbursed as Free Quota, allocating such amounts to specific Projects and shall promptly notify the Bank in writing on terms and conditions set out in Article 6.01(c) below and in the Side Letter.

In the event that the Borrower doesn’t use, in whole or in part, any amount disbursed as Free Quota within 6 (six) months from the relevant disbursement date (or, if earlier, by the end of the Allocation Period), the Borrower, at the request of the Bank, shall prepay the same portion of the Credit on the terms and conditions provided under Article 4.03A(1).

* 1. **Disbursement procedure**

**1.02A** **Tranches**

The Bank shall disburse the Credit in up to 15 (fifteen) Tranches. The amount of each Tranche shall be in a minimum amount of EUR 10,000,000.00 (ten million euros) for Tranches dedicated to the Projects, or (if less) the entire undrawn balance of the Credit.

**1.02B** **Disbursement Request**

1. The Borrower may present to the Bank a Disbursement Request for the disbursement of a Tranche, such Disbursement Request to be received at the latest 15 (fifteen) days before the Final Availability Date. The Disbursement Request shall be in the form set out in Schedule B and shall specify:
   1. the amount of the Tranche in EUR;
   2. the preferred disbursement date for the Tranche; such preferred disbursement date must be a Relevant Business Day falling at least 15 (fifteen) days after the date of the Disbursement Request and, in any event, on or before the Final Availability Date. It being understood that notwithstanding the Final Availability Date the Bank may set the disbursement date for the Tranche at a date falling up to 4 (four) calendar months from the date of the Disbursement Request;
   3. whether the Tranche is a Fixed Rate Tranche or a Floating Rate Tranche, each pursuant to the relevant provisions of Article 3.01;
   4. the preferred interest payment periodicity for the Tranche, chosen in accordance with Article 3.01;
   5. the preferred terms for repayment of principal for the Tranche, chosen in accordance with Article 4.01;
   6. the preferred first and last dates for repayment of principal for the Tranche;
   7. the Borrower’s choice of Interest Revision/Conversion Date, if any, for the Tranche;
   8. the Disbursement Account to which the disbursement of the Tranche should be made in accordance with Article 1.02D;
   9. whether the Tranche shall be used for financing investment loans or working capital Projects, it being understood that each Tranche may only be used for one type of Projects; and
   10. whether the amount is requested as Free Quota disbursement.
2. If the Bank, following a request by the Borrower, has provided the Borrower, before the submission of the Disbursement Request, with a non‑binding fixed interest rate or spread quotation to be applicable to the Tranche, the Borrower may also at its discretion specify in the Disbursement Request such quotation, that is to say:

(i) in the case of a Fixed Rate Tranche, the aforementioned fixed interest rate previously quoted by the Bank; or

(ii) in the case of a Floating Rate Tranche, the aforementioned spread previously quoted by the Bank,

applicable to the Tranche until the Maturity Date or until the Interest Revision/Conversion Date, if any.

1. Each Disbursement Request shall be signed by an Authorised Signatory with individual representation right or two or more Authorised Signatories with joint representation right.
2. The Bank may rely on the information set out in the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower. If a Disbursement Request is signed by a person defined as Authorised Signatory under the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower, the Bank may assume that such person has the power to sign and deliver in the name and on behalf of the Borrower such Disbursement Request.
3. Subject to Article 1.02C(b), each Disbursement Request is irrevocable.

**1.02C** **Disbursement Notice**

(a) Not less than 10 (ten) days before the proposed Scheduled Disbursement Date of a Tranche the Bank shall, if the Disbursement Request conforms to Article 1.02, deliver to the Borrower a Disbursement Notice which shall specify:

(i) the amount of the Tranche in EUR;

(ii) the Scheduled Disbursement Date;

(iii) the interest rate basis for the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche all pursuant to the relevant provisions of Article 3.01;

(iv) the Payment Dates and the first interest Payment Date for the Tranche;

(v) the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.01;

(vi) the Repayment Dates and the first and last Repayment Date for the Tranche;

(vii) the Interest Revision/Conversion Date, if requested by the Borrower, for the Tranche;

(viii) for a Fixed Rate Tranche the Fixed Rate and for a Floating Rate Tranche the Spread applicable to the Tranche until the Interest Revision/Conversion Date, if any, or until the Maturity Date.

(b) If one or more of the elements specified in the Disbursement Notice does not reflect the corresponding element, if any, in the Disbursement Request, the Borrower may following receipt of the Disbursement Notice revoke the Disbursement Request by written notice to the Bank to be received no later than 12h00 noon in Luxembourg time on the next business day when the Bank is open and thereupon the Disbursement Request and the Disbursement Notice shall be of no effect. If the Borrower has not revoked in writing the Disbursement Request within such period, the Borrower will be deemed to have accepted all elements specified in the Disbursement Notice.

(c) If the Borrower has presented to the Bank a Disbursement Request in which the Borrower has not specified the fixed interest rate or spread as set out in Article 1.02B(b), the Borrower will be deemed to have agreed in advance to the Fixed Rate or Spread as subsequently specified in the Disbursement Notice.

**1.02D Disbursement Account**

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

Notwithstanding Article 5.02(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.

* 1. **Currency of disbursement**

The Bank shall disburse each Tranche in EUR.

* 1. **Conditions of disbursement**

**1.04A Conditions precedent to the first Disbursement Request**

The Bank shall have received from the Borrower, prior to a presentation of a Disbursement Request by 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;
2. the List of Authorised Signatories and Accounts; and
3. the form of communication to the Final Beneficiaries by which the Promoter and/or the Intermediary shall inform each Final Beneficiary of the Bank’s involvement in the relevant financing, according to Article 6.02A(c) of this Contract.

Any Disbursement Request made by the Borrower without the above documents having been received by the Bank and to its satisfaction shall be deemed not made.

**1.04B** **First Tranche**

The disbursement of the first Tranche under Article 1.02 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 (and, in the case of deferment under   
Article 1.05, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively), of the following documents or evidence:

1. evidence that the Borrower has obtained all necessary Authorisations, required in connection with this Contract and the Projects;
2. a legal opinion issued by the Ministry of Justice of the Borrower, confirming that:
3. the conclusion of this Contract has been duly authorised by a decision of the Government of the Republic of Serbia;
4. the financing of the Project falls within the scope of the Framework Agreement;
5. the Contract has been duly executed by the Borrower, its provisions are in full force and effect and the Contract is valid, binding and enforceable in accordance with its terms; and
6. any necessary exchange control consents have been obtained to permit receipt of disbursements hereunder on the special account mentioned in Article 1.02(D), repayment of the Loan and the payment of interest and all other amounts due under this Contract; such consents extend to the opening and maintenance of the accounts to which disbursement of the Credit is directed;
7. a form of the Sub-Financing Agreement or form of communication to the Final Beneficiaries (including a certified English translations thereof) has been submitted by the Promoter and/or the Intermediary to be, and has been, approved by the Bank;
8. the Side Letter duly signed by the Borrower, by the Promoter and by the Intermediary; and
9. evidence that the Borrower has complied with its obligation under Article 6.04 below.

**1.04C** **All Tranches**

The disbursement of each Tranche under Article 1.02, including the first, is conditional upon:

1. 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 (and, in the case of deferment under Article 1.05, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche, of the following documents or evidence:
   1. a certificate from the Borrower in the form of Schedule D signed by an authorised representative of the Borrower and dated on the date of the Disbursement Request (and, in the case of deferment under Article 1.05, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively);
   2. 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, the Contract or the legality, validity, binding effect or enforceability of the same;
   3. in relation to all Final Beneficiaries whose Projects are to be financed with the requested Tranche, a written confirmation (signed by the authorised signatories of the Promoter or the Intermediary (as applicable)) that the Promoter or the Intermediary will perform all KYC (know your customer) and AML-CFT (anti-money laundering/combating the financing of terrorism) customer due diligence checks, in accordance with the applicable legislation and the Financial Action Task Force (FATF) recommendations and standards;
   4. except for the Free Quota Tranches, a document (duly signed by the authorised signatories of the Promoter or the Intermediary (as applicable)) summarizing the amounts which have been allocated, respectively, to Investment Loans or as Working Capital Loans;
2. that on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.05, 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 6.05 are correct in all respects;
   2. no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute:

(A) an Event of Default, or

(B) a Prepayment Event,

has occurred and is continuing un-remedied or un-waived or would result from the disbursement of the proposed Tranche.

