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|  | Contract Number (FI N°) 92.824  Operation Number (Serapis N°) 2020-0695 |
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SMART METERING SERBIA

Guarantee Agreement

Between the

Republic of Serbia

And the

European Investment Bank

Belgrade, 24 June 2024

Luxembourg, 28 June 2024

THIS AGREEMENT IS MADE BETWEEN:

|  |  |
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|  |  |
| the Republic of Serbia, represented by Mr. Siniša Mali, First Deputy Prime Minister and Minister of Finance, on behalf of the Government of the Republic of Serbia as representative of the Republic of Serbia, | hereinafter referred to as the "Guarantor" |
| of the first part, and |  |
| European Investment Bank, a financial institution created by the Treaty on European Union, having its registered seat at 100, boulevard Konrad Adenauer, L-2950 Luxembourg-Kirchberg, Grand Duchy of Luxembourg, duly represented by Matteo Rivellini, Head of Division and Helen Williams, Head of Division of Legal Department, | hereinafter referred to as the "Bank" |
| of the second part. |  |

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WHEREAS:

1. Pursuant to a finance contract dated 28 June 2024 and entered into between the Bank and ELEKTRODISTRIBUCIJA SRBIJE DOO BEOGRAD (the "Borrower") (the "Finance Contract"), the Bank has agreed to grant in favour of the Borrower a credit in the amount of EUR 80,000,000.00 (Eighty million euros).
2. As a condition precedent to any disbursement under the Finance Contract, the Borrower (acting as *donneur d’ordre*) has undertaken that the Guarantor shall, and the Guarantor has agreed to, grant a professional payment guarantee (*garantie professionnelle de paiement*) in favour of the Bank (the "Guarantee") pursuant to this guarantee agreement (the "Guarantee Agreement"). The Guarantee is governed by the Luxembourg Law of 10 July 2020 on professional payment guarantees (the “**Law on Professional Payment Guarantees**”), which the Guarantor declares to have full knowledge of.
3. On 11 May 2009, the Republic of Serbia concluded with the Bank a Framework Agreement governing the Bank's activities in the Republic of Serbia (the "**Framework Agreement**"). The financing provided pursuant to the Finance Contract falls under the scope of the Framework Agreement.

NOW THEREFORE it is hereby agreed as follows:

DEFINITIONS AND INTERPRETATION

Interpretation

In this Guarantee Agreement, unless a contrary indication appears:

1. any reference to:
   1. the "Guarantor", the "Bank" the "Borrower" shall be construed as to include its and any subsequent successors in title, permitted assigns and permitted transferees;
   2. this " Guarantee", this "Guarantee Agreement" or any other agreement or instrument is a reference to such agreement or instrument as amended, novated, supplemented, extended or restated from time to time;
   3. a "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether having separate legal personality or not);
   4. a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
   5. a reference to a legal provision is a reference to that provision as amended or re-enacted; and
   6. save as otherwise provided, a time of day is a reference to Luxembourg time;
2. references to Articles, Recitals and Schedules are, save if explicitly stipulated otherwise, references respectively to articles of, recitals and schedules to this Guarantee Agreement;
3. Articles and Schedules headings are for ease of reference only and shall not impact the interpretation of this Guarantee Agreement;
4. words importing the singular shall include the plural form and vice versa; and
5. a term used in any notice given under or in connection with this Guarantee or this Guarantee Agreement has the same meaning as ascribed to it in this Guarantee Agreement.

Definitions

Capitalised terms used herein shall have the meaning given to them in the Finance Contract, unless otherwise defined in this Guarantee Agreement.

In this Guarantee Agreement:

"**Authorised Signatory**" means a person authorised to sign individually or jointly (as the case may be) on behalf of the Guarantor and named in the most recent List of Authorised Signatories received by the Bank.

"Business Day" means any day other than a Saturday or a Sunday (a) where the Bank is open for business in Luxembourg, and (b) where referring to a payment in EUR, a Target Day.

"**Date of** Effectiveness" has the meaning ascribed to such term in Article 15.3.