* 1. the EU Guarantee is valid, binding and enforceable and that no events or circumstances have occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the EU Guarantee or the Bank’s right to make a demand thereunder;
  2. the Republic of Serbia continues to be an Eligible Country; and
  3. the Framework Agreement is valid, binding and enforceable and that no events or circumstances have occurred which could, in the opinion of the Bank, adversely affect the legal, valid, binding and enforceable nature of the Framework Agreement;

1. that the Bank has, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.05, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche issued one or more Letters of Allocation (except for Free Quota Tranches) pursuant to Article 1.09.B for the aggregate amount of Allocations thereunder corresponding to the amount of the proposed Tranche.
   1. **Deferment of disbursement**

**1.05A Grounds for deferment**

#### 1.05A(1) BORROWER’S REQUEST

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

#### 1.05A(2) FAILURE TO SATISFY CONDITIONS TO DISBURSEMENT

1. The disbursement of a Notified Tranche shall be deferred if any condition for disbursement of such Notified Tranche referred to in Article 1.04 is not fulfilled both:
   1. at the date specified for fulfilment of such condition in Article 1.04; 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 Notified 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 1.06B, the Bank shall defer disbursement of such Notified Tranche until the Agreed Deferred Disbursement Date.

#### 1.05A(3) DEFERMENT FEE

If disbursement of a Notified Tranche is to be deferred pursuant to paragraphs 1.05A(1) or 1.05A(2) above, the Borrower shall pay the Deferment Fee.

**1.05B 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 1.05A, 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 1.05B shall remain available for disbursement under Article 1.02.

* 1. **Cancellation and suspension**

**1.06A** **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 a Notified Tranche which has a Scheduled Disbursement Date falling within 5 (five) Business Days of the date of the written notice; or
3. a Tranche in respect of which a Disbursement Request has been submitted but no Disbursement Notice has been issued.

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

**1.06B Bank’s right to suspend and cancel**

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. the Republic of Serbia is no longer an eligible country for operations under the Mandate; or
  5. a Market Disruption Event provided the Bank has not issued a Disbursement Notice.

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.

**1.06C** **Indemnity for suspension and cancellation of a Tranche**

1.06C(1) SUSPENSION

If the Bank suspends a Notified Tranche upon the occurrence of an Indemnifiable Prepayment Event or an Event of Default, or of an event or circumstance which would (with the passage of time or the giving of notice or the making of any determination under this Contract or any combination of the foregoing) constitute an Indemnifiable Prepayment Event or an Event of Default, the Borrower shall pay to the Bank the Deferment Fee calculated on the amount of such Notified Tranche.

1.06C(2) CANCELLATION

* 1. If a Notified Tranche which is a Fixed Rate Tranche (the “**Cancelled Tranche**”) is cancelled:

1. by the Borrower pursuant to Article 1.06A; or
2. by the Bank upon an Indemnifiable Prepayment Event, or an event or circumstance which would (with the passage of time or the giving of notice or the making of any determination under this Contract or any combination of the foregoing) constitute an Indemnifiable Prepayment Event, or pursuant to Article 1.05.B.

the Borrower shall pay to the Bank an indemnity on such Cancelled Tranche.

* 1. Such indemnity shall be:

1. calculated assuming that the Cancelled Tranche had been disbursed and repaid on the same Scheduled Disbursement Date or, to the extent the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice; and
2. in the amount communicated by the Bank to the Borrower as the present value (calculated as of the date of cancellation) of the excess, if any, of:
   1. the interest that would accrue thereafter on the Cancelled Tranche over the period from the date of cancellation pursuant to this Article 1.06.C(2), to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not cancelled; over
   2. the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen 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.

* 1. If the Bank cancels a Notified Tranche upon the occurrence of an Event of Default, the Borrower shall indemnify the Bank in accordance with Article 10.03.
  2. Save in the cases (a) or (c) above, no indemnity is payable upon cancellation of a Tranche.
  3. **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 Request has been made in accordance with Article 1.02B 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.

* 1. **S****ums due under Article 1.05 and 1.06**

Sums due under Articles 1.05 and 1.06 shall be payable in euro. Sums due under Articles 1.05 and 1.06 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.

* 1. **Allocation**

**1.09A** **Submission of Allocation Proposals**

From the Effective Date of this Contract until 31 August 2022 (hereinafter referred to as an “**Allocation Period**”), the Borrower shall procure that the Promoter shall submit for approval to the Bank one or more allocation requests (each an “**Allocation Proposal**”), in respect of which it seeks financing under this Contract.

Each Allocation Proposal shall include Projects in form and substance as set out in the Side Letter.

The Borrower, through the Promoter, shall ensure that the Intermediary has acknowledged and consents to all relevant terms and conditions of this Contract and of the Side Letter (as may be amended from time to time).

**1.09B** **Allocation Approval Process**

The Bank will verify compliance of the Project(s) with the criteria set out in the Side Letter.

The Bank may ask the Borrower and/or the Promoter (as the case may be) to provide additional information as it deems necessary to evaluate the eligibility of the proposed Project(s).

If an Allocation Proposal for a Project submitted to the Bank pursuant to Article 1.09A is approved by it, the Bank shall notify the Borrower and the Promoter to that effect by sending a Letter of Allocation (hereafter a “**Letter of Allocation**”) in which the Bank confirms:

(i) which Projects have been approved; and

(ii) the portion of the Credit which the Bank has allocated to any so approved Project (each such portion being hereafter called an “**Allocation**”, which term shall include any such portion as may be Reallocated).

* 1. **Reallocation**

If, during the Allocation Period, any of the following events occurs:

1. a Sub-Financing has not, or will have not, been disbursed within a disbursement period set out in the corresponding Sub-Financing Agreement, or has or will have been disbursed only in part, to a Final Beneficiary; or
2. a Sub-Financing is voluntarily prepaid (or redeemed, as the case may be) by a Final Beneficiary, or
3. a Sub-Financing is prepaid (or redeemed, as the case may be) by a Final Beneficiary following a demand for prepayment (or a call for early redemption, as the case may be) from the Borrower (or from the Intermediary, as relevant), or it is cancelled for any reason, or
4. a Sub-Financing is repaid by a Final Beneficiary on its scheduled maturity date, however, prior to the Maturity Date of the Tranche allocated to such Sub-Financing; or
5. the eligible costs of any Project (as such costs are defined in the Side Letter) have been reduced to the extent that the amount of the Allocation made to any such Project exceeds the amount eligible under the Side Letter, or
6. any Project is cancelled, abandoned or terminated; or
7. a Final Beneficiary is not in compliance with the provisions of the relevant   
   Sub-Financing Agreement implementing Article 6.02; or
8. it is ascertained, after relevant Letter of Allocation has been issued by the Bank, that any piece of information or document made available or delivered to the Bank as part of the Allocation Proposal, or any representation or statement made therein, is or proves to have been incorrect or misleading such that the Bank is of the opinion that it has had an impact on the Bank’s assessment of eligibility of the respective Project or Final Beneficiary and, should the correct information or document be made available or delivered, such Project or Final Beneficiary would have not been approved by the Bank under the terms of the Letter of Allocation; or
9. the Borrower has notified the Bank of, or the Bank has notified the Borrower after it has become aware of, any fact which in the judgement of the Borrower, the Promoter, the Intermediary or the Bank as the case may be, may substantially prejudice or affect the conditions of execution or operation of a Project; or
10. the Borrower has notified the Bank, and the Bank has agreed thereto, that it, or the Promoter, or the Intermediary wishes to Reallocate part of the Allocation within a reasonable timeframe agreed with the Bank; or
11. a Sub-Financing is no longer eligible according to the provisions of this Contract and/or of the Side Letter,

a corresponding part of the original Allocation shall be promptly Reallocated by the Borrower, by the Promoter or by the Intermediary (as applicable) for the purpose of financing other Project(s), which satisfy the criteria set out in the Side Letter and on the terms and conditions of the allocation procedures set out in Article 1.09, save to the extent that the Borrower voluntarily prepays any corresponding part of the Loan Outstanding pursuant to Article 4.02.

The Borrower shall procure that the Promoter and the Intermediary shall ensure that all such new Projects, Sub-Financing Agreements and Final Beneficiaries conform to the eligibility criteria set out in the Side Letter and to the terms and conditions of this Contract applicable to them.

Such new Allocation Proposal(s) shall be presented to the Bank for approval and shall satisfy the conditions set out in Article 1.09.

* 1. **Reemployment**

If any of the events set out in Article 1.10 (other than 1.10(i)) occurs after the end of the Allocation Period a corresponding part of the Allocation shall be promptly Reemployed by the Borrower (or by the Promoter or by the Intermediary), for the purpose of financing other Project(s), which satisfy the criteria set out in the Side Letter and on the terms and conditions of the allocation procedures set out in Article 1.10, save to the extent that the Borrower voluntarily prepays any corresponding part of the Loan Outstanding pursuant to Article 4.02.

In case of Reemployment the procedure set out in Article 1.09 does not apply and no new Allocation Proposal(s) is required to be presented to the Bank for approval. The Borrower shall procure that the Promoter and the Intermediary ensure that all such new Project(s), Sub-Financing Agreement and Final Beneficiaries conform to the eligibility criteria set out in the Side Letter and to the terms and conditions of this Contract applicable to them.

The Bank may request the Borrower to promptly deliver to the Bank a list of any such Reemployments and in such form and manner as the Bank shall specify for this purpose to the Borrower and to the Bank’s satisfaction.

* 1. **Deadline for disbursement to Final Beneficiaries**

The Borrower shall (and shall procure that the Promoter and the Intermediary will), by no later than:

* 1. in the case of Allocations or Reallocations pursuant to Articles 1.09 and 1.10 (respectively), the date falling 12 (twelve) months after the end of the Allocation Period, and/or
  2. in the case of Reemployments pursuant to Article 1.11, 180 (one hundred and eighty) days from the date of the relevant re-employment,

disburse the respective amounts in full to such Final Beneficiaries, save to the extent that the Borrower voluntarily prepays the respective part of the Loan Outstanding pursuant to Article 4.02.

In case the Borrower or the Promoter or the Intermediary fails to disburse the Sub-Financing(s) in the amount required under this Article 1.12, Article 4.03.A(1) shall apply.

* 1. **Reporting system**

The Borrower, through the Promoter, and/or the Intermediary shall establish and maintain an internal reporting system for the monitoring of all Allocations, Reallocations and Reemployments (whether made by it of by the Intermediary).

**ARTICLE 2**

**The Loan**

**2.01 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 2.03.

**2.02 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 euro.

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.

**2.03 Confirmation by the Bank**

The Bank shall deliver to the Borrower the amortisation table referred to in Article 4.01, if appropriate, showing the Disbursement Date, currency, the amount disbursed, the repayment terms and the interest rate of and for that Tranche.

**ARTICLE 3**

**Interest**

**3.01 Rate of interest**

**3.01A 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 arrears on the relevant Payment Dates as specified in the Disbursement Notice, commencing on the first such Payment Date following 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 5.01(a).

**3.01B** **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 in arrears on the relevant Payment Dates, as specified in the Disbursement Notice 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 1.05 and 1.06 disbursement of any Floating Rate Tranche takes place after the Scheduled Disbursement Date the 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 5.01(b).

**3.01C** **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 C) pay interest at a rate determined in accordance with the provisions of Schedule C.

**3.02 Interest on overdue sums**

Without prejudice to Article 10 and by way of exception to Article 3.01, if the Borrower fails to pay any amount payable by it under the 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); or
   2. the EURIBOR plus 2% (200 basis points);
3. for overdue sums other than under (a) or (b) above, the 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 3.02, the relevant periods within the meaning of Schedule A 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 3.02.

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.

**3.03 Market Disruption Event**

If at any time from the issuance by the Bank of the Disbursement Notice 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.

In the case of a Notified Tranche, the rate of interest applicable to such Notified 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 1.02B. 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.**

The Spread or Fixed Rate previously notified by the Bank in the Disbursement Notice shall no longer be applicable.

**ARTICLE 4**

**Repayment**

**4.01 Normal repayment**

**4.01A** **Repayment by instalments**

(a) The Borrower shall repay each Tranche by instalments on the Repayment Dates specified in the relevant Disbursement Notice in accordance with the terms of the amortisation table delivered pursuant to Article 2.03.

(b) Each amortisation table shall be drawn up on the basis that:

(i) 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;

(ii) 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;

(iii) the first Repayment Date of each Investment Loan Tranche shall fall not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the Repayment Date immediately following the 4th (fourth) anniversary of the Scheduled Disbursement Date of the Tranche;

(iv) the last Repayment Date of each Investment Loan Tranche shall fall not earlier than 4 (four) years and not later than 12 (twelve)years from the Scheduled Disbursement Date of the Tranche;

(v) the first Repayment Date of a Working Capital Loan Tranche shall fall not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the Repayment Date immediately following the 1st (first) anniversary of the Scheduled Disbursement Date of such Working Capital Loan; and

(vi) the last Repayment Date of a Working Capital Loan Tranche shall fall not earlier than 4 (four) years and not later than (5 (five)years from the Scheduled Disbursement Date of such Working Capital Loan.

**4.01B** **Single instalment**

Alternatively, the Borrower shall repay (i) an Investment Loan in a single instalment on the sole Repayment Date specified in the Disbursement Notice, being a date falling not earlier than 3 (three) years or later than 8 (eight)years from the Scheduled Disbursement Date and (ii) a Working Capital Loan in a single instalment on the sole Repayment Date specified in the Disbursement Notice, being a date falling on the 3rd (third) anniversary of the Scheduled Disbursement Date.

**4.02 Voluntary prepayment**

**4.02A Prepayment option**

Subject to Articles 4.02B, 4.02C and 4.04, 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 5.05C(a); and
  4. the Contract Number.

The Prepayment Request shall be irrevocable.

**4.02B** **Prepayment indemnity**

4.02B(1) FIXED RATE TRANCHE

Subject to Article 4.02B(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.

4.02B(2) FLOATING RATE TRANCHE

Subject to Article 4.02B(3) below, the Borrower may prepay a Floating Rate Tranche without indemnity.

4.02B(3) REVISION/CONVERSION

Prepayment of a Tranche on its Interest Revision/Conversion Date may be effected without indemnity except if the Borrower has accepted pursuant to Schedule C a Fixed Rate under an Interest Revision/Conversion Proposal.

**4.02C** **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 4.02B 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 and the Prepayment Indemnity and the fee under Article 4.02D, if any, due on the Prepayment Amount as specified in the Prepayment Notice.

**4.02D 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.

**4.03 Compulsory prepayment**

**4.03A Prepayment Events**

4.03A(1) FAILURE TO ALLOCATE, REALLOCATE, REEMPLOY OR DISBURSE TO FINAL BENEFICIARY

Upon the Bank’s written demand to the Borrower, the Borrower shall prepay to the Bank on the date indicated by the Bank in its notice to the Borrower, any part of the Loan Outstanding and of any amount disbursed as Free Quota:

1. which corresponds to any part of the Loan that has been disbursed by the Bank to the Borrower at any time hereunder but has failed to be allocated, Reallocated or Reemployed by the Borrower, as the case may be, pursuant to Articles 1.02A, 1.09 and 1.10, or Article 1.11 respectively; or
2. which has been allocated, Reallocated or Reemployed (as the case may be) but has not been disbursed by the Borrower, or by the Promoter or by the Intermediary to the Final Beneficiaries pursuant to Article 1.11.

The Borrower shall effect payment of the amount demanded together with accrued interest and all other amounts accrued or outstanding, if any, under this Contract 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.

4.03A(2) *PARI PASSU* TO NON-EIB FINANCING

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

- such prepayment is not made within a revolving credit facility (save for cancellation of the revolving credit facility);

- such prepayment is not made out of the proceeds of a loan 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.

4.03A(3) CHANGE OF CONTROL

The Borrower shall promptly inform the Bank if a Change-of-Control Event has occurred or is likely to occur in respect of the Intermediary. At any time after the occurrence of a Change-of-Control Event, 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 or outstanding under this Contract.

In addition, if the Borrower has informed the Bank that a Change-of-Control Event has occurred or is about to occur, or if the Bank has reasonable cause to believe that a Change-of-Control Event 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.

After the earlier of (a) the lapse of 30 (thirty) days from the date of such request for consultation, or (b) at any time thereafter, upon the occurrence of the anticipated Change-of-Control Event 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.

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:

(a) a “**Change-of-Control Event**” occurs if

* + 1. the Republic of Serbia ceases to control the Development Fund or to be the beneficial owner, directly or indirectly through wholly owned subsidiaries, of 100% (one hundred per cent) of the issued share capital of the Development Fund; or
    2. any person having direct or indirect control or holding interest or ownership of the Intermediary becomes a Sanctioned Person; or
    3. any Sanctioned Person, directly or indirectly, gains control, interest or ownership of the Intermediary.

(b) “**acting in concert**” means acting together pursuant to an agreement or understanding (whether formal or informal); and

(c) “**control**” means the power to direct the management and policies of an entity, whether through the ownership of voting capital, by contract or otherwise. For the purposes of limb (3) of point (a) above, the words “control”, “interest” and “ownership” shall be interpreted as defined by the relevant sanctions authority in relation with the relevant Sanctions.

4.03A(4) 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 (including the Intermediary’s Founding Law, charter and general documents of the Intermediary), rule or regulation (or in the application or official interpretation of any law, rule or regulation) or the imposition of any Sanctions that occurs after the date of this Contract and which, in the opinion of the Bank, would materially impair the Borrower’s or the Intermediary’s ability to perform its obligations under this Contract.