"Demand" has the meaning ascribed to such term in Article 1.3.

"Demand Notice" has the meaning ascribed to such term in Article 1.3.

"Effectiveness Period" has the meaning ascribed to such term in Article 2.1.

"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.

"**List of Authorised Signatories**" 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;.

"Payment Period" has the meaning ascribed to such term in Article 1.3.

"TARGET" means 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.

"TARGET Day" means any day on which TARGET is open for the settlement of payments in euro.

"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).

"Termination Date" has the meaning ascribed to such term in Article 2.1.

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## Guarantee Trigger Event

The Bank will be entitled to make a demand under the Guarantee upon the occurrence of any of the following events (a “**Guarantee Trigger Event**”):

1. an Event of Default; or
2. A Prepayment Event; or
3. there is a Material Adverse Change.

## Guaranteed amount

Following a Guarantee Trigger Event (as defined above), the Guarantor undertakes to pay the Bank in accordance with the provisions of Article 1.3 (*Demands and Payments*) and on the Bank’s first written demand, an amount equal to (or up to in aggregate in case of several Demands) one of the following:

1. any principal, interest, default interest or other amounts (including fees, charges, incidental costs, expenses or compensation of any kind) due and payable to the Bank by the Borrower under or in connection with the Finance Contract on the date of the Demand Notice, without the amount in question having to be claimed from the Borrower in advance; and
2. without duplication with the amount determined under (i), any principal, interest, default interest or other amounts (including fees, charges, incidental costs, expenses or compensation of any kind) that would have been due and payable to the Bank by the Borrower under the Finance Contract or in connection therewith, if the Bank had declared the full amount or a partial amount made available to the Borrower under the Loan in accordance with Article 10 of the Finance Contract immediately due and payable on the date of the Demand Notice following the Guarantee Trigger Event, it being understood that such amount shall be deemed due and payable to the Bank for the purpose of the determination of the amount callable under the Guarantee on the date of the Demand Notice by the sole effect of the occurrence of the Guarantee Trigger Event:
3. without the prepayment of the Loan being required under Article 4 of the Finance Contract;
4. without the Guarantee Trigger Event having to constitute an Event of Default or a Prepayment Event under the Finance Contract;
5. without the Guarantor being entitled (i) to invoke the invalidity of any of the provisions of the Finance Contract to challenge the application of the relevant provisions of the Finance Contract or (ii) to raise any objection or invoke any other means of defence arising from the legal relationship between the Borrower and the Bank or any other third party, in particular any invalidity, termination, cancellation or set-off in respect of the determination of the above amounts.

## Demands and payments

1. Any demand made by the Bank to the Guarantor under this Guarantee Agreement (each, a "**Demand**") shall be made by way of a written notification addressed by the Bank to the Guarantor in form and substance set out in Schedule A (each a "**Demand** **Notice**"), sent in accordance with the provisions set forth in Article 1.3. (d) below, it being understood that:
   * 1. the Bank shall be under no obligation to provide the Guarantor with any additional document nor to support its claim with any other justification or evidence; and
     2. the payment obligation of the Guarantor under this Guarantee Agreement is not subject to the accuracy or the merit of any statement, declaration or information contained in any Demand Notice.
2. The Guarantor shall make the payment requested in the Demand Notice within five (5) Business Days as from the date of receipt (included) of the relevant Notification (the "**Payment Period**") and in the currency as requested within the Demand Notice.
3. The Bank is entitled to request the payment of any amount in one or several instalments, and to make several Demands under this Guarantee. The making of a Demand at any point in time does not preclude the Bank from making further Demands for payment of amounts determined in accordance with Article 1.2.
4. A Demand Notice must be in writing and may be made by registered letter with proof of receipt (*lettre recommandée avec accusé de reception*), hand delivery or electronic mail to the postal or email address specified in Article 1.3. (e) below. Any Demand Notice provided by electronic mail shall be in the form of a non-editable electronic image (pdf, tif or other common non editable file format agreed between the parties), attached to the electronic mail. For the determination of the Payment Period, a Demand Notice shall be deemed to have been received by the Guarantor:
5. if the Demand Notice is done in the form of a registered letter on the date of the proof of receipt (*accusé de reception*);
6. if done by hand delivery on the date of the delivery;
7. if sent by electronic mail, if effectively received by the Guarantor in one of the formats specified above;
8. For the purposes of sending the Demand Notice, the address of the Guarantor shall be:

Ministry of Finance

20 Kneza Milosa Street

11000 Belgrade

Republic of Serbia

E-mail address: [kabinet@mfin.gov.rs](mailto:kabinet@mfin.gov.rs)

Copy to: uprava@javnidug.gov.rs

1. The parties agree that any form of communication set out in paragraph (d) (including via electronic mail) constitutes admissible evidence in court and has the same probative value as a private deed (*acte sous seing privé*).

## Payment obligations

The parties hereby expressly agree that this Guarantee constitutes a professional payment guarantee governed by the provisions of the Law on Professional Payment Guarantees.

## No defence

* + - * 1. The Guarantor acknowledges that it cannot raise any objection or invoke any other means of defence arising from the legal relationship between the Borrower and the Bank or any other third party, in particular any invalidity, termination, cancellation or set-off, in order to delay or avoid the performance of its obligations under this Guarantee or to affect the determination of the callable amount pursuant to Article 1.2.
        2. The Guarantor further undertakes not to exercise any action on the basis of a subrogation (*subrogation*) or any other form of recourse until the date falling 3 (three) calendar months after the occurrence of the Termination Date.

## Other rights

The Guarantee granted pursuant to this Guarantee Agreement is in addition to any other rights, remedies or security, which the Bank has, or may have, against any other person, including against the Borrower or the Guarantor, whether provided for by law or otherwise.

The Guarantor shall not be entitled to refuse or withhold payment of any amounts due in accordance with the provisions of this Guarantee by requiring the Bank prior to making a payment under this Guarantee Agreement to (i) enforce any other rights or security, claim payment from or proceed against the debtor, any other guarantors, joint and several obligors or any security provider (if applicable) or (ii) take separate actions against other guarantors, joint and several obligors or security providers (if applicable).

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Term of the Guarantee

## Effectiveness Period

This Guarantee shall take effect on the Date of Effectiveness and expire on the earlier of (the "Termination Date"):

1. the date on which all the amounts due or that may become due under or in connection with the Finance Contract have been irrevocably paid in full; or
2. the date on which the Guarantor has irrevocably paid in full any principal, interest, default interest or other amounts (including fees, charges, incidental costs, expenses or compensation of any kind) that would have been due and payable to the Bank by the Borrower under the Finance Contract or in connection therewith if the Bank had declared the full amount made available to the Borrower under the Loan in accordance with Article 10 of the Finance Contract immediately due and payable on the date of the Demand Notice following the Guarantee Trigger Event.

Without prejudice to Article 2.2 below, the Bank may make a Demand under this Guarantee Agreement at any time as from the Date of Effectiveness up to a date falling 3 (three) calendar months after the occurrence of the Termination Date (the "Effectiveness Period").

## Reinstatement

Notwithstanding anything to the contrary in this Guarantee Agreement, if any payment made by the Guarantor to the Bank or any discharge given by the Bank (whether in respect of the obligations of the Guarantor or any security securing those obligations or otherwise) is avoided or reduced as a result of any insolvency or any similar event, the liability of the Guarantor shall continue or be reinstated (as the case may be) as if the payment, discharge, avoidance or reduction, had not occurred; and the Bank shall be entitled to recover the value or amount of that security or payment from the Guarantor as if the payment, discharge, avoidance or reduction had not occurred.

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Representations and Warranties

## Representations and Warranties of the Guarantor

The Guarantor hereby represents and warrants to the Bank that during the subsistence of this Guarantee Agreement:

1. Status and Due Authorisation

It has the power to execute, deliver and perform its obligations under this Guarantee Agreement and all necessary governmental and other action have been taken to authorise the execution, delivery and performance of the same by it.