4.03A(5) ILLEGALITY

If:

(a) it becomes unlawful in any applicable jurisdiction, or it becomes or is likely to become contrary to any Sanctions, for the Bank to perform any of its obligations as contemplated in this Contract or to fund or maintain the Loan; or

(b) the Framework Agreement is or, in the reasonable opinion of the Bank, is likely to be:

(i) repudiated by the Republic of Serbia or not binding on the Republic of Serbia in any respect; or

(ii) not effective in accordance with its terms or is alleged by the Republic of Serbia to be ineffective in accordance with its terms; or

(iii) breached, in that any obligation assumed by the Republic of Serbia under the Framework Agreement ceases to be fulfilled as regards any loan made to any borrower in the territory of the Republic of Serbia from the resources of the Bank, or the EU; or

(c) in relation to the EU Guarantee:

(i) it is no longer valid or in full force and effect;

(ii) the conditions for cover thereunder are not fulfilled; or

(iii) 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 Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract on the date indicated by the Bank in its notice to the Borrower.

4.03A(6) FAILURE TO INFORM FINAL BENEFICIARIES ABOUT THE EIB SUPPORT

If the Bank determines that the Promoter or the Intermediary has not informed any Final Beneficiary about the support of the Bank in accordance with this Contract, the Bank may, by notice to the Borrower, demand prepayment of the Loan Outstanding in the amount that corresponds to the amount disbursed by the Borrower or by the Promoter or by the Intermediary under any Sub-Financing Agreement to such Final Beneficiary without relevant information about the Bank’s contribution.

The Borrower shall effect payment of the amount demanded by the Bank together with accrued interest and all other amounts accrued or outstanding under this Contract 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.

**4.03B Prepayment mechanics**

Any sum demanded by the Bank pursuant to Article 4.03A, together with any interest or other amounts accrued or outstanding under this Contract including, without limitation, any indemnity due under Article 4.03C, shall be paid on the date indicated by the Bank in its notice of demand.

**4.03C** **Prepayment indemnity**

In the case of an Indemnifiable Prepayment Event, the indemnity, if any, shall be determined in accordance with Article 4.02B.

**4.04 General**

**4.04A** **No prejudice to Article 10**

This Article 4 shall not prejudice Article 10.

**4.04B No re-borrowing**

A repaid or prepaid amount may not be re-borrowed.

**ARTICLE 5**

**Payments**

**5.01 Day count convention**

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

(a) under a Fixed Rate Tranche, a year of 360 (three hundred and sixty) days and a month of 30 (thirty) days; and

(b) under a Floating Rate Tranche, a year of 360 (three hundred and sixty) days and the number of days elapsed.

**5.02 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 is deemed acceptable to the Bank.

**5.03 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.

**5.04 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:

(a) 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 the Contract as the Bank may deem necessary in the circumstances;

(b) the Bank shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) 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

(c) 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 5.04.

**5.05 Application of sums received**

**5.05A** **General**

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

**5.05B** **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 in the order set out below, in or towards:

(a) *pro rata* to each of any unpaid fees, costs, indemnities and expenses due under this Contract;

(b) any accrued interest due but unpaid under this Contract;

(c) any principal due but unpaid under this Contract; and

(d) any other sum due but unpaid under this Contract.

**5.05C** **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.
   1. Sums received by the Bank following a demand under Article 10.01 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.
   2. 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.

**ARTICLE 6**

**Borrower undertakings and representations**

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

**6.01 Use of Loan and availability of other funds**

1. The Borrower shall procure that the Promoter and the Intermediary shall ensure, as the case may be, that the proceeds of the Loan will be exclusively used for the financing of Projects under the Sub-Financing Agreements. A form of the Sub-Financing Agreement or of the communication to the Final Beneficiaries shall be submitted by the Promoter and/or the Intermediary to the Bank for its prior approval.
2. The Promoter and/or the Intermediary shall ensure that the aggregate of the Loan shall be allocated for the financing of Projects, out of which at least 70% (seventy per cent) shall be used for the financing of Projects undertaken by SMEs and, up to 30% (thirty per cent) may be used for the financing of Projects undertaken by Mid-Caps.
3. During the 6 (six) months following each disbursement carried out as Free Quota (and in any case, if earlier, no later than the end of the Allocation Period), the Promoter and/or the Intermediary shall deliver to the Bank a certificate confirming that (i) the entire amount disbursed as Free Quota has been allocated and used for the financing of Projects to be implemented through the Sub-Financing Agreements and (ii) the execution of such Sub-Financing Agreements.

**6.02 Other Undertakings**

**6.02A** The Borrower shall procure that the Promoter and the Intermediary shall, as the case may be:

1. ensure that the eligibility and other criteria set out in the Side Letter are complied with;
2. insert on its website dedicated to SME financing products, an information page on the Bank’s activity in favour of Final Beneficiaries, including eligibility criteria and a reference to the advantageous conditions of the Bank;
3. ensure that the support of the Bank in respect of each Allocation of a Credit to a Final Beneficiary is clearly indicated to the Final Beneficiary, by means of the communication to be sent to the Final Beneficiaries in the form agreed between the Bank and the Borrower prior to a presentation of a Disbursement Request by the Borrower pursuant to Article 1.04A;
4. (i) confirm to the Bank (in a form set out in the annex to the Side Letter from the Bank) at the end of the Allocation Period, that the additional volume of medium and long-term (with a term of more than 2 (two) years) financing to eligible Final Beneficiaries outside of excluded sectors and used to finance non-excluded activities, as described in the Side Letter, signed by the Intermediary during the Allocation Period and financed with non-EIB resources, and (ii) the Borrower shall ensure that the Promoter and the Intermediary will use its best efforts to ensure that such additional volume is at least equal to the volume of the Bank’s Loan allocated to Final Beneficiaries hereunder;
5. take note of the Bank’s group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, money laundering and financing of terrorism (as published on the Bank’s website) in the financing activities of the Borrower or the Promoter or the Intermediary (as applicable) with the Final Beneficiaries;
6. enter into a New or Renewed Sub-Financing Agreement (as defined below) only with a Final Beneficiary which is not incorporated or established in a Non-Compliant Jurisdiction (as defined below) unless the relevant Project is physically implemented in the relevant Non-Compliant Jurisdiction and it does not present a risk of being misused for Targeted Activities (as defined below) that cannot be mitigated.

For the purpose of this Article 6.02A (f):

“**Non-Compliant Jurisdiction**” means a jurisdiction

* 1. listed in the Annex I of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes;
  2. included in the OECD/G20 list of jurisdictions that have not satisfactorily implemented the tax transparency standards;
  3. listed in the Annex of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies;
  4. rated as “partially compliant” or “non-compliant”, including corresponding provisional ratings, by the Organisation for Economic Cooperation and Development and its Global Forum on Transparency and Exchange of Information for Tax Purposes against the international standard on exchange of information on request;
  5. included in the Financial Action Task Force statement “High risk Jurisdictions subject to a Call for Action”; or
  6. included in the Financial Action Task Force statement “Jurisdictions under Increased Monitoring”,

in each case as such statement, list, directive or annex may be amended and/or supplemented from time to time.

“**Targeted Activities**” means (i) criminal activities such as money laundering, financing of terrorism, tax crimes and (ii) tax avoidance, i.e. wholly artificial arrangements aimed at tax avoidance.

With respect to a Sub-Financing Agreement “**New or Renewed**” means

* 1. any newly signed Sub-Financing Agreement; or
  2. any signed Sub-Financing Agreement which is contractually amended in order to increase:
     1. the authorised loan commitment exceeding in aggregate 20% (twenty per cent) of the original approval or a total of EUR 50,000,000 (fifty million euros), whichever is the lower, or
     2. the length of the loan tenor (maturity) exceeding in aggregate 20% (twenty per cent.) of the original approved tenor;

1. ensure that the amount of the Allocation made towards each Sub-Financing does not exceed the limits thereof as permitted pursuant to the Side Letter;
2. ensure that each Sub-Financing Agreement provides that, in case such representation made by the Final Beneficiary is incorrect or misleading, the Intermediary shall request prepayment of the loan under the Sub-Financing Agreement upon demand by the Bank;
3. ensure that under the relevant Sub-Financing Agreements each Final Beneficiary is duly informed that the amounts of the Sub-Financing Agreement are made available to it under this Contract;
4. set out in the Sub-Financing Agreements terms and conditions consistent with this Contract and ensure that, in case of non-compliance with such undertakings, each Sub-Financing Agreement shall provide for the obligation of the Final Beneficiary to prepay the relevant sub-financing at the request of the Intermediary;
5. exercise rights under the Sub-Financing Agreements in respect of any Final Beneficiary at the specific request of the Bank, e.g. seek evidence in relation to compliance with environmental clauses at the request of the Bank, and to transmit to the Bank forthwith any material information received in relation to such request;
6. institute, maintain and comply with internal procedures and controls in compliance with the Financial Action Task Force (FATF) recommendations and standards, as amended and supplemented from time to time; and
7. fully comply with any sanctions of the European Union or of the United Nations in place from time to time.

**6.02B** **Sub-Financing Agreements**

The Borrower shall procure that the Promoter and the Intermediary will ensure, as the case may be, that under the relevant Sub-Financing Agreement each Final Beneficiary:

1. undertakes to use the loan received by it under the relevant Sub-Financing Agreement exclusively for the financing of the specified Project in conformity with the terms set out in the Side Letter;
2. undertakes to complete the relevant Project as envisaged;
3. undertakes to maintain, repair, overhaul and renew as well as properly insure all property forming part of the Project as required to keep it in good working order;
4. undertakes to procure works, services or goods for the Project, with its policy as described in the Guide to Procurement;
5. undertakes (a) to implement and operate the Project in compliance with Environmental and Social Standards; and (b) to obtain, maintain and comply with requisite Environmental or Social Approvals for the Project;
6. undertakes to execute and operate the Project in accordance with the relevant laws of the Republic of Serbia and the relevant standards of EU law, save for any general derogation made by the European Union;
7. undertakes to maintain in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;
8. represents to the Promoter or the Intermediary (as applicable) that:
   1. to the best of its knowledge, no funds invested in the Project by such Final Beneficiary are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism as well as to promptly inform the Promoter or the Intermediary (as applicable) if at any time it becomes aware of the illicit origin of any such funds; and
   2. neither the Final Beneficiary, 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
   3. any Prohibited Conduct in connection with the Sub-Financing Agreement; or
   4. any illegal activity related to the Financing of Terrorism or Money Laundering;
   5. the Project (including without limitation, the negotiation, award and performance of contracts financed or to be financed by the Sub-Financing) has not involved or given rise to any Prohibited Conduct; and
   6. it is in compliance with Article 6.02B(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;
9. undertakes (1) to promptly inform the Promoter or the Intermediary (as applicable) if any of the events provided in Article 6.06 (*Integrity*) occur in relation to the Final Beneficiary, a member of its management bodies or the Project; (2) to take, within a reasonable timeframe, appropriate measures, and (3) to promptly inform the Promoter or the Intermediary (as applicable) of any measure taken by such Final Beneficiary;
10. undertakes to request any disbursements from, and make any payments to, the Promoter or the Intermediary (as applicable) under the Sub-Financing Agreement to a bank account in the name of such Final Beneficiary held with a duly authorised financial institution in the jurisdiction where such Final Beneficiary is incorporated or has its place of residence or where the relevant Project is undertaken by such Final Beneficiary; and
11. undertakes to allow persons designated by the Bank, who may be accompanied by representatives of OLAF, the European Commission and/or the European Court of Auditors, as well as persons designated by other institutions or bodies of the European Union when so required by the relevant mandatory provisions of European Union law:
    1. undertakes to perform documentary checks and/or to visit the sites, installations and works comprising the Project, and to conduct such on-the-spot audits and checks as they may wish;
    2. undertakes to interview representatives of the Final Beneficiary, and not obstruct contacts with any other person involved in or affected by the Project;
    3. undertakes to review the Final Beneficiary’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;

and to provide the Bank, or ensure that the Bank is provided, with all necessary assistance that the Bank may reasonably require, for the purposes described above;

1. undertakes to maintain all relevant documentation for inspection purposes for a period of 5 (five) years commencing from the date of the last payment disbursed to it under the Sub-Financing Agreement and to keep books and records of all financial transactions and expenditures in connection with the Project; and
2. warrants and undertakes that it has not committed, and no person to its present knowledge has committed, any of the following acts and that it will not commit, and no person, with its consent or prior knowledge, will commit any such act, that is to say:
   1. the offering, giving, receiving or soliciting of any improper advantage to influence the action of a person holding a public office or function or a director or employee of a public authority or public enterprise or a director or official of a public international organisation in connection with any procurement process or in the execution of any contract in connection with any Project; or
   2. any act which improperly influences or aims improperly to influence the procurement process or the implementation of the Project to the detriment of the Borrower, including collusion between tenderers.

For this purpose, the knowledge of any member of the managing board of the Final Beneficiary, or of any of the officers of the Final Beneficiary shall be deemed the knowledge of the Final Beneficiary;

1. undertakes that it shall not engage in (and shall not authorise or permit any affiliate or any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Project, any tendering procedure for the relevant Project, or any transaction contemplated by the Sub-Financing Agreement;
2. undertakes to take such action as the Borrower, the Promoter, the Intermediary or the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project or the Sub-Financing Agreement;
3. undertakes to ensure that the contracts financed by the Sub-Financing includes the necessary provisions to enable the Borrower, the Promoter or the Intermediary (as the case may be) to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project;
4. undertakes that it 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;
5. undertakes to take within a reasonable timeframe appropriate measures in respect of any member of its management bodies who:
6. becomes a Sanctioned Person or
7. who have been convicted by a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties,

in order to ensure that such member is excluded from any activity in relation to funds made available by the Borrower or the Intermediary under the relevant Sub-Financing Agreement or in relation to the relevant Project;

1. undertakes to promptly inform the Promoter or the Intermediary (as applicable) of a genuine allegation or complaint with regard to any Prohibited Conduct related to the Project;
2. undertakes to promptly inform the Promoter or the Intermediary (as applicable) on any fact or event which results in (A) any member of its management bodies or (B) any of its controlling entities being a Sanctioned Person;
3. to the extent permitted by law, undertakes to promptly inform the Promoter or the Intermediary (as applicable) on 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 Final Beneficiary or its controlling entities or members of the Final Beneficiary’s management bodies in connection with Prohibited Conduct related to the Loan or the Project;
4. undertakes to promptly inform the Promoter or the Intermediary (as the case may be) of any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Final Beneficiary or any material Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it;
5. undertakes to promptly inform the Promoter or the Intermediary (as the case may be) of any non-compliance by it with any Environmental and Social Standards;
6. undertakes to allow persons designated by the Bank, as well as persons designated by other EU institutions or bodies when so required by the relevant mandatory provisions of EU law, the competent EU institutions including (without limitation) the European Court of Auditors, the European Commission and the European Anti-Fraud Office to:
   1. visit the sites, installations and works comprising the Projects, and to conduct such checks as they may wish;
   2. interview representatives of the Borrower, the Promoter or the Intermediary, as the case may be, and not obstruct contacts with any other person involved in or affected by the Sub-Financing;
   3. review the Final Beneficiary’s books and records in relation to the Sub-Financing and to be able to take copies of related documents to the extent permitted by the law.
7. undertakes to: (a) 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; and (b) acknowledge that the Bank may be obliged to divulge such information relating to the Final Beneficiary and the Project to any competent EU institution or body in accordance with the relevant mandatory provisions of EU law;
8. undertakes to inform the Promoter or the Intermediary (as the case may be) if it becomes aware of any fact or information suggestive of the commission of any of the acts mentioned under item (viii) above or if it should at any time acquire information of an illicit origin for any fund invested in any Project;
9. undertakes to promptly inform the Promoter or the Intermediary (as the case may be) on any such information or further document concerning the financing, procurement, implementation, operation of any Project and related environmental or social matters as the Borrower, the Promoter or the Intermediary may reasonably require within a reasonable time;
10. undertakes to promptly inform the Promoter or the Intermediary (as the case may be) on any non-compliance by it with any Environmental and Social Standard and/or on any suspension, revocation or modification of any Environmental or Social Approval.

In case of non-compliance with the undertakings or representations listed under this   
Article 6.02B, the Promoter (or the Intermediary, as the case may be) shall have the right to demand early repayment of the financing under the Sub-Financing Agreements.

**6.02C** The Borrower shall procure that the Promoter and the Intermediary declares, as the case may be, that its policy on its loans in the sectors covered by the present Contract is to require that the Final Beneficiaries:

(a) comply with Environmental Laws in respect of investment projects financed by the Loan; and

(b) supply such information, upon the Borrower’s, the Promoter’s or the Intermediary’s (as the case may be) specific request, as will enable the Borrower, the Promoter or the Intermediary, as the case may be, to verify that the Final Beneficiaries so comply;

and undertakes to maintain the effectiveness of and compliance by the Final Beneficiary, with those undertakings during the life of the Loan and, upon the Bank’s request, to provide evidence of such maintenance.

The Borrower shall procure that the Promoter and the Intermediary shall ensure, as the case may be, that in each Sub-Financing Agreement the Final Beneficiary acknowledges that the Bank may be obliged to communicate information relating to the Final Beneficiary, the on-lending and/or any Project to any competent institution or body of the European Union, including the European Court of Auditors, the European Commission and the European Anti-Fraud Office as are necessary for the performance of their task in accordance with the laws of the European Union, in accordance with the relevant mandatory provisions of European Union law.