1. Binding Obligations

The obligations expressed to be assumed by it in this Guarantee Agreement are legal and valid obligations, binding on it in accordance with the terms of this Guarantee Agreement.

1. Choice of Law

The choice of Luxembourg law as the governing law of this Guarantee will be recognised and enforced in the Republic of Serbia and any judgement obtained in Luxembourg in relation to this Guarantee will be recognised and enforced in the Republic of Serbia.

1. All Actions Taken

All acts, conditions and things required to be done, fulfilled and performed in order:

* 1. to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this Guarantee Agreement;
  2. to ensure that the obligations expressed to be assumed by it in this Guarantee Agreement are legal, valid and binding; and
  3. to make this Guarantee Agreement admissible in evidence in the Republic of Serbia have been done, fulfilled and performed.

1. No Conflicts

The execution and delivery of, the performance of its obligations under and compliance with the provisions of this Guarantee Agreement do not and will not contravene or conflict with:

* 1. any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject (including any state aid related procedure or approval); and
  2. any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Guarantee Agreement.

1. Pari Passu Claims

Under the laws of the Republic of Serbia, the claims of the Bank against it under this Guarantee Agreement will rank at least *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.

1. No Filing or Stamp Taxes

Under the laws of the Republic of Serbia, it is not necessary that this Guarantee Agreement be filed, recorded or enrolled with any court or other authority in such jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Guarantee Agreement or the transactions contemplated by this Guarantee Agreement.

1. No Litigation

No litigation, arbitration, administrative proceedings or investigation is current or to the best of its knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to impact on performance of its obligations under this Guarantee Agreement, nor is there subsisting against it any unsatisfied judgement or award.

1. Carrying on business
   1. It is not necessary under the laws of the Republic of Serbia that the Bank should be licensed, qualified or otherwise entitled to carry on business in the Republic of Serbia:
      1. in order to enable the Bank to enforce its rights under this Guarantee Agreement; or
      2. by reason of the execution of this Guarantee Agreement or the performance by it of its obligations under this Guarantee Agreement; and
   2. the Bank is not and will not be deemed to be resident, domiciled or carrying on business in the Republic of Serbia by reason only of the execution, performance and/or enforcement of this Guarantee Agreement.
2. Other
   1. In respect of this Guarantee Agreement and the transaction contemplated by, referred to in, provided for or effected by this Guarantee Agreement, it has entered into this Guarantee Agreement:
      1. in good faith and for the purpose of carrying out its business;
      2. on arms’ length commercial terms; and
      3. without any intention to defraud or deprive of any legal benefit any other parties (such as third parties and in particular creditors other than the Bank) or to circumvent any applicable mandatory laws or regulations of any jurisdiction.
   2. The granting of this Guarantee Agreement is not disproportionate to its financial means.
   3. It has full knowledge of the terms of the Finance Contract.
   4. to the best of its knowledge, no funds invested in connection with this Guarantee Agreement by the Guarantor are of illicit origin, including products of Money Laundering or linked to the Financing of Terrorism;
   5. neither the Guarantor its officiales or representatives nor any other person acting on its or their behalf or under its or their control has committed nor will commit (i) any Prohibited Conduct in connection with the Guarantee or any transaction contemplated by this Guarantee Agreement; or (ii) any illegal activity related to the Financing of Terrorism or Money Laundering;
   6. this Guarantee (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;
   7. none of the Guarantor or any Relevant Person:
      1. is a Sanctioned Person; or
      2. is in breach of any Sanctions.

## Covenants of the Guarantor

The Guarantor acknowledges and agrees that during the subsistence of this Guarantee Agreement:

1. Authorisations

It shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required in or by the laws and regulations of the Republic of Serbia to enable it lawfully to enter into, exercise its rights and perform the obligations expressed to be assumed by it under this Guarantee Agreement and to ensure the legality, validity, enforceability and admissibility in evidence of this Guarantee Agreement in the Republic of Serbia.