**6.03 Compliance with laws**

The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be) comply in all respects with all laws and regulations to which it is subject.

**6.04 Books and records**

The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be):

(a) ensure that it has kept and will continue to keep proper books and records of account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower, the Promoter and of the Intermediary as the case maybe, in accordance with GAAP as in effect from time to time; and

(b) keep records of contracts financed with the proceeds of the Loan including a copy of the contract itself and material documents relating to the procurement for at least 6 (six) years from substantial performance of the contract.

**6.05 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 corporate, shareholder and other action has 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:
  4. contravene or conflict with any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject; or
  5. contravene or conflict with 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;
  6. contravene or conflict with any provision of the Intermediary’s Founding Law, charter and general documents of the Borrower and whatever from time to time constitutes its articles of association
  7. there has been no Material Adverse Change since 2 February 2021;
  8. no event or circumstance which constitutes an Event of Default has occurred and is continuing un-remedied or un-waived;
  9. 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 or any of its subsidiaries any unsatisfied judgement or award;
  10. it has obtained all necessary consents, authorisations, licences or approvals of governmental or public bodies or authorities in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such consents, authorisations, licences or approvals are in full force and effect and admissible in evidence;
  11. 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 applying to companies generally;
  12. it is in compliance with Article 6.02B(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 not previously disclosed to the Bank;
  13. it is in compliance with all undertakings under this section 6;
  14. to the best of its knowledge, no funds invested in the Project by the Borrower or the Intermediary are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism;
  15. neither the Borrower, the Intermediary, 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 this Contract; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering;
  16. the financing of Projects in accordance with the terms and conditions set out in this Contract (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;
  17. the Borrower, the Promoter and the Intermediary are not a Sanctioned Person, or in breach of any Sanctions and, to the best of its knowledge and belief, none of the Relevant Persons is a Sanctioned Person or in breach of any Sanctions.

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 except paragraph (d) above, deemed repeated on each Scheduled Disbursement Date and on each Payment Date.

**6.06 Integrity**

**6.06A** **Prohibited Conduct**:

* 1. The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be) not engage in (and shall not authorise or permit any of its affiliate or any other person acting on its behalf to engage in) any Prohibited Conduct in connection with this Contract, any tendering procedure for this Contract, or any transaction contemplated by this Contract.
  2. The Borrower undertakes to (and shall procure that the Promoter and the Intermediary will, as the case may be) 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 this Contract.
  3. The Borrower undertakes to (and shall procure that the Promoter and the Intermediary will, as the case may be) ensure that Sub-Financing Agreements financed by this Loan include the necessary provisions to enable the Borrower, the Promoter or the Intermediary to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Projects.

**6.06B** **Sanctions**: The Borrower shall not (and shall procure that the Promoter and the Intermediary shall not, as the case may be) directly or indirectly:

* 1. maintain or enter into a business relationship with, and/or make any funds and/or economic resources available to, or for the benefit of, any Sanctioned Person in connection with the Project, or
  2. use all or part of the proceeds of the Loan or lend, contribute or otherwise make available such proceeds to any person, in each case, in any manner that would result in a breach by itself or by the Bank of applicable Sanctions; or
  3. fund all or part of any payment under this Contract out of proceeds derived from activities or businesses with a Sanctioned Person, a person in breach of the Sanctions or in any manner that would result in a breach by itself or by the Bank of the Sanctions.

**6.06C** **Relevant Persons**: The Borrower shall (and shall procure that the Promoter and the Intermediary will, as the case may be) undertake to take within a reasonable timeframe appropriate measures in respect of any Relevant Person who:

* 1. becomes a Sanctioned Person; or
  2. is the subject of a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties,

in order to ensure that such Relevant Person is suspended, dismissed or in any case excluded from any activity of the Borrower or the Intermediary in relation to the Loan and to the Project.

**6.06D** The Borrower shall not provide (and shall procure that the Promoter and the Intermediary shall not provide, as the case may be) financing for Projects to be carried out by Final Beneficiaries which are owned or controlled by or may be considered as related or linked parties for whatever reason (including but not limited to close associates, family, private, business or political reasons) to the Borrower, the Promoter and/or the Intermediary and/or any member of their decision making bodies, senior officers or staff involved in the relevant credit decision.

**6.06E** In case the funds disbursed hereunder are on-lent through the Intermediary, the Borrower shall procure, through the Promoter, that the Intermediary complies with all the provisions under this Article 6.06.

**6.07 Legitimacy of funds used for the Projects**

1. The Borrower warrants that it applies the Recommendations of the OECD Financial Action Task Force.
2. The Borrower shall ensure that the Promoter and the Intermediary comply with the duties of banks envisaged by the Recommendations of the OECD Financial Action Task Force.
3. The Borrower declares that, to the best of its knowledge and belief, no fund invested in the Borrower’s share capital is of illicit origin. It furthermore undertakes promptly to inform the Bank, if it should at any time be informed of an illicit origin of any such fund.
4. The Borrower notes the policy of the Bank to pass information on its clients’ transactions to the competent authorities in circumstances where EU law would require regulated financial institutions to do so.
5. The Borrower undertakes (and shall procure that the Promoter and the Intermediary will, as the case may be) to:
   1. upon request by the Bank, provide further information and grant the Bank access to relevant documents in connection with KYC and anti-Money Laundering/anti-Terrorist Financing controls (or, as the case may be, ensure that the Intermediary does so); and
   2. ensure that KYC and anti-Money Laundering/anti-Terrorist Financing controls are performed according to procedures in line with the Financial Action Task Force (FATF) recommendations and standards, as amended and supplemented from time to time, and in compliance with the Sanction Lists.
6. Immediately after the Bank issues a Letter of Allocation in relation to the Projects that will be financed by the disbursed Tranche(s), the Borrower shall, and shall procure that the Promoter and the Intermediary will (as the case may be) provide the Bank with a written confirmation (signed by authorised signatories of the Borrower, the Promoter or the Intermediary (as applicable)), that it has performed all KYC (know your customer) and AML-CFT (anti-money laundering/combating the financing of terrorism) customer due diligence checks on the relevant Final Beneficiaries, in accordance with the applicable legislation and the Financial Action Task Force (FATF) recommendations and standards.

**ARTICLE 7**

**Security**

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

**7.01 *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 10.01 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:

* 1. 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);
  2. an obligation evidenced by a bond, debenture or similar written evidence of indebtedness; or
  3. 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.

**7.02 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.

**7.03 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 stricter than any equivalent provision of this Contract, the Borrower shall inform the Bank and shall, at the request of the Bank, execute an agreement to amend this Contract so as to provide for an equivalent provision in favour of the Bank.

**ARTICLE 8**

**Information and Visits**

**8.01 Information concerning Projects and Final Beneficiaries**

The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be):

* 1. within 30 (thirty) days following the time limits provided under Articles 6.01 and 6.02, respectively, supply to the Bank a list of the Projects that have been financed by the Loan, which shall give the details required (as per the form attached to the Side Letter) and shall conform with the requirements and criteria of eligibility set out in the Side Letter;
  2. annually provide the Bank with information on the total amount outstanding under the Sub-Financing Agreements or a breakdown thereof;
  3. inform the Bank of the use made by it of the amounts received from Final Beneficiaries by way of voluntary or compulsory early repayment of loans made under Sub-Financing Agreements and of the use made by it of such amounts, pursuant to Article 6.02;
  4. without undue delay inform the Bank of any notice of termination of the Intermediary Agreement or of any Sub-Financing Agreement served by the Borrower or by the Intermediary, as the case may be, to any Final Beneficiary;
  5. generally inform the Bank of any fact or event known to it which, according to the Borrower’s and the Intermediary’s reasonable opinion, might materially prejudice or affect the conditions of execution or operation of any Project or the general condition of any Final Beneficiary;
  6. deliver to the Bank all documents and information that may be reasonably requested by the Bank concerning the financing, procurement, implementation and operation of each Project and related environmental or social matters, and the activities and financial condition of each Final Beneficiary;
  7. deliver to the Bank, upon its request, a copy of the Intermediary Agreement or any Sub-Financing Agreement and of any addendum or amendment thereto together with English translations thereof;
  8. and shall procure that the Intermediary will, as soon as it becomes aware thereof with respect to a Sub-Financing Agreement, or as soon as it is informed thereof by the Final Beneficiary under the terms of the Sub-Financing Agreement, promptly inform the Bank of a genuine allegation, complaint or information with regard to (i) any Prohibited Conduct; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering;
  9. and shall procure that the Intermediary will, as soon as it becomes aware thereof, or as soon as it is informed thereof by the Final Beneficiary under the terms of the Sub-Financing Agreement, promptly inform the Bank if at any time it becomes aware of:

1. the illicit origin, including products of Money Laundering or linked to the Financing of Terrorism with respect to an Sub-Financing Agreement or a Project; and/or
2. any fact or information confirming or reasonably suggesting that any Prohibited Conduct or any violation of any Sanction has occurred in connection with the Project; and/or
3. a genuine allegation or complaint with regard to any Prohibited Conduct or any Sanction related to the Project,

and set out action to be taken with respect to such matters;

* 1. and shall procure that the Intermediary will, as soon as it becomes aware thereof, or as soon as it is informed thereof by the Final Beneficiary under the terms of the Sub-Financing Agreement, promptly inform the Bank of any measure taken by the Final Beneficiary pursuant to Article 6.02B(i);
  2. and shall procure that the Intermediary will, promptly inform the Bank of any non-compliance by any Final Beneficiary with any Environmental and Social Standard;
  3. and shall procure that the Intermediary will, promptly inform the Bank of any suspension, revocation or modification of any Environmental or Social Approval;
  4. and shall procure that the Intermediary will, promptly inform the Bank of any action or protest initiated or any objection raised by any third party or any genuine complaint or any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against any Final Beneficiary with regard to environmental or other matters affecting a Project; and
  5. if so requested, provide to or procure for the Bank promptly all documents and information necessary to enable the Bank to verify the Borrower’s/Intermediary’s or any Final Beneficiary’s compliance with Article 6.

**8.02 Information concerning the Borrower**

The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be):

* 1. deliver to the Bank:

1. on an annual basis a certificate listing the politically exposed persons, if any (as defined by the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing) of the Borrower, of the Promoter and of the Intermediary who have been entrusted with additional political responsibilities and, if that is the case, changes in the identity of politically exposed persons and/or the politically exposed persons of the Borrower, of the Promoter and of the Intermediary who have been exposed to public prosecution or investigations for illegal activities, for example corruption; and
2. such further information, evidence or document concerning the compliance with the due diligence requirements of the Bank for the Borrower, the Promoter and the Intermediary, including, but not limited to “know your customer” (KYC) or similar identification procedures, when requested and 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:
   2. any alteration to the Intermediary’s Founding Law, to the Statute and general documents of the Intermediary and whatever from time to time constitutes its articles of association or other basic documents or shareholding structure and of any change of ownership of its shares after the Effective Date of this Contract;
   3. any fact which obliges it to prepay any financial indebtedness or any EU funding;
   4. any event or decision that constitutes or may result in the events described in a Prepayment Event;
   5. any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract;
   6. any Event of Default listed in Article 10 having occurred or being threatened or anticipated;
   7. any fact or event which results in the Borrower, the Promoter or the Intermediary, or any Relevant Person in respect of the Borrower, the Promoter or the Intermediary or any of their controlling entities being a Sanctioned Person;
   8. unless prohibited 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 or the Promoter (or the Intermediary, as the case may be) or its controlling entities or members of the Borrower’s management bodies (or of the Intermediary, as the case may be) in connection with Prohibited Conduct related to the Credit, the Loan or the Projects;
   9. any measure taken by the Borrower (or by the Intermediary, as the case may be) pursuant to Article 6.06 (*Integrity*) of this Contract; and
   10. 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.

**8.03 Visits, Right of Access and Investigation**

**8.03A** The Borrower shall allow (and shall procure that the Promoter and the Intermediary shall allow, as the case may be) persons designated by the Bank, as well as persons designated by other EU institutions or bodies when so required by the relevant mandatory provisions of EU law, the competent EU institutions including (without limitation) the European Court of Auditors, the European Commission and the European Anti-Fraud Office to:

(a) visit the sites, installations and works comprising the Projects, and to conduct such checks as they may wish for purposes connected with this Contract and the financing of the Projects, and shall provide them, or ensure that they are provided;

(b) interview representatives of the Borrower, the Promoter or the Intermediary, as the case may be, and not obstruct contacts with any other person involved in or affected by the Loan or the Projects; and

(c) review the Borrower’s, the Promoter’s or Intermediary’s books and records in relation to the Loan or the Project and to be able to take copies of related documents to the extent permitted by the law.

**8.03B** The Borrower shall (and shall procure that the Promoter and the Intermediary shall, as the case may be) 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.

**8.03C** The Borrower acknowledges (and shall procure that the Promoter and the Intermediary acknowledges, as the case may be) that the Bank may be obliged to communicate information relating to the Borrower, the Promoter, the Intermediary and/or any Project to any competent institution or body of the European Union, including the European Court of Auditors, the European Commission and the European Anti-Fraud Office as are necessary for the performance of their task in accordance with the laws of the European Union, in accordance with the relevant mandatory provisions of European Union law.

**8.04 Investigations and Information**

The Borrower undertakes (and shall procure that the Promoter and the Intermediary undertakes, as the case may be):

(a) to take such action as the Bank shall reasonably request to investigate and/or terminate any alleged or suspected act of the nature described in Article 6.06;

(b) to inform the Bank of the measures taken to seek damages from the persons responsible for any loss resulting from any such act; and

(c) to facilitate any investigation that the Bank may make concerning any such act.

**ARTICLE 9**

**Charges and expenses**

**9.01 Taxes, duties and fees**

1. 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.
2. 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.
3. 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.

**9.02 Other charges**

The Borrower shall bear all charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation 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 and realisation of any security for the Loan as well as expenses of the Bank under Article 9.03.

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 non-material amendments (in the reasonable opinion of the Bank).

**9.03 Increased costs, indemnity and set-off**

(a) 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 this Contract, in accordance with which (i) the Bank is obliged to incur additional costs in order to fund or perform its obligations under this Contract, or (ii) 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.

(b) 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.

(c) 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.

**ARTICLE** **10**

**Events of default**

**10.01 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.

**10.01A Immediate demand**

The Bank may make such demand immediately without prior notice 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 (i) its failure to pay is caused by an administrative or technical error or a Disruption Event and (ii) 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 or statement made or deemed to be made by the Borrower in, pursuant to or for the purposes of entering into this Contract or in connection with the negotiation or performance of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect;
  3. if, as a result of an event of default (however described) of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than the Loan:
  4. 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
  5. any financial commitment for such other loan or obligation is cancelled or suspended;
  6. if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or, without prior written notice to the Bank, seeks to make a composition with its creditors;
  7. 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;
  8. 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 EU;
  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.

**10.01B** **Demand** **after notice to remedy**

The Bank may also make such demand without prior notice 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 Article 10.01A;
2. if the Borrower, the Promoter or the Intermediary fails to comply with any obligation applicable to it and set forth in the Side Letter; or
3. 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 Projects,

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.

**10.02 Other rights at law**

Article 10.01 shall not restrict any other right of the Bank at law to require prepayment of the Loan Outstanding.

**10.03 Indemnity**

**10.03A Fixed Rate Tranches**

In case of demand under Article 10.01 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 0.19% (nineteen 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.

**10.03B** **Floating Rate Tranches**

In case of demand under Article 10.01 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 0.19% (nineteen 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.

**10.03C** **General**

Amounts due by the Borrower pursuant to this Article 10.03 shall be payable on the date specified in the Bank’s demand.

**10.04 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.

**ARTICLE 11**

**Law and jurisdiction**

**11.01** **Governing Law**

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

**11.02 Jurisdiction**

The Court of Justice of the European Union has exclusive jurisdiction to settle any dispute (a “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).

The parties agree that the Court of Justice of the European Union is the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

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.

**11.03 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.

**11.04 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 error be prima facie evidence of such amount or rate.

**11.05 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.

**11.06 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

(b) 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.

**11.07 Amendments**

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

**ARTICLE 12**

**Final clauses**

**12.01 Notices**

**12.01A Form of notice**

(a) 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.

(b) 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 by the Borrower to the Bank, 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
  4. in the case of any electronic mail sent by the Bank to the Borrower, when the electronic mail is sent.

(c) Any notice provided by the Borrower or the Guarantor 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.

1. 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.
2. Without affecting the validity of electronic mail or facsimile notices or communication made in accordance with this article 12.01, 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 Request;
   2. Revocation of a Disbursement Request according to Article 1.02C(b);
   3. 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
   4. any other notice, communication or document required by the Bank.
3. 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.

**12.01B 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 blvd Konrad Adenauer L-2950 Luxembourg  Facsimile no: +352 4379 55442  E-mail address: Ops-MA-Implementation@eib.org |
| For the Borrower | Attention: 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 |
| For the Promoter | Attention: Ministry of Economy  20 Kneza Milosa Street  11000 – Belgrade  Republic of Serbia  Facsimile no: +381 11 3642 705  E-mail address: kabinet@privreda.gov.rs |
| For the Intermediary | Attention: Development Fund of the Republic of Serbia  14 Kneza Mihaila Street  11000 – Belgrade  Republic of Serbia  E-mail address: [eibcontract@fondzarazvoj.rs](mailto:eibcontract@fondzarazvoj.rs) |

Unless the Borrower shall otherwise specify in writing to the Bank, the head of the Borrower’s internal audit function shall be responsible for contacts with the Bank for the purposes of   
Article 6.07.