1. **External Debt Instrument**

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

“**External Debt Instrument**” means (a) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement), (b) an obligation evidenced by a bond, debenture or similar written evidence of indebtedness or (c) a guarantee granted by the Guarantor 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 Guarantor; or (ii) payable in a currency other than the currency of the Guarantor’s country; or (iii) payable to a person incorporated, domiciled, resident or with its head office or principal place of business outside the Guarantor’s country.

1. Pari passu with other creditors

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

1. No action

It shall not take any action which would cause any of the representations made in Article 3.1 above to be untrue at any time during the continuation of this Guarantee Agreement.

1. Know your Customer

The Guarantor shall deliver to the Bank any such information or further document concerning customer due diligence matters of or for the Guarantor as the Bank may reasonably require within a reasonable timeframe.

1. Notification duty

It shall notify the Bank of the occurrence of any event which results in or may reasonably be expected to result in any of the representations made in Article 3.1 above being untrue.

1. Prohibited Conduct
   1. The Guarantor shall not engage in (and shall not authorise or permit any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Guarantee, or any transaction contemplated by the Guarantee Agreement.
   2. The Guarantor undertakes to take such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Guarantee.
2. Sanctions

The Guarantor shall not 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 Guarantee,
  2. fund all or part of any payment under this Guarantee Agreement 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 and/or by the Bank of any Sanctions.

It is acknowledged and agreed that the undertakings set out in this Article 3.2(h) are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96.

1. Relevant Persons

The Guarantor undertakes 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 member is excluded from any of the activities in relation to the Guarantee.

1. **Data Protection**
2. When disclosing information (other than mere contact information relating to the Guarantor’s personnel involved in the management of this Guarantee Agreement ("**Contact Details**")) to the Bank in connection with this Guarantee Agreement, the Guarantor shall redact or otherwise amend that information (as necessary) so that it does not contain any information relating to identified or identifiable individuals ("**Personal Information**"), except where this Guarantee Agreement specifically requires, or the Bank specifically requests in writing, to disclose such information in the form of Personal Information.
3. Before disclosing any Personal Information (other than Contact Details) to the Bank in connection with this Guarantee Agreement, the Guarantor shall ensure that each individual to whom such Personal Information relates:
   1. has been informed of the disclosure to the Bank (including the categories of Personal Information to be disclosed); and
   2. has been advised on the information contained in (or has been provided with an appropriate link to) the Bank’s privacy statement in relation to its lending and investment activities as set out from time to time at https://www.eib.org/en/privacy/lending (or such other address as the Bank may notify to the Borrower in writing from time to time).

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Information to the Bank

## Financial Information

The Guarantor shall deliver to the Bank from time to time, such further information on its general financial situation as the Bank may reasonably require or such certificates of compliance with the obligations set out in this Guarantee Agreement, or for the Borrower to be able to fulfil its obligations under the Finance Contract when it is related to the Guarantor or the Guarantee Agreement, as the Bank may deem necessary.

## Information duties

During the subsistence of this Guarantee Agreement, the Guarantor shall immediately inform the Bank of:

1. a Material Adverse Change in respect of the Guarantor;
2. an Illegality Event;
3. a Change-of-Law Event with respect to the Guarantor; and
4. deliver any other information on its financial position likely to have a detrimental effect on its ability to perform the obligations expressed to be assumed by it under this Guarantee Agreement.

For the purposes of this Article 4.2, "Change-of-Law Event" means the enactment, promulgation, execution or ratification of or any change in or amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation) that occurs after the date of this Guarantee Agreement, and which could reasonably be expected to affect the validity and enforceability of this Guarantee Agreement or the ability of the Guarantor to perform the obligations expressed to be assumed by it under this Guarantee Agreement.

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Default Interest and Taxes

## Taxes

All Taxes, charges, duties, fees as well as any other expenses or impositions of whatsoever nature, arising out or in connection with this Guarantee Agreement shall be borne by the Guarantor. The Guarantor shall make all payments under this Guarantee Agreement gross without withholding or deduction of any Tax, charges, duties, fees, expenses or impositions of whatsoever nature.

If any amount in respect of any applicable Taxes, charges, duties, fees as well as any other expenses or impositions must be deducted, withheld or retained from any amount due under this Guarantee Agreement, the Guarantor undertakes to pay such additional amount as may be necessary to ensure that the Bank receives a net amount equal to the full amount to which it is entitled under this Guarantee Agreement.

## Default interest

If the Guarantor fails to pay any amount payable by it under this Guarantee Agreement within the relevant Payment Period in accordance with Article 1.3, interest shall accrue on any overdue amount payable under the terms of this Guarantee Agreement, as from the expiration of the relevant Payment Period up to the date of payment by the Guarantor, at a late interest rate equal to 2% (two per cent) per annum plus EURIBOR (1 month) (as applicable on the actual date of payment by the Guarantor). For the purpose of determining the EURIBOR, the relevant periods within the meaning of Schedule B of the Finance Contrat shall be successive periods of one month commencing on the expiration of the Payment Period.

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 Guarantor 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 5.2.

## Other charges

All reasonable fees, costs and expenses (including legal fees) incurred as a result of the negotiation, preparation, enforcement, registration, or translation of this Guarantee Agreement shall be borne by the Guarantor.

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Currency Conversion

Any payment to be made by the Guarantor under this Guarantee Agreement shall be made in the currency as set out in the relevant Notification. The Bank shall apply the exchange rate published by the European Central Bank in Frankfurt for the purpose of any currency conversion.

If the Bank has received a payment under this Guarantee in a currency other than the currency requested in the relevant Notification and must convert this payment, the Guarantor shall indemnify the Bank, upon first demand, for any loss resulting from the difference in exchange rates between the date of conversion and the date on which the payment is received in the other currency, as well as for any fees (including legal fees, Taxes and any other charges) connected with this conversion.

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Notices

## Form of Notice

1. This paragraph 7.1. does not apply to a Demand Notice which is governed by Article 1.3. (d), (e) and (f).
2. Any notice or other communication given under this Guarantee Agreement must be in writing and, unless otherwise stated, may be made by letter or electronic mail.
3. Notices and other communications for which fixed periods are laid down in this Guarantee Agreement or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter with proof of receipt (*lettre recommandée avec accusé de reception*) or by electronic mail. For the determination of the relevant period, such notices and communications shall be deemed to have been received by the other party:
   1. on the date of the proof of receipt (*accusé de reception*) in relation to a registered letter;
   2. on the date of delivery in relation to a hand-delivered letter;
   3. in the case of any electronic mail sent by the Guarantor to the Bank, only when actually received in readable form and only if it is sent 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 Guarantor, only when actually received in readable form.
4. Any notice provided by 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), the notice having to be signed by an Authorised Signatory with individual representation right or by two or more Authorised Signatories with joint representation right of the Guarantor as appropriate, attached to the electronic mail.
5. Notices issued by the Guarantor pursuant to any provision of this Guarantee Agreement 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 Guarantor and the authenticated specimen signature of such person or persons.
6. Without affecting the validity of electronic mail or communication made in accordance with this Article 7.1, any notices, communications and documents shall also be sent by registered letter to Bank at the latest on the immediately following Business Day if so required by the Bank.
7. The parties agree that any above communication (including via electronic mail) is an accepted form of communication and shall constitute admissible evidence in court and has the same probative value as a private deed (*acte sous seing privé*).

## Addresses

The address 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 Guarantee Agreement (other than a Demand Notice which is governed by Article 1.3. (d), (e) and (f)) is:

|  |  |
| --- | --- |
| For the Bank | Attention: GLO/ELAN/WB&T  100 boulevard Konrad Adenauer  L-2950 Luxembourg  E-mail address: [contactline-92824@eib.org](mailto:contactline-92824@eib.org) |
| For the Guarantor | Ministry of Finance  20 Kneza Milosa Street  11000 Belgrade  Republic of Serbia  E-mail address: [kabinet@mfin.gov.rs](mailto:kabinet@mfin.gov.rs)  Copy to: [uprava@javnidug.gov.rs](mailto:uprava@javnidug.gov.rs) |

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Transfer and Continuing Obligations

## Transfer

The Bank may freely transfer or assign to any third parties the whole or part of its rights under or benefit to this Agreement. In case of a transfer or assignment of the rights and/or obligations of the Bank under the Finance Contract, the whole or part of its rights under or benefit to this Guarantee Agreement shall be transferred or assigned to the transferee or assignee under the Finance Contract. The Bank shall use its best efforts to inform the Guarantor, in reasonable time, of such transfer or assignement of the rights and/or obligations of the Bank under this Guarantee Agreement.