**12.01C 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.

**12.02 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.

**12.03 Effective Date**

This Contract shall enter into force (“**Effective Date**”) 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.

The Effective Date shall not occur later than 12 (twelve) months after the signing of this Contract. Where the Effective Date does not occur within 12 (twelve) months starting from the signing date of this Contract, this Contract shall be deemed as automatically and definitively not effective.

**12.04 Recitals and Schedules**

The Recitals and following Schedules form part of this Contract:

|  |  |
| --- | --- |
| Schedule A | Definition of EURIBOR |
| Schedule B | Form of Disbursement Request |
| Schedule C | Interest Rate Revision and Conversion |
| Schedule D | Form of Certificate from Borrower |

The parties hereto have caused this Contract to be executed in 6 (six) originals in the English language each page having been initialled on behalf of the Bank and on behalf of the Borrower respectively.

|  |  |
| --- | --- |
| At Luxembourg, this 14 Junе 2021 | At Belgrade, this 18 Junе 2021 |
| Signed for and on behalf of  **EUROPEAN INVESTMENT BANK** | Signed for and on behalf of  **THE REPUBLIC OF SERBIA** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Matteo RIVELLINI Alessandro CAGNATO  Head of Division Senior Legal Counsel | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Siniša MALI  Minister of Finance |

**Schedule A**

* 1. Definitions of 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 (a) to (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), or any successor to that function of EMMI, 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 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 11:00 a.m., 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 no sufficient 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 11:00 a.m., 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. The Bank shall inform the Borrower without delay of the quotations received by the Bank.

All percentages resulting from any calculations referred to in this Schedule will be rounded, if necessary, to the nearest one thousandth of a percentage point, with halves being rounded up.

If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EMMI (or any successor to that function of EMMI 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.

If the Screen Rate becomes permanently unavailable, the EURIBOR replacement rate will be the rate (inclusive of any spreads or adjustments) formally recommended by (i) the working group on euro risk-free rates established by the European Central Bank (ECB), the Financial Services and Markets Authority (FSMA), the European Securities and Markets Authority (ESMA) and the European Commission, or (ii) the European Money Market Institute, as the administrator of EURIBOR, or (iii) the competent authority responsible under Regulation (EU) 2016/1011 for supervising the European Money Market Institute, as the administrator of the EURIBOR, (iv) the national competent authorities designated under Regulation (EU) 2016/1011, or (v) the European Central Bank.

If no Screen Rate and/or the EURIBOR replacement 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.

**Schedule B**

**Form of Disbursement Request (Article 1.02B)**

Disbursement Request

COVID-19 SERBIAN GOVERNMENT SUPPORT SMES AND MID-CAPS

(2020-0562)

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | | | | | **Date:** | | | | |
| Please proceed with the following disbursement: | | | | | | | | | | | | | | |
| Loan Name (\*): | | | |  | | | | | | | | | | |
|  | | | |  |  | | |  | | | |  | | |  | | | |
| Signature Date (\*): | | | |  |  | | | Contract Number: | | | | FI 92.618 | | |
| **Currency & amount requested** | | | | | |  | | | **Proposed disbursement date:** | | | | |  | | | | |
|  | | | | | |  | | |  | | | | |
| Currency | | Amount | | | |  | | |  | | | | |
|  | |  | | | |  | | |  | | | | |  | | | | |
|  | | |  | |  | |  | | | | | |  | | |  | |
| **I N T E R E S T** | **Int. rate basis (Art. 3.01)** | |  | |  | | Reserved for the Bank | | | | (contract currency) | | | | | |
|  | |  | |  | |  | | | | | |  | | |  |
| **Rate (% or Spread)** | |  | |  | | Total Credit Amount: | | | | | | 200,000,000 | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **Frequency (Art. 3.01)** | | Annual 🞏  Semi-annual 🞏  Quarterly 🞏 | |  | | Disbursed to date: | | | | | |  | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **Payment Dates (Art. 3.01)** | |  | |  | | Balance for disbursement: | | | | | |  | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **Interest Revision/Conversion date (if any)** | |  | |  | | Current disbursement: | | | | | |  | | |  |
|  |  | |  | |  | |  | | | | | |  | | |  |
| **C A P I T A L** | **Repayment frequency** | | Annual 🞏  Semi-annual 🞏  Quarterly 🞏 | |  | | Balance after disbursement: | | | | | |  | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **Repayment methodology**  **(Art. 4.01)** | | Equal instalments 🞏  Constant annuities 🞏  Single instalment 🞏 | |  | | Disbursement deadline: | | | | | |  | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **First Repayment Date** | |  | |  | | Max. number of disbursements: | | | | | |  | | |  |
|  | |  | |  | |  | | | | | |  | | |  |
| **Last Repayment Date** | |  | |  | |  | | | | | |  | | |  |
|  | | |  | |  | |  | | | | | |  | | |  |
|  | | |  | |  | | Minimum Tranche size: | | | | | |  | | |  |
|  | | |  | |  | |  | | | | | |  | | |  |
|  | | |  | |  | | Total allocations to date: | | | | | | Yes 🞏 No 🞏 | | |  |
|  | | |  | |  | | Working Capital Loan: | | | | | | Yes 🞏 No 🞏 | | |  |

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 appropriate account format in line with the local banking practice)

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) (as defined in the Contract):

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

Signature(s) of the Borrower’s Authorised Signatory(ies) (as defined in the Contract):

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

**IMPORTANT NOTICE TO THE BORROWER:**

**PLEASE ENSURE THAT THE LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS PROVIDED TO THE BANK HAS BEEN DULY UPDATED PRIOR TO THE SUBMISSION OF ANY DISBURSEMENT REQUEST. IN THE EVENT THAT ANY SIGNATORIES OR ACCOUNTS APPEARING IN THIS DISBURSEMENT REQUEST ARE NOT INCLUDED IN THE LATEST LIST OF AUTHORISED SIGNATORIES AND ACCOUNTS RECEIVED BY THE BANK, THIS DISBURSEMENT REQUEST SHALL BE REGARDED AS NOT HAVING BEEN MADE.**

**IN ADDITION, IF THIS IS THE FIRST DISBURSEMENT REQUEST UNDER THE FINANCE CONTRACT, THE CONDITIONS SET OUT IN ARTICLE 1.04A OF THE FINANCE CONTRACT MUST HAVE BEEN MET TO THE SATISFACTION OF THE BANK PRIOR TO THE DATE HEREOF.**

**Schedule C**

**Interest Rate Revision and Conversion**

If an Interest Revision/Conversion Date has been included in the Disbursement Notice 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:

(a) the Fixed Rate and/or Spread that would apply to the Tranche, or of its part indicated in the Interest Revision/Conversion Request pursuant to Article 3.01; and

(b) 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 or semi-annually or annually, in accordance with Article 3.01, 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 the 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.

**B. 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 the Contract and Disbursement Notice 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 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.

**C. No or partial Interest Revision/Conversion**

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

**Schedule D**

**Form of Certificate from Borrower (Article 1.04C)**

To: European Investment Bank

From: Republic of Serbia

Date:

Subject: Finance Contract between European Investment Bank and the Republic of Serbia dated [●] 2021 (the “**Finance Contract**”)

Contract Number (FI No. 92.618) Operation Number (Serapis No. 2020-0562) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dear Sirs,

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

For the purposes of Article 1.04 of the Finance Contract, we hereby certify to you as follows:

1. no Prepayment Event described in Article 4.03A has occurred and is continuing un-remedied or un-waived;
2. no security of the type prohibited under Article 7 has been created or is in existence;
3. there has been no material change to any aspect of the Project in respect of which the Borrower is obliged to report under Article 8.01, save as previously communicated by the Borrower;
4. all payment obligations of the Borrower under the Contract are and will at all times be secured by the Republic of Serbia under a direct, irrevocable, first demand guarantee by law;
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 under Article 10 has occurred and is continuing un-remedied or un-waived;
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 or any of our subsidiaries any unsatisfied judgement or award;
7. the representations and warranties to be made or repeated by us under Article 6.05 are true in all respects; and
8. no Material Adverse Change has occurred, as compared with our condition at the date of the Finance Contract.

Yours faithfully,

For and on behalf of the Republic of Serbia

Date:

1. <http://www.eib.org/about/compliance/tax-good-governance/index.htm?f=search&media=search> [↑](#footnote-ref-1)