Any rights and/or obligations of the Guarantor under this Guarantee Agreement cannot be transferred or assigned in any way whatsoever to any third parties without the prior written consent of the Bank.

## Continuing obligations

It is hereby expressly agreed that any change, whatsoever, in the legal situation of the Guarantor shall not affect its obligations under this Guarantee Agreement.

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Severability

If at any time any provision of this Guarantee Agreement is or becomes illegal, invalid or unenforceable in any respect, or this Guarantee Agreement 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 provision of this Guarantee Agreement or the effectiveness in any other respect of this Guarantee in that jurisdiction; or
2. the legality, validity or enforceability in other jurisdictions of that or any other provision of this Guarantee Agreement or the effectiveness of this Guarantee under the laws of such other jurisdictions.

This Guarantee Agreement shall, however, thereafter be amended by the parties in such reasonable manner so as to achieve, without illegality, the intention of the parties with respect to that severed provision.

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No Waiver

No failure or delay or single or partial exercise by the Bank in exercising any of its rights or remedies under this Guarantee Agreement shall be construed as a waiver of such right or remedy and the Bank shall not be liable for any such failure, delay or single or partial exercise of any such right and remedy.

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Set-Off

The Bank may set off any matured obligation due from the Guarantor under this Guarantee Agreement (to the extent beneficially owned by the Bank) against any matured obligation (whether or not matured) owed by the Bank to the Guarantor, 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 in accordance with Article 6. 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.

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Amendments

Any provision of this Guarantee Agreement may only be amended with the prior written consent of the Bank and the Guarantor.

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Waiver of Sovereign Immunity

The Guarantor hereby represents and warrants that this Guarantee Agreement and the obligations expressed to be assumed by it hereunder are commercial rather than public or governmental acts and that the Guarantor is not entitled to claim immunity from legal proceedings with respect to its or any of its assets on the grounds of sovereignty or otherwise under any law or in any jurisdiction where an action may be brought for the enforcement of any of the obligations arising under or relating to this Guarantee Agreement or this Guarantee. To the extent that the Guarantor or any of its assets has or hereafter may acquire any right to immunity from set-off, legal proceedings, attachment prior to judgement, other attachment or execution of judgement on the grounds of sovereignty or otherwise, it hereby irrevocably waives such rights to immunity in respect of its obligations arising under or relating to this Guarantee Agreement or this Guarantee.

The Guarantor does not waive any immunity in respect of any present or future (i) “premises of the mission” as defined in the Vienna Convention on Diplomatic Relations signed in 1961, (ii) “consular premises” as defined in the Vienna Convention on Consular Relations signed in 1963, (iii) assets that cannot be in commerce, (iv) military property or military assets and buildings, weapons and equipment designated for defence, state and public security, (v) receivables the assignment of which is restricted by law, (vi) natural resources, common use items, grids in public ownership, river basin land and water facilities in public ownership, protected natural heritage in public ownership and cultural heritage in public ownership, (vii) real estate in public ownership which is, partly or entirely, used by the authorities of the Republic of Serbia, autonomous provinces or local self-government for the purpose of exercising their rights and duties; (viii) the state's, autonomous province’s or local government’s stocks and shares in companies and public enterprises, unless the relevant entity consented to the establishment of a pledge over such stocks or shares, (ix) movable or immovable assets of health institutions, unless a mortgage was established based on the government's decision, (x) monetary assets and financial instruments determined as financial collateral in accordance with the law regulating financial collateral including monetary assets and financial instruments which are pledged in accordance with such law or (xi) other assets exempt from enforcement by international law or international treaties.

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Governing Law and Jurisdiction

## Governing Law

This Guarantee Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Luxembourg.

## Place of Performance

The place of performance of this Guarantee Agreement is the head office of the Bank.

## Jurisdiction

The courts of Luxembourg-City have exclusive jurisdiction to settle any dispute (a "Dispute") arising out of or in connection with this Guarantee Agreement (including a dispute regarding the existence, validity or termination of this Guarantee Agreement or the consequences of its nullity) or any non-contractual obligation arising out of or in connection with this Guarantee Agreement.

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Final clauses

## Recitals and Schedules

The recitals and following Schedules form an integral part of this Guarantee Agreement.

The following Schedule is attached to this Guarantee Agreement:

|  |  |
| --- | --- |
| Schedule A | Form of Demand Notice |

## Entire agreement

This Guarantee Agreement constitutes the entire agreement between the Bank and the Guarantor in relation to matters set out herein and supersedes any previous agreements, whether express or implied, in relation thereto.

## Effectiveness of this Contract

Other than this Article 15.3, which will become legally effective and enter into full force and effect upon the date of signature of this Guarantee Agreement, this Guarantee Agreement shall become effective on the date (the "**Date of Effectiveness**") specified in a letter from the Bank to the Guarantor confirming that the Bank has received a copy of the Official Gazette of the Republic of Serbia publishing the law on ratification of this Guarantee Agreement by the Parliament of the Republic of Serbia. If the Date of Effectiveness does not occur on or prior to the date falling 12 (twelves) months after the date of this Guarantee Agreement, this Guarantee Agreement shall not enter into force and no further action shall be necessary or required.

The parties hereto have caused this Guarantee Agreement to be executed in 4 (four) originals in the English language. Each page hereof, except this page, has been initialled on behalf of the Bank, and on behalf of the Guarantor.

At Belgrade, this 24 June 2024

Signed for and on behalf of

**REPUBLIC OF SERBIA**

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

Mr. Siniša Mali

First Deputy Prime Minister and Minister of

Finance

At Luxembourg, this 28 June 2024

Signed for and on behalf of

**EUROPEAN INVESTMENT BANK**

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

|  |  |
| --- | --- |
| Matteo RIVELLINI | Helen WILLIAMS |
| Head of Division | Head of Division |



FORM OF DEMAND NOTICE

[ON THE LETTERHEAD OF THE BANK]

*By registered mail or hand delivery*

To : [GUARANTOR]

Re : Professional payment guarantee (*garantie professionnelle de paiement*) granted pursuant to a Luxembourg law guarantee agreement entered into between the Republic of Serbia, as guarantor, and the European Invesment Bank, as beneficiary, on [●] 2024 (the “**Guarantee Agreement**”)

Date:

Dear […],

Terms not otherwise defined shall bear the same meaning as ascribed to them in the Guarantee Agreement.

This letter constitutes a Demand Notice under the Guarantee Agreement.

In accordance with the terms of the Guarantee Agreement, we wish to inform you that [\_\_\_]3[[1]](#footnote-1)1. This constitutes a Guarantee Trigger Event and we therefore request payment of the sum of [\_\_\_].

This amount corresponds to [***insert details of the calculation of the amount demanded according to the relevant Guarantee Trigger Event***].

We would be grateful if you could make the payment to the bank account stated below:

Account number : …………………………………………………………………………………………….

Code IBAN : ………………………………………………………………………………………………..

Bank name : ……………………………………………………………………………………..

Address : …………………………………………………………………………

Swift BIC : ……..........................................................................................

[*Relevant instructions as to how payment should be made (if any)*]

This Demand Notice and all matters, whether contractual or non-contractual, arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Grand Duchy of Luxembourgand any dispute relating to it shall be submitted to the exclusive jurisdiction of the relevant courts of the city of Luxembourg*.*

Yours faithfully,

EUROPEAN INVESTMENT BANK

1. 31 Insert description of the Guarantee Trigger Event in question. [↑](#footnote-ref-1